

**Final Agenda
For
City Council Meeting
September 16, 2003**

A meeting of the Fayetteville City Council will be held on September 16, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Golden Oak Award Presentation

Fayetteville Town Center report to the City Council

Nominating Committee Report

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the August 19, 2003 meeting minutes.
2. **McClelland Consulting Engineers Amendment No. 1 - N. College Ave.-Water Line Replacement Project:** A resolution approving Amendment No. 1 to the Engineering Contract with McClelland Consulting Engineers in the amount of \$139,020.00 for the North College Avenue Water Line Replacement Project; approving a 10% project contingency; and approving a budget adjustment for same.
3. **Walker Park Multi-use Trails Contract:** A resolution awarding a construction contract to APAC-Arkansas in the amount of \$183,786.50 to build the Walker Park Multi-Use Trail; approving a 15% project contingency of \$27,568.00 and approving a budget adjustment in the amount of \$225,000.00 for same.
4. **Time Striping, Inc. - Parking Lot Improvements Downtown Fayetteville:** A resolution awarding Bid #03-43 and approving a contract with Time Striping, Inc. in the amount of \$78,073.00 for parking lot improvements in Downtown Fayetteville.
5. **Air Cleaning Technologies, Inc.:** A resolution to approve a contract with Air Cleaning Technologies, Inc. in the amount of \$107,176.00 to purchase and install exhaust removal systems for four Fayetteville Fire Stations.
6. **Continue Federal Funding of Community Trails, Bikeways and Road Beautification:** A resolution to restore full federal funding of the Congressional Transportation Enhancements Program to continue federal funding of community trails, bikeways and road beautification projects in Fayetteville and throughout America.
7. **McClinton Anchor Contract - Taxiway A Extension and USDA Forest Service Ramp:** A resolution awarding a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of \$2,146,906.20 to construct the Taxiway "A" Extension and USDA Forest Services Ramp; approving a 10% project contingency of \$234,804.00 and approving a budget adjustment of \$1,128,747.00 for same. **The cost to the City will be approximately \$73,047.**

8. **Crossland Heavy Contractors, Inc. - Accelerated Water Line Replacement Project:** A resolution awarding a construction contract in the amount of \$698,379.30 to Crossland Heavy Contractors, Inc. for the construction phase of the accelerated waterline replacement project; and approving a project contingency in the amount of \$69,838.00 for same.

B. OLD BUSINESS:

C. NEW BUSINESS:

1. **Sale of Library Building at 217 E. Dickson:** An ordinance to amend Ordinance No. 4358 in order to exempt the City Library Complex on Dickson Street.
2. **Sale of Animals from Public Property:** An ordinance to prohibit the sale, distribution, or giving away of animals from public property and from private commercially or industrially zoned property (except from established animal business enterprises with permanent structures) by enacting a new §92.29 of the Fayetteville Code.
3. **ANX 03-2.00 (Shiloh Community Church):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of 3.95 acres located North of Mt. Comfort Road and West of Ruppel Road owned by Shiloh Community Church.
4. **ANX 03-3.00 (James Cogger):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of 18.38 acres located North of Mt. Comfort Road and West of Ruppel Road owned by James Cogger.
5. **ANX 03-4.00 (Carol Stephens):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of 1.08 acres located North of Mt. Comfort Road and West of Ruppel Road owned by Carol Stephens.
6. **RZN 03-17.00 (Shiloh Community Church):** An ordinance rezoning that property described in rezoning petition RZN 03-17.00 as submitted by Geoff Bates of Keystone Consultants on behalf of Shiloh Community Church for 3.95 acres located North of Mt. Comfort Road and West of Ruppel Road.
7. **RZN 03-18.00 (James Cogger):** An ordinance rezoning that property described in rezoning petition RZN-03-18.00 as submitted by Geoff Bates of Keystone Consultants on behalf of James Cogger for 18.38 acres located North of Mt. Comfort Road and West of Ruppel Road.
8. **RZN 03-27.00 (Carol Stephens):** An ordinance rezoning that property described in rezoning petition RZN 03-27.00 as submitted by Geoff Bates of Keystone Consultants on behalf of Carol Stephens for property containing 1.08 acres located North of Mt. Comfort Road and West of Ruppel Road.
9. **Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center.

- 10. Environmental Consulting Operations Contract – Wastewater System Improvement Project:** An ordinance to waive the requirements of competitive bidding and to approve a contract with Environmental Consulting Operations, Inc. in the amount not to exceed \$376,409.
- 11. Mt. Comfort Road and Shiloh Drive Property Purchase:** A resolution approving an Offer and Acceptance Contract between the City of Fayetteville and Donald R. Williams and Sharlene Williams, and James R. Williams and Neeley J. Williams for the purchase of property located at the Northeast Corner of Mt. Comfort Road and Shiloh Drive for the amount of \$331,893.65 to allow for future intersection improvements; and approving a budget adjustment in the amount of \$337,659.00 for same.
- 12. Amend Chapter 51.136 Monthly Water Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to change nomenclature; and adjust water and sewer rates consistent with the recommendations of the Black & Veatch Rate Study.

D. INFORMATIONAL:

Fayetteville City Council Nominating Committee Report

September 10, 2003

- I** **Members Present:** Alderman Cook, Alderman Lucas, Alderman Marr, and Alderman Rhoads
- II** **Seven Applicants for City Committees were interviewed. The Council's Nominating Committee is making the following recommendations**
- a.) One open un-expired term for the Sidewalk and Trails Task Force -- Partial term through 12/31/2003 the nominating committee is recommending the appointment of Scott Mashburn
 - b.) Five Terms for the Telecommunications Board, with staggered terms, the nominating committee is recommending the appointment of four members.
 - a. Craig Brown
 - b. Susan Cromwell
 - c. John Loftin
 - d. Elliott Nance
- The Nominating committee is requesting the Cable Administrator Marvin Hilton have these newly appointed representatives draw for the staggered terms as outlined in the newly adopted Telecommunications Ordinance. Two member shall draw for the two year term, Two Members shall draw for the three year term, and the two most recently appointed telecommunications board members prior to these appointments - Mr. David Young and Mr. Stephen Smith shall serve the two four year terms, leaving One, one year term to be appointed at the next nominating committee interviewing process.
- c.) The Youth Activities Committee has One teacher term ending 8/31/04 open, One Citizen at Large term ending 8/31/2004, Three Student terms -- one student from Ramay Junior High, One from East Campus and one West Campus of Fayetteville High School. The Nominating committee is recommending Mary Margaret Hui be appointed as the East Campus Representative. All other Openings remain open until the next committee interviews take place.
 - d.) The Environmental Concerns Committee has One Community Citizen-at-Large term ending 9/30/2006 and One Citizen-at-Large un-expired term ending 6/30/2005 open. No applicants were received for this committee.
- III** The Nominating committee recommends that the next round of open committee positions seeking applicants be advertised in the local newspapers, Public Access Television, and at the beginning of Council Meeting to try and generate more interest from the citizens of Fayetteville and a longer application period be tried (1 months notice minimum), and then should no interested applicants come forward, then the nominating committee will recommend that the council evaluate the number of committees and citizen interest in these standing committees and whether they should be discontinued or moved to a more Ad-Hoc committee environment

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

FROM: Amber Wood, Senior Secretary *AW*

DATE: June 18, 2003

SUBJECT: Board and Committee Selections

The following applicants have been selected to serve on the Boards and Committees listed below. If you have any questions, please feel free to contact me at 575-8310. Thank you.

Construction Board of Adjustments and Appeals

B. Kit Scmelzle

1616 N. Garland St.
Fayetteville, AR 72703
442-8420 – Home
756-1505 – Work
Replaced Jerry Bailey
06/17/03 to 03/31/04

Walton Arts Center Council, Inc

David Banks

PO Box 4520
Fayetteville, AR 72702
582-5376 – Home
Replaced James F. Stobaugh
06/17/03 to 06/30/06

Environmental Concerns Committee

No selections were made.

Walton Arts Center Foundation, Inc.

Kathy Wade

1775 Cambridge
Fayetteville, AR 72701
521-0483 – Home
06/30/00 to 06/30/03 2nd Term

Sidewalk and Trails Advisory Committee

Jennifer M. Tracy

2236 N. Briarwood Lane
Fayetteville, AR 72703
527-6382 – Home
575-6834 – Work
06/17/03 to 12/31/03

Youth Activities Committee

Whitney Linebaugh (Student)

717 Calvin Street
Fayetteville, AR 72703
521-4059 - Home
06/17/03 to 06/17/04

Tree and Landscape Advisory Board

No selections were made.

Meeting of September 16, 2003

Meeting Adjourned
at 10:05 pm.

List of Committee
Openings.

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

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

Approved

✓

Meeting of September 16, 2003

Subject: <u>Consent</u>						
Motion By:		<u>Davis</u>				
Seconded:		<u>Jordan</u>				
Motion To:		<u>Approve</u>				
	Rhoads	✓				
	Davis	✓				
	Lucas	✓				
	Jordan	✓				
	Reynolds	✓				
	Thiel	✓				
	Cook	✓				
	Marr	✓				
	Mayor Coody	—				

Consent
passed
Res.
13603 to
142-03

Subject: <u>Sale of Library Building</u>						
Motion By:						
Seconded:						
Motion To:						
	Rhoads					
	Davis					
	Lucas					
	Jordan					
	Reynolds					
	Thiel					
	Cook					
	Marr					
	Mayor Coody					

#1
New Business
Ordinance
Left on
First Reading

Marr: Add owned or rented
to Section I.

Meeting of September 16, 2003

Subject: Sale of Animals from Public Property						
Motion By:		Marr				
Seconded:		Thiel				
Motion To:		Amend to read owned or rented				
	Rhoads					
	Davis					
	Lucas	Amendment was removed Second was withdrawn				
	Jordan					
	Reynolds					
	Thiel					
	Cook					
	Marr					
	Mayor Coody					

#2
New Business
Ordinance
Amendment
#1 to
the ordinance

NOT VOTED
ON.

Subject: Sale of Animals from Public Property						
Motion By:		Thiel	Davis			
Seconded:		Reynolds				
Motion To:		2nd read	3rd Read	Pass		
	Rhoads	✓	✓	✓		
	Davis	✓	✓	✓		
	Lucas	✓	✓	✓		
	Jordan	✓	✓	✓		
	Reynolds	✓	✓	✓		
	Thiel	✓	✓	✓		
	Cook	✓	✓	✓		
	Marr	✓	✓	✓		
	Mayor Coody	—	—	—		

#2 New
Business
Ordinance
passed
4513

Meeting of September 16, 2003

Subject:

ANX 03-2.00 Shiloh Community Church

Motion By:
Seconded:

Motion To:

Rhoads

Davis

Lucas

Jordan

Reynolds

Thiel

Cook

Marr

~~Mayor Coody~~

#3

New

Business
Ordinance

Left on
the first
reading

Subject:

ANX 03.3.00 James Coger

Motion By:
Seconded:

Motion To:

Rhoads

Davis

Lucas

Jordan

Reynolds

Thiel

Cook

Marr

~~Mayor Coody~~

#4

New
Business
Ordinance

Left on
the first
reading

Meeting of September 16, 2003

Subject: <i>ANX 03-4.00 Carol Stephens</i>						
Motion By:						
Seconded:						
Motion To:						
<i>#5</i> <i>New Business</i> <i>Ordinance</i> <i>Left on</i> <i>the first</i> <i>reading</i>	Rhoads					
	Davis					
	Lucas					
	Jordan					
	Reynolds					
	Thiel					
	Cook					
	Marr					
	Mayor Coody					

Subject: <i>RZN 03-17.00 Shiloh Community Church</i>						
Motion By:						
Seconded:						
Motion To:						
<i>#6</i> <i>New Business</i> <i>Ordinance</i> <i>Left on</i> <i>the first</i> <i>reading</i>	Rhoads					
	Davis					
	Lucas					
	Jordan					
	Reynolds					
	Thiel					
	Cook					
	Marr					
	Mayor Coody					

Meeting of September 16, 2003

Subject: RZN 03-18.00 James Coger						
Motion By:						
Seconded:						
Motion To:						
	Rhoads					
	Davis					
	Lucas					
	Jordan					
	Reynolds					
	Thiel					
	Cook					
	Marr					
	Mayor Coody					

#7
New Business
Ordinance

Left on
the first
reading

Subject: RZN-03-27.00 Carol Stephens						
Motion By:						
Seconded:						
Motion To:						
	Rhoads					
	Davis					
	Lucas					
	Jordan					
	Reynolds					
	Thiel					
	Cook					
	Marr					
	Mayor Coody					

#8
New Business
Ordinance

Left on
the first
reading

Meeting of September 16, 2003

Subject: <u>Sayreville Municipal Property Owners Improvement Dist #5</u>						
Motion By:		<u>Marr</u>	<u>Davis</u>			
Seconded:		<u>Jordan</u>	<u>Marr</u>			
Motion To:		<u>2nd read</u>	<u>3rd read</u>	<u>PASS</u>		
	Rhoads	<u>Recess</u>	<u>Recess</u>	<u>Recess</u>		
	Davis	✓	✓	✓		
	Lucas	✓	✓	✓		
	Jordan	✓	✓	✓		
	Reynolds	✓	✓	✓		
	Thiel	✓	✓	✓		
	Cook	✓	✓	✓		
	Marr	✓	✓	✓		
	Mayor Coody		—	—		

9
New
Business
Ordinance

PASSED
4514

Subject:						
Motion By:			<u>Jordan</u>			
Seconded:			<u>Davis</u>			
Motion To:		<u>2nd read</u>	<u>3rd read</u>	<u>Pass</u>		
	Rhoads	✓	✓	✓		
	Davis	✓	✓	✓		
	Lucas	✓	✓	✓		
	Jordan	✓	✓	✓		
	Reynolds	✓	✓	✓		
	Thiel	✓	✓	✓		
	Cook	✓	✓	✓		
	Marr	✓	✓	✓		
	Mayor Coody	—	—	—		

10
New
Business
Ordinance

PASSED
4515

Meeting of September 16, 2003

Subject: <i>Mt. Comfort Road & Shiloh Drive</i>						
Motion By:		<i>Marr</i>				
Seconded:		<i>Lucas</i>				
Motion To:		<i>Approve</i>				
	Rhoads	✓				
	Davis	✓				
	Lucas	✓				
	Jordan	✓				
	Reynolds	✓				
	Thiel	✓				
	Cook	✓				
	Marr	✓				
	Mayor Coody	—				

*Rex
Willan*

11
New Business
Resolution
Approved
143-03

Subject: <i>Amend Chapter 51.136 Monthly Water Rates</i>						
Motion By:						
Seconded:						
Motion To:						
	Rhoads					
	Davis					
	Lucas					
	Jordan					
	Reynolds					
	Thiel					
	Cook					
	Marr					
	Mayor Coody					

12
New
Business
Ordinance
This ordinance
was left on
the first
ready

(Gary Lavery.
PS Reading - Superior Ind.) Blaine Bickell - Black & Veatch
I have not read the ordinance itself.

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Fayetteville Town Center report to the City Council

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- passed
136-03* 2. **McClelland Consulting Engineers Amendment No. 1 - N. College Ave.-Water Line Replacement Project:** A resolution approving Amendment No. 1 to the Engineering Contract with McClelland Consulting Engineers in the amount of \$139,020.00 for the North College Avenue Water Line Replacement Project; approving a 10% project contingency; and approving a budget adjustment for same.
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D. INFORMATIONAL:

**Minutes Of A Meeting
Of The
City Council
August 19, 2003**

A meeting of the Fayetteville City Council was held on August 19, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

ABSENT: Alderman Reynolds

Chief Hoyt – Police Department Citizen Award

Chief Hoyt: I want to take time at the first of the Council meeting because I think it is only fitting when we present awards for good deeds done that we do it in front of people so that they know how much we appreciate them. Something we have done at the Police Department this year is institute an awards program internally for our officers and employees that have done good things and we just recently had an awards program for our first and second quarter and handed out about 30 awards. Something that has been long over due is recognizing citizens that have helped the Police Department in some extraordinary way to help us solve a crime and they need to be recognized. On July 5, 2003 we had a bank robbery; in fact we had two bank robberies that week here in Fayetteville. The first one was at the Arvest Bank branch on Garland Street; a man walked in with an ax handle in his hand and a bag over his head and started getting money out of the tellers draw and taking money from the bank. It just so happened that a citizen in the bank, standing in line to do business decided that he was not going to stand for that and he took that ax handle out of that persons hand and wrestled him to the ground and held that person until the cavalry got there and that was us. He wrapped that case up single handed; he is a college student here in Fayetteville and works at a convenience store on North Street for eight years. **We would like to present Shawn Beshoner with an outstanding citizen award in recognition for his courageous act on July 5, 2003 for single handedly overpowering and restraining a bank robber until police officers arrived.**

CONSENT:

Approval Of The Minutes: Approval of the July 15, 2003 and the August 5, 2003 meeting minutes.

2003-2004 Drug Enforcement Grant: A resolution accepting an Edward Byrne State and Local Law Enforcement Assistance and Formula Grant from the U.S. Department of Justice to assist in funding the Fourth Judicial District Drug Task Force.

Resolution 119-03 As Recorded In The Office Of The City Clerk.

2003 Local Law Enforcement Block Grant: A resolution authorizing the Fayetteville Police Department to apply for and accept a Local Law Enforcement Block Grant (LLEBG) in the amount of \$33,490.00 from the U.S. Department of Justice for the purchase of computer equipment, and approving a budget adjustment in the same amount to recognize the grant revenue and appropriate the matching funds.

Resolution 120-03 As Recorded In The Office Of The City Clerk.

FAA Airport Improvement Grant/ Taxiway "A" Phase 1: A resolution to accept an Airport Improvement Program Grant (AIPG) from the U.S. Federal Aviation Administration in the amount of \$1,232,723.00 for the Taxiway "A" Phase 1 project in support of the USDA Forest Service Fire Tanker Base.

Resolution 121-03 As Recorded In The Office Of The City Clerk.

State Department of Aeronautics Matching Grant: A resolution accepting a matching grant in the amount of \$5,836.00 from the Arkansas Department of Aeronautics for the design and engineering oversight of the Taxiway "A" Phase 1 project in support of the USDA Forest Service Fire Tanker Base.

Resolution 122-03 As Recorded In The Office Of The City Clerk.

Arkansas Department of Aeronautics Grant: A resolution accepting a grant in the amount of \$200,000.00 from the Arkansas Department of Aeronautics for construction of the University of Arkansas hangar project; and approving a budget adjustment in the amount of \$400,000.00 for same.

Resolution 123-03 As Recorded In The Office Of The City Clerk.

Sweetser Construction/Grinders Skate Park: A resolution awarding Bid #03-45 to Sweetser Construction, Inc. in the amount of \$29,550.00 to construct sidewalks and access ramps at the Grinders Skate Park; and approving a project contingency in the amount of \$2,955.00 for same.

Resolution 124-03 As Recorded In The Office Of The City Clerk.

PPL 03-11.00 Tomlinson on behalf of TTM-LLC: A resolution amending the Master Street Plan, dedicating 90 feet of right of way along Howard Nickel Road through the entire proposed development in a different alignment to complete a connection with the future extension of Rurple Road North.

Resolution 125-03 As Recorded In The Office Of The City Clerk.

The minutes were removed from the consent agenda.

Alderman Davis moved to approve the consent as read. **Alderman Jordan** seconded. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

OLD BUSINESS:

CEI Engineers Master Street Plan Appeal (Butterfield Trail Village): An appeal from Butterfield Trail Village of the Master Street Plan Right of Way dedication requirements. *This appeal was tabled at the July 1, 2003 City Council meeting*

Alderman Jordan moved to remove the item from the table. **Alderman Davis** seconded. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Mayor Coody: We don't do many appeals so you are going to have to enlighten us about how best to go about this. Does the petitioner make an appeal, does the Planning Staff?

Kit Williams: The petitioner has the right under our Unified Development Code to do an appeal before the City Council and then they should present their appeal, although probably we should have some background by Tim Conklin about what happened at the Planning Commission to lay the ground work for exactly what is being appealed at this point in time.

Tim Conklin, Planning: This is an appeal of a Planning Commission decision on May 27, the Planning did approve a large scale development for Butterfield Trail Village, that project included adding a new Alzheimer's unit, 22,347 square foot unit on the property and constructing 34 additional parking spaces. Based on our Master Street Plan, we have had a Master Street Plan since 1970 and we routinely update that, when new development does come through our process, we review the development and determine whether or not it does meet our Master Street Plan with regards to the right-of-way requirements. In this situation with this large scale development on Joyce Boulevard there is currently 40 feet of right-of-way from centerline; our Master Street Plan requires 55 feet from center line for a total of 110 feet. We have used our Master Street Plan on Joyce Boulevard and throughout the City to require right-of-way dedications as new development does come through and in fact when Butterfield Trail Village did development the duplex or town home development back to the South and sold the property where Commerce Park, Ben Israel's development is on the corner of Old Missouri and Joyce Boulevard, right-of-way was dedicated on Joyce Boulevard, 15 feet for a total of 55 feet from center line, so this is not something that is unusual that we do as a City and as a Planning Commission. It is an ordinance requirement that we do require that the right-of-way be dedicated. What you are hearing tonight in the

event that the applicant believes or request that a lesser dedication of right-of-way be allowed that is a City Council action and that is what you are hearing this evening. Back in June at one of the Agenda Sessions it was asked with regards to Joyce Boulevard and what was possible with regards to how could it be widened in the future, I did have staff look at that and look at how turn lanes could be constructed within that right-of-way. It would not meet our current Master Street Plan cross section for a principal arterial street, but it is possible to add turn lanes on Joyce Boulevard. Our cross section in our Master Street Plan, the reason why it is 110 feet, because it does allow for a wide boulevard median, which allows for landscaping and turn lanes to be added. It also allows for the sidewalk to be constructed separate from the street, so you have a green space between the street and the sidewalk, if you eliminate the green space between the sidewalk and the street and you reduce the landscaped island to about 11 feet it is possible to get turn lanes in, that is something that staff did look at.

Alderman Rhoads: What exactly is a boulevard median?

Tim Conklin: The width?

Alderman Rhoads: The width and exactly what it is, I want to make sure I understand what you are talking about.

Tim Conklin: For example part of Joyce Boulevard on the western end is a boulevard; it is a landscaped area in between two or four travel lanes.

Alderman Rhoads: How wide would that be?

Tim Conklin: Under our Master Street Plan there is a cross section that shows the desired street construction for a principal arterial with a 20 foot minimum boulevard or median in the street, with 28 feet back to curb, two travel lanes in each direction, 10 feet green space between the curb and the sidewalk and a 6 foot sidewalk. That is what is desired for a principal arterial based on our Master Street Plan and that's what we use when we do evaluate a development when it comes through with regards to does it meet the right-of-way requirements.

Alderman Rhoads: And that plan calls for that median.

Tim Conklin: That's correct that is what the City Council did adopt back in 1996.

Alderman Rhoads: From where to where? Starting at 265 and going to Gregg?

Tim Conklin: That is a very good question Alderman Rhoads, Joyce Boulevard is classified as a principal arterial and is classified from Gregg Avenue over to Joyce Boulevard with a future extension beyond Joyce Boulevard to the east. It is the only principal arterial that's designated on what will be proposed as our Master Transportation city wide study coming up north of highway 45, so it is a major roadway in the future that has been identified on our

Master Street Plan currently and with regard to the proposed Master Street plan from our transportation consultant it is the only principal arterial that is shown.

Mayor Coody: One thing that I might point out, correct me if I am wrong, the 20 foot width of the landscape median allows for occasional turn lanes to encroach upon that 20 feet for a left hand turn is that right?

Tim Conklin: That is correct.

Mayor Coody: That is wide enough to become a turn lane where it is needed for limited access turns on the street.

Tim Conklin: It does allow for turn lanes to be added, left turn lanes to get into the developments along Joyce Boulevard. With regards to Joyce Boulevard in 2001, it had about 9,000 vehicles a day traffic count, projected in 2023 with regard to intersection capacity, like at Old Missouri and Joyce it is still estimated to be functioning at an acceptable level service. When we go into our transportation study we will define level of service in more detail, in 2023 the transportation consultant is stating that a level will still be acceptable in that area. I bring this up because even if we did have the right-of-way dedicated to us today there is no short range or long range places to widen that roadway, with right-of-way dedications we do not go out the next week and remove trees or vegetation either, it's held for future possible road way widening. The City of Fayetteville also when we look at road way design we do try to work to save trees, look at road way elevation, sidewalk elevations, so design considerations do come into the design plans of any road way widening. I just want to bring this up because taking the right-of-way today does not mean that the trees would be removed from the roadway, over all design has not been done. The illustration that I gave to the Council in June shows that there are many different design alternatives. The last question at the last Agenda Session that was asked was with regard to the right-of-way and the value of the right-of-way. I did have a land agent do some research with regard to land cost in that area, it is generally \$8.00 to \$9.00 per square foot, land is going for, there is about 13,000 square feet, so it is around \$100,000 to \$125,000 worth of land if the City did have to acquire that additional right-of-way, that would be the cost to the City and that's in 2003 dollars.

Mayor Coody: We are all concerned about the trees obviously on this piece of ground and I think that is the reason that you are all here tonight and we share the same concerns that you do. There are no plans in the foreseeable future and we see a long way out in government, 10 years is short term, we don't see any plans to widen Joyce for a long, long time to come, however, a future City Council that may find the need to widen Joyce Avenue, I think that we can work together to make a plan that is workable for the widening and I am just going to throw this out, if there is a way and I'm sure there is that we could preserve these trees and acquire the right-of-way, I think the City would come out ahead and I think that Butterfield Trail Village folks would probably be pacified with that result. Tim and I went out there and looked at the site, one option that we kicked around as a possibility and we are certainly willing to work with the Butterfield Trail management and the residents to make something like this work, is that we could, within the right-of-way that we would be acquiring according to our ordinances, we could ask that Butterfield Trail Village dedicate a little bit like a six

foot strip of land up against your parking lot that is on the north side, from the curb to the north about six feet there and put a side walk on that part of the property, Butterfield Trail Village could get a tax write off for a donation, we could get a good safe, sidewalk for pedestrians there the trees would be saved in putridity and we could put into an agreement that whatever widening that might happen would include preservation of that stand of trees, that is just an option for City Council consideration and for Butterfield Trail Village residents consideration. I think this is an option that might pretty much solve everyone's problem I hope.

Alderman Marr: Is that with this agreement.

Mayor Coody: Kit just put this together a while ago, this is a option, this is a possibility and I think that this has merit and if I didn't think that it had serious merit for having everybody work for a common goal here we wouldn't have brought it forward.

Alderman Davis: Tim I am kind of concerned you mentioned the traffic study that is on going right now and you mentioned that we weren't looking at going any further north than Joyce Street, Zion Road is something we need to look at in the future to also take us from 71 to 265, if you talk to a lot of people in north Fayetteville, a lot of people are taking Joyce Street because Zion is not a safe road to go down at this point in time. Yes, you have made some changes at the corner of Zion and Old Missouri where it is a little better turn, but the road is not very safe so people are not really going there and if you talk to some of the businesses that are located closer to 71 they will tell you that is a real problem, the way that it is set up at this point in time, so I hope people doing the traffic study do look at Zion because if they are not I am very disappointed in what we are going to get back.

Tim Conklin: Alderman Davis you are correct, it is an ongoing study, I just wanted to share with you what's showing on our transportation plan right now of course that would have to be adopted by the City Council. Joyce Boulevard is an arterial right now, Zion Road that is something that can be looked at in the future.

Alderman Davis: And we would look at the future.

Kit Williams: I do want to apologize that this potential agreement was drafted so late a couple of Aldermen talked to me about possibility having some sort of an agreement to guarantee to the residents of Butterfield Trail that the trees would be preserved and at the same time reading the City ordinances it was pretty clear that the city almost always does require, the ordinance says the City shall require a dedication of the additional land needed according to the Master Street Plan, so the Mayor and I were concerned about the problem here, we are known as Tree City USA, we have a long history of trying to protect trees, so when we looked at the drawing form the engineers we noticed that there appeared to be enough room on the far side of the trees that is the road had to be widened so much that the sidewalk had to be taken that if we could put the sidewalk on the other side of the trees that would protect the trees. You can't have a sidewalk too close to the trees or you are probably going to kill them anyway.

Alderman Rhoads: Kit, are you talking about the south side of the trees?

Kit Williams: Yes, you can't have the sidewalk too close to the trees or you are probably going to kill the trees anyway and that is why an additional probably about six foot strip would need to be donated to the City so if the sidewalk was ever built, it wouldn't be killing the trees that we are all wanting to save. Upon the Mayors discussion and instructions I drafted something that is really something for discussion, it is not necessarily the final word, but it was something that we hoped would be able to both follow the City ordinances but still preserve that beautiful row of trees. I think as some of you know both of my parents were at Butterfield and I spent a lot of time going out there and I have a lot of warm feelings for Butterfield, they treated my parents very well throughout their entire time they were there. Certainly the City doesn't want to do anything that would be damaging to Butterfield it is one of our nicest facilities in town that is why the Mayor had me draw up this agreement and resolution.

Mayor Coody: One of the reasons that I wanted to have Kit draw up this agreement was that anything that one Council does a future Council can undo, for example if we were to pass an ordinance or resolution saying that we would hope that future Council's would preserve these trees, it is totally up to the future Council to preserve them or not depending on the political will at the time. If there is a contract drawn up, an agreement between parties, then that contract is enforceable. If we can come to terms on this so we can get the easement, the right-of-way we do need and preserve those trees in perpetuity, I think that we will be able to put some paperwork that would protect everyone's interest in this issue.

Alderman Davis: I would like to see these trees preserved as you well know, this is kind of what Steve Gunderson, David Lashley and Don Hunnicutt spoke to us about that day we were out there on the tour, we listened and kind of came back with what they brought before us at that point in time at that meeting. I would like Steve Gunderson to have a chance to look at this and David Lashley and Don Hunnicutt to make sure that this is kind of like what we were talking about the day we were out there on the tour.

Kit Williams: I have given them copies already Mayor of the draft agreement.

Alderman Thiel: I have a couple of questions for Tim. Looking at this principal arterial section on page 26 from the center of the median which is 20 feet wide that is the requirement for the principal arterial that would be 10 feet and an additional for the road that is over to the starting of the greenspace that is 38 feet. Tell me where the right-of-way line if we vote to approve this appeal and do away with the additional 15 foot requirement, how far over is the 40 foot right-of-way to the trees that are there. It appears to me that the trees in one of the maps on page 31, the trees are already sitting along the 40 foot right-of-way, in other words if and when this road is widened to 28 feet plus the 5 feet for the median, unless we reduce that we are still going to be sometime down the future, even if we waive the 15 foot, we are still going to be encroaching on the area that those trees need to stay alive.

Tim Conklin: There is currently a sidewalk that is set off the edge of the curb and the drawing on page B.1. 32 show the existing 80 foot right-of-way, they would be set back, I

don't have a scale with me this evening, about 14-15 feet. They are right on, if you look at that right-of-way line for the 55 feet from centerline, the trunk of the trees is almost on that line, so it is about 14-15 feet, they actually get into that 15 feet on the east end as you go back to the west you get farther away from the street.

Alderman Thiel: If we approve the appeal, the 40 foot, the existing right- of way is not encroaching on those trees?

Tim Conklin: That is correct. What you see today is where the sidewalk is located.

Alderman Thiel: If and when that road has a median put in it will not go any further towards those trees. It would go in to where the sidewalk is now I assume.

Tim Conklin: That is correct. I did talk to our landscape administrator and he did feel like you definitely needed to keep it 14-15 feet, he did not want to get any closer to the trunk of the tree.

Alderman Thiel: So you are saying it would stay away 15 feet from the tree. I guess the process Kit would be we would approve this appeal and then we would come back and vote for this resolution from the City.

Kit Williams: No that would not be the process, if you grant the appeal and so you do not require any further dedication what so ever, then if a future City Council need to widen the road at all and do the other things that are required, like relocate the sidewalk, then they are going to have to go ahead and purchase some additional right-of-way. If they gave us a donation where the Mayor and I were talking about and also what Bob Davis was saying what Butterfield was talking about on the far side of the trees, if that doesn't adjoin our property then that is just a strip of City land sitting out in the middle of no where. This agreement would anticipate that the Planning Commission's decision would be affirmed which is the standard dedication as required by the Unified Development Code. With the agreement of Butterfield Trail Village to donate an additional 6 foot strip of land that would be our consideration for agreeing that we will preserve the trees and if the street was ever widened we would not move the sidewalk where it would normally be instead we would put it on the far side of the trees, away from the trees far enough not to kill them, but still there would be a public sidewalk, which is also required in our Master Street Plan and which is well used in that particular area, so you would actually have to vote to confirm the Planning Commission's decision and then we would want an agreement with Butterfield Trail in order to insure that those trees are protected.

Alderman Thiel: So we would take the additional 15 foot right of way and ask them to donate an additional six feet.

Kit Williams: Yes, where the sidewalk would be built, if in fact the street was ever widened and that way we have an enforceable contract where they have given us something they don't have to give.

Alderman Thiel: But that doesn't tie the hands of future Councils.

Kit Williams: Yes it would, because when you have an enforceable contract where one party has given us something we are not entitled to, we are not entitled to that extra six foot strip, that is something they would be conveying to us, that would be consideration to tie the City's hands in the future to also follow the agreement that the City has made.

Alderman Thiel: The agreement would be that we would never cut the trees.

Kit Williams: This resolution is not actually on the agenda, it was not before you at the agenda session so it is not actually before you right now, it is what we came up with in response to us Aldermen's suggestions.

Alderman Thiel: This is totally binding; no future City Council could change this.

Kit Williams: That is my opinion, that it is an enforceable contract and both sides are bound by it. We are bound by it and Butterfield Trail would be bound by it.

Alderman Rhoads: It is my understanding the way this proposal would work is that if we widen the street, the street would be uniform all the way from Gregg Street to 265 or whatever amount that was widened the only thing that would be different is that the sidewalk by Butterfield Village would merely jog to the south for whatever the length of that strip is in front of Butterfield. It sounds like you have your cake and eat it too.

Mayor Coody: Pedestrian safety is enhanced with this too because if a car were to veer off the road they would have to go through a big tree before they would hit a pedestrian.

Alderman Davis: Is that the way Planning sees this, what Robert just described is that the way you envision this.

Tim Conklin: The design in order to save the trees would be modified with regard to the boulevard in this location; the remaining, if it follows the Master Street Plan, would be built accordingly and that is something that would have to be designed.

Alderman Davis: So it may actually be a little narrower.

Tim Conklin: That is correct, that is how we are saving the trees, and typically the sidewalk would be right where the center of the trunks of the trees is. The boulevard would be wider and your lanes would be closer to the trees, so that is what we are giving up.

Alderman Davis: So in essence it kind of goes back to the letter that I requested for you to re-look at this and see if it was able to be done with inside the current right-of-way, where you indicated that more than likely what we could do is decrease a median size from 20 feet to 11 feet.

Tim Conklin: That is correct. We looked at producing median size travel lanes from 12 to 11, curb and gutter width 2 to 1 ½ so we tried to reduce as much possible.

Alderman Lucas: So with this agreement we still would not have the street the same, like Robert said, it would not be the same width all along?

Tim Conklin: The pavement would change in the boulevard, the median width would change.

Mayor Coody: I think that we wouldn't know exactly what the dimensions of the final street would be until it comes time to actually engineer it.

Alderman Davis: But Mayor, I don't think that is all that important, I think Tulsa is a very beautiful city and as you drive through some of the major thoroughfares in Tulsa some of the streets are very wide and other areas are very narrow, there are four lanes through there, so I don't see where that is really a problem if we have a section that goes from being 90 feet wide down to 80 feet and you have a little turn lane like what you have drawn here when I asked that question of you, which does allow for the ingress and egress basically going to the west with a turn lane to get in and out of Butterfield.

Kit Williams: But as Alderman Rhoads said the sidewalk would be the main one to the jog, would it not Tim and have you determined how far you think the street would actually have to narrow, correct me if I am wrong, would the engineering department still need to be taking some of the right-of-way up toward sidewalk in order to widen Joyce at this location to meet the Master Street Plan?

Tim Conklin: I think when you are going to be constructing the street with regards to drainage and utilities, this is a reduced cross section or design that we came up with in June, it's narrower, it has not been engineered, and it is a conceptual plan. It is very flat out there, I don't think you are going to have a lot of grading issues and cut and fill slopes so I think it is feasible and possible to do this, but it is not going to look the same from Gregg to Highway 265, it would look different in this area and the trade off is that you are potentially saving the trees on Butterfield Trail.

Alderman Jordan: So what we have is, we are going to give a little bit and the median will be cut down some what and supposedly Butterfield will give a little bit and give us 6 feet of space on the other side of the trees to preserve the trees and to put in the sidewalk, right.

Tim Conklin: If they agree to do that, that is correct, that is what we are talking about in exchange.

Alderman Davis: My question on that is, and I want to hear from Butterfield Trail, was how that is going to affect there parking on the north side of the complex.

Kit Williams: It does not encroach on it; it is a couple of feet away at least.

Mayor Coody: There is plenty of room between the trunks of the trees and the curb, for their parking lot to where a sidewalk could go in there and be well out of the danger zone for the trees.

Alderman Davis: I would like to hear from Mr. Gunderson, Mr. Hunnicutt, and Mr. Lashley since they were out there that day with us.

Mayor Coody: Mr. Gunderson would you like to address us tonight.

Steve Gunderson: Perhaps it would be better if our engineer addresses you, he is the one who has been helpful with us and I don't know if he has had any interaction with any of you or any of the staff regarding this new proposal. This has sort of caught us off guard; I'll be honest with you.

Mayor Coody: Well this is brand new, this is still warm, and so we haven't had much of a chance to discuss it that is why we are throwing it on the floor for discussion right now.

Steve Gunderson: I don't know if you want us to go into our full fledged presentation, I'm not sure if I agree with some of the things that Mr. Conklin said although he's probably smarter and very versed in his area than I am, I am not sure that you can't do away with that complete boulevard in that area. I'm also a little concerned that if we move the sidewalk six feet south of the current trees, we are putting a public sidewalk in a private area and now I have to put a gate on both ends and let people walk in and out of a private facility, I am not sure that is going to work. We also are a 501C3 and the dedication doesn't benefit us a bit.

Kit Williams: That actually would not be a private area, if you wanted to you could still have your fence on the other side of the sidewalk just like it is now, that would be actually a public sidewalk and the right-of-way of course is public land also, so that would not be a private area even though right now there is a portion of it that is private it would not be private at that point. Butterfield would be clearly able to put their fence up between it and the parking.

Steve Gunderson: It is my understanding that this agreement would require us to allow you to take the 15 feet that you are seeking and in addition give you an additional six feet. So we are going to give you 21 feet in order for you to preserve the trees.

Mayor Coody: 15 of that would be by requirement because the ordinance says we shall do this, the six feet would be a donation in order to preserve those trees in putridity.

Steve Gunderson: I'm like the Mayor and maybe like Mr. Williams, this thing needs to be tossed around a little bit before I can tell my client to do something like this. This may be a good start, but I can't tell you right now where we stand.

Mayor Coody: Would you like for us to table this until we've had a chance to discuss this further?

Steve Gunderson: Well, we get into time problems when we start tabling this because as you know there are other governmental agencies that control our building process and the longer we table this the longer we delay that and we may in fact have problems with another agency. If we can table it for two weeks at the very most.

Alderman Rhoads: There is maybe another way to do this Mayor, perhaps we could go ahead and vote on this and vote on this agreement that we approve that the if the Council approves of this agreement and that gives you the option to rather accept the agreement or not accept the agreement after you kick it around.

Steve Gunderson: But we might be bound by your vote if you do it that way and I would rather not do it that way,

Alderman Davis: The only way we could reverse that is if someone on the winning side wanted to come back and bring this back up at the next Council meeting, otherwise it is pretty much a dead issue.

Kit Williams: We have a lot of people here, it might be that we let some of the people that came here go ahead and give us their affirmation.

Mayor Coody: We will allow everyone to speak that would like to speak.

Steve Gunderson: Why don't we do that and then at the end of this I'll speak at you regarding tabling it or where we would go from there if that is alright. We brought a lot of residents and there are a lot of other issues rather than the trees, and these good people have something to say and I sure would like for them to have the opportunity to say it.

Alderman Jordan: Steve if you have us table it and you want to come back in two weeks, the only problem with that is we will be in the middle of a smoking ban issue at that time.

Steve Gunderson: I will let our engineer talk a little now and then if we could maybe we will fast pace this a little bit.

Kevin Yates, CEI Engineering: We have heard the facts as far as the Master Street Plan what those right-of-way dedications requirements would be, one thing that was in that section for the principal arterial, there is a quote, "in areas where sufficient right-of-way is unattainable the minor arterial four lane section can be used" which has a lesser right-of-way which is 90 feet versus 110, which is 45 feet from center line, we stand at 40 feet right now. I believe we can provide the same driving surface through here and not have the boulevard as far as the median with the green space in the center and have the same driving surface with that and then cut down the green space between the sidewalk and the proposed back of curb on the street improvements if they ever went through. You maintain your driving through there, you separate the sidewalk from the private use with the trees just like it is doing now and we don't have to have any right-of-way dedication to do that, I'm saying we make up that 5 feet we are lacking for that 45 feet from center line in the green space between the sidewalk and the back of curb.

Mayor Coody: So we would basically have the sidewalk right up against.

Kevin Yates: No you would still have five feet between it, there is ten feet in the section right now on the minor arterial. That is one approach that we can take to get there. Whoever prepared the Master Street Plan and these sections had vision enough to realize there is not always going to be instances where you can get the full right-of-way that you need. I think this is a pretty unique situation where you would want to apply this. If we can go that approach we still keep the public sidewalk separated from the private use, which if you look into your tree protection preservation purposed under your landscape manual, the purpose of the trees is to screen incapable land uses and public streets and sidewalks versus a retirement community like Butterfield Trail Village those are definitely incapable uses. You are going to have a wide variety of people going up and down those public sidewalks where it is a pretty unique group that is in Butterfield Trail Village, so I think those apply as well. We've got 23 pin oaks that are 20 years or plus in age, there are seven of them that are 18 inch in diameter, we have provided pictures and I know several of you have visited the site, like I say this is a very unique situation here. The driving surface, or if you look at the principal arterial section is 28 foot each side or 56 foot total, the minor arterial section is 52 foot total that is four feet difference. The purpose of that are the interior curb sections because you don't use those as a driving, so actually your driving surface is the same if you take those two foot curbs out. I believe we can provide a uniform section up through there, granted it might not have the median, it would be a turn lane or it could be a reduced median as they have talked about right here, narrow that green space between the sidewalk and the back of curb in the right-of-way, keeping the right-of-way as is right now and still make this function. I think you would fall within all your ordinances and it gives you the allowance to do that and it goes in line with your tree preservations proposes that you have in your landscape manual.

Alderman Lucas: Are you saying there would be no turn lane because that is one of the things it really needs.

Kevin Yates: In that minor arterial section there is allowances for turn lanes.

Alderman Davis: In the existing drawing that Tim gave us showing what we could do with what is currently there as you notice there is a turn lane to get in and out and that is without taking any additional right-of-way, that is the current amount of access we currently have,

Kevin Yates: I will be glad if Tim would like to comment on anything that I have said or address any questions that he would have or if I have stated anything incorrectly.

Alderman Davis: I don't know about the rest of Butterfield but I have gotten the impression according to this picture you are telling us this is ten feet from the sidewalk to the curb is that correct.

Kevin Yates: Not in the existing condition. In the proposed right-of-way section, if you go out from centerline and you went 45 feet to get the 90 you would need five feet further right-

of-way than you have which would actually be a little south toward the fence from that sidewalk.

Alderman Davis: So it would be closer to the site.

Kevin Yates: What I am saying is that we reduce the green space between the proposed sidewalk and the proposed back of curb from ten feet to five feet and we make up that five feet of right-of-way that would be required that we would have to dedicate which would encroach into the drip line of these trees and potentially affect them as far as killing them in the future from being disturbed around. We wouldn't have roadway construction at that point it would still be sidewalk type construction, we maintain that drive lane width through there, the same drive width surface and we fall within all these guidelines we are talking about.

Alderman Thiel: Do you by chance have a drawing of this that someone could run us off copies.

Kevin Yates: I have extra copies of the appeal letters with these copies of these sections in here.

Alderman Thiel: You have copies of the section that you are just proposing right now to us. We don't have that in our packet do we.

Tim Conklin: I think it is on Page 31.

Alderman Thiel: Page 31, I thought that was your drawing from the City. If you have copies of that for us that would be great instead of us trying to find it. Now if you could discuss it again while we are looking at it.

Kevin Yates: Discussed the proposal again.

Alderman Davis: Is that going to allow us to have a turn lane?

Kevin Yates: Tim that does allow for a turn lane does it not in that minor arterial section?

Tim Conklin: Yes, that would give you enough room for a turn lane but not enough room for a boulevard or a median.

Alderman Davis: Those 52 feet would?

Alderman Marr: Tim could you give us two road examples in the City of Fayetteville, one that is a boulevard and one that is a turn lane, just so everyone is going from the same prospective.

Tim Conklin: Joyce Boulevard has a center turn lane if you are near Wal-Mart Super Center heading back to the west and as you go further west it turns into a boulevard that is the difference.

Alderman Thiel: The fact that we are going to have the green space hopefully remain in front of Butterfield, even this does possibly weave in and out some, that to me seems to be a very attractive solution, I love boulevards but a boulevard is a green space, we already have this green space, I do agree that we need a turn lane there, if we were giving up a turn lane that would concern me. As long as there is enough room for a turn lane and a sidewalk and insurance that we are not going to be getting into the drip line of these trees and that does concern me whenever we talk about what Tim had suggested earlier to do away with the sidewalk and have cut in and have to construct for a street is very different and could be much more intrusive to the drip line and the protected area around the trees.

Alderman Davis: That is a beautiful area right now, I don't see any reason to take the chance in destroying that area, so I like your idea of the City taking five feet and leaving the five feet that you just mentioned. I don't know where we are tonight with that because of what you the Mayor and Kit brought forward. I agree with what Steve Gunderson said that I don't really think that anyone, us included wants to have people walking behind the fence line that aren't part of Butterfield Trail Village, that is more of a security measure for them and a prospective measure and I don't think we need just anybody walking back behind the trees for security purposes.

Kevin Yates: Those nice mature trees provide a nice buffer even if you could put a fence something between the sidewalk and the back of curb, you wouldn't have that buffer with the berming of the ground and those nice mature trees there.

Mayor Coody: Is there some problem with the public using a sidewalk that is a security problem, because we have sidewalks all over town and we don't have barriers between the sidewalks and all the other uses. I can't help but think a public sidewalk is a good thing in town and if there is a way that we could protect pedestrian safety, moving it farther away from four lane traffic instead of closer to the four lane traffic and have a safe pedestrian passageway and if this fence that is existing is adequate now, if that same sort of fence could be built it seems like that adequacy would be maintained, I am wondering if this fear factor about having the public on a sidewalk a little closer to Butterfield Trail I can't image that's really going to be a dangerous situation.

Kevin Yates: I don't know that it would be a dangerous situation as much as it would be a difference in uses; I'm saying you might have young people out there at later times when theses folks might be going to bed or vice versa. I am saying it's a difference in uses and the buffer is provided by those nice mature trees there versus if you put that sidewalk back there, there is nothing to screen that from those buildings back there, it is almost as if you do a commercial versus a residential, you buffer with landscaping, opaque screens that sort of thing in your ordinance now it is the same type situation, it's just there right now and if we keep the sidewalk outside of it, it buffers it where if we put it back there, there is not a buffer or a screen there.

Mayor Coody: There is nothing that says if something like this agreement may be acceptable, there is nothing that says we can't fine tune this to where we can accomplish both our goals, because we have the same goal of preserving the trees, but we also have our ordinances that we need to follow and it is tough for us to be in a position to say well Butterfield Trail Village is a special group and we are going to treat everyone else one way and Butterfield Trail a different way when we maybe apply to have consistency in our legislation which is important because we don't want to be seen as showing favoritism to one group over another when we can accomplish our goal and Butterfield Trail Village's goal at the same time. If there is a way that we can achieve what we need to via the requirement in our ordinance and we can achieve the aesthetics we are looking for, the pedestrian safety we are looking for, the sense of security you are worried about, I am convinced we have done some more creative things than this to make several factors work together for a common good and I am convinced that if we kick this around and be open minded about it, we can come up with a solution that will work for everyone, we have overcome bigger problems than this.

Alderman Davis: Mayor with the sidewalk being in the back perception is the key here in my opinion, if you have the fence and the sidewalk to the north of the fence like it is now, perception is that it is private property and I am not suppose to be over there, whereas if you have the sidewalk on the south side of the fence it gives the perception of openness and not everybody that walks the sidewalks in Fayetteville are good people, let's face it, most of us are, but there are going to be a few out there and you don't want to take that chance or opportunity and that's why I think you want to have the fence situation along with the gates they currently have and that helps security personnel, because I know they have security on the far east end of this at night to check people in and out as they come in and out of the facility, they are able to look down the fence line, it is pretty well clear to where a person could see from one end to the other, I think that's great. If you all of sudden you have people disappear in a walkway behind a fence, probably nothing is going to happen, but it only takes once.

Mayor Coody: I would believe that anybody that has malice today wouldn't have any trouble jumping the fence and walking between two trees if they wanted to, I would hope that we could find a way to at least examine this instead of have a reaction, I don't like it, let's see if we can't discuss this to find a way to where the entire City of Fayetteville can come out ahead, because we not only have to look out for the good residents of Butterfield Trail Village, our responsibility is to look out for every tax payer and pedestrian in town and if we can strike a deal to where everybody comes out ahead that's where I think we ought to head.

Alderman Thiel: I don't necessary see this as playing favorites with Butterfield citizens but I am real concerned about cutting into the drip line of those trees at a future date to build a street which is different construction than what is already there, that I am concerned about. It is kind of pointless if we go through this exercise to save the trees and then we build a highway and if we do this as you say in 15 to 20 years, not anytime in the near future, those trees are going to be much larger and need further protection, that is my largest concern, the endangering of the trees. I understand there does need to be a distance between the street and

the sidewalk to provide for pedestrian safety, I know that in all our future plans we are trying to make sure that our sidewalks are designed that way, but we have situations all over Fayetteville where they are right up against the street. If our ultimate goal here is to try to save those trees because of the size of them then I feel like that is the goal and we ought to do everything we can to do that.

Les Howick a resident of Butterfield Trail Village: Our residents are very concerned about the potential widening of Joyce Street and my task for this evening is to help you understand why we are so intensely worried about this problem. To begin, realize that Butterfield Trail Village is the only Life Care Facility in the state of Arkansas. A life care facility means once you are admitted you are guaranteed skilled nursing care for life. This guarantee is one of the major factors in selecting Butterfield Trail Village over other places. We paid for this guarantee in order to remove from society the burdens for caring for us in the later years of our lives; we pay dearly for this privilege. Admission rates to Butterfield went from \$60,000 minimum to over \$300,000 depending on the unit that you want, further more what you get for this is a life hold on the unit, it is yours as long as reside there, when you leave it reverts to Butterfield with no commercial advantage to your estates or your heirs. We pay monthly fees, these run from \$1,690 to \$3,679 a month. Almost without exception in order to move into Butterfield Trail we had to sell our homes and make withdrawals from our life savings to pay these fees. Butterfield is a 501 C3 a non profit organization, nobody out there is taking any of this money and walking off with it for any place else. Butterfield's income comes from the residents, we have no other source of income, the residents pay, if cost for operating Butterfield increase or if incomes decrease our fees go up to cover those deficits, there is no place else to go for that. What is all this to do with widening Joyce Street, we see the proposed widening as much more than a loss of a nice set of beautiful trees, we see this as a potential threat to our livelihoods and to our existence. If we had the highway as originally proposed in the plan move in to where it's going to be about two dozen of our apartments would be directly faced upon that busy street, this will mean they are going to be much more difficult to sale and rent to our residents, the loss of income from that we have to make up. This is going to put a severe financial burden on a group of people with relatively fixed incomes who have worked and saved to protect themselves at this time in their lives. The possibility of losing Butterfield Trail as an institution is not an unreal possibility here. I begin by stating to you my statements were hopefully designed to reflect the concerns of our residents. I would like to order you two items in support of this position, a petition that I would like to read to you, *"Be it resolved that we, the undersigned residents of Butterfield Trail Village, petition the City Council of Fayetteville, Arkansas to exercise the power and authority to grant a waiver the dedication of any more land as bounds the north side of Butterfield Trail Village in connection with the expansion of the health care center. We, the undersigned wish to preserve the green space and the trees as currently exists and to maintain and keep in waiver in effect perpetuity"*. This petition I have signed and I will turn it in to you by 230 residents at Butterfield Trail. The other demonstration of our concern I would like to ask at this time that residents of Butterfield can rise. We re talking here of a group of people with an average age of 84, to get a group like this to come out here shows a really intense interest, I would say also you could probably have had more if we had more buses, our transportation was loaded entirely, so this is an artificially limited situation here. I hope we made the point to you that we are talking about much more than a

widening, we are talking about what we see as endangering our quality of life and what we are asking the City in some way or other is to not take from us that which we have planned and worked and saved for all of our lives. Thank you for your understanding and your patience.

Mayor Coody: One thing I want to reiterate we don't have any plans there is no proposed widening, we are only talking about a right-of-way dedication that is required by ordinance, the second thing is we would all sign that petition right along with you because we have every intention of saving that green space and preserving the trees as well, so please don't let folks think that we are talking about widening the road and taking the trees out and ruining that quality of aspects along Joyce for Butterfield Trail, that is exactly what we're not going to do. I know that you all have been thinking for a long time that the trees are coming out is eminent and if we can work something out which I feel like certainly that we can that is simply not going to happen, so I want to alleviate anyone's fears that, that may be a potential possibility because I don't think that it is.

Les Howick: I appreciate you saying this but I would say in response, I will be 75 here in a couple of months, I hope that at 95 I am still out there and I don't want to see those trees come down at that time.

Mayor Coody: Let me restate that if we work in agreement we can preserve in perpetuity these trees to where when you are 95 they will still be there, when you are 155 they will still be there, we can do that so please don't think that we are up here trying to say that we will just take them down in 20 years, because we are not saying that at all. We are talking about permanent preservation.

Les Howick: I understand and what I am trying to say to you right now is that as much as I love trees until I moved to Butterfield I lived in the middle of 20 acres of woods, there is more than just the removal of the trees. There is the impact that it is going to have on Butterfield Trail Village itself, so if there is some way to preserve them we are certainly all for it.

Marion Orton: I live in Fayetteville, not at Butterfield Trail Village, but my church was one of the ones that started it, my parents have lived there, I have been on the board there and I have a lot of friends that are there. 20 years five churches from the Fayetteville community planned this retirement residence, which would provide apartments and cottages and healthcare for its older residents. BTV is a non-profit organization with a local board elected by church members. When the land was first purchased it was a farm with rolling fields, to get to it one went on Old Missouri Road and turned off to the west on Elaine going into the farm, there was no Joyce Street. The City asked that the east/west street be put in, thus Arkansas Western Gas Company and Butterfield Trail Village paid for the building of the four lane street that is there now. When the apartments and cottages were built at Butterfield and the landscaping planted, the 23 fairly large pin oak trees were planted as a barrier from the street and a fence and sidewalk were built. Now the trees are tall and need the space provided for the root system, thank you Brenda for thinking about that. The new Alzheimer's health care unit which was requested by the residents will be added to the

present health unit at the back of the apartment unit, the trees to be removed in this area will be replaced, this is no problem, but because of this new construction in the back part of the property, the City is asking for more right-of-way. Surely a City plan for widening streets should consider the beauty of the street that mature trees will give. Having bends in a street may cut down on traffic, now I don't mean big curves but slight bends does cut down on the speed of automobiles, the street can curve away from the line of the established trees to the other side of the street where there are no large trees. We pride ourselves in encouraging beautification so let's have some curves and trees and respect for property owners who put value on the beauty of large trees for us all to enjoy.

Dick Forsythe a resident and member of the Board of Directors of Butterfield: Dr. Howick has described what Butterfield Trail Village and what it does for the residents. I would like to add something to what he has said and discuss what Butterfield Trail Village does for you for the City of Fayetteville. In the early 80's as Marion said when Butterfield Village was being planned, Joyce Street was just a country road, Arkansas Western Gas and Butterfield developers built that road, at that time that road cost Butterfield \$138,000. The city staff, the Chamber of Commerce, the business and community leaders and you folks have worked hard to bring culture and environmentally friendly businesses to our city and we are thankful for that and you have been successful. Butterfield contributes much and demands little, we have a low crime rate out there, we have no students going to school out there and only about half the people have automobiles. We ask that you now give us as much consideration as you can to keep this important industry in Fayetteville, we provide a retirement home for over 300 people, about 80% of our population worked and spent most of their lives in Fayetteville, so they have significantly contributed to Fayetteville. If these Fayetteville residents had been forced to leave Fayetteville to find a life care facility, and ours is the only one in the state of Arkansas, it would have meant a loss of revenue to the city of \$7,000,000 per year. The buying power of our residents which isn't included in that number significantly impacts all of our local businesses. BTV employees about 140 full time equivalent people and we had a payroll last year of \$3.5 million, the total operating budget this year is about \$6.5 million, all of it spent here in Fayetteville except some taxes that go other places. Including real-estate, our personal property taxes and sales taxes we pay about \$240,000 a year in taxes. We spend over \$400,000 a year for utilities; we are a pretty good size business. Our individual Butterfield residents pay about \$200,000 in their property and sales tax each year that is in addition to what Butterfield pays. In addition to these monetary affects on the city, our residents make significant contributions to the Fayetteville community, to their churches, United Way, recreational and culture functions that they participate in. Board members on local institutions and organizations, the University of Arkansas retirees, we have a number of retirees that live at Butterfield, and we volunteer in a lot of things around the City of Fayetteville. Kevin Santos recently recalled that a National Safety Board Member had said "trying to cure traffic congestion by widening roads is like trying to curb obesity by buying a bigger belt". He said our traffic consultants that are working with us are looking at other option than buying a bigger belt. We hope that he is correct and that we will not buy a bigger belt. Our future is in your hands folks, we want to stay in Fayetteville, and we want Butterfield to stay in Fayetteville and from what I've said I think you should want Butterfield to stay in Fayetteville. Your consideration on whatever plan that can be

developed is greatly appreciated, this isn't just about trees folks, and this is about the future of a business in Fayetteville. Thank you.

Nancy Robb: I have been a resident of Butterfield Trail Village for two years and I am very concerned about the proposal to widen Joyce Boulevard. The removal of the line of trees and the encroachment of the street into our buffer area will directly and significantly affect our quality of life and I do hope we can work something out between us. Until mid June of this year my resident in BTV was in a third floor apartment facing Joyce Boulevard while the traffic noises were certainly noticeable, they were made tolerable by the trees and the distance from the street. I recently moved to another apartment away from the street and a major factor in that move was the threat of the affects of the proposed widening. I plan to stay at Butterfield another 20 or 30 years. Conversation with other residents on the north side of the building have shown that this concern is wide spread, indeed a number of these residents have made inquiries about the availability of other apartments, for people of our age, moving is a major undertaking, it is both mentally and physically exhausting. We only consider such undertakings when there are strong motivations, that these moves are even being considered by many residents demonstrates the extreme concern they have regarding the impact of the proposed widening project. Please realize that these moving plans measure much more than the desires of these individual residents and the disruptions of their lives, it is the reflection of the down grading of the desirable of these apartments that will be caused by the widening. When we move out others will be much less likely to move in. The result will be that these roughly two dozen apartments will become much less attractive to new residents, this will have a direct negative affect upon the income of BTV and consequence increases in the monthly fees of our residents which we can ill afford, they are very high now as you have already heard. Hundreds of us have worked and saved for all of our lives in order to maintain our independence in our later years and to live in peaceful quite comfort. Please consider the very negative impact that the proposed widening will have upon us, there are other alternatives available to the city and we urge you to carefully and seriously consider them. Thank you.

Mayor Coody: I would like to reiterate that we are not proposing to widen the road and that we plan on preserving all those trees in perpetuity. We have plans on not taking them out. The repeated statement about the loss of the trees, I don't want people to think that we are talking about taking out these trees because we are talking about doing everything except that and I want that to really sink in. We want those trees to stay there every bit as much as you do. We are willing to sign a contract to see that happens that will outlive both of us.

Fran Alexander: I wanted to correct an impression or two when you are talking about the road and the sidewalk and the tree roots, if we had an urban forestry program in this town, an urban forestry would tell you that those trees were planted in that spot and conform to that spot. The roots are under the sidewalk and they are probably out to the curb, they may possibly be even under Joyce Street, although I think it is concrete and they probably not if it were asphalt they would probably be under it. Any widening in there would have to be done not this time of the year, it would have to be a surgical operation as root pruning is required on large trees, if you bulldoze through roots you have essentially killed the trees, its happening all over town, its happening this month, its happening every day. We have a

situation where if you do agree to have the sidewalk put on the south side of the trees, I would recommend that you build that sidewalk now and plant new trees near it because they need to start growing up to replace the ones that are there now. I would like to also emphasize to you that we are not talking about 20 years of growth out there we're talking about 460 years, there are 23 trees out there about 20 years old and that comes to 460 years so you don't just carve into those casually and expect them to survive, so the construction has to be carefully understood whenever it takes place, not interment and saving perpetuity is just something that is not possible to put into writing unless you have very strict understanding of what it takes to keep trees alive. I would like to also point out there are Bradford Pears that are about the same age maybe a little bit younger up and down Joyce on both sides, they are now at their maturity. I would also like to point out that we have ozone alerts in Tulsa, Tulsa is very close, we probably if we continue to decrease our urban forestry cover will be having ozone alerts here and that is not going to help this audience or any of the rest of us. As far as the right-of-way and the trees we are favoring a bunch more pavement, we are putting that in primary consideration versus vegetation, the vegetation is once again having to call out an audience of people to beg for its survival, this is ridiculous, we need to start with the vegetation and have the pavement ask for permission to be here, because every bit of vegetation we remove is heating this town up, we've had three days of over a hundred degrees, at least where I live and I live in the middle of the woods. Think what it is going to be without any more trees along Joyce.

Steve Gunderson: I think you've heard some of the concerns of our residents and some concerned citizens. This is a very serious move on behalf of Butterfield and it is a very serious thing that we are considering, I don't think the Village has any problem sitting down with the Board of Directors or an ad hoc committee of the Board of Directors and talking about how we can resolve this, perhaps we need to look at a conservation easement, I think the City of Fayetteville would be out front in the state of Arkansas if they went ahead and enacted a conservation easement for this particular piece of property, I don't know if Kit and I were to get together or if it were to be members of the Council how we would do that. I would be willing to work with the members of the Council or Mr. Williams as long as I could have some people there too and I think if staff was involved on your side, I think our engineer or representative of the Village needs to be involved. I do not think it is as simple as a give and take as some of the Aldermen have said, I think there is a lot more involved here, we would like to have the opportunity to sit down and discuss this. I think the best move for the Council and for Butterfield although we are anxious to get this resolved would be to table it until we have had the opportunity to talk to you about this. I think our residents and the people who are here have put enough on the table for you all to be concerned about maybe reconsidering the drafting of this agreement or looking at something else and we would like to do that.

Mayor Coody: I think the idea of a conservation easement is a good one if we could do that, that's the kind of thing that I think having dialogue brings to the table and if that conservation easement essentially accomplishes the same goal maybe even better than I am certain we can really work together on it, our will and your will are essentially the same and all we are from this point forward is basically just fine tuning and I know that Butterfield Trail Village residents are reasonable and I think we are pretty reasonable, I think our goals

are essentially the same. I feel confident that we can put together a plan where everybody can come out ahead and I think if you would like for us to table this, do you want to table for two weeks at the next meeting?

Steve Gunderson: I think as soon as possible, but I don't know if two weeks is going to be enough time for us to get into this especially since you are dealing with the smoking issue.

Kit Williams: I would not recommend that, you could if you wanted to just table it and it then it could be brought back up or else you could table it for four weeks, but that's your basic options unless we had a special meeting.

Steve Gunderson: If we just table it without a date certain, could we not after we reach some sort of compromise then petition the board to put it back on?

Mayor Coody: Yes, the choice is yours as to when to bring it back.

Steve Gunderson: I think that is the one that we would like.

Alderman Rhoads: At the risk at actually doing something tonight can I just ask a few questions. Mr. Gunderson are you in favor of what your engineer Mr. Yates has proposed.

Steve Gunderson: The position that Butterfield is taking is that we don't want any more off of the dedication that currently exists.

Alderman Rhoads: So what Mr. Yates has proposed from an engineering standpoint that is the will of Butterfield?

Steve Gunderson: That's right.

Alderman Rhoads: With your permission Mr. Mayor can I ask Tim to stand up and tell us the pros and cons of that proposal?

Tim Conklin: Once again staff is trying to be consistent with how we treat developers and development all throughout the City of Fayetteville. As we have heard this evening streets can be designed many different ways, you just need to look at Old Missouri Road and how many meetings, neighborhood meetings, design changes, and design schemes came up with that. We are talking about a Master Street Plan and right-of-way dedication. With regards to their engineers proposal, yes is that feasible, can it be, yes it can, does it meet the Master Street Plan, no, so it is a policy issue that you must decide whether or not you follow your adopted policy.

Alderman Rhoads: I am just trying to be clear, when you say it doesn't meet the Master Street Plan, what does that mean as far as something that this audience and I can understand.

Tim Conklin: It means that the street in that location is not going to follow the recommended green space between the sidewalk, the recommended median green space

boulevard that is what I am trying to say when I say it does not meet the Master Street Plan. That ideal design of that street in that location based on their engineer's proposal would be something different. With regards to the pros and cons in 1996 the City Council amended the Master Street Plan and adopted those cross sections and felt like that a median boulevard with a landscaped island in the middle of the road was what we should have in the City of Fayetteville, based on that, that right-of-way established. There are some benefits of having a divided arterial street with regards to traffic safety and traffic capacity, there are a lot of studies that have been done, so having your traffic separated, and there are benefits to that. That is the benefit of not only looking at not only the aesthetics of having the boulevard but for safety and capacity and that is something our traffic consultant has discussed when you start seeing average daily traffic counts exceeding 20,000 to 30,000 vehicles a day you need to start looking at how you are going to handle that. The con is that we do not end up with the ability to separate our traffic, when traffic on Joyce Boulevard does achieve those levels.

Alderman Rhoads: So you have a safety factor of perhaps people running head to head into each other.

Tim Conklin: The reason why you divide your roadway is to try to reduce the amount of turning movements, the amount of potential accidents that could happen, coming in and out of driveways, turning left each direction, you try to minimize that and that reduces your accident rates.

Alderman Thiel: The proposal that was presented by CEI it didn't have a median, but it had a turn lane, so it's not as if it's narrowing down and you are having cars head on. We have a lot of situations where we have turn lanes throughout the City.

Tim Conklin: That is correct. It could function as a two way left turn lane, continuous left turn lane in that section of Joyce Boulevard.

Alderman Lucas: Would it be like College then, with a turn lane.

Tim Conklin: It could be that is a continuous left turn what you see on College Avenue, you can turn left in either direction.

Alderman Davis: Suicide lane.

Tim Conklin: Also known as a suicide lane, yes.

Alderman Thiel: If it is built the way the Master Street Plan says it would just be a wider suicide lane.

Tim Conklin: If it is built according to the Master Street Plan with a boulevard, you would not have median openings on every single curb cut, you would restrict that and you would space them. You do try to minimize that or else you lose the value.

Alderman Thiel: It can still be done it just wouldn't be as wide.

Tim Conklin: That is correct.

Alderman Marr: We have talked a lot about consistency, how many times have we waived the requirement or adjusted the requirement that we have required of developers when doing these types of dedications.

Tim Conklin: Normally the ones that come before the Council are when we have existing structures that would be located in the right of way to be dedicated to the City and we have removed those structure and only required the right-of-way be dedicated around the structures. Those are the ones that we have normally seen. To answer your question, we have reduced right-of-way requirements in our planning area way out toward the planning area boundary and this is where there is not a street currently, that has been only two to three times that I can think of.

Alderman Davis: Tim once again you told us earlier that with the given right-of-way that is currently there we can go ahead and have the two lanes going east and the two lanes going west and have a turn area into Butterfield Trail correct.

Tim Conklin: That is correct.

Alderman Davis: We have a small median at that point in time for people to be protected going into Butterfield Trail from the west direction, heading west turning into Butterfield. It seems to me like from what we just said that should work and then we talked about having a conservation easement where if we wanted to Mayor we can ask for that to begin the process and that way that additional frontage going back into the facility is guaranteed for perpetuity and I think that's what we kind of discussed here as a Council tonight is finding a way to preserve this and I think what we just talked about what I just said would possibly do that.

Alderman Rhoads: In regard to consistency, I am not always in favor of consistency if there is a reason to be inconsistent, and it seems that here there is a pretty good reason to be inconsistent. What I worry about is what is the long range impact of that inconsistency and that is what I was trying to get to the long range impact is you might have a less safe street but yet I still hear you can put a median in there and so why would it be less safe. Again all my comments are based on Mr. Yates plan.

Tim Conklin: To answer your question with regard to if we can put a median in which is not Mr. Yates plan that was staff that looked at that, we did reduce the travel lanes from 12 to 11, so the lanes did narrow wider lanes people are more comfortable and you have more space between the vehicles that was the difference there. With regards to the median, yes it still could be in there its going to be reduced to 11 feet total for planning, so it is going to be somewhat reduced from what you normally would have in that cross section. With regard to the safety issue your lanes are reduced.

Mayor Coody: And the sidewalk would be closer to the lanes of traffic if I understand.

Tim Conklin: That is correct.

Alderman Rhoads: How much closer?

Tim Conklin: I think in our proposal it would be up against the curb. The sidewalk would be up against the street in our plan.

Alderman Rhoads: In Mr. Yates plan?

Mayor Coody: If it is the will of the Butterfield Trail Village folks to table this for further discussion, maybe these are discussions that we should have outside the formal City Council meetings and be able to answer a lot of these questions and come up with some kind of formal presentation to the Council that everyone can live with.

Alderman Rhoads: Where I am going with this Mayor is I can't quite figure out why we shouldn't accept Mr. Yates and Butterfield's proposal.

Alderman Davis: I agree.

Alderman Thiel: I agree.

Alderman Rhoads: That's where I'm going with it. But I am doing my very level best to make sure that we don't make a decision tonight that really hurts us 20, 40 years from now and that's why I am asking these questions right now.

Tim Conklin: With regards to Mr. Yates plan, he does not show a median in his plan we are achieving additional right-of-way by moving the sidewalk closer to the street and making up that center turn lane, left turn lane with that, medians are shown to be safer than continuous left turn lanes. The only other thing that I think that we may be giving up is long term future of Fayetteville with regard to preserving the right-of-way in the corridor and how we plan possibly right turn lanes on the street in different areas, typically you need more than and you will see this as part of our Master Transportation Study, maybe not in this area in front of Butterfield Trail, but typically you do need additional right-of-way to get right turn lanes in also.

Alderman Rhoads: Could I get Mr. Yates to answer my question, in regard to your plan, how close will the sidewalks be to the street?

Kevin Yates: With our plan and if you look at the minor arterial section in that handout I gave you 10-4 right now that would call for a 90 foot right-of-way, we have 80 in place, where I am proposing we reduce this would be the 10 foot green space between the sidewalk and the back of curb, we reduce that to five feet and that makes up the five feet of right-of-way we don't have at this time.

Alderman Rhoads: So in other words you would have in between the street and the sidewalk would be five feet versus ten feet and currently what is it now, seven feet.

Kevin Yates: I don't know for sure, that sounds in the range of it but I haven't actually physically measured it myself.

Mayor Coody: Now is that maintaining the same width of sidewalk that we have there?

Kevin Yates: That's maintaining your six foot width that you have in your proposed section, it actually would probably be wider, I think that is four feet that we have right now.

Alderman Thiel: I think Tim's proposal is good because it does still allow for a median even though the sidewalk is sitting against the curb. One thing we need to bear in mind is we have already built a trail in behind this area and we are getting ready to extend that trail all the way to CMN and that trail is being designed for basically a pedestrian transportation trail, now I realize that sidewalks are very important too but I just wanted to point that out, we are spending a great deal of money to build this trail and it is progressing very well and it will provide the pedestrian, bicycle transportation through this same area, just parallel with it.

Alderman Davis: Brenda that was a great point because that trail also branches off of that and comes up to Joyce Street between Lindsey Management and one of the banks over there at this point in time and then proceeds from there across the street to the post office. That is a very good point that you have made.

Kevin Yates: One point that I would like to make is that ultimately we don't have to make a decision on whether we use Tim's plan with the median or the plan that I am proposing, we just have to make sure they actually work or function.

Alderman Rhoads: Your proposal is basically less feet taken.

Kevin Yates: My proposal is no feet taken, current right-of-way provides it. That is what we are requesting in our latest letter that we sent to the City.

Alderman Rhoads: I'm not sure why we can't vote on that.

Mayor Coody: For the properties on both sides of Butterfield Trail, we have already received this dedication.

Tim Conklin: Yes we have actually, Butterfield Trail dedicated 55 feet on the first phase of Commerce Park.

Mayor Coody: Would we give footage back, would we change our requirements for the rest of the street, would we have just a notch taken out of.

Tim Conklin: It would appear on our right-of-way maps a notch taken out and 20 to 30 years from now people designing the street with regard to turn lanes and boulevard medians they would have to make design considerations.

Alderman Davis: Mayor essentially what we are doing is we are narrowing one portion of the road but it doesn't mean that you have to give up the right-of-way where you have already taken it at the other end of the road. There is no reason to give back what you have already gotten. What we are talking about tonight is not taking something that currently is not ours.

Mayor Coody: Oh I understand that and if it weren't for the Alzheimer's unit we wouldn't be having this discussion anyway because we are not out there trying to get this right-of-way because we need it right now, it is because of the development that's happening, and I want to make that point too.

Alderman Davis moved to accept the current right-of-way the appeal that they brought before us and then we have a committee get together with the people of Butterfield Trail and work out a conservation easement for that portion between the road and what currently is their property. Alderman Rhoads seconded the motion.

Mayor Coody: We have a motion and a second to accept the plan that has been brought forward by CEI Engineering.

Alderman Cook: The only thing I am concerned about on that is the CEI plan does not show a median in there and I think a median is a very key piece of that.

Alderman Davis: I didn't put the word CEI in there I am talking about the current right-of-way that Tim and his diagram that he gave us shows where you can put a median in there. I agree with you I think that is very important, so I think we need to keep the current right-of-way that is there, not extend our right-of-way, but where our right-of-way currently ends go ahead so that we can make sure that future Councils do not come back 5, 10, 15, 20 years from now and have this same discussion, go ahead and take that portion of land from the northern portion of their property back to whatever the southern portion of this area would be the 15 feet or whatever, put that in a conservation easement, so this is a dead issue.

Mayor Coody: So you are basically saying to approve the appeal from Butterfield Trail Village Kit is that right.

Kit Williams: Yes, it probably should be separated and just one on the appeal and if you want to do something else actually there is nothing really else before the Council, it is just the appeal. You probably need to limit it just to whether or not you are going to.

Alderman Davis: Kit I would kind of like to keep both together so that we don't lose one, lose out on one, I am not sure we can come back tonight and add this additional conservation easement tonight or can we and if we can that's fine.

Kit Williams: To do anything else besides the appeal you would need to suspend the rules in order to hear something that is not on the agenda, right now the only thing that is on the agenda as I told you earlier was just the appeal and to decide anything else in relation to this

you would have to suspend the rules by two thirds vote in order to get to any other kind of attempted decision on it.

Alderman Jordan: So if we approve the appeal that does not mean that we can not come back and discuss other issues.

Mayor Coody: It would take a majority vote to bring that up.

Alderman Rhoads: The other issues that we may want to talk about would be a conservation easement and does that require a City Council approval or can the City enter into that on their own.

Kit Williams: I think it would probably be brought back before the City Council even though it might be that the Mayor would be able to approve that on his own through his contractual power, he does bring many contracts to the City Council that actually he would have the statutory authority to approve on his own.

Alderman Jordan: So we can come back and address issues that Kyle was talking about and issues that you're talking about even though we pass this.

Mayor Coody: We would have to work within the existing right-of-way and there would be no further dedication of right-of-way within which to work.

Alderman Cook: Why do we have to vote right now, why can't we just discuss that and we table it like we originally said.

Mayor Coody: The reason we have to vote on it right now is because there has been a motion and a second. There has been also the request to table this for further discussion as well.

Kit Williams: A motion to table is always in order and takes precedence over any other motion, but there is no motion to table before us.

Mayor Coody: If there is anyone that would like to make a motion to table to discuss this further instead of voting on it tonight.

Alderman Thiel: Well, we do have this motion on the table at the time though.

Mayor Coody: Would the motion to table take precedence.

Kit Williams: Yes, motion to table always takes precedence. What are you tabling; you are tabling the motion that is currently on the table.

A discussion followed.

Mayor Coody: If there is no motion to table.

Alderman Cook: I will make a motion to table it. Alderman Lucas seconded.

Mayor Coody: We have a motion and a second to table the motion to approve the appeal.

Alderman Thiel: So we are discussing the motion to table.

Mayor Coody: We are discussing the motion to table.

Alderman Thiel: I would just like to say something opposing tabling it at this time, that would take at least four more weeks, I think the idea that was presented that possibly there be some discussion of other plans I guess that could happen, but I'm opposed to tabling it. I would rather go ahead and vote on it tonight because of their urgency in trying to get this project started. Four more weeks at this time of year is definitely a delay that is a full month into the winter that they would be.

Alderman Cook: Do we have wait four weeks. I personally would be willing to.....

Alderman Thiel: Do you really want this group and the smoking coalition group; there are not enough seats in this building.

Alderman Cook: If we could get together this week and work something out could we have a special vote at our next agenda session. We could do it in a week if we had to, I would be willing to do whatever it takes to do that.

Alderman Rhoads: Kyle I'm not sure what are we gaining by tabling it.

Alderman Cook: To fully discuss all of the options, right now we are fully limiting ourselves to the right-of-way it is now and I thought we were going to at least discuss whatever options are available, now we may come back to what we have here, we may do that, but at least let's keep it open so we can discuss all the options.

Alderman Rhoads: Have we not discussed all the options, I'm sure if we sit here long enough somebody would think of two or three other things.

Alderman Marr: A comment I would say to that Robert is that I came in here tonight thinking I'm not sure I support this we are giving away \$125,000 that we might have to come back and pay for someday, I want pedestrian safety, I understand the tree preservation issue but having heard it tonight and listening to the information I'm more inclined to, in fact I am inclined to make the concessions we talked about, but one thing I'm not willing to give up is the median and so I don't know what this motion to do how that protects getting the median in the space because the CEI's plan doesn't have that and so when we are talking about whatever motion we are going to vote on just leaving it open, I'll vote if I know we are protecting a median in there, because the other pieces are being protected the trail is protecting pedestrian safety, the trees as the Mayor has said has always been a priority to be protected.

Alderman Rhoads: My understanding the median is the City's prerogative and if it's a smaller median so be it but a median can still be put in there with 11 feet versus 12 feet lanes.

Alderman Marr: But when we are waiving it our Master Street Plan that we use as a guiding principal has medians in these major arterial roads and when we're making the concessions on the width and how to do that the policy change I am not willing to vote for is to eliminate that in a road of this width, in this size and this location. If we can accomplish it and keep that, then I'm all for the compromise we are talking about, but I want to know that's protected.

Alderman Davis: If I may make a comment, basically what we are talking about is keeping the same right-of-way that's given, before any project comes before the City it has to go to the Street Committee and the Street Committee discusses that, now yes, who knows who is going to be on the Street Committee in 2010, so in that situation you could lose out on these medians that are in here from Tim's drawing, but Tim's drawing shows this and I never mentioned CEI's proposal, I am saying we keep the right-of-way as what Tim said we could work with and have his plan come to fruition that's what I stated and that's what I would like to say. Would you like to reword that somehow?

Alderman Marr: I guess that's why I am open to this discussion to the tabling because we're talking about being able to protect trees in perpetuity, have conservation easements, but we aren't getting to the median issue, which for me as I listen to the concerns is the bigger issue, because we are protecting the tree with this we are protecting pedestrian safety with the trail behind it we're not addressing the median issue. It's open ended as you said some Council can come back and so no, today we know if we pass this we have the allotted land to be able to make sure that, that happens if it ever happens, I mean we just heard if I heard right 2023 this road is still going to be at the service level so we are not even talking about expanding it 20 years from today, but if we do I'd like to know that we have that safety protection in and I don't understand what we have when we have developments why that can't be a part, we are waving this under the condition that whatever design has some form of a median protection as our arterial policy.

Alderman Davis: Would you like to add that to my proposal?

Alderman Lucas: It could be changed.

Mayor Coody: Hold on stop a second, Don are you finished, Bob did you want to say anything else?

Alderman Davis: Just what I said to Don if he would like to add that to my proposal I am to accept it.

Mayor Coody: Shirley

Alderman Lucas: That's not binding though, another Council could change these things, that's what concerns me, I am all in favor of saving the trees, we are making decisions for 25 years from now and we are making concessions for 25 years from now and this concerns me, we as Council people even though this is a very emotional thing and I have a lot of friends that are at Butterfield and this has torn me apart. We have to be fiscally responsible as citizens of Fayetteville and not just get emotionally involved about this, but as Don said we have to look at this what will happen 25 years from now and we need a median in there and if there is a compromise, if Butterfield can compromise to where we can save the trees that would be wonderful and still have the safety of the street. I think it is something we need not to make a quick decision, this is something we need to talk about some more.

Alderman Thiel: We have seen a plan here that has a median in it and a turn lane with the 40 foot existing right-of-way; I don't understand what the concern is.

Alderman Marr: Is that the plan? There are also three other plans.

Alderman Thiel: Every time we take right-of-ways we don't discuss the plan, we look at a plan that is presented, and we are looking at one right here that is presented that is workable. We don't normally adopt the street plan per say when we are adopting that right-of-way. We don't look at the way it is totally drawn out like this is so to me Tim had illustrated how this can work with a median and a turn lane.

Alderman Rhoads: And if we take the 55 feet does that mean that we will assuredly definitely have a median? No. Some other planner could have a different idea or traffic calming devices could change, there could be a lot of different things.

Alderman Marr: That is the policy decision you are making to waive that. I'm making it that I don't want to waive the median.

Alderman Rhoads: We are not waiving the median.

Alderman Marr: That's what we are talking about in this plan we are talking about policy change, we are changing the policy that a particular type of road we want to have medians in it. We are waiving that. That's the part we're waving.

Alderman Rhoads: But we're not waiving it.

Alderman Davis: Don, I'm giving you the opportunity to put that in the motion if you so desire.

Alderman Marr: If you do that I will vote for it.

Alderman Davis: I'm willing to let you put that in there, but I haven't heard you say that you would like to add that on here.

Alderman Rhoads: You can amend your own motion and if you amend it let me suggest that as opposed to having us being forced 20 years to put a median when we may not want one or need one that we make every effort to put a median in. I don't know if Don will go with that or not.

Alderman Marr: Is it not our policy today to have one in major arterials, is that our policy. Which means that any major arterial that gets built would have a median in it, is that our policy today?

Mayor Coody: We have two motions before us right now, one to approve without amendments and the other is to table. The only thing that concerns me about this is that we're making a decision tonight in the heat of argument and debate that will affect Fayetteville for the next 100 years and I am concerned that we may or may not be looking at the best available option before us right now and I would hate to think that we need to approve something tonight to get it off the table and in one year, in 20 years, in 100 years say why on earth did they ever decide to do this without thinking it through completely, so I hate to have such major policy change and it is a major policy change that the planning commission voted unanimously to deny and we vote to do something completely differently with virtually three or four different plans in front of us, none of us quite clear what the ramifications are, I think we would be acting in haste if we were to decide this tonight that is just my opinion.

Alderman Rhoads: My opinion Mayor is that we've had, this has been before us as early as June and it is a lot of time to consider and I also have incredible faith in our engineering and planning department and their abilities to take the existing right-of-way and make it work with medians. I am not sure we are going to lose anything by making a decision tonight. I am not sure what else we will come up with that is any different, some sort of engineering idea which is still available no matter what we decide.

Alderman Davis: Mayor we have a motion on the floor and I am going to call for question.

Kit Williams: The motion on the floor is the motion to table.

Mayor Coody: We have a motion to table and a second. Shall the motion pass?

Upon roll call the motion to table failed 3-4. Alderman Cook, Lucas, and Jordan voting yes. Alderman Marr, Rhoads, Davis, Thiel voting no. Alderman Reynolds was absent.

Mayor Coody: So we have before us a motion to approve the appeal.

Kit Williams: One point of parliamentary procedure on this motion which would be a resolution to over turn the decision by the Planning Commission, that will require five affirmative votes in order to pass as opposed to an internal motion like a motion to table which is simply a majority of the City Council that's sitting here. So if there are four affirmative votes for this Mayor than you will be given the option to vote if there are only three affirmative votes for it then it would fail.

Mayor Coody: Did you want to ask for some amendments.

Alderman Cook: Mr. Yates I was looking in the Planning Commission meeting minutes and you mentioned in there that that you were wanting to, right now its 40 foot from centerline and you are willing to go 45 feet from centerline is that correct.

Kevin Yates: 43 is what we said initially but after looking at the tree drip lines and everything, we revised that appeal because of the concern that extra three feet the impact it might have on the trees, that is the reason we revised it up to this point.

Alderman Cook: So you are back to 40 then.

Kevin Yates: Yes, we are back to the existing right-of-way.

Alderman Thiel: A yes vote means we are supporting their appeal.

Kit Williams: Yes, that would be overturning the Planning Commission's decision.

Alderman Davis: Don, I am going to make an amended to my original motion to have a median in this particular area.

Alderman Marr: Second.

Kit Williams: I really don't think that can be part of this particular motion, its either whether or not you are going to overturn the Planning Commission decision to require dedication or not that is the only issue that is before you.

Alderman Jordan: Okay can we bring up the amendment then if it does pass.

Kit Williams: You can do anything you want to in the future, bring in new resolutions, whatever you want to do, not tonight. You can certainly suspend the rules with a two thirds vote and then do what ever you want to.

Alderman Lucas: I thought once we supported their waiver that we can't go back on it.

Kit Williams: No that will be over all the land you will not be able to seek any dedication from them at that point.

Alderman Jordan: If we suspend the rules and then go back to, what do we need to do, suspend the rules and do what?

Kit Williams: You can suspend the rules if you want to, to bring up any new resolution, motion, ordinance, what ever you want to do.

Alderman Marr: I want to make something very clear because what I don't want to get brought in as a procedural issue, if we vote for this appeal and Lionel moves to suspend the rules and we have it are we going to be in a scenario where we don't have a document in front of us, your advise to us is going to be that we shouldn't be acting on it at this meeting, because if that's the case I am going to move to reconsider and table it because we are not going to be talking about it anyway.

Alderman Jordan: I thought we were going to be talking about it.

Alderman Marr: If we can talk about it I want to know the point of that.

Kit Williams: Normally you only consider things that are in front of you and documents or what ever, but that is not in your rules, that might be in your rules but you can also suspend the rules and consider anything you want to and I will do my best to write down what you say, my advise to you always is I don't like to have you all make decisions on the fly when I have seen City Council's get in trouble that is how they do it.

Mayor Coody: So we have before us a motion and a second to approve the appeal from Butterfield Trail Village and that is the only motion before us at this time. Shall the motion pass?

Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Resolution 126-03 As Recorded In The Office Of The City Clerk.

Alderman Jordan: Moved to suspend the rules and talk about what ever additions we want to make on this. Alderman Davis seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mayor Coody: Alright thank you now Mr. Jordan.

Alderman Jordan: I will turn the floor over to Mr. Marr because he wanted to talk about the median.

Alderman Marr: I would like to move a resolution that we forward to our Planning Staff the adoption of B.1: Page 31 for the design or in the spirit of this design which incorporates medians for future development of this road area related to the appeal we just heard.

Mayor Coody: Question, before you second that, I want to ask Tim it appears that the sidewalk is continuous with the curb on a four lane street.

Alderman Jordan: I will make a second.

Mayor Coody: We have a motion and a second to approve the plan that Mr. Conklin has come up with.

Kit Williams: Let me make sure I get this straight, forward to the Planning Staff for adoption of the design on Page 31, or was there something else Alderman Marr.

Alderman Marr: Which incorporates a median into the design or a reduced median into the design.

Alderman Davis: Don, are you willing to accept an amendment to that motion to see to it that we have a conservation easement from where our property for the right-of-way of the road ends going back to whatever that footage is 15 feet or 20 feet whatever it is Kit, is that 15 feet, that area going back towards Butterfield Trail from the north portion of our street right-of-way back towards Butterfield Trail Village, whatever that right-of-way is there potentially that the City could come back and ask for at a later time to put in a conservation easement.

Mayor Coody: That would be up to Butterfield Trail Village to offer as a conservation easement. We can't require that of them.

Alderman Davis: Okay then we will pass on that. They can bring that back to us.

Alderman Rhoads: What Mr. Marr is proposing is that we adopt Page 31 which has the sidewalk right next to the street right. Can't your plan with the existing right-of-way still move that sidewalk over so there is five feet of green space in between the street and the sidewalk and still not be harmful to the trees.

Alderman Marr: Not and maintain the median.

Tim Conklin: Not if you maintain the median. Keep in mind one of the staff engineers worked with me on this and this is a conceptual design the intent is for a boulevard and yes we will when the street is widened in the future we will have this record to follow, but with regard to the actual openings and design of the turn lanes and everything I would ask that this is not the official design of this boulevard, it was done in a couple of hours.

Alderman Marr: I think my comment Tim was in the spirit of B.1. Page 31 which incorporates boulevards understanding that this is a preliminary conceptual design and not an actual schematic design.

Tim Conklin: Thank you.

Alderman Thiel: If everyone will look at the top of this page where the 40 foot centerline is shown you'll see that it actually goes beyond the sidewalk probably at least three feet beyond the sidewalk, so if in the future whenever this is redone I'm sure it will all be resurfaced and everything else, there is a possibility and if it would not affect the trees that you could move the sidewalk over three feet and have and I know this kind of a rough draft from your part too but it looks like there might be a couple of feet there that could be and that's all that there is

separating the new Crossover Road from the sidewalk, there's only about a foot and a half median.

Mayor Coody: Tim are you somewhat clear on the intent here, I think it is to pretty much follow this but if there can be some footage in there for improvement go for it. Is that pretty much what you are saying.

Alderman Marr: Yes, and I agree with your concept of I typically don't like sidewalks adjacent practically to four lane highways, I think that the one added item that we have here is we have a trail that is connecting this particular area which is very pedestrian safe which is significantly off this road as an additional option. I also think that one of the things that swayed me as we talked about this was in asking the question do we make exceptions historically I heard that we have in certain instances, not a lot in certain instances for existing structures and I certainly think in the situation of Butterfield Trail as an existing structure is why I am being more flexible than I would have been for an undeveloped property.

Alderman Lucas: I like this plan with the median and I hope that 25 years from now they will remember this. I hope also Butterfield will go ahead with the conservation because otherwise this can all be changed, don't forget that and we have to save those trees.

Mayor Coody: the motion before us is to essentially adopt B.1. Page 31.

Kit Williams: The motion as I have it is forward to the Planning Staff for adoption the basic concept of the design on Page 31 which incorporates a reduced median.

Mayor Coody: And there is a second to that. We have a motion and a second. Is there any other discussion.

Alderman Rhoads: The only thing I worry about, I understand that trail behind helps out, but you are still going to have people walking on this sidewalk and if we could add one more bit of assurances that every effort will be made to put some green space in between the sidewalk and the four lanes. Can you do that for me Kit?

Kit Williams: If that is what the concept design already shows, according to Brenda it shows that.

Mayor Coody: If we have to work within the existing right-of-way we have only so many Linear feet to deal with and we are going to be tight to get in there everything we have to get in there even if we reduce everything to bare minimum its going to be tight as it is. The only concern I have is that one of the complaints that I have had from residents of Butterfield Trail Village is the speed of traffic and having to walk in close proximity to that traffic, as we get more development out there on Joyce Street there will be more instances where the residents of Butterfield Trail Village will want to walk across the street to get to get whatever business that might pop up and we will not only see increased traffic we will see increased desirability for people to walk from Butterfield Trail Village across the street and we are also going to see an increased level of danger with the sidewalk adjacent to this highway. So later on I

want everyone to remember that when Butterfield Trail Village come forward and say this is a dangerous situation, don't blame us for it, that's all I ask. Alright we have a motion and a second before us shall the motion pass.

Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Resolution 127-03 As Recorded In The Office Of The City Clerk.

Steve Gunderson: Thank you on behalf of Butterfield residents and the Board of Directors.

Public Hearing Raze and Removal 226 North School Avenue: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Timothy C. and Christine Klinger located at 226 N. School Avenue in the City of Fayetteville, Arkansas. ***This resolution was tabled at the August 5, 2003 City Council meeting.***

Mayor Coody: If we wanted to leave this on the table would we just talk about it for a minute, do we have to take it off the table to discuss it.

Kit Williams: Was it not tabled to this meeting? I think it was tabled to this meeting so it is already off the table, so if you wanted to table it you are going to have to have a motion to table it.

Mayor Coody: Hugh do you want to bring us up to speed on this latest developments issue.

Hugh Earnest: Yes, as you know we have two separate raze and removals on the agenda tonight, we have here photos of both sites and if the Council wishes to look at it that is perfectly fine we have that all here, I think everybody is well familiar it has been around for quite a while, but if you want to see those we certainly have them. The first action is proposed action by us against property as the Mayor has said at 226 North School, today the owners of the property the Klinger's submitted a set of plans and requested a building permit. We have the material in to review and should complete that within a week. While the Klinger's have a very long history of working on this property, we believe in fairness to the effort and expense on the submittal, we should again ask that this be tabled until the first meeting in October in order to give us time to review the plans. Assuming that the plans are adequate and I can't tell you if the plans are adequate yet because we just got them today, I looked at them briefly, Mr. Cattaneo looked at them very briefly but we are not prepared to say if they will meet some basic principles of making, the point I want to make here is that in both of these structures and this is always an unpleasant situation when you move against personal property, we move against these because they are in violation of the classic health and safety requirement of this City or any City that has regulations of this type. Both of the structure fail that, both of the structure can with effort be brought back into compliance, but again if we assume that these plans are adequate we would negotiate with the Klinger's a definitive time frame for improving the property and I am talking now about the one on 226 North School. It is our suggestion that you again table this until the first meeting in October that will give us an appropriate time to deal with this situation. This situation has been with

us as a policy since the mid 90's and another month I don't think will cause undue hardship to anybody. That's our suggestion on that.

Alderman Davis moved to table until the first meeting in October. **Alderman Jordan** seconded.

Alderman Rhoads: I'm just really curious what are they going to build out of this do you have sense from the plans.

Hugh Earnest: The sense of the plan is that it would be a shell structure that would then be available for lease and I had several questions and concerns, it looks like there's going to be brick put on the existing brick, so you would have new brick on the half brick that's about ten feet in the air. I am not prepared to go any further than that but I personally as a layman have some questions about the adequacy of what they are proposing but I think in fairness to them we need to have our professional look at it and see if there is some way to salvage this structure. They are prepared they say to spend the money that it takes to put the building back in a status that is satisfactory to the public.

Alderman Jordan: So let me get this straight you are going to take and put brick on those old dilapidated brick basically, the plan is to do that.

High Earnest: Alderman Jordan I looked at these for about 5 minutes, we have people that work for us who are competent to look at this, that is just my first impression of what they were doing I have questions about that and if this is not an adequate plan you may rest assured that we will be back to you with a definitive recommendation on this.

Mayor Coody: My question is I love Tim and Christine, they are great people, I have known them for a long time, I get along with them real well, obviously this is sport and I am just wondering if we come back in two weeks will there be and this has been going on for so many years it's become I think a challenge to see how long this can be dragged out, so do you think that if this doesn't work out that the next time this comes up we will actually move forward with some kind of real work.

Hugh Earnest: You will get a recommendation from us.

Mayor Coody: Okay.

Alderman Thiel: Have they ever gotten this far with stopping this with actually having a building permit submitted to the City.

Hugh Earnest: I really can't answer that I don't know.

Mayor Coody: This pre dates all of our histories here.

Alderman Thiel: So they have gone farther this time.

Hugh Earnest: We do have in the package some information that Mr. Vendable put together in the late 90's.

Alderman Thiel: Does Lynn have some insight on the history?

Mayor Coody: No. We will take public comment here in just a minute on this.

Paula Marinoni: I came here two weeks ago to address these issues. I came here two weeks ago to address these issues, spent two hours listening to smoking to find out it had been tabled, so I appreciate having the opportunity to address this. On this issue I have followed it since I have been back in Fayetteville for eight years and when this first came up it was my understanding that this was sold to the Klinger's who I too think very highly of and I don't mean to infer anything that would not speak of that to them. This came up about 10 years ago and it was sold to them I believe for \$15,000 with the agreement that they would restore it for Dickson Street, that never happened. This has been coming up, this is the third time since I have been back here, it came up once and they promised to do something with it, it came up five years ago and they brought in elaborate plans of what was going to happen and it was tabled and given another chance and that never happened, so briefly on this I would like to say I had one of the people in our organization who wrote a history of Dickson Street, I called them and said do you know anything about the history of this building just to make sure and he did not, however I would encourage you not to demolish this building because those brick walls are highly desirable for the type of businesses that are going in on Dickson Street, whether it be a bar or a coffee shop or what ever, those original brick walls are very desirable as far as decorating. Secondly I would like to encourage you to consider instead of razing and removal, the problem with this that was put in place in the first place was there was no time limit on it, I believe that adequate time has been given on this, its 10 years for whatever reason that holding up their end of the bargain and it was a bargain getting that piece of property for \$15,000, never happened and they have been given repeated opportunities to put something in place and that is still not happening and I have never spoken up for this I doubt that I ever will again but this is an instance where I think that the City should ask for that property to be sold back to you at the same price because no improvements have been made, if it is not sold back to you at the same price I would encourage you to proceed with eminent domain and pay a reasonable price according to what you paid for it and then make it available to someone who will really develop it, because that is an important place on Dickson Street and it would be a shame to demolish that brick structure when it could be used and used very well.

Kit Williams: You have to have a public purpose if you are going to condemn a piece of property you can't just, you don't like the owners so you condemn it from them and sell it to somebody else, and that would not be allowable.

A discussion on the property followed.

Len Schaper: Paula reviewed some of the history but this was owned by the City that's before I was on the Council and I don't remember how the City acquired it but then the City sold it to Mr. Klinger with the promise that he was going to redo that property and turn it

into a building that was useable and that's at least before 1994 when I got on the Council before I left in 1998 I had been complaining about it and complaining about it because it is such an eye sore and it's such an eye sore in a very visible place, sitting next to the Walton Arts Center, we've got people from all over Northwest Arkansas coming to the center of our City and that is what they see when they are walking to a performance at the Walton Arts Center. It's a disgrace folks and it's been going on for 10 years, it's not fair, it's not fair to the citizens to have that as what people see. Well in 1998 Mr. Klinger trotted out, you were there Kit, he trotted out an architect, oh yes we have these great plans we are going to do X, Y, Z, don't condemn it don't do anything, okay so we did the same thing that Hugh Earnest just asked you to do, let's table it, let's postpone any action. Once, twice, how many times do you listen to this and yet I agree with Paula it's a shame to tear it down and in this case I don't if it is possible, Kit says its not possible, but if it could be reclaimed by the City in the fact that Mr. Klinger defaulted on his bargain that he made and that to me would be grounds for reclaiming it and paying him back for what it cost him and sell it to someone that will do something with it and if that doesn't work, then okay you have to tear it down in order to get it back, Its been a game and it's gone on for way too long and nothing has happened and it's a shame. I hope you can come to some conclusion on this instead of the continual game that's been played.

Kit Williams: I wan to agree with virtually everything that Alderman Schaper said, we had lots of architects it seems like every time he came back he had new architects and new plans, however I will say that when it was sold to Mr. Klinger it was sold for money not for any other kind of promise now some of us on the Council had known that Mr. Klinger had done good restoration work and there were thoughts that he would do good restoration work with this and he had been the high bidder even though it was below what the City thought is was valued at and since he was the high bidder we decided to go ahead and sell it to him, but we sold it to him for money not for a promise that would be enforceable, so the only options the City would have would be to condemn it for a public purpose like a parking lot or something like that which mean the brick walls would be destroyed or to raze and remove it like we have here where we don't get the property but the cost of tearing the walls down and removing them would then be a lien upon the property. I think those are our only two issues at this point in time, if he wants to sell it back to us we could buy it but he has never offered to sell it back to us.

Hugh Earnest: I can't speak to what happened in 93 or 98 or 99 or 2000, but I can speak to our dead level seriousness in giving to this Council, because that's what you're paying us for, giving you a recommendation if we do not think Mr. Klinger is serious about renovating that building. I agree with a lot of what Mr. Schaper said the building has been sitting there since I was in school here. The building has been there for an awful long time like that and it certainly is not in the public interest to allow this continue in this form or fashion, so you will get from us a firm recommendation that Mr. Klinger is actually going to fix this building as Mrs. Marinoni suggested and not destroy it and I don't know if that is possible or we will bring to you a firm recommendation for raze and removal.

Alderman Jordan: And you will have that by when? The first of October?

Hugh Earnest: The first of October.

Alderman Davis: Hugh when he brings the plans you are looking at now and he tells you he is going to start work, Kit can we as a City give him a time table to begin work and get something completed and if not we are going to condemn the property.

Kit Williams: The property right now certainly fits the definition of what can be razed and removed, it has for years until he brings it to a situation to where it no longer meets that definition we can come back and ask you all to raze and remove it to issue the order to do that so if he has plans and he puts one brick down and he says okay I am working on it that's not going to be sufficient and you will have the option as a City Council to go forward with the raze and removal if he is not actually doing what you believe is proper and as long as the property still meets the definition as required to be dilapidated, unsafe and unsanitary.

Hugh Earnest: Part of what we will bring you assuming the plans are adequate is a definite time frame that he will agree to if he doesn't do that you will get a recommendation from us for raze and removal.

Upon roll call the motion to table passed 6-1. Alderman Marr voting no. Alderman Reynolds was absent.

Public Hearing Raze and Removal 323 N. West Avenue: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by the Bank of Fayetteville, N.A. located at 323 N. West Avenue in the City of Fayetteville, Arkansas. *This resolution was tabled at the August 5, 2003 City Council meeting.*

Mayor Coody: This one is a little different, the reason that we felt like that we needed to approach this structure is because this structure is dangerous, it is dilapidated, it fits all the criteria that we've required other people to tear their places down. The difference here is this has been and is on the historic register and that presents us with a dilemma because I am not anxious about the City being in the position about ordering a building no matter what shape it is in on the historic register to be razed and removed. So, what we have done is to talk to Mr. Lewis, and we have basically asked him to give us a plan in the next short period of time, did we put 30 days on that, same date, we aren't asking him to only raze and remove, we are asking him to either restore, or remodel, or fix up, or raze and remove, but he has the option to either fix it up or deal with it one way or the other because it is a dangerous situation. We will also ask that this be tabled for right now. I am especially concerned about this because I don't think we need to be in the business of asking people to tear down buildings that are on the register and have real potential to be an added asset to the community. We have to move one way or another on the deal.

Alderman Jordan: How long do you want to table this for?

Mayor Coody: First meeting in October.

Alderman Jordan moved to table to the first meeting in October. Alderman Thiel seconded.

Paula Marinoni: You just said you want him to restore it or raze and remove, how about secure it, is that in there? If he just secures the building and puts plywood up over the entrances where no one can get in there.

Mayor Coody: We are asking him to come forward with a serious plan of action in the next 30 days to really tell us where we are headed with this structure.

Paula Marinoni: But securing it would be okay for the time being.

Mayor Coody: Securing it would be fine, if they wanted to put a fence around it for protecting the public we would encourage them to do so, yes.

Paula Marinoni: Gave a brief history of the property.

Alderman Thiel: Whenever it comes back to us we do need to clarify the ownership.

Mayor Coody: We spoke to Mr. Lewis today and it is owned by the Bank of Fayetteville. That parcel does belong to, where the train bank is and it's outside that property that the land is owned by three partners.

Alderman Marr: When did we start our discussion with Mr. Lewis on this particular property, how long ago?

Yolanda Fields: February 14, 2003 was the first date of the notice.

Mayor Coody: Six months ago.

Upon roll call the motion to table passed 7-0. Alderman Reynolds was absent.

Police and Fire Pension LOPFI Agreement: An ordinance electing coverage for eligible members of the Police Pension and Relief Fund and Firefighter Pension and Relief Fund under LOPFI and authorizing Mayor Coody to enter into an agreement with LOPFI. *This resolution was tabled at the August 5, 2003 City Council meeting.*

Steve Davis: Staff is waiting on some additional information on two sets of actuaries and request that this item be tabled for at least 30 days.

Alderman Jordan moved to table until the October 7 City Council meeting. Alderman Thiel seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

NEW BUSINESS:

Amend Ordinance No. 4478 To Obtain Financing: An Ordinance to amend Ordinance No. 4478 to add authority to use the master equipment lease/purchase agreement to finance the cost of acquiring all equipment and other property legally obtainable pursuant to Amendment 78.

Steve Davis: We are asking that this Ordinance 4478 be expanded to incorporate all property that can be leased under Amendment 78. The specific item that staff is working on at this time is our copies, the current arrangement we have with the copier provider is a 36 month operating lease that is subject to annual appropriations in the budget, that interest rate on renewal will be slightly over 6% if we are able to put them under this master lease agreement with Bank of America, we expect the interest rate would be approximately 3%.

Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Davis seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Davis seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Kit Williams read the ordinance.

Alderman Cook: I missed the Agenda Session so I apologize. Amendment 78 what can you not purchase on it, any kind of capital purchase falls under amendment 78?

Steve Davis: Amendment 78 was enacted to provide cities and counties the ability to have what is referred to a short term financing instruments, limited to five years, anything that the city can purchase for general government operations can be purchased with amendment 78. But it is limited to you have to be able to pay for it within five years and the total indebtedness cannot exceed 5% of your real property assessments.

Alderman Marr: In your staff report it talks about that the Bank of America leasing capital agreement requires a \$100,000 minimum on each transaction. So it can be a grouping of equipment as long as that grouping is in excess of \$100,000?

Steve Davis: That is correct. In this case we are anticipating replacing several copiers and the aggregate will be somewhere between \$200,000 and \$250,000.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4505 As Recorded In The Office Of The City Clerk.

Amend Ordinance No. 4442 for VA 02-12.00 & 13.00: An ordinance amending Ordinance No. 4442 to extend the period of time within which the developer must relocate the storm sewer.

Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Cook seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Cook seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Dawn Warrick, Planning: This is an ordinance to amend an ordinance that was approved by the City Council on December 3, 2002, it involves property located at the southwest corner of St. Charles Avenue and Watson Street in which there are two existing portions of a drainage easements, there is a developer who wishes to proceed plans and proceed with a development in this C-3 zoning district and part of that proposal will include relocation of existing lines as well as dedication of the new easements. When the ordinance was first brought forward the City Council did put that deadline of December 1, 2003 on this project, the developer has not plans in the loop so to speak for the development at this point in time and wishes to extend that deadline until 2005. He believes he will still do this project put is not ready to process the final plans and just basically wants to extend his option with this vacation request. Plans are just not ready.

Alderman Marr: Staff is in support of this.

Dawn Warrick: Yes.

Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4506 As Recorded In The Office Of The City Clerk.

RZN 03-22.00 (Pope): An ordinance rezoning that property described in rezoning petition RZN 03-22.00 as submitted by Ronny and Karen Pope for property located at 1750 E. Zion Road from R-A, Residential Agricultural to R-O, Residential Office subject to a Bill of Assurance attached hereto and made a part thereof, hereby referenced as Exhibit "B".

Kit Williams read the ordinance.

Dawn Warrick: There currently is a three bedroom single family home on this two acre track, surrounding property includes undeveloped property to the north, a top soil excavation operation to the east, a single family home to the west and to the south across Zion Road there are multi family dwellings. While there is a mixture of land use located on the south side of Zion Road the north side remains primary residential and that is what the north side of Zion Road is designated to be on the city's future land use map. The applicant proposes to utilize the existing three bedroom home, to convert it to an accountants office, the outward appearance of the structure would remain the same, with this proposal possible improvements of course would be made to the driveway, some improvements are necessary at intersection of the driveway and Zion Road as there are some site distance issues that hopefully can be resolved with the removal of some vegetation so that there is a better view in order to pull in and out of this property. In order to convert this property as proposed the applicant is requesting a change in the zoning designation from residential agricultural to residential office. The Planning Commission heard this item on July 14, at that time it was tabled, when it was brought back to the Planning Commission the applicant did propose a Bill of Assurance which is located in your package on page 17, that Bill of Assurance does restrict the proposal, the use of the land it ties it to proposal that this applicant is bringing forward, restriction include that the petitioners property would be limited to a professional office or a single family dwelling also other restrictions including the number and type of structure on the property are limited to no additional building and then I mentioned the vegetation at the intersection that is also noted in the Bill of Assurance. The Bill of Assurance is drafted to run with land and includes the wording that is recommended by our City Attorney. Staff's recommendation is approval of this project which is consistent with the Planning Commissions vote with the Bill of Assurance that was offered.

Alderman Lucas: This Bill of Assurance is going to be changed to R-O; it seems a conditional use might be what's going to happen if they want to build something else.

Dawn Warrick: The Bill of Assurance would prohibit that.

Alderman Lucas: But there must be a way that they can change that and it will always be R-O then won't it.

Dawn Warrick: The change that is proposed would be to change the zoning designation so yes unless another action of the Council was brought forward the zoning on this property would be changed. The Bill of Assurance binds the applicant and future property owners to the conditions of that Bill of Assurance. It is a contract with the Council basically. Mr. Williams can instruct you with regard to any changes that might be able to be made to that; I believe it would have to come back to the City Council.

Alderman Lucas: But it would always be R-O we would never take it back to single family.

Dawn Warrick: It would require an ordinance just as what is being proposed today is an ordinance to change the zoning designation if a different change were proposed in the future then it would have to be forwarded in the same manner.

Mayor Coody: I think that the question that Alderman Lucas has is would we be able to accomplish the same goal yet have a higher level of safety in the future with a conditional use rather than a rezoning.

Dawn Warrick: There is not an option in the residential agricultural zoning district to approve a conditional use for an office use; it is not allowable under our zoning ordinances. A change in the zoning is the only way to accomplish the conversion of this structure to an office use.

Alderman Thiel: During the Planning Commission the staff recommended denial of this, but you are recommending approval now. Is that because of the Bill of Assurance?"

Dawn Warrick: That is correct, when we originally reviewed this it was in the absence of a Bill of Assurance and we did not feel that changing this two acres of property without any restrictions to a residential office use would be appropriate with the surrounding properties and the residential nature of that area, however the Bill of Assurance drastically restricts the type of uses and the amount of development that can occur on this property so it does change the conditions.

Alderman Marr: I want to make sure I understand this, I understand you can't have the conditional use in the A-1 but if it were R-1 could it have been a conditional use as an R-1 zoning to also allow this office?

Dawn Warrick: No it would have had to been a multifamily zoning district. The R-1 zoning district would not have provided a conditional use option either.

Alderman Marr: This is the lowest level of zoning it allows.

Dawn Warrick: Yes, because in an RMF-6 which would probably be one of the lower multi family districts, that would allow for six residential units per acre, in this case 12 residential units, the R-0 district the amount of residential development to single family or duplex unless a conditional use is granted for higher density, so it does provide more of a restriction. It's more in line with what the proposal is, it is appropriate to zone something for the use that is going to be conducted on the site so that's it a fair and equal representation of what's occurring on the site, so it reflects the land use.

Mayor Coody: Is there a way to alleviate some of these limitations by amending our Planning Code to where we could go from R-1 to R-0 with a conditional use, is that a bad idea?

Dawn Warrick: Well the City Council could certainly change the zoning regulations we could look at that we do have another alternative and that is our Planned Zoning District, that's an option a mechanism that a developer can employ when the zoning is not necessarily what they need for a potential project that with certain conditions and configurations and changes it might be appropriate for a land use to be established. The Planned Zoning District

is a mechanism where it could work. In this particular case it was a little bit unique, because they were talking about no new development necessarily, where they would have to process a large scale development or some type of subdivision that we could have looked at the planned Zoning District as the appropriate mechanism because they weren't looking at a new development proposal, we weren't looking at changing really much of anything, they are not going to change the structure, they're not going to be adding onto the structure, they will have to work with the Building Safety Division to look at the code requirements when you convert a structure from residential to commercial. We will be working with them on parking lot requirements for residential office or professional office use, but because it wasn't a large scale I didn't see the necessity of processing a Planned Zoning District, it just didn't quite fit.

Alderman Cook: Does the Bill of Assurance go with land?

Dawn Warrick: It goes with the land it, it is specifically noted in the Bill of Assurance that it will run with the land regardless of ownership.

Mayor Coody: This will be filed at the courthouse to run with the real estate records.

Dawn Warrick: Yes, and I think that there should be a note also in the ordinance, we probably need to update and add a section to reflect the Bill of Assurance, is that appropriate Mr. Williams?

Kit Williams: Yes we probably should, I will amend that and put a note on it, I also want to note on the ordinance that Section 1 had a typo, it talked about residential single family, the property is currently zoned agriculture as stated in the title of the ordinance. That will be changed tomorrow.

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Davis seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Kit Williams read the ordinance.

Alderman Davis: I have not received any phone calls regarding this property, so I am not aware of anyone in Ward 3 that has a concern.

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Rhoads seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Kit Williams read the ordinance.

Jim McCord: I represent the applicant and I concur with the proposed motion.

Alderman Rhoads: It seemed that before the Bill of Assurance that there were letters in our package indicating support and a telephone interview or something where some people were

against it, after the Bill of Assurance was filed were the people that were against it contacted to see if they still were in disagreement with it or was it just left as is?

Dawn Warrick: None of the comments were solicited, those comments and a lot of the information that was in your package was from previous action that was requested on the property. In 1986 the same request was made and there was public comment with regard to this property just blanketed being rezoned for residential office use. We did have one member of the public at the Planning Commission Meeting who spoke with regard to this property and having a small professional office but not any additional development as being the most that they felt would be appropriate.

Jim McCord: There has been no opposition to the proposal with the Bill of Assurance.

Alderman Marr: Will this Bill of Assurance actually prohibit any addition; can you direct me to where that is in it?

Dawn Warrick: In item # 2 additional structures. Item # 1 limits the property to a professional office or a single family dwelling. Item # 2 talks about the type of structure upon the property limited to no additional building.

Alderman Marr: Are we interrupting that as no expansion of existing building, we are not expecting to expand the current facility is that how this is being interrupted?

Dawn Warrick: I don't know how much latitude should be used in the interruption of this agreement since it has been offered by the applicant.

Alderman Marr: Maybe I should ask the applicant what there intention is by that.

Jim McCord: As presently worded the Bill of Assurance would prohibit no additional building shall be constructed or placed on the property. The applicant has no intention of enlarging the residential structure on the property. If that is a concern that you couldn't add another bedroom, that applicant has no objection to that additional description, but as presently worded it addresses and prohibits any additional building being constructed or placed on the property.

Mayor Coody: Does the Council have a concern about this particular item, about the enlargement of the structure?

Alderman Thiel: They can't even replace this is something happens to it?

Jim McCord: That's not the intent. The intent was to protect the character of the neighborhood by prohibiting the construction or placement of a new building on the property.

Alderman Marr: My question was more around the fact of having a residential design that turns into a big huge addition of an office complex; I just wanted to make sure that it was

protecting the intent of what it is being offered for. If we are comfortable with that I am comfortable with it.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4507 As Recorded In The Office Of The City Clerk.

RZN 03-25.00 (Freeman): An ordinance rezoning that property described in rezoning petition RZN-25.00 as submitted by Marvin & Dora Freeman for property located at 2848 and 2856 S. School Avenue from RSF-4, Residential Single-Family, four units per acre, to R-O, Residential Office.

Kit Williams read the ordinance.

Dawn Warrick: There are currently two single family homes located on the property which are owned and occupied by the applicants, the site is located in an area which is designated Community Commercial on the Future Land Use Map surrounding uses include primarily single family homes with the exception of the distribution operation to the west across South School Avenue. The applicant would like to use the existing structure, convert them similar to the last request into small professional office use.

Alderman Thiel: I haven't had any calls about this.

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Jordan seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Kit Williams read the ordinance.

Alderman Marr: This current zoning is 4 or less density units and this R-) allows 4-24.

Dawn Warrick: Correct.

Alderman Marr: How do we look at this in terms of up zoning, I guess, allowing for greater density.

Dawn Warrick: With regard to this particular request, I started with the future land use map, the policy document Ted adopted by the Council to drive future land use decisions with regard to zoning changes. This area along South School Avenue, there is a mixture of different uses located here in this particular block it is mostly single family but there are some office buildings scattered throughout and of course across the street you have County offices, County facilities as well as industrial properties with the distribution center. The area is called out to be Community Commercial on the Future Land Use Map and the request is for residential office uses which would certainly allow for an increase density if it were used for residential purposes, it would also allow for professional offices. I felt that it was

consistent in this location on this main thoroughfare to look at either a multi family type use or in this case what they are proposing a professional office type use and both of those uses are more conducive to the type of traffic patterns that are located on South School in this location as well as the surrounding uses.

Alderman Thiel: Did you say multi family in the R-0?

Dawn Warrick: In the R-0 District multi family, basically two family units, two family dwellings are permitted by right. Additional density can be allowed but only through a conditional use process and only through a conditional use process could you get to the 24 unit per acre density.

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

Kit Williams read the ordinance

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. **Alderman Reynolds** was absent.

Ordinance 4508 As Recorded In The Office Of The City Clerk

RZN 03-26.00 (McDougall): An ordinance rezoning that property described in rezoning petition RZN 03-26.00 as submitted by Douglas McDougall for property located at 1187 51st Avenue (Lot 9, Hamstring South Addition) from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Kit Williams read the ordinance

Dawn Warrick: The property currently contains one single family home and the request is to rezone. it is currently in the Agriculture Zoning District, Residential Agriculture, the request is to rezone to RSF-4 which is single family zoning, the applicant would propose to then divide the property to create one additional single family lot. This request is consistent with the cities General Land Use Plan which calls this area out to be residential. The uses surrounding this site are primary residential with a church to the east across 51st Street, everything else is single family residential primarily. There are new subdivisions being created, being finalized, one is almost complete under development on the east side of 54th Street north of this location, the property immediately north of this track was recently processed in the same manner also containing approximately two acres, the applicant processed a rezoning request to zone the property to single family residential and then proceeded to divide the track to create lot s that were consistent in size with those newer subdivisions, smaller tracts of course than the Agriculture Zoning District. Staff is recommending in favor of this request. The Planning Commission voted unanimously to recommend it to the City Council.

Alderman Jordan: What is the fire response time in that area?

Dawn Warrick: I believe it is 1 minute and 43 seconds from the new fire station on Ruppel Road.

Alderman Jordan: Also do you happen to know which pump station is going to be servicing this area. Is that the Hamestring?

Dawn Warrick: I am fairly certain it is Hamestring.

Mayor Coody: The same one we are upgrading right now?

Dawn Warrick: We are in the process of making upgrades to the Hamestring Lift station.

Alderman Jordan: I haven't had any calls on this.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Lucas seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Kit Williams read the ordinance

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4509 As Recorded In The Office Of The City Clerk.

Alderman Marr: Thanked Dawn Warrick for the great job she is doing.

Mayor Coody: I would like to extend that to the entire staff the Planning and Engineering Departments they are doing a very good job.

Amend Title IX: Chapter 95: Health & Sanitation: An ordinance amending Title IX: Chapter 95: Health and Sanitation, of the Code of Fayetteville, reducing the compliance period from 20 days to 10 days; establishing the Office of Code Compliance Officer; and granting them authority to issue citations to violators.

Kit Williams read the ordinance

Mayor Coody: This has been a long time coming, we have needed this for a long time in the City and this complies with our guiding principles 1-12. A lot of folks have wanted this for a long time.

Yolanda Fields: I think that this is going to give our code compliance officers the support that they have been needing for a long time because they are out there every day, trying to get the job done and I think this will provide the tool that has been missing so I think we will do an even better job.

Alderman Jordan: It not only is enforcing the code and writing the tickets, some of the major complaints that I have received is that it linger on for months and months before any thing is moved through the course. It has to be everybody working together, it is not just writing the tickets, but we need to get it before the judicial and get something done quicker than what we are getting done now.

Yolanda Fields: If I could address that issue, we have already started meetings with the Prosecutor's office to establish the protocol that we will actually utilize once we do hopefully tonight get the approval to actually have the officers be given the authority to issue citation, so that has already been done, we have a draft and we will be going back to him as soon as we get this approved I hope and we will finalize that so there will be a protocol so this will not just be something that is out there hanging and doesn't actually work for the specific issues.

Alderman Jordan: Yes, I think that has been some of the major complaints. We need a process for moving on with these things when citations are written.

Yolanda Fields: We are aware that we are talking about the Health and Sanitation specific ordinance, those are the issues that we are looking as far as being able to issue citations.

Alderman Rhoads: If it goes thought he normal procedure of traffic citations then that's 45 to 60 days.

Yolanda Fields: The hope is that once we have the authority to issue citations and people become aware of that, that there will be compliance and it will be faster and we might not ever get to that court process at all.

Alderman Thiel: The group that contacted me really wanted an outline of the legal procedure to be established and provided to the public as soon as possible.

Yolanda Fields: As I have said we have already started preliminary meetings with the Prosecutor's office, we have a flow chart of how that will work and we will finalize that and have that available for distribution.

Alderman Lucas: Also explain what Health and Sanitation, what arenas that covers in this code.

Yolanda Fields: Right now basically what that would cover tall grass, weeds, trash, debris, stagnant water; we are looking at also covering nuisance, etc. Reducing the 20 days to 10 days people will see turn around sooner.

Mayor Coody: Do the Prosecutor's show a sense of urgency or are they reluctant to tackle this.

Yolanda Fields: They are working with us whole heartedly.

Alderman Marr: I think this is a great idea. I am thrilled that we are going to have the public awareness of what our legal process is. I was also forwarded a brochure from Siloam Springs.

Yolanda Fields: We are planning to make visits to schools and civic organizations.

Alderman Marr: The one point that struck most with me was minimum standards in the City.

Yolanda Fields: I have a copy of that brochure and we will be utilizing that as we develop our own brochure.

Lou Weiss: An ordinance is a law is that correct, then why has all this time gone by when people break the law and then nothing has been done about it, what has been the problem, money, you don't care, why haven't people been punished for breaking the law.

Mayor Coody: One of the problems is that we are understaffed and overwhelmed with a lot of work that we need to do and we can't fix all the problems all at once, this is a step in that direction. We are working with basically the same number of staff we started with in 2000, 2001 and the work load has increased dramatically. We are doing more with less money, so we haven't been able to solve all the problems all at once, but this is certainly a step in the direction where we will be able to have more teeth and have more quick response to some of the problems that we have been facing.

Lou Weiss: Who puts this as the last item on the agenda?

Mayor Coody: They may come in the order that they are submitted to the City Clerk. The City Council goes through the agenda and sits the agenda, put this was the order that it was brought to us.

Lou Weiss: A lot of these different things are more specific to just a few people; this is something that is important for everybody to understand.

Len Schaper: On behalf of University Heights Neighborhood Association, I would like to speak in favor of this ordinance.

Jeff Erf: I urge you to support the passage of this ordinance. I am not clear on exactly what a citation is, are we giving inspections the authority to write tickets and if that is the case is there a specific amount of fine that will be on that ticket.

Yolanda Yields: We will meet with the Prosecutors office, we will meet with them again if this is passed and actually have a protocol at that point in time, we do have a range it can not exceed \$500.00, that will be established and we will have that information available.

Jeff Erf: My concern is if there is a maximum of \$500.00 you might take the incentive away for people to clean things up. I would urge something more like \$100.00 a day, \$200.00 a day. Something like that might be a better tool than just a one time amount.

Yolanda Fields: If you have suggestions please email them to me and we will review them with the Prosecutors office and see what we can actually do legally.

Jeff Erf: Time is money and if it is set too low it might not even pay for itself. Will this apply to the sign ordinance?

Yolanda Fields: At this time we are looking at the health and sanitation aspect, it does not address signs that might be something we need to look at in the future.

Jeff Erf: Your department does handle sign inspections.

Yolanda Fields: The inspection portion, the actual sign processing, permitting and review of is handled in Planning.

Kit Williams: We have enforced the sign ordinance in the past, we got sued put the court said that we were not discriminated against this particular individual who has now appealed that up to the eighth circuit. However you must remember when you're saying it should be this amount or that amount that this is a criminal citation and the actual fine will be decided by the judge, not by the City Council.

Jeff Erf: That is different than how it was done where I was. City Council actually had to approve the language on the ticket.

Kit Williams: If it is a criminal violation the person is presumed innocence until proven guilty and he is entitled to a trial if he wants a trial, people do ask for a trial for all kinds of reasons, including that sign violation. Our City Prosecutors can recommend a fine, fines can be accumulated for continuing violations, day to day, that's authorized in virtually all of our ordinances that there can be a continuing violation and additional fines put on it, but the final decision is up to an independent judicial judge to look at all the evidence that we are able to present to see whether or not we have proven that this person is guilty beyond a reasonable doubt and is so what would be the appropriate fine given the options that the ordinances allow the judge.

Jeff Erf: So this is different.

Kit Williams: It's like getting a citation for DWI or anything else you are entitled to your day in court and say that I did not break that law.

Alderman Davis moved to suspend the rules and go to the second reading. **Alderman Jordan** seconded. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Kit Williams read the ordinance.

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

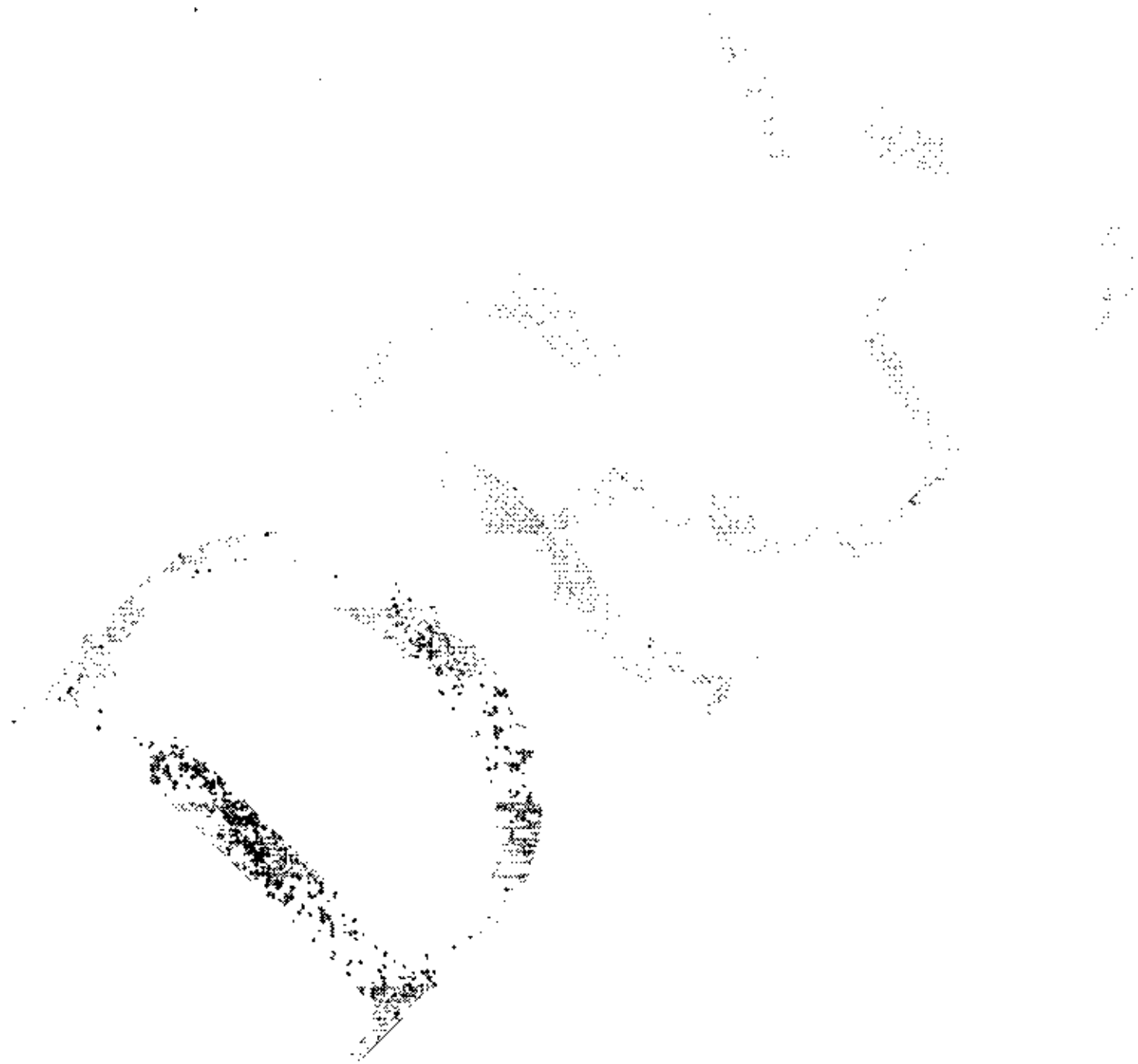
Kit Williams read the ordinance

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. **Alderman Reynolds** was absent.

Ordinance 4510 As Recorded In The Office Of The City Clerk.

Meeting Adjourned at 10:00 PM.

Sondra Smith
City Clerk



8:20-9:30 1.2 1/2 ~~5.0~~ 6.0
12:40-5:30 4.1/3

~~52-137-82a~~

71 Art 111

Margot Heinzelmann

521-8973

5-10 minutes
9-16-03

Golden Oak Awards

From: "DBEMBENEK" <DBEMBENEK@TWNCENTER.COM>
To: <:ssmith@ci.fayetteville.ar.us>
Date: 8/13/03 1:13PM
Subject: Fayetteville Town Center report to City Council

Hi Sondra.

Please schedule our annual report to the City Council for Tuesday, September 16, 2003.

I will present a short (about 5-10 minutes) report to the City Council re:
FTC goals and finances in compliance of our lease agreement with the city.
I will send you a copy of the report prior to the meeting.

Please contact me at this e-mail address or at 587-9944 with questions or comments. I appreciate your help.

Thanks!
Denise Bembenek
Facilities Manager
Fayetteville Town Center

CC: "Marilyn Heifner" <mjohnson@TWNCENTER.COM>

Fayetteville Town Center
Annual Report to Fayetteville City Council
Presented Tuesday, September 16, 2003

Goals (as stated in Article V, Section 507 of the *Lease and Agreement between the City of Fayetteville, Arkansas and the A&P Commission of the City of Fayetteville, Arkansas*)

1. Generate increased tourism for Fayetteville
2. Remain financially viable with all debts and obligations paid timely
3. Serve the Fayetteville community by use for local, non-profit groups and other community events

I. Increased Tourism

a. Total Contracts

- i. 8/1/02 to 7/31/03: **195**
- ii. 8/1/01 to 7/31/02: 206
- iii. Variance: **-5.3%**

b. Total Events

- i. 8/1/02 to 7/31/03: **172**
- ii. 8/1/01 to 7/31/02: 129
- iii. Variance: **+33%**

- c. Increased Tourism. The following list represents FTC participation in events potentially drawing overnight guests from outside the NWA area. Because the FTC does not track client guest-lists, we have no way to accurately determine revenue associated with each event.

Event Name	Event Date
WebHog Razorback Club Banquet	8/6/02
Arkansas Hospitality Association Meeting	9/26/02
Arkansas Realtors Association State Convention	10/03/02
Tucker Wedding Reception	11/30/02
Ozark Cup Registration	10/11/02
Arkansas Institute for Research and Education	10/14/02
Capital Resource Corporation Seminar	11/7/02
Rick Taylor Investiture Committee Reception	1/24/03
Funderburg Wedding Reception	1/25/03
Joe Martin Stage Race Registration	5/9/03
Francis Custom Tours	5/12/03
Arkansas Association of Hospital Trustees	5/15/03
Fulfer Wedding Reception	5/17/03
Ducks Unlimited	5/20/03
Gessler Wedding Reception	5/24/03
Enable America Conference	6/2/03
ASHSCA	6/15/03
Millie Lewis International Model Search	6/18/03
OU, Sooner Caravan Banquet	6/24/03
State Volunteer Mutual Insurance Seminar	7/24/03
State Volunteer Mutual Insurance Seminar	7/29/03

II. Financial Viability Summary

a. 8/1/02 to 7/31/03

i. Sales Income

- 1. Actual \$278,946.85
- 2. Budget \$219,751.73
- 3. Variance +26%

ii. General Expenses

- 1. Actual \$355,829.39
- 2. Budget \$472,619.90
- 3. Variance -32.8%

b. 8/1/01 to 7/31/02

i. Income

- 1. Actual \$313,979.63
- 2. Budget Not Available

ii. Expenses

- 1. Actual \$377,499.18 (** 8/1 - 12/31/01 staff on Chamber payroll)
- 2. Budget Not Available

III. Community and Non-Profit

a. 8/1/02 to 7/31/03

- i. Total Events: 172
- ii. Non-Profit Event: 61
- iii. Ratio: 35% NP to Total events

b. 8/1/01 to 7/31/02

- i. Total Events: 129
- ii. Non-Profit Event: 37
- iii. Ratio: 29% NP to Total events

c. Community Support

- i. Installation and maintenance of Kaminsky Peace Fountain
- ii. Use of plaza area for peaceful assembly, public speaking (i.e. Peace Rallies, Police Memorial)
- iii. Public services including use of plaza to expand local Farmers Market, provision of public restrooms and parking for public events.
- iv. Participation in community events like First Night, Freedom Fest, Autumn Fest, Bikes Blues & BBQ, Joe Martin Stage Race, and Senior Celebration

d. A list of non-profit events at the Town Center from 8/1/02 to 7/31/03 is available upon Request

IV. Feedback

a. Evaluation Rating: (scale of 1 to 4) overall score of 3.89

b. Customer Comments: (complete report available)

- i. NWA Regional Planning Commission - The facilities were outstanding! Our event was a tremendous success and a great deal of that success could be attributed to the staff and facilities at the Town Center. Thank You- we will use you again! (4)

- ii. Junior Cotillion (02 Season) - Can we start a fund drive for Beautification of inside Town Center- rugs in entrance - Palms instead of ficus trees - Lighting problem - safety issue when leaving the Town Center. Too Dark on steps (4)
- iii. UA Industrial Engineering - Very Impressed with the manner in which events were conducted. Will be using you all in the future. No hassels or runarounds/very straight and to the point. (3.36)
- iv. Fayetteville Public Library Foundation - The event went very - all of you were so helpful, friendly and most importantly - fun Thanks - Rebecca (4)
- v. American Diabetes Association Gala - FTC Gang - Thanks so much for everything!!! You were super great, easy, & accommodating to work with! Hope I didn't call ya too many times before hand, but any details we took care of ahead of time sure made things easier. We had many, many compliments on the location! Thanks for your help the day of - I'll refer you anytime(facilities). Jamey, thanks for staying late and being so happy! We are/were very pleased!! Thank you - Beckah Emeterio (4)
- vi. NARTI/Razorback Basketball Banquet. - Thank you to Keith and Sandra for helping us with such a great event! The Town Center is a lovely facility. Mike Nail has already expressed the desire to do it there next year... The "interference" with the video that was shown was unfortunate. Not sure what happened there. All in all, I think the event was a huge success. If the event is publicized better and earlier - we should be looking at booking THE RAZORBACK for next year! Thanks again to Sandra & Keith! Vickie Hilliard (3.67)
- vii. Chamber of Commerce Business Expo - The only issue was the variance from planning the floor layout and the actual layout. Due to incomplete info on computer generated floor dimensions. Bob Bova (3.86)
- viii. Millie Lewis International Modeling - The facilities were beautiful and so were the personalities of every single employee we came in contact with. As a company that is constantly on the road and in and out of convention centers, we can easily say that this is one of the greatest staff/facility combos that we have ever worked with. Thank you for everything! Mikell Lewis (4)

V. Fayetteville Town Center

a. Staff

- i. Denise Bembenck, Facilities Manager
- ii. Keith Lee, Sales Manager
- iii. Sandra Bennett, Event Coordinator
- iv. Jamey Goddard, Administrative Assistant
- v. Rachael Erke, Maintenance & Custodial

VI. Supporting Documentation (not included with report unless otherwise noted)

- a. Income Statements: Actual vs. Budget (8/02 to 7/03) - included
- b. 2002 General Ledger, 8/1/02 to 12/31/02
- c. 2003 General Ledger, 1/1/03 to 7/31/03
- d. Customer Evaluation Summary

ORDINANCE NO. _____

AN ORDINANCE TO ESTABLISH AND LAY OFF
FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 5 - APPLEBY
LANDING PROFESSIONAL CENTER

WHEREAS, a Petition to form Fayetteville Municipal Property Owners' Improvement District No. 5 has been filed with the Fayetteville City Clerk; and

WHEREAS, the City Clerk has presented said petition to the Mayor; and

WHEREAS, Ark. Code Ann. Sec. 14-94-106 (2) provides that the Mayor shall thereupon set a date and time, not later than 15 days after the date of the presentation of the petition to the mayor, for a hearing before the governing body for consideration of the petition; and

WHEREAS, the Fayetteville City Council has determined from an abstractor's certificate of property ownership that those signing said petition constitute all the owners of the real property to be located in said district; and

WHEREAS, Ark. Code Ann. Sec. 14-94-106(b)(2) provides that if the governing body determines that all of the owners of the real property to be located in the district have petitioned for the improvements, it shall then be its duty by ordinance to establish and lay off the district as defined in the petition and to appoint the commissioners as named in the petition.

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

Section 1: That the real property described in Exhibit "A" attached hereto and made a part hereof is hereby established and laid off as Fayetteville Municipal Property Owners' Improvement District No. 5 for the purpose of constructing or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation of electric and telephone distribution systems, sanitary sewers, streets and highways, including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing within said district.

Section 2: The following three individuals are hereby appointed as commissioners of said improvement district: Ben Israel, Phil Phillips and Tom Muccio.

Section 3: The name of said improvement district shall be Fayetteville Municipal Property Owners' Improvement District No. 5 -- Appleby Landing Professional Center.

PASSED and **APPROVED** this the 16th day of September, 2003.

APPROVED:

DAN COODY, Mayor

ATTEST:

SONDRA SMITH, City Clerk

TO: Tim Conklin, Director of Community Planning and Engineering Services

FROM: Ed Connell, Land Agent

DATE: September 10, 2003

RE: Mt. Comfort/Porter Road - I-540 Prop.
James r. Williams and Donald R. Williams

I have reviewed the reimbursement request of James Williams relative to the subject property and believe that, if the City were to reimburse, it should only be done on the basis of out-of-pocket expenses. Since Mr. Williams has no summary of all the parts that make-up his total, it is difficult to be accurate in the following accounting:

	City Excludes House)	Williams (Includes house)
Purchase Price (City Appraisal, not rounded)	\$268,300.00	267,608.25
Appraisal Fee	2,500.00	2,500.00
Flood Certificate	42.00	42.00
Bank of Fayetteville Fee	50.00	50.00
Closing Fee	400.00	400.00
Document Prep.	100.00	100.00
Attorney' Opinion	40.00	40.00
Title Insurance	982.50	982.50
Real Estate taxes(765-13614-000 &13579-000)	236.63	236.63
Parcel 770-17533-000 2002 Est. Taxes (not this property)	-	808.13*
Survey	527.00	527.00
Recording Fees	45.00	45.00
Revenue Stamps	884.00	884.40
Record Assignment Fee	17.00	17.00
Release Fee Bank of Fayetteville	11.00	11.00
Interest payment to Mitchell Oil Co. (at closing)	12,788.41	12,788.41
TRC & Assoc. Architectural Fee	13,000.00	-
Civil Engineering (Jorgensen & Associates)	850.00	-
Value of Removed House	14,340.00	-
Annexation and Rezoning Fees	650.00	-
Annexation Attorney's Fee	4,655.00	4,655.00
Annexation Advertizing	721.98	721.98
Williams Loan, Balance of \$306,267.30 @ 6.5%: running interest (03-03-03 to 09-18-03)	10,753.13	-
As of 09-18-03 <u>Total Out-of Pocket Expenses</u>	<u>\$331,893.65</u>	<u>292,417.30</u>

* Taxes paid on collateral property

Excluded are 1) Owners Time costs
2) Loss of rent
3) Tax payment of a parcel of Goshen property used as collateral

The above figure is our best estimate of total direct out-of pocket costs. Williams estimates the building could have been rented for \$8,000 in 2003 for a fireworks stand. This anticipated rental has not been included above. The City is to pick up all closing costs, which we anticipate to be about \$1,500, except for proration of taxes due for 2003.

Section 00500

AGREEMENT

BETWEEN CITY OF FAYETTEVILLE AND APAC-ARKANSAS, INC.

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2003 by and between the City of Fayetteville, Arkansas (hereinafter called CITY OF FAYETTEVILLE) and (herein after called APAC-ARKANSAS, INC.).

CITY OF FAYETTEVILLE and APAC-ARKANSAS, INC., in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

APAC-ARKANSAS, INC. shall complete all Work as specified or indicated in the Contract Documents.

The work generally consists of the construction of approx. 6,150 L.F. asphalt multi-use trail with base, associated earthwork and demolition for *Parks Multi-Use Trails Construction*; and all items indicated in the Drawings and Specifications for both projects.

Article 2. ENGINEER.

The Project has been designed by

City of Fayetteville Parks and Recreation Division
1445 South Happy Hollow Road
Fayetteville, Arkansas 72701

who is hereinafter called PARKS AND RECREATION DIVISION PROJECT MANAGER and who is to act as CITY OF FAYETTEVILLE's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

Article 3. CONTRACT TIME.

3.1. The Work for the Project shall be substantially completed within 120 consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B & C of the General Conditions within 150 consecutive calendar days after the date when the Contract Time commences to run.

3.2. *Liquidated Damages.* CITY OF FAYETTEVILLE and APAC-ARKANSAS, INC. recognize that time is of the essence of the Agreement and that CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, City of Fayetteville and APAC-ARKANSAS, INC. agree that as liquidated damages for delay (but not as a penalty) APAC-ARKANSAS, INC. shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if APAC-ARKANSAS, INC. shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY OF FAYETTEVILLE, APAC-ARKANSAS, INC. shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

CITY OF FAYETTEVILLE shall pay APAC-ARKANSAS, INC. for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

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

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

PAYMENT ITEMS

ITEM	DESCRIPTION	UNITS	QUAN.	UNIT \$	ESTIMATE
1	MOBILIZATION	L.S.	1	12500	\$12,500.00
2	CLEARING AND GRUBBING	L.S.	1.0	10,810.00	\$10,810.00
3	TEMPORARY SILT FENCE	L.F.	3100.0	1.85	\$5,735.00
4	TREE PROTECTION FENCING	LF	1650.00	1.60	\$2,640.00
5	ROOT PRUNING (trenching)	LF	665.00	2.45	\$1,629.25
6	BASE IN PLACE FOR 8' WIDE TRAIL (w/ excavation)	LF	2555.00	13.60	\$34,748.00
7	BASE IN PLACE FOR 10' WIDE TRAIL (w/ excavation)	LF	3650.00	15.40	\$56,210.00
9	ASPHALT CONCRETE TYPE (3) (includes prime coat)	TON	723.80	60.00	\$43,428.00
10	CONCRETE SIDEWALK	SY	835.0	3.85	\$3,214.75
11	18" CORRUGATED PLASTIC Pipe	LF	120.0	29.00	\$3,480.00
13	5'-0" CONCRETE TRAIL RAMP	EA.	1.0	1,375.00	\$1,375.00
14	8'-0" CONCRETE TRAIL RAMP	EA.	2.0	850.00	\$1,700.00
15	10'-0" CONCRETE TRAIL RAMP	EA.	1.0	1,050.00	\$1,050.00
16	FENCE STYLE CLF (4' HIGH NOBAR)	L.F.	45.0	13.70	\$616.50
17	NON-REMOVABLE BOLLARD	EA.	4.0	500.00	\$2,000.00
18	REMOVABLE BOLLARD	EA.	2.0	675.00	\$1,350.00
19	SLOPE PROTECTION FABRIC (complete in place per d	SY	100.00	13.00	\$1,300.00
			Total Base Bid		\$183,786.50
			TOTAL		\$183,786.50

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

Article 5. PAYMENT PROCEDURES

APAC-ARKANSAS, INC. shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by PARKS AND RECREATION DIVISION PROJECT MANAGER as provided in the General Conditions.

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

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

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

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

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to APAC-ARKANSAS, INC. to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as PARKS AND RECREATION DIVISION PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.3 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by PARKS AND RECREATION DIVISION PROJECT MANAGER as provided in said paragraphs 14.07.B & C.

Article 6. APAC-ARKANSAS, INC.'S REPRESENTATIONS.

In order to induce CITY OF FAYETTEVILLE to enter into this Agreement APAC-ARKANSAS, INC. makes the following representations:

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

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

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

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

APAC-ARKANSAS, INC. acknowledges that such reports and drawings are not Contract Documents and may not be complete for APAC-ARKANSAS, INC.'s purposes. APAC-ARKANSAS, INC. acknowledges that CITY OF FAYETTEVILLE and PARKS AND RECREATION DIVISION PROJECT MANAGER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. APAC-ARKANSAS, INC. has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction

to the employed by APAC-ARKANSAS, INC. and safety precautions and programs incident thereto. APAC-ARKANSAS, INC. does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5. APAC-ARKANSAS, INC. is aware of the general nature of work to be performed by CITY OF FAYETTEVILLE and others at the site that relates to the Work as indicated in the Contract Documents.

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

6.7. APAC-ARKANSAS, INC. has given PARKS AND RECREATION DIVISION PROJECT MANAGER written notice of all conflicts, errors, ambiguities, or discrepancies that APAC-ARKANSAS, INC. has discovered in the Contract Documents and the written resolution thereof by PARKS AND RECREATION DIVISION PROJECT MANAGER is acceptable to APAC-ARKANSAS, INC. and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between CITY OF FAYETTEVILLE and APAC-ARKANSAS, INC. concerning the Work consist of the following:

- 7.1. This Agreement (pages 1 to 8 inclusive).
- 7.2. Performance and Payment Bonds, (Exhibits A and B respectively).
- 7.3. Certificates of Insurance, (Exhibit C).
- 7.4. Documentation submitted by APAC-ARKANSAS, INC. prior to Notice of Selection (Exhibit D).
- 7.9. Specifications as listed in table of contents thereof.
- 7.10. Addenda numbers 1 through 2, inclusive.
- 7.11. One set of drawings (not attached hereto) consisting of: a cover sheet and additional sheets numbered two through eleven with each sheet bearing the following general title:
Multi-Use Trail Bid #03-48.
- 7.12. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

7.12.1. Notice to Proceed

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

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

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

Article 8. MISCELLANEOUS.

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

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

8.3. CITY OF FAYETTEVILLE and APAC-ARKANSAS, INC. each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

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

8.5. Changes, modifications, or amendments in scope, price or fees to this contract 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.

8.6. Freedom of Information Act. City contract 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, Apac-Arkansas, Inc. 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.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and APAC-ARKANSAS, INC. have signed this Agreement in quadruplicate. One counterpart each has been delivered to CITY OF FAYETTEVILLE and PARKS AND RECREATION DIVISION PROJECT MANAGER, and two counterparts have been delivered to APAC-ARKANSAS, INC.. All portions of the Contract Documents have been signed, initialed, or identified by CITY OF FAYETTEVILLE and APAC-ARKANSAS, INC. or identified by PARKS AND RECREATION DIVISION PROJECT MANAGER on their behalf.

This Agreement will be effective on _____, 2003 (which is the Effective Date of the Agreement).

CITY OF FAYETTEVILLE: City of Fayetteville APAC-ARKANSAS, INC.:

By: _____
Mayor

By:

Title

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

* Attest

* If a Corporation, attest by the Secretary.

Address for giving notices

Address for giving notices

(If CITY OF FAYETTEVILLE is a public body, attach

License No.

evidence of authority to sign and
resolution or other documents
authorizing execution of Agreement.)

Agent for service of process:

(If APAC-ARKANSAS, INC. is a corporation, attach
evidence of authority to sign)

Exhibit A

PERFORMANCE BOND

Exhibit B

PAYMENT BOND

Exhibit C

CERTIFICATES OF INSURANCE

NOTICE TO PROCEED

TO:

DATE:

PROJECT: *Parks Multi-Use Trails*

You are hereby notified to commence WORK in accordance with the Contract dated _____ on or before _____, and you are to substantially complete the WORK within one hundred and twenty consecutive calendar days thereafter and have the Work complete and ready for final payment within thirty consecutive calendar days thereafter. The date for Substantial completion is therefore _____, 2003. The date for final completion is therefore _____, 2004.

CITY OF FAYETTEVILLE, ARKANSAS
City of Fayetteville

By _____
Trails and Greenways Coordinator

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by
_____ this the _____ day of _____, 2003.

By

Title

08/28/2003
DL03-34A
*** David Love

16:38

Walker/Combs/Senior Center Trails-MOD

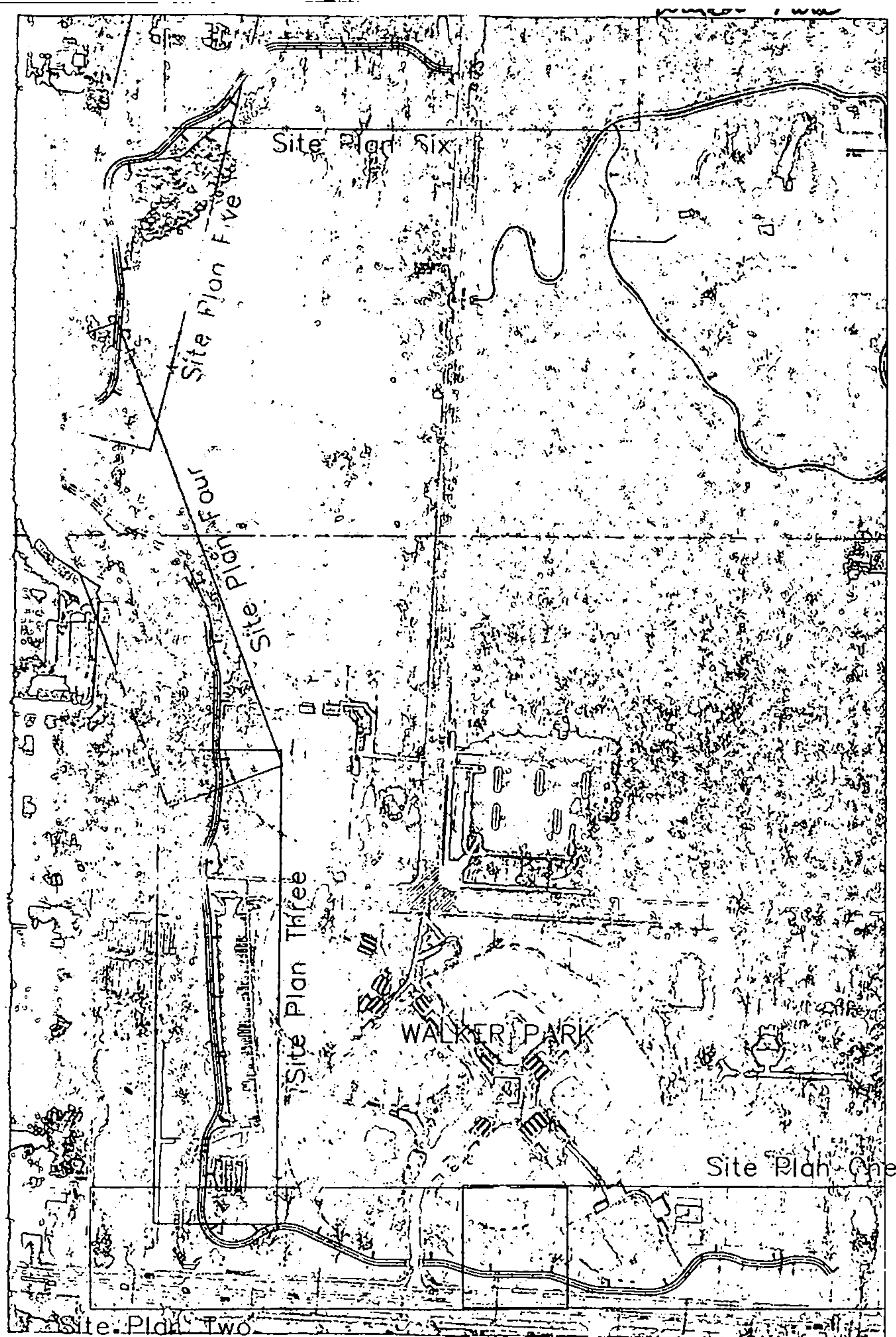
BID TOTALS

Bid Item	Description	Quantity	Units	Unit Price	Bid Total
1	Mobilization	1.000	LS	12,500.00	12,500.00
2	Clearing and Grubbing	1.000	LS	10,810.00	10,810.00
3	Temporary Silt Fencing	3,100.000	LF	1.85	5,735.00
4	Tree Protection Fencing	1,650.000	LF	1.60	2,640.00
5	Root Pruning(Trenching)	665.000	LF	2.45	1,629.25
6	Base in Place For 8' Trail	2,555.000	LF	13.60	34,748.00
7	Base in Place for 10' trail	3,650.000	LF	15.40	56,210.00
9	Asphalt Concrete Type 3	723.800	TN	60.00	43,428.00
10	Concrete Sidewalk(Demo Included)	835.000	SF	3.85	3,214.75
11	18" Corrugated Plastic Pipe	120.000	LF	29.00	3,480.00
13	5' Concrete Curb Ramp	1.000	EA	1,375.00	1,375.00
14	8' Concrete Curb Ramp	2.000	EA	850.00	1,700.00
15	10' Concrete Curb Ramp	1.000	EA	1,050.00	1,050.00
16	Black Vinyl Fencing	45.000	LF	13.70	616.50
17	Non-Removable Bollards	4.000	EA	500.00	2,000.00
18	Removable Bollards	2.000	EA	675.00	1,350.00
19	Slope Protection Fabric	100.000	SY	13.00	1,300.00

Bid Total =====>

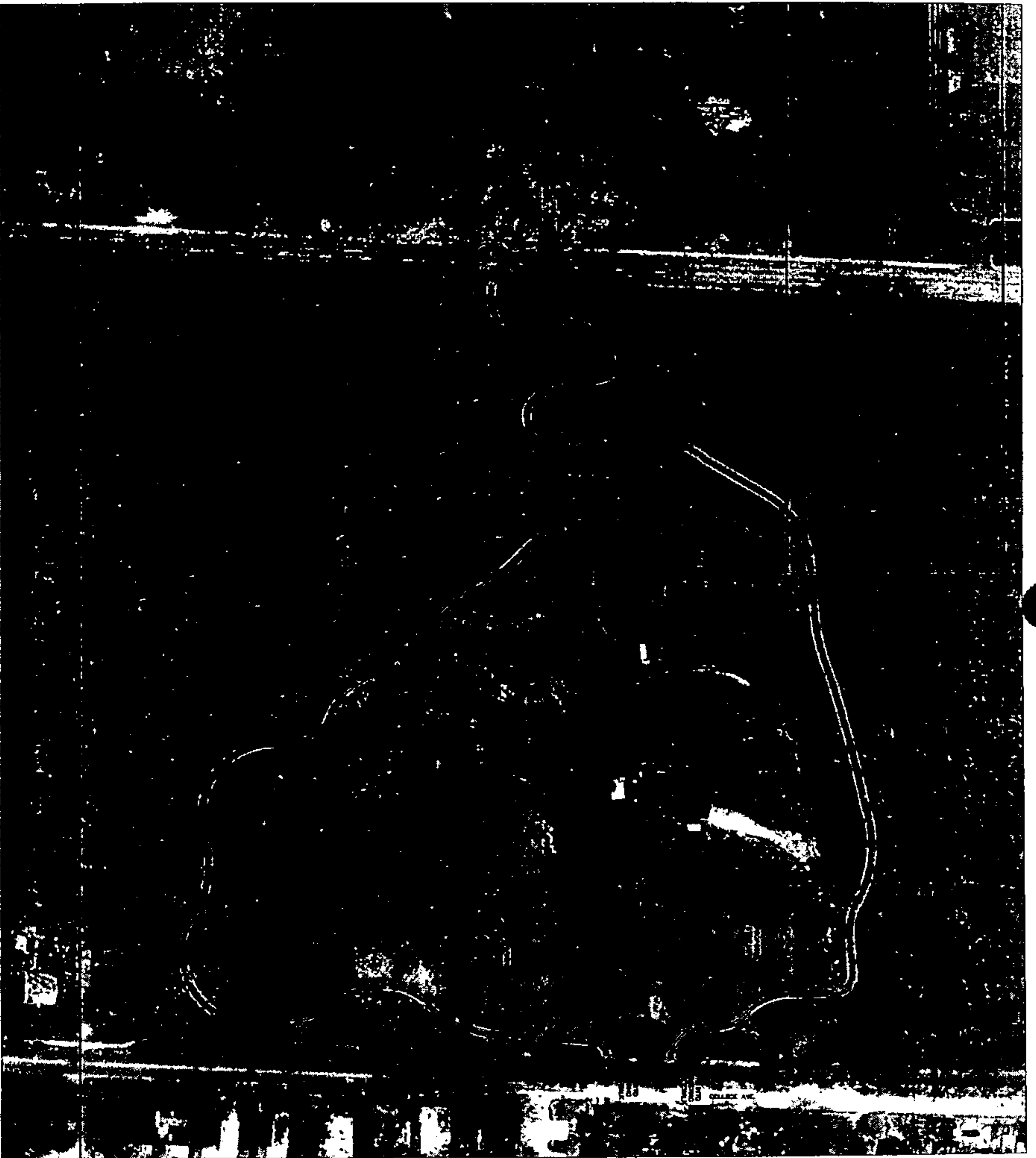
\$183,786.50

Revised



WALKER PARK TRAIL OVERALL SITE PLAN

WALKER SENIOR CENTER TRAIL
OVERALL SITE PLAN



**CITY OF FAYETTEVILLE
CONTRACT FOR SERVICES**

This Contract is entered into on this _____ day of _____, 2003, between the City of Fayetteville, a municipal corporation, and Time Striping, Inc.

In consideration of the mutual covenants contained herein, and other good and valuable consideration, the City of Fayetteville and Time Striping, Inc. agree as follows:

- (1) The documents which comprise this contract between City of Fayetteville and Time Striping, Inc. consist of this contract and the following documents, which are incorporated herein by reference as if set forth in their entirety word for word: (1) Bid form identified as INVITATION TO BID issued August 7, 2003 for improvements to the downtown parking lots (#03-43); and (2) Time Striping, Inc.'s proposal and all supporting documents and correspondence submitted by Time Striping, Inc. in response to the INVITATION TO BID issued August 7, 2003.
- (2) Time Striping, Inc. agrees and understands that it shall make available all records for review by the City of Fayetteville and its auditors as reasonably requested. Time Striping, Inc. agrees and understands that it shall submit, upon request, to the City of Fayetteville, any and all documents demonstrating compliance with applicable federal, state, and local rules and regulations. The City of Fayetteville's failure to request supporting documentation, however, shall not excuse any failure on the Time Striping, Inc.'s part to have used the standard of care in its profession to comply with the applicable federal, state, and local rules and regulations.
- (3) Time Striping, Inc. agrees and understands that all contracts for services, and other procurement for materials, services, or construction shall be carried out in compliance with applicable federal, state, and local rules and regulations.
- (4) Time Striping, Inc. shall hold harmless, and indemnify the City of Fayetteville from any and all claims, actions, suits, charges and judgments whatsoever that arise out of negligent performance or nonperformance of the services or subject matter called for in this contract, provided that nothing herein shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville under the Constitution and Statutes of the State of Arkansas.
- (5) Time Striping, Inc. agrees and understands that any changes, modifications, or amendments in scope, price or fees to this contract 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. Nothing in this agreement shall be construed to give any rights or benefits to any party other than Time Striping, Inc. and the City of Fayetteville.
- (6) Time Striping, Inc. agrees and understands that City of Fayetteville 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, Time Striping, Inc. 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.

- (7) This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.
- (8) The parties agree and understand that this contract is exclusive of any and all previous contracts which may exist, and that it in no way alters, amends or abridges any rights, obligations or duties of the parties contained in such contracts.
- (9) It is agreed that the failure of any party to invoke any of the available remedies under this agreement or under law or equity in the event of one or more breaches or defaults by any party under the agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any subsequent breach or default.
- (10) Each paragraph of this agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.
- (11) This contract constitutes the entire understanding of the parties and no modification or variation of the terms of this contract shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville and Time Striping, Inc.
- (12) Each of the undersigned warrants that he or she has the full right, power and authority to execute this contract on behalf of the party indicated for the purposes herein contained.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

TIME STRIPING, INC.

By: 
Clayton Johnson

ORDINANCE NO. _____

AN ORDINANCE TO ESTABLISH AND LAY OFF
FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 5 - APPLEBY
LANDING PROFESSIONAL CENTER

WHEREAS, a Petition to form Fayetteville Municipal Property Owners' Improvement District No. 5 has been filed with the Fayetteville City Clerk; and

WHEREAS, the City Clerk has presented said petition to the Mayor; and

WHEREAS, Ark. Code Ann. Sec. 14-94-106 (2) provides that the Mayor shall thereupon set a date and time, not later than 15 days after the date of the presentation of the petition to the mayor, for a hearing before the governing body for consideration of the petition; and

WHEREAS, the Fayetteville City Council has determined from an abstractor's certificate of property ownership that those signing said petition constitute all the owners of the real property to be located in said district; and

WHEREAS, Ark. Code Ann. Sec. 14-94-106(b)(2) provides that if the governing body determines that all of the owners of the real property to be located in the district have petitioned for the improvements, it shall then be its duty by ordinance to establish and lay off the district as defined in the petition and to appoint the commissioners as named in the petition.

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

Section 1: That the real property described in Exhibit "A" attached hereto and made a part hereof is hereby established and laid off as Fayetteville Municipal Property Owners' Improvement District No. 5 for the purpose of constructing or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation of electric and telephone distribution systems, sanitary sewers, streets and highways, including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing within said district.

Section 2: The following three individuals are hereby appointed as commissioners of said improvement district: Ben Israel, Phil Phillips and Tom Muccio.

Section 3: The name of said improvement district shall be Fayetteville
Municipal Property Owners' Improvement District No. 5 -- Appleby Landing
Professional Center.

PASSED and APPROVED this the 16th day of September, 2003.

APPROVED:

DAN COODY, Mayor

ATTEST:

SONDRA SMITH, City Clerk

TO: Tim Conklin, Director of Community Planning and Engineering Services

FROM: Ed Connell, Land Agent

DATE: September 10, 2003

RE: Mt. Comfort/Porter Road - I-540 Prop.
James r. Williams and Donald R. Williams

I have reviewed the reimbursement request of James Williams relative to the subject property and believe that, if the City were to reimburse, it should only be done on the basis of out-of-pocket expenses. Since Mr. Williams has no summary of all the parts that make-up his total, it is difficult to be accurate in the following accounting:

	City Excludes House)	Williams (Includes house)
Purchase Price (City Appraisal, not rounded)	\$268,300.00	267,608.25
Appraisal Fee	2,500.00	2,500.00
Flood Certificate	42.00	42.00
Bank of Fayetteville Fee	50.00	50.00
Closing Fee	400.00	400.00
Document Prep.	100.00	100.00
Attorney' Opinion	40.00	40.00
Title Insurance	982.50	982.50
Real Estate taxes(765-13614-000 &13579-000)	236.63	236.63
Parcel 770-17533-000 2002 Est. Taxes (not this property)	-	808.13*
Survey	527.00	527.00
Recording Fees	45.00	45.00
Revenue Stamps	884.00	884.40
Record Assignment Fee	17.00	17.00
Release Fee Bank of Fayetteville	11.00	11.00
Interest payment to Mitchell Oil Co. (at closing)	12,788.41	12,788.41
TRC & Assoc. Architectural Fee	13,000.00	-
Civil Engineering (Jorgensen & Associates)	850.00	-
Value of Removed House	14,340.00	-
Annexation and Rezoning Fees	650.00	-
Annexation Attorney's Fee	4,655.00	4,655.00
Annexation Advertizing	721.98	721.98
Williams Loan, Balance of \$306,267.30 @ 6.5%: running interest (03-03-03 to 09-18-03)	10,753.13	-
As of 09-18-03 <u>Total Out-of Pocket Expenses</u>	<u>\$331,893.65</u>	<u>292,417.30</u>

* Taxes paid on collateral property

Excluded are 1) Owners Time costs
2) Loss of rent
3) Tax payment of a parcel of Goshen property used as collateral

The above figure is our best estimate of total direct out-of pocket costs. Williams estimates the building could have been rented for \$8,000 in 2003 for a fireworks stand. This anticipated rental has not been included above. The City is to pick up all closing costs, which we anticipate to be about \$1,500, except for proration of taxes due for 2003.

**Tentative Agenda
For
City Council Meeting
September 16, 2003**

A meeting of the Fayetteville City Council will be held on September 16, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Golden Oak Award Presentation

Fayetteville Town Center report to the City Council

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the August 19, 2003, and September 2, 2003 meeting minutes.
2. **McClelland Consulting Engineers Amendment No. 1 - N. College Ave.-Water Line Replacement Project:** A resolution approving Amendment No. 1 to the Engineering Contract with McClelland Consulting Engineers in the amount of \$139,020.00 for the North College Avenue Water Line Replacement Project; approving a 10% project contingency; and approving a budget adjustment for same.
3. **Walker Park Multi-use Trails Contract:** A resolution awarding a construction contract to APAC-Arkansas in the amount of \$183,786.50 to build the Walker Park Multi-Use Trail; approving a 15% project contingency of \$27,568.00 and approving a budget adjustment in the amount of \$225,000.00 for same.
4. **Time Striping, Inc. - Parking Lot Improvements Downtown Fayetteville:** A resolution awarding Bid #03-43 and approving a contract with Time Striping, Inc. in the amount of \$78,073.00 for parking lot improvements in Downtown Fayetteville.
5. **Air Cleaning Technologies, Inc.:** A resolution to approve a contract with Air Cleaning Technologies, Inc. in the amount of \$107,176.00 to purchase and install exhaust removal systems for four Fayetteville Fire Stations.

B. OLD BUSINESS:

C. NEW BUSINESS:

1. **Sale of Animals from Public Property:** An ordinance to prohibit the sale, distribution, or giving away of animals from public property and from private commercially or industrially zoned property (except from established animal business enterprises with permanent structures) by enacting a new §92.29 of the Fayetteville Code.

2. **Continue Federal Funding of Community Trails, Bikeways and Road Beautification:** A resolution to restore full federal funding of the Congressional Transportation Enhancements Program to continue federal funding of community trails, bikeways and road beautification projects in Fayetteville and throughout America.
3. **ANX 03-2.00 (Shiloh Community Church):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of 3.95 acres located North of Mt. Comfort Road and West of Ruppel Road owned by Shiloh Community Church.
4. **ANX 03-3.00 (James Cogger):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of 18.38 acres located North of Mt. Comfort Road and West of Ruppel Road owned by James Cogger.
5. **ANX 03-4.00 (Carol Stephens):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of 1.08 acres located North of Mt. Comfort Road and West of Ruppel Road owned by Carol Stephens.
6. **RZN 03-17.00 (Shiloh Community Church):** An ordinance rezoning that property described in rezoning petition RZN 03-17.00 as submitted by Geoff Bates of Keystone Consultants on behalf of Shiloh Community Church for 3.95 acres located North of Mt. Comfort Road and West of Ruppel Road.
7. **RZN 03-18.00 (James Cogger):** An ordinance rezoning that property described in rezoning petition RZN-03-18.00 as submitted by Geoff Bates of Keystone Consultants on behalf of James Cogger for 18.38 acres located North of Mt. Comfort Road and West of Ruppel Road.
8. **RZN 03-27.00 (Carol Stephens):** An ordinance rezoning that property described in rezoning petition RZN 03-27.00 as submitted by Geoff Bates of Keystone Consultants on behalf of Carol Stephens for property containing 1.08 acres located North of Mt. Comfort Road and West of Ruppel Road.
9. **Sale of Library Building at 217 E. Dickson:** An ordinance to amend Ordinance No. 4358 in order to exempt the City Library Complex on Dickson Street.
10. **Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center.
11. **Environmental Consulting Operations Contract – Wastewater System Improvement Project:** An ordinance to waive the requirements of competitive bidding and to approve a contract with Environmental Consulting Operations, Inc. in the amount not to exceed \$376,409.
12. **Mt. Comfort Road and Shiloh Drive Property Purchase:** A resolution approving an Offer and Acceptance Contract between the City of Fayetteville and Donald R. Williams and Sharlene Williams, and James R. Williams and Neeley J. Williams for the purchase of property located at the Northeast Corner of Mt. Comfort Road and Shiloh Drive for the amount of \$331,893.65 to allow for future intersection improvements; and approving a budget adjustment in the amount of \$337,659.00 for same.

- 13. McClinton Anchor Contract - Taxiway A Extension and USDA Forest Service Ramp:** A resolution awarding a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of \$2,146,906.20 to construct the Taxiway "A" Extension and USDA Forest Services Ramp; approving a 10% project contingency of \$234,804.00 and approving a budget adjustment of \$1,128,747.00 for same.
- 14. Crossland Heavy Contractors, Inc. - Accelerated Water Line Replacement Project:** A resolution awarding a construction contract in the amount of 698,379.30 to Crossland Heavy Contractors, Inc. for the construction phase of the accelerated waterline replacement project; and approving a project contingency in the amount of \$69,838.00 for same.
- 15. Business License:** An ordinance establishing a Business License program for the City of Fayetteville.
- 16. Amend Chapter 51.136 Monthly Water Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to change nomenclature; and adjust water and sewer rates consistent with the recommendations of the Black & Veatch Rate Study.

D. INFORMATIONAL:

- 1. Council Tour - September 15, 2003**

STAFF REVIEW FORM - FINANCIAL OBLIGATION

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of

September 16, 2003

FROM:

Sid Norbash
Name

Engineering
Division

CP&E
Department

ACTION REQUIRED: Approval of the Amendment No. 1 to the Engineering Contract with McClelland Consulting Engineers in the amount of \$139,020, for the N. College Ave.-Water Line Replacement Project. Also approval of a 10% Project Contingency in the Amount of \$13,902.

Approval of a Budget Adjustment in the amount of \$480,700.

COST TO CITY:

\$152,922

Cost of this Request
5400-5600-5808-00

Account Number
02030-20

Project Number

\$ 862,154

Category/Project Budget 2003

\$ 13,364.59

Funds Used To Date 2003

\$ 848,789.41

Remaining Balance 2003

N. College Ave. W/L Replcmt.

Program Category/Project Name
Water & Sewer Impvts.

Program/Project Category Name
Water & Sewer

Fund Name

BUDGET REVIEW: ☒ Budgeted Item

☒ Budget Adjustment Attached

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager

Date

City Attorney

Date

Internal Auditor

Date

Purchasing Manager

Date

STAFF RECOMMENDATION:

Approval

Division Head

Date

Department Director

Date

Finance and Internal Services Director

Date

Chief Administrative Officer

Date

Mayor

Date

Received in Mayor's Office

Date

Cross Reference:

Prev Ord/Res #: 142-02

Orig. Contract Date: 9-17-2002

Orig. Contract No: 868

New Item: Yes ☐ No ☒



STAFF REVIEW FORM

Page 2

Description N. College Ave. Water Line Replacement Project

Meeting Date August 5, 2003

Comments:

Reference Comments:

Budget Manager

Accounting Manager

Internal Auditor

City Attorney

Purchasing Manager

Finance and Internal Services Director

-

-

Chief Administrative Officer

-

-

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE ENGINEERING CONTRACT WITH McCLELLAND CONSULTING ENGINEERS IN THE AMOUNT OF ONE HUNDRED THIRTY-NINE THOUSAND TWENTY DOLLARS (\$139,020.00) FOR THE NORTH COLLEGE AVENUE WATER LINE REPLACEMENT PROJECT; APPROVING A TEN PERCENT (10%) PROJECT CONTINGENCY; AND APPROVING A BUDGET ADJUSTMENT FOR SAME.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 1 to the Engineering Contract with McClelland Consulting Engineers in the amount of One Hundred Thirty-Nine Thousand Twenty Dollars (\$139,020.00) for the North College Avenue Water Line Replacement Project.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a ten percent (10%) project contingency in the amount of Thirteen Thousand Nine Hundred Two Dollars (\$13,902.00).

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of Four Hundred Eighty Thousand Seven Hundred Dollars (\$480,700.00) for same.

PASSED and APPROVED this 16th day of September, 2003.

APPROVED

By DAN COODY, Mayor

ATTEST:

By SONDRA SMITH, City Clerk

DRAFT

THE CITY OF FAYETTEVILLE, ARKANSAS

To: Fayetteville City Council

Thru: Dan Coody, Mayor
Hugh Earnest, CAO
Tim Conklin, Director CP&E
Gary Coover, City Engineer

From: Sid Norbash, Staff Engineer 

Date: July 31, 2003

Subject: North College Water Main Replacement Project
Amendment No. 1 to the Engineering Contract
McClelland Consulting Engineers, Inc.

BACKGROUND

College Avenue water main improvements relate to the upgrading of aging infrastructure. Water supply lines under College Avenue (between North and Maple Streets) are undersized, subject to recurring failures and unable to meet fire protection needs. This capital project was identified as a priority in 2002 with the associated engineering analysis of alternatives being commissioned to McClelland Engineers in September of 2002.

The completed study has been approved by the city staff, concluding that out of three alternatives, Alternative 2 (see attached Table No. 4) is the preferred solution. This alternative has a slightly higher initial construction cost; however, the benefits in terms of system function, capacity and reliability warrant the increased costs. This recommended solution has a further advantage of using a configuration that avoids dead end water lines that pose water quality concerns. It also reduces the number of water lines crossing North College Avenue.

In the revised system layout, pipelines are located so as to facilitate ease of maintenance and repair. This is one of the designated capital improvement priorities set forth in the Fayetteville Capital Improvement Plan.

DISCUSSION / STATUS

McClelland Engineering has fulfilled the scope of their current agreement with the City of Fayetteville, having furnished the necessary engineering analysis. City staff concurs

with the selection of Alternative Number 2 as the recommended project strategy, and have proceeded with the negotiation of the enclosed amendment to the current professional service agreement

The enclosed contract amendment reflects the costs of usual and customary engineering services for the design, bidding and construction phases of the project as well as the additional services necessary for the acquisition of needed rights-of-way. The costs for the listed scope of services are deemed reasonable, given the scope and complexity of this project.

This project calls for replacement of approximately:

260 feet	12" water line
4362 feet	8" Water line
305 feet	6" Water line
1665 feet	2" Water Line

TIME FOR COMPLETION OF DESIGN- five months

The design, bidding, and construction phase services set forth in the proposed agreement are associated with the **Fayetteville Vision 2020 Guiding Principles** listed below:

1- Well maintained City Infrastructure and Facilities

The completion of the College Avenue water main improvements is necessary to sustain the quality, reliability and adequacy of our public water supply services.

The updated project budget for this project includes the following internal and external costs:

Construction Cost	\$702,054
Preliminary Study	*\$ 17,378 (actual)
Design/Bidding/Construction Services	\$152,922
Right-of-Way Purchase	\$360,000
Internal Project Charges	\$ 25,000
Contingencies	\$ 85,500
TOTAL ESTIMATED PROJECT COSTS	\$1,342,854

* McClelland's contract for the study phase was in the amount of \$28,894; however, the actual cost was \$17,378.

The agenda request includes a Budget Adjustment to fully fund this proposed project, updating its budget to reflect the current cost predictions.

RECOMMENDATIONS

To provide the proper and responsible management of the Fayetteville Water Supply System, the City Administration recommends that the Fayetteville City Council approve a contract with McClelland Engineering for \$139,020. This action provides for the progression of the Project from preliminary design (initiated in September 2002) through construction. A Budget Adjustment is included with this request to provide full funding of the capital improvement project based upon the most recent cost prediction. The financial summary for the College Avenue Water Main Project is as follows, based upon a budget of \$1,324,854.00.

Predicted Total Project Cost	\$1,342,854.00
Current Budget Amount	<u>862,154.00</u>
Recommended Budget Adjustment	\$480,700.00

A budget adjustment to fund this capital project is included as a component of this City Council Approved Request. It should be noted that the principal source of the increased project cost is the anticipated right-of-way purchase cost of \$360,000.00. This need for right-of-way could not be qualified until the preliminary pipeline routes were confirmed. During the final design phase of this Project, City Staff and the engineering consultant will strive to minimize this cost component.

Budget Year 2003	Department: Community Planning & Engineering Division: Engineering Program: Water & Sewer Fund Projects	Date Requested 9/19/2003	Adjustment Number
-------------------------	---	---------------------------------	-------------------

Project or Item Requested:

\$480,700 is requested in the North College Water Line Replacement capital project.

Project or Item Deleted:

Funding from various water/sewer capital projects that are completed in 2003 with excess funds.

00038 - White River Bridge 45 East Waterline
 02120 - W&S Improvements - Defined by Study
 02067 - Water & Sewer Cost Sharing
 01021 - East Ridgeway - Water Line Extension
 01022 - Hinkle Mobile Home Park - Waterline Repl
 02040 - I-540 Sewer Rehabilitation
 02031 - Rodgers Drive Water Tank

Justification of this Increase:

The funding is needed to cover the projected construction cost of the project which will be submitted to City Council at a future date.

Justification of this Decrease:

There is sufficient funds remaining to finish 2003 objectives.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Water line improvements	5400	5600	5808	00	480,700	02030	1

Decrease Budget (Increase Revenue)

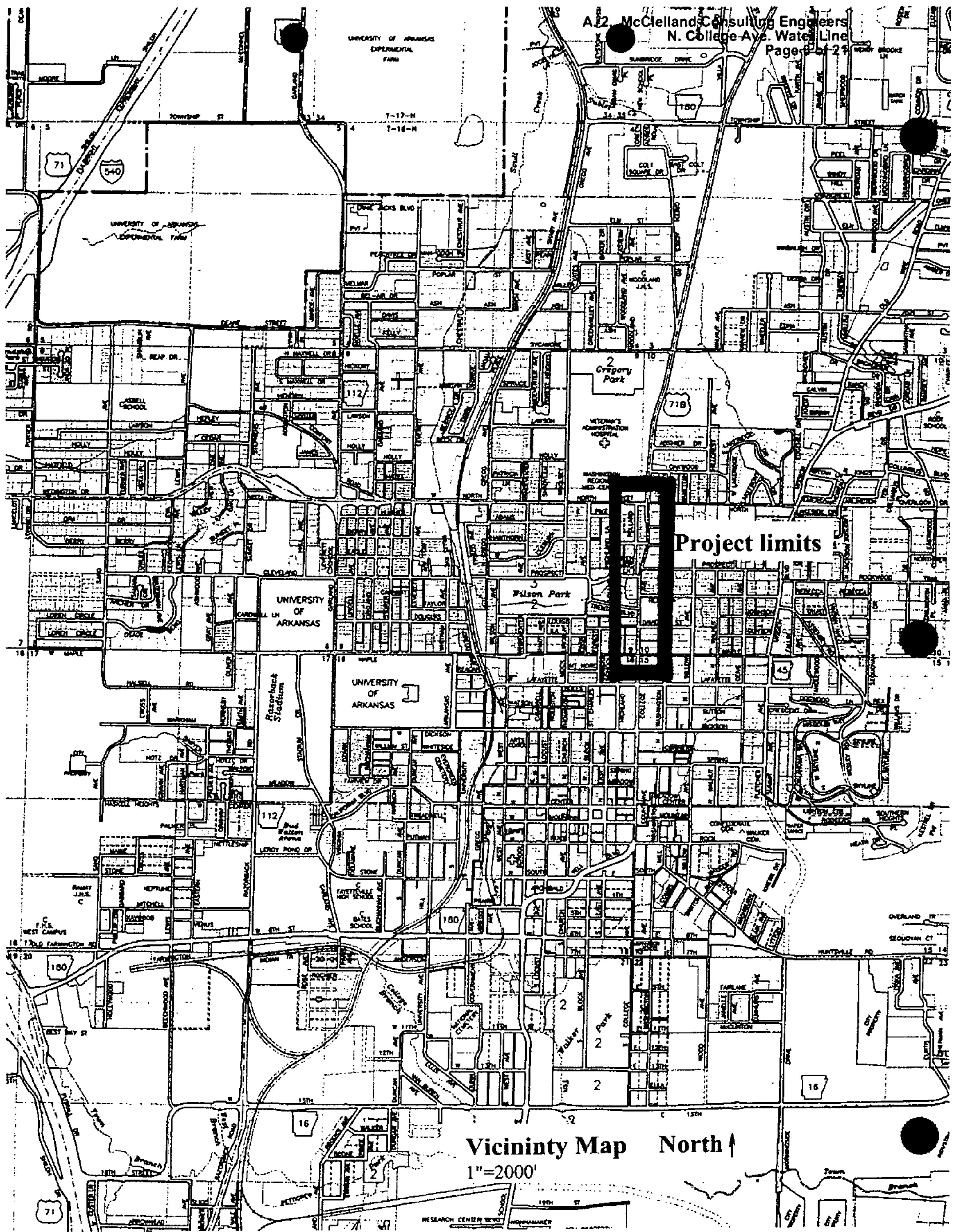
Account Name	Account Number				Amount	Project Number	
Water line improvements	5400	5600	5808	00	41,230	00038	1
Water line improvements	5400	5600	5808	00	105,951	02120	1
Water line improvements	5400	5600	5808	00	165,664	02067	1
Water line improvements	5400	5600	5808	00	37,244	01021	1
Water line improvements	5400	5600	5808	00	25,000	01022	1
Water line improvements	5400	5600	5808	00	74,067	02040	1
Water line improvements	5400	5600	5808	00	31,544	02031	1

Approval Signatures

Requested By	Date
 Budget Manager	 Date
 Department Director	 Date
 Finance & Internal Services Director	 Date
 Mayor	 Date

Budget Office Use Only

Type:	A	B	C	D	E
Date of Approval	Initial		Date		
Posted to General Ledger	Initial		Date		
Posted to Project Accounting	Initial		Date		
Entered in Category Log	Initial		Date		



Vicinity Map North
1"=2000'

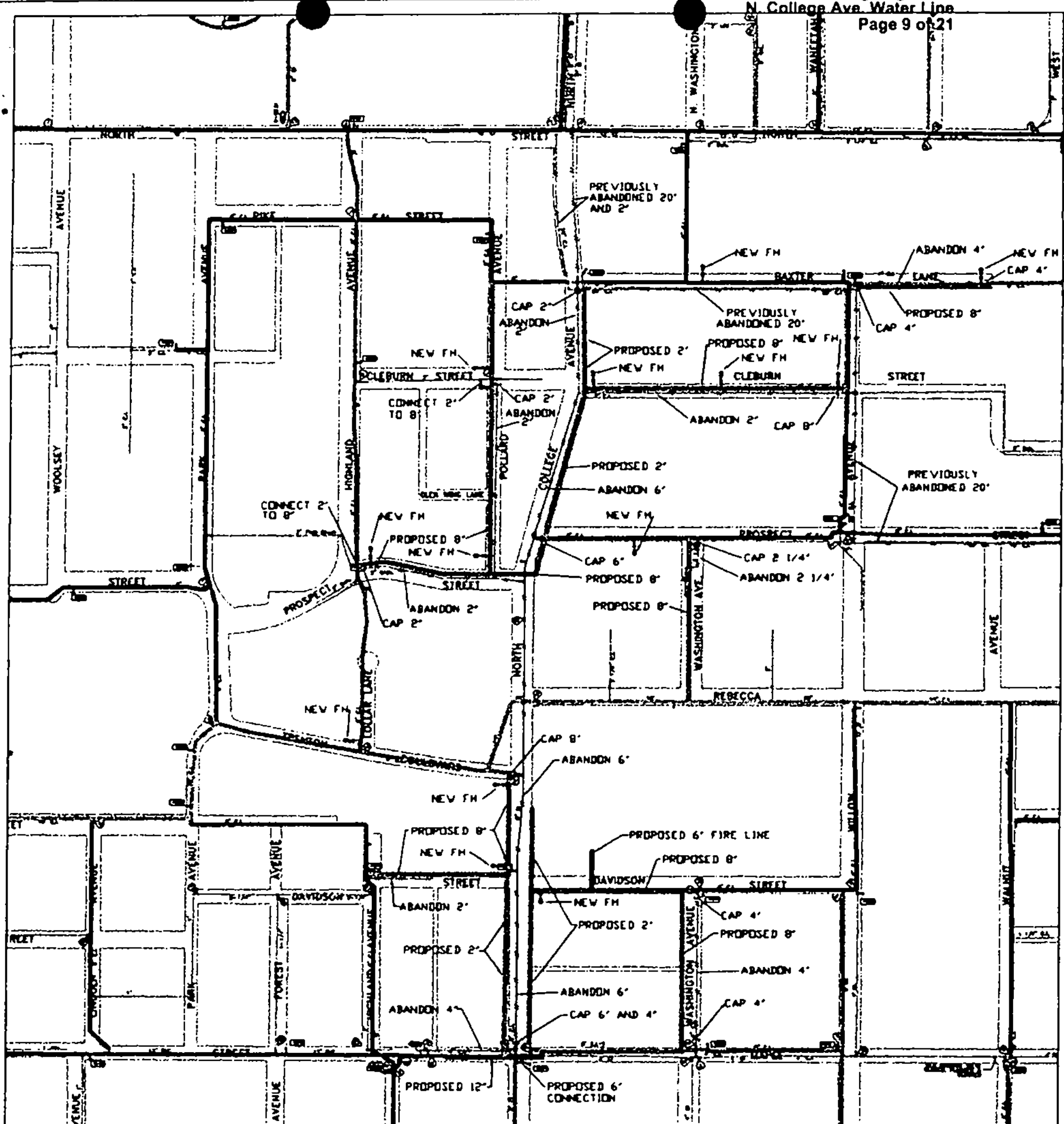


FIGURE NO. 6
NORTH COLLEGE WATER MAIN REPLACEMENT
ALTERNATIVE NO. 2
REPLACEMENT MAINS
WITH NORTH COLLEGE CROSSINGS MINIMIZED

EXISTING WATER MAINS		TO BE ABANDONED	PROPOSED WATER MAINS
4" OR SMALLER	—————	———X———	—————
6"	—————	———X———	—————
8"	—————	———X———	—————
10"	—————	———X———	—————
12"	—————	———X———	—————
OVER 12"	—————	———X———	—————
NEW OR REPLACEMENT FIRE HYDRANT			⊙

TABLE NO. 4
COST ESTIMATE SUMMARY

Alternative No. 1		Alternative No. 2		Alternative No. 3	
Main No.	Est. Cost	Main No.	Est. Cost	Main No.	Est. Cost
1	\$66,424	1	\$66,424	1 to 14	\$702,054
2	\$139,380	2	\$48,535	15	\$41,690
3	\$51,398	3	\$65,451	16	\$47,440
4	\$97,911	4	\$59,915	17	\$8,000
5	\$170,705	5	\$40,995	18	\$27,374
6	\$19,230	6	\$51,398	19	\$12,796
7	\$5,435	7	\$91,609	20	\$121,830
8	\$15,445	8	\$54,277		
9	\$15,025	9	\$87,270		
10	\$20,680	10	\$31,500		
11	\$9,510	11	\$32,265		
FHs	\$11,119	12	\$16,275		
		13	\$33,480		
		14	\$22,660		
Subtotals	\$622,262		\$702,054		\$961,184

From McClelland's Report

VIII. RECOMMENDATIONS

It is recommended that the replacement main configuration shown on Figure No. 6 as Alternative No. 2 be constructed, with a preliminary cost estimate of \$877,568. This layout includes two new crossings of North College with a 12-inch main at Maple Street and an 8-inch main at Prospect Street crossing the highway. Parallel lines on each side of North College would be continuous, instead of dead-end, with one exception on the northeast side of the College-Davidson intersection.

It is recommended that consideration be given to upsizing the 2-inch on the east side of College, between Maple and Davidson to 8-inch (Main No. 11), and then deleting the 8-inch along Washington between Maple and Davidson (Main No. 4). This would reduce the preliminary cost estimate for construction work to \$837,568.

It is recommended that some of the pipe segments/system interconnections included under Alternative No. 3 be included in the project, as construction funds will allow. With a budget of \$862,000, it may not be possible to fund any of these. However, if Main No. 11 is modified, Main No. 4 is deleted, and other cost savings are achieved during design, it may be possible to include one or more of the Alternative No. 3 lines. A possible priority list for including these lines, and the estimated cost per line, including contingencies is as follows:

<u>Main No.</u>	<u>Location</u>	<u>Estimated Cost</u>
18	Highland Interconnection between Dickson & Lafayette	\$30,000
16	Lafayette from College to Washington	\$52,000
15	Lafayette from College to Highland	\$46,000
19	Dickson and Washington Connection	\$14,000
17	Lafayette and Willow Connection	\$9,000
20	Mock and Thompson from Watson to Maple	\$134,000

The top priority is given to interconnecting the two dead-end 6-inch lines in Highland Street, between Dickson and Lafayette. This results in a continuous 6-inch main from the 12-inch in Dickson to the 12-inch in Maple. Second and third priority are given to the two 8-inch mains in Lafayette, between Washington and College and Highland. Completing these two segments results in a continuous 8-inch main from the 16-inch main in Olive Avenue to the College and Highland mains.

The other interconnections would be a benefit to the overall system capacity and reliability, if adequate funds can be budgeted to cover these improvements.

From McClelland's Report

RESOLUTION NO. 142-02

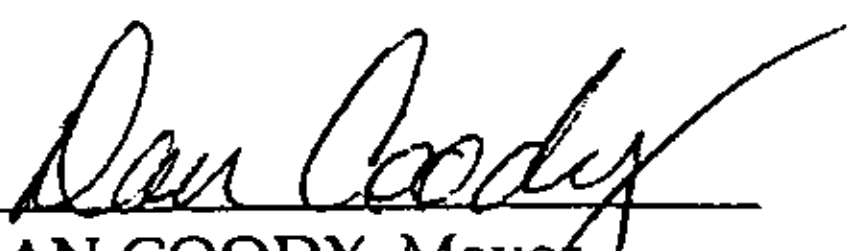
A RESOLUTION TO APPROVE A CONTRACT FOR
ENGINEERING SERVICES IN THE AMOUNT OF
\$28,894.00, PLUS CONTINGENCY OF \$5,000.00 WITH
MCCLELLAND CONSULTING ENGINEERS, INC. FOR
WATER MAIN REPLACEMENT FROM NORTH STREET
TO MAPLE STREET

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

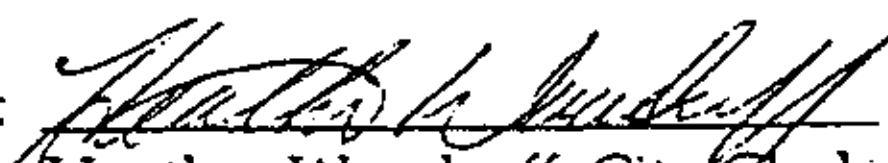
Section 1. That the City Council of the City of Fayetteville, Arkansas
hereby approves the engineering services contract with McClelland Consulting
Engineers, Inc. in the amount of \$28,894.00 (plus project contingency of \$5,000.00)
for engineering services necessary for the water main replacement project
between North Street and Maple Street. This contract is attached as Exhibit A.

PASSED and APPROVED this the 17th day of September, 2002.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
Heather Woodruff, City Clerk

**AMENDMENT NO. 1
CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES
NORTH COLLEGE WATER MAIN RELOCATION
MAPLE STREET TO NORTH STREET**

This Amendment No. 1 is hereby made to the basic Agreement for Engineering Services made between the City of Fayetteville, Arkansas and McClelland Consulting Engineers, Inc. as executed September 17, 2002.

Engineering services to be provided under this Amendment No. 1 are as defined in ARTICLE 1 and compensation shall be as defined in ARTICLE 2.

ARTICLE 1

Services to be provided under Amendment No. 1 shall include design and construction observation services for relocated water mains along North College Avenue, between Maple Street and North Street. The water main locations shall be as described under the Alternative No. 2 pipe layout as listed in the applicable Engineering Report dated June, 2003. Said engineering services shall include, but not be limited to:

1. Field surveys as required for:
 - a). Preparation of Plans and Detailed Specifications.
 - b). Preparation of easements, highway utility permits, etc.
2. Preparation of Plans and Detailed Specifications for the water mains identified under Alternative No. 2 in the Engineering Report.
3. Preparation of a cost estimate of proposed facilities.
4. Obtain agency approval of Plans and Detailed Specifications, as required.
5. Assist in obtaining Highway Department approval of utility permits.
6. Preparation of construction easement documents, as required.
7. Bid advertising and bidding services.

8. Bid evaluation/recommendations.
9. Basic engineering services during construction.
10. Full time construction observation.
11. Project closeout and record drawings.

ARTICLE 2

Compensation for services to be provided in this Amendment No. 1 shall be determined as follows:

1. For field surveys for design purposes, a lump sum price of \$32,820.00.
2. For easement surveys and easement preparations services a unit price per easement of \$400/each.
3. For Basic Design Services, to include Items 2,3,4,5,7,8,9, and 11 as defined in ARTICLE 1 above, a lump sum of \$52,600.00.
4. For full time construction observation services, a lump sum price of \$44,000.00.

It is estimated that approximately 24 easements will be required, resulting in an estimated cost for easement preparation of \$9,600. The resulting total estimated fee for the above scope of work is therefore \$139,020.00.

Changes, modifications, or amendments in scope, price or fees to this contract 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 of fees.

ARTICLE 3

McClelland Consulting Engineers shall begin work under this Amendment No. 1 within ten (10) days of the authorization to proceed. It is anticipated that the time required to complete field surveys and preliminary designs, including draft plans and specifications, for review by the City of Fayetteville, will be approximately five months. Upon receipt of review comments from the City of Fayetteville, the final plans and specifications shall be completed and ready for final review by the City of Fayetteville and Arkansas Department of Health in one month. Subsequent tasks shall be completed as scheduled and authorized by the City of Fayetteville.

ARTICLE 4

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, McClelland Consulting Engineers, Inc., 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. §25-19-010 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

ARTICLE 5

All other conditions and requirements of the original Agreement for Engineering Services, as executed September 17, 2002 remain in full force and effect.

ARTICLE 6

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

CITY OF FAYETTEVILLE, ARKANSAS

MCCLELLAND CONSULTING
ENGINEERS, INC.

By: _____
Dan Coody, Mayor

By: 
John C. Quinn, President

ATTEST:

Sondra Smith, City Clerk


Robert W. White, Vice-President

CITY OF FAYETTEVILLE
NORTH COLLEGE WATER MAIN RELOCATION
MAPLE STREET TO NORTH STREET

ENGINEERING COST ESTIMATE

I. BASIC DESIGN SERVICES

A. Design Services:

Preparation of Plans, Detailed Specifications, Contract Documents and Utility Permit Applications

Classification	Estimated Hours	Rate	Estimated Cost
Project Manager	152	\$105.00	\$15,960.00
Project Engineer II	40	\$ 85.00	\$ 3,400.00
Project Engineer I	62	\$ 65.00	\$ 4,030.00
Computer Technician	48	\$ 55.00	\$ 2,640.00
Chief Draftsman	146	\$ 60.00	\$ 8,760.00
Draftsman II	88	\$ 49.00	\$ 4,312.00
Draftsman I	88	\$ 34.00	\$ 2,992.00
Clerk/Typist	72	\$ 37.00	\$ 2,664.00
Subtotal			\$44,758.00

B. Bidding Services:

Project Manager	16	\$105.00	\$ 1,680.00
Draftsman II	4	\$ 49.00	\$ 196.00
Clerk/Typist	12	\$ 37.00	\$ 444.00
Subtotal			\$ 2,320.00

C. Project Closeout Services:

Project Manager	18	\$105.00	\$1,890.00
Project Engineer I	12	\$ 65.00	\$ 780.00
Chief Draftsman	20	\$ 60.00	\$1,200.00
Draftsman I	28	\$ 34.00	\$ 952.00
Clerk/Typist	8	\$ 37.00	\$ 296.00
Subtotal			\$5,118.00

D. Direct Expenses for Basic Design Services:

Mileage	240 miles	\$ 0.32	\$ 76.80
Reproduction & Misc.			<u>\$327.20</u>
	Subtotal		\$404.00

ESTIMATED TOTAL, BASIC DESIGN SERVICES \$52,600.00

II. CONSTRUCTION OBSERVATION SERVICES

Based on 5-month construction period

Project Manager	100	\$105.00	\$10,500.00
Construction Observer II	40	\$ 65.00	\$ 2,600.00
Construction Observer I	800	\$ 38.00	\$30,400.00
Clerk/Typist	8	\$ 37.00	\$ 296.00
Mileage and Expenses			<u>\$ 204.00</u>
	ESTIMATED TOTAL		\$44,000.00

III. EASEMENTS

A total of 24 easements is estimated, mainly for the lines that parallel North College. The balance of the lines are presumed to be installed in street right of ways instead of on easements.

24 easements at \$400.00/each = \$9,600.00

IV. DESIGN SURVEYS

See the attached breakdown for estimated surveying costs on a line segment basis. These costs total \$32,820.00.

FAYETTEVILLE WATER MAIN REPLACEMENT SURVEY COST ESTIMATE

July 24, 2003

(MAIN #1) Maple Street (survey both sides of road)
2-Man Field Crew 20hr @ \$95.00/hr \$1,900.00
Surveyor 2hr @ \$60.00/hr \$120.00
Computer Technician 15hr @ \$55.00/hr \$825.00
SUB TOTAL \$2,845.00

(MAIN #2) Davidson West of College (survey both sides of road)
2-Man Field Crew 24hr @ \$95.00/hr \$2,280.00
Surveyor 3hr @ \$60.00/hr \$180.00
Computer Technician 18hr @ \$55.00/hr \$990.00
SUB TOTAL \$3,450.00

(MAIN #3) Davidson East of College (survey both sides of road)
2-Man Field Crew 16hr @ \$95.00/hr \$1,520.00
Surveyor 2hr @ \$60.00/hr \$120.00
Computer Technician 12hr @ \$55.00/hr \$660.00
SUB TOTAL \$2,300.00

(MAIN #4) Washington South of Davidson (survey both sides of road)
2-Man Field Crew 24hr @ \$95.00/hr \$2,280.00
Surveyor 3hr @ \$60.00/hr \$180.00
Computer Technician 18hr @ \$55.00/hr \$990.00
SUB TOTAL \$3,450.00

(MAIN #5) West Side of Collage, Davidson to Trenton
2-Man Field Crew 8hr @ \$95.00/hr \$760.00
Surveyor 1hr @ \$60.00/hr \$60.00
Computer Technician 6hr @ \$55.00/hr \$330.00
SUB TOTAL \$1,150.00

(MAIN #6) Washington North of Rebecca (survey both sides of road)
2-Man Field Crew 16hr @ \$95.00/hr \$1,520.00
Surveyor 2hr @ \$60.00/hr \$120.00
Computer Technician 12hr @ \$55.00/hr \$660.00
SUB TOTAL \$2,300.00

(MAIN #7) Prospect Street (survey one side of road)
2-Man Field Crew 14hr @ \$95.00/hr \$1,330.00
Surveyor 1.5hr @ \$60.00/hr \$90.00
Computer Technician 10hr @ \$55.00/hr \$550.00
SUB TOTAL \$1,970.00

(MAIN #8) Pollard Avenue (survey one side of road)
2-Man Field Crew 14hr @ \$95.00/hr \$1,330.00
Surveyor 1.5hr @ \$60.00/hr \$90.00
Computer Technician 10hr @ \$55.00/hr \$550.00
SUB TOTAL \$1,970.00

(MAIN #9) Cleburn East of Collage (survey both sides of road)

2-Man Field Crew	28hr @ \$95.00/hr	\$2,660.00
Surveyor	3hr @ \$60.00/hr	\$180.00
Computer Technician	21hr @ \$55.00/hr	<u>\$1,155.00</u>
SUB TOTAL		\$3,995.00

(MAIN #10) West of College, Maple to Davidson (survey one side of road)

2-Man Field Crew	16hr @ \$95.00/hr	\$1,520.00
Surveyor	2hr @ \$60.00/hr	\$120.00
Computer Technician	12hr @ \$55.00/hr	<u>\$660.00</u>
SUB TOTAL		\$2,300.00

(MAIN #11) East of College, Maple to Davidson (survey one side of road)

2-Man Field Crew	16hr @ \$95.00/hr	\$1,520.00
Surveyor	2hr @ \$60.00/hr	\$120.00
Computer Technician	12hr @ \$55.00/hr	<u>\$660.00</u>
SUB TOTAL		\$2,300.00

(MAIN #12) East of College, North of Davidson (survey one side of road)

2-Man Field Crew	8hr @ \$95.00/hr	\$760.00
Surveyor	1hr @ \$60.00/hr	\$60.00
Computer Technician	6hr @ \$55.00/hr	<u>\$330.00</u>
SUB TOTAL		\$1,150.00

(MAIN #13) East of College, Prospect to Cleburn (survey one side of road)

2-Man Field Crew	12hr @ \$95.00/hr	\$1,140.00
Surveyor	1hr @ \$60.00/hr	\$60.00
Computer Technician	9hr @ \$55.00/hr	<u>\$495.00</u>
SUB TOTAL		\$1,695.00

(MAIN #14) East of College, Cleburn to Baxter (survey one side of road)

2-Man Field Crew	8hr @ \$95.00/hr	\$760.00
Surveyor	1hr @ \$60.00/hr	\$60.00
Computer Technician	6hr @ \$55.00/hr	<u>\$330.00</u>
SUB TOTAL		\$1,150.00

(MAIN #15) Trenton Blvd. & Lollar Lane Intersection

2-Man Field Crew	6hr @ \$95.00/hr	\$570.00
Surveyor	1hr @ \$60.00/hr	\$60.00
Computer Technician	3hr @ \$55.00/hr	<u>\$165.00</u>
SUB TOTAL		\$795.00

TOTAL \$32,820.00

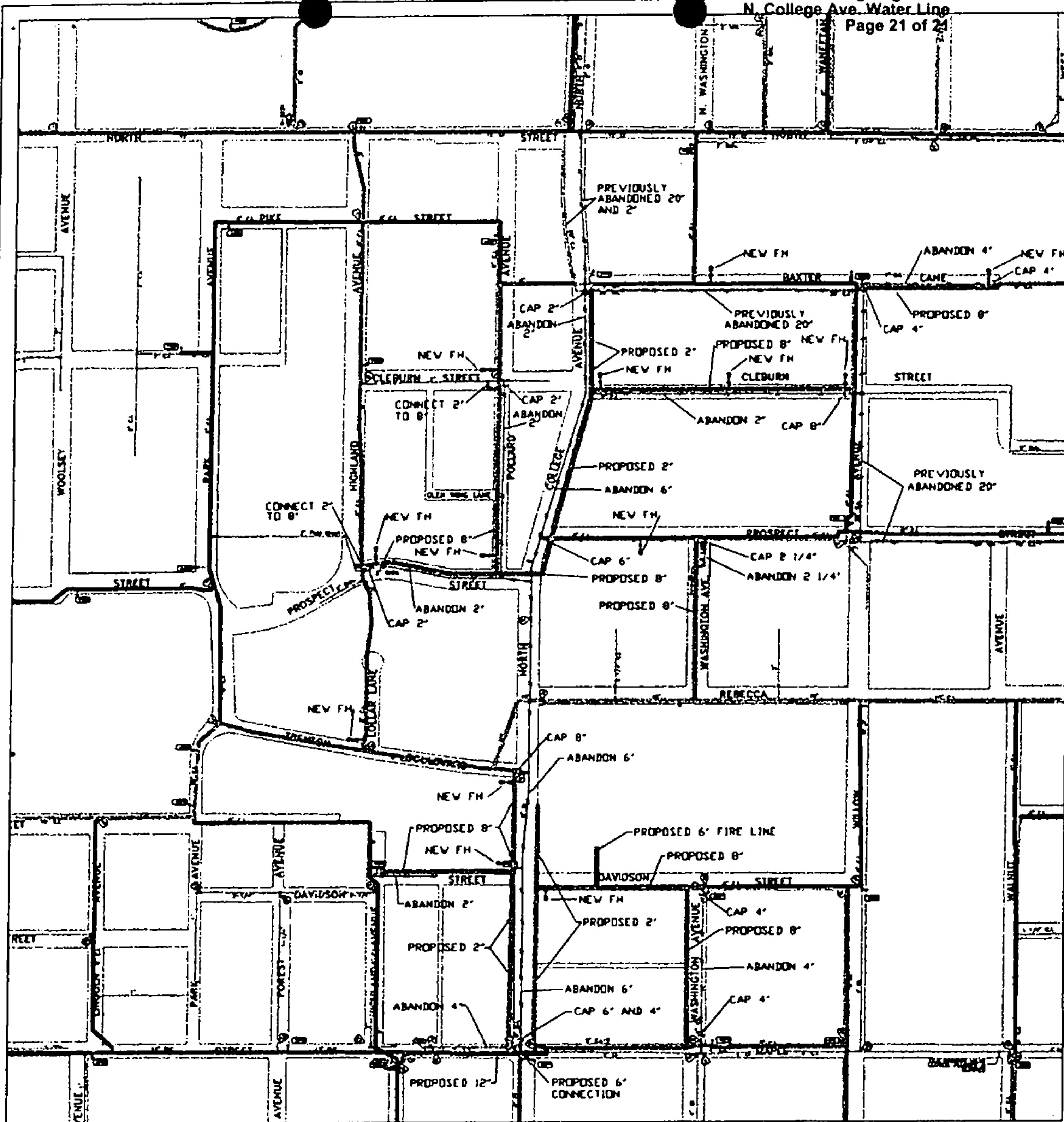


FIGURE NO. 6
NORTH COLLEGE WATER MAIN REPLACEMENT
ALTERNATIVE NO. 2
REPLACEMENT MAINS
WITH NORTH COLLEGE CROSSINGS MINIMIZED

LEGEND

EXISTING WATER MAINS	TO BE ABANDONED	PROPOSED WATER MAINS
4" OR SMALLER	----	=====
6"	----	=====
8"	----	=====
10"	----	=====
12"	----	=====
OVER 12"	----	=====
NEW OR REPLACEMENT FIRE HYDRANT		⊙

STAFF REVIEW FORM

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council Meeting of: September 16, 2003

FROM:

Steve Hatfield Parks and Recreation Operations
Name Division Department

ACTION REQUIRED: Approval of contract to construct Multi-use Trails at Walker Park and the newly completed senior center with Apac-Arkansas, Inc. in the amount of \$183,786.50 with a 15% project contingency of \$27,568 for a total project cost of \$211,354.50. Approval of Budget Adjustment.

COST TO CITY:

<u>\$211,354.50</u>	<u>\$ - 0 -</u>	<u>Parks Multi-Use Trails</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>4470-9470-5814-00</u>	<u>\$ - 0 -</u>	<u>Park Improvements</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>03029-1</u>	<u>\$ - 0 -</u>	<u>Sales Tax</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ☒ Budgeted Item ☒ Budget Adjustment Attached

[Signature] 8-19-03
Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

[Signature] 8/19/03
Accounting Manager Date

[Signature] 8/19/03
Internal Auditor Date

[Signature] 8/19/03
City Attorney Date

[Signature] 8/19/03
Purchasing Manager Date

STAFF RECOMMENDATION: Approval of contract and budget adjustment

[Signature] 8-18-03
Division Head Date

Received in Mayor's Office 8/19/03
Date

[Signature] 8/18/03
Department Director Date

Cross Reference:

[Signature] 8-19-03
Finance & Internal Services Dir. Date

Previous Ord/Res#:

[Signature] 8-20-03
Chief Administrative Officer Date

Orig. Contract Date:

[Signature] 9/3/03
Mayor Date

Orig. Contract Number:

New Item:

Yes

No



Staff Review Form - Page 2

Description Parks Multi-Use Trails Meeting Date September 2, 2003

Comments:

Budget Manager

Reference Comments:

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

*Purchase Reg. being faxed to
Purchasing Division*

Grants Coordinator



MEMORANDUM

Date: 9/3/03
To: Mayor Dan Coody and City Council Members
Thru Gary Dumas, Director of Operations
Connie Edmonston, Parks and Recreation Director
From: Steve Hatfield, Park Landscape Architect, Trails & Greenways Coordinator *Steve*
Reference: Parks Multi-use Trails
Subject: Contract Award

Background:

Three trail projects were put out to bid as one construction project. Two trails have been identified to construct within our parks system, as identified as a top priority in the Parks Master Plan. The trails will be located in Walker Park. One will give users access to the recently completed skate park and playground. The other trail will be located near the newly completed Senior Center and provide those citizens the opportunity to stroll along a hard surfaced trail. The last trail, Combs Park Trail Phase one, will be located along a abandoned rail road right of way and will extend from City Lake Road to the property boundary of Combs Park. Phase two of this trail will extend through Combs Park to the proposed trail head at the pump station and continue along the west fork of the White River.

Current Status:

The project bids were opened on August 18th, 2003. There was one responsive bidder and the low bid was from apac-Arkansas, Inc. in the amount of \$305,472.14. The bid was below the Landscape Architect's estimate of \$322,212 and is considered a valid bid. As an administrative item the third trail, Combs Park Trail, has been deducted from the contract. It was decided to hold the funds from this trail and reserve them, if needed, for Center Prairie Trail, anticipated bidding in the next 40-55 days.

By constructing these two trail projects, at Walker Park, the City of Fayetteville can promote at least five of the twelve guiding principals. They include preserving and enhancing our natural areas, providing a well maintained infrastructure, revitalizing south Fayetteville, enhancing mobility and establishing fun activities for both residents and visitors.

Recommendation:

Parks and Recreation staff recommends awarding the construction contract to apac-Arkansas, Inc in the amount of \$183,786.50, with a 15% project contingency of \$27,568 for a total project cost of \$211,354.50.

Attachments: Construction Contract
Bid Tabulation

cc: files

1

City of Fayetteville
Parks and Recreation Division
113 W. Mountain Street, Fayetteville, Arkansas 72701

Telephone: 501-718-7688

E-mail: shatfield@ci.fayetteville.ar.us

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A.3. Walker Park Trails
Page 4 of 6

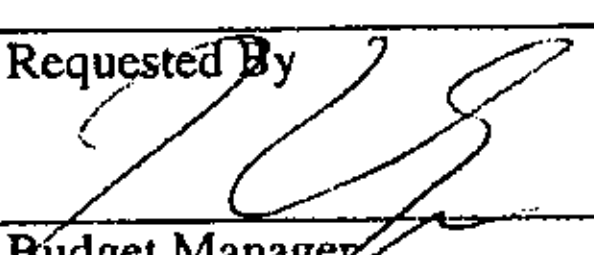
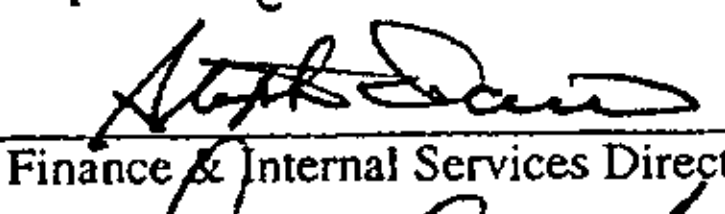
Budget Year 2003	Department: Operations Division: Parks & Recreation Program: Parks Development Capital	Date Requested 9/2/2003	Adjustment Number
----------------------------	--	-----------------------------------	-------------------

Project or Item Requested: \$225,000 in the Park Multi-Use Trails (Walker) capital project.	Project or Item Deleted: \$225,000 from the Trail/Park Land Development/ Acquisition capital project.
--	---

Justification of this Increase: The funding is for the construction contract and other improvements related to the Park Multi-Use Trails (Walker) capital project.	Justification of this Decrease: The funding in this project was to be split out into separate projects as they develop.
---	--

Increase Budget (Decrease Revenue)							
Account Name	Account Number				Amount	Project Number	
Trailways and sidewalks	4470	9470	5814	00	225,000	03029	1

Decrease Budget (Increase Revenue)							
Account Name	Account Number				Amount	Project Number	
Park improvements	4470	9470	5806	00	225,000	02016	1

Approval Signatures	
Requested By 	Date 9-3-03
Budget Manager 	Date 9-3-03
Department Director 	Date 9-3-03
Finance & Internal Services Director 	Date 9/3/03
Mayor 	Date 9/3/03

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		

Aug 19 03 08:19a

Parks & Recreation

4795217714

A.J. Walker Park Trails
Page 5 of 6 p. 1

City of Fayetteville (Not a Purchase Order)										Requestion No.: 2043	Date: 8-19-2003
Vendor Name: McClinton - Anchor apac										P.O. Number:	Expected Delivery Date:
P.O. Box 1367, N. Block Street										Mail Yes: ☒ No: ☐	Quotes Attached No: ☒
State: AR										Yes: ☐ No: ☐	
Zip Code: 72702										Division Head Approval: <i>[Signature]</i>	
Strip to code: 75										Extension: 688	
Requester's Employee #: 2043										Project/Subproject #: 03029-1	Fixed Asset #
Account Numbers: 4470-9470-5814-00										Inventory #	
Extended Cost: 305,472.14											
Unit Cost: 305,472.14											
Unit of Issue: LS											
Quantity: 1											
Description: Contract for Trail Construction											
Shipping/Handling											
Special Instructions:											
Subtotal: 305,472.14										183,786.50	
Tax: 183,786.50										183,786.50	
Total: 183,786.50											

Approvals:	Department Director: _____	Purchasing Manager: _____
Mayor: _____	Budget Manager: _____	IT Manager: _____
Finance & Internal Services Director: _____	Utilities Manager: _____	Other: _____
Dispatch Manager: _____		

Revised 6/17/03

RESOLUTION NO. _____

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO APAC-ARKANSAS IN THE AMOUNT OF ONE HUNDRED EIGHTY-THREE THOUSAND SEVEN HUNDRED EIGHTY-SIX DOLLARS AND FIFTY CENTS (\$183,786.50) TO BUILD THE WALKER PARK MULTI-USE TRAIL; APPROVING A FIFTEEN PERCENT (15%) PROJECT CONTINGENCY OF TWENTY-SEVEN THOUSAND FIVE HUNDRED SIXTY-EIGHT DOLLARS (\$27,568.00); AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$225,000.00) FOR SAME.

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 construction contract to APAC-Arkansas in the amount of One Hundred Eighty-Three Thousand Seven Hundred Eighty-Six Dollars and Fifty Cents (\$183,786.50) to build the Walker Park Multi-Use Trail.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Fifteen Percent (15%) project contingency of Twenty-Seven Thousand Five Hundred Sixty-Eight Dollars (\$27,568.00).

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) for same.

PASSED and APPROVED this 2nd day of September, 2003

APPROVED

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
 _____ CONTRACT REVIEW
 _____ GRANT REVIEW

For the Fayetteville City Council Meeting of: September 16, 2003

FROM:

Sharon Crosson

Parking Management

Operations

Name

Division

Department

Bid award (Bid no. #03-43 Parking Lot Restoration) and contract approval to Time Stripping, Inc. to perform parking lot improvements to downtown parking lots in the amount of \$78,073.00.

COST TO CITY:

\$78,073.00	\$ 106,000.00	Parking Management
Cost of this request	Category/Project Budget	Program Category / Project Name
2130-9130-5819-00	\$ 16,352.20	Parking Lot Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02042	\$ 89,647.80	Off-Street Parking
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW:

X

Budgeted Item

Budget Adjustment Attached

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

Purchasing Manager

Date

STAFF RECOMMENDATION:

Division Head

Date

Received in Mayor's Office

Date

Department Director

Date

Finance & Internal Services Dir.

Date

Chief Administrative Officer

Date

Mayor

Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No



Description Bid #03-43 Parking Lot Restoration Project Meeting Date 09/16/03

Comments:

Budget Manager

Reference Comments:

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Contractor has not signed contract

Grants Coordinator

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #03-43 AND APPROVING A CONTRACT WITH TIME STRIPING, INC. IN THE AMOUNT OF SEVENTY-EIGHT THOUSAND SEVENTY-THREE DOLLARS (\$78,073.00) FOR PARKING LOT IMPROVEMENTS IN DOWNTOWN FAYETTEVILLE.

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 #03-43 and approves a contract with Time Striping, Inc. in the amount of Seventy-Eight Thousand Seventy-Three Dollars (\$78,073.00) for parking lot improvements in downtown Fayetteville. A copy of the contract, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 16th day of September, 2003.

APPROVED:

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody

THRU: Gary Dumas, Director of Operations

FROM: Sharon Crosson, Parking and Telecommunications Manager *SC*

DATE: August 25, 2003

SUBJECT: Contract Award – Bid No. 03-43; Restoration of Downtown Parking Lots

BACKGROUND

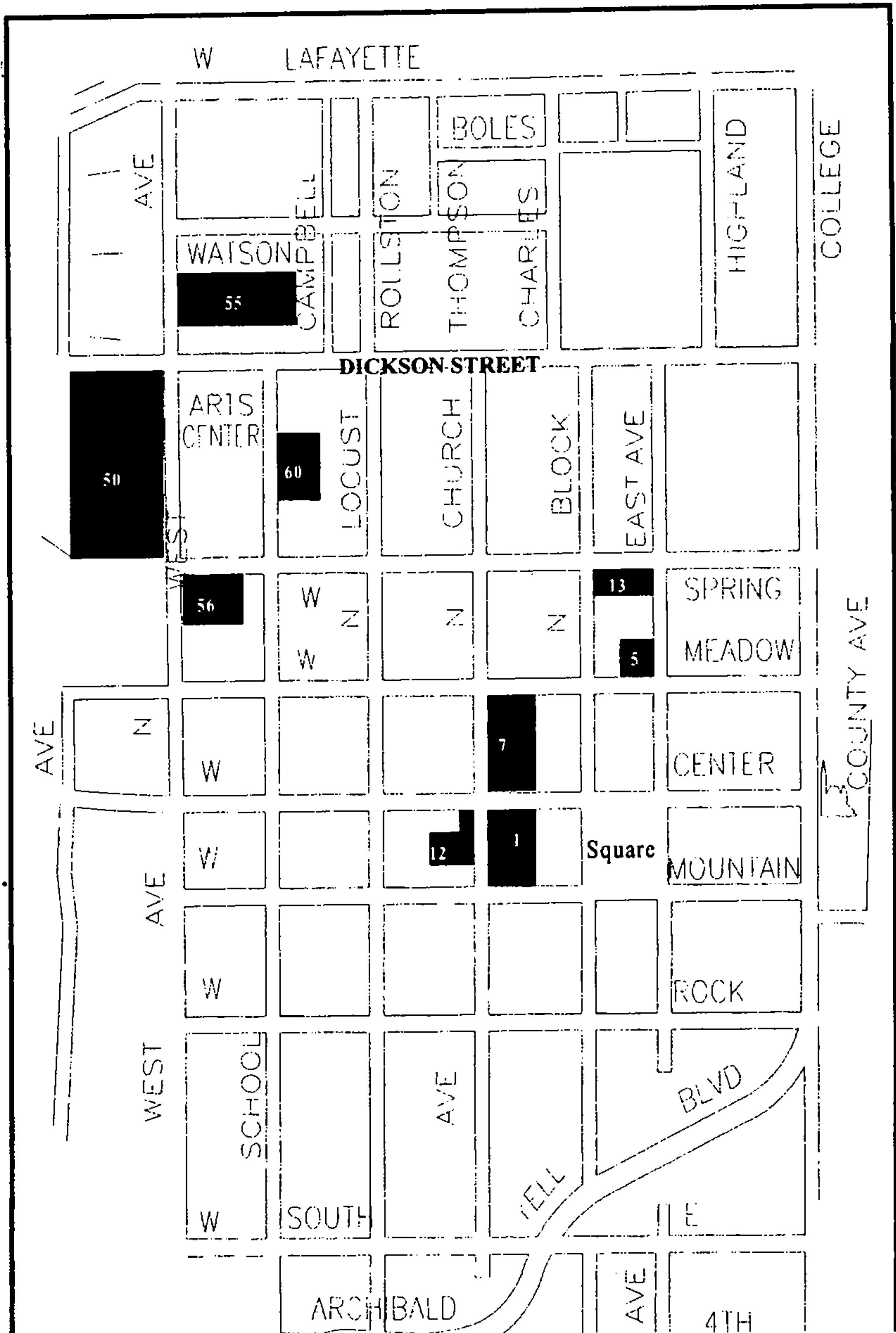
The City has 9 public parking lots in the downtown/Dickson Street area scheduled for restoration work including crack seal, seal coating, restriping, and bumper replacement.

CURRENT SITUATION

There are fourteen (14) city-owned parking lots in the downtown/Dickson Street area. In July, 2003, we did an asphalt overlay on Lot 3 located on East Street just east of the Town Center. In August, we restriped 5 parking lots (Lot 3, the lot at the Cable Administration building, a portion of the police lot, and 2 lots at the Yvonne Richardson Center). The other 9 parking lots are in need of restoration work (see attached diagram). Bid no. 03-43 is to perform crack seal, seal coating, restriping, and bumper replacement for these 9 lots. The result of this work will extend the life of the existing asphalt and delay pavement repairs and overlay work. It also beautifies the appearance of the asphalt providing a neat, clean, and very attractive parking area. All existing concrete bumpers will be removed and replaced with attractive rubber bumpers that are manufactured from 100% recycled tires. The bumper replacement is a vital part of this project; once the parking lot surfaces are restored to a black, new-like appearance, the appearance of the badly deteriorated concrete bumpers would only undermine the renewed appearance of the lots. The rubber bumpers are clean, will not warp, crack, chip, or rot; they are resistant to ultraviolet light, moisture, oil and extreme temperature variations. The appearance of the rubber bumpers will blend with the parking lot surface, but also provides reflective striping to support a safer parking area. The contractor estimates that at least 50% of the project will be completed this fall; the remainder of the project will be completed in Spring 2004 as soon as weather requirements permit. Due to the timing of the start of this project, this schedule is acceptable by city staff.

RECOMMENDATION

Staff recommends awarding the contract to Time Striping, Inc. in the amount of \$78,073.00. Time Striping was the only contractor to submit a bid for this project.





**CITY OF FAYETTEVILLE
CONTRACT FOR SERVICES**

This Contract is entered into on this _____ day of _____, 2003, between the City of Fayetteville, a municipal corporation, and Time Stripping, Inc.

In consideration of the mutual covenants contained herein, and other good and valuable consideration, the City of Fayetteville and Time Stripping, Inc. agree as follows:

- (1) The documents which comprise this contract between City of Fayetteville and Time Stripping, Inc. consist of this contract and the following documents, which are incorporated herein by reference as if set forth in their entirety word for word: (1) Bid form identified as INVITATION TO BID issued August 7, 2003 for improvements to the downtown parking lots (#03-43); and (2) Time Stripping, Inc.'s proposal and all supporting documents and correspondence submitted by Time Stripping, Inc. in response to the INVITATION TO BID issued August 7, 2003.
- (2) Time Stripping, Inc. agrees and understands that it shall make available all records for review by the City of Fayetteville and its auditors as reasonably requested. Time Stripping, Inc. agrees and understands that it shall submit, upon request, to the City of Fayetteville, any and all documents demonstrating compliance with applicable federal, state, and local rules and regulations. The City of Fayetteville's failure to request supporting documentation, however, shall not excuse any failure on the Time Stripping, Inc.'s part to have used the standard of care in its profession to comply with the applicable federal, state, and local rules and regulations.
- (3) Time Stripping, Inc. agrees and understands that all contracts for services, and other procurement for materials, services, or construction shall be carried out in compliance with applicable federal, state, and local rules and regulations.
- (4) Time Stripping, Inc. shall hold harmless, and indemnify the City of Fayetteville from any and all claims, actions, suits, charges and judgments whatsoever that arise out of negligent performance or nonperformance of the services or subject matter called for in this contract, provided that nothing herein shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville under the Constitution and Statutes of the State of Arkansas.
- (5) Time Stripping, Inc. agrees and understands that any changes, modifications, or amendments in scope, price or fees to this contract 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. Nothing in this agreement shall be construed to give any rights or benefits to any party other than Time Stripping, Inc. and the City of Fayetteville.
- (6) Time Stripping, Inc. agrees and understands that City of Fayetteville 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, Time Stripping, Inc. 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.

- (7) This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.
- (8) The parties agree and understand that this contract is exclusive of any and all previous contracts which may exist, and that it in no way alters, amends or abridges any rights, obligations or duties of the parties contained in such contracts.
- (9) It is agreed that the failure of any party to invoke any of the available remedies under this agreement or under law or equity in the event of one or more breaches or defaults by any party under the agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any subsequent breach or default.
- (10) Each paragraph of this agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.
- (11) This contract constitutes the entire understanding of the parties and no modification or variation of the terms of this contract shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville and Time Striping, Inc.
- (12) Each of the undersigned warrants that he or she has the full right, power and authority to execute this contract on behalf of the party indicated for the purposes herein contained.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

TIME STRIPING, INC.

By: _____

Kevin Tucker

Bids - 8-21-03

CITY OF FAYETTEVILLE
PARKING MANAGEMENT DIVISION

INVITATION TO BID
BID #03-43

RESTORATION OF DOWNTOWN PARKING LOTS

The City of Fayetteville is accepting bids for performing specific restoration work to downtown public parking lots (as specified per attached details).

Questions or clarifications should be submitted to Sharon Crosson, Parking Manager, City Administration Building, 113 W. Mountain St., Fayetteville, AR 72701, phone number 479-575-8277.

The entire Project must be completed by November 15, 2003.

The City reserves the right to award all, none, or a portion of this bid by line item.

Proposals must conform to the following specifications and include appropriate evidence for each:

- Bidder shall have a State of Arkansas Contractors License with number notated on the bid form.
- Bidder shall have workers' compensation as required by Arkansas State statutes.
- Bidder shall have general liability insurance as required at a minimum of \$500,000.00.
- A bid bond of 5% of the bid proposal or a cashier's check for 5% must be submitted with the bid document.
- A 100% performance/payment bond will be required of the successful bidder upon job award.

Bids must be submitted in a sealed envelope labeled "Parking Lot Restoration Bid #03-43 on or before August 21st, 2003 at 11:00 a.m. to the following address:

City of Fayetteville
Peggy Vice, Purchasing Manager
113 West Mountain Street
Fayetteville, AR 72701

Bids will be opened on August ^{22nd} 21st, 2003 at 11:00 a.m. in Room 306 at the City Administration Building, 113 West Mountain Street, Fayetteville, Arkansas 72701.

Name of Business: Time Striping Inc.
Street/P.O. Box: 5439 Arkhola Road
City: Van Buren State: AR Zip Code: 72956
Authorized Signature: [Signature] Title: Vice President
Email Address: Time4U@TimeStriping.Com
Phone Number (479) 474-0452 Fax Number: (479) 474-0498
State of Arkansas Contractor's License No.# 0017280404

Scope of Work

The Project will include crack sealing, seal coating, re-striping, bumper removal, and bumper replacement for 9 asphalt parking lots located in the downtown Fayetteville area.

All parking lots in the Project are asphalt but may have some adjacent concrete surfaces that will be included in the seal coating.

The Contractor shall furnish all labor, materials, and cleanup to complete the Project.

The Contractor shall furnish a proposed time frame for all work to be performed, and provide a completion date for the entire Project. A plat of each lot site may be provided by the City at the Contractor's request.

Each parking lot is to be priced separately, as the bid may be awarded in part by selecting only certain lots to be restored; bumper replacement costs shall also be itemized per lot, where applicable.

Traffic and Parking Control

It shall be the Contractor's responsibility to clear parking from the streets and/or parking lots when such parking will interfere with the work. Prior to work that requires the street(s) and/or parking lot(s) to be closed to parking and/or traffic, a 48-hour written notice must be sent to the Parking Manager. The street(s)/lot(s) shall be posted for "NO PARKING", and the placement of these signs shall take place at least 24 hours prior to the commencement of work. "NO PARKING" signs shall remain in place until the street/lot is opened to traffic and all clean up operations completed. The "NO PARKING" signs shall be in effect for as minimal number of days as possible.

Any work done by the Contractor without traffic control will not be paid for under the terms of this Contract. The Contractor will not be paid for traffic control costs incurred during Contractor caused delays.

At or near the end of each work day, a representative of the Contractor and the Parking Manager of the City of Fayetteville will meet to discuss the progress of the work and the

placement of traffic control devices including "NO PARKING" signs. Any necessary adjustments shall be made. The Contractor shall also review at this time the proposed means of handling parking and traffic control for upcoming work. It is the responsibility of the Contractor to minimize any inconvenience to the public as a result of this work.

At the above referenced meeting, the quantity of traffic control devices used that day shall be agreed upon by the Contractor and the City Parking Manager.

The Contractor shall maintain access at all times to all businesses within the project.

Any changes in the traffic control, including additional signs, barricades, and/or flaggers needed in the field shall be immediately implemented as directed by the City Parking Manager.

Inspection of Work

The Contractor shall keep the City informed of any future construction operations to facilitate scheduling of required inspection. The Contractor shall notify the City a minimum of 24 hours in advance of starting any construction operation that will require inspection. Failure of the Contractor to provide such notice will relieve the City from any responsibility for additional costs or delays caused by such failure.

Inspection of the work or materials shall not relieve the Contractor of any of his obligations to fulfill his contract as prescribed. Work and materials not meeting specifications shall be corrected and unsuitable work or materials may be rejected, notwithstanding that such work or materials have been previously inspected by the City or that payment therefore has been included in the progress estimate.

Maintenance during Construction

The curbs and gutters directly adjacent to and through the restoration area shall be cleaned of debris by the Contractor at the earliest opportunity, but in no case shall the area be left unclean after the completion of each parking lot. All material swept or blown onto sidewalks and streets, all trash, all discarded seal material or other refuse shall be collected on a daily basis, removed from the site, and disposed of to a site approved by the City. It shall be the Contractor's responsibility to provide the necessary manpower and equipment to satisfactorily clean the roadway and sidewalk areas.

The Contractor shall maintain the streets/lots during the construction process as prescribed above. If a street/lot requires additional sweeping by City forces, the City shall deduct from compensation due the Contractor sufficient funds to cover the City's cost to provide said service.

The Contractor is solely responsible for finding and using suitable stockpile locations. **No portion of the right of way may be used for storage of materials or equipment.** Written authorization to use private property to store equipment and materials shall be obtained from the property owner and submitted prior to mobilization and use.

Surface Preparation

Immediately prior to application of the sealant, the Contractor shall be responsible for ensuring that the surface is cleaned of all loose material, oil, silt spots, vegetation, and other objectionable material.

The Contractor must remove all weeds from pavement surfaces and from the interface of the concrete curb and asphalt prior to the application of any sealant.

No sealant shall be applied:

- When there is any danger the finished product will freeze before it cures completely.
- When the pavement or air temperature is 50°F or below and falling.
- When weather is rainy, foggy, extremely humid, or when rain is in the forecast within 24 hours.
- While puddles of water remain on the surface to be coated.

Contractor must provide a detailed method of surface preparation as a part of the bid.

Contractor is responsible for repairing or replacing any surfaces damaged by weather.

Description of Materials

Contractor must use a premium grade asphalt pavement sealer designed for heavy use areas such as commercial parking lots.

Sealant(s) must meet or exceed the requirements of Federal Specification RP-355, and the following Coal Tar Pitch Emulsion specifications:

- Coal Tar Pitch Emulsion must meet or exceed ASTM D5727-00 Standard Specification for Emulsified Refined Coal Tar (Mineral Colloid Type). U.S. Air Force and FAA requirements. The Coal Tar Pitch Emulsion shall also be in compliance with ASTM Specifications D3320-90.
- The material shall be prepared from straight run high temperature coke-oven tar meeting the requirements of ASTM D490-92.
- The material shall be homogeneous and show no separation or coagulation of components that can not be re-dispersed with moderate stirring.
- The material shall be applied to the asphalt surface at a spreading rate of 0.18 – 0.20 gallon of concentrated sealant per square yard in a two (2) coat application system.

Sealant color must be dark slate black.

The sealant, when cured, shall have a homogeneous appearance, fill all cracks, adhere firmly to the adjacent surface, and have skid resistant texture.

Contractor shall provide detailed specifications of all sealant materials to be used on the Project.

Contractor shall provide specifications of striping paint to be used on the Project; sealcoat must dry for at least 24 hours before striping.

Bumper Specifications

All bumpers shall be:

- Manufactured from recycled tires.
- Resistant to ultraviolet light, moisture, oil, and extreme temperature variations.
- Provide yellow polyurethane glass-beaded paint for maximum reflectivity.
- Six (6) feet in length.
- Easily installed with spikes.

Equipment Specifications

- The following equipment shall be used for completion of the Project:
- Seal coat truck shall have a minimum capacity of 1,500 gallons
- Crack jet/hot air lance shall be capable of producing heat up to 2000°F
- Crack kettle shall heat the crack seal material to 400°F and maintain that temperature with an oil jacketed kettle to prevent burning out the key ingredients in the crack sealer.

Bid Items/Pricing

Below is a list of the asphalt parking lots in order of which lot the restoration work is to be completed first. Each lot number is shown on the attached map to indicate its approximate location. Each lot is noted with the projected work that is to be completed on each lot. Although, it is the responsibility of the Contractor to determine the actual and level of work that is necessary to successfully complete the project for each lot. Such revisions to this list must be indicated in the Contractor's bid.

Lot 1	111 Spaces	
	Crack Seal	\$ 700.00
	Seal Coat	\$ 3,523.00
	Restriping	\$ 150.00
	111 Bumpers/Removal	\$ 2,100.00
	✓ 111 Bumpers/Purchase & Install	\$ 4,400.00
Total for Lot 1		\$ 10,873.00

Lot 7	166 Spaces		\$ <u>1,000.00</u>
	Crack Seal		\$ <u>4,784.00</u>
	Seal Coat		\$ <u>150.00</u>
	Restriping		\$ <u>2,250.00</u>
	✓ 152 Bumpers/Removal		\$ <u>5,300.00</u>
	✓ 152 Bumpers/Purchase & Install		
	Total for Lot 7		\$ <u>13,484.00</u>
Lot 12	27 Spaces		\$ <u>400.00</u>
	Crack Seal		\$ <u>2,415.00</u>
	Seal Coat		\$ <u>100.00</u>
	Restriping		\$ <u>1,250.00</u>
	✓ 27 Bumpers/Removal		\$ <u>1,560.00</u>
	✓ 27 Bumpers/Purchase & Install		
	Total for Lot 12		\$ <u>5,725.00</u>
Lot 5	53 Spaces		\$ <u>350.00</u>
	Crack Seal		\$ <u>3,878.00</u>
	Seal Coat		\$ <u>150.00</u>
	Restriping		\$ <u>1,950.00</u>
	29 Bumpers/Removal		\$ <u>2,445.00</u>
	29 Bumpers/Purchase & Install		
	Total for Lot 5		\$ <u>8,773.00</u>
Lot 13	36 Spaces		\$ <u>200.00</u>
	Crack Seal		\$ <u>2,715.00</u>
	Seal Coat		\$ <u>100.00</u>
	Restriping		\$ <u>1,950.00</u>
	36 Bumpers/Removal		\$ <u>2,570.00</u>
	36 Bumpers/Purchase & Install		
	Total for Lot 13		\$ <u>7,535.00</u>
Lot 55	121 Spaces		\$ <u>100.00</u>
	Crack Seal		\$ <u>9,183.00</u>
	Seal Coat		\$ <u>350.00</u>
	Restriping		\$ <u>870.00</u>
1 COUNTED 19	16 Bumpers/Removal		\$ <u>1,400.00</u>
BRAB 19	16 Bumpers/Purchase & Install		
	Total for Lot 55		\$ <u>11,963.00</u>

Lot 56	65 Spaces Crack Seal Seal Coat Restriping ✓ 0 Bumpers	\$ 0.00 \$ 3,000.00 \$ 292.00 \$ 3,292.00
Total for Lot 56		
Lot 60	58 Spaces Crack Seal Seal Coat Restriping ✓ 11 Bumpers/Removal ✓ 11 Bumpers/Purchase & Install	\$ 0.00 \$ 3,000.00 \$ 188.00 \$ 770.00 \$ 1,158.00
Total for Lot 60		\$ 5,116.00
Lot 50	298 Spaces Crack Seal Seal Coat Restriping ✓ 16 Bumpers/Removal ✓ 16 Bumpers/Purchase & Install	\$ 300.00 \$ 8,572.00 \$ 300.00 \$ 820.00 \$ 1,320.00
Total for Lot 50		\$ 11,312.00
TOTAL PROJECT COST:		\$ 78,073.00



P. O. Box 1236 • Van Buren, Arkansas 72957
Phone (479) 474-0452 • (479) 474-0498
www.timestriping.com

Friday, August 22, 2003

City Of Fayetteville
Attention: Sharon Crosson

Ms. Crosson,

With respect to our quotation for the City Of Fayetteville Downtown Parking Lot Restoration project, BID # 03-43, we offer the following statement.

Due to bid release date being late in the summer and the job completion date as near as November 15th 2003 Time Striping Inc. can not guarantee full completion of the contract by the contract specified date of November 15th 2003. We feel with current scheduling commitments, rain days, and cooler weather in the fall that we can complete approximately 50-65 percent of the contract before the specified contract completion date. The remainder of the contract would be completed in the Spring of 2004 as soon as weather requirements permit.

On Arkansas state highway projects it is the policy of the Arkansas Highway and Transportation Department to stop contract time in the Winter and allow contractors to complete remaining contract work the following spring. With due respect we request from the City of Fayetteville the same action for this project.

Thank you for your time and consideration. If you have any questions or comments please feel free to contact Kevin Tucker at 479-806-3411.

Sincerely,

A handwritten signature in black ink, appearing to read "Clayton Johnson", is written over a horizontal line.

Clayton Johnson

EMC Insurance Companies

P.O. Box 712 • Des Moines, IA 50303-0712

No. 540941

CERTIFICATE OF AUTHORITY INDIVIDUAL ATTORNEY-IN-FACT**KNOW ALL MEN BY THESE PRESENTS, that:**

1. Employers Mutual Casualty Company, an Iowa Corporation
2. EMCASCO Insurance Company, an Iowa Corporation
3. Union Insurance Company of Providence, an Iowa Corporation
4. Illinois EMCASCO Insurance Company, an Iowa Corporation

5. Dakota Fire Insurance Company, a North Dakota Corporation
6. EMC Property & Casualty Company, an Iowa Corporation
7. The Hamilton Mutual Insurance Company, an Ohio Corporation

hereinafter referred to severally as "Company" and collectively as "Companies", each does, by these presents, make, constitute and appoint: **PAMELA K. HAYS, KNIGHT CASHION, BENSON A. CASHION, MATTHEW KNIGHT CASHION, JR., JUDY SCHOGGEN, WILLIAM H. GRIFFIN, CYNTHIA L. WADLEY, INDIVIDUALLY, LITTLE ROCK, ARKANSAS**.....

its true and lawful attorney-in-fact, with full power and authority conferred to sign, seal, and execute its lawful bonds, undertakings, and other obligatory instruments of a similar nature as follows:

IN AN AMOUNT NOT EXCEEDING TEN MILLION DOLLARS (\$10,000,000.00)

and to bind each Company thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of each such Company, and all of the acts of said attorney pursuant to the authority hereby given are hereby ratified and confirmed.

April 1, 2005

The authority hereby granted shall expire _____ unless sooner revoked.

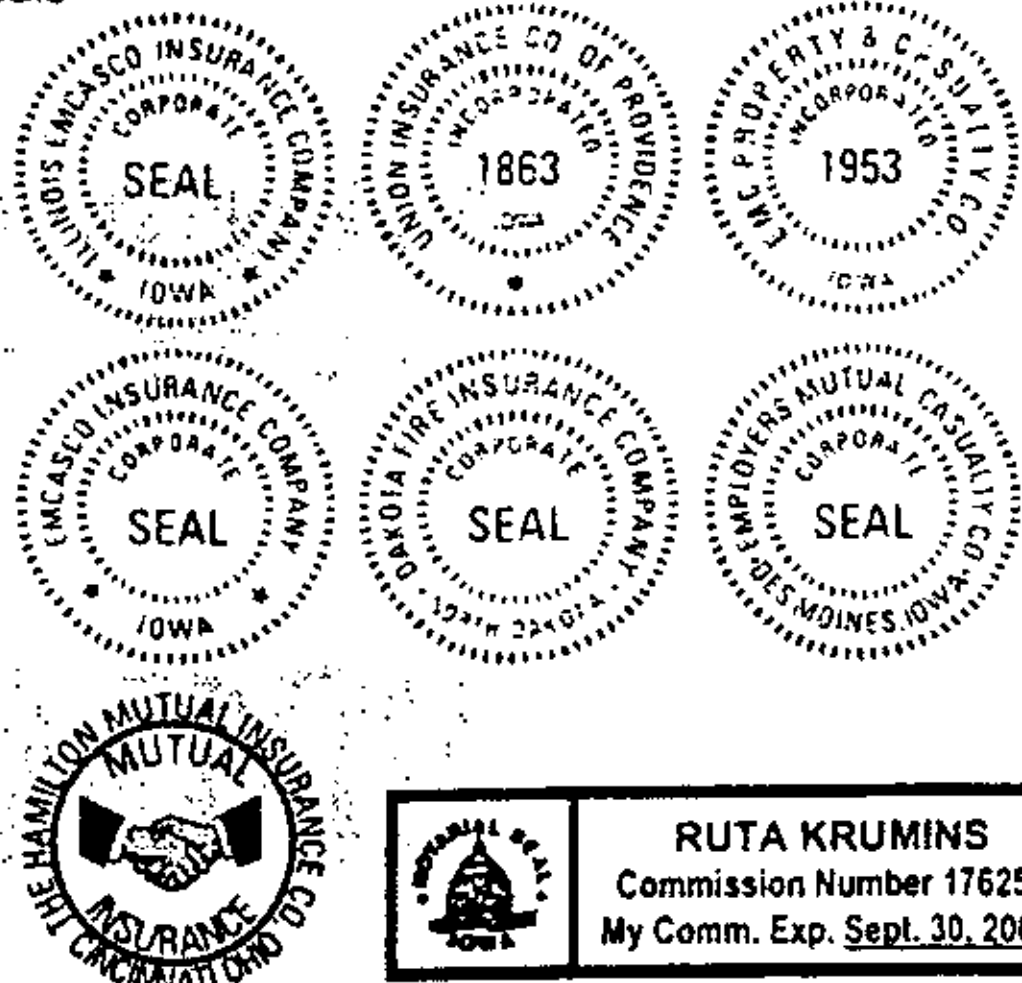
AUTHORITY FOR POWER OF ATTORNEY

This Power-of-Attorney is made and executed pursuant to and by the authority of the following resolution of the Boards of Directors of each of the Companies at a regularly scheduled meeting of each company duly called and held in 1999:

RESOLVED: The President and Chief Executive Officer, any Vice President, the Treasurer and the Secretary of Employers Mutual Casualty Company shall have power and authority to (1) appoint attorneys-in-fact and authorize them to execute on behalf of each Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (2) to remove any such attorney-in-fact at any time and revoke the power and authority given to him or her. Attorneys-in-fact shall have power and authority, subject to the terms and limitations of the power-of-attorney issued to them, to execute and deliver on behalf of the Company, and to attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and any such instrument executed by any such attorney-in-fact shall be fully and in all respects binding upon the Company. Certification as to the validity of any power-of-attorney authorized herein made by an officer of Employers Mutual Casualty Company shall be fully and in all respects binding upon this Company. The facsimile or mechanically reproduced signature of such officer, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power-of-attorney of the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, the Companies have caused these presents to be signed for each by their officers as shown, and the Corporate seals to be hereto affixed this 7th day of January, 2002.

Seals



Bruce G. Kelley
 Bruce G. Kelley, Chairman
 of Companies 2, 3, 4, 5 & 6; President
 of Company 1; Vice Chairman and
 CEO of Company 7

Jeffrey S. Birdsley
 Jeffrey S. Birdsley
 Assistant Secretary

On this 7th day of January AD 2002 before me a Notary Public in and for the State of Iowa, personally appeared Bruce G. Kelley and Jeffrey S. Birdsley, who, being by me duly sworn, did say that they are, and are known to me to be the Chairman, President, Vice Chairman and CEO, and/or Assistant Secretary, respectively, of each of The Companies above; that the seals affixed to this instrument are the seals of said corporations; that said instrument was signed and sealed on behalf of each of the Companies by authority of their respective Boards of Directors; and that the said Bruce G. Kelley and Jeffrey S. Birdsley, as such officers, acknowledge the execution of said instrument to be the voluntary act and deed of each of the Companies.
 My Commission Expires September 30, 2003.

Ruta Krumins
 Notary Public in and for the State of Iowa

CERTIFICATE

I, David L. Hixenbaugh, Vice President of the Companies, do hereby certify that the foregoing resolution of the Boards of Directors by each of the Companies, and this Power of Attorney issued pursuant thereto on January 7, 2002, Pamela K. Hays, Knight Cashion, Benson A. Cashion, Matthew Knight Cashion, Jr., Judy Schoggen, William H. Griffin, on behalf of Cynthia L. Wadley are true and correct and are still in full force and effect.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 21st day of August, 2003

David L. Hixenbaugh
 Vice-President

BID BOND

Conforms with The American Institute of
Architects, A.I.A. Document No. A-310

KNOW ALL BY THESE PRESENTS, That we, Time Striping, Inc.

_____ as Principal, hereinafter called the Principal,

and the Employers Mutual Casualty Company

of P.O. Box 712, Des Moines, Iowa, a corporation duly organized under

the laws of the State of Iowa, as Surety, hereinafter called the Surety, are held and firmly bound unto

City of Fayetteville, Arkansas as Obligee, hereinafter called the Obligee,

in the sum of Five Percent of Amount of Bid

Dollars (\$ 5% of Bid), for the payment of which sum well and truly to be made, the said Principal and the said
Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for Bid #03-43, Restoration of Downtown Parking Lots
Fayetteville, Arkansas

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the
Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract
Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and
material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond
or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said
bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said
bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 21st day of August, 2003

Lance P. Smith

Witness

Time Striping, Inc.

(Seal)

Principal

[Signature] Vice President
Title

Judy Schoggen

Witness

Employers Mutual Casualty Company

By

Pamela K. Hays

Attorney-in-Fact

DATE (MM/DD/YY)
8/18/03**ACORD™ CERTIFICATE OF LIABILITY INSURANCE**

PRODUCER

The Cashion Company, Inc.
P.O. Box 550
Little Rock, AR 72203
501-376-0716

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED

Time Striping, Inc.
P.O. Box 1236
Van Buren AR 72957

INSURER A: Zurich US
INSURER B: St. Paul Surplus Lines(Heath)
INSURER C:
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	CPO3994365	7/17/03	7/17/04	EACH OCCURRENCE \$ 1000000
	☒ COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire) \$ 300000
	☐ CLAIMS MADE ☒ OCCUR				MED EXP (Any one person) \$ 10000
	☒ \$1,000.				PERSONAL & ADV INJURY \$ 1000000
	☐ PD DED.				GENERAL AGGREGATE \$ 2000000
	GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COMP/OP AGG \$ 2000000
	☐ POLICY ☒ PRO-JECT ☒ LOC				
A	AUTOMOBILE LIABILITY	BAP3994366	7/17/03	7/17/04	COMBINED SINGLE LIMIT (Ea accident) \$ 1000000
	☒ ANY AUTO				BODILY INJURY (Per person) \$
	☐ ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	☐ SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	☐ HIRED AUTOS				
	☐ NON-OWNED AUTOS				
	☒ \$2,500. BI				
	☐ DEDUCTIBLE				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	☐ ANY AUTO				OTHER THAN EA ACC \$
					AUTO ONLY: AGG \$
B	EXCESS LIABILITY	QZ06812024	7/17/03	7/17/04	EACH OCCURRENCE \$ 2000000
	☐ OCCUR ☐ CLAIMS MADE				AGGREGATE \$ 2000000
	☐ DEDUCTIBLE				\$
	☒ RETENTION \$ 10000				\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WC3994364	7/17/03	7/17/04	☒ WC STATU-TORY LIMITS ☐ OTH-ER
					E.L. EACH ACCIDENT \$ 1000000
					E.L. DISEASE - EA EMPLOYEE \$ 1000000
					E.L. DISEASE - POLICY LIMIT \$ 1000000
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

CERTIFICATE HOLDER

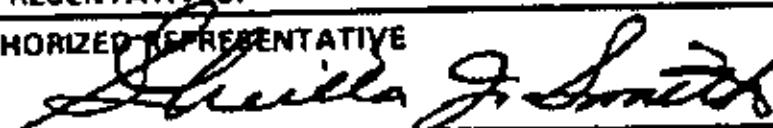
ADDITIONAL INSURED; INSURER LETTER:

CANCELLATION

CITY OF FAYETTEVILLE
113 WEST MOUNTAIN STREET
FAYETTEVILLE, AR 72701

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council Meeting of: September 10th, 2003

FROM:

Chris Bosch

Fire Operations

Fire Department

Name

Division

Department

ACTION REQUIRED: Approve a resolution awarding a construction contract to Air Cleaning Technologies, Inc. in the amount of \$107,176.00 to install an exhaust removal system for the Fayetteville Fire Department

COST TO CITY:

\$107,176.00	\$ 113,000.00	Exhaust Removal System
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5801.00	\$ -	Fire Operations
Account Number	Funds Used to Date	Program / Project Category Name
03003	\$ 113,000.00	General Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW:

☒

Budgeted Item

Budget Adjustment Attached

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

Purchasing Manager

Date

STAFF RECOMMENDATION:

Division Head

Date

Department Director

Date

Finance & Internal Services Dir.

Date

Chief Administrative Officer

Date

Mayor

Date

Cross Reference

New Item:

Yes

No

Previous Ord/Res#:

Orig. Contract Date

Orig. Contract Number



Description _____ Meeting Date _____

Comments:

Budget Manager

Reference Comments:

Accounting Manager

City Attorney

Thanks for making recommended
changes. Contract still needs to be signed.

Purchasing Manager

ADA Coordinator

Internal Auditor

Contractor has not signed
agreement.

Grants Coordinator

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT WITH AIR
CLEANING TECHNOLOGIES, INC. IN THE AMOUNT OF
\$107,176.00 TO PURCHASE AND INSTALL EXHAUST
REMOVAL SYSTEMS FOR FOUR FAYETTEVILLE FIRE
STATIONS

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 contract (attached as Exhibit "A") with Air Cleaning Technologies in the amount of \$107,176.00 for the purchase and installation of four exhaust removal systems in four Fayetteville Fire Stations.

PASSED and APPROVED this the 16th day of September, 2003.

APPROVED:

By: DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

From the Desk of the Fire Chief

Fayetteville Fire Dept
303 W. Center St.
Fayetteville, AR. 73701
(479) 575-8365

Memo

To: Mayor Dan Coody & Fayetteville City Council
From: Chris Bosch, Fire Chief (CB)
Date: August 25, 2003
Re: Exhaust Elimination System Contract

Introduction

As you know, diesel engines are used by fire apparatus manufacturers to power these units in the most efficient and effective manner. Unfortunately, the use of diesel engines in fire apparatus presents the potential for fire fighter exposure to carcinogenic materials which are a byproduct of incomplete combustion created by these internal combustion engines. The soot, created by diesel engines, creates very small particles that can be inhaled and deposited in the lungs of fire fighters resulting in high levels of lung and other cancers. These particles carry cancer-causing substances known as poly-nuclear aromatic hydrocarbons (PAHs). Gasses in diesel exhaust, such as nitrous oxide, formaldehyde, benzene, sulfur dioxide, hydrogen sulfide, carbon dioxide, and carbon monoxide can also create health problems for fire fighter.

Fire fighters are exposed to these by-products on a daily basis. This continued exposure is a result of the methods used for housing fire apparatus and the lack of adequate ventilation systems in fire stations. For years fire fighters believed that large open bays, with front and rear doors allowed for adequate passive ventilation; however, in 1988 the National Institute for Occupational Health and Safety (NIOSH)¹ found that long term exposure to diesel exhaust and the particulate matter created by these engines has significantly contributed to elevated levels of cancer in fire fighter. These elevated exposures also generate reductions in productivity by fire fighters and contribute to increased municipal and personal insurance premiums for all city employees.

¹ NIOSH Current Intelligence Bulletin 50 (1988) and NIOSH Guide to Chemical Hazards (1994)

Current Status

In an effort to reduce these exposures the Fire Department included the installation of an exhaust elimination system in its 2003 Capital Budget. This project was bid in July of 2003. Air Cleaning Technologies, Inc. of Tulsa Oklahoma was the successful bidder. The exhaust elimination system they install is the PlymoVent Vehicle Exhaust Removal System. This system encapsulates diesel exhaust by attaching a collector hose on the exhaust pipe of each apparatus and channeling the fumes and particles to a filtering system on the outside of the building. This system is used by numerous fire departments across the country, with great success and satisfaction.

The total cost of this project is \$107,176, which will provide for the installation of the system in Fire Stations 1, 2, 4 & 6. The cost of this project includes mechanical and engineering services, parts and labor. This purchase also includes a two-year warranty on all parts and labor for the system as well as any fire fighter training related to the use of the system. Completion of this project will take 90 days from the time construction begins.

Recommendation

Given the above listed information, as well as recommendations from references included in the bid packet, Staff recommends that Council approve a resolution providing the Fire Department with the ability to proceed with the installation of the PlymoVent Vehicle Exhaust Removal System.

If you have any questions regarding this project I will be happy to answer them at your convenience.

INVITATION TO BID CITY OF FAYETTEVILLE ARKANSAS

City of Fayetteville
City Hall Suite 306
113 W Mountain,
Fayetteville, AR 72701
479/575-8289

BID NUMBER: Bid # 03-47	DATE ISSUED: July 21, 2003	DATE & TIME OF BID OPENING: August 14, 2003 at 2:00 PM
COMMODITY CLASSIFICATION: Vehicle Exhaust Removal System	BUYER: Peggy Vice, Purchasing Manager	DELIVERY REQUIRED:
F.O.B. City of Fayetteville	BUYERS PHONE: 479/575-8289	BIDDERS DELIVERY DATE:

To install vehicle exhaust removal system as per attached specifications in the following Fire Stations:

	Fire Station Name	Drops	Amount		Fire Station Name	Drops	Amount
1.	Central Fire (Fire Station #1)	4	\$ 28,172.00				
2.	Fire Station #2	1	\$ 15,376.00				
3.	Fire Station #4	2	\$ 40,960.00				
4.	Fire Station #6	1	\$ 22,668.00				

Total Bid \$ 107,176.00 * One hundred seven thousand, one hundred seventy-six dollars and no cents

Arkansas Contractor's License Number: 0137430304

Items that MUST accompany your bid are:

- This invitation to bid.
- A contractor's license number
- A 5% Bid Bond, Certified or Cashiers Check
- References as described in 1.06 of the specifications.
- A copy of the equipment manufacturer's ISO 9001 Certification of Quality Assurance (as described in 1.03 of the specifications).
- U L Laboratory test documentation on the upper flexible hose as per 2.01.J in the Specifications.

Proof of Liability and Workers Comp Insurance must be provided by the successful bidder.
A 100% Performance and Payment Bond will be required of the successful bidder.

A mandatory walk thru will be held beginning at Central Station at 303 West Center Street, Fayetteville Arkansas,
August 6th, 2003 at 10:00 A.M.
For additional information contact Gregg Riley at 479-575-8365.

Bid will be awarded to the firm submitting the lowest Total Bid meeting Bid Specifications and requirements.

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, conditions and pertinent information regarding the articles being bid on, and agree to furnish these articles at the price stated.

* Air Cleaning Technologies, Inc. acknowledges and agrees that if the City of Fayetteville Fire Administration wishes to Change the Design Criteria for this Bid No. 03-47, the Turnkey Project Cost Will Be Adjusted Accordingly.

UNSIGNED BIDS WILL BE REJECTED BIDS MUST BE SEALED FAXED BIDS WILL NOT BE ACCEPTED		
NAME OF FIRM:	PHONE NUMBER:	FAX NUMBER:
Air Cleaning Technologies, Inc.	(918) 251-8000	(918) 251-4977
BUSINESS ADDRESS:	CITY:	STATE & ZIP:
1300 West Detroit	Broken Arrow	Oklahoma 74012
SIGNATURE OF AUTHORIZED	TITLE: Corporate Secretary	DATE: 8-11-03

NAME OF FIRM: Air Cleaning Technologies, Inc.	PHONE NUMBER: (918) 251-8000	FAX NUMBER: (918) 251-4977
PERSON: 	Corporate Secretary	8-11-03

TERMS AND STANDARD CONDITIONS
CITY OF FAYETTEVILLE, ARKANSAS
PLEASE READ CAREFULLY

1. When submitting an "invitation to Bid," the bidder warrants that the commodities covered by the bid shall be free from defects in material and workmanship under normal use and service. In addition bidder must deliver new commodities of the latest design and model, unless other wise specified in the "Invitation to Bid."
2. Prices quoted are to be net prices, and when an error is made in extending total prices, the City may accept the bid for the lesser amount whether reflected by extension or by the correct multiple of the unit price.
3. Discounts offered will be taken when the City qualifies for such. The beginning date for computing discounts will be the date of invoice or the date of delivery and acceptance, whichever is later.
4. When bidding other than the brand and/or model specified in the "Invitation to Bid," the brand and/or model number must be stated by the item in the "Invitation to Bid," and descriptive literature be submitted with the bid.
5. The City reserves the right to reject any and all bids.
6. The Purchasing office reserves the right to award items, all or none, or by line items (s).
7. Quality, time and probability of performance may be factors in making an award.
8. Bid quotes submitted will remain firm for 30 calendar days from bid opening date; however, the prices may remain firm for a longer period of time if mutually agreeable between bidder and the City Purchasing Division.
9. Bidder must submit a completed, signed copy of the front page of the "Invitation to Bid," and must submit any other information required in the "Invitation to Bid".
10. In the event a contract is entered into pursuant to the "Invitation to Bid," the bidder shall not discriminate against any qualified employee or qualified applicant for employment because of race, sex, color, creed, national origin or ancestry. The bidder must include in any and all subcontracts a provision similar to the above.
11. Sales or Use Tax is not to be included in the bid price, but is to be added by the vendor to the invoice billing to the City. Although Use Tax is not to be included in the bid, vendors are to register and pay tax direct to the Arkansas State Revenue Department.
12. Prices quoted shall be "Free on Board" (F.O.B.) to destination at designated City facility in Fayetteville. Charges may not be added after the bid is opened.
13. In the event of two or more identical low bids, the contract may be awarded arbitrarily or for any reason to any of such bidders or split in any proportion between them at the discretion of the Purchasing Division.
14. Specifications furnished with this invitation are intended to establish a desired quality or performance level, or other minimum dimensions and capacities, which will provide the best product available at the lowest possible price. Other than designated brands and/or models approved as equal to designed products shall receive equal consideration.
15. Samples of items when required must be furnished free, and, if not called for within 30 days from date of bid opening, will become property of the City.
16. Bids received after stated time for opening will not be considered.
17. Guarantees and warranties should be submitted with the bid, as they may be a consideration in making an award.
18. CONSTRUCTION
 - A. When noted, the Contractor is to supply the City with evidence of having and maintaining proper and complete insurance, specifically Workman's Compensation Insurance in accordance with the laws of the State of Arkansas, Public Liability and Property Damage. All premiums and cost shall be paid by the Contractor, in no way will the City be responsible in case of accident.
 - B. A certified check or bid bond in the amount of 5% of total bid shall accompany bid.
 - C. A Performance Bond equaling the total amount of any bid exceeding \$20,000 must be provided for any contract for the repair, alteration or erection of any public building, public structure or public improvement (pursuant to Act 351 of 1953 as amended by Act 539 of 1979).
19. Liquidated Damages shall be assessed beginning on the first day following the maximum delivery or completion time entered on the bid form and/or provided for by the plans and specifications.
20. Any ambiguity in any bid as the result of omission, error, lack of clarity or non-compliance by the bidder with specifications, instructions and all conditions of bidding shall be construed in the light most favorable to the City.
21. The bid number should be stated on the face of the sealed bid envelope. If it is not, the envelope will have to be opened to identify.

AGREEMENT

For Bid #03-47

AGREEMENT between the CITY OF FAYETTEVILLE and AIR CLEANING TECHNOLOGIES, INC.
on the Basis of Stipulated Price

This AGREEMENT is dated as of the _____ day of _____ in the year 2003 by and between the City of Fayetteville, having an address of 113 W Mountain, Fayetteville, Arkansas and Air Cleaning Technologies, Inc.

Air Cleaning Technologies, Inc.
1300 West Detroit
Broken Arrow, Oklahoma. 74012
(918) 251-8000

CITY OF FAYETTEVILLE and AIR CLEANING TECHNOLOGIES, INC. in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK

AIR CLEANING TECHNOLOGIES, INC. shall complete all WORK as specified or indicated in the CONTRACT DOCUMENTS. The WORK is generally described as follows:

- 1.1 AIR CLEANING TECHNOLOGIES, INC. shall furnish all labor and materials to install a vehicle exhaust removal system to capture exhaust at the exhaust pipe and transport it outside the building as described in the bid specifications and contract documents for **Central Fire** (Fire Station #1) located at 303 West Center Street, **Fire Station #2** located at 708 North Garland Street, **Fire Station #4** located at 3369 Plainview Street and **Fire Station #6** located at 900 Hollywood Street in Fayetteville, Arkansas (the "Property").

AIR CLEANING TECHNOLOGIES, INC. shall also provide a two (2) year material and labor warranty, as defined in the CONTRACT DOCUMENTS

1.2 UTILITIES:

- 1.2.1 Provide a schematic drawing of each system to be installed, for the CITY OF FAYETTEVILLE'S approval prior to installation. These drawings must be in paper and an approved electronic format (the PROJECT COORDINATOR will provide accepted formats).
- 1.2.2 Air Cleaning Technologies, Inc. **Must** secure local building, HVAC and electrical permits and have the job inspected as required by the City of Fayetteville Building Safety Division.

1.3 INSTALLATION OF VEHICLE EXHAUST REMOVAL SYSTEM:

- 1.3.1 AIR CLEANING TECHNOLOGIES, INC. shall provide all labor and materials to install new vehicle exhaust removal system as specified in the bid specifications. The CITY OF FAYETTEVILLE must approve all materials (All materials must be compatible with existing exhaust removal systems so that all part are interchangeable.) and installation methods prior to installation.

Article 2. PROJECT COORDINATOR

- 2.1 The PROJECT COORDINATOR is Gregg Riley or his appointee.

- 2.2.1 All questions concerning any aspect of the PROJECT shall be routed through the PROJECT COORDINATOR at the address listed below:

Gregg Riley, Administrative Battalion Chief
Fayetteville Fire Department
Fayetteville, Arkansas 72701
Phone: 479-575-8365 Fax: 479-575-0471
E-mail: griley@ci.fayetteville.ar.us

Article 3. CONTRACT TIME

- 3.1 The WORK included in this AGREEMENT shall be completed within ninety (90) calendar days from the date the NOTICE TO PROCEED is issued.
- 3.2 The prosecution of the WORK by AIR CLEANING TECHNOLOGIES, INC. shall be commenced within ten (10) calendar days from issuance of the NOTICE TO PROCEED, and the WORK shall be completed as indicated in section 3.1.
- 3.3 AIR CLEANING TECHNOLOGIES, INC. shall work during normal working days that are suitable to the operation until completion of all WORK, unless otherwise specifically authorized or directed by the CITY OF FAYETTEVILLE.
- 3.4 Liquidated Damages: CITY OF FAYETTEVILLE and AIR CLEANING TECHNOLOGIES, INC. recognize that time is of the essence regarding this AGREEMENT and that CITY OF FAYETTEVILLE will suffer financial loss if the WORK is not completed within the time specified in paragraph 3.1, plus any extensions thereof allowed in accordance with Article 15 of the General Conditions. The CITY OF FAYETTEVILLE and AIR CLEANING TECHNOLOGIES, INC. also recognize the delays, expense and difficulties involved in proving, in a legal proceeding, the actual loss suffered by CITY OF FAYETTEVILLE if the WORK is not completed on time. Accordingly, instead of requiring any such proof, CITY OF FAYETTEVILLE and AIR CLEANING TECHNOLOGIES, INC. agree that as liquidated damages for delay, but not as penalty, AIR CLEANING TECHNOLOGIES, INC. shall pay CITY OF FAYETTEVILLE two hundred and fifty dollars (\$250.00) per calendar day for each calendar

as penalty, AIR CLEANING TECHNOLOGIES, INC. shall pay CITY OF FAYETTEVILLE two hundred and fifty dollars (\$250.00) per calendar day for each calendar day that expires after the time specified in Section 3.1 of this AGREEMENT for completion of WORK until the WORK is complete and accepted by CITY OF FAYETTEVILLE. **The CITY OF FAYETTEVILLE has the right to withhold any such sums as liquidated damages from any payment to AIR CLEANING TECHNOLOGIES, INC.**

ARTICLE 4. CONTRACT PRICE

- 4.1 The CITY OF FAYETTEVILLE shall pay AIR CLEANING TECHNOLOGIES, INC. for completion of the WORK in accordance with the CONTRACT DOCUMENTS in current funds the lump sum CONTRACT PRICE of **ONE HUNDRED SEVEN THOUSAND ONE HUNDRED SEVENTY SIX** dollars and **NO** cents (\$107,176.00).
- 4.2 The CITY OF FAYETTEVILLE will make payments to the AIR CLEANING TECHNOLOGIES, INC. upon the completion of the WORK as defined in the CONTRACT DOCUMENTS issued by the CITY OF FAYETTEVILLE as provided in Article 5 of this AGREEMENT.

ARTICLE 5. PAYMENT PROCEDURES

Air Cleaning Technologies, Inc. shall submit Applications For Payment in accordance with Article 19 of the General Conditions. Applications for Payment will be processed as provided in the General Conditions.

- 5.1 Progress Payments: CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of AIR CLEANING TECHNOLOGIES, INC.'S applications for Payment on or about the 20th day of each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by the schedule of values established in Article 3 of the General Conditions, and in the case of Unit Price Work based on the number of units completed, or, in the event there is no schedule of values, as provided in the General Conditions.
- 5.1.1 The City of Fayetteville shall retain ten percent (10%) of the amount of each progress payment. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts the City of Fayetteville may withhold, in accordance with Article 19 of the General Conditions.
- 5.1.1.1 In accordance with Ark. Code Ann. § 22-9-604, Upon certification by the Project Coordinator that the Work under this contract has been fifty percent (50%) completed, there will be no additional retainage on account of Work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to one hundred percent (100%) of the Work completed.

percent (95%) of the Contract Price, less such amounts that the City of Fayetteville may withhold, in accordance with Article 19 of the General Conditions.

- 5.1.3 In accordance with Ark. Code Ann. § 22-9-604, if the Air Cleaning Technologies, Inc. is required by the Contract Documents to purchase and furnish materials or equipment that will be stored on the job site or in a bonded warehouse and used in the Work, no retainage will be withheld on that amount of the submitted progress payment pertaining to the cost of these stored materials or equipment.
- 5.2 Final Payment. Upon final completion and acceptance of the Work in accordance with Article 19 of the General Conditions, and after the City of Fayetteville receives ALL lien waivers and ALL other proper documentation from Air Cleaning Technologies, Inc., the City of Fayetteville shall pay the remainder of the Contract Price as provided in said Article 19.
- 5.3 AIR CLEANING TECHNOLOGIES, INC. shall submit application for payment to the PROJECT COORDINATOR as listed in Article 2 of this AGREEMENT.

ARTICLE 6. CONTRACTOR REPRESENTATIONS

- 6.1 Minimum wage rates shall be equal to the basic rates as established by common usage in the city and adjacent community for the various types of labor and skills performed. In cases where wage rate determinations are specified in the Contract Documents, the rates as specified shall be the minimum rates which apply to the Project. Whenever available, the Contractor shall make use of local common and/or skilled labor as is practical.

Air Cleaning Technologies, Inc. and each subcontractor, where the amount exceeds \$75,000.00 shall comply with the provisions of Ark. Code Annotated 22-9-309. The provisions are summarized below.

Air Cleaning Technologies, Inc. and Subcontractor shall:

- 1) pay the minimum prevailing wage rates for each craft or type of workman and the prevailing wage rate for holiday and overtime work, as determined by the Arkansas Department of Labor,
- 2) post the scale of wages in a prominent and easily accessible place at the site of the Work,

- 3) keep an accurate record showing the names and occupation and hours worked of all workmen employed by them, and the actual wages paid to each of the workmen, which records shall be open at all reasonable hours to the inspection of the Department of Labor or the City of Fayetteville, its officers and agents.

A copy of the prevailing wage rates for this specific project, as established by the Arkansas Department of Labor, is attached in the Contract Documents immediately following the Instructions to Bidders.

The City of Fayetteville shall have the right to withhold from amounts due to Air Cleaning Technologies, Inc. so much of accrued payments as may be considered necessary to pay the workmen employed by Air Cleaning Technologies, Inc. or any subcontractor, the difference between the rates of wages required by this Contract and the rates of wages received by such workmen.

If it is found that any workmen employed by Air Cleaning Technologies, Inc. or subcontractor has been, or is being paid a rate of wages less than the rate of wages required by this Contract, the City of Fayetteville may by written notice to the Contractor, terminate Air Cleaning Technologies, Inc.'s right to proceed with the Work or such part of the Work as to which there has been a failure to pay the required wages and to prosecute the Work to completion by Contract or otherwise, and Air Cleaning Technologies, Inc. and his sureties shall be liable for any costs occasioned thereby.

- 6.1 AIR CLEANING TECHNOLOGIES, INC. has familiarized itself with the nature and extent of the CONTRACT DOCUMENTS, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the WORK. AIR CLEANING TECHNOLOGIES, INC. covenants and agrees to comply with all applicable laws, statutes, regulations, ordinances and permits relating to the performance of this contract.
- 6.2 AIR CLEANING TECHNOLOGIES, INC. understands that the only compensation under this AGREEMENT will be the lump sum price as stated in Article 4 of this AGREEMENT, which must be approved by the CITY OF FAYETTEVILLE and the CITY OF FAYETTEVILLE'S PROJECT COORDINATOR.
- 6.3 AIR CLEANING TECHNOLOGIES, INC. shall indemnify and hold harmless the CITY OF FAYETTEVILLE from any and all costs, fees, expenses, causes of action, fines, penalties or liability by reason of injury to persons or property or in any manner arising out of the performance of this AGREEMENT or failure to perform by AIR CLEANING TECHNOLOGIES, INC., his agents, employees or representatives.
- 6.5 AIR CLEANING TECHNOLOGIES, INC. has studied carefully all SPECIFICATIONS and accepts the determination of the extent of the technical data contained in such reports and DRAWINGS upon which AIR CLEANING TECHNOLOGIES, INC. is entitled to rely.

- 6.6 AIR CLEANING TECHNOLOGIES, INC. has given CITY OF FAYETTEVILLE WRITTEN NOTICE of all conflicts, errors or discrepancies that he has discovered in the CONTRACT DOCUMENTS and the written resolution thereof by CITY OF FAYETTEVILLE is acceptable to AIR CLEANING TECHNOLOGIES, INC.

Article 7. CONTRACT DOCUMENTS

The Contract Documents that comprise the entire AGREEMENT between CITY OF FAYETTEVILLE and AIR CLEANING TECHNOLOGIES, INC. concerning the WORK consist of the following:

- 7.1 This AGREEMENT;
- 7.2 NOTICE TO PROCEED;
- 7.3 GENERAL CONDITIONS;
- 7.4 SPECIFICATIONS – Specification titled "Vehicle Exhaust Removal System Technical and Performance Specifications";
- 7.5 AIR CLEANING TECHNOLOGIES, INC. BID, signed and dated by the AIR CLEANING TECHNOLOGIES, INC. on _____, 2003;
- 7.6 Other CONTRACT DOCUMENTS:
 - 7.6.1 Release of Liability and Hold Harmless Agreement document.
 - 7.6.2 Invitation to Bid #03-47
 - 7.6.3 Performance Bond and Payment Bond
 - 7.6.4 Resolution number _____; and
- 7.7 The following which may be delivered or issued after the Effective Date of the AGREEMENT and are not attached hereto: All written amendments and other documents amending, modifying or supplementing the CONTRACT DOCUMENTS pursuant to the provisions of this AGREEMENT.

There are no CONTRACT DOCUMENTS other than those listed above in this Article 7. The CONTRACT DOCUMENTS may only be amended, modified or supplemented as provided in Subsections 13.1 and 13.2 of the General Conditions, and the provisions of this AGREEMENT.

ARTICLE 8. MISCELLANEOUS

- 8.1 Terms used in this AGREEMENT that are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

- 8.2 No assignment by a party hereto of any rights under or interests in the CONTRACT DOCUMENTS will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent, except to the extent that the effect of this restriction may be limited by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the CONTRACT DOCUMENTS.
- 8.3 CITY OF FAYETTEVILLE and AIR CLEANING TECHNOLOGIES, INC. each binds themselves, their partners, successors and legal representatives to the other party hereto, their partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the CONTRACT DOCUMENTS.
- 8.4 Nondiscrimination: AIR CLEANING TECHNOLOGIES, INC. agrees to comply with all applicable federal and state laws and regulations regarding nondiscrimination, and specifically agrees not to discriminate against any individual because of race, religion, sex, national origin or disability, and to require such compliance in contractual agreements with subcontractors and sub-subcontractors.
- 8.5 AIR CLEANING TECHNOLOGIES, INC. agrees to comply with the Americans with Disabilities Act and the Equal Employment Opportunity Act, as well as regulations promulgated pursuant thereto, and to require such compliance in contractual agreements with subcontractors and sub-subcontractors.
- 8.6 CHANGE ORDERS, modifications or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor, if under the contingency amount, and/or City Council, if over the contingency amount, in advance of the change in scope, cost or fees.
- 8.7 This contract is governed by the laws of the State of Arkansas.
- 8.8 Nothing contained in the CONTRACT DOCUMENTS shall create a contractual relationship with, or cause of action in favor of, a third party against the CITY OF FAYETTEVILLE or AIR CLEANING TECHNOLOGIES, INC..
- 8.11 Independent Contractor: It is expressly agreed that AIR CLEANING TECHNOLOGIES, INC. is acting as an independent contractor in performing the services specified herein. The CITY OF FAYETTEVILLE shall carry no workers' compensation insurance, health or accident insurance to cover AIR CLEANING TECHNOLOGIES, INC. or AIR CLEANING TECHNOLOGIES, INC.'S employees for any type of loss which might result to AIR CLEANING TECHNOLOGIES, INC. or AIR CLEANING TECHNOLOGIES, INC.'S employees in connection with the performance of the services set forth in this AGREEMENT. The CITY OF FAYETTEVILLE shall not pay any contribution to Social Security, unemployment insurance, federal or state withholding taxes, nor provide any other contributions or benefits which might otherwise be expected in an employer-employee relationship, it being specifically agreed that the AIR CLEANING TECHNOLOGIES, INC. is not acting herein as an employee of CITY OF

FAYETTEVILLE, but shall, at all times, and in all respects, have the rights and liabilities of an independent contractor.

- 8.12 Severability: In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase, or word of the CONTRACT DOCUMENTS is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of the CONTRACT DOCUMENTS, as if such invalid or unconstitutional provision was not originally a part of the CONTRACT DOCUMENTS.
- 8.13 The statute of limitation period shall be tolled for any fraudulent act committed by the AIR CLEANING TECHNOLOGIES, INC. that the CITY OF FAYETTEVILLE cannot discover upon due diligence.
- 8.14 The officials who have executed this contract hereby represent and warrant that they have full and complete authority to act on behalf of the CITY OF FAYETTEVILLE and AIR CLEANING TECHNOLOGIES, INC., respectively, and that their signatures below, the terms and provisions hereof, constitute valid and enforceable obligations of each.
- 8.15 This AGREEMENT shall be executed in the original, and any number of copies. Any copy of this AGREEMENT so executed shall be deemed an original, and shall be deemed authentic for any other use.
- 8.16 Nothing stated within the CONTRACT DOCUMENTS shall be construed as limiting the CITY OF FAYETTEVILLE'S immunity from liability in tort.
- 8.17 The CITY OF FAYETTEVILLE does not agree with or consent to arbitration or mediation of disputes relating to this AGREEMENT or PROJECT.
- 8.18 AIR CLEANING TECHNOLOGIES, INC. agrees that it shall indemnify and save harmless the CITY OF FAYETTEVILLE, its officers, agents, and employees from any claims or losses for services rendered by any subcontractor, person or firm performing or supplying services, materials or supplies in connection with the performance of this AGREEMENT.
- 8.19 AIR CLEANING TECHNOLOGIES, INC. shall ensure that the CITY OF FAYETTEVILLE receives lien waivers from all subcontractors, sub-subcontractors and material suppliers before WORK begins on the PROJECT. AIR CLEANING TECHNOLOGIES, INC. shall give WRITTEN NOTICE to the subcontractors, sub-subcontractors and material suppliers providing WORK on the PROJECT that states the following: *"According to Arkansas law, it is understood that no liens can be filed against public property if a valid and enforceable payment and performance bond is in place. Regarding this Project and Agreement, the valid and enforceable bonds are with "Oklahoma Surety Company of Tulsa Oklahoma."* AIR CLEANING TECHNOLOGIES, INC. shall have each subcontractor, sub-subcontractor and material supplier execute a written receipt evidencing acknowledgment of this statement.
- 8.20 AIR CLEANING TECHNOLOGIES, INC. will not discriminate against any employee or applicant for employment because of race, creed, color, disability or national origin. AIR

CLEANING TECHNOLOGIES, INC. will take appropriate action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and agrees to post in conspicuous places, available to employees, such notices as may be provided by the CITY OF FAYETTEVILLE setting forth the provisions of this non-discrimination clause. AIR CLEANING TECHNOLOGIES, INC. agrees to comply with the Americans with Disabilities Act, and regulations promulgated pursuant thereto, as relates to the performance of this contract.

- 8.21 No Waiver of Enforcement of Contract Provisions: Failure of the CITY OF FAYETTEVILLE to enforce at any time any of the provisions of this AGREEMENT, or to require at any time performance by AIR CLEANING TECHNOLOGIES, INC. of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of this AGREEMENT, or any part thereof, or the right of the CITY OF FAYETTEVILLE to thereafter enforce each and every such provision.
- 8.22 Freedom of Information Act: City of Fayetteville 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, AIR CLEANING TECHNOLOGIES, INC. 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.
- 8.23 Entire Agreement: The CONTRACT DOCUMENTS contain the complete and entire agreement of the parties respecting the transactions contemplated herein, and supersede all prior negotiations, agreements, representations, and understandings, if any, among the parties regarding such matters. All prior or contemporaneous agreements, understandings, and statements, oral or written, are merged into the CONTRACT DOCUMENTS.
- 8.24 Captions: All captions contained in the CONTRACT DOCUMENTS are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of the CONTRACT DOCUMENTS.

ARTICLE 9. INSURANCE AND BONDING

- 9.1 AIR CLEANING TECHNOLOGIES, INC. shall provide a Performance BOND, according to Arkansas law, insuring the CITY OF FAYETTEVILLE of the performance of all of the terms, provisions and stipulations of this AGREEMENT. AIR CLEANING TECHNOLOGIES, INC. shall also provide a Payment BOND, according to Arkansas law. Said BONDS shall be issued by a company duly authorized to transact such business within the State of Arkansas. Said Performance and Payment BONDS shall be acquired and delivered to the CITY OF FAYETTEVILLE prior to the issuance of the NOTICE TO PROCEED.

- 9.2 AIR CLEANING TECHNOLOGIES, INC. shall furnish the CITY OF FAYETTEVILLE with a certificate of insurance naming the City of Fayetteville as an insured on a policy of insurance indemnifying and insuring the City in amounts not less than five hundred thousand dollars (\$500,000) for personal injury and two million dollars (\$2,000,000) for property damage and other liabilities. Such insurance shall be acquired and the certificate delivered to the CITY OF FAYETTEVILLE prior to the issuance of the NOTICE TO PROCEED.

[Signatures follow on next page.]

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and AIR CLEANING TECHNOLOGIES, INC. have signed this AGREEMENT in duplicate. One counterpart each has been delivered to CITY OF FAYETTEVILLE and AIR CLEANING TECHNOLOGIES, INC. All portions of the CONTRACT DOCUMENTS have been signed or identified by CITY OF FAYETTEVILLE and AIR CLEANING TECHNOLOGIES, INC.

This AGREEMENT will be effective on the date a NOTICE TO PROCEED is issued.

CITY OF FAYETTEVILLE:

CONTRACTOR:

By: _____
Dan Coody, Mayor

By: _____
Title: _____

DATE: _____

DATE: _____

ATTEST:

ATTEST:

Sondra Smith, City Clerk

DATE: _____

DATE: _____

Address for giving notices:

Mayor Dan Coody
City of Fayetteville
113 W Mountain
Fayetteville, AR 72701
Phone: 479/575-8331

Fax: 479/575-8257
Email: dcoody@ci.fayetteville.ar.us

Address for giving notices:

Phone
Mobile
Fax
Email

Employer ID Number: _____

END OF SECTION

Bond No. _____

BID BOND

The American Institute of Architects,
AIA Document No. A310 (February, 1970 Edition)

KNOW ALL MEN BY THESE PRESENTS, that we Air Cleaning Technologies, Inc.

as Principal hereinafter called the Principal, and Oklahoma Surety Company
as Surety, hereinafter called the Surety, are held and firmly bound unto The City of Fayetteville AR

as Obligee, hereinafter called the Obligee, in the sum of Five Percent of Amount of Bid

Dollars (\$5%), for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for Bid No. 03-47 Installation of vehicle exhaust systems at fire stations. 1, 2, 4 & 6.

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 14th day of August, 2003

Julia F. Vegher
Witness
JULIA F. VEGHER, BUSINESS OFFICE MANAGER
AIR CLEANING TECHNOLOGIES, INC.
800-351-1858

Air Cleaning Technologies, Inc.
Principal (Seal)

By: Monty D. Duncan
MONTY D. DUNCAN, CORPORATE SECRETARY Name/Title
AIR CLEANING TECHNOLOGIES, INC.
1300 WEST DETROIT BROKEN ARROW, OK 74012
Oklahoma Surety Company
Surety (Seal)

By: Robbie Loyd
Robbie Loyd Attorney-in-Fact

OKLAHOMA SURETY COMPANY
Tulsa, Oklahoma

Know all Men by these presents: That the OKLAHOMA SURETY COMPANY, a corporation of the State of Oklahoma, having its principal office in the city of Tulsa, Oklahoma, pursuant to the following By-Law, which was adopted by the Stockholders of the said Company, to-wit:

Section 10, Article IV, "All bonds, policies, undertakings or other obligations of the corporation shall be executed in the corporate name of the Company by the Chairman of the Board, The President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The Chairman of the Board, President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or Agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, or other obligations of the corporation."

The Company does hereby constitute and appoint Pam Derichsweiler, Richard K. Haverfield, Ann Hopkins and Robbie Loyd, individually of TULSA, OK

its true and lawful attorney(s)-in-fact, to execute, seal and deliver for and on its behalf as Surety, and as its act and deed,
Any and all bonds and undertakings of Suretyship.

And the execution of such instrument(s) in pursuance of the presents, shall be as binding upon the said OKLAHOMA SURETY COMPANY, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal office in Tulsa, Oklahoma.

IN WITNESS WHEREOF, OKLAHOMA SURETY COMPANY has executed and attested these
presents this 16 day of June 2003

ATTEST

SARA ANDERSON

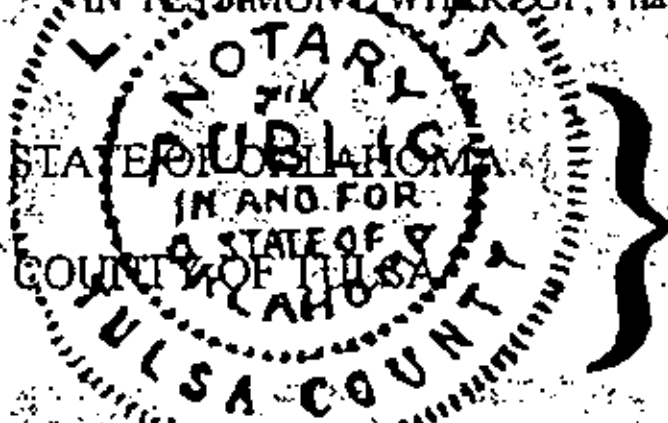
ASSISTANT SECRETARY

TODD BAZATA

VICE PRESIDENT

On this 16 day of June 2003, before me, a Notary Public of the State of Oklahoma in and for the County of Tulsa, came the individual to me personally known to be the officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, said that he is the therein described and authorized officer of the OKLAHOMA SURETY COMPANY aforesaid, and that the seal affixed to the preceding instrument is the corporate seal of said Company, and the said corporate seal and his signature as such officer were duly affixed to the said instrument by the authority and direction of the said Company, and that Article IV, Section 10, of the By-Laws of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Tulsa, the day and year first above written.



Commission # 00018867

My Commission expires 11-14-04

L. FAY SCOTT

Notary Public

I, SARA ANDERSON Assistant Secretary of OKLAHOMA SURETY COMPANY do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of this corporation, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

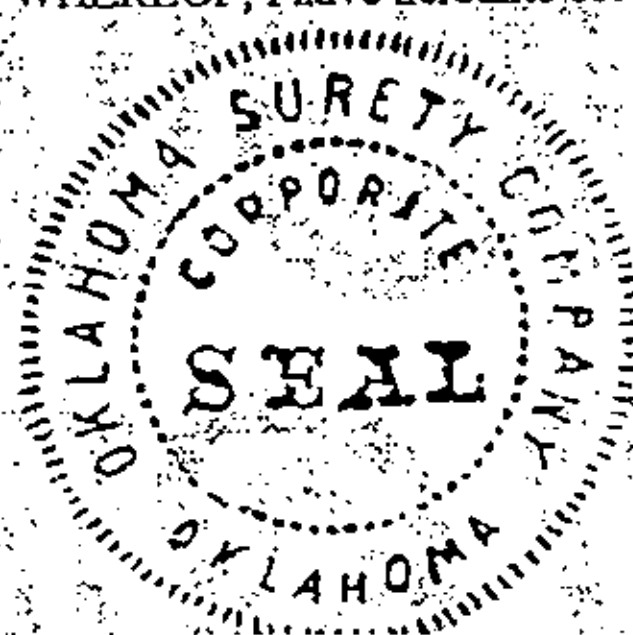
This certifies that any facsimile or mechanically-produced signature of any officer of the Company and Company seal, wherever appearing upon a power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 14th day of August 2003.

SARA ANDERSON

Assistant Secretary



ACORD. CERTIFICATE OF LIABILITY INSURANCECSR RL
AIRCL-1DATE (MM/DD/YYYY)
08/07/03

PRODUCER RICH & CARTMILL 2738 East 51st #400 Tulsa OK 74105 Phone: 918-743-8811 Fax: 918-744-8429	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Air Cleaning Technologies Inc 1300 W Detroit Broken Arrow OK 74012	INSURERS AFFORDING COVERAGE INSURER A: St Paul Fire & Marine Ins Co INSURER B: American Mercury Ins Co. INSURER C: Westport Insurance INSURER D: INSURER E:	NAIC #

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	CK03504966	08/01/03	08/01/04	EACH OCCURRENCE \$ 1000000
	☒ COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100000
	☐ CLAIMS MADE ☒ OCCUR				MED EXP (Any one person) \$ 5000
					PERSONAL & ADV INJURY \$ 1000000
					GENERAL AGGREGATE \$ 2000000
	GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COMP/OP AGG \$ 2000000
	☐ POLICY ☐ PRO-JECT ☐ LOC				
B	AUTOMOBILE LIABILITY	CLP7000995	03/28/03	03/28/04	COMBINED SINGLE LIMIT (Ea accident) \$ 1000000
	☒ ANY AUTO				BODILY INJURY (Per person) \$
	☐ ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	☐ SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	☐ HIRED AUTOS				
	☐ NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	☐ ANY AUTO				OTHER THAN EA ACC \$
					AUTO ONLY: AGG \$
A	EXCESS/UMBRELLA LIABILITY	CK03504966	08/01/03	08/01/04	EACH OCCURRENCE \$ 5000000
	☒ OCCUR ☐ CLAIMS MADE				AGGREGATE \$ 5000000
	☐ DEDUCTIBLE				\$
	☒ RETENTION \$10000				\$
					\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WCX0009302	03/23/03	03/23/04	☒ WC STATU-TORY LIMITS ☐ OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT \$ 500000
	If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE \$ 500000
					E.L. DISEASE - POLICY LIMIT \$ 500000
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

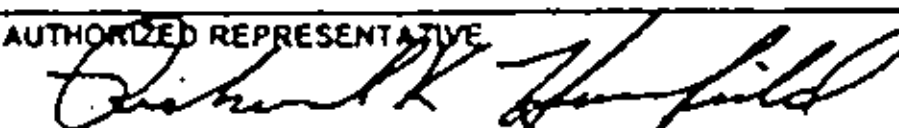
CERTIFICATE HOLDER

CITYPAY

 City of Fayetteville
 113 W Mountain
 Fayetteville AR 72701
CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL --- DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



License No. 0137430304

State of Arkansas

Contractors Licensing Board

AIR CLEANING TECHNOLOGIES, INC.
1300 W DETROIT
BROKEN ARROW, OK 74012

AIR CLEANING TECHNOLOGIES, INC.

This is to Certify That

is duly licensed under the provisions of Act 150 of the 1965 Acts as amended and is entitled to practice Contracting in the State of Arkansas within the following classification:

SPECIALTY

Pollution or Dust Control Systems

with the following suggested bid limit UNLIMITED

from May 23, 2003 until March 31, 2004

when this Certificate expires.

Witness our hands of the Board, dated at Little Rock, Arkansas:



W. Dan Wajtk

CHAIRMAN

Michael T. A.

SECRETARY

- May 23, 2003

STATE OF ARKANSAS

SECRETARY OF STATE

Charlie Daniels
SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

I, Charlie Daniels, Secretary of State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of

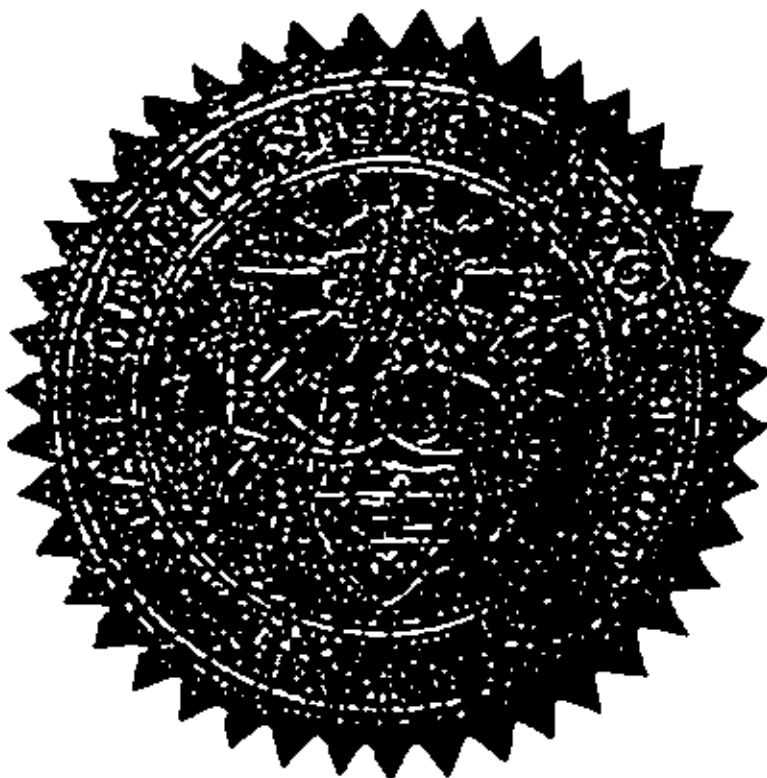
Application for Certificate of Authority
of

AIR CLEANING TECHNOLOGIES, INC.

filed in this office June 13, 2003 to be a Foreign For Profit Corporation formed under the laws of the State of Oklahoma.

I further certify that said Foreign For Profit Corporation, having complied with all statutory requirements in the State of Arkansas, is qualified to transact business in this State.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this 13th day of June 2003.



Charlie Daniels
Secretary of State

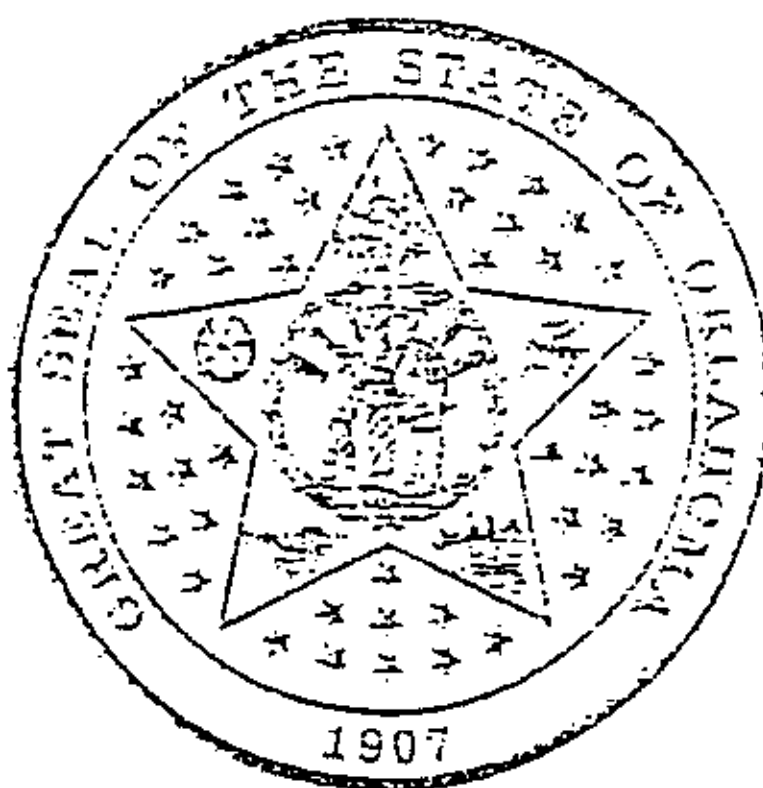
OFFICE OF THE SECRETARY OF STATE



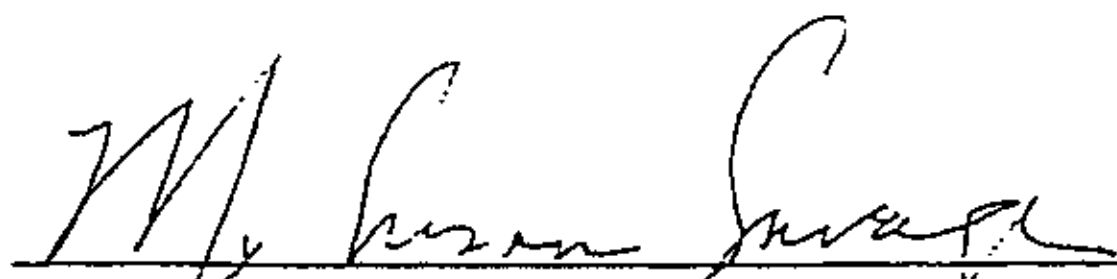
CERTIFICATE OF GOOD STANDING
DOMESTIC CORPORATION

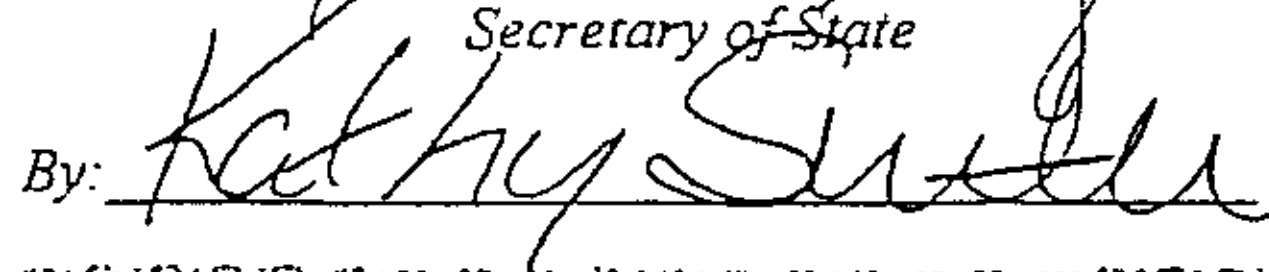
I THE UNDERSIGNED, Secretary of State of the State of Oklahoma, do hereby certify that I am, by the laws of said state, the custodian of the records of the state of Oklahoma relating to the right of certain business entities to transact business in this state and am the proper officer to execute this certificate.

I FURTHER CERTIFY that AIR CLEANING TECHNOLOGIES, INC. is a corporation duly organized and existing under and by virtue of the laws of the state of Oklahoma and is in good standing according to the records of this office. This certificate is not to be construed as an endorsement, recommendation or notice of approval of the entity's financial condition or business activities and practices. Such information is not available from this office.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Oklahoma at the City of Oklahoma City, this 4th day of June, 2003.


Secretary of State

By: 



Certificate

This is to certify that
the Quality System
of

PlymoVent AB

in the field of

**development and manufacture of equipment for industrial ventilation and
filtration as well as extraction of vehicle exhaust in fixed installations**

has been found to conform to

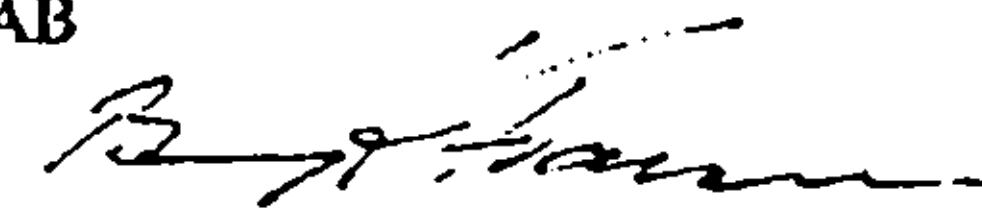
SS-EN ISO 9001

Certificate No 347

1995-10-25


Harald Rach
Managing Director

SIS Certifying AB


Bengt Fransson
Manager Certification



1241

EN 45 012

1300 West Detroit St.
Broken Arrow, OK 74012

OFFICE 918-251-8000
FAX 918-251-4977
800-351-1858

www.aircleaningtech.com



Chief Chris Bosch
City of Fayetteville Fire Department
303 West Center
Fayetteville, Arkansas 72701

RE: TRAINING

Air Cleaning Technologies, Inc. commits to provide initial training and support with regard to the operation and maintenance of *PlymoVent's Diesel Exhaust System* for all fire fighters and other employees.

In addition, we will provide two (2) videos which describe both the features and proper operation of the *PlymoVent Sliding Balancer Track and Straight Rail Assembly Systems*.

Our objective is to create a long term satisfied customer by providing thorough training and ongoing service maintenance.

Monty Duncan
Monty D. Duncan
Municipal Sales & Project Management *MD*

MDD/lis



STATEMENT OF WARRANTY

PlymoVent and Air Cleaning Technologies, Inc. provide the following warranty for parts and labor to the City of Fayetteville Fire Department Stations Central Fire (Fire Station # 1), # 2, # 4 and # 6 Vehicle Emissions Exhaust Systems.

All *PlymoVent* products are warranted by the *PlymoVent* Corporation of 375 Raritan Center Parkway, Edison, New Jersey 08837; Phone # 732-417-0808, against manufacturer defects for a period of two (2) years from the date of substantial completion.

PlymoVent and Air Cleaning Technologies, Inc. at their own discretion will repair or replace any or all defective parts for two (2) years and labor for one (1) year to allow system to operate in accordance with design specifications. This warranty does not include damage to system or any parts due to misuse, misapplication and/or abuse of entire system.

Monty Duncan

MONTY D. DUNCAN, CORPORATE SECRETARY *jd*

AIR CLEANING TECHNOLOGIES, INC.
1300 WEST DETROIT
BROKEN ARROW, OKLAHOMA 74012
800-351-1858

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF SEPTEMBER 16, 2003.

FROM:

ALDERMAN BRENDA THIEL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Prohibit The Sale, Distribution, Or Giving Away Of Animals From Public Property And From Private Commercially Or Industrially Zoned Property (Except From Established Animal Business Enterprises With Permanent Structures) By Enacting A New § 92.29 Of The Fayetteville Code

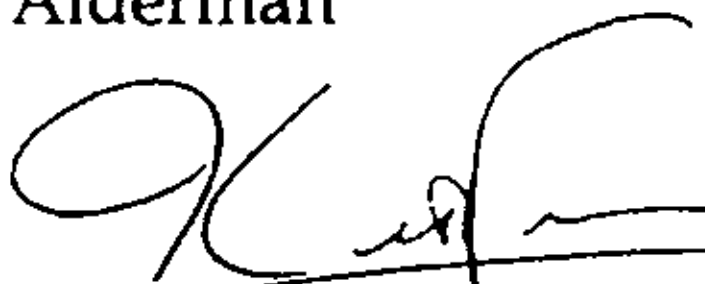
APPROVED FOR AGENDA:



Alderman

8/29/03

Date



City Attorney (as to form)

8-27-03

Date



ORDINANCE NO. _____

AN ORDINANCE TO PROHIBIT THE SALE, DISTRIBUTION,
OR GIVING AWAY OF ANIMALS FROM PUBLIC PROPERTY
AND FROM PRIVATE COMMERCIAL OR INDUSTRIALLY
ZONED PROPERTY (EXCEPT FROM ESTABLISHED ANIMAL
BUSINESS ENTERPRISES WITH PERMANENT STRUCTURES)
BY ENACTING A NEW § 92.29 OF THE FAYETTEVILLE CODE

WHEREAS, the sale, distribution and giving away of dogs and cats from public property and from parking lots of commercial establishments endangers the animals and may result in animals being unsuitably adopted without proper vaccinations and veterinarian care; and

WHEREAS, it has become a burden on certain commercial establishments to prevent a portion of their parking lots from being misappropriated by itinerant pet sellers on numerous occasions; and

WHEREAS, established pet stores, the Washington County Livestock Auction and the animal shelter provide much more appropriate and safe venues for the sale or distribution of dogs, cats, and other animals.

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 enacts a new §92.29 **Prohibition of sale of animals from certain locations** to become part of the Fayetteville Code as shown below:

“§92.29 Prohibition of sale of animals from certain locations.

Except for established animal business enterprises with permanent structures, the sale, distribution and giving away of animals from public property and from commercially and industrially zoned land is prohibited.

PASSED and APPROVED this the 16th day of September, 2003.

APPROVED:

By: _____

DRAFT
DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF SEPTEMBER 16, 2003

FROM:

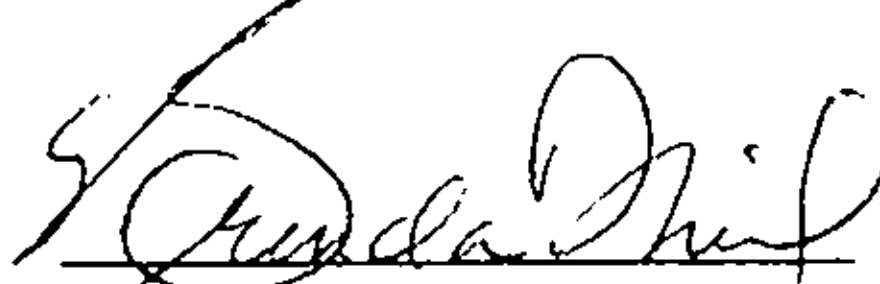
BRENDA THIEL, ALDERMAN

KYLE COOK, ALDERMAN

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Restore Full Federal Funding Of The Congressional
Transportation Enhancements Program To Continue Federal Funding Of
Community Trails, Bikeways And Road Beautification Projects In
Fayetteville And Throughout America

APPROVED FOR AGENDA:


Alderman 9/3/03
Date

Alderman

Date


City Attorney (as to form) 9/3/03
Date

RESOLUTION NO. _____

**A RESOLUTION TO RESTORE FULL FEDERAL FUNDING OF
THE CONGRESSIONAL TRANSPORTATION ENHANCEMENTS
PROGRAM TO CONTINUE FEDERAL FUNDING OF COMMUNITY
TRAILS, BIKEWAYS AND ROAD BEAUTIFICATION PROJECTS IN
FAYETTEVILLE AND THROUGHOUT AMERICA**

WHEREAS, Congress established Transportation Enhancements in 1991 as a guarantee to America's communities that a small percentage of gas tax dollars would be targeted to small-scale, locally-initiated transportation projects, as part of an effort to create balanced, intermodal transportation networks which address community concerns; and

WHEREAS, Transportation Enhancement is the largest source of federal funding for pedestrian, bicycle and trail facilities, and also beautifies our roadways with landscaping, and protects our scenic and historic resources; and

WHEREAS, the Transportation Enhancement program has supported more than 16,000 local transportation projects in almost every county and Congressional District in the country, making Fayetteville and American communities better places to live by inspiring community revitalization, creating safe places to walk and bicycle, restoring historic transportation infrastructure, and sparking hometown pride; and

WHEREAS, Transportation Enhancement accounts for approximately one-and-a-half cents per federal surface transportation dollar, but produces an exceptionally popular program which promotes health, safety, economic development and community pride; and

WHEREAS, on July 24, 2003, the United States House Appropriations Committee voted to eliminate funding for Transportation Enhancements in Section 114 of the transportation appropriations bill, even as the bill increased highway spending by \$4.5 billion more than the President's request; and

WHEREAS, the transportation appropriations bill, now known as H.R. 2989, will be voted on by the full House of Representatives in early September, at which time an amendment will be offered to reverse the committee action and restore the funding set-aside for TE.

**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 expresses its unequivocal support of Transportation Enhancements, and asks the United States House of Representatives to restore full, guaranteed funding for Transportation

Enhancements by striking Section 114 from H.R. 2989 and opposing any other amendments that might be offered that undercut the Transportation Enhancements program.

PASSED and **APPROVED** this the 16th day of September, 2003.

APPROVED:

By: DAN CODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

September 16, 2003

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

ANX 03-02.00 was submitted by Geoff Bates of Keystone Consulting Engineers on behalf of Shiloh Community Church for property located north of Mt. Comfort Road and west of Ruppel Road. The subject property is in the county and contains approximately 3.95 acres. The request is to be annexed into the City of Fayetteville.

STAFF RECOMMENDATION:

Staff recommends approval.

Dawn Warrick
Division Head8/26/03
Date

Received in Mayor's Office

8/27/03
Date *PH**D.P. White*
City Attorney8/27/03
Date*P. L. Smith*
Department Director8-29-03
Date

Cross Reference:

Stephen
Finance & Internal Services Dir.8-27-03
Date

Previous Ord/Res#: _____

Orig. Contract Date: _____

Karyl Gurnea
Chief Administrative Officer9-17-03
Date

Orig. Contract Number: _____

New Item:

Yes

No

Dan Cooley
Mayor8-25/03
Date

ORDINANCE NO.

AN ORDINANCE CONFIRMING THE ANNEXATION
TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF
3.95 ACRES LOCATED NORTH OF MT. COMFORT
ROAD AND WEST OF RUPPLE ROAD OWNED BY
SHILOH COMMUNITY CHURCH

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

Section 1. That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3. That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4. That the above-described property is hereby assigned to Ward No. four.

PASSED AND APPROVED this _____ day of _____, 2003.

APPROVED:

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 03-02.00

A PART OF THE FRACTIONAL N1/2 OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SW1/4 OF FRACTIONAL SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 WEST, SAID SOUTHEAST CORNER BEING ON THE PROPOSED WEST LINE OF CLABBER CREEK SUBDIVISION PHASE II; THENCE ALONG SAID WEST LINE S03°03'28"W 255.42 FEET TO AN IRON PIN FOUND AT THE NORTHWEST CORNER OF A TRACT OF LAND RECORDED AS DEED 2002101566 AND THE POINT OF BEGINNING; THENCE S87°14'06"E 249.89 FEET TO A FOUND IRON PIN; THENCE S03°01'57"W 872.38 FEET; THENCE N87°07'12"W 60.00 FEET; THENCE N03°01'57"E 244.64 FEET; THENCE N87°07'12"W 191.63 FEET TO A FOUND IRON PIN; THENCE N03°11'30"E 627.25 FEET TO THE POINT OF BEGINNING, CONTAINING 3.95 ACRES, MORE OR LESS, SUBJECT TO THE RIGHT-OF-WAY OF MOUNT COMFORT ROAD ALONG THE SOUTH SIDE THEREOF, AND ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of September 16, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Dawn Warrick, AICP, Zoning & Development Administrator *DW*
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: August 26, 2003

ANX 03-02.00: Annexation (Shiloh Community Church, PP 322) was submitted by Keystone Consultants, Inc. on behalf of Joe Jones, Pastor for property located north of Mt. Comfort Road and west of Ruppel Road. The subject property is in the county and contains approximately 3.95 acres. The request is to be annexed into the City of Fayetteville.

BACKGROUND:

Property description: The subject property is vacant and the configuration of this request is a flag lot surrounding an existing duplex (Stephens). The property contains approximately 3.95 acres and is adjacent to the city limits along the eastern boundary where the Clabber Creek subdivision is under construction.

Proposal: The applicant proposes to develop a church on the subject property. An associated request for P-1 zoning (PC recommended RSF-4 zoning) has been submitted for consideration.

Request: The request is to annex the subject property into the city of Fayetteville.

Recommendation: With the installation of a new fire station on Ruppel Road, a project which is in the design phase currently, and improvements to the street infrastructure in this area, staff is able to recommend that this property be annexed into the city. The applicant has also joined with adjacent property owners to coordinate annexation of three total properties in order to avoid creation of an island or peninsula configuration which can be problematic for service providers. Development on this site will be regulated by the city allowing for a more uniform and consistent development pattern making better use of city infrastructure.

CURRENT STATUS:

On June 9, 2003, the Planning Commission tabled this item at the request of the applicant. Staff was not recommending in favor of the annexation at that time. Staff's recommendation was later amended to reflect changed conditions (inclusion of one additional property in the annexation request, progress on the development of a new fire station to serve the west side of Fayetteville, recommended improvements on Mt. Comfort Rd. and the Ruppel Rd. intersection). On August 25, 2003, the Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval of the annexation with companion annexation and rezoning requests for this and adjoining properties.

RECOMMENDATION:

The Planning Commission and staff recommend approval of the requested annexation based on the findings included in the attached staff report with the following condition(s):

1. At the time of development of the subject property the developer shall verify that Mt. Comfort Rd. between this site and Ruppel Rd. has a minimum paved width of 24'.
2. At the time of development of the subject property the developer shall verify that the intersection of Ruppel Rd. and Mt. Comfort Rd. has drive lanes with a minimum width of 22' each – this refers to the 'Y' of Ruppel Rd. where it intersects Mt. Comfort Rd.
3. At the time that it becomes available, the existing duplex on the adjoining property (*a companion request*) shall be connected to the city's sanitary sewer system.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of August 25, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn Warrick, AICP, Zoning & Development Administrator
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: August 21, 2003

ANX 03-02.00: Annexation (Shiloh Community Church, PP 322) was submitted by Keystone Consultants, Inc. on behalf of Joe Jones, Pastor for property located north of Mt. Comfort Road and west of Ruppel Road. The subject property is in the county and contains approximately 3.95 acres. The request is to be annexed into the City of Fayetteville.

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):

1. At the time of development of the subject property the developer shall verify that Mt. Comfort Rd. between this site and Ruppel Rd. has a minimum paved width of 24'.
2. At the time of development of the subject property the developer shall verify that the intersection of Ruppel Rd. and Mt. Comfort Rd. has drive lanes with a minimum width of 22' each – this refers to the 'Y' of Ruppel Rd. where it intersects Mt. Comfort Rd.
3. At the time that it becomes available, the existing duplex on the adjacent property (*a companion request*) shall be connected to the city's sanitary sewer system.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>	
	X Approved		☐ Denied
Date:	<u>August 25, 2003</u>		
CITY COUNCIL ACTION:	Required	<u>YES</u>	
	☐ Approved		☐ Denied
Date:	<u>September 16, 2003 (1st reading if recommended)</u>		

BACKGROUND:

Property description: The subject property is vacant and the configuration of this request is a flag lot surrounding an existing duplex (Stephens). The property contains approximately 3.95 acres and is adjacent to the city limits along the eastern boundary where the Clabber Creek subdivision is under construction.

Proposal: The applicant proposes to develop a church on the subject property. An associated request for P-1 zoning has been submitted for consideration.

Request: The request is to annex the subject property into the city of Fayetteville.

Recommendation: With the installation of a new fire station on Ruppel Road, a project which is in the design phase currently, and improvements to the street infrastructure in this area, staff is able to recommend that this property be annexed into the city. The applicant has also joined with adjacent property owners to coordinate annexation of three total properties in order to avoid creation of an island or peninsula configuration which can be problematic for service providers. Development on this site will be regulated by the city allowing for a more uniform and consistent development pattern making better use of city infrastructure.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant / Agricultural	R-1, Low Density Residential
South	Single Family Residential	R-1, Low Density Residential
East	Clabber Creek Phase II (SFR)	R-1, Low Density Residential
West	Vacant	County, No Designated Zoning

INFRASTRUCTURE:

Streets: Access and the only available street frontage is on Mt. Comfort Rd. along the south boundary of the site. Mt. Comfort Rd. in this location is classified a minor arterial on the master street plan. It is not built to that standard.

If development occurs on this site, Mt. Comfort Road would need to be improved to a minimum of 14' from centerline including pavement, curb and gutter, storm drains and sidewalk.

Water: The property currently has access to a 4" and 8" waterline along Mt. Comfort Road. The Clabber Creek Phase II subdivision to the east also has 8" lines proposed.

Sewer: Sewer is not currently available to this property.

The nearest sewer main is located to the south of Mt. Comfort Road. This area of

town has been identified as an area of concern for sewer service. The Hamestring Creek lift station is currently being upgraded to handle existing flows and any development proposed at the time of the study earlier this year. This upgrade should be completed this summer.

Fire: The subject property is located 3.4 miles from Fire Station #2. Normal driving time is 5 min. 9 seconds. Water supply will be necessary for this property to develop.

LAND USE PLAN: General Plan 2020 designates this site as Residential.

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES

BOUNDARIES

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: The requested annexation with companion requests for Stephens and Coger will not create an island or peninsula. The configuration of this proposal is consistent with the City's adopted policy for annexations.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent and contiguous to the City Limits.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area does not consist of defined subdivisions or neighborhoods, however development plans will include the extension of single family neighborhoods into this area with amenities such as a church. The duplex on the subject property will be incorporated into this new neighborhood as it develops.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines or desired property.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of just over 5 minutes for fire protection. The installation of a new fire station on Ruppel Road in the future,

as planned will reduce response time. Any development in this area would necessitate installation of hydrants to provide for fire protection. A turn lane and other improvements to Mt. Comfort Road would be likely should this property develop. Sewer service is not currently available in this location. Upgrades to the Hamestring Creek lift station were recently approved and should be completed this summer.

When it becomes available sewer will be extended to the duplex on this property. Ordinance requirements state that once a property is located within

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: N/A

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Fire station #7 will serve this area once it is completed. This improvement will reduce response time from over 5 minutes to approximately 3 minutes 43 seconds. Improvements to adjacent properties during the development of new subdivisions and other projects will allow this site to connect to the city's sanitary sewer system eliminating the need for the existing septic system.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: With the pending installation of a new fire station in the general area, service will be able to be provided at a more appropriate level of service with a shorter response time than what can be provided to the site currently. Sewer improvements to the area are needed for existing and already approved developments.

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 this area.

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned A-1, Agricultural. The applicant is requesting to rezone to P-1, Institutional. This zoning designation is compatible with the Residential classification of the area on the City's adopted Future Land Use Plan.

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 request.

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: Development of this property is proposed. The applicant will be required to submit project plans for review and approval by the Planning Commission for the single family subdivision proposed for this property.

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 is a part of a more comprehensive annexation, including three tracts of land for a total of 23.35 acres. The combined requests create a reasonable boundary avoiding the creation of islands or peninsulas.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: N/A



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

RECEIVED

JUN 03 2003

PLANNING DIV.

From: Fire Prevention Bureau

To: Planning Division

Date 06-03-03

REZONING ☒

ANNEXATION ☒

REZONING # 03-17.00 OWNER SHILOH Community Church

ANNEXATION # 03-02.00 OWNER SHILOH COMM. Church.

LOCATION OF
PROPERTY North of Mt. Comfort Rd + West of Ruppel Rd.

NEAREST FIRE STATION AND

LOCATION Fire Station #2 - Garland St.

RESPONSE TIME FROM FIRE STATION # 2 TO

LOCATION OF

PROPERTY 5 MINUTES 9 SECONDS.

TRAVEL MILES FROM FIRE STATION # 2 TO LOCATION OF

PROPERTY 3.4 miles.

COMMENTS ON FIRE DEPT.

ACCESS/ROADWAYS Access would be req. for
Fire Apparatus

EXISTING FIRE HYDRANTS? IF SO

LOCATION There is an 8" water line that feeds
Bridgport Sub.

WATER SUPPLY WITH HYDRANTS

NEEDED? yes - 8" min

ADDITIONAL

COMMENTS *STA 7 - 3.43 sec and 1.7 miles *

Dj

MAIN OFFICE

115 SOUTH CHURCH ST.

(501) 444-3448 / (501) 444-3449

FAX (501) 575-8272

SUBSTATION

N.W.A. MALL

(501) 575-8271

FAX (501) 575-8272



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

June 3, 2003

Dawn Warrick AICP
Zoning and Development Director
City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed annexation ANX 03-02.00 Shiloh Community Church and ANX 02-01.10 James Coger submitted by Keystone Consultants, Inc. would allow public services to be provided efficiently and at the same level of service of areas already in the city limits.

It is the opinion of the Fayetteville Police Department that we must return a determination in support of the annexation based on the criteria placed before us. In response to the question, "Would the annexed area receive the same level of service of areas already in the Fayetteville city limits?" We find the proposed annexed area is immediately adjacent to the Fayetteville city boundary and in fact there is a residential subdivision within the city limits one quarter mile west of this proposed site. There is a Middle School immediately adjacent to this site as well. We should be able to provide the same level of service to this proposed site as we would the school and the subdivision.

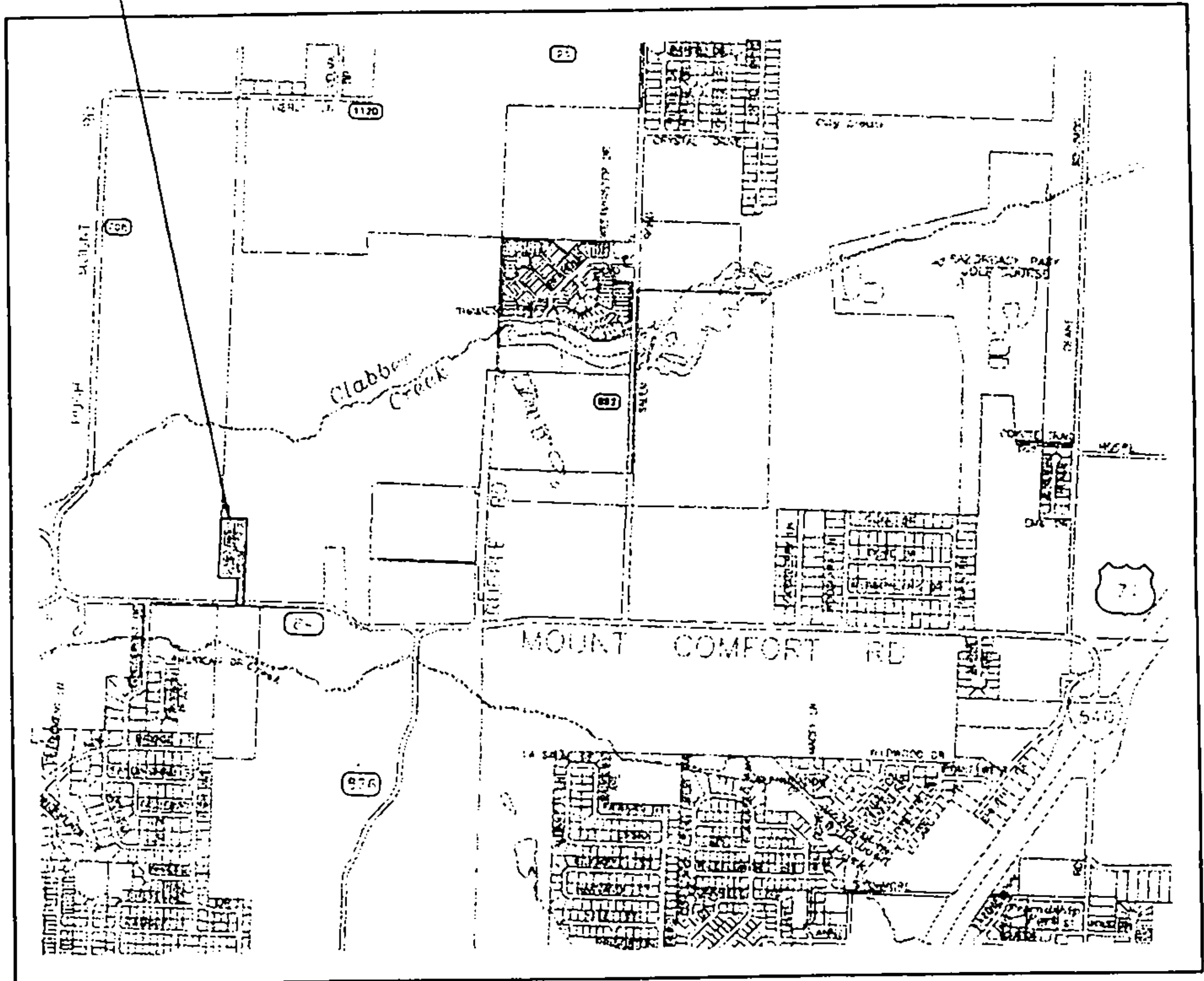
The factors considered to arrive at our determination included our ability to provide public services with existing equipment, training of personnel, number of units and response time. There should be no more additional requirements for equipment, training of personnel or patrol units to handle calls for service at this proposed site. The response time should be greater for this area than the school or the subdivision west of this location.

We hope you will find this information useful in your assessment.

Sincerely,


Captain Frank Johnson
Fayetteville Police Department

PROJECT LOCATION



VICINITY MAP
N.T.S.



Drawing Name: JOBFILS\03008-00\ENG\DWG\VIC MAP.dwg

Time: 7:35 am
Scale: 1=5
Date: 5/19/2003

RECEIVED
MAY 19 2003
PLANNING DIV.


Keystone Consultants, Inc.
5571 Bleau Ave., Springdale, AR 72762
PH: 479.750.2920 FAX: 479.750.0953

Civil Engineering / Planning & Design

ANX03-2.00

Close Up View

SHILOH COMMUNITY CHURCH



SUBJECT PROPERTY

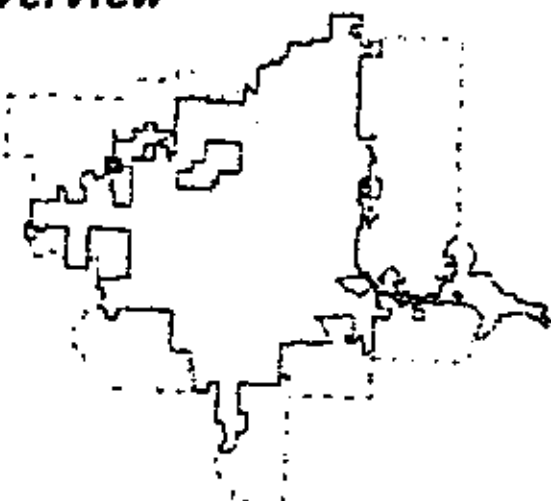
MOUNT COMFORT RD

MOUNT COMFORT RD

R-1

R-1

Overview



Legend

Subject Property

ANX03-2.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

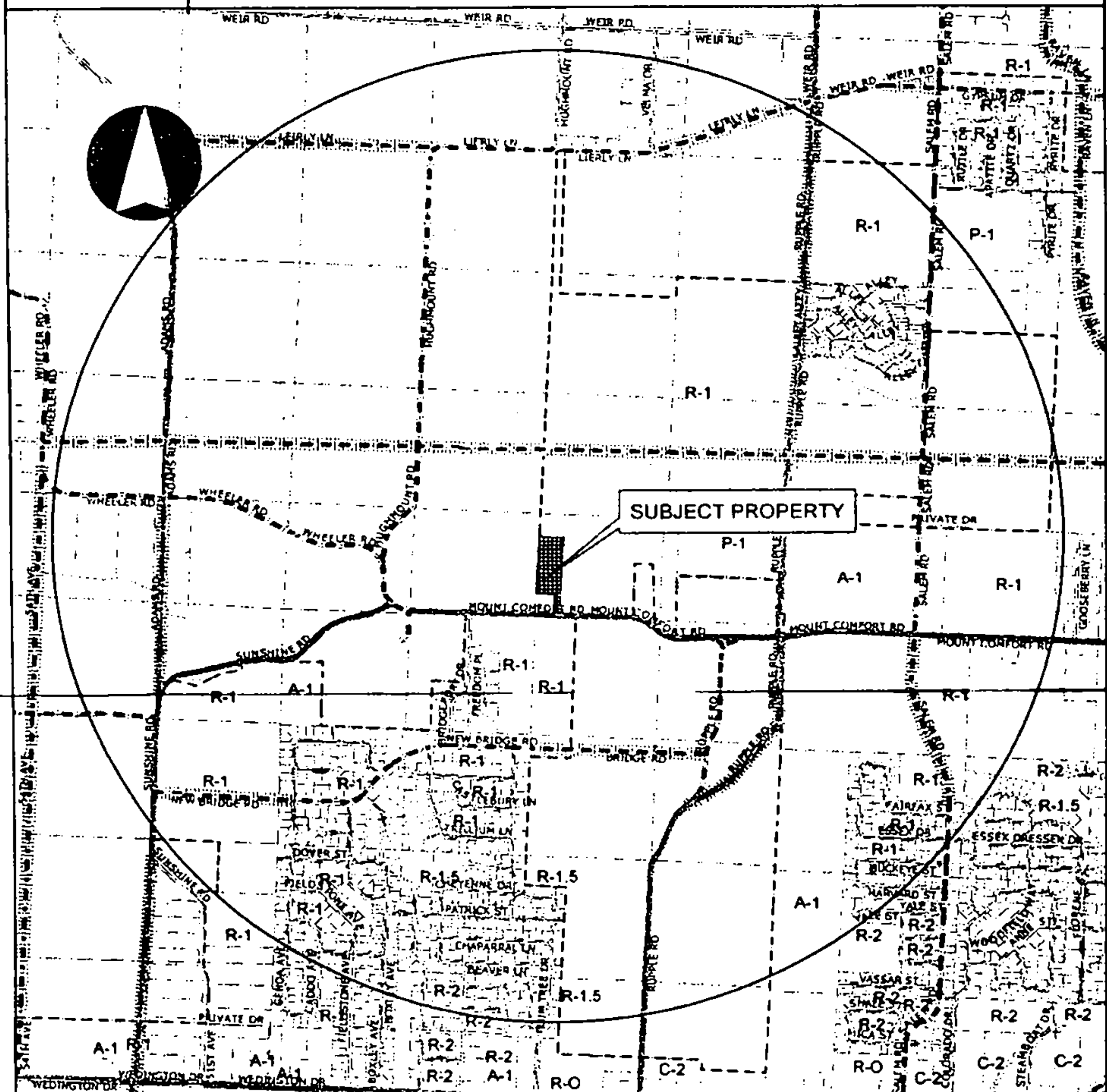
Historic Collector

0 75 150 300 450 600 Feet

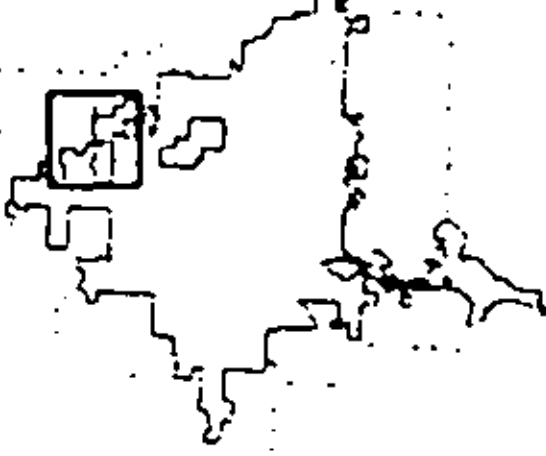
ANX03-02.00

One Mile View

SHILOH COMMUNITY CHURCH



Overview



Legend

Subject Property

Streets

Existing



Boundary

Planning Area

Overlay District

○○○○○○○
— — — — —
— — — — —

City Limits

☐ Outside City

Master Street Plan

 Freeway/Expressway

Principal Arteries

 Minor Arteries

◆ Collector

Historic Collector



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

September 16, 2003

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

ANX 03-03.00 was submitted by Geoff Bates of Keystone Consultants on behalf of James Coger for property located north of Mt. Comfort Road and west of Ruppel Road. The subject property is in the county and contains approximately 18.38 acres. The request is to be annexed into the City of Fayetteville.

STAFF RECOMMENDATION:

Staff recommends approval.

Dawn Warrick
Division Head8/26/03
Date

Received in Mayor's Office

8/27/03
Date *r.h.**D.D. Whit*
City Attorney8/27/03
Date*[Signature]*
Department Director8-29-03
Date

Cross Reference:

[Signature]
Finance & Internal Services Dir.8-27-03
Date

Previous Ord/Res#:

[Signature]
Chief Administrative Officer8-27-03
Date

Orig. Contract Date:

Orig. Contract Number:

[Signature]
Mayor8/27/03
Date

New Item:

Yes

No



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

September 16, 2003

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance Approval.

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ANX 03-03.00 was submitted by Geoff Bates of Keystone Consultants on behalf of James Coger for property located north of Mt. Comfort Road and west of Ruppel Road. The subject property is in the county and contains approximately 18.38 acres. The request is to be annexed into the City of Fayetteville.

STAFF RECOMMENDATION:

Staff recommends approval.

Dawn Warrick
Division Head8/26/03
Date

Received in Mayor's Office

8/27/03
Date *PH*D. J. Whit
City Attorney8/27/03
Date[Signature]
Department Director8-29-03
Date

Cross Reference:

[Signature]
Finance & Internal Services Dir.8-27-03
Date

Previous Ord/Res#: _____

[Signature]
Chief Administrative Officer8-27-03
Date

Orig. Contract Date: _____

[Signature]
Mayor8/27/03
Date

Orig. Contract Number: _____

New Item:

Yes

No



ORDINANCE NO.

AN ORDINANCE CONFIRMING THE ANNEXATION
TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF
18.38 ACRES LOCATED NORTH OF MT. COMFORT
ROAD AND WEST OF RUPPLE ROAD OWNED BY
JAMES COGER.

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

Section 1. That the City Council hereby confirms the annexation to the City
of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and
made a part hereof.

Section 2. That the official map of the City of Fayetteville, Arkansas, is
hereby amended to reflect the change provided in Section 1 above.

Section 3. That the official zoning map of the City of Fayetteville, Arkansas
is hereby amended to assign the zoning designation of R-A-Residential Agricultural to
the subject property.

Section 4. That the above-described property is hereby assigned to Ward No.
four.

PASSED AND APPROVED this _____ day of _____, 2003.

APPROVED:

By: _____
Dan Coody, Mayor

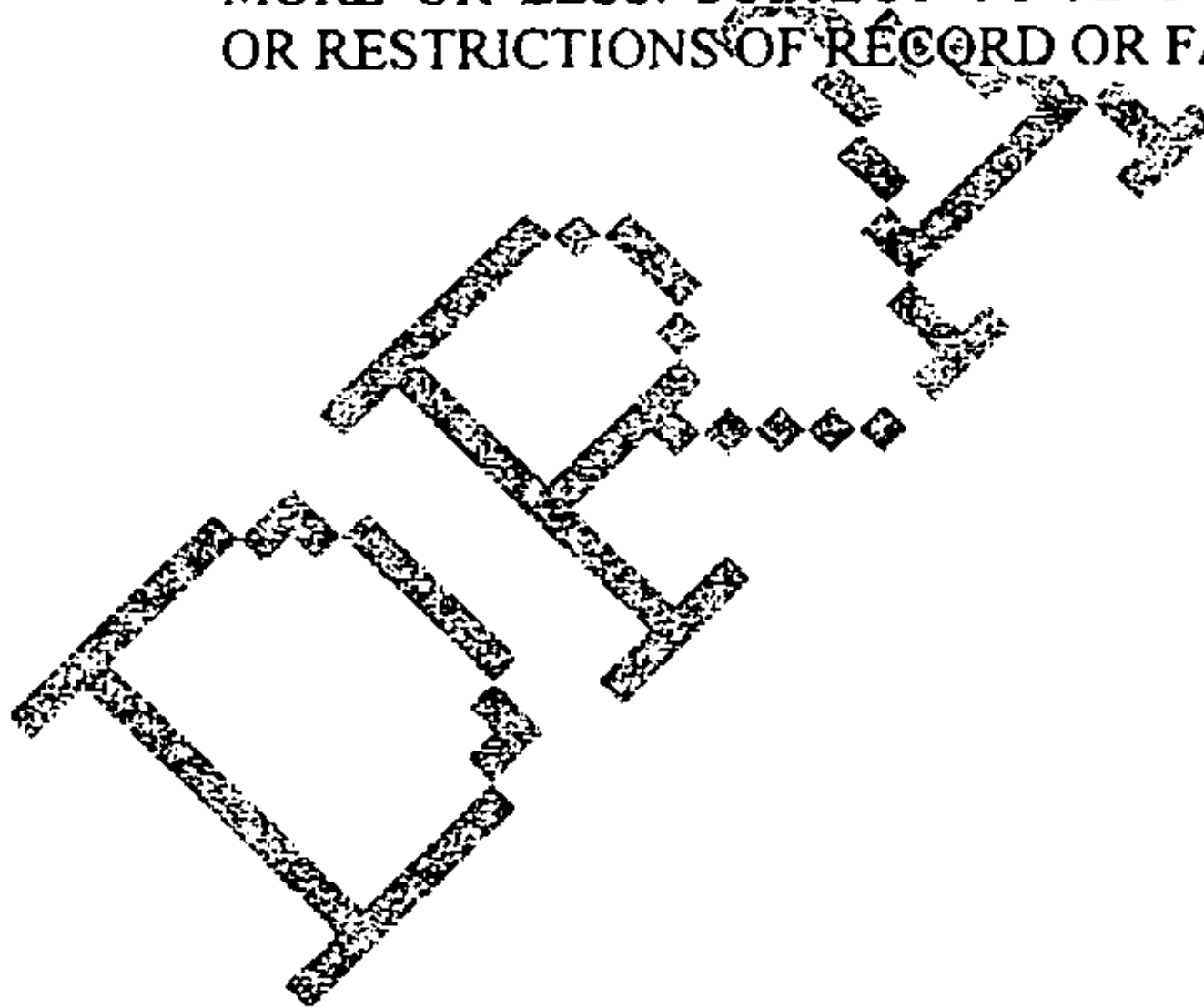
ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 03-03.00

A PART OF THE FRACTIONAL NW1/4 OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, AND PART OF THE SOUTH ONE HALF OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SW1/4 OF SAID SECTION 31, THENCE S03°03'28"W 255.42 FEET TO AN IRON PIN FOUND AT THE NORTHWEST CORNER OF A TRACT OF LAND RECORDED AS DEED 2002101566; THENCE S03°11'30"W 831.42 FEET TO AN IRON PIN FOUND ON THE NORTH RIGHT-OF-WAY LINE OF MOUNT COMFORT ROAD; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE N87°51'54"W 514.65 FEET TO A FOUND IRON PIN; THENCE DEPARTING SAID NORTH RIGHT-OF-WAY LINE N03°06'36"E 1458.56 FEET TO A FOUND IRON PIN; THENCE N71°57'36"E 552.65 FEET; THENCE S03°05'59"W 562.37 FEET TO THE POINT OF BEGINNING, CONTAINING 18.38 ACRES, MORE OR LESS. SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of September 16, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Dawn Warrick, AICP, Zoning & Development Administrator
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: August 26, 2003

ANX 03-03.00: Annexation (James Coger, PP 321) was submitted by Keystone Consultants, Inc. on behalf of James Coger for property located north of Mt. Comfort Road and west of Ruppel Road. The subject property is in the county and contains approximately 18.38 acres. The request is to be annexed into the City of Fayetteville.

BACKGROUND:

Property description: The subject property is vacant. The property is adjacent to the city limits along the eastern boundary where the Clabber Creek subdivision is under construction. The applicant in the past has submitted plans to develop this 18.38 acre tract into a single family residential subdivision within the county. Because the property immediately adjoins the city, all subdivision regulations are applied to development proposals.

Proposal: The applicant proposes to develop a single family subdivision on the subject property. An associated request for RSF-4 zoning has been submitted for consideration.

Request: The request is to annex the subject property into the city of Fayetteville.

Recommendation: With the installation of a new fire station on Ruppel Road, a project which is in the design phase currently, and improvements to the street infrastructure in this area, staff is able to recommend that this property be annexed into the city. The applicant has also joined with adjacent property owners to coordinate annexation of three total properties in order to avoid creation of an island or peninsula configuration which can be problematic for service providers. Development on this site will be regulated by the city allowing for a more uniform and consistent development pattern making better use of city infrastructure.

CURRENT STATUS:

On June 9, 2003, the Planning Commission tabled this item at the request of the applicant. Staff was not recommending in favor of the annexation at that time. Staff's recommendation was later amended to reflect changed conditions (inclusion of one additional property in the annexation request, progress on the development of a new fire station to serve the west side of Fayetteville, recommended improvements on Mt. Comfort Rd. and the Ruppel Rd. intersection). On August 25, 2003, the Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval of the annexation with companion annexation and rezoning requests for this and adjoining properties.

RECOMMENDATION:

The Planning Commission and staff recommend approval of the requested annexation based on the findings included in the attached staff report with the following condition(s):

1. At the time of development of the subject property the developer shall verify that Mt. Comfort Rd. between this site and Ruppel Rd. has a minimum paved width of 24'.
2. At the time of development of the subject property the developer shall verify that the intersection of Ruppel Rd. and Mt. Comfort Rd. has drive lanes with a minimum width of 22' each – this refers to the 'Y' of Ruppel Rd. where it intersects Mt. Comfort Rd.
3. At the time that it becomes available, the existing duplex on the adjoining property (*a companion request*) shall be connected to the city's sanitary sewer system.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of August 25, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn Warrick, AICP, Zoning & Development Administrator
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: August 21, 2003

ANX 03-03.00: Annexation (James Cogger, PP 321) was submitted by Keystone Consultants, Inc. on behalf of James Cogger for property located north of Mt. Comfort Road and west of Ruppel Road. The subject property is in the county and contains approximately 18.38 acres. The request is to be annexed into the City of Fayetteville.

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):

1. At the time of development of the subject property the developer shall verify that Mt. Comfort Rd. between this site and Ruppel Rd. has a minimum paved width of 24'.
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3. At the time that it becomes available, the existing duplex on the adjacent property (*a companion request*) shall be connected to the city's sanitary sewer system.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>	
	X Approved		☐ Denied
Date:	<u>August 25, 2003</u>		
CITY COUNCIL ACTION:	Required	<u>YES</u>	
	☐ Approved		☐ Denied
Date:	<u>September 16, 2003 (1st reading if recommended)</u>		

BACKGROUND:

Property description: The subject property is vacant. The property is adjacent to the city limits along the eastern boundary where the Clabber Creek subdivision is under construction. The applicant in the past has submitted plans to develop this 18.38 acre tract into a single family residential subdivision within the county. Because the property immediately adjoins the city, all subdivision regulations are applied to development proposals.

Proposal: The applicant proposes to develop a single family subdivision on the subject property. An associated request for RSF-4 zoning has been submitted for consideration.

Request: The request is to annex the subject property into the city of Fayetteville.

Recommendation: With the installation of a new fire station on Ruppel Road, a project which is in the design phase currently, and improvements to the street infrastructure in this area, staff is able to recommend that this property be annexed into the city. The applicant has also joined with adjacent property owners to coordinate annexation of three total properties in order to avoid creation of an island or peninsula configuration which can be problematic for service providers. Development on this site will be regulated by the city allowing for a more uniform and consistent development pattern making better use of city infrastructure.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant / Agricultural	R-1, Low Density Residential
South	Single Family Residential	R-1, Low Density Residential
East	Clabber Creek Phase II (SFR)	R-1, Low Density Residential
West	Vacant	County, No Designated Zoning

INFRASTRUCTURE:

Streets: Access and the only available street frontage is on Mt. Comfort Rd. along the south boundary of the site. Mt. Comfort Rd. in this location is classified a minor arterial on the master street plan. It is not built to that standard.

If development occurs on this site, Mt. Comfort Road would need to be improved to a minimum of 14' from centerline including pavement, curb and gutter, storm drains and sidewalk.

Water: The property currently has access to a 4" and 8" waterline along Mt. Comfort Road. The Clabber Creek Phase II subdivision to the east also has 8" lines proposed.

Sewer: Sewer is not currently available to this property.

The nearest sewer main is located to the south of Mt. Comfort Road. This area of town has been identified as an area of concern for sewer service. The Hamstring Creek lift station is currently being upgraded to handle existing flows and any development proposed at the time of the study earlier this year. This upgrade should be completed this summer.

Fire: The subject property is located 3.4 miles from Fire Station #2. Normal driving time is 5 min. 9 seconds. Water supply will be necessary for this property to develop.

LAND USE PLAN: General Plan 2020 designates this site as **Residential**.

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES

BOUNDARIES

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: The requested annexation with companion requests for Stephens and Shiloh Community Church will not create an island or peninsula. The configuration of this proposal is consistent with the City's adopted policy for annexations.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent and contiguous to the City Limits.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area does not consist of defined subdivisions or neighborhoods, however development plans will include the extension of single family neighborhoods into this area with amenities such as a church. The duplex on the subject property will be incorporated into this new neighborhood as it develops.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines or desired property.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of just over 5 minutes for fire

protection. The installation of a new fire station on Ruppel Road in the future, as planned will reduce response time. Any development in this area would necessitate installation of hydrants to provide for fire protection. A turn lane and other improvements to Mt. Comfort Road would be likely should this property develop. Sewer service is not currently available in this location. Upgrades to the Hamstring Creek lift station were recently approved and should be completed this summer.

When it becomes available sewer will be extended to the duplex on this property. Ordinance requirements state that once a property is located within

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: N/A

EMERGENCY AND PUBLIC SERVICES

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Fire station #7 will serve this area once it is completed. This improvement will reduce response time from over 5 minutes to approximately 3 minutes 43 seconds. Improvements to adjacent properties during the development of new subdivisions and other projects will allow this site to connect to the city's sanitary sewer system eliminating the need for the existing septic system.

- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: With the pending installation of a new fire station in the general area, service will be able to be provided at a more appropriate level of service with a shorter response time than what can be provided to the site currently. Sewer improvements to the area are needed for existing and already approved developments.

- 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 this area.

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned A-1, Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with the Residential classification of the area on the City's adopted Future Land Use Plan.

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 request.

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: Development of this property is proposed. The applicant will be required to submit project plans for review and approval by the Planning Commission for the single family subdivision proposed for this property.

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 is a part of a more comprehensive annexation, including three tracts of land for a total of 23.35 acres. The combined requests create a reasonable boundary avoiding the creation of islands or peninsulas.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: N/A



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. A. ANX 03-3.00 (James Cogger)
Page 11 of 15

RECEIVED

JUN 03 2003

PLANNING DIV.

From: Fire Prevention Bureau

To: Planning Division

Date 6-3-03

REZONING ☒ ANNEXATION ☒

REZONING # 03-18.00 OWNER JAMES COGER

ANNEXATION # 03-03.00 OWNER JAMES COGER

LOCATION OF
PROPERTY NORTH of Mt Comfort Rd & west of
Ripple Rd.

NEAREST FIRE STATION AND
LOCATION FIRE STATION # 2 GARLAND ST.

RESPONSE TIME FROM FIRE STATION # 2 TO
LOCATION OF
PROPERTY 5 MINUTES 30 SECONDS.
TRAVEL MILES FROM FIRE STATION # 2 TO LOCATION OF
PROPERTY 3.6 mts.

COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS Access would be required for
Fire Apparatus

EXISTING FIRE HYDRANTS? IF SO
LOCATION 8" Line That Feeds Bridgeport Sub.

WATER SUPPLY WITH HYDRANTS
NEEDED? Yes - 8" m

ADDITIONAL
COMMENTS SIA 7- 3.43 sec. and 1.7 miles +
Dgn

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 4. ANX 03-3.00 (James Coger)
Page 12 of 15

POLICE DEPARTMENT

June 3, 2003

Dawn Warrick AICP
Zoning and Development Director
City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed annexation ANX 03-02.00 Shiloh Community Church and ANX 02-01.10 James Coger submitted by Keystone Consultants, Inc. would allow public services to be provided efficiently and at the same level of service of areas already in the city limits.

It is the opinion of the Fayetteville Police Department that we must return a determination in support of the annexation based on the criteria placed before us. In response to the question, "Would the annexed area receive the same level of service of areas already in the Fayetteville city limits?" We find the proposed annexed area is immediately adjacent to the Fayetteville city boundary and in fact there is a residential subdivision within the city limits one quarter mile west of this proposed site. There is a Middle School immediately adjacent to this site as well. We should be able to provide the same level of service to this proposed site as we would the school and the subdivision.

The factors considered to arrive at our determination included our ability to provide public services with existing equipment, training of personnel, number of units and response time. There should be no more additional requirements for equipment, training of personnel or patrol units to handle calls for service at this proposed site. The response time should be greater for this area than the school or the subdivision west of this location.

We hope you will find this information useful in your assessment.

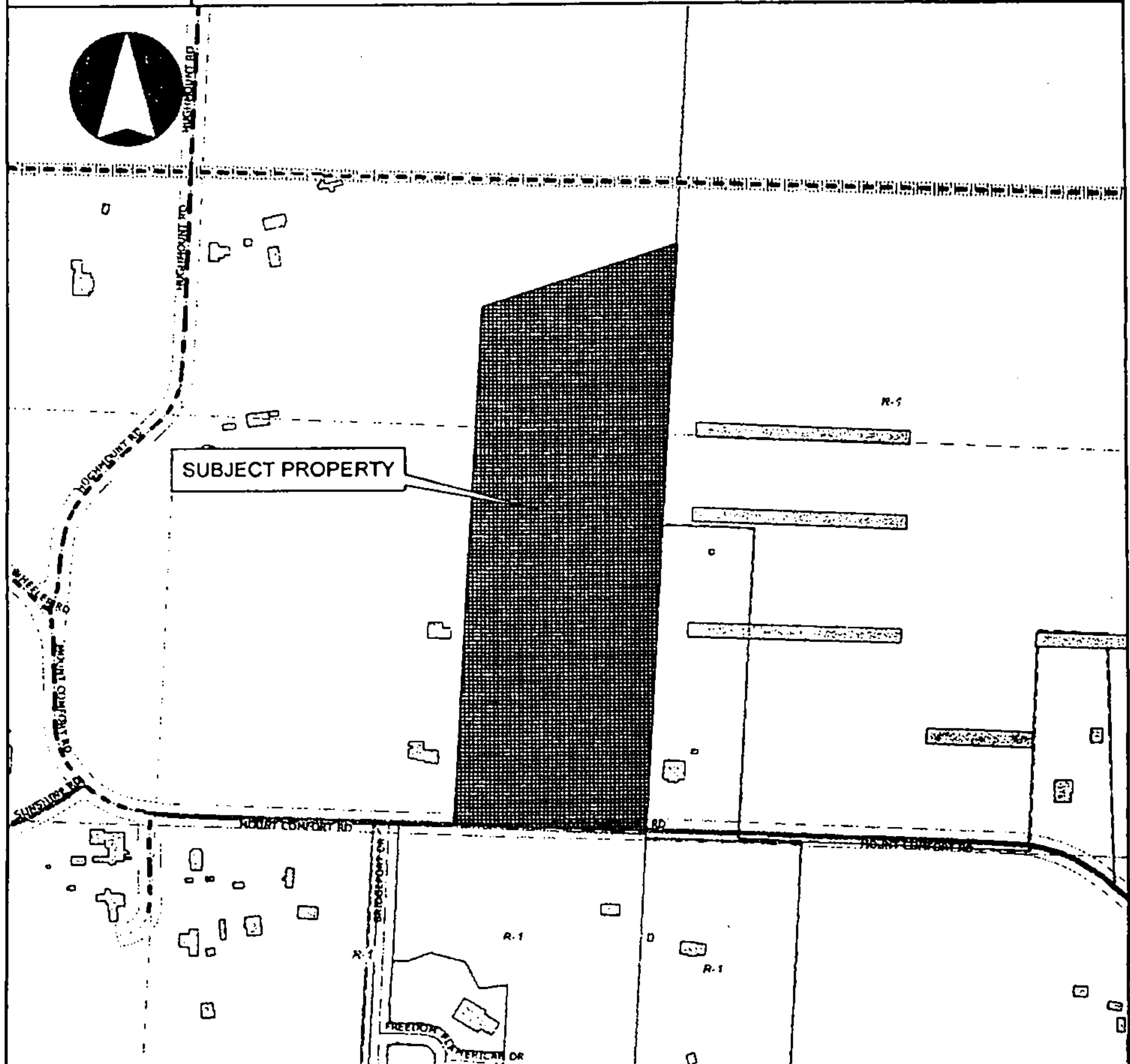
Sincerely,


Captain Frank Johnson
Fayetteville Police Department

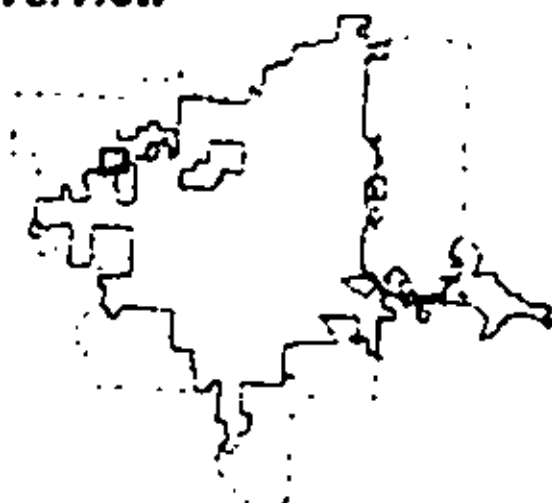
ANX03-03.00

Close Up View

JAMES COGER



Overview



Legend

Subject Property



Streets

Existing



ended

Boundary

Planning Area



City Limited

☐ Outside City.☐ Outside City

Master Street Plan

 Freeway/Expressway Minor Arterial

Collector

Mimode Collector

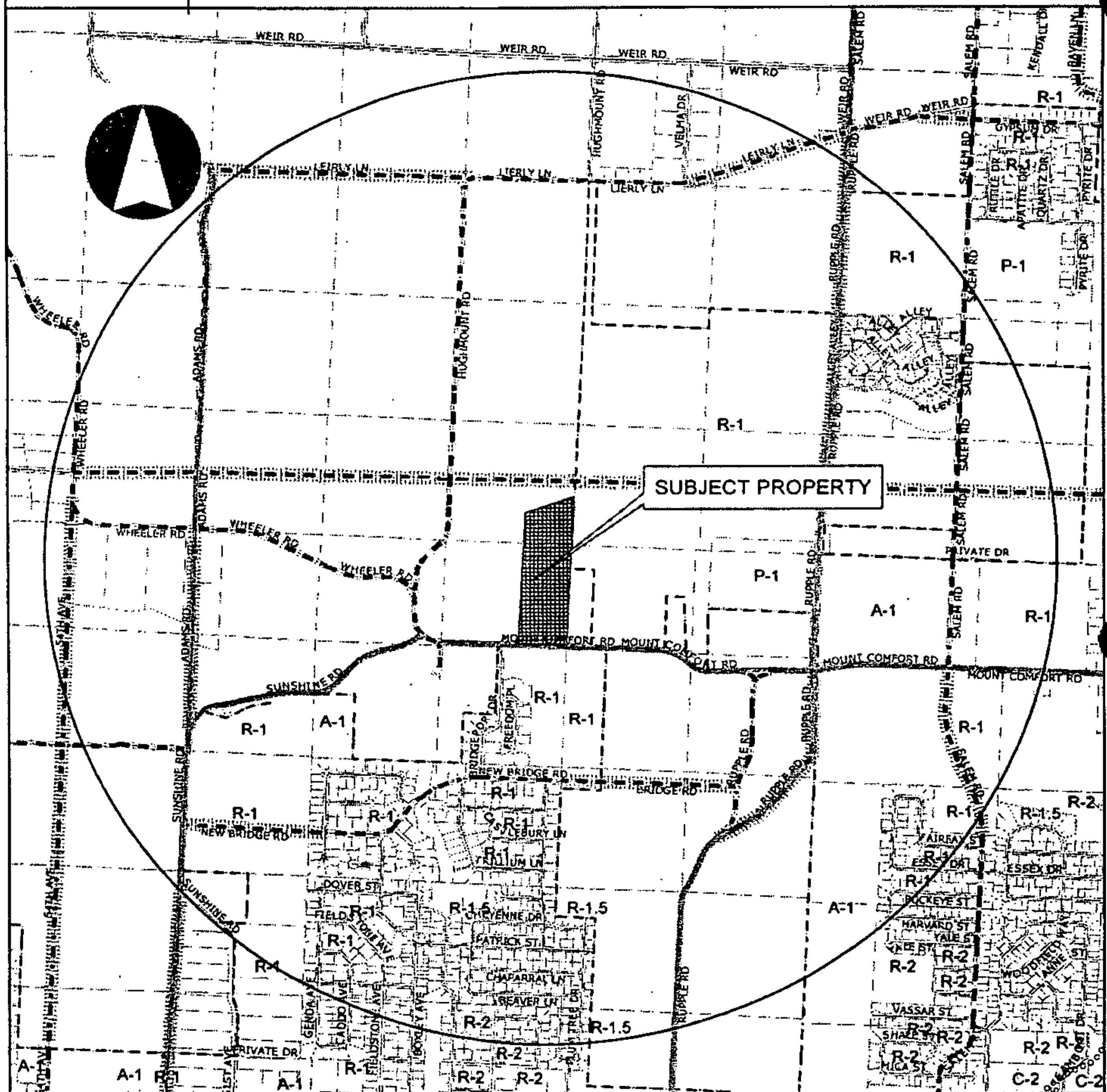
900 1 20

0 150 300 600 900 1,200 Feet

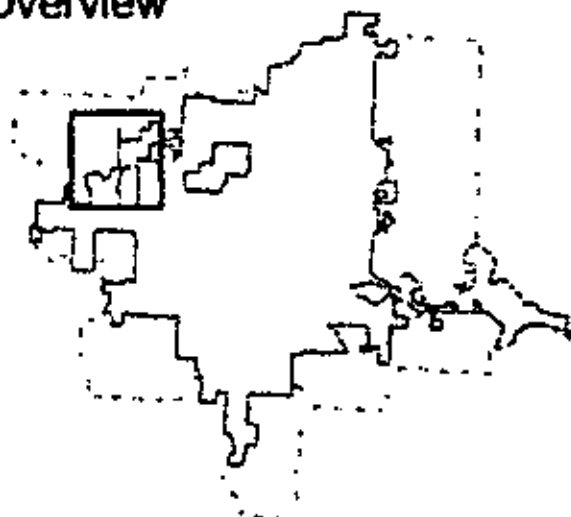
ANX03-03.00

One Mile View

JAMES COGER



Overview



Legend

Subject Property



Streets

Existing

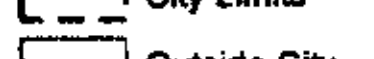


Boundary

Planning Area



City Limits

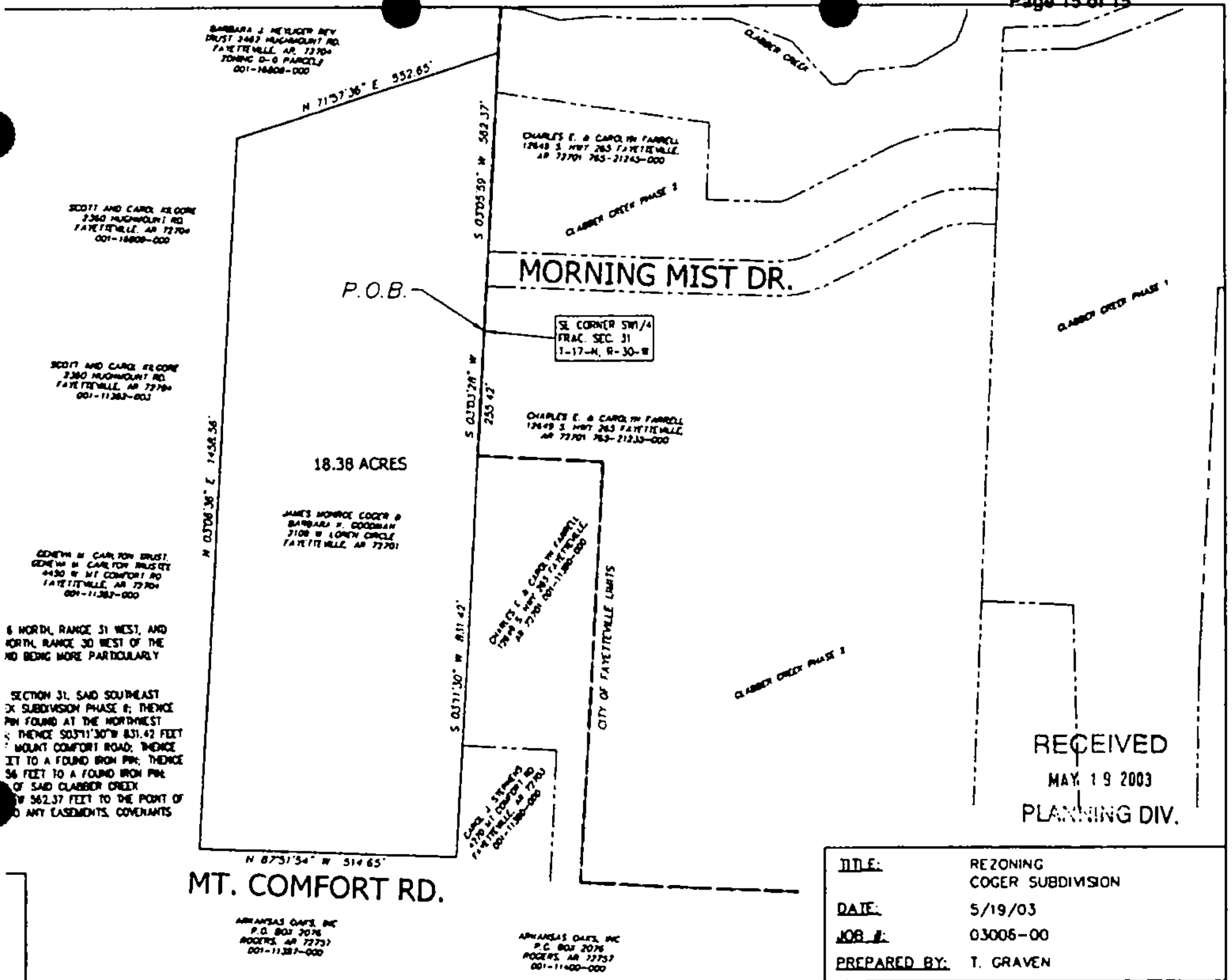


Outside City

Master Street Plan

 Freeway/Expressway Minor Arterial

••• Historic Collector



RECEIVED
MAY 19 2003
PLANNING DIV.

TITLE:	REZONING COGER SUBDIVISION
DATE:	5/19/03
JOB #:	03006-00
PREPARED BY:	T. GRAVEN

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

September 16, 2003

FROM:

Dawn Warrick

Planning

CP&E

Name

Division

Department

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

ANX 03-04.00 was submitted by Geoff Bates of Keystone Consultants on behalf of Carol Stephens for property located at 4270 Mt. Comfort Road. The property is in the county and contains approximately 1.08 acres. The request is to be annexed into the City of Fayetteville.

STAFF RECOMMENDATION:

Staff recommends approval.

[Signature]
Division Head

8/26/03
Date

Received in Mayor's Office

8/27/03
Date *fit*

[Signature]
City Attorney

8/27/03
Date

[Signature]
Department Director

8-29-03
Date

Cross Reference:

[Signature]
Finance & Internal Services Dir.

8-27-03
Date

Previous Ord/Res#:

[Signature]
Chief Administrative Officer

8-27-03
Date

Orig. Contract Date:

Orig. Contract Number:

[Signature]
Mayor

8/25/03
Date

New Item:

Yes

No



ORDINANCE NO.

AN ORDINANCE CONFIRMING THE ANNEXATION
TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF
1.08 ACRES LOCATED NORTH OF MT. COMFORT
ROAD AND WEST OF RUPPLE ROAD OWNED BY
CAROL STEPHENS.

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

Section 1. That the City Council hereby confirms the annexation to the City
of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and
made a part hereof.

Section 2. That the official map of the City of Fayetteville, Arkansas, is
hereby amended to reflect the change provided in Section 1 above.

Section 3. That the official zoning map of the City of Fayetteville, Arkansas
is hereby amended to assign the zoning designation of R-A, Residential Agricultural to
the subject property.

Section 4. That the above-described property is hereby assigned to Ward No.
four.

PASSED AND APPROVED this _____ day of _____, 2003.

APPROVED:

By: _____
Dan Coody, Mayor

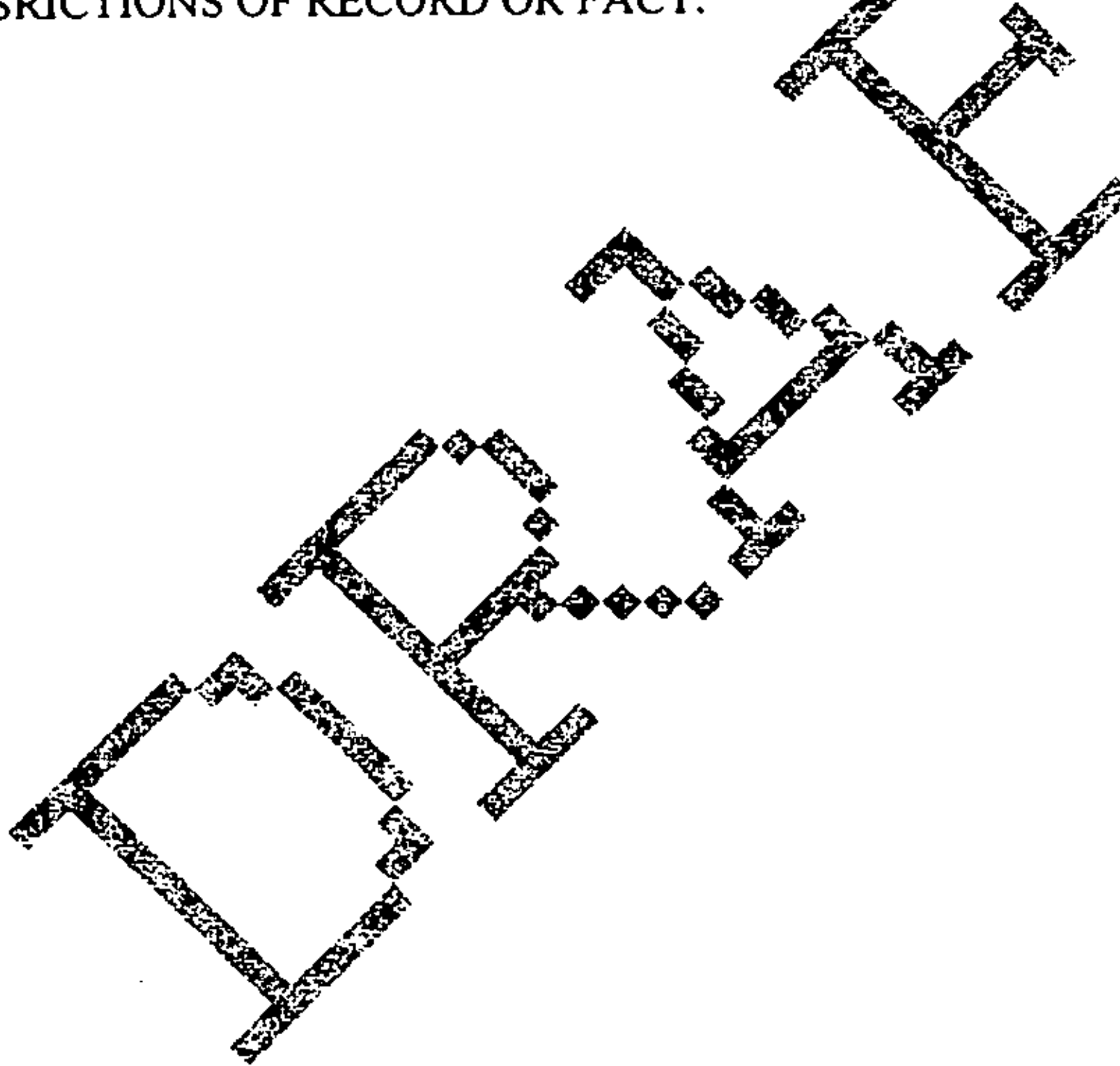
ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 03-04.00

A PART OF THE FRACTIONAL N $\frac{1}{2}$ OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SW $\frac{1}{4}$ OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 WEST, THENCE S03°03'28"W 882.42 FEET TO A FOUND IRON PIN, AND THE POINT OF BEGINNING; THENCE S87°07'12"E 191.63 FEET, THENCE S03°01'57"W 244.64 FEET; THENCE N87°07'12"W 192.31 FEET; THENCE N03°11'30"E 244.64 FEET, TO THE POINT OF BEGINNING, CONTAINING 46,964 SQUARE FEET OR 1.08 ACRES MORE OR LESS, AND BEING SUBJECT TO THE RIGHT OF WAY OF MT. COMFORT ROAD ALONG THE SOUTH SIDE THEREOF AND ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of September 16, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Dawn Warrick, AICP, Zoning & Development Administrator 
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: August 26, 2003

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BACKGROUND:

Property description: The subject property is located between two tracts which area also petitioning for annexation at this time. There is one duplex currently located on this 1.08 acre site.

Proposal: No further development is proposed at this time.

Request: The request is to annex the subject property into the city of Fayetteville.

Recommendation: With the installation of a new fire station on Ruppel Road, a project which is in the design phase currently, and improvements to the street infrastructure in this area, staff is able to recommend that this property be annexed into the city. The applicant has also joined with adjacent property owners to coordinate annexation of three total properties in order to avoid creation of an island or peninsula configuration which can be problematic for service providers. Any future development on this site will be regulated by the city allowing for a more uniform and consistent development pattern making better use of city infrastructure. The existing duplex will be able to eliminate the need for a septic system once surrounding development brings sanitary sewer into the area.

CURRENT STATUS:

On August 25, 2003, the Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval of the annexation with companion annexation and rezoning requests for this and adjoining properties. This property was the island which was not included in the original annexation requests for the companion items. The property owner was approached and agreed to annex in order for the group of properties to be more consistent with the City's annexation policy.

RECOMMENDATION:

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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of September 16, 2003

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Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Dawn Warrick, AICP, Zoning & Development Administrator *DW*
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
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1. At the time of development of the subject property the developer shall verify that Mt. Comfort Rd. between this site and Ruppel Rd. has a minimum paved width of 24'.
2. At the time of development of the subject property the developer shall verify that the intersection of Ruppel Rd. and Mt. Comfort Rd. has drive lanes with a minimum width of 22' each – this refers to the 'Y' of Ruppel Rd. where it intersects Mt. Comfort Rd.
3. At the time that it becomes available, the existing duplex on this property shall be connected to the city's sanitary sewer system.

PLANNING COMMISSION ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>August 25, 2003</u>			
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>September 16, 2003 (1st reading if recommended)</u>			

BACKGROUND:

Property description: The subject property is located between two tracts which are also petitioning for annexation at this time. There is one duplex currently located on this 1.08 acre site.

Proposal: No further development is proposed at this time.

Request: The request is to annex the subject property into the city of Fayetteville.

Recommendation: With the installation of a new fire station on Ruppel Road, a project which is in the design phase currently, and improvements to the street infrastructure in this area, staff is able to recommend that this property be annexed into the city. This action will result in the elimination of the existing septic system as soon as sanitary sewer is available through adjacent development. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant / Agricultural	RSF-4
South	Single Family Residential	RSF-4
East	Clabber Creek Phase II (SFR)	RSF-4
West	Vacant	County, No Designated Zoning

INFRASTRUCTURE:

Streets: Access and the only available street frontage is on Mt. Comfort Rd. along the south boundary of the site. Mt. Comfort Rd. in this location is classified a minor arterial on the master street plan. It is not built to that standard.

If development occurs on this site, Mt. Comfort Road would need to be improved to a minimum of 14' from centerline including pavement, curb and gutter, storm drains and sidewalk.

Water: The property currently has access to a 4" and 8" waterline along Mt. Comfort Road. The Clabber Creek Phase II subdivision to the east also has 8" lines proposed.

Sewer: Sewer is not currently available to this property.

The nearest sewer main is located to the south of Mt. Comfort Road. This area of town has been identified as an area of concern for sewer service. The Hamstring Creek lift station is currently being upgraded to handle existing flows and any development proposed at the time of the study earlier this year. This upgrade

should be completed this summer.

Fire: The subject property is located 3.4 miles from Fire Station #2. Normal driving time is 5 min. 9 seconds. Water supply will be necessary for this property to develop.

LAND USE PLAN: General Plan 2020 designates this site as **Residential**.

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES

BOUNDARIES

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: The requested annexation with companion requests for James Coger and Shiloh Community Church will not create an island or peninsula. The configuration of this proposal is consistent with the City's adopted policy for annexations.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent and contiguous to the City Limits.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area does not consist of defined subdivisions or neighborhoods, however development plans will include the extension of single family neighborhoods into this area with amenities such as a church. The duplex on the subject property will be incorporated into this new neighborhood as it develops.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines or desired property lines and not existing roads, streams or other natural corridors.

11.6.e Timing of services within annexation areas should be considered.

Finding: Annexation at this time would require extension of sewer lines. Current conditions result in a response time of just over 5 minutes for fire protection. The installation of a new fire station on Ruppel Road in the future, as planned would reduce response time. Any development in this area would necessitate

installation of hydrants to provide for fire protection. A turn lane and other improvements to Mt. Comfort Road would be likely should this property develop. Sewer service is not currently available in this location. Upgrades to the Hamestring Creek lift station were recently approved and should be completed this summer.

When it becomes available sewer will be extended to the duplex on this property. Ordinance requirements state that once a property is located within

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: N/A

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Fire station #7 will serve this area once it is completed. This improvement will reduce response time from over 5 minutes to approximately 3 minutes 43 seconds. Improvements to adjacent properties during the development of new subdivisions and other projects will allow this site to connect to the city's sanitary sewer system eliminating the need for the existing septic system.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: With the pending installation of a new fire station in the general area, service will be able to be provided at a more appropriate level of service with a shorter response time than what can be provided to the site currently. Sewer improvements to the area are needed for existing and already approved developments.

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 this area.

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned A-1, Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with the Residential classification of the area on the City's adopted Future Land Use Plan.

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 request.

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: Development of this property is not proposed at this time, there is an existing duplex located on the site.

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 is a part of a more comprehensive annexation, including three tracts of land for a total of 23.35 acres. The combined requests create a reasonable boundary avoiding the creation of islands or peninsulas.

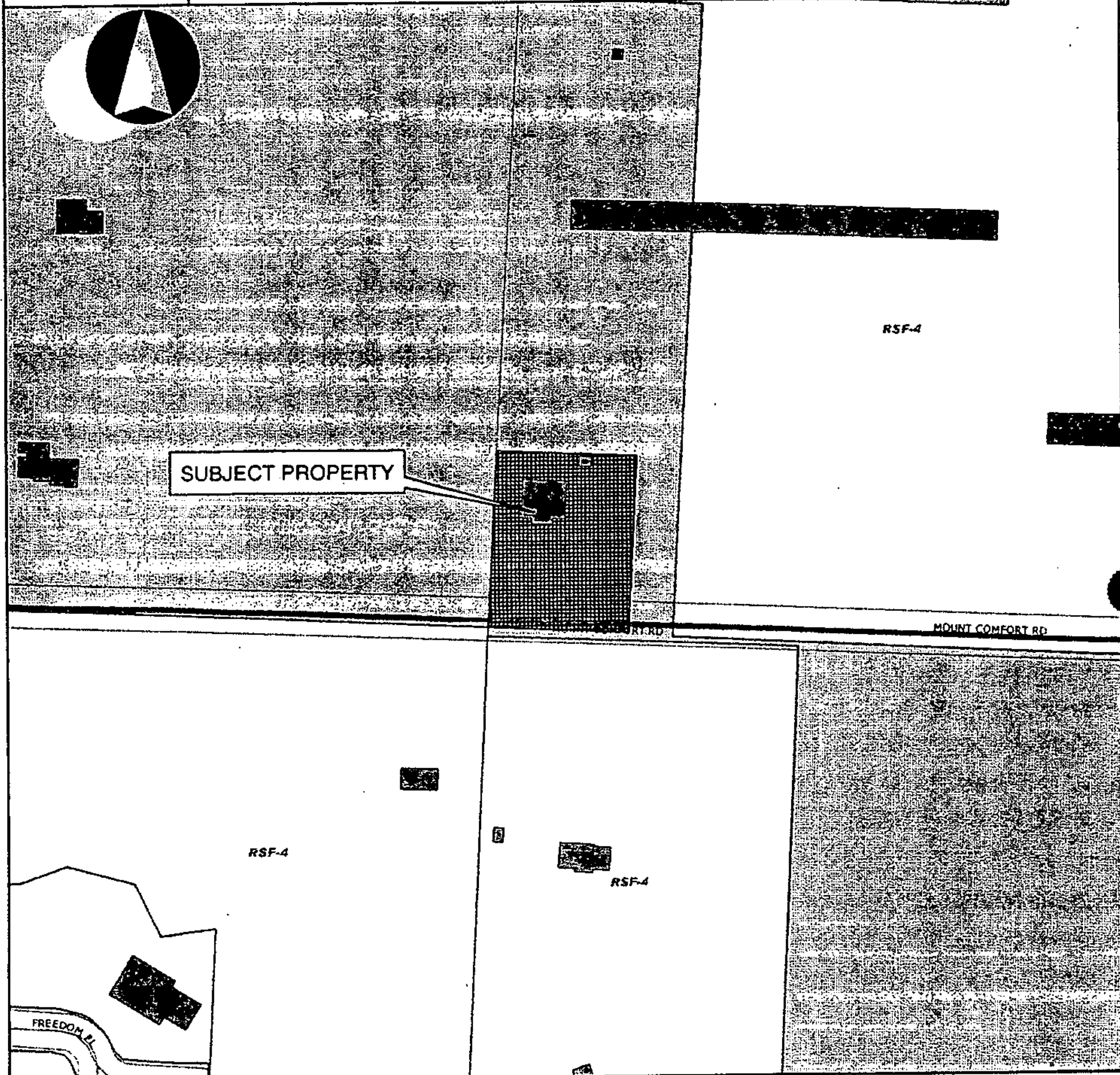
11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: N/A

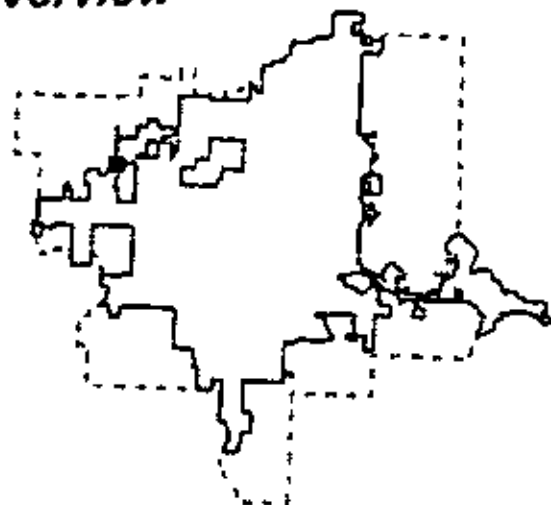
ANX03-04.00

Close Up View

STEPHENS



Overview



Legend

Subject Property

ANX03-04.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

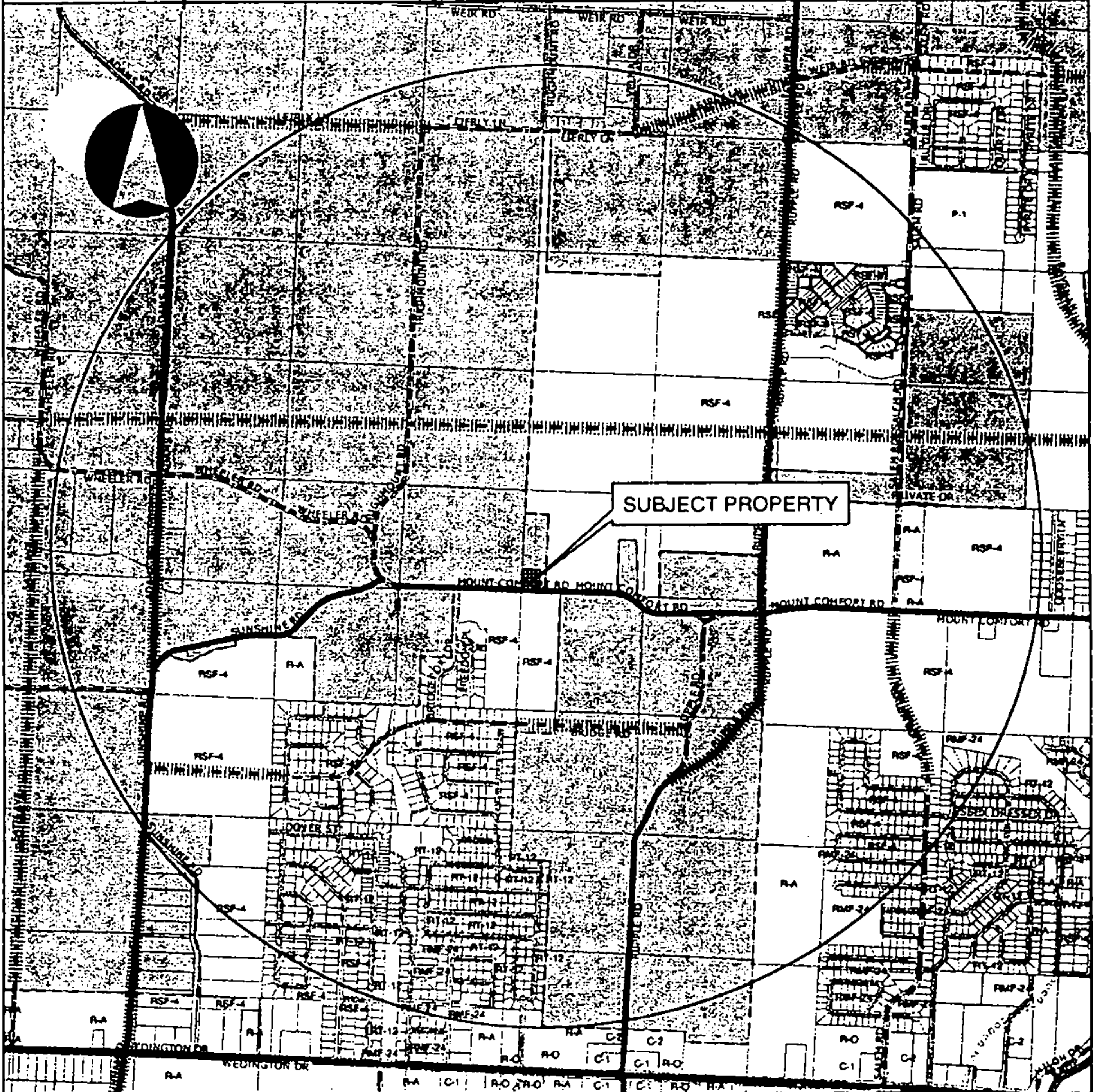
Historic Collector



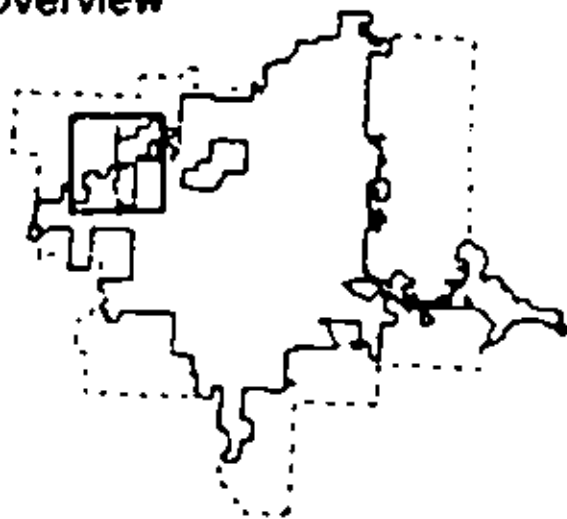
ANX03-04.00

One Mile View

STEPHENS



Overview



Legend

Subject Property

ANX03-04.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

September 16, 2003

FROM:

Dawn Warrick

Planning

CP&E

Name

Division

Department

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

RZN 03-17.00 was submitted by Geoff Bates of Keystone Consultants on behalf of Shiloh Community Church for property located north of Mt. Comfort Road and west of Ruppel Road. The subject property is proposed to be annexed into the City of Fayetteville and contains approximately 3.95 acres. The request is to rezone the property from R-A, Residential Agricultural to RSF-4, Residential Single-Family, four units per acre.

STAFF RECOMMENDATION:

Staff recommends approval.

Dawn Warrick
Division Head

8/26/03
Date

Received in Mayor's Office

8/27/03
Date *P.H.*

D.P. White
City Attorney

8/27/03
Date

E. Lamb
Department Director

8-29-03
Date

Cross Reference:

Steve Davis
Finance & Internal Services Dir.

8-22-03
Date

Previous Ord/Res#:

Orig. Contract Date:

Krug Sarned
Chief Administrative Officer

8-27-03
Date

Orig. Contract Number:

Dan Cady
Mayor

8/25/03
Date

New Item:

Yes

No



ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 03-17.00 AS SUBMITTED BY GEOFF BATES OF KEYSTONE CONSULTANTS ON BEHALF OF SHILOH COMMUNITY CHURCH FOR 3.95 ACRES LOCATED NORTH OF MT. COMFORT ROAD AND WEST OF RUPPLE ROAD.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RSF-4, Residential Single-Family, Four Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2003.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

Sondra Smith, City Clerk

EXHIBIT "A"
RZN 03-17.00

A PART OF THE FRACTIONAL N1/2 OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SW1/4 OF FRACTIONAL SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 WEST, SAID SOUTHEAST CORNER BEING ON THE PROPOSED WEST LINE OF CLABBER CREEK SUBDIVISION PHASE II; THENCE ALONG SAID WEST LINE S03°03'28"W 255.42 FEET TO AN IRON PIN FOUND AT THE NORTHWEST CORNER OF A TRACT OF LAND RECORDED AS DEED 2002101566 AND THE POINT OF BEGINNING; THENCE S87°14'06"E 249.89 FEET TO A FOUND IRON PIN; THENCE S03°01'57"W 872.38 FEET; THENCE N87°07'12"W 60.00 FEET; THENCE N03°01'57"E 244.64 FEET; THENCE N87°07'12"W 191.63 FEET TO A FOUND IRON PIN; THENCE N03°11'30"E 627.25 FEET TO THE POINT OF BEGINNING, CONTAINING 3.95 ACRES, MORE OR LESS, SUBJECT TO THE RIGHT-OF-WAY OF MOUNT COMFORT ROAD ALONG THE SOUTH SIDE THEREOF, AND ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of September 16, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Dawn Warrick, Zoning & Development Administrator, AICP *DW*
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: August 26, 2003

RZN 03-17.00: Rezoning (Shiloh Community Church, PP 322) was submitted by Keystone Consultants, Inc. on behalf of Joe Jones, Pastor for property located north of Mr. Comfort Road and west of Ruppel Road. The subject property is zoned R-A, Residential-Agricultural and contains approximately 3.95 acres. The request is to rezone property to P-1, Institutional.

BACKGROUND:

Property description: The subject property is vacant and the configuration of this request is a flag lot surrounding an existing duplex. The property is adjacent to the city limits along the eastern boundary where the Clabber Creek subdivision is under construction.

Proposal: The applicant proposes to develop a church on the subject property.

Request: The request is to rezone the property P-1, Institutional.

CURRENT STATUS:

This item is a part of a group of annexation and rezoning requests for adjoining properties. On August 26, 2003, the Planning Commission voted 8-0-0 to forward this request to the City Council with a recommendation for approval of a rezoning to the RSF-4 district. This is different than the requested P-1 district, however, with a conditional use, the applicant may still process a request for development of a church on the subject property. Planning Commissioners stated that the RSF-4 district seemed more appropriate because the church could still be permitted, however other uses in the P-1 district which may not be as desirable to the neighborhood would have to be reviewed through a public hearing process should the church not develop or should the property redevelop in the future.

RECOMMENDATION:

The Planning Commission and staff recommend approval of this rezoning based on the findings included as a part of the attached staff report.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of August 25, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn Warrick, Zoning & Development Administrator, AICP
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: August 21, 2003

RZN 03-17.00: Rezoning (Shiloh Community Church, PP 322) was submitted by Keystone Consultants, Inc. on behalf of Joe Jones, Pastor for property located north of Mr. Comfort Road and west of Ruppel Road. The subject property is zoned R-A, Residential-Agricultural and contains approximately 3.95 acres. The request is to rezone property to P-1, Institutional.

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings included as part of this report.

PLANNING COMMISSION ACTION:	Required <u>YES</u> ☒ Approved (RSF-4)	☐ Denied
Date: <u>August 25, 2003</u>		
CITY COUNCIL ACTION:	Required <u>YES</u> ☐ Approved	☐ Denied
Date: <u>September 16, 2003 (1st reading if recommended)</u>		

BACKGROUND:

Property description: The subject property is vacant and the configuration of this request is a flag lot surrounding an existing duplex. The property is adjacent to the city limits along the eastern boundary where the Clabber Creek subdivision is under construction.

Proposal: The applicant proposes to develop a church on the subject property.

Request: The request is to rezone the property P-1, Institutional.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant / Agricultural	R-1, Low Density Residential
South	Single Family Residential	R-1, Low Density Residential
East	Clabber Creek Phase II (SFR)	R-1, Low Density Residential
West	Vacant	County, No Designated Zoning

INFRASTRUCTURE:

Streets: Access and the only available street frontage is on Mt. Comfort Rd. along the south boundary of the site. Mt. Comfort Rd. in this location is classified a minor arterial on the master street plan. It is not built to that standard.

If development occurs on this site, Mt. Comfort Road would need to be improved to a minimum of 14' from centerline including pavement, curb and gutter, storm drains and sidewalk.

Water: The property currently has access to a 4" and 8" waterline along Mt. Comfort Road. The Clabber Creek Phase II subdivision to the east also has 8" lines proposed.

Sewer: Sewer is not currently available to this property.

The nearest sewer main is located to the south of Mt. Comfort Road. This area of town has been identified as an area of concern for sewer service. The Hamestring Creek lift station is currently being upgraded to handle existing flows and any development proposed at the time of the study earlier this year. This upgrade should be completed this summer.

Fire: The subject property is located 3.4 miles from Fire Station #2. Normal driving time is 5 min. 9 seconds. Water supply will be necessary for this property to develop.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to P-1, Institutional is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning for a church is a use that is compatible with residential uses. The general plan designates this area for residential uses. The inclusion of public or institutional uses such as schools and churches into residential areas is typical and encouraged. The ability of neighborhood residents to have ready access to these community facilities is beneficial and expected.

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 needed in order for the applicant to develop a church without additional conditional use approval in the current R-A zoning district.

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

Finding: The proposed zoning would create additional traffic for Mt. Comfort which is currently not built to the city's master street plan standard. With improvements to Mt. Comfort Rd. and the Ruppel Rd. / Mt. Comfort Rd. intersection required for annexation of this property, some relief would be provided. At the time of development, additional improvements will be considered based on the project that is presented and its impact on the city's infrastructure.

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 not alter population density.

Engineering - The property currently has access to a 4" water line and an 8" along Mt. Comfort Road. This line will be adequate to serve the proposed density of the site. The site does not currently have access to sanitary sewer service. If annexed, sanitary sewer will be required to be extended at the time of development. There is a 15" sewer main located across the property to the south of Mt. Comfort Road. There will also be 8" sewer mains installed on the adjacent property for the already approved Clabber Creek 2 Subdivision which will begin construction soon. All of the lines flow to the Hamstring Creek Lift Station. The Hamstring Creek lift station is currently being upgraded to handle the existing flows and any development proposed at the time of the study earlier this year. This upgrade should be completed this summer. If development occurs on this site, street improvements would be considered for the frontage along Mt. Comfort Road.

Fire - There is an existing 8" water line serving the Bridgeport Subdivision. Response time from the existing fire station (#2 at Garland & Eagle Sts.) is 5 minutes 30 seconds (3.6 miles), the new fire station on Ruppel Rd. will serve this site once it is constructed. Response time from the new station (#7) will be 3 minutes 43 seconds (1.7 miles).

Police - Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing city subdivision to the south and the nearby middle school. No additional equipment or personnel is needed to provide service to this area.

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
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(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.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.22 District P-1, Institutional

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	20 ft.
Side, when contiguous to a residential district	25 ft.
Rear	25 ft.
Rear, from center line of public alley	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 60 % of the total area of such lot.

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

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.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

RECEIVED

JUN 03 2003

PLANNING DIV.

From: Fire Prevention Bureau

To: Planning Division

Date 06-03-03

REZONING ☒ ANNEXATION ☒

REZONING # 03-17.00 OWNER SHILOH COMMUNITY Church
ANNEXATION # 03-02.00 OWNER SHILOH COMM. Church.

LOCATION OF
PROPERTY North of Mt. Comfort Rd + West of Ruppel Rd.

NEAREST FIRE STATION AND
LOCATION Fire Station # 2 - GARLAND ST.

RESPONSE TIME FROM FIRE STATION # 2 TO
LOCATION OF
PROPERTY 5 MINUTES 9 SECONDS.
TRAVEL MILES FROM FIRE STATION # 2 TO LOCATION OF
PROPERTY 3.4 miles.

COMMENTS ON FIRE DEPT.

ACCESS/ROADWAYS Access would be req. for
Fire Apparatus

EXISTING FIRE HYDRANTS? IF SO

LOCATION There is an 8" water line that feeds
Bridgport Sub.

WATER SUPPLY WITH HYDRANTS

NEEDED? yes - 8" min

ADDITIONAL

COMMENTS *STA 7- 3.43 sec and 1.7 miles *

[Signature]

MAIN OFFICE

115 SOUTH CHURCH ST.

(501) 444-3448 / (501) 444-3449

FAX (501) 575-8272

SUBSTATION

N.W.A. MALL

(501) 575-8271

FAX (501) 575-8272



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

June 3, 2003

Dawn Warrick AICP
Zoning and Development Director
City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed annexation ANX 03-02.00 Shiloh Community Church and ANX 02-01.10 James Coger submitted by Keystone Consultants, Inc. would allow public services to be provided efficiently and at the same level of service of areas already in the city limits.

It is the opinion of the Fayetteville Police Department that we must return a determination in support of the annexation based on the criteria placed before us. In response to the question, "Would the annexed area receive the same level of service of areas already in the Fayetteville city limits?" We find the proposed annexed area is immediately adjacent to the Fayetteville city boundary and in fact there is a residential subdivision within the city limits one quarter mile west of this proposed site. There is a Middle School immediately adjacent to this site as well. We should be able to provide the same level of service to this proposed site as we would the school and the subdivision.

The factors considered to arrive at our determination included our ability to provide public services with existing equipment, training of personnel, number of units and response time. There should be no more additional requirements for equipment, training of personnel or patrol units to handle calls for service at this proposed site. The response time should be greater for this area than the school or the subdivision west of this location.

We hope you will find this information useful in your assessment.

Sincerely,


Captain Frank Johnson
Fayetteville Police Department



May 19, 2003

Mr. Tim Conklin
Planning
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Shiloh Community Church

Dear Mr. Conklin,

This letter is to request that the property owned by Shiloh Community Church that was recently annexed into the City of Fayetteville, be rezoned from A-1 to P-1. The Church is the current owner and does not plan to sell the property. The church is planning on developing the property by adding a sanctuary and recreation center and that is reason for requesting a zoning change. The rezoning will be similar to several R-1 zonings adjacent to the property and in the surrounding area and should fit well within the community. Also, both water and sewer are available to the site.

If you have any questions or require additional information, please feel free to call.

Sincerely

Keystone Consultants, Inc

Geoffrey H. Bates, P.E.
President / Partner

RECEIVED

MAY 19 2003

PLANNING DIV.



May 19, 2003

Mr. Tim Conklin
Planning
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Shiloh Community Church

Dear Mr. Conklin,

This letter is in response to item 6 on the rezoning application.

1. The proposed P-1 zoning is consistent with the adjacent zonings in the area.
2. The zoning is needed in order to build a church on the site.
3. The development may increase traffic slightly on Sunday mornings.
4. The proposed will not affect the existing schools in the area or place an undesirable increase on the water and sewer facilities.
5. The property is currently zoned A-1. Therefore, the uses are very limited and the church could not build the much needed sanctuary.

If you have any questions or require additional information, please feel free to call.

Sincerely

Keystone Consultants, Inc


Geoffrey H. Bates, P.E.
President / Partner

RECEIVED

MAY 19 2003

PLANNING DIV.

RZN03-17.00

Close Up View

SHILOH COMMUNITY CHURCH



SUBJECT PROPERTY

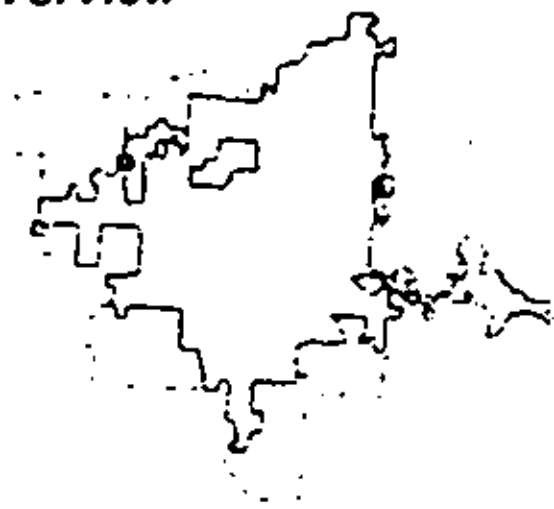
R-1

HOONT COMFORT RD

HOONT COMFORT RD

R-1

Overview



Legend

Subject Property

RZN03-17.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

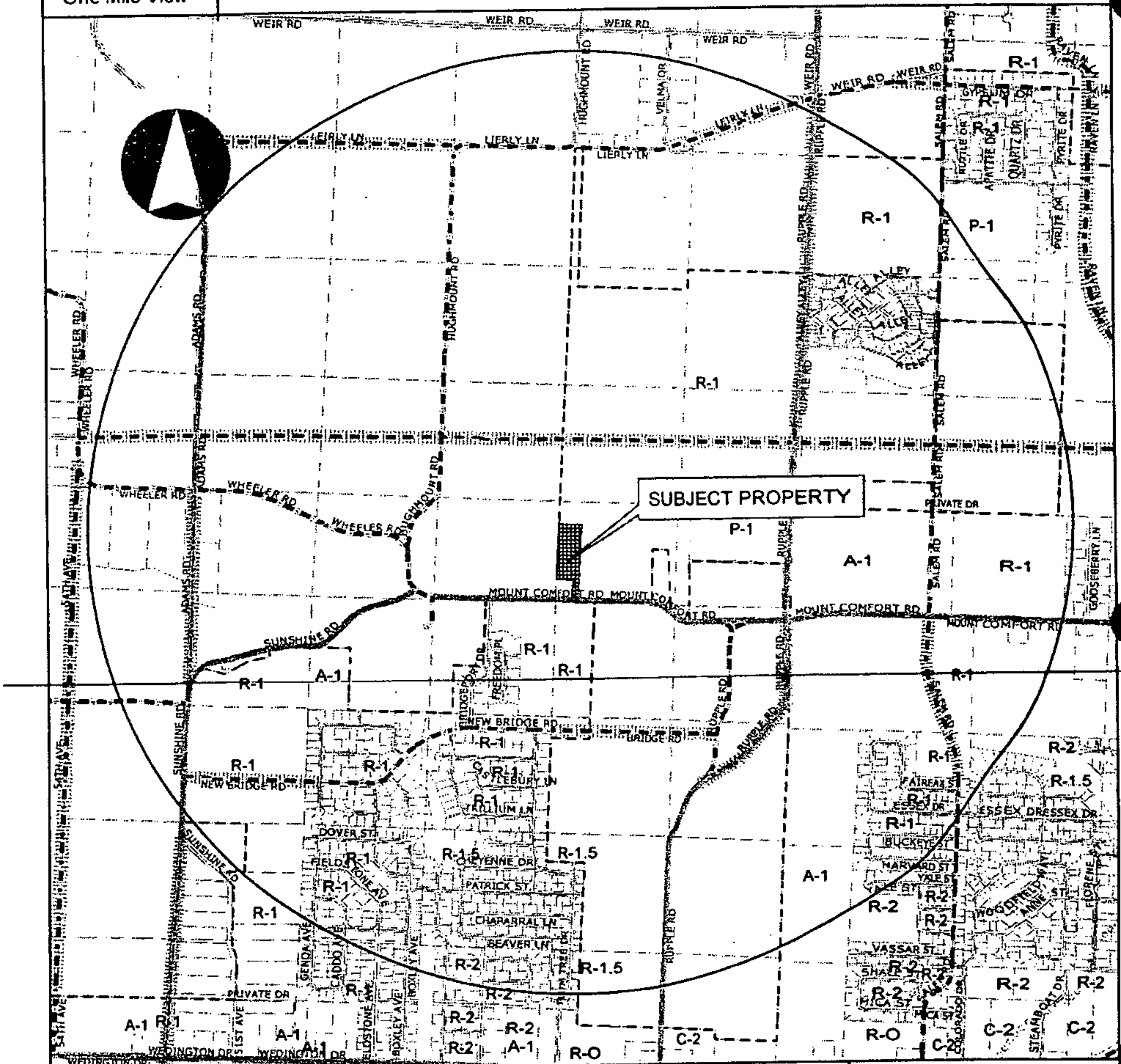
Historic Collector

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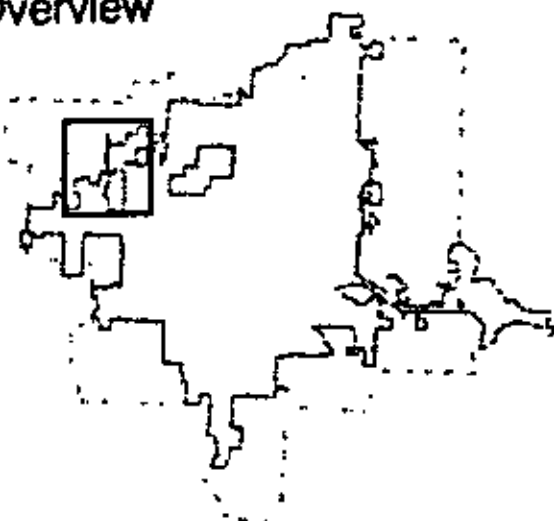
RZN03-17.00

One Mile View

SHILOH COMMUNITY CHURCH



Overview



Legend

Subject Property

RZN03-17.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

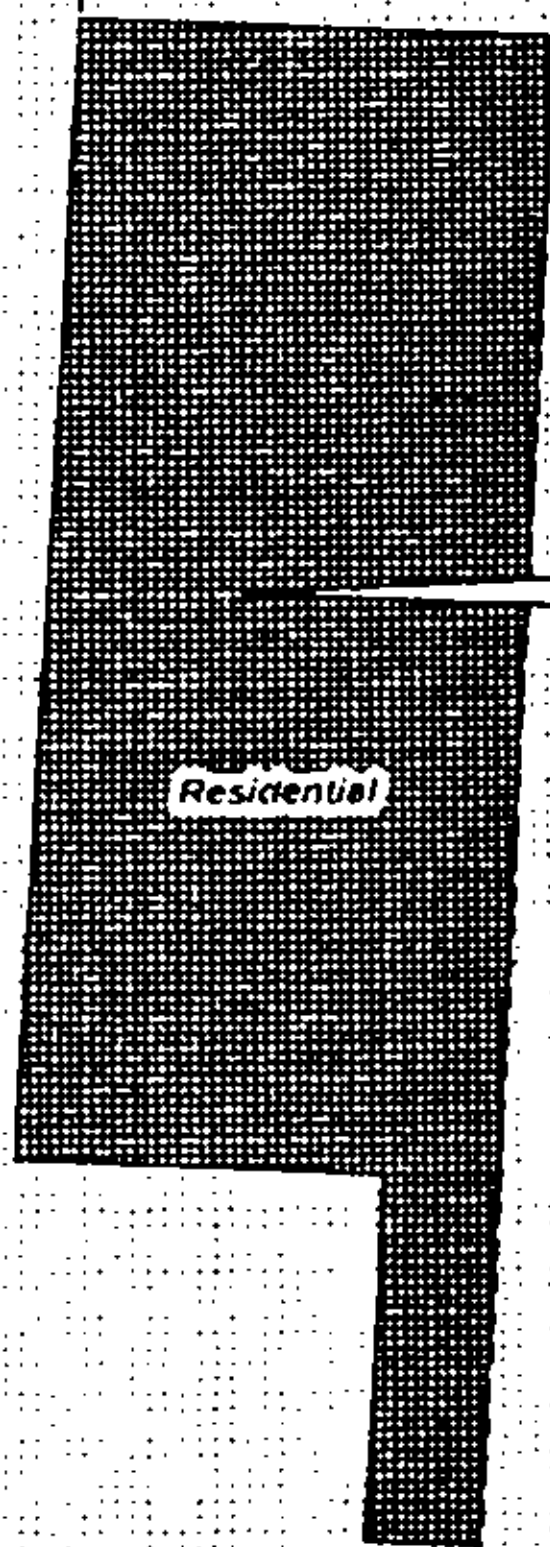
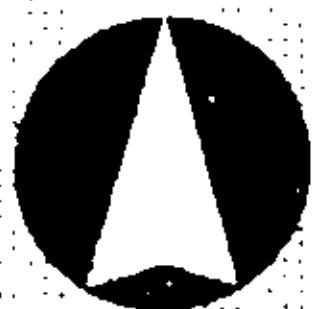
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN03-17.00

Future Landuse

SHILOH COMMUNITY CHURCH



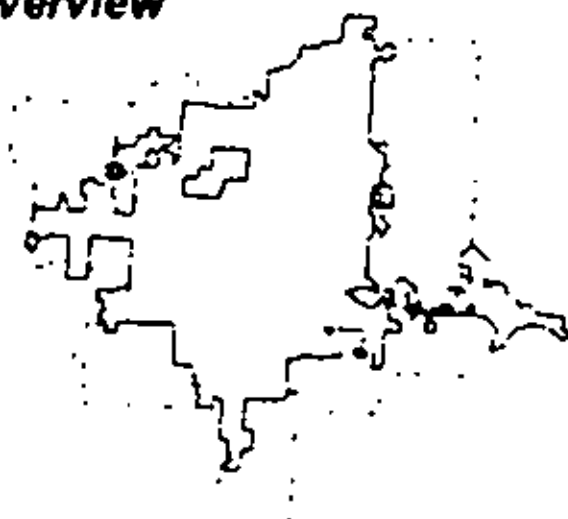
SUBJECT PROPERTY

MOUNT COMFORT RD.

Future Landuse

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University

Overview



Legend

RZN03-17.00

Streets
 Existing
 Planned

Boundary

Planning Area
 Overlay District
 City Limits

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

September 16, 2003

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

RZN 03-18.00 was submitted by Geoff Bates of Keystone Consultants on behalf of James Coger for property located north of Mt. Comfort Road and west of Ruppel Road. The subject property is proposed to be annexed into the City of Fayetteville and contains approximately 18.38 acres. The request is to rezone from R-A, Residential Agricultural to RSF-4, Residential Single-Family, four units per acre.

STAFF RECOMMENDATION:

Staff recommends approval.

Dawn Warrick
Division Head8/26/03
Date

Received in Mayor's Office

8/27/03
DateD. J. Whit
City Attorney8/27/03
Date[Signature]
Department Director8-27-03
Date

Cross Reference:

[Signature]
Finance & Internal Services Dir.8-27-03
Date

Previous Ord/Res#:

[Signature]
Chief Administrative Officer8-27-03
Date

Orig. Contract Date:

Orig. Contract Number:

[Signature]
Mayor8/25/03
Date

New Item:

Yes

No



ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 03-18.00 AS SUBMITTED BY GEOFF BATES OF KEYSTONE CONSULTANTS ON BEHALF OF JAMES COGER FOR 18.38 ACRES LOCATED NORTH OF MT. COMFORT ROAD AND WEST OF RUPPLE ROAD.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RSF-4, Residential Single-Family, Four Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 03-18.00

A PART OF THE FRACTIONAL NW1/4 OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, AND PART OF THE SOUTH ONE HALF OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SW1/4 OF SAID SECTION 31, THENCE S03°03'28"W 255.42 FEET TO AN IRON PIN FOUND AT THE NORTHWEST CORNER OF A TRACT OF LAND RECORDED AS DEED 2002101566; THENCE S03°11'30"W 831.42 FEET TO AN IRON PIN FOUND ON THE NORTH RIGHT-OF-WAY LINE OF MOUNT COMFORT ROAD; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE N87°51'54"W 514.65 FEET TO A FOUND IRON PIN; THENCE DEPARTING SAID NORTH RIGHT-OF-WAY LINE N03°06'36"E 1458.56 FEET TO A FOUND IRON PIN; THENCE N71°57'36"E 552.65 FEET; THENCE S03°05'59"W 562.37 FEET TO THE POINT OF BEGINNING, CONTAINING 18.38 ACRES, MORE OR LESS. SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of September 16, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Dawn Warrick, Zoning & Development Administrator, AICP
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: August 26, 2003

RZN 03-18.00: Rezoning (James Cogger, PP 321) was submitted by Keystone Consultants, Inc. on behalf of James Cogger for property located north of Mt. Comfort Road and west of Ruppel Road. The property is currently zoned R-A, Residential Agricultural and contains approximately 18.38 acres. The request is to rezone the subject property to RSF-4, Residential single family, 4 units/acre.

BACKGROUND:

Property description: The subject property is vacant. The property is adjacent to the city limits along the eastern boundary where the Clabber Creek subdivision is under construction. The proposed zoning would allow for development of a single family subdivision containing a maximum of 73 lots.

Proposal: The applicant proposes to develop a single family subdivision on the subject property.

Request: The request is to rezone the property RSF-4.

CURRENT STATUS:

This item is a part of a group of annexation and rezoning requests for adjoining properties. On August 26, 2003, the Planning Commission voted 8-0-0 to forward this request to the City Council with a recommendation for approval of a rezoning to the RSF-4 district. There was no public comment on this item during the public hearing before the Planning Commission.

RECOMMENDATION:

The Planning Commission and staff recommend approval of this rezoning based on the findings included as a part of the attached staff report.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of August 25, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn Warrick, Zoning & Development Administrator, AICP
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: August 21, 2003

RZN 03-18.00: Rezoning (James Cogger, PP 321) was submitted by Keystone Consultants, Inc. on behalf of James Cogger for property located north of Mt. Comfort Road and west of Ruppel Road. The property is currently zoned R-A, Residential Agricultural and contains approximately 18.38 acres. The request is to rezone the subject property to RSF-4, Residential single family, 4 units/acre.

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings included as part of this report.

PLANNING COMMISSION ACTION:	Required <u>YES</u>	☒ Approved	☐ Denied
Date: <u>August 25, 2003</u>			
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>September 16, 2003 (1st reading if recommended)</u>			

BACKGROUND:

Property description: The subject property is vacant. The property is adjacent to the city limits along the eastern boundary where the Clabber Creek subdivision is under construction. The proposed zoning would allow for development of a single family subdivision containing a maximum of 73 lots.

Proposal: The applicant proposes to develop a single family subdivision on the subject property.

Request: The request is to rezone the property RSF-4.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant / Agricultural	R-1, Low Density Residential
South	Single Family Residential	R-1, Low Density Residential
East	Clabber Creek Phase II (SFR)	R-1, Low Density Residential
West	Vacant	County, No Designated Zoning

INFRASTRUCTURE:

Streets: Access and the only available street frontage is on Mt. Comfort Rd. along the south boundary of the site. Mt. Comfort Rd. in this location is classified a minor arterial on the master street plan. It is not built to that standard.

If development occurs on this site, Mt. Comfort Road would need to be improved to a minimum of 14' from centerline including pavement, curb and gutter, storm drains and sidewalk.

Water: The property currently has access to a 4" and 8" waterline along Mt. Comfort Road. The Clabber Creek Phase II subdivision to the east also has 8" lines proposed.

Sewer: Sewer is not currently available to this property.

The nearest sewer main is located to the south of Mt. Comfort Road. This area of town has been identified as an area of concern for sewer service. The Hamestring Creek lift station is currently being upgraded to handle existing flows and any development proposed at the time of the study earlier this year. This upgrade should be completed this summer.

Fire: The subject property is located 3.4 miles from Fire Station #2. Normal driving time is 5 min. 9 seconds. Water supply will be necessary for this property to develop.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to RSF-4 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning for a single family residential subdivision is compatible with proposed adjacent and nearby residential uses. The general plan designates this area for residential uses. Access and provision of adequate services must be considered as this site is at the outskirts of the city and located on a street which needs improvement.

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

Finding: The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. The rezoning is needed for the development of a single family subdivision as proposed by the applicant. A subdivision in the R-A district could be developed, however the lot size requirement would not allow for efficient use of existing infrastructure and provide compatibility with adjoining developments.

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

Finding: The proposed zoning will provide additional traffic on Mt. Comfort Rd. and other streets in the area. Off-site improvements would likely be necessary in order to provide safe access to this site.

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 tract under an R-A, Residential Agricultural designation would allow for a maximum of 36 dwelling units. With the proposed RSF-4 designation, 73 dwelling units would be permitted. This increases the possible number of residential units by 100%.

Engineering - The property currently has access to a 4" water line and an 8" along Mt. Comfort Road. This line will be adequate to serve the proposed density of the site. The site does not currently have access to sanitary sewer service. If annexed, sanitary sewer will be required to be extended at the time of development. There is a 15" sewer main located across the property to the south of Mt. Comfort Road. There will also be 8" sewer mains installed on the adjacent property for the already approved Clabber Creek 2 Subdivision which will begin construction soon. All of the lines flow to the Hamstring Creek Lift Station. The Hamstring Creek lift station is currently being upgraded to handle the existing flows and any development proposed at the time of the study earlier this year. This upgrade should be completed this summer. If development occurs on this site, street

improvements would be considered for the frontage along Mt. Comfort Road.

Fire - There is an existing 8" water line serving the Bridgeport Subdivision. Response time from the existing fire station (#2 at Garland & Eagle Sts.) is 5 minutes 30 seconds (3.6 miles), the new fire station on Ruppel Rd. will serve this site once it is constructed. Response time from the new station (#7) will be 3 minutes 43 seconds (1.7 miles).

Police - Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing city subdivision to the south and the nearby middle school. No additional equipment or personnel is needed to provide service to this area.

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

161.07 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.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 7 RZN 03-18.00 (James Cogger)
Page 10 of 16

RECEIVED

JUN 03 2003

PLANNING DIV.

From: Fire Prevention Bureau

To: Planning Division

Date 6/3/03

REZONING ☒ ANNEXATION ☒

REZONING # 03-18.00 OWNER JAMES COGER
ANNEXATION # 03-03.00 OWNER JAMES COGER

LOCATION OF
PROPERTY NORTH of Mt Comfort Rd + west of
Ripple Rd.

NEAREST FIRE STATION AND
LOCATION FIRE STATION # 2 GARLAND ST.

RESPONSE TIME FROM FIRE STATION # 2 TO
LOCATION OF
PROPERTY 5 MINUTES 30 SECONDS.

TRAVEL MILES FROM FIRE STATION # 2 TO LOCATION OF
PROPERTY 3.6 mls.

COMMENTS ON FIRE DEPT.

ACCESS/ROADWAYS Access would be required for
Fire Apparatus

EXISTING FIRE HYDRANTS? IF SO

LOCATION 8" Line That Feeds Bridgeport Sub.

WATER SUPPLY WITH HYDRANTS
NEEDED? Yes - 8" m

ADDITIONAL
COMMENTS SIA 7- 3.43 sec. and 1.7 miles +

Dj

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272



FAYETTEVILLE

C. 7 RZN 03-18.00 (James Coger)
Page 11 of 16

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

June 3, 2003

Dawn Warrick AICP
Zoning and Development Director
City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed annexation ANX 03-02.00 Shiloh Community Church and ANX 02-01.10 James Coger submitted by Keystone Consultants, Inc. would allow public services to be provided efficiently and at the same level of service of areas already in the city limits.

It is the opinion of the Fayetteville Police Department that we must return a determination in support of the annexation based on the criteria placed before us. In response to the question, "Would the annexed area receive the same level of service of areas already in the Fayetteville city limits?" We find the proposed annexed area is immediately adjacent to the Fayetteville city boundary and in fact there is a residential subdivision within the city limits one quarter mile west of this proposed site. There is a Middle School immediately adjacent to this site as well. We should be able to provide the same level of service to this proposed site as we would the school and the subdivision.

The factors considered to arrive at our determination included our ability to provide public services with existing equipment, training of personnel, number of units and response time. There should be no more additional requirements for equipment, training of personnel or patrol units to handle calls for service at this proposed site. The response time should be greater for this area than the school or the subdivision west of this location.

We hope you will find this information useful in your assessment.

Sincerely,


Captain Frank Johnson
Fayetteville Police Department



May 19, 2003

Mr. Tim Conklin
Planning
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Cogger Subdivision

Dear Mr. Conklin,

This letter is to request that the property owned by James Cogger that was recently annexed into the City of Fayetteville, be rezoned from A-1 to R-1. He is the current owner and does not plan to sell the property at this time. Mr. Cogger is planning on developing the property into a residential subdivision and that is reason for requesting a zoning change. The rezoning will be similar to several R-1 zoning adjacent to the property and in the surrounding area. Also, both water and sewer are available to the site.

If you have any questions or require additional information, please feel free to call.

Sincerely

Keystone Consultants, Inc

Geoffrey H. Bates, P.E.
President / Partner

RECEIVED

MAY 19 2003

PLANNING DIV.



May 19, 2003

Mr. Tim Conklin
Planning
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Cogger Subdivision

Dear Mr. Conklin,

This letter is in response to item 6 on the rezoning application.

1. The proposed R-1 zoning is consistent with the adjacent zonings in the area.
2. The zoning is needed in order to develop a single family residential subdivision.
3. The development is on approximately 18 acres and larger lot sizes are proposed, therefore the traffic increase should be minor.
4. The proposed subdivision should not overload the existing schools in the area or place an undesirable increase on the water and sewer facilities due to the small size.
5. The property is currently zoned A-1. Therefore, the uses are very limited and it would be impractical for the developer to leave the property zoned A-1.

If you have any questions or require additional information, please feel free to call.

Sincerely

Keystone Consultants, Inc

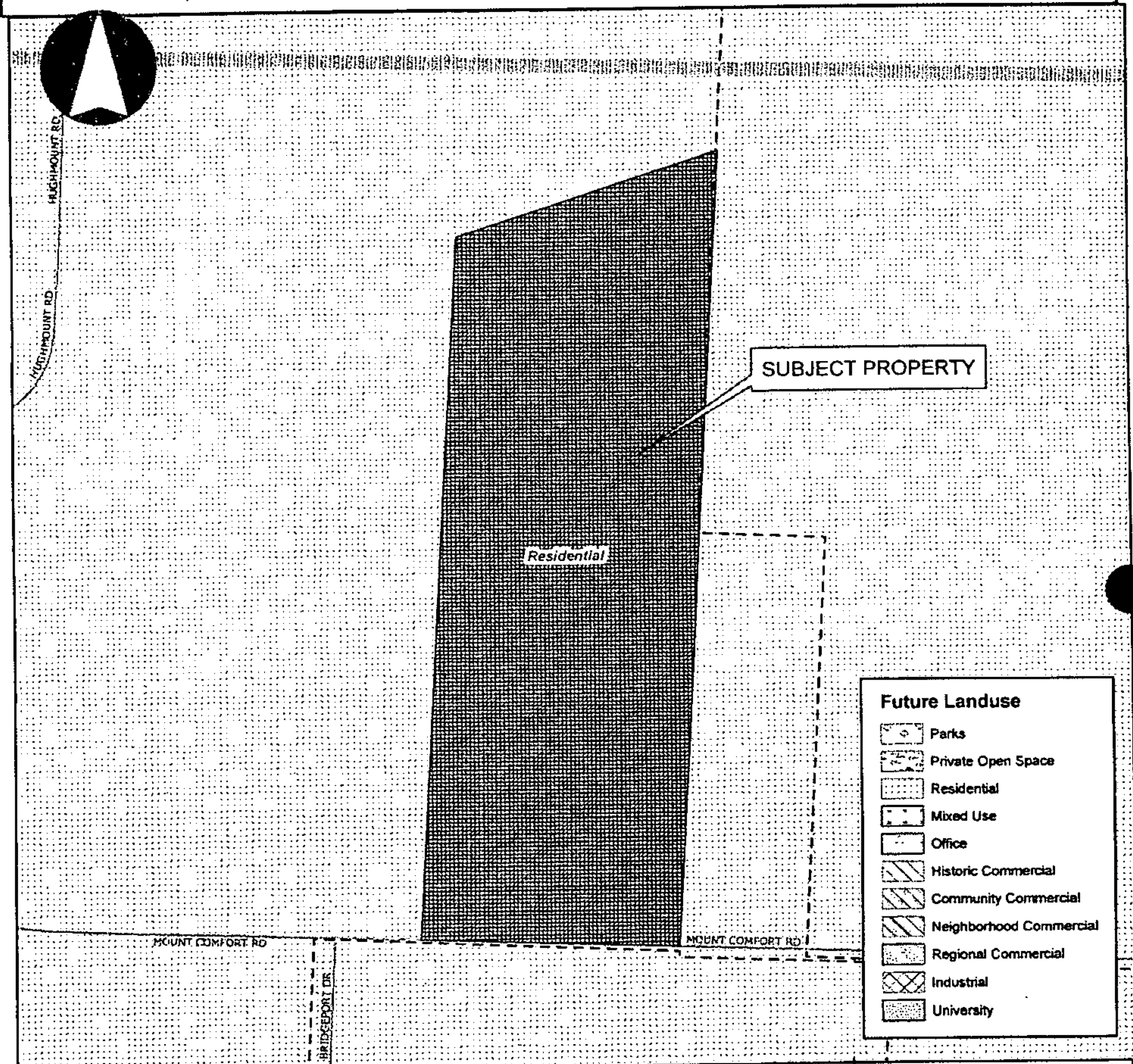
Geoffrey H. Bates, P.E.
President / Partner

RECEIVED
MAY 19 2003
PLANNING DIV.

RZN03-18.00

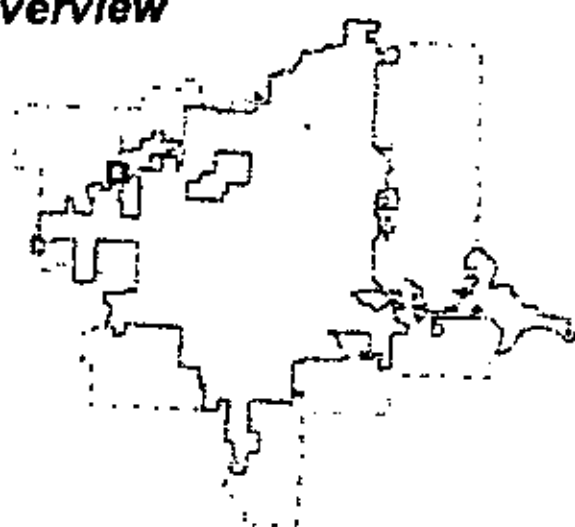
Future Landuse

JAMES COGER



Future Landuse	
	Parks
	Private Open Space
	Residential
	Mixed Use
	Office
	Historic Commercial
	Community Commercial
	Neighborhood Commercial
	Regional Commercial
	Industrial
	University

Overview



Legend

Subject Property

RZN03-18.00

Streets

Existing

Planned

Boundary

Planning Area

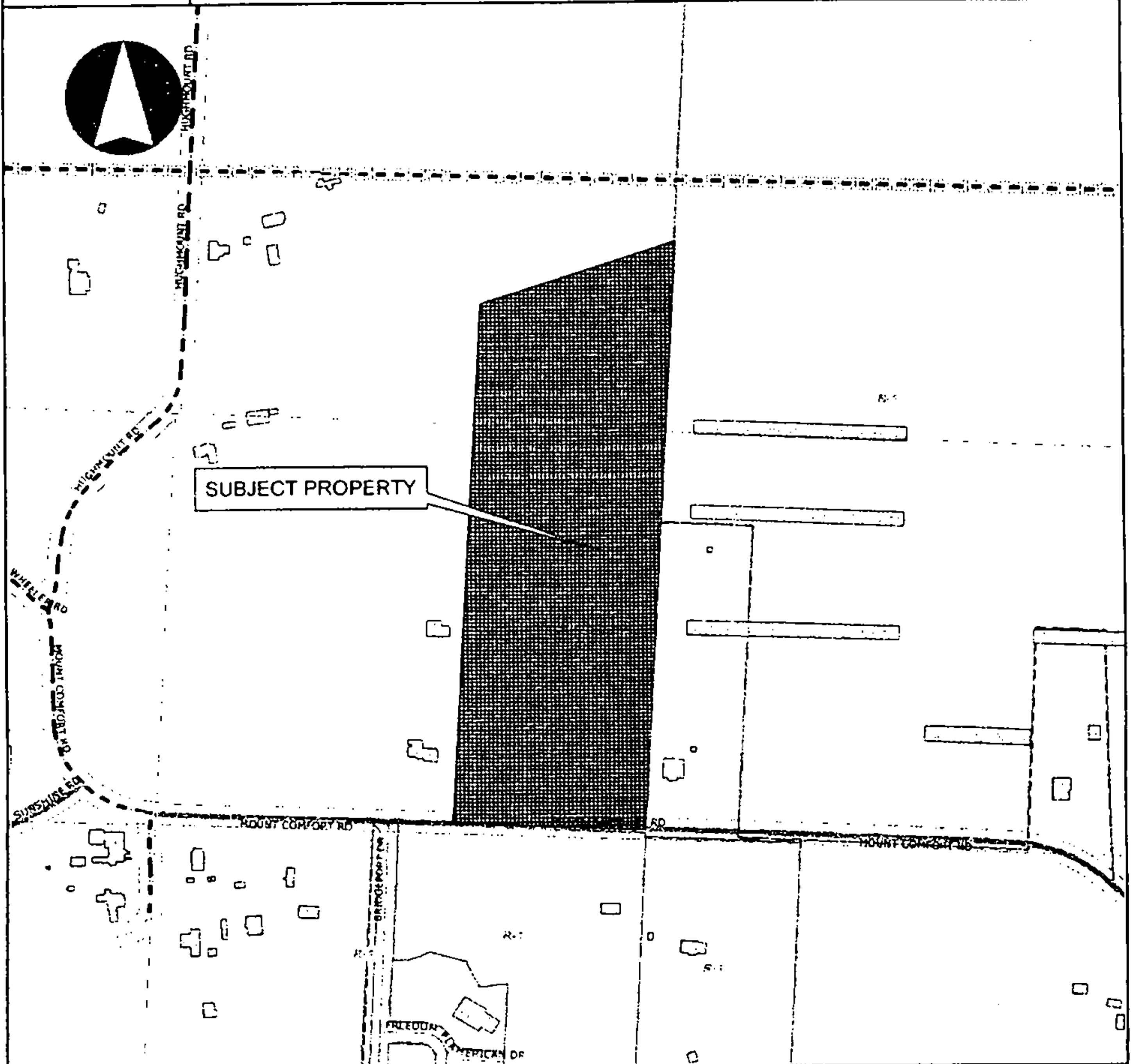
Overlay District

City Limits

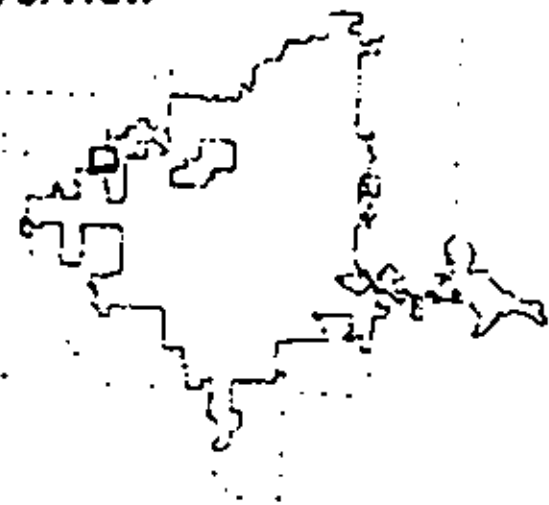
RZN03-18.00

Close Up View

JAMES COGER



Overview



Legend

Subject Property

RZN03-18.00

Streets

Existing
Planned

Boundary

Planning Area
Overlay District
City Limits
Outside City

Master Street Plan

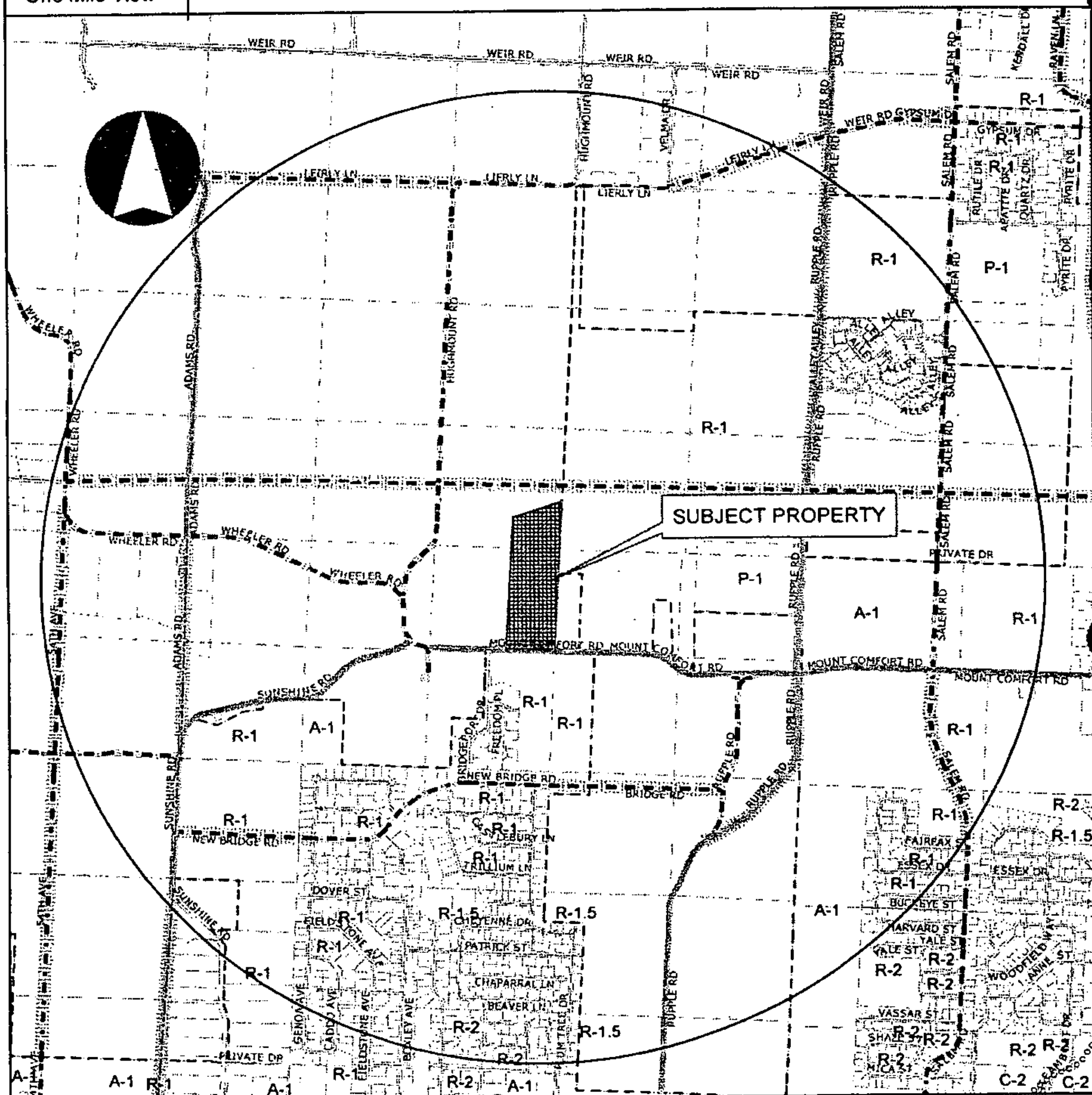
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 150 300 600 900 1,200 Feet

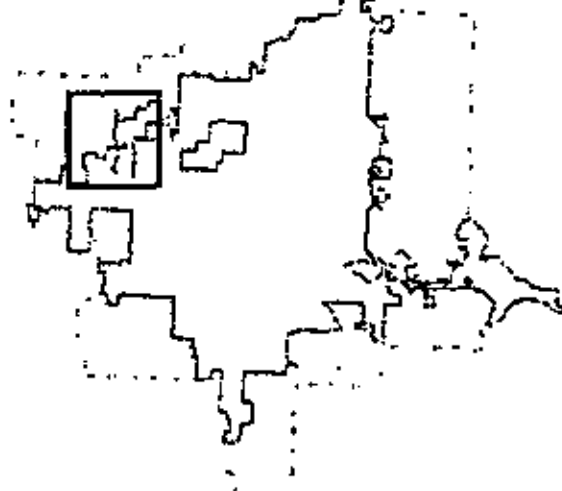
RZN03-18.00

One Mile View

JAMES COGER



Overview



Legend

Subject Property

RZN03-18.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

September 16, 2003

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

RZN 03-27.00 was submitted by Geoffrey Bates, P.E. of Keystone Consultants, Inc. on behalf of Carol Stephens for property located at 4270 Mt. Comfort Road. The property is proposed to be annexed into the city and contains approximately 1.08 acres. The request is to be rezoned from R-A, Residential Agricultural to RSF-4, Residential Single-Family, four units per acre.

STAFF RECOMMENDATION:

Staff recommends approval.

Dawn Warrick
Division Head8/26/03
Date

Received in Mayor's Office

8/27/03
Date *p.H.**D. J. White*
City Attorney8/27/03
Date*[Signature]*
Department Director8-29-03
Date

Cross Reference:

[Signature]
Finance & Internal Services Dir.8-27-03
Date

Previous Ord/Res#:

[Signature]
Chief Administrative Officer8-27-03
Date

Orig. Contract Date:

Orig. Contract Number:

[Signature]
Mayor8/27/03
Date

New Item:

Yes

No



ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 03-27.00 AS SUBMITTED BY GEOFF BATES OF KEYSTONE CONSULTANTS ON BEHALF OF CAROL STEPHENS FOR PROPERTY CONTAINING 1.08 ACRES LOCATED NORTH OF MT. COMFORT ROAD AND WEST OF RUPPLE ROAD.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RSF-4, Residential Single-Family, Four Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2003.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

Sondra Smith, City Clerk

EXHIBIT "A"
RZN 03-27.00

A PART OF THE FRACTIONAL N $\frac{1}{2}$ OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SW $\frac{1}{4}$ OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 WEST, THENCE S03°03'28"W 882.42 FEET TO A FOUND IRON PIN, AND THE POINT OF BEGINNING; THENCE S87°07'12"E 191.63 FEET, THENCE S03°01'57"W 244.64 FEET; THENCE N87°07'12"W 192.31 FEET; THENCE N03°11'30"E 244.64 FEET, TO THE POINT OF BEGINNING, CONTAINING 46,964 SQUARE FEET OR 1.08 ACRES, MORE OR LESS, AND BEING SUBJECT TO THE RIGHT OF WAY OF MT. COMFORT ROAD ALONG THE SOUTH SIDE THEREOF AND ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of September 16, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Dawn Warrick, Zoning & Development Administrator, AICP
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: August 26, 2003

RZN 03-27.00: Rezoning (Stephens, pp 321) was submitted by Geoffrey Bates, P.E. of Keystone Consultants, Inc. on behalf of Carol Stephens for property located at 4270 Mt. Comfort Road. The property is zoned R-A, Residential Agricultural and contains approximately 1.08 acres. The request is to be rezoned RSF-4, Residential Single-family, 4 units per acre.

BACKGROUND:

Property description: The subject property is located on the north side of Mt. Comfort Rd. west of Ruppel Rd. There is one duplex on the site. Surrounding properties are undeveloped. Owners of property to the north and west are also seeking annexation and rezoning at this time. Future development plans include a phase of Clabber Creek subdivision to the east, a church to the north and a single family subdivision to the west.

Proposal: No development proposals are associated with this rezoning request.

Request: The applicant wishes to have the property within the city limits and zoned consistently with adjacent and surrounding properties.

Recommendation: The existing duplex on the subject property will be a non-conforming use in the RSF-4 zoning district, however it may remain as such and be maintained until such time as alterations or additions are proposed. At that time, it will be appropriate for the Planning Commission to review plans in order to ensure that the development remains compatible with the surrounding neighborhood. At this time, there is not much surrounding developments, however subdivisions are developing or are planned in the vicinity which will change the rural nature of the existing conditions. Staff is recommending approval of the RSF-4 zoning district for this property because it is consistent with the General Plan 2020 and compatible with surrounding zoning designations and proposed development.

CURRENT STATUS:

This item is a part of a group of annexation and rezoning requests for adjoining properties. On August 26, 2003, the Planning Commission voted 8-0-0 to forward this request to the City Council with a recommendation for approval of a rezoning to the RSF-4 district. There was no public comment on this item during the public hearing before the Planning Commission.

RECOMMENDATION:

The Planning Commission and staff recommend approval of this rezoning based on the findings included as a part of the attached staff report.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of August 25, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn Warrick, AICP, Zoning & Development Administrator
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: August 21, 2003

RZN 03-27.00: Rezoning (Stephens, pp 321) was submitted by Geoffrey Bates, P.E. of Keystone Consultants, Inc. on behalf of Carol Stephens for property located at 4270 Mt. Comfort Road. The property is zoned R-A, Residential Agricultural and contains approximately 1.08 acres. The request is to be rezoned RSF-4, Residential Single-family, 4 units per acre.

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings included as part of this report.

PLANNING COMMISSION ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>August 25, 2003</u>			
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>September 16, 2003 (1st reading if recommended)</u>			

Comments: _____

BACKGROUND:

Property description: The subject property is located on the north side of Mt. Comfort Rd. west of Ruppel Rd. There is one duplex on the site. Surrounding properties are undeveloped. Owners of property to the north and west are also seeking annexation and rezoning at this time. Future development plans include a phase of Clabber Creek subdivision to the east, a church to the north and a single family subdivision to the west.

K:\Reports\2003\PC REPORTS\08-25\zn03-27_stephens.doc

Proposal: No development proposals are associated with this rezoning request.

Request: The applicant wishes to have the property within the city limits and zoned consistently with adjacent and surrounding properties.

Recommendation: The existing duplex on the subject property will be a non-conforming use in the RSF-4 zoning district, however it may remain as such and be maintained until such time as alterations or additions are proposed. At that time, it will be appropriate for the Planning Commission to review plans in order to ensure that the development remains compatible with the surrounding neighborhood. At this time, there is not much surrounding developments, however subdivisions are developing or are planned in the vicinity which will change the rural nature of the existing conditions. Staff is recommending approval of the RSF-4 zoning district for this property because it is consistent with the General Plan 2020 and compatible with surrounding zoning designations and proposed developments.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant / Agricultural	RSF-4
South	Single Family Residential	RSF-4
East	Clabber Creek Phase II (SFR)	RSF-4
West	Vacant	County, No Designated Zoning

INFRASTRUCTURE:

Streets: Access and the only available street frontage is on Mt. Comfort Rd. along the south boundary of the site. Mt. Comfort Rd. in this location is classified a minor arterial on the master street plan. It is not built to that standard.

If development occurs on this site, Mt. Comfort Road would need to be improved to a minimum of 14' from centerline including pavement, curb and gutter, storm drains and sidewalk.

Water: The property currently has access to a 4" and 8" waterline along Mt. Comfort Road. The Clabber Creek Phase II subdivision to the east also has 8" lines proposed.

Sewer: Sewer is not currently available to this property.

The nearest sewer main is located to the south of Mt. Comfort Road. This area of town has been identified as an area of concern for sewer service. The Hamstring Creek lift station is currently being upgraded to handle existing flows and any development proposed at the time of the study earlier this year. This upgrade

should be completed this summer.

Fire: The subject property is located 3.4 miles from Fire Station #2. Normal driving time is 5 min. 9 seconds. Water supply will be necessary for this property to develop.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to RSF-4, Residential single family, 4 units/acre is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning is consistent with the future land use map of the General Plan 2020. The single family zoning designation which has been requested is compatible with existing and proposed surrounding land uses.

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 for the zoning designation to reflect the current land use occurring on the property and to protect adjacent developments by ensuring compatible uses.

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

Finding: The proposed rezoning will not result in an increased traffic danger. There is concern at this time about the amount of traffic on Mt. Comfort Rd. however this request will not result in the development of new traffic generators.

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 rezoning will not alter population density in a manner which would undesirably increase the load on public services. If additional development is proposed in the future, only 2 additional single family homes could be constructed under the requested zoning designation.

Engineering - The property currently has access to a 4" water line and an 8" along Mt. Comfort Road. This line will be adequate to serve the proposed density of the site. The site

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does not currently have access to sanitary sewer service. If annexed, sanitary sewer will be required to be extended at the time of development. There is a 15" sewer main located across the property to the south of Mt. Comfort Road. There will also be 8" sewer mains installed on the adjacent property for the already approved Clabber Creek 2 Subdivision which will begin construction soon. All of the lines flow to the Hamstring Creek Lift Station. The Hamstring Creek lift station is currently being upgraded to handle the existing flows and any development proposed at the time of the study earlier this year. This upgrade should be completed this summer. If development occurs on this site, street improvements would be considered for the frontage along Mt. Comfort Road.

Fire - There is an existing 8" water line serving the Bridgeport Subdivision. Response time from the existing fire station (#2 at Garland & Eagle Sts.) is 5 minutes 30 seconds (3.6 miles), the new fire station on Ruppel Rd. will serve this site once it is constructed. Response time from the new station (#7) will be 3 minutes 43 seconds (1.7 miles).

Police - Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing city subdivision to the south and the nearby middle school. No additional equipment or personnel is needed to provide service to this area.

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

161.07 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.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C.8. RZN 03-27.00 (Carol Stephens)
Page 10 of 15

RECEIVED

AUG 18 2003

PLANNING DIV.

POLICE DEPARTMENT

August 18, 2003

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed zoning **RZN 03-27.00: Rezoning (Stephens, pp 321)** for property located at 4270 Mt. Comfort would substantially alter the population density and thereby undesirably increase the load on public services or create and appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services.

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially increase traffic congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "A. William Brown".

Lieutenant William Brown
Fayetteville Police Department



July 16, 2003

Mr. Tim Conklin
Planning
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Shiloh Community Church

Dear Mr. Conklin,

This letter is in response to item 5 on the rezoning application. We would like to request that the property owned by Carol Stephens that was recently annexed into the City of Fayetteville, be rezoned from A-1 to R-1. Ms. Stephens is the current owner and does not plan to sell the property. Currently, a duplex is located on the property and no future development is planned at this time. The reason for requesting a zoning change is a duplex would not be allowed in A-1 zoning. The rezoning will be similar to several R-1 zonings adjacent to the property and in the surrounding area and should fit well within the community. Also, both water and sewer are available to the site.

If you have any questions or require additional information, please feel free to call.

Sincerely

Keystone Consultants, Inc

Geoffrey H. Bates, P.E.
President / Partner



July 16, 2003

Mr. Tim Conklin
Planning
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Carol Stephens Property

Dear Mr. Conklin,

This letter is in response to item 6 on the rezoning application.

1. The proposed R-1 zoning is consistent with the adjacent zonings in the area.
2. The zoning is needed in order to not create an island of county property.
3. There is no development proposed so traffic will not increase.
4. The proposed will not affect the existing schools in the area or place an undesirable increase on the water and sewer facilities.
5. The property is currently zoned A-1 and is surrounded by R-1.

If you have any questions or require additional information, please feel free to call.

Sincerely

Keystone Consultants, Inc

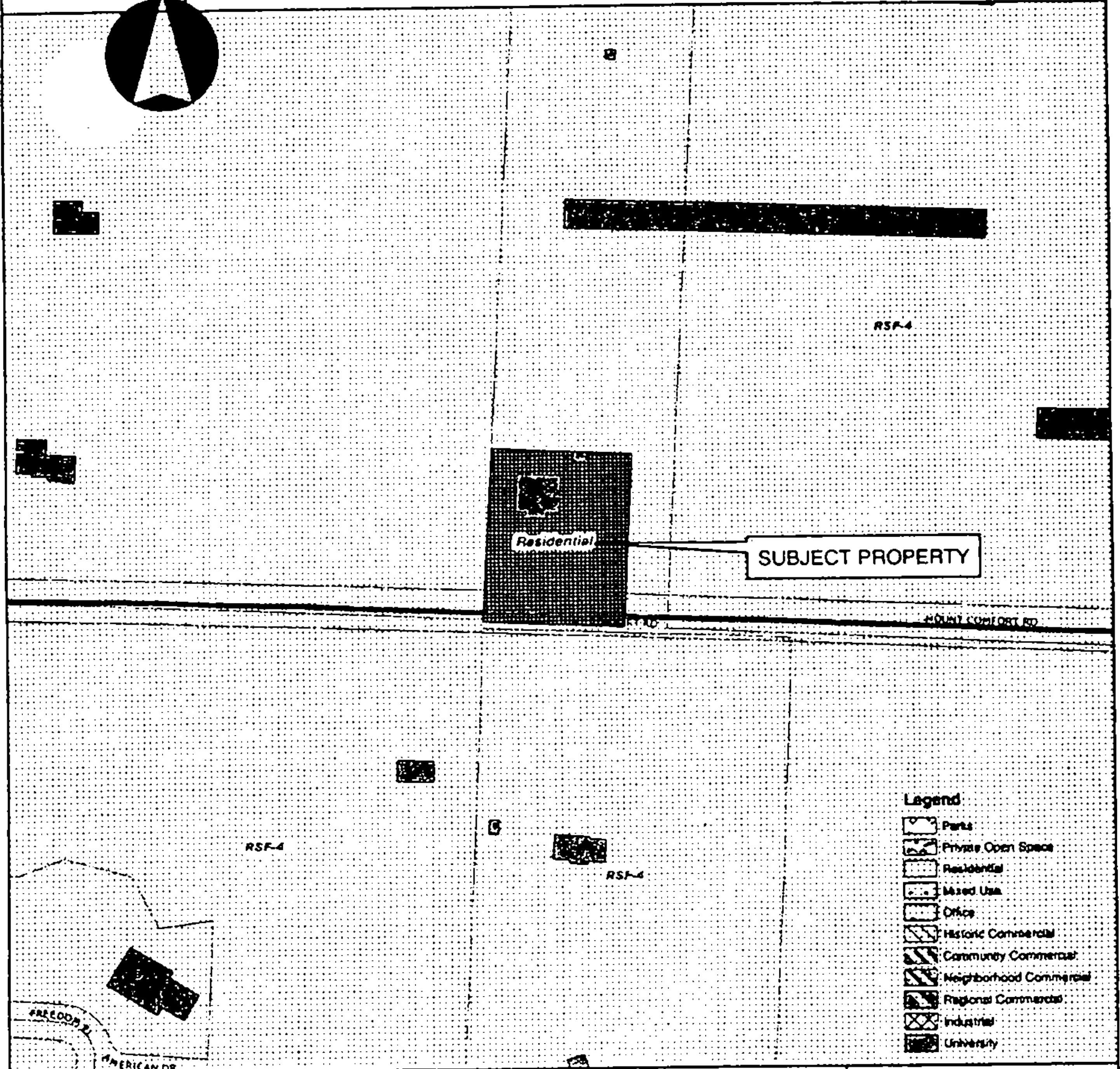


Geoffrey H. Bates, P.E.
President / Partner

RZN03-27.00

Future Land Use

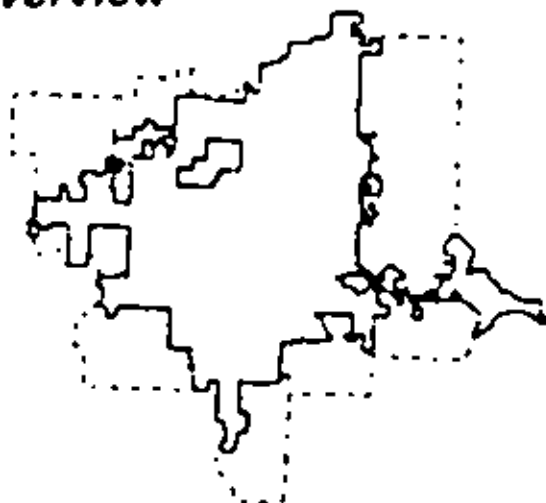
STEPHENS



Legend

- Park
- Pristine Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University

Overview



Legend

Subject Property

RZN03-27.00

Streets

- Existing
- Planned

Boundary

- Planning Area
- Overlay District
- City Limits
- Outside City

Master Street Plan

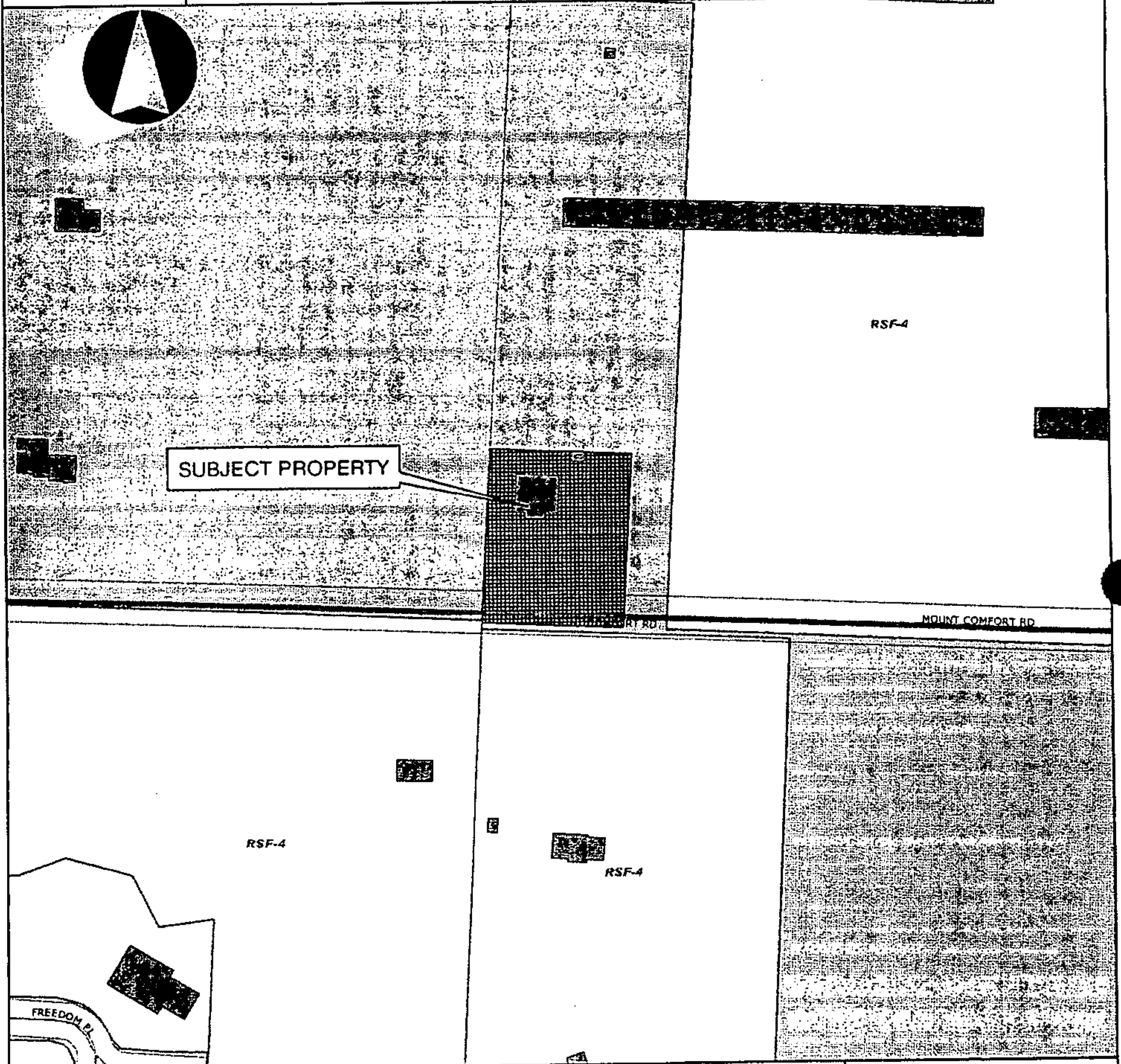
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 75 150 300 450 600 Feet

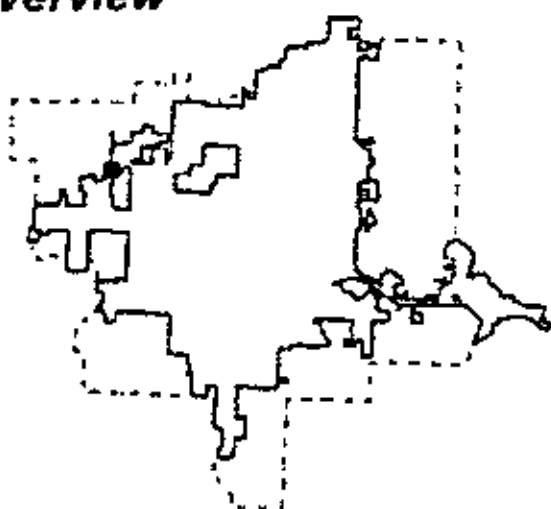
RZN03-27.00

Close Up View

STEPHENS



Overview



Legend

Subject Property

RZN03-27.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

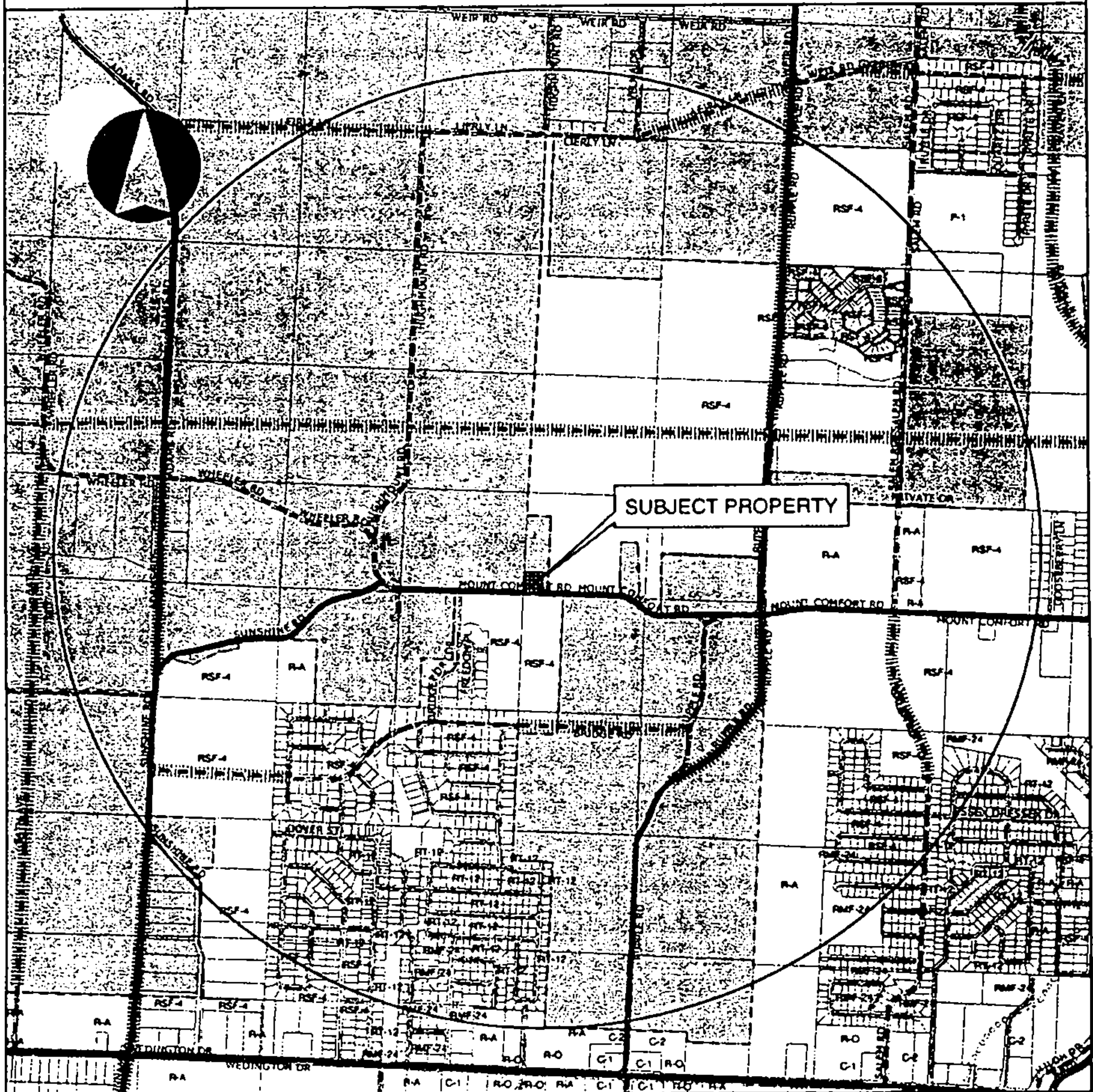
Historic Collector

0 75 150 300 450 600 Feet

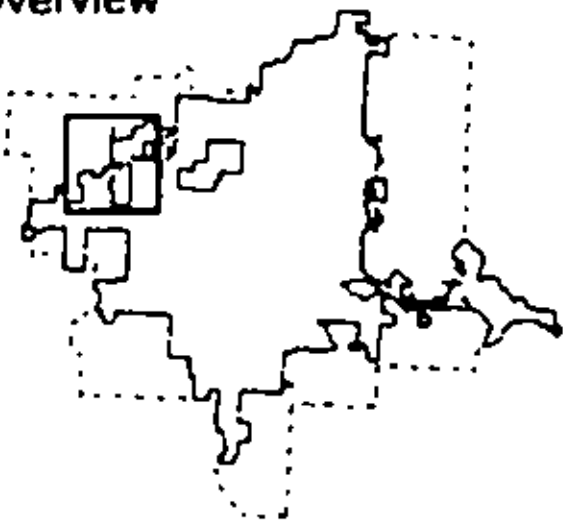
RZN03-27.00

One Mile View

STEPHENS



Overview



Legend

Subject Property
RZN03-27.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUESTFor the Fayetteville City Council Meeting of: September 16, 2003

FROM:

Hugh EarnestAdministration

Name

Division

Department

ACTION REQUIRED: Approve a waiver to Ordinance 4358 to facilitate the sale of the building at 217 E. Dickson owned by the Library Board of Trustees and the City of Fayetteville. This waiver would allow the City and Library to negotiate as needed with potential buyers to ensure a re-use that is compatible with the neighborhood, Library and City.

SUMMARY EXPLANATION:**STAFF RECOMMENDATION:**

Hugh Earnest 8/21/03
Division Head Date

[Signature] 8/21/03
City Attorney Date

Department Director Date

[Signature] 8-21-03
Finance & Internal Services Dir. Date

Hugh Earnest 8-21-03
Chief Administrative Officer Date

[Signature] 8/21/03
Mayor Date

Received in Mayor's Office

DateCross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item:

Yes

No



ORDINANCE NO. _____

AN ORDINANCE TO AMEND ORDINANCE NO. 4358 IN
ORDER TO EXEMPT THE CITY LIBRARY COMPLEX ON
DICKSON STREET

WHEREAS, the Fayetteville Public Library Board of Trustees and the City of Fayetteville own parcels of land on East Dickson Street upon which the current Fayetteville Public Library building complex exists; and

WHEREAS, it would be advantageous in the proposed marketing of these properties that they be jointly offered and that negotiations with potential buyers include requirements to ensure neighborhood compatibility and preservation of the architecturally significant exterior of the Roberta Fulbright Library building; and

WHEREAS, it is necessary to exempt the city owned library property from the requirements of Ordinance No. 4358 to accomplish these goals.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends Ordinance No. 4358 by adding subsection (3) to section (H) Exemptions from the requirements of this ordinance as shown below:

"(3) In order to ensure neighborhood compatibility and preservation of the historic exterior of the Roberta Fulbright Library building, all city property associated with, adjoining, or a part of the Fayetteville Public Library on East Dickson Street, Fayetteville, Arkansas is exempt from the requirements from this ordinance. Any proposed sale of this property must be expressly approved by the City Council."

PASSED and APPROVED this 2nd day of September, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor and City Council

FROM: Hugh Earnest, Chief Administrative Officer 

DATE: August 14, 2003

SUBJECT: Proposed Sale of the Existing Library Buildings at 217 E. Dickson

Background

The City of Fayetteville, the Fayetteville Public Library and the Fayetteville Public Library Foundation have undertaken constructing, furnishing, equipping and endowing a new \$23.3M, 88,000 square foot library at 401 W. Mountain. An 18-month, 1 percent sales tax was approved by the voters and levied from October 2000 through March 2002. Because the sales tax was not enough to cover all costs, a capital campaign goal of \$12M was set to complete the project and endow operations. Due primarily to financial need, the Library Board voted to pursue the sale of its current facility at 217 E. Dickson and use the proceeds to help pay for and endow the new library. The existing facility is scheduled to be vacated in early September 2004.

The current library property, zoned R-O, is comprised of what were, prior to 1991, two separate buildings—the approximately 24,500 square foot east building housing adult and children's services and the approximately 6,000 square foot professional medical office building on the west housing genealogy, Foundation, Friend's bookstore and staff. Research conducted in 2001-2002 identified that the Library Board of Trustees holds the deed for the property on which east building is situated, while the City holds the deed for property on which the west building is situated.

In the second half of 2002, Library Board president, Louis Gottsponer, Library Director, Louise Schaper and Hugh Earnest, CAO, visited with Mayor Coody to discuss the feasibility of selling the buildings and dividing the proceeds. The results of a limited scope analysis indicated a 2002 value between \$1.2 and \$1.6 million. The parties discussed in very general terms a division of proceeds of 70% for the Library and 30% for the City.

The Library Board of Trustees voted on February 17, 2003 to recommend that the building complex be sold and proceeds divided with the city (FPL 70%; City 30%). They also encouraged public input that would enlist neighbors and interested stakeholders in compiling a list of acceptable users of the property.

In March and April 2003 four meetings were held to gather public input on acceptable and unacceptable uses of the existing library facility at 217 E. Dickson, as well as share background information and current status of the effort to sell the building. One neighborhood association meeting was held on March 6, and three library-sponsored meetings were held on March 24, March 26 and April 3. Suggestions were made for the process of selling the building and a list of acceptable and

unacceptable uses was generated. There was a general consensus that acceptable uses included stable cultural, educational, religious, governmental, non-profit, mixed-use, office corporate headquarters and residential uses that would bring vitality to and enhance the neighborhood. Unacceptable uses included noisy, late night, traffic-intensive, light-intensive, highly commercial, nuisance producing uses.

Current Status

The media attention to this matter has resulted in a number of inquiries about the facility. Although several callers were interested in leasing part of the space or were asking for free use, four different inquirers proposed purchasing the facility for a music conservatory, offices, condominiums and government offices. Callers have been asked to wait until the issue is brought before City Council and a process for selling the facility is approved. The City Council did pass in January 2002 ordinance 4358 that established a formal process for selling city property. The key stipulations are as follows.

- The City Council must pass a resolution stating that it has found the property no longer serves a municipal purpose.
- Two independent appraisals must be obtained within 6 months of the proposed sale.
- City Council solicits sealed bids with a minimum price set by the City Council.
- Bids must equal or exceed the minimum price set and the appraised value of the property.
- The City must sell the property to the highest qualified bidder.
- If none of the bids equals the minimum price set, then the City shall reject all bids and may reopen the bidding upon City Council approval.
- The City may sell to a public or non-profit entity with only one appraisal, but the price set and received must equal the appraised value.

This particular ordinance establishes a clear process to be followed when the City wishes to dispose of property. However, the use of this approach in disposing of the library property does pose a number of problems that need discussion at this time.

- Because it stipulates a sealed bid and a sale to the highest bidder, the seller cannot select the best use for the neighborhood.
- Further, the seller cannot accept a good offer that may be under the appraised value.
- The majority of the property is owned by the Library Board.

Recommendation

Both City staff and Library staff are in agreement that the best long term interests of the City will be met by requesting a waiver in this particular instance from the requirements of Ordinance 4358. The granting of a waiver would maximize the ability of the Library Board and City representatives to:

- Dispose of the property in such a way to ensure compatibility with the neighborhood.
- Negotiate as needed with potential buyers to ensure a re-use that is compatible with both City and Library interest in the future use of the property.

Nothing in this waiver would negate the necessity of securing the approval of the Library Board and the City Council for any potential sale.

Section 3: The name of said improvement district shall be Fayetteville
Municipal Property Owners' Improvement District No. 5 -- Appleby Landing
Professional Center.

PASSED and **APPROVED** this the 16th day of September, 2003.

APPROVED:

DAN COODY, Mayor

ATTEST:

SONDRA SMITH, City Clerk

"A"

SURVEY DESCRIPTION Airstrip Tract:

A PART OF THE NW1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, FAYETTEVILLE, ARKANSAS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF THE S1/2 OF THE NW1/4 OF THE NW1/4 OF SAID SECTION 35; THENCE ALONG THE NORTH LINE OF SAID S1/2 OF THE NW1/4 OF THE NW1/4 S87°23'29"E 383.82 FEET; THENCE LEAVING SAID NORTH LINE S02°31'13"W 316.46 FEET; THENCE N88°55'03"W 1.47 FEET; THENCE S02°49'26"W 101.31 FEET; THENCE S02°49'14"W 188.73 FEET; THENCE S87°10'26"E 0.66 FEET; THENCE S02°27'17"W 1374.19 FEET TO THE SOUTH LINE OF THE SAID NW1/4 OF SECTION 35; THENCE ALONG SAID SOUTH LINE N87°18'13"W 383.14 FEET TO THE SW CORNER OF THE SAID NW1/4 OF SECTION 35; THENCE LEAVING SAID SOUTH LINE AND ALONG THE WEST LINE OF THE SAID NW1/4 OF SECTION 35 N02°31'22"E 1980.14 FEET TO THE POINT OF BEGINNING, AND CONTAINING 17.388 ACRES, MORE OR LESS, AND SUBJECT TO THE RIGHT-OF-WAY OF APPLEBY ROAD ON THE NORTH AND DRAKE STREET ON THE SOUTH, AND ANY RIGHTS-OF-WAY, EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

SURVEY DESCRIPTION TRACT 2:

PART OF THE S1/2 OF THE NW1/4 OF THE NW1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF TRACT 2 PER PLAT FILED, DOCUMENT NUMBER 2002-069391 DATED MAY 15, 2002; THENCE S87°31'36"E 193.81 FEET; THENCE S02°21'40"W 309.68 FEET; THENCE N87°09'37"W 60.02 FEET; THENCE S05°57'33"W 9.95 FEET; THENCE N87°14'57"W 133.98 FEET; THENCE N02°30'22"E 318.58 TO THE POINT OF BEGINNING, AND CONTAINING 1.409 ACRES, MORE OR LESS, AND SUBJECT TO THE RIGHT-OF-WAY OF APPLEBY ROAD ON THE NORTH, AND ANY RIGHTS-OF-WAY, EASEMENTS, COVENANTS, OR RESTRICTIONS OF RECORD OR FACT.

SURVEY DESCRIPTION TRACT 3:

PART OF THE S1/2 OF THE NW1/4 OF THE NW1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF TRACT 3 PER PLAT FILED, DOCUMENT NUMBER 2002-069391 DATED MAY 15, 2002; THENCE S87°31'36"E 174.09 FEET; THENCE S02°30'22"W 318.58 FEET; THENCE N87°14'57"W 175.77 FEET; THENCE N02°48'32"E 317.73 FEET TO THE POINT OF BEGINNING, AND CONTAINING 1.278 ACRES, MORE OR LESS, AND SUBJECT TO THE RIGHT-OF-WAY OF APPLEBY ROAD ON THE NORTH, AND ANY RIGHTS-OF-WAY, EASEMENTS, COVENANTS, OR RESTRICTIONS OF RECORD OR FACT.

XX AGENDA REQUESTFor the Fayetteville City Council Meeting of: September 16, 2003

FROM:

Sondra Smith

Name

City Clerk

Division

City Clerk

Department

ACTION REQUIRED: An ordinance to establish Fayetteville Municipal Property Owner's Improvement District No. 5

SUMMARY EXPLANATION:

A petition filed by James N. McCord to form Fayetteville Municipal Property Owners' Improvement District No. 5 Appleby Landing Professional Center. The petition is being filed under the Arkansas Municipal Property Owners' Improvement District law, Arkansas Code Ann. Sec. 14-94-101 et seq. The property comprises 20.065 acres south of Apply Drive across from Washington Regional Hospital.

STAFF RECOMMENDATION:

Division Head

Date

Date

Approved as to FORM ONLY
[Signature] 8/28/03
City Attorney

Department Director

Date

Finance & Internal Services Dir.

Date

Chief Administrative Officer

Date

Mayor

Date

Received in Mayor's Office

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No



ORDINANCE NO. _____

AN ORDINANCE TO ESTABLISH AND LAY OFF
FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 5 - APPLEBY
LANDING PROFESSIONAL CENTER

WHEREAS, a Petition to form Fayetteville Municipal Property Owners' Improvement District No. 5 has been filed with the Fayetteville City Clerk; and

WHEREAS, the City Clerk has presented said petition to the Mayor; and

WHEREAS, Ark. Code Ann. Sec. 14-94-106 (2) provides that the Mayor shall thereupon set a date and time, not later than 15 days after the date of the presentation of the petition to the mayor, for a hearing before the governing body for consideration of the petition; and

WHEREAS, the Fayetteville City Council has determined from an abstractor's certificate of property ownership that those signing said petition constitute all the owners of the real property to be located in said district; and

WHEREAS, Ark. Code Ann. Sec. 14-94-106(b)(2) provides that if the governing body determines that all of the owners of the real property to be located in the district have petitioned for the improvements, it shall then be its duty by ordinance to establish and lay off the district as defined in the petition and to appoint the commissioners as named in the petition.

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

Section 1: That the real property described in Exhibit "A" attached hereto and made a part hereof is hereby established and laid off as Fayetteville Municipal Property Owners' Improvement District No. 5 for the purpose of constructing or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation of electric and telephone distribution systems, sanitary sewers, streets and highways, including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing within said district.

Section 2: The following three individuals are hereby appointed as commissioners of said improvement district: Ben Israel, Phil Phillips and Tom Muccio.

AUG 27 2003

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

CITY CLERK'S OFFICE

**PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 5 – APPLEBY LANDING PROFESSIONAL
CENTER**

For its petition to form Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center, Investors Realty, LLC, an Arkansas Limited Liability Company, states:

1. Petitioner is the record title owner to all of the real property described in Exhibit "A" attached hereto and made a part hereof as reflected by the deed records in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas. All of said property is located within the corporate limits of the City of Fayetteville, Arkansas.

2. Petitioner desires that the real property described in Exhibit "A" attached hereto and made a part hereof be laid off into a Municipal Property Owners' Improvement District pursuant to Ark. Code Ann. Section 14-94-101 et seq. for the purpose of constructing, and maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation of electric and telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing.

3. Petitioner desires that the district shall not cease to exist upon the construction of the improvements, but it shall continue to exist for the purpose of preserving, maintaining, and operating the improvements, replacing equipment,

paying salaries to employees, and performing any other functions or services authorized in Ark. Code Ann., Title 14, Chapter 94.

4. Petitioner names the following three (3) individuals to be appointed as commissioners of the district: Ben Israel, Phil Phillips and Tom Muccio.

5. Petitioner proposes that the name of the district be Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center.

WHEREFORE, Investors Realty, LLC, an Arkansas Limited Liability Company, petitions the City Council of Fayetteville, Arkansas, to adopt an ordinance establishing and laying off the real property described in Exhibit "A" attached hereto and made a part hereof into Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center for the purpose of constructing and maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation of electricity and telephone distribution systems, sanitary sewers, streets including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing.

DATED this 27th day of August, 2003.

Investors Realty, LLC
An Arkansas Limited Liability Company

By: 
Ben Israel, Trustee/ Member of
Financial Realty, LC, Manager

SURVEY DESCRIPTION Airstrip Tract:

A PART OF THE NW1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, FAYETTEVILLE, ARKANSAS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF THE S1/2 OF THE NW1/4 OF THE NW1/4 OF SAID SECTION 35; THENCE ALONG THE NORTH LINE OF SAID S1/2 OF THE NW1/4 OF THE NW1/4 S87°23'29"E 383.82 FEET; THENCE LEAVING SAID NORTH LINE S02°31'13"W 316.46 FEET; THENCE N88°55'03"W 1.47 FEET; THENCE S02°49'26"W 101.31 FEET; THENCE S02°49'14"W 188.73 FEET; THENCE S87°10'26"E 0.66 FEET; THENCE S02°27'17"W 1374.19 FEET TO THE SOUTH LINE OF THE SAID NW1/4 OF SECTION 35; THENCE ALONG SAID SOUTH LINE N87°18'13"W 383.14 FEET TO THE SW CORNER OF THE SAID NW1/4 OF SECTION 35; THENCE LEAVING SAID SOUTH LINE AND ALONG THE WEST LINE OF THE SAID NW1/4 OF SECTION 35 N02°31'22"E 1980.14 FEET TO THE POINT OF BEGINNING, AND CONTAINING 17.388 ACRES, MORE OR LESS, AND SUBJECT TO THE RIGHT-OF-WAY OF APPLEBY ROAD ON THE NORTH AND DRAKE STREET ON THE SOUTH, AND ANY RIGHTS-OF-WAY, EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

SURVEY DESCRIPTION TRACT 2:

PART OF THE S1/2 OF THE NW1/4 OF THE NW1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF TRACT 2 PER PLAT FILED, DOCUMENT NUMBER 2002-069391 DATED MAY 15, 2002; THENCE S87°31'36"E 193.81 FEET; THENCE S02°21'40"W 309.68 FEET; THENCE N87°09'37"W 60.02 FEET; THENCE S05°57'33"W 9.95 FEET; THENCE N87°14'57"W 133.98 FEET; THENCE N02°30'22"E 318.58 TO THE POINT OF BEGINNING, AND CONTAINING 1.409 ACRES, MORE OR LESS, AND SUBJECT TO THE RIGHT-OF-WAY OF APPLEBY ROAD ON THE NORTH, AND ANY RIGHTS-OF-WAY, EASEMENTS, COVENANTS, OR RESTRICTIONS OF RECORD OR FACT.

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JAMES N. McCORD
Attorney at Law
11 N. WEST AVE.
SUITE #202
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMILE (479) 695-1135
jimmccordlaw@alltel.net

REC-11
AUG 27 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

August 27, 2003

Ms. Sondra Smith, City Clerk
City Administration Building
113 W. Mountain
Fayetteville, AR 72701

VIA HAND DELIVERY

Re: Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 5 -- Appleby Landing Professional Center

Dear Ms. Smith:

Enclosed for filing in the office of the Fayetteville City Clerk are three (3) executed counterparts of a Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 5- Apple Landing Professional Center. Please file mark each Petition, retain one for your permanent file, retain one for presentation to the Mayor, and return the other counterpart to me. The Petition is being filed under the Arkansas Municipal Property Owners' Improvement District law, Ark. Code Ann. Sec. 14-94-101 et seq. The property comprises 20.065 acres south of Appleby Drive across from Washington Regional Hospital.

Ark. Code Ann. Sec. 14-94-105(e)(3) provides that notice of the filing of the Petition shall be given by first class mail to the mayor by the clerk. Ark. Code Ann. Sec. 14-94-106 provides:

- (a)(1) Upon the filing of the petition with the clerk, it shall be the duty of the clerk to present the petition to the mayor.
- (2) The mayor shall thereupon set a date and time not later than fifteen (15) days after the date of the presentation of the petition to the mayor, for a hearing before the governing body for consideration of the petition.
- (b)(1) At the hearing, it shall be the duty of the governing body to hear the petition and to ascertain whether those signing the petition constitute all the owners of the real property to be located in the district.

- (2)(A) If the governing body determines that all the owners of the real property to be located in the district have petitioned for the improvements, it shall be its duty by ordinance to establish and lay off the district as defined in the petition and to appoint the commissioners as named in the petition.

- (c) The ordinance establishing the district shall be published within thirty (30) days after its adoption by one (1) insertion in some newspaper of general circulation in the municipality in which the district lies.

Enclosed for your convenience is a form for a letter you may use to give the Mayor notice by first class mail that the Petition has been filed with the city clerk. Also enclosed for filing in your office is an executed Abstractor's Certificate certifying that the improvement district petition is signed by the owner of all the real property described in the petition. I have drafted and enclose an ordinance which would establish the improvement district and name the commissioners.

Formation of a municipal property owners' improvement district is merely a financing alternative for the cost of subdivision infrastructure. The improvement district issues special assessment bonds, bond proceeds are used to pay for the infrastructure, the district levies a tax on each lot to pay debt service on the bonds, the tax revenues are paid to the bond trustee, and the trustee makes debt service payments to the bondholders. The developer must comply with all city development ordinances. The infrastructure is dedicated to the city.

The preliminary subdivision plat for Appleby Landing, comprising 12 commercial lots, has been approved by the Fayetteville Planning Commission.

Should there be any questions, please contact me.

Sincerely,


James N. McCord

JNM:mbm

cc: Honorable Dan Coody, Mayor
Kit Williams, City Attorney
Ben Israel

August 27, 2003

Honorable Dan Coody, Mayor
City Administration Building
113 W. Mountain
Fayetteville, Arkansas 72701

Re: Petition to Form Fayetteville Municipal Property Owners' Improvement
District No. 5-Appleby Landing Commercial Center

Dear Mayor:

Pursuant to Ark. Code Ann. 14-94-105 (e)(3), you are hereby notified that the enclosed Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 5-Appleby Landing Commercial Center has been filed in the office of the Fayetteville City Clerk. Pursuant to Ark. Code Ann. Sec. 14-94-106(a)(1), I hereby present you with the Petition.

Sincerely,



Sondra Smith
City Clerk

cc: Kit Williams, City Attorney
James N. McCord

RECEIVED

AUG 27 2003

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

**RE: PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY
OWNERS' IMPROVEMENT DISTRICT NO. 5 - APPLE LANDING
PROFESSIONAL CENTER**

ABTRACTOR'S CERTIFICATE OF PROPERTY OWNERSHIP

Heritage Title & Closing Company of Northwest Arkansas, Inc. hereby certifies that the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, reflect that Investors Realty, LLC, an Arkansas Limited Liability Company, is the record title owner of all the real property described in Exhibit "A" to the Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 5, a copy of which Exhibit "A" is attached hereto and made a part hereof.

Dated this 26 day of August, 2003

Heritage Title & Closing Company of Northwest Arkansas, Inc.

By: Jacque Carruth

Printed Name: Jacque Carruth

Title: President

SURVEY DESCRIPTION Airstrip Tract:

A PART OF THE NW1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, FAYETTEVILLE, ARKANSAS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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SURVEY DESCRIPTION TRACT 2:

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BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS AUG 27 2003
CITY OF
CITY CLERK'S OFFICE

**PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 5 – APPLEBY LANDING PROFESSIONAL
CENTER**

For its petition to form Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center, Investors Realty, LLC, an Arkansas Limited Liability Company, states:

1. Petitioner is the record title owner to all of the real property described in Exhibit "A" attached hereto and made a part hereof as reflected by the deed records in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas. All of said property is located within the corporate limits of the City of Fayetteville, Arkansas.

2. Petitioner desires that the real property described in Exhibit "A" attached hereto and made a part hereof be laid off into a Municipal Property Owners' Improvement District pursuant to Ark. Code Ann. Section 14-94-101 et seq. for the purpose of constructing, and maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation of electric and telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing.

3. Petitioner desires that the district shall not cease to exist upon the construction of the improvements, but it shall continue to exist for the purpose of preserving, maintaining, and operating the improvements, replacing equipment,

paying salaries to employees, and performing any other functions or services authorized in Ark. Code Ann., Title 14, Chapter 94.

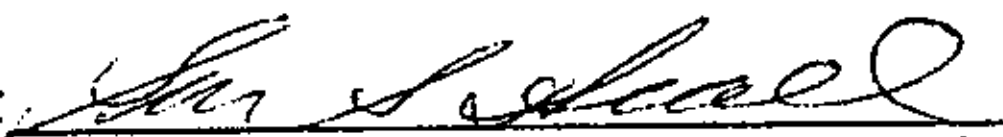
4. Petitioner names the following three (3) individuals to be appointed as commissioners of the district: Ben Israel, Phil Phillips and Tom Muccio.

5. Petitioner proposes that the name of the district be Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center.

WHEREFORE, Investors Realty, LLC, an Arkansas Limited Liability Company, petitions the City Council of Fayetteville, Arkansas, to adopt an ordinance establishing and laying off the real property described in Exhibit "A" attached hereto and made a part hereof into Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center for the purpose of constructing and maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation of electricity and telephone distribution systems, sanitary sewers, streets including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing.

DATED this 27th day of August, 2003.

Investors Realty, LLC
An Arkansas Limited Liability Company

By: 
Ben Israel, Trustee/ Member of
Financial Realty, LC, Manager

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JAMES N. McCORD

Attorney at Law

11 N. WEST AVE.

SUITE #202

FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134

FACSIMILE (479) 695-1135

jimmccordlaw@alttel.net

August 28, 2003

Ms. Sondra Smith, City Clerk
City Administration Building
113 W. Mountain
Fayetteville, AR 72701

Via Hand Delivery

Re: Petition to Form Fayetteville Municipal Property Owners' Improvement
District No. 5 – Appleby Landing Commercial Center

Dear Ms. Smith:

Enclosed for filing in the office of the Fayetteville City Clerk are three (3) executed counterparts of a revised Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center. The only change from the Petition filed August 27, 2003 is the Notice at the top of the Petition. The Notice is required by statute. Please give the Mayor notice of the filing of the Petition by first class mail and present the Petition to the Mayor, as required by statute.

Sincerely,


James N. McCord

cc: Honorable Dan Coody, Mayor
Kit Williams, City Attorney
Ben Israel

RECEIVED

AUG 28 2003

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

NOTICE

YOUR SIGNATURE HEREON SHOWS THAT YOU FAVOR THE ESTABLISHMENT OF AN IMPROVEMENT DISTRICT. IF THE DISTRICT IS FORMED, YOU MAY BE CHARGED FOR THE COSTS OF THE IMPROVEMENTS.

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 5 – APPLEBY LANDING PROFESSIONAL
CENTER

For its petition to form Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center, Investors Realty, LLC, an Arkansas Limited Liability Company, states:

1. Petitioner is the record title owner to all of the real property described in Exhibit "A" attached hereto and made a part hereof as reflected by the deed records in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas. All of said property is located within the corporate limits of the City of Fayetteville, Arkansas.

2. Petitioner desires that the real property described in Exhibit "A" attached hereto and made a part hereof be laid off into a Municipal Property Owners' Improvement District pursuant to Ark. Code Ann. Section 14-94-101 et seq. for the purpose of constructing, and maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation of electric and telephone distribution systems.

sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing.

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5. Petitioner proposes that the name of the district be Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center.

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streets including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing.

DATED this 28 day of August, 2003.

Investors Realty, LLC
An Arkansas Limited Liability Company

By: 
Ben Israel, Trustee/ Member of
Financial Realty, LC, Manager

SURVEY DESCRIPTION Airstrip Tract:

A PART OF THE NW1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, FAYETTEVILLE, ARKANSAS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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SURVEY DESCRIPTION TRACT 2:

PART OF THE S1/2 OF THE NW1/4 OF THE NW1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE NW CORNER OF TRACT 2 PER PLAT FILED, DOCUMENT NUMBER 2002-069391 DATED MAY 15, 2002; THENCE S87°31'36"E 193.81 FEET; THENCE S02°21'40"W 309.68 FEET; THENCE N87°09'37"W 60.02 FEET; THENCE S05°57'33"W 9.95 FEET; THENCE N87°14'57"W 133.98 FEET; THENCE N02°30'22"E 318.58 TO THE POINT OF BEGINNING, AND CONTAINING 1.409 ACRES, MORE OR LESS, AND SUBJECT TO THE RIGHT-OF-WAY OF APPLEBY ROAD ON THE NORTH, AND ANY RIGHTS-OF-WAY, EASEMENTS, COVENANTS, OR RESTRICTIONS OF RECORD OR FACT.

SURVEY DESCRIPTION TRACT 3:

PART OF THE S1/2 OF THE NW1/4 OF THE NW1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE NW CORNER OF TRACT 3 PER PLAT FILED, DOCUMENT NUMBER 2002-069391 DATED MAY 15, 2002; THENCE S87°31'36"E 174.09 FEET; THENCE S02°30'22"W 318.58 FEET; THENCE N87°14'57"W 175.77 FEET; THENCE N02°48'32"E 317.73 FEET TO THE POINT OF BEGINNING, AND CONTAINING 1.278 ACRES, MORE OR LESS, AND SUBJECT TO THE RIGHT-OF-WAY OF APPLEBY ROAD ON THE NORTH, AND ANY RIGHTS-OF-WAY, EASEMENTS, COVENANTS, OR RESTRICTIONS OF RECORD OR FACT.

JAMES N. McCORD
Attorney at Law
11 N. WEST AVE.
SUITE #202
FAYETTEVILLE, ARKANSAS 72701

ORIGINAL

TELEPHONE (479) 695-1134
FACSIMILE (479) 695-1135
jimnmccordlaw@alltel.net

August 28, 2003

Ms. Sondra Smith, City Clerk
City Administration Building
113 W. Mountain
Fayetteville, AR 72701

Via Hand Delivery

Re: Petition to Form Fayetteville Municipal Property Owners' Improvement
District No. 5 – Appleby Landing Commercial Center

Dear Ms. Smith:

Enclosed for filing in the office of the Fayetteville City Clerk are three (3) executed counterparts of a revised Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center. The only change from the Petition filed August 27, 2003 is the Notice at the top of the Petition. The Notice is required by statute. Please give the Mayor notice of the filing of the Petition by first class mail and present the Petition to the Mayor, as required by statute.

Sincerely,

James N. McCord
James N. McCord

cc: Honorable Dan Coody, Mayor
Kit Williams, City Attorney
Ben Israel

8-29-03 Mayor Coody
refused to sign
that he received
this. Copy was
given to Lana
Brenton in Mayor's office

RECEIVED
AUG 29 2003
AUG 29 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

RECEIVED
AUG 28 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

NOTICE ORIGINAL

YOUR SIGNATURE HEREON SHOWS THAT YOU FAVOR THE ESTABLISHMENT OF AN IMPROVEMENT DISTRICT. IF THE DISTRICT IS FORMED, YOU MAY BE CHARGED FOR THE COSTS OF THE IMPROVEMENTS.

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS' IMPROVEMENT DISTRICT NO. 5 – APPLEBY LANDING PROFESSIONAL CENTER

For its petition to form Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center, Investors Realty, LLC, an Arkansas Limited Liability Company, states:

1. Petitioner is the record title owner to all of the real property described in Exhibit "A" attached hereto and made a part hereof as reflected by the deed records in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas. All of said property is located within the corporate limits of the City of Fayetteville, Arkansas.

2. Petitioner desires that the real property described in Exhibit "A" attached hereto and made a part hereof be laid off into a Municipal Property Owners' Improvement District pursuant to Ark. Code Ann. Section 14-94-101 et seq. for the purpose of constructing, and maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation of electric and telephone distribution systems,

8-29-03 Mayor Coody
refused to sign that
he received this. A
copy was given to Lana
R... in the Mayor's office

RECEIVED

AUG 29 2003

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

RECEIVED

AUG 28 2003

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing.

3. Petitioner desires that the district shall not cease to exist upon the construction of the improvements, but it shall continue to exist for the purpose of preserving, maintaining, and operating the improvements, replacing equipment, paying salaries to employees, and performing any other functions or services authorized in Ark. Code Ann., Title 14, Chapter 94.

4. Petitioner names the following three (3) individuals to be appointed as commissioners of the district: Ben Israel, Phil Phillips and Tom Muccio.

5. Petitioner proposes that the name of the district be Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center.

WHEREFORE, Investors Realty, LLC, an Arkansas Limited Liability Company, petitions the City Council of Fayetteville, Arkansas, to adopt an ordinance establishing and laying off the real property described in Exhibit "A" attached hereto and made a part hereof into Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center for the purpose of constructing and maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation of electricity and telephone distribution systems, sanitary sewers,

streets including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing.

DATED this 28 day of August, 2003.

Investors Realty, LLC
An Arkansas Limited Liability Company

By: 
Ben Israel, Trustee/ Member of
Financial Realty, LC, Manager

SURVEY DESCRIPTION Airstrip Tract:

A PART OF THE NW1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, FAYETTEVILLE, ARKANSAS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF THE S1/2 OF THE NW1/4 OF THE NW1/4 OF SAID SECTION 35; THENCE ALONG THE NORTH LINE OF SAID S1/2 OF THE NW1/4 OF THE NW1/4 S87°23'29"E 383.82 FEET; THENCE LEAVING SAID NORTH LINE S02°31'13"W 316.46 FEET; THENCE N88°55'03"W 1.47 FEET; THENCE S02°49'26"W 101.31 FEET; THENCE S02°49'14"W 188.73 FEET; THENCE S87°10'26"E 0.66 FEET; THENCE S02°27'17"W 1374.19 FEET TO THE SOUTH LINE OF THE SAID NW1/4 OF SECTION 35; THENCE ALONG SAID SOUTH LINE N87°18'13"W 383.14 FEET TO THE SW CORNER OF THE SAID NW1/4 OF SECTION 35; THENCE LEAVING SAID SOUTH LINE AND ALONG THE WEST LINE OF THE SAID NW1/4 OF SECTION 35 N02°31'22"E 1980.14 FEET TO THE POINT OF BEGINNING, AND CONTAINING 17.388 ACRES, MORE OR LESS, AND SUBJECT TO THE RIGHT-OF-WAY OF APPLEBY ROAD ON THE NORTH AND DRAKE STREET ON THE SOUTH, AND ANY RIGHTS-OF-WAY, EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

SURVEY DESCRIPTION TRACT 2:

PART OF THE S1/2 OF THE NW1/4 OF THE NW1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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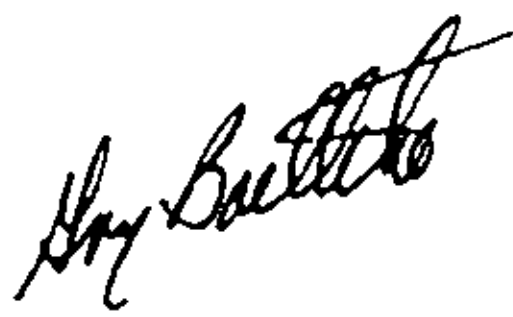
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

WATER AND WASTEWATER DIVISION

DEPARTMENTAL CORRESPONDENCE

TO: **Fayetteville City Council**

FROM: Greg Boettcher, P.E.
Water & Wastewater Director 

THRU: Dan Coody, Mayor of Fayetteville
Hugh Earnest, Chief Administrative Officer 

DATE: August 29, 2003

RE: **WASTEWATER SYSTEM IMPROVEMENT PROJECT**
Environmental Consulting Operations
Environmental Permitting and Wetlands Mitigation Services
Design Phase Service Contract

BACKGROUND

The citizens of Fayetteville have approved a \$125 million sales tax bond issue to address the capital costs for a critically-needed wastewater system improvement project. The passage of this ¾ -cent sales tax enabled low-cost, accelerated financing for said project, scaling back customer rate impact from 134% to 29%. Since passage of the sales tax in late 2001, the City Administration, consultants and regulators have completed a number of funding, environmental, procedural and program functions; finalizing the preliminary design phase of the wastewater system improvement project. In August of 2003 the Fayetteville City Council approved five professional service contracts relating to the design/bidding phase services of the program manager and the engineering consultants. At the time of submission of these five engineering services contracts it was noted that the project scope would require the consideration of one additional professional services contract relating to the environmental permitting and wetlands mitigation aspects of this wastewater improvement program, with the environmental consultant of record being Environmental Consulting Operations.

DISCUSSION

A contract scope and upper limit of costs have been negotiated with Environmental Consulting Operations, the services being provided on an hourly rate basis with a not to exceed cost limit of \$376,409.00. This amount is slightly greater than the amount predicted in July of 2003 (\$348,000.00), as the scope of work has been expanded and the wetlands mitigation processes of the Corps of Engineers have become more involved. Increased scope relates to the Broyles Road Improvement Project along the West

Treatment Plant frontage. It has been determined that the construction will encroach upon the city's property a distance of approximately 100 feet, necessitating delineation of the wetlands on this strip of land and inclusion of this impact in the mitigation work. Also, the Corps of Engineers has amended the methodology by which wetland mitigation measures are performed, abandoning the historic compensatory ratios of 2 acres of mitigation for every one acre of impact. Instead, the mitigation requires an evaluation of the function and quality of the wetlands (both permanently altered and newly constructed). Using a system of debits and credits the environmental consultant must demonstrate that the wetland mitigation program has a fair and balanced outcome. The changes in scope and complexity justify the increased upper level of cost for this consultant's contract. A summary of this firm's background and scope of work is attached, along with a copy of the proposed agreement. The attached contract with Environmental Consulting Operations, relates to environmental permitting for the design phase of this wastewater improvement program, the specifics of this contract being summarized as follows:

CORE ELEMENTS-(1) Coordination, collaboration and management of multiple project activities under a centralized environmental strategy, (2) delineation of wetland areas impacted by Project, (3) development of best management practices for the project construction activities, (4) submission of Corps of Engineers 404 Permit , (5) preparation of the Candidate Conservation Agreement relating to the Arkansas Darter habitat, (6) address stormwater permit issues of the Project, (7) serve as technical advisor for the design of the wetlands mitigation measures, and (8) integrate uniformity, consistency, value and accountability into the environmental controls.

COMPENSATION- \$376,409.00

The design phase services set forth in the proposed agreement are associated with the Fayetteville Vision 2020 Guiding Principles listed below:

1. Naturally Beautiful City: Our Mountains and Hills, Our Creeks, Our Open Greenspaces
2. Well maintained City Infrastructure and Facilities

The completion of the west side wastewater treatment plant and associated improvements are necessary for the targeted benefits of the wastewater system improvement program to be realized; therefore, the contract approval is integral to the maintenance of infrastructure and facilities.

RECOMMENDATIONS

To provide the proper and responsible management of the Fayetteville Wastewater System, the City Administration recommends that the Fayetteville City Council approve a contract with Environmental Consulting Operations for \$376,409.00 to provide environmental permitting services for the design phase work on the \$98.4 million project. The environmental permitting/wetlands mitigation contract was discussed during the Fayetteville Water and Sewer Committee on September 9, 2003.

SUMMARY OF DESIGN/BID PHASE ENVIRONMENTAL REGULATORY DELIVERABLES TO BE COMPLETED BY ECO, INC. FOR CITY OF FAYETTEVILLE WASTEWATER IMPROVEMENTS PROJECT

Environmental Consulting Operations, Inc. (ECO, Inc.) will work with the Project Engineering Team and provide environmental consulting services to the City of Fayetteville during the Design and Bid Phases of the project. In general, the project environmental regulatory requirements will be as follows:

- 1) Westside Wastewater Facility (McGoodwin, Williams & Yates Consulting Engineers)
 - General storm water permit for construction activities (ADEQ)
 - Section 404 permit (COE)
 - Compensatory mitigation of wetlands (COE)
- 2) Westside Line Work (RJN Group)
 - General storm water permit for construction activities (ADEQ)
 - Section 404 permit (COE)
 - Candidate Conservation Agreement with Assurances for Arkansas darter (USFWS)
- 3) Noland Wastewater Facility (Black and Veatch)
 - General storm water permit for construction activities (ADEQ)
- 4) Eastside Line Work (Garver Engineers)
 - General storm water permit for construction activities (ADEQ)
 - Section 404 permit (COE)

Value Engineering Process/Time Frame:

Value engineering workshops will be held with a Value Engineering Team and the Project Engineering Team. ECO, Inc. will attend three value engineering workshops to provide background information associated with project environmental regulatory requirements, and to answer questions concerning how changes in design may affect these requirements. The workshops will be held during August through September of 2003. ECO, Inc. will complete the following tasks during the Value Engineering Process:

- Prepare presentation of project environmental regulatory requirements
- Attend first day of workshops and give a presentation of project environmental regulatory requirements
- Answer questions regarding project environmental regulatory requirements
- Generate correspondence, as necessary, to document issues/conclusions

Section 404 Permitting Process/Time Frame:

As required by Section 404 of the Clean Water Act, compensatory mitigation for wetlands that are permanently altered must be achieved. During the Preliminary Design and Planning Phase, ECO, Inc. delineated 6.04 acres of wetlands that will be permanently altered at the Westside Wastewater Facility. ECO, Inc. has conferred with the Little Rock District Corps of Engineers to identify specific requirements for the compensatory mitigation, and to evaluate potential sites within the 322-acre City-owned property to construct a wetland.

The Corps utilizes a scoring system to determine debits, based on the function and value of the wetlands permanently altered. Compensatory mitigation must be accomplished in a manner to generate credits to offset these debits. Credits can be earned by restoration of existing wetlands, combined with creation of new wetlands. As a part of the mitigation requirements, a Compensatory Mitigation Plan must be developed and approved by the Corps. Once a "Conceptual" Mitigation Plan is submitted, the Corps will issue a public notice for the Section 404 permit, and a public comment period will follow. However, the final Wetland Compensatory Mitigation Plan must be approved before the Section 404 permit can be issued. According to conversations with Corps personnel, the process is anticipated to take from six months to one year from the date of submittal of the Final Wetland Compensatory Mitigation Plan.

Due to changes in the scope of work at the Westside Wastewater Facility, an addendum to the 404 permit application, submitted to the Corps by ECO, Inc., is necessary. Specifically, additional improvements to Broyles Road will involve permanent alteration to wetlands. Consequently, additional wetland delineations must be conducted, and factored into the compensatory mitigation.

To finalize necessary items for issuance of the Section 404 permit, ECO, Inc. will complete the following tasks during the Design Phase:

- Conferrals with MWY, COE & USFWS to develop mitigation concept/criteria
- Conduct wetland delineations at Broyles Road sites
- Develop/submit 404 application addendum
- Mitigation site selection process/initiate deed-restriction process with City Council
- Develop Conceptual Wetland Mitigation Plan/submit to COE
- Evaluate public notice, submit comments, if necessary
- Develop final wetland mitigation design criteria
- Completion of Final Wetland Compensatory Mitigation Plan/submit to COE
- Review draft 404 permit/submit comments, if necessary
- Incorporate 404 permit requirements into Project Comprehensive Best Management Practices Plan
- Incorporate 404 permit requirements into Bid Documents
- Present 404 permit requirements at relevant Pre-Bid & Pre-Construction Conferences

Candidate Conservation Agreement With Assurances (CCAA) Process/Time Frame:

ECO, Inc. has conferred with the U.S. Fish and Wildlife Service (USFWS) to develop a CCAA for project activities involving habitat of the Arkansas darter, a small fish that inhabits Clabber Creek. Specifically, the proposed westside sewer lines will cross Clabber Creek at several locations.

The project storm water and 404 permits will be issued on the basis of no adverse impacts to endangered species. The Arkansas darter is a candidate species that is under consideration for being federally listed as endangered. Should the darter become listed after the permits are issued, the permits may be subject to revocation. To alleviate this, the CCAA will be an agreement between the City of Fayetteville and the USFWS to provide for specific protective measures to preclude adverse effects to the Arkansas darter population and/or its critical habitat. As per conversations with USFWS, final approval by the Atlanta Regional Office must involve the development of an Environmental Assessment document by USFWS that will be published in the Federal Register and undergo a 30-day comment period. This process is anticipated to take "at least" six months from the date of submittal of the Final CCAA document.

To finalize development and submittal of the CCAA, ECO, Inc. will complete the following tasks during the Design Phase:

- Conferrals with RJN, City of Fayetteville, and USFWS to develop site-specific Best Management Practices
- Field work/conferrals to identify most sensitive habitat areas
- Develop Final CCAA/submit to USFWS Conway Field Office, AG&FC, & USFWS Atlanta Regional Office
- Incorporate CCAA conditions into Project Comprehensive Best Management Practices Plan
- Incorporate CCAA conditions into Bid Documents
- Present CCAA conditions at relevant Pre-Bid & Pre-Construction Conferences

Storm Water Permit Process/Time Frame:

The Arkansas Department of Environmental Quality (ADEQ) administers the EPA NPDES storm water permitting program in Arkansas, and has issued the general storm water permit for construction activities. Construction projects that exceed five acres of surface disturbance are required to file a Notice of Intent (NOI) for coverage under the general permit, and to submit a storm water pollution prevention plan (SWPPP) that details measures to minimize the release of pollutants to project site storm water runoff. The NOI and SWPPP must be filed with ADEQ at least 48 hours prior to commencement of construction activities. To assist the City of Fayetteville in meeting the general storm water permit requirements, ECO, Inc. will complete the following tasks during the Design Phase:

- File Notice of Intent (NOI) for coverage under general storm water permit
- Develop SWPPP for incorporation into Project Comprehensive Best Management Practices Plan
- Incorporate storm water permit requirements into Bid Documents
- Present storm water permit requirements at relevant Pre-Bid & Pre-Construction Conferences

WASTEWATER SYSTEM IMPROVEMENT PROJECT CITY OF FAYETTEVILLE

PROJECT TITLE: Design/Bid Phase Environmental Permitting; West Treatment Plant, East Noland Treatment Plant, East Lines and Stations, West Lines and Stations.

CONSULTANT: Bruce Shackleford, M.S., REM, REPA, President
Environmental Consulting Operations, Inc. (ECO, Inc.)
1313 Highway 229-5A, Benton, Arkansas 72015
Ph: (501) 315-9009
Fax: (501) 315-9035
Email: bruceshackleford@netscape.net

COMPANY BACKGROUND: ECO, Inc. is an environmental consulting firm that provides comprehensive regulatory and technical consulting services to municipalities, industries, and government agencies to meet their environmental permitting, compliance, and technical needs. ECO, Inc. was founded in 1990 with a philosophy focused on the *integration of ECONomy and ECOlogy*. Environmental permitting services include: Section 404, NPDES, Air, Solid Waste, and Storm Water. ECO, Inc. has an interdisciplinary technical staff of environmental professionals, with broad technical and regulatory expertise. Our staff has specialized capabilities with regard to NPDES and storm water reporting, wetland delineations, environmental management systems, bioassay/toxicity studies, environmental site assessments, endangered species consultation, aquatic biological assessments, and hazardous waste. The staff has extensive experience in the development of storm water pollution prevention plans (SWPPPs), compost facility operating plans, spill prevention control and countermeasures plans (SPCCP), water/wastewater sampling plans, corrective action plans, endangered species management, and environmental information documents (EIDs).

ECO, Inc. is familiar with environmental issues of Northwest Arkansas, having completed both water and/or sewer project work for the Beaver Water District and the cities of Fayetteville, Bentonville, Rogers, Lowell, and Springdale.

ECO, Inc. has provided environmental consulting services during the City of Fayetteville Wastewater Project Preliminary Design Phase, as support for all five project primary engineering firms. ECO, Inc. has been involved in the public participation process, and numerous consultations with relevant regulatory agency personnel. Prior project work has included:

- Detailed Aquatic Resource Assessments (stream surveys/wetland delineations) of West Lines and Stations, East Lines and Stations, and West Treatment Plant submittal to COE
- Environmental Information Document submittal to ASWCC
- Draft Wetland Compensatory Mitigation Plan submittal to COE & USFWS
- Draft CCAA submittal to USFWS

PROJECT DESCRIPTION:

Project Construction Activities

The proposed City of Fayetteville Wastewater Improvements Project will involve construction activities through 72 stream crossings and 25 wetlands. Of the 20.93 acres of wetlands impacted, approximately 6.04 acres will be permanently altered by construction of the Westside WWTP and the associated reroute of Broyles Road. The remaining 14.89 acres of wetlands will be temporarily disturbed. The proposed project is expected to result in a total surface disturbance of approximately 279 acres.

WASTEWATER SYSTEM IMPROVEMENT PROJECT CITY OF FAYETTEVILLE

The West Line construction in the Illinois River Watershed will involve the installation of 107,741 linear feet (20.4 miles) of sewer lines that will cross 40 stream channels and 16 individual wetlands.

The East Line construction in the Beaver Reservoir Watershed will involve removal and/or abandonment of approximately 37,525 linear feet (7.1 miles) of existing sewer lines and the installation of 55,370 linear feet (10.5 miles) of new sewer lines that will cross 28 stream channels and four individual wetlands.

Construction activities associated with the West Treatment Plant will involve disturbance to four stream crossings and five wetlands. Approximately 6.04 acres in four of these wetlands will be permanently altered. Activities associated with the upgrade of the existing East Noland Treatment facility will not involve activities in streams and/or wetlands.

Project Environmental Regulatory Requirements

The aforementioned activities in streams and wetlands ("waters of the United States") will require a Section 404 permit. Erosion control and restoration activities are mandated by Section 404 of the Clean Water Act, as administered by the Corps of Engineers 404 permit program.

Because storm water will be discharged from construction activities that exceed five acres in surface disturbance, the City of Fayetteville will be required to obtain an NPDES general permit for storm water discharges associated with construction activity from the Arkansas Department of Environmental Quality (ADEQ).

The construction of the West Lines will cross Clabber Creek, which has been identified as seasonal habitat of the Arkansas darter (*Etheostoma cragini*). Correspondence from the USFWS has indicated that the darter is a candidate species that is under consideration for inclusion as a federally listed endangered species. The City of Fayetteville will enter into a Candidate Conservation Agreement with Assurances (CCAA) with the USFWS to develop protective measures for the Arkansas darter in areas associated with the wastewater improvements. The CCAA is beneficial to both the City and the darter. Protection is provided for the species as though it were already federally listed, while the City benefits from an exemption from full-scale Section 7 Consultation during construction of the proposed project.

SCOPE OF SERVICES TO BE PROVIDED:

The primary goals of the applicable project environmental regulatory compliance will be to:

- Provide protective measures during construction activities, and to restore disturbed areas as much as practicable following completion of construction. The applicable environmental requirements are as follows:

The finalization of the Wetland Mitigation Plan is necessary to develop a strategy to compensate for wetlands permanently altered at the West Treatment Plant and to complete the 404 permit submittal to the COE. The general elements of the Plan will include mitigation site location, mitigation type, and mitigation design. When issued, the 404 permit will require Best Management Practices (BMPs) during construction, as well as, post-construction restoration measures. Both tasks are appropriate for the Design/Bid Phase of the project. ECO, Inc. will finalize the Wetland Mitigation Plan, and develop BMPs. The anticipated time-frame is six months to one year.

- As required by the general permit, a Storm Water Pollution Prevention Plan (SWPPP) must be prepared and implemented. The objective of the SWPPP will be to minimize pollutants in storm water runoff and to implement the appropriate erosion control measures. ECO, Inc. will develop a project SWPPP.

WASTEWATER SYSTEM IMPROVEMENT PROJECT CITY OF FAYETTEVILLE

- To address potential impacts to the Arkansas darter in Clabber Creek, ECO, Inc. will finalize the CCAA for approval by USFWS. The anticipated time frame is six months to one year.
- ECO, Inc. will confer with the project engineering team to develop environmental specifications that will be incorporated into Bid Documents. ECO, Inc. will provide a project environmental overview to contract bidders, and give presentations at Pre-Bid Conferences. The anticipated time frame is one year to 18 months.

CONSULTING SERVICES NOT IN CURRENT SCOPE: Services provided by ECO, Inc. will not include services associated with Construction Phase portions of the project, and/or significant changes made to the project design until a later contract amendment.

CONSTRUCTION COST ESTIMATE FOR THIS PORTION OF THE PROJECT:
\$ 0

CONSULTANT SERVICES CONTRACT AMOUNT FOR THE LISTED SCOPE OF SERVICES: \$ 348,000.00

**AGREEMENT
For
ENVIRONMENTAL CONSULTING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
ENVIRONMENTAL CONSULTING OPERATIONS, INCORPORATED**

THIS AGREEMENT is made as of _____, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and ENVIRONMENTAL CONSULTING OPERATIONS, INCORPORATED with offices located in Benton, AR (hereinafter called ECO).

CITY OF FAYETTEVILLE from time to time requires environmental consulting services in connection with assistance in the planning, design, permitting, construction, operation, maintenance, management, and financing of the Fayetteville Wastewater System Improvement Project and in particular development of a project environmental regulatory program for West Side Wastewater Treatment Plant and Effluent Line, Broyles Road Improvements, Wetland Mitigation, Noland Wastewater Treatment Plant Improvements, Eastside Sewer Line Improvements, and Westside Sewer Line Improvements (The "Project"). Therefore, CITY OF FAYETTEVILLE and ECO in consideration of their mutual covenants agree as follows:

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

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of ECO.
- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of ECO.
- 1.3 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 ECO

2.1 General

Perform environmental consulting services in connection with the Project as hereinafter stated, which shall include normal environmental consulting services incidental thereto.

- 2.1.1.1 The Scope of Services to be furnished by ECO during the Final 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 ECO during the Bidding Phase, if any, will be finalized and contained in an amendment to this Agreement prior to commencement of the Bidding Phase
- 2.1.1.3 The Scope of Services to be furnished by ECO during the Construction Phase, if any, will be finalized and contained in an amendment to this Agreement prior to commencement of the Construction Phase.
- 2.1.1.4 The Scope of Services to be furnished by ECO during the Post-Construction Phase, if any, will be finalized and contained in an amendment to this Agreement prior to commencement of the Post-Construction Phase.
- 2.1.1.5 The preliminary Scope of Services to be furnished by ECO for Resident Services During Construction, if any, will be finalized and contained in an amendment to this Agreement prior to commencement of the Construction Phase.

The environmental consulting services to which this Agreement applies are a part of the Wastewater System Improvement Project. ECO shall coordinate their activities and services with BURNS AND MCDONNELL, as the Program Manager for the wastewater improvement project and CITY OF FAYETTEVILLE'S Water and Wastewater Director and applicable other parties that CITY OF FAYETTEVILLE may contract with for program management or professional design services as a part of the Wastewater System Improvement Project.

2.2 Final Design Phase

Prepare for incorporation in the Contract Documents environmental regulatory permitting requirements and Best Management Practices (BMPs) to show the character and scope of the Work to be performed by

contractors on the Project (hereinafter called the "environmental regulatory permitting requirements"), and, environmental regulatory portions of Instructions to Bidders, General Conditions, and Specifications (all of which, together with the, environmental regulatory permitting requirements 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 environmental regulatory permit requirements. Text documents shall be provided to CITY OF FAYETTEVILLE in Microsoft® Word version 97 software.

2.2.1.2 Develop and include in Appendix A of this Agreement, a project environmental regulatory compliance schedule in which ECO shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by ECO in the development of the environmental regulatory program. This schedule shall include reasonable allowances for review and approval time by CITY OF FAYETTEVILLE, performance of services by CITY OF FAYETTEVILLE'S consultants, and review and approval times 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 magnitude of the Project requested by CITY OF FAYETTEVILLE, or for delays, or other causes beyond ECO's control. ECO acknowledges the importance to CITY OF FAYETTEVILLE of CITY OF FAYETTEVILLE'S project schedule and agrees to put forth reasonable efforts in performing the services with due diligence under this Agreement in a manner consistent with that schedule, as provided in Exhibits A.

2.2.1.3 When requested by CITY OF FAYETTEVILLE's Water and Wastewater Director, prepare for and attend up to four City Council meetings to provide periodic updates on the progress of the environmental regulatory program.

Prepare technical criteria, written descriptions, and applications necessary for filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the environmental regulatory permitting of the Project and assist in obtaining approvals. Actual Filing and Permit Fees will be paid by CITY OF FAYETTEVILLE. Assist CITY OF FAYETTEVILLE in consultations with appropriate authorities.

- 2.2.3 Furnish Design Professionals with applicable environmental regulatory documents, specific to their scopes of work.
- 2.2.3.1 Assist CITY OF FAYETTEVILLE in applying for and obtaining those permits and approvals typically required by law for projects similar to the one for which ECO's services are being engaged. This assistance consists of completing and submitting forms required for the performance of certain services prior to commencement of construction. Specifically, this is to include Corps of Engineers Section 404 permit, the Arkansas Department of Environmental Quality Storm Water Permit for Construction Activity, and U.S. Fish and Wildlife Service Candidate Conservation Agreement for the Arkansas darter.
- 2.2.3.2 Fully disclose applicable subcontract agreements including the name and address of the subconsultant, the scope of services to be provided and the value of the subcontract agreement.
- 2.2.4 Render monthly Work progress reports to CITY OF FAYETTEVILLE and Program Manager and confirm compliance with environmental regulatory compliance schedule.
- 2.2.5 Provide to CITY OF FAYETTEVILLE and Program Manager such schedules, reports, 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 environmental regulatory program status of the project. Refresh the data supplied to the CITY OF FAYETTEVILLE and Program Manager monthly.

Arrange for applicable environmental regulatory permit requirements to be sent to project Design Professionals who will be preparing bidding notices to be sent to contractors.

- 2.2.1.4 The Program Manager shall organize, convene, and conduct Pre-Bid Conferences. ECO will not be required to attend the Pre-Bid Conferences. As needs arise for further explanations of the project environmental regulatory requirements or questions are posed from prospective bidders, the Program Manager will communicate such issues directly to ECO. ECO shall consider the questions received and provide the necessary clarifications and changes to the Program Manager for dissemination to concerned parties.

2.3 Construction Phase

The scope of Construction Phase Services, if any, will be negotiated prior to commencement of the Construction Phase.

2.4 Post-Construction Phase

The scope of Post-Construction Phase Services, if any, will be negotiated prior to commencement of the Post-Construction Phase.

SECTION 3 - ADDITIONAL SERVICES OF ECO

3.1 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by ECO, ECO shall furnish or obtain from others Additional Services of the following types which are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Furnishing renderings or Project documents concerning construction costs for CITY OF FAYETTEVILLE's use.

3.1.2 Miscellaneous Studies

Investigations, studies, or surveys for wetland mitigation on real property other than the West Side Wastewater facility property currently owned by the CITY OF FAYETTEVILLE.

Other task-specific Additional Services of ECO described in Appendices.

3.1.3 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.1.4 Extra Services

3.2 Contingent Additional Services

If services described under Contingent Additional Services in Paragraph 3.2 are required due to circumstances beyond ECO's control, ECO 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 Section 3.2 are not required, CITY OF FAYETTEVILLE shall give prompt written notice to ECO. If CITY OF FAYETTEVILLE indicates in writing that all or part of such Contingent Additional Services are not required, ECO shall have no obligation to provide those services.

Where ECO has deemed a service needed or advisable, and has made this opinion known to CITY OF FAYETTEVILLE and CITY OF FAYETTEVILLE has confirmed that such services are not requested of ECO and/or that CITY OF FAYETTEVILLE has made or shall make arrangements to obtain those services at a later date, CITY OF FAYETTEVILLE hereby agrees, to the fullest extent permitted by law, to indemnify and hold ECO harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) for injury or loss arising or allegedly arising from ECO failure to perform a service recommended by ECO and excluded by CITY OF FAYETTEVILLE'S direction.

Making substantial revisions in approved Drawings, Specifications, or other documents when such revisions are:

- 3.2.1.1 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.
- 3.2.1.2 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 ECO:

- 4.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.
- 4.2 Assist ECO by placing at ECO's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
- 4.3 Guarantee access to and make all provisions for ECO to enter upon public and private property as required for ECO to perform his services under this Agreement.
- 4.4 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by ECO and render in writing decisions pertaining thereto.

- 4.5 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.
- 4.6 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.
- 4.7 Give prompt written notice to ECO whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect, or suspected defect, in the Project.
- 4.8 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 after approvals are obtained by ECO.
- 4.9 Furnish, or direct ECO to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.
- 4.10 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 ECO's use in coordinating the environmental regulatory permitting requirements and Specifications.

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. ECO 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 ECO

6.1 Final Design Phase Services

For time expended by personnel, payment at the hourly rates indicated in the attached "Schedule of Hourly Professional Service Billing Rates". Such rates include overhead and profit. The schedule is effective to January 1, 2004, and will be revised annually.

For outside expenses incurred by ECO, such as authorized travel and subsistence, including airfare, food, lodging, automobile rental, commercial services, courier deliveries, and incidental expenses, the cost to ECO.

The total payment for the Basic Scope of Services described in Appendix A is estimated to be Three Hundred Seventy Six Thousand Four Hundred Nine Dollars (\$376,409.00), but is not a guaranteed maximum. The total payment is based on expending no more than 3,528 person-hours.

6.2 Construction Phase Services

This Section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions prior to commencement of Construction Phase Services.

6.3 Post-Construction Phase Services

This Section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions prior to commencement of Construction Phase Services.

6.4 Additional Services

For authorized additional environmental consulting services, under Section 3.0 "Additional Services", compensation to ECO shall be negotiated at the time the Additional Services are negotiated.

6.5 Statements

Statements for each calendar month will be submitted in electronic format simultaneously to CITY OF FAYETTEVILLE and Program Manager, followed by signed original document to CITY OF FAYETTEVILLE. Statements will be based on ECO's services completed at the end of the preceding month. Program Manager shall review the statement and forward to CITY OF FAYETTEVILLE with his recommendations.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

7.1.1 During the course of performance of these services, ECO 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

ECO 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 Burns and McDonnell and ECO as additional insureds, or, to endorse CITY OF FAYETTEVILLE, and Burns and McDonnell and ECO 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 ECO. All contract insurance carriers shall be required to list the City of Fayetteville, Arkansas Soil and Water Conservation Commission and Burns and McDonnell as certificate holders, furnishing copies of the contractor's insurance certificate to each listed party.

- 7.1.3 Neither the professional activities of ECO, nor the presence of ECO or ECO's employees and subconsultants at a construction site, shall relieve the Contractors and any other entity of their obligation, duties, and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by the regulatory agencies. ECO and ECO's personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their scope of work or any health or safety precautions. CITY OF FAYETTEVILLE agrees that the construction contractors are solely responsible for jobsite safety, and warrants that this intent shall be made evident in CITY OF FAYETTEVILLE'S agreement with all contractors. CITY OF FAYETTEVILLE also agrees that CITY OF FAYETTEVILLE, ECO and ECO's subconsultants shall be indemnified and shall be made additional insureds under the construction contractor's general liability insurance policy.
- 7.1.4 ECO will not possess broad responsibilities in relation to construction activities, including both contractual and de facto authority over the work of the trade contractors; and, will not be directly and substantially engaged in activities that were integrally connected with safety issues, notwithstanding contract language expressly disclaiming safety responsibility.
- 7.1.5 CITY OF FAYETTEVILLE agrees that ECO will not be responsible for any damages caused by surface excavations or subsurface penetrations for surface and underground improvements performed by others.
- 7.1.6 It is acknowledged by CITY OF FAYETTEVILLE that ECO's scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event that ECO or any other party encounters asbestos or hazardous or toxic materials at the jobsite, or should it become known in any way that such materials may be present at the jobsite or any adjacent areas that may effect the performance of ECO's services, ECO may, at ECO's

option and without liability for consequential or any other damages, suspend performance of services on the project until CITY OF FAYETTEVILLE retains appropriate specialist consultant(s) or contractor(s) to identify, abate and/or remove the asbestos or hazardous or toxic materials, and warrant that the jobsite is in full compliance with applicable laws and regulations.

- 7.1.7 CITY OF FAYETTEVILLE, and ECO waive all rights against each other and their officers, directors, agents, or employees for property damage covered by property insurance during and after the completion of ECO's services. If the services result in a Construction Phase, 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, Burns and McDonnell and ECO for damage or liability covered by any construction Contractor's policy of insurance. In addition, a provision similar to this shall be incorporated into all Construction Subcontracts entered into by construction Contractors and subcontractors with waivers of subrogation in favor of CITY OF FAYETTEVILLE and ECO for damage or liability covered by any construction Contractor's or subcontractor's policy of insurance.

7.2 Professional Responsibility

- 7.2.1 ECO will exercise reasonable skill, care, and diligence in the performance of ECO's services and will carry out its responsibilities in accordance with customarily accepted environmental consulting services ordinarily exercised by members of the same profession currently practicing under similar circumstances.

- 7.2.2 It is understood and agreed that CITY OF FAYETTEVILLE shall contract directly with the following Design Professionals for the following services:

<u>Design Professional Firm</u>	<u>Professional Services</u>
Burns and McDonnell,	Program Manager

McGoodwin, Williams and Yates, Inc. Consulting Engineers, Inc.: design of the proposed (Westside) treatment facility, access road, wetland mitigation, and effluent discharge line.

RJN Group, Inc.: design of the Westside Collection System to serve the Westside Treatment Plant.

Black and Veatch Inc.: facility upgrade design for the existing (Paul Noland) plant.

Garver Engineers, Inc.: rehabilitation and replacement design of the existing (Eastside) collection system serving the Paul Noland WWTP.

7.3 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of ECO'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 CITY OF FAYETTEVILLE and the President of ECO.

7.4 Termination

7.4.1 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:

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

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

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

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

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

7.4.3 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

7.4.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work.

- 7.4.3.2 Any payment due to ECO at the time of termination may be adjusted to cover any additional costs to the recipient because of ECO's default.
- 7.4.4 If termination for default is effected by ECO, 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 ECO for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by ECO relating to commitments which had become firm prior to the termination.
- 7.4.5 Upon receipt of a termination action under Paragraphs 7.4.1 or 7.4.2 above, ECO shall:
- 7.4.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),
- 7.4.5.2 Deliver or otherwise make available to the recipient applicable data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by ECO in performing this Agreement, whether completed or in process.
- 7.4.6 Upon termination under Paragraphs 7.4.1 or 7.4.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- 7.4.7 If, after termination for failure of ECO to fulfill contractual obligations, it is determined that ECO 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.
- 7.5 Delays
- 7.6. In the event the services of ECO are suspended or delayed by CITY OF FAYETTEVILLE, or by events beyond ECO's reasonable control, ECO shall be entitled to additional compensation for reasonable costs incurred by ECO in temporarily closing down or delaying the Project.

7.6 Rights and Benefits

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

7.7 Dispute Resolution

7.7.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and ECO 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 ECO in the performance of this Agreement, and disputes concerning payment.

7.7.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.7.3, 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 7.7.3, 7.7.4, and 7.7.5 have been complied with.

7.7.3 Notice of Dispute

7.7.3.1 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;

7.7.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give ECO written Notice at the address listed in Paragraph 7.12 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.

7.7.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and ECO 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 ECO 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.

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

7.9 Publications

Recognizing the importance of professional development on the part of ECO's employees and the importance of ECO's public relations, ECO may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to ECO'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 ECO. 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 ECO's activities pertaining to any such publication shall be for ECO's account.

7.10 Indemnification

7.10.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors and subcontractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE, Burns and McDonnell and ECO 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.

7.11 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. ECO may retain reproduced copies of drawings and copies of other documents.

Documents, drawings, and specifications prepared by ECO as part of the Services shall become the property of CITY OF FAYETTEVILLE when ECO has been compensated for all Services rendered, provided, however, that ECO shall have the unrestricted right to their use. ECO 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 ECO.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. ECO 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.

7.12 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:
113 West Mountain
Fayetteville, Arkansas 72701

ECO's address:
1313 Highway 229-5A
Benton, Arkansas 72015

ASWCC's Address:
Arkansas Soil and Water Conservation Commission
101 East Capitol, Suite 350
Little Rock, Arkansas 72201
Project number CS-050803-03

7.13 Successor and Assigns

CITY OF FAYETTEVILLE and ECO 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 ECO shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

7.14 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.

7.15 Entire Agreement

This Agreement represents the entire Agreement between ECO 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 ECO a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by ECO, 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 ECO:

8.1.1 CITY OF FAYETTEVILLE's or Arkansas Soil and Water Conservation Commission's (ASWCC's) review, approval, or acceptance of, specifications, reports and other services furnished hereunder shall not in any way relieve ECO of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's nor ASWCC'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 ECO shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by ECO'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 ECO's obligations under this clause are in addition to ECO'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 ECO 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 ECO 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 ECO 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. ECO shall also maintain the financial information and data used by ECO 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. ECO 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 ECO;

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

ECO 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 ECO 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 ECO or any of ECO'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, the State or EPA 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 ECO 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 ECO as it could pursue in the event of a breach of the Agreement by ECO. 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 ECO incurs in providing any such gratuities to any such officer or employee.

8.6 Arkansas Freedom of Information Act

City contracts and documents 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

CITY OF FAYETTEVILLE, ECO 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 FOLA 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.

AUTHORIZED REPRESENTATIVE

COMPANY NAME: Environmental Consulting Operations, Inc. (ECO)

SIGNATURE: _____ DATE: _____

PRINTED NAME: Bruce Shackleford TITLE: President

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and ECO, 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

ENVIRONMENTAL CONSULTING OPERATIONS, INC.

By: _____
Bruce Shackleford, President

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

END OF AGREEMENT FOR ENVIRONMENTAL CONSULTING SERVICES

**CITY OF FAYETTEVILLE
FEES FOR ENVIRONMENTAL CONSULTING SERVICES**

The charges for labor below are based upon the typical fees for ECO's personnel, and the projected level of effort necessary to complete the tasks described in Appendix A.

The total payment for the basic Scope of Services described in Appendix A is estimated to be Three Hundred Seventy Six Thousand Four Hundred and Nine U.S. Dollars (US \$376,409), but is not a guaranteed maximum. The total payment is based on expending no more than 3,528 person-hours.

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

If Additional Services beyond the estimated sum amount are required due to circumstances beyond ECO's control, ECO shall notify CITY OF FAYETTEVILLE and request approval to conduct specific Contingent Additional Services. CITY OF FAYETTEVILLE retains the options of executing a formal contract amendment approved by the Mayor and the City Council, or approval in writing for Contingent Additional Services to be performed on a time and expenses basis, charged according to ECO's standard fee schedule. In either case, ECO will provide a budget figure to CITY OF FAYETTEVILLE and detail the scope of services, prior to commencing such services. If the City of Fayetteville deems that such services are not required CITY OF FAYETTEVILLE shall give prompt notice to ECO, and ECO shall have no obligation to provide those services.

For time expended by ECO personnel, payment at hourly rates indicated in the attached "Schedule of Hourly Professional Service Billing Rates". Such rates include overhead and profit. The schedule is effective January 1, 2003, and will be revised annually.

Labor	Hourly Billing Rate
Project Director (Principal)	\$ 93.25
Assoc. Sr. Environmental Scientist	\$ 91.25
Sr. Environmental Scientist	\$ 88.50
Environmental Engineer	\$ 88.50
Environmental Scientist	\$ 85.50
Field Ecologist	\$ 66.75
Clerical/Administrative	\$ 27.58

CITY OF FAYETTEVILLE
AGREEMENT FOR ENVIRONMENTAL CONSULTING SERVICES
APPENDIX A – FEES FOR FINAL DESIGN PHASE

Part A – Project Administration And Management	
Total Labor – 400 hours	\$35,908
Total Expenses	\$2,222
Total Fees	\$38,131
Part B – Design Survey	
Total Labor – 618 hours	\$60,679
Total Expenses	\$8,789
Total Fees	\$69,468
Part C – Section 404/Permit/Wetland Mitigation	
Total Labor – 1,450 hours	\$140,582
Total Expenses	\$14,478
Total Fees	\$155,060
Part D – Storm Water Permit	
Total Labor – 422 hours	\$40,073
Total Expenses	\$1,635
Total Fees	\$41,707
Part E – Candidate Conservation Agreement with Assurances	
Total Labor – 302 hours	\$28,850
Total Expenses	\$5,602
Total Fees	\$34,452
Part F – Comprehensive Best Management Practices Plan	
Total Labor – 336 hours	\$32,036
Total Expenses	\$5,555
Total Fees	\$37,591
Design Phase (Appendix A) Total	
Total Labor – 3,528 Hours	\$338,128
Total Expenses	\$38,281
Total Fees	\$376,409

CITY OF FAYETTEVILLE
AGREEMENT FOR ENVIRONMENTAL CONSULTING SERVICES
APPENDIX A - SCOPE OF SERVICES FOR FINAL DESIGN PHASE

This is **Appendix A**, consisting of 11 pages, referred to in and part of the **Agreement For Professional Environmental Consulting Services** between **CITY OF FAYETTEVILLE, ARKANSAS** and **Environmental Consulting Services** dated _____.

Initial:

CITY OF FAYETTEVILLE _____

ECO _____

The following contains detailed Scope of Services tasks for the Final Design Phase:

Generally, the project will include the final design of Westside sewer collection system improvements designed by RJN Group; Eastside sewer collection system improvements designed by Garver Engineers; Paul Noland Treatment Plant rehabilitation design by Black and Veatch; and Westside Wastewater Treatment design, effluent line design, wetland mitigation, and Broyles Road improvements design by McGoodwin, Williams and Yates. ECO's Scope of Services will be the development of the Environmental Regulatory Program during the Design Phase.

PART A - PROJECT ADMINISTRATION AND MANAGEMENT

1. Basic Scope of Services

a) Project Administration

- i) Perform project initiation activities
- ii) Perform general administration and project management activities.
- iii) Perform ECO's internal project control including budgeting, scheduling, and quality control activities.
- iv) Develop environmental regulatory program priority schedule
- v) Provide environmental regulatory updates to Burns and McDonnell for project website and applicable portions of permitting matrix
- vi) Provide project environmental regulatory information to Fayetteville City Council

b) Coordination Meetings

- i) Attend project kickoff meeting with City staff and other consultants involved in project.
- ii) Attend meetings with City representatives, program manager, and other design consultants, as directed by **CITY OF FAYETTEVILLE**, to coordinate design activities.
- iii) Meet with Arkansas Department of Environmental Quality, US Army Corps of Engineers, and US Fish and Wildlife Service to obtain permits for construction of project. A total of seven meetings are anticipated.
- iv) Meet with individual design consultants for information exchange, goal setting, setting timelines, reviewing plans/drawings.

PART B – DESIGN SURVEY

1. Basic Scope of Services

- a) ECO will review environmental features on design consultants' plans for completeness and accuracy, and to identify changes that may require additional aquatic resource assessments.
- b) ECO will assist design consultants in identifying locations of aquatic resources and/or ecologically sensitive areas on design plans and documents.
- c) ECO will develop Environmental Regulatory Program Specifications to be incorporated into design consultants' design plans and documents.
- d) ECO will assist in obtaining project Section 404 permit, general storm water permit for construction activity, and Candidate Conservation Agreement.

PART C - SECTION 404 PERMIT

1) Purpose

Because the proposed project will involve activities in "waters of the United States" a Section 404 permit will be required by the Corps of Engineers (COE). During the Pre-Design Phase, ECO developed the following portions of the Section 404 permit application to the COE for the project:

- Part 1: Wetland Delineation for Westside Wastewater Treatment Facility;
- Part 2: Aquatic Resource Assessment for Westside (Illinois River Watershed) Line Work;
- Part 3: Aquatic Resource Assessment for Eastside (Beaver Reservoir Watershed) Line Work;
- Part 4: Form 4345 and Supplemental Information;
- Part 5: Alternatives Analysis Evaluation

2) Basic Scope of Services

Services to be provided by ECO in relation to the Section 404 permit during the Design Phase, shall be limited to:

a) - Mitigation Site Selection Process

After the COE has reviewed Parts 1-5, and provided comments pertaining to required compensatory mitigation for permanently altered wetlands, ECO will initiate the site selection process for the wetland mitigation site. This shall include meetings and field reconnaissance of Westside Wastewater Facility property with McGoodwin, Williams, and Yates (MWY) and the COE to evaluate existing wetlands, and to evaluate potential locations for the wetland mitigation site. Three site visits are anticipated.

The COE will require the wetland mitigation site to be permanently protected with appropriate real estate instruments (e.g., conservation easements, deed restrictions, transfer of title to Federal or state resource agencies or non-profit conservation organizations). Approval of this action from the Fayetteville City Council will be necessary. After development of mitigation site alternatives, ECO will present the findings to the City Council, and provide information that will be utilized in the decision-making process to evaluate and initiate deed restriction of the site for compensatory wetland mitigation. ECO's attendance at two City Council meetings is anticipated.

b) Wetland Mitigation Criteria

Mitigation activities will likely include enhancement of existing wetlands, and creation of new wetlands. ECO will develop wetland technical criteria to be provided to MWY to be utilized in the design of the compensatory mitigation wetland. Considerations of soil, hydrology, and vegetation must be made in order for wetland habitat to be created and maintained. ECO will provide criteria to MWY for a hydrobudget/hydroperiod analysis model to determine the source and volume of input during the growing season to provide for hydrologic support of the proposed structure and functions in order to determine the amount of water needed to support a wetland plant community. Calculations

made by MWY with major input and output components of a hydrologic budget will form the basis for the wetland design. ECO will meet with MWY to discuss wetland technical criteria and review MWY wetland design specifications and drawings. Six meetings are anticipated.

c) - Compensatory Wetland Mitigation Plan

After the approval of the site selection process by the Fayetteville City Council, ECO will develop *Part 6: Compensatory Wetland Mitigation Plan for The City of Fayetteville Wastewater Improvements Project*. Initially, ECO will submit a "Conceptual Wetland Mitigation Work Plan" to the COE, prior to detailed design of the created wetland. Upon review of the Conceptual Plan, the COE will provide feedback regarding the wetland mitigation strategy, and initiate the Public Notice Process. Subsequent to receipt of comments from the COE, ECO will complete the Final Wetland Mitigation Plan that will include the following elements:

i) Baseline Information

- Description of physical, biological and legal characteristics of the Westside Wastewater Facility footprint, and how the project will be established and operated.
- Description of location, size, type, function and value, and amount of debit associated with the aquatic resource impacts from the proposed project, and the amount of credit generated from the compensatory mitigation.
- Description of the location of the proposed mitigation site in relation to the aquatic resource area to be impacted and quantitative data (acreage) for the proposed mitigation site.
- Fieldwork will be conducted to characterize the area targeted for wetland mitigation activities. This will include delineations of known wetlands on the site. An assessment of wetland function and value using the Charleston Method, as prescribed by the COE, will be conducted for the Westside Wastewater Facility footprint, and the mitigation site.

ii) Goals Of The Mitigation

- Written statement of environmental goals and objectives; and types of mitigation targeted

iii) Mitigation Strategy

Specifications and descriptions of the work to be performed, including, but not limited to:

- Boundaries of proposed constructed wetland and protected/maintained areas (e.g., maps and diagrams)
- Replacement ratios
- Construction methods, timing, and sequence
- Data indicating historic and existing vegetation, hydrology, and soil conditions
- Source of water supply
- A hydrobudget/hydroperiod analysis model to determine the source and volume of input during the growing season to provide for hydrologic support of the proposed structure and functions in order to determine the amount of water needed to support a wetland plant community. MWY modeling of major input and output components of a hydrologic budget will form the basis for the wetland design.
- Plant materials and scheme for revegetation
- Methods and times of year for revegetation
- Plans for control of exotic vegetation
- Elevation(s) and slope(s) of the proposed mitigation area to conform with required elevation for target plant species
- Erosion control measures to prevent upland erosion into mitigation site

iv) Success Criteria – methods to measure success of created wetland

v) Monitoring Plan – strategy to assess the function and value of the created wetland

- vi) Contingency Plan – strategy to be implemented, should creation of the wetland fail
- vii) Site Protection – legal and physical measures to protect the site in perpetuity
- viii) Financial Assurances – demonstration that the CITY OF FAYETTEVILLE has the necessary financial capability to construct and maintain the mitigated wetland
- ix) Responsible Party For Long-Term Maintenance – discussion of responsible party that will maintain created wetland.

ECO will provide copies of the Compensatory Wetland Mitigation Plan to COE, CITY OF FAYETTEVILLE, U.S. Fish and Wildlife Service, MWY, and Burns and McDonnell.

d) - Broyles Road Extension Section 404 Permit

In order to facilitate access to the Westside Wastewater Facility property by heavy equipment during construction, a portion of Broyles Road will be improved and rerouted. The Broyles Road improvements were initially planned for approximately 2,800 linear feet, beginning at an area located immediately to the south of the planned wastewater facility, and extending northward to the facility entrance. ECO submitted information to the COE, accordingly. Since that time, revisions to planned improvements have been made to extend Broyles Road further northward. Consequently, additional aquatic resource assessment work will be necessary, since the extended reroute will cross additional streams and wetlands that are Section 404 jurisdictional "waters of the U.S." Because it is necessary to expedite commencement of Broyles Road improvements prior to construction of the wastewater facility, ECO has conferred with the COE Little Rock District office and found that they will most likely allow the submittal of a separate Section 404 permit application for the Broyles Road improvements, in lieu of requiring the information to be submitted with the wastewater improvements 404 application. The revised proposed route of the Broyles Road improvements has been determined to extend from a point that is approximately 2,500 linear feet south of the proposed wastewater facility, northward to Persimmon Street. Additionally, an overhead electrical power line, a water line, and the Hamestring to Wastewater Plant sewer line will be relocated to an area that parallels Broyles Road. As required by the COE, an aquatic resource assessment must be done to quantify and differentiate the wetlands that will be temporarily disturbed and restored (overhead electrical power line, water line, and sewer line) and the wetlands that will be permanently altered and mitigated from the Broyles Road Improvements.

The scope of services to be provided by ECO will involve the following:

- i) ECO will conduct an aquatic resource assessment for the overhead electrical power line, water line, sewer line, and Broyles Road extension to identify stream crossings and wetlands.
- ii) ECO will conduct stream surveys and wetland delineations of the streams and wetlands identified.
- iii) ECO will meet with MWY and review MWY design drawings for the Broyles Road extension and assist in identifying locations of aquatic resources.
- iv) ECO will develop a separate individual Section 404 permit application for the Broyles Road improvements, which will include the following:
 - Form 4345 and Supplemental Information
 - Aquatic Resource Assessment of waters of the U.S. where activities will take place
 - Site Vicinity Map
 - Wetland Delineations
- v) ECO will provide copies of the 404 permit application to CITY OF FAYETTEVILLE, COE, U.S. Fish and Wildlife Service, MWY, and Burns and McDonnell.
- vi) ECO will obtain baseline information of the wetlands associated with the proposed Broyles Road improvements, to include the following:

- Description of physical, biological and legal characteristics of the Broyles Road improvements, and how the project will be established and operated.
- Description of location, size, type, function and value, and amount of debit associated with the aquatic resource impacts from the proposed project, and the amount of credit generated from the compensatory mitigation.
- Description of the location of the proposed mitigation site in relation to the aquatic resource area to be impacted and quantitative data (acreage) for the proposed mitigation site.
- An assessment of wetland function and value using the Charleston Method, as prescribed by the COE.

vii) ECO will incorporate relevant technical and regulatory issues to address permanent alterations to "waters of the U.S." associated with the Broyles Road extension into the Compensatory Wetland Mitigation Plan, as applicable.

e) - Restoration Plan

Typically, Section 404 permits of this nature require the development and implementation of a restoration plan to avoid and minimize impacts to aquatic resources. ECO will develop an Erosion Control Plan that will generally follow the Little Rock District COE Sedimentation and Erosion Control Guidelines for Pipeline Projects for incorporation into the Project Comprehensive BMP Plan. This will be applicable to both line work and wastewater facility construction activities within jurisdictional "waters of the U.S."

f) - Section 404 Permit Development/Review

In order to facilitate issuance of the Section 404 permit Public Notices, ECO will develop "suggested" draft Public Notices/404 permits with relevant information regarding project activities within "waters of the U.S." for submittal to the COE. Upon issuance of the 404 permits by the COE, ECO will review the permit to determine if reasonable conditions have been written within the permit that are representative of proposed activities, following applicable environmental regulatory requirements. ECO will submit comments to the COE and initiate negotiations for more reasonable permit requirements, if necessary.

3) - Services and Items Not Included

a) Public Hearing

Individual Section 404 permits are issued following a full public interest review of the permit application. A Public Notice is distributed by the COE to all known interested persons and state and federal resource management agencies. A Public Hearing may or may not be held in connection with the COE's consideration of a permit application. Unless the Public Notice specifies that a Public Hearing will be held, any person may request, in writing, within the comment period specified in the Public Notice on a 404 permit application, that a Public Hearing be held to consider the material matters at issue in the permit application. Upon receipt of any such request, stating with particularity the reasons for holding a Public Hearing, the COE may expeditiously attempt to resolve the issues informally. Otherwise, the COE shall promptly set a time and place for the Public Hearing, and give due notice thereof. Requests for a Public Hearing shall be granted, unless the COE determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing. Currently, it is unknown whether or not a Public Hearing will be required for the project 404 permits. Should such a process develop, it may become necessary to amend the scope of services provided by ECO.

b) Administrative Appeal

The COE has established policies and procedures to be used for the administrative appeal of permit applications denied with prejudice, and for the administrative appeals of declined individual permits. The appeal process will allow the affected party to pursue an administrative appeal of certain final COE decisions with which they disagree. Examples of reasons for appeals include, but are not limited to, the following: a procedural error, an incorrect application of law, regulation

or officially-promulgated policy, omission of material fact, incorrect application of the Section 404(b)(1) Guidelines, or use of incorrect data. Currently, it is unknown whether or not an administrative appeal will become necessary. Should such a process develop, it may become necessary to amend the scope of services provided by ECO.

c) Flood Plain Development Permit

ECO's services will not include obtaining a flood plain permit, unless otherwise requested by CITY OF FAYETTEVILLE.

d) Additional Wetland Delineations/Stream Surveys/Functional Assessments

During the wetland mitigation site selection process, there is the potential for CITY OF FAYETTEVILLE to select a mitigation site that has extensive wetlands because some parcels of the 322-acre city-owned property have an abundance of wetland depressions. The COE will require the submittal of functional assessment baseline information for the selected site. If wetlands exist, a wetland delineation will become necessary. Currently, ECO is aware of the presence and magnitude of wetlands at a targeted site, preliminarily selected after conferrals with the COE. ECO's scope of work includes a general characterization of the wetland mitigation site. However, should CITY OF FAYETTEVILLE select an alternative site that requires extensive wetland delineation and/or functional assessment work, or if the COE requires additional wetland delineation and/or functional assessment work, it may become necessary to amend the scope of services provided by ECO.

The possibility exists for the locations of structures, such as effluent line, outfall, pump stations and sewer line alignments, to be changed during the Design Phase. If such changes occur which necessitate further aquatic resource assessments, such as stream crossing surveys, wetland delineations, and/or functional assessment work, it may become necessary to amend the scope of services provided by ECO.

e) ECO is not responsible for the following services:

- Aerial photographs/design drawings
- Completed calculations/models for constructed hydrologic budget for constructed wetland
- Flood plain maps for areas within flood plains where construction activities will occur

f) - Contingent Additional Services

If Contingent Additional Services are required due to circumstances beyond ECO's control, ECO shall notify CITY OF FAYETTEVILLE and request approval to conduct specific Contingent Additional Services. CITY OF FAYETTEVILLE retains the options of executing a formal contract amendment approved by the Mayor and the City Council, or approval in writing for Contingent Additional Services to be performed on an hourly rate and expenses basis, charged according to ECO's standard fee schedule. In either case, ECO will provide a cost estimate to CITY OF FAYETTEVILLE and detail the scope of services, prior to commencing such services. If the CITY OF FAYETTEVILLE deems that such services are not required CITY OF FAYETTEVILLE shall give prompt notice to ECO, and ECO shall have no obligation to provide those services.

PART D - GENERAL STORM WATER PERMIT FOR CONSTRUCTION ACTIVITY

1) Purpose

A general storm water permit for construction activity (NPDES general permit ARR10A000) will be required for all surface disturbance construction activities on the project, as per EPA-promulgated regulations at 40 CFR 122.26. These regulations have been adopted by the Arkansas Department of Environmental Quality (ADEQ) within Regulation No. 6 (NPDES regulations). As a requirement of the general permit, controls to reduce pollutant loading in storm water are to be developed and implemented.

2) Basic Scope of Services

Services to be provided by ECO shall be limited to:

a) - Notice Of Intent

In preparation for construction of the proposed project, ECO will complete a Notice of Intent (NOI) for coverage under the general permit which must be filed with ADEQ at least 48 hours prior to the commencement of construction activities. ECO will prepare and submit the NOI upon selection of construction contractors.

b) - Storm Water Pollution Prevention Plan

To enhance the minimization of storm water pollutant loading, the general permit requires the development and implementation of a storm water pollution prevention plan (SWPPP). ECO will develop a SWPPP which will include the following elements:

- **Best Management Practices**
- **Site Description**
- **Sediment and Erosion Controls**
- **Preventative Maintenance**
- **Site Evaluations**
- **Recordkeeping Requirements**
- **Good Housekeeping**
- **Pollution Prevention Training**

- i) ECO will develop project general storm water permit Best Management Practices (BMPs) for incorporation into Design Consultants' Plans and Bid Documents, as applicable. Implementation of these SWPPP BMPs will be required during the project Construction Phase for the Westside Wastewater Facility and associated effluent line; the Broyles Road improvements; the Westside Collection System Improvements; the Paul Noland Wastewater Facility Upgrade; and the Eastside Collection System Improvements. Due to the variable nature of construction activities and/or regulatory requirements for the proposed wastewater improvements, ECO will develop several versions of the SWPPP, as applicable.
- ii) ECO will identify specific locations, as applicable, for implementation of specific BMPs for incorporation into Design Consultant' Plans and Bid Documents.
- iii) Copies of the applicable SWPPP will be provided to the CITY OF FAYETTEVILLE; ADEQ, McGoodwin, Williams and Yates; RJN Group; Black and Veatch; Garver Engineers, and Burns and McDonnell.
- iv) ECO will incorporate the SWPPP/BMPs into the Comprehensive BMP Plan, as applicable.
- v) ECO will attend meetings, as applicable and appropriate, with CITY OF FAYETTEVILLE; McGoodwin, Williams, and Yates; RJN Group; Black and Veatch; Garver Engineers; and Burns and McDonnell to discuss and coordinate project BMP issues for incorporation into Design Consultants' Bid Documents.

c) - Contingent Additional Services

i) General Storm Water Permit Revisions

The scope of services contained herein is based upon the terms and conditions of the current ADEQ General Storm Water Permit for Construction Activity (ARR10A000) that became effective on July 30, 1998, and expired on June 30, 2003. ADEQ is currently revising the general permit, and will reissue it in the near future. Currently, it is unknown whether or not permit revisions will necessitate substantial changes in ECO's scope of services. Should this occur, it may become necessary to amend ECO's scope of services.

ii) Design Changes

The scope of services contained herein is based upon the information provided to ECO by Design Consultants and CITY OF FAYETTEVILLE. Changes in design component locations and/or the

nature of construction contracts to be written may necessitate ECO's revisions of specific BMP locations. Should this occur, it may become necessary to amend ECO's scope of services.

If Contingent Additional Services are required due to circumstances beyond ECO's control, ECO shall notify CITY OF FAYETTEVILLE and request approval to conduct specific Contingent Additional Services. CITY OF FAYETTEVILLE retains the options of executing a formal contract amendment approved by the Mayor and the City Council, or approval in writing for Contingent Additional Services to be performed on a time and expenses basis, charged according to ECO's standard fee schedule. In either case, ECO will provide a cost estimate to CITY OF FAYETTEVILLE and detail the scope of services, prior to commencing such services. If the CITY OF FAYETTEVILLE deems that such services are not required CITY OF FAYETTEVILLE shall give prompt notice to ECO, and ECO shall have no obligation to provide those services.

PART E – CANDIDATE CONSERVATION AGREEMENT WITH ASSURANCES (CCAA)

1) Purpose

Section 3(6) of the Endangered Species Act (ESA) of 1973, defines an endangered species as "any (plant or animal) species that is in danger of extinction throughout all or a significant portion of its range....". The Act, as amended, provides a means whereby various species of fish, wildlife, and plants, which are threatened with extinction, may be conserved.

The construction of the Westside collection system will cross Clabber Creek, and associated tributaries, at several locations that have been identified as a seasonal habitat of the Arkansas darter (*Etheostoma cragini*). Correspondence from, and conferrals with, the U.S. Fish and Wildlife Service (USFWS) have indicated that the darter is a candidate species that is under consideration for inclusion as a federally listed endangered species. The Section 404 permit issued by the COE, and the ADEQ General Storm Water Permit for Construction Activities will be issued on the basis that the proposed project will not adversely affect an endangered species. Should the darter become listed as threatened or endangered during the course of construction activities, the project could face extensive and untimely delays. This presents the potential for revocation of the permits. In this scenario, construction activities potentially would have to cease, and a lengthy Section 7 Consultation with USFWS would ensue. Subsequently, the permits would have to be reissued with modifications that provide for protective measures for the Arkansas darter.

In order to obviate such an occurrence, the CITY OF FAYETTEVILLE anticipates entering into a CCAA for the Arkansas darter. The CCAA is a document with conservation actions agreed upon by the CITY OF FAYETTEVILLE in cooperation with the USFWS and the Arkansas Game and Fish Commission (AGFC). The CCAA will be beneficial to both the CITY OF FAYETTEVILLE and the darter. Protection is provided for the species as though it were already federally listed, while the CITY OF FAYETTEVILLE benefits from an exemption from a full-scale Section 7 Consultation during construction of the proposed project. The CCAA will involve specific restrictions for seasonal construction activities within darter habitat. Habitat restoration, enhancement, and protection will be among the main goals of the CCAA. The CCAA will require the organization of a Conservation Team to periodically evaluate (and modify if necessary) the CCAA. ECO developed a Draft CCAA during the Pre-Design Phase of the project.

2) Basic Scope of Services

Services to be provided by ECO up to the point of execution of the CCAA by the involved parties, shall be limited to:

a) – Meetings

- i) Organize/initiate Arkansas Darter Conservation Team meetings. A total of two meetings are anticipated during the Design Phase.
- ii) Pre-CCAA planning meetings with CITY OF FAYETTEVILLE, RJN Group, USFWS, and AGFC. A total of two meetings is anticipated during the Design Phase.

b) – Field Work

Field work/site reconnaissance with USFWS to identify/classify habitat as critical use, safe haven, or low priority; and to identify potential construction restriction zones. A total of two site visits is anticipated.

c) – CCAA Document

Revise draft CCAA/develop conservation actions. The USFWS has provided a suggested template for the CCAA to ECO. ECO will develop a CCAA for the Arkansas darter that will be applicable to areas of sewer line construction along Clabber Creek, more specifically, Line W-5 (Gregg Avenue to Hamstring Creek) that is to be designed by RJN group. The CCAA document will include the following elements:

- Signature page
- USFWS designated Agreement Administrator
- Property description
- Authority and Purpose
- Background; ecology, life history, and major factors that threaten the existence of the Arkansas darter.
- Description of Existing Conditions; existing population status/habitat characterization
- Conservation Measures
- Expected Benefits
- Assurances Provided to Property Owner in Case of Changed or Unforeseen Circumstances
- Monitoring Provisions
- Notification Requirement
- Transfer of Benefits
- Duration of Agreement and Tracking Number
- Termination and Agreement Amendments

Copies of the CCAA will be provided to USFWS, AGFC, CITY OF FAYETTEVILLE, COE, ADEQ, RJN, City Council members, and Burns and McDonnell.

d) – CCAA Administration Assistance

ECO will present CCAA to City Council (one meeting), assist in administering execution of CCAA, and incorporate applicable CCAA conditions into Comprehensive BMP Plan.

e) - Contingent Additional Services

If the USFWS determines that the proposed activity may jeopardize endangered species or their critical habitat, a Section 7 Consultation may become required by USFWS. This may result in special conditions within the Section 404 permit that are beyond the typical scope of work. Consequently, additional fees may be incurred in such an event. Examples include, but are not restricted to:

- Section 7 Consultation with USFWS
- CCAA for species other than Arkansas darter
- CCAA for project work other than Westside line work near Clabber Creek
- In-depth biological, habitat, and/or population surveys
- Federal endangered species collection permits
- Protective measures required by environmental regulatory agencies other than USFWS

If Contingent Additional Services are required due to circumstances beyond ECO's control, ECO shall notify CITY OF FAYETTEVILLE and request approval to conduct specific Contingent Additional Services. CITY OF FAYETTEVILLE retains the options of executing a formal contract amendment approved by the Mayor and the City Council, or approval in writing for Contingent Additional Services to be performed on a time and expenses basis, charged according to ECO's standard fee schedule. In either case, ECO will provide a cost estimate to CITY OF FAYETTEVILLE and detail the scope of services, prior to commencing such services. If the CITY OF FAYETTEVILLE deems that such services are not required CITY OF FAYETTEVILLE shall give prompt notice to ECO, and ECO shall have no obligation to provide those services.

PART F – COMPREHENSIVE BEST MANAGEMENT PRACTICES PLAN

1) Purpose

Due to the overlap of environmental regulatory requirements, and the variability of regulatory requirements for specific portions of the project, ECO will coordinate Best Management Practices (BMPs) via the development of Project Comprehensive Best Management Practices Plans.

In addition to the requirements of the Section 404 permit, the General Storm Water Permit for Construction Activity, and the CCAA, other regulatory issues are involved. The USFWS has concerns about construction activity within potential ecologically sensitive areas in Northwest Arkansas. Because of the prevalence of karst geology in the project area, and sensitive species associated with cave ecosystems, the USFWS has requested the development and implementation of special measures, should a cave system be encountered during construction activity.

2) Basic Scope of Services

Services to be provided by ECO shall be limited to:

a) – Cave System Contingency Plan

ECO will develop a Cave System Contingency Plan that will be incorporated into the Comprehensive Best Management Practices Plans, as applicable.

b) – Applicable Regulatory Requirements to Westside Wastewater Facility

ECO will develop measures to comply with specific regulatory requirements (BMPs) for planned activities at the Westside Wastewater facility, as follows:

- Section 404 permit issued by COE
- Compensatory Wetland Mitigation Plan required by COE
- General Storm Water Permit for Construction Activities issued by ADEQ
- Cave Contingency Plan required by USFWS

c) – Applicable Regulatory Requirements to Westside Effluent Line and Outfall

ECO will develop measures to comply with specific regulatory requirements (BMPs) for planned activities for the Westside effluent line, as follows:

- Section 404 permit issued by COE
- General Storm Water Permit for Construction Activities issued by ADEQ
- Cave Contingency Plan required by USFWS

d) – Applicable Regulatory Requirements to Broyles Road Improvements

ECO will develop measures to comply with specific regulatory requirements (BMPs) for planned activities for the Broyles Road Improvements, as follows:

- Section 404 permit issued by COE
- Compensatory Wetland Mitigation Plan required by COE
- General Storm Water Permit for Construction Activities issued by ADEQ
- Cave Contingency Plan required by USFWS

e) – Applicable Regulatory Requirements to Westside Collection System Improvements

ECO will develop measures to comply with specific regulatory requirements (BMPs) for planned activities for the Westside Collection System Improvements, as follows:

- Section 404 permit issued by COE
- Candidate Conservation Agreement administered by USFWS
- General Storm Water Permit for Construction Activities issued by ADEQ
- Cave Contingency Plan required by USFWS

f) – Applicable Regulatory Requirements to Eastside Collection System Improvements

ECO will develop measures to comply with specific regulatory requirements (BMPs) for planned activities for the Eastside Collection System Improvements, as follows:

- Section 404 permit issued by COE
- General Storm Water Permit for Construction Activities issued by ADEQ
- Cave Contingency Plan required by USFWS

g) - Applicable Regulatory Requirements to Paul Noland Wastewater Facility Improvements
ECO will develop measures to comply with specific regulatory requirements (BMPs) for planned activities for the Paul Noland Wastewater Facility Improvements, as follows:

- General Storm Water Permit for Construction Activities issued by ADEQ
- Cave Contingency Plan required by USFWS

h) - Site-Specific Best Management Practices Plans

- i) Because each of the six portions of the project will vary in nature, have specific regulatory requirements, and require specific BMPs, ECO will develop six versions of the Project Comprehensive Best Management Practices Plan. As applicable, ECO will provide copies to CITY OF FAYETTEVILLE, McGoodwin, Williams and Yates, RJN, Garver, Black and Veatch, Burns and McDonnell, USFWS, COE, AGFC, and ADEQ.
- ii) ECO will develop six versions of environmental regulatory requirement specifications for incorporation into Design Consultants' Plans and Bid Documents, as described above.
- iii) ECO will develop an environmental regulatory permitting and compliance priority schedule.

i) - Contingent Additional Services

The scope of services contained herein are based upon the current environmental regulatory requirements at the time of the development of the scope of services, and upon communications with regulatory personnel. ECO has no control of any regulatory control authority's subjectiveness in regulatory interpretations, the dynamics of environmental regulations, nor the retroactiveness thereof. Should environmental regulatory requirements specific to the project significantly change, or if interpretations of and/or applications of current environmental regulations significantly change, it may become necessary to amend ECO's scope of services.

If Contingent Additional Services are required due to circumstances beyond ECO's control, ECO shall notify CITY OF FAYETTEVILLE and request approval to conduct specific Contingent Additional Services. CITY OF FAYETTEVILLE retains the option of executing a formal contract amendment approved by the Mayor and the City Council, or approval in writing for Contingent Additional Services to be performed on a time and expenses basis, charged according to ECO's standard fee schedule. In either case, ECO will provide a cost estimate to CITY OF FAYETTEVILLE and detail the scope of services, prior to commencing such services. If the CITY OF FAYETTEVILLE deems that such services are not required CITY OF FAYETTEVILLE shall give prompt notice to ECO, and ECO shall have no obligation to provide those services.

PART G - COORDINATE/REVIEW PROJECT ENVIRONMENTAL PROGRAM SPECIFICATIONS

1) Basic Scope of Services

Services to be provided by ECO shall be limited to:

- a) ECO will develop, coordinate, and review applicable Project Environmental Regulatory Program Specifications within the Bid Documents prepared by the Design Consultants. ECO has been informed that there will be a total of 18 contracts, as follows:
 - McGoodwin, Williams and Yates - 4
 - RJN - 7
 - Garver - 4
 - Black and Veatch - 3

ECO will provide corrections, clarifications, deletions, and additions to Bid Document environmental regulatory language, as applicable.

b) - Contingent Additional Services

The scope of services contained herein is based upon the current design information provided to ECO by design consultants and CITY OF FAYETTEVILLE. ECO has no control over changes to design specifications, construction contracts, and/or project locations. Should design specifications construction contracts, and/or project locations significantly change, it may become necessary to amend ECO's scope of services.

If Contingent Additional Services are required due to circumstances beyond ECO's control, ECO shall notify CITY OF FAYETTEVILLE and request approval to conduct specific Contingent Additional Services. CITY OF FAYETTEVILLE retains the option of executing a formal contract amendment approved by the Mayor and the City Council, or approval in writing for Contingent Additional Services to be performed on a time and expenses basis, charged according to ECO's standard fee schedule. In either case, ECO will provide a cost estimate to CITY OF FAYETTEVILLE and detail the scope of services, prior to commencing such services. If the CITY OF FAYETTEVILLE deems that such services are not required CITY OF FAYETTEVILLE shall give prompt notice to ECO, and ECO shall have no obligation to provide those services.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

AGENDA REQUEST
 X CONTRACT REVIEW
GRANT REVIEWFor the Fayetteville City Council Meeting of: September 16, 2003

FROM:

Tim Conklin, AICPComm. Planning & EngineeringCP&E

Name

Division

Department

ACTION REQUIRED: Approval of a contract for the purchase of property located at the northeast corner of Mt. Comfort Road and Shiloh Drive in the amount of \$331,893.65. Purchase of the property will allow for future intersection improvements as recommended by Bucher, Willis and Ratliff, for Shiloh Drive and Mt. Comfort Road and approval of a budget adjustment in the amount of \$337,659.

COST TO CITY:

<u>\$331,893.65</u>	<u>\$ -</u>	<u>Mount Comfort/Shiloh Intersection</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>4470.9470.5805.00</u>	<u>\$ -</u>	<u>Street Improvements</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>03030</u>	<u>\$ -</u>	<u>Sales Tax Capital Improvements</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: Budgeted Item X Budget. Adjustment Attached

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

Purchasing Manager

Date

STAFF RECOMMENDATION: Staff recommends approval.

Division Head

Date

Received in Mayor's Office

Date

Department Director

Date

Cross Reference:

Finance & Internal Services Dir.

Date

Previous Ord/Res#:

Chief Administrative Officer

Date

Orig. Contract Date:

Orig. Contract Number:

Mayor

Date

New Item:

Yes

No

Description _____ Meeting Date September 16, 2003

Comments:

Budget Manager

Reference Comments:

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OFFER AND ACCEPTANCE CONTRACT BETWEEN THE CITY OF FAYETTEVILLE AND DONALD R. WILLIAMS AND SHARLENE WILLIAMS, AND JAMES R. WILLIAMS AND NEELEY J. WILLIAMS FOR THE PURCHASE OF PROPERTY LOCATED AT THE NORTHEAST CORNER OF MT. COMFORT ROAD AND SHILOH DRIVE FOR THE AMOUNT OF THREE HUNDRED THIRTY ONE THOUSAND EIGHT HUNDRED NINETY-THREE DOLLARS AND SIXTY-FIVE CENTS (\$331,893.65) TO ALLOW FOR FUTURE INTERSECTION IMPROVEMENTS; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF THREE HUNDRED THIRTY-SEVEN THOUSAND SIX HUNDRED FIFTY-NINE DOLLARS (\$337,659.00) FOR SAME.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves an Offer and Acceptance contract between the City of Fayetteville and Donald R. Williams and Sharlene Williams, and James R. Williams and Neeley J. Williams for the purchase of property located at the northeast corner of Mt. Comfort Road and Shiloh Drive for the amount of Three Hundred Thirty One Thousand Eight Hundred Ninety-Three Dollars and Sixty-Five Cents (\$331,893.65) to allow for future intersection improvements. A copy of the contract is attached hereto marked Exhibit "A" 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 Three Hundred Thirty-Seven Thousand Six Hundred Fifty-Nine Dollars (\$337,659.00) for same.

PASSED and APPROVED this 16th day of September, 2003.

ATTEST:

By: _____
SONDRA SMITH, City Clerk

APPROVED

By: _____
DAN COODY, Mayor

City of Fayetteville, Arkansas
Budget Adjustment Form

G. 12. Mt. Comfort & Shiloh Property Purchase
Page 4 of 28

Budget Year 2003	Department: Community Planning & Engineering Division: Community Planning & Engineering Program: Sales Tax Capital Improvements	Date Requested 9/16/2003	Adjustment Number
-------------------------	---	---------------------------------	-------------------

Project or Item Requested: \$337,659 is requested in the Mount Comfort/Shiloh Intersection capital project.	Project or Item Deleted: \$337,659 from the Betty Jo Drainage Improvements capital project.
--	--

Justification of this Increase: The funding is needed to cover the purchase of property located at the northeast corner of Mount Comfort Road and Shiloh Drive in the amount of \$331,893.65. The additional budget is to cover other closing costs and land agent salaries.	Justification of this Decrease: The project was performed in-house by the Transportation Division during 2002/2003.
---	--

Increase Budget (Decrease Revenue)							
Account Name	Account Number				Amount	Project Number	
Land acquisition	4470	9470	5805	00	337,659	03030	1

Decrease Budget (Increase Revenue)							
Account Name	Account Number				Amount	Project Number	
Bridge & drainage improve	4470	9470	5817	00	337,659	02022	1

Approval Signatures		Budget Office Use Only					
Requested By	Date	Type:	A	B	C	<u>D</u>	E
	9-4-03	Date of Approval					
Budget Manager	Date					Initial	Date
	9-4-03	Posted to General Ledger					
Department Director	Date					Initial	Date
	9-4-03	Posted to Project Accounting					
Finance & Internal Services Director	Date					Initial	Date
Mayor	Date	Entered in Category Log					
						Initial	Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8264

COMMUNITY PLANNING AND ENGINEERING SERVICES DEPARTMENT

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Hugh Earnest, CAO *HE*
Tim Conklin, Director of Community Planning and Engineering Services *J-C*
DATE: September 2, 2003
SUBJECT: Purchase of additional Right-of-Way and Associated Reimbursement of
Development Costs and approval of a Budget Adjustment

BACKGROUND

The City Council recently tabled a rezoning request for property located west of the I-540/ Mt. Comfort interchange owned by Mr. James R. Williams and Donald R. Williams.

Staff and the Planning Commission recommended the rezoning to City Council on April 14, 2003. However, shortly after this action by the Planning Commission, our transportation consultant provided additional information regarding recommended intersection improvements at this location which would require the acquisition of this property.

Staff met with the owner and discussed the ramifications of building a gasoline service station/convenience store at this location and having to acquire right-of-way in the future. The owners stated that 1-1.5 million in development costs would be spent on this site to develop the project.

After some discussion, all parties are in agreement that to proceed with development is counter productive as the best long term use of this property is for intersection improvements. Based on this new information, the City Council tabled the request at the June 3, 2003 Council meeting. Our consultant has recommended that this particular parcel is needed for improvement to this intersection. In order to accomplish this, the City had the property appraised which was valued at \$268,000. The property owners also requested they be reimbursed for approximately \$112,000 in associated development costs for a total of \$380,190.58.

CURRENT STATUS

Staff has identified existing 2003 street capital improvement funding for the purchase of this property. Funding can be transferred from the 2003 Betty Jo Drainage Improvements project that was completed in-house by the Transportation Division (Budget Adjustment Attached). The property owners have submitted a request for reimbursement. The City has reviewed the owners expenses that were incurred in purchasing and trying to develop this property.

RECOMMENDATION

It is our recommendation that this parcel be purchased for future use in improving this transportation corridor. We further recommend that the owners be offered \$331,894.

OFFER AND ACCEPTANCE CONTRACT

1. The City of Fayetteville, Arkansas, a municipal corporation offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"
FOR PROPERTY DESCRIPTION
2. **Purchase Price:** Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash payment of \$ 331,893.65.
3. **Contingent Earnest Money Deposit:** The Buyer herewith tenders a check for \$1,000.00 to Donald R. Williams and Sharlene Williams, husband and wife, and James R. Williams and Neeley J. Williams, husband and wife, together referred to as SELLER, as earnest money, which shall apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the City of Fayetteville by the Seller. If title requirements are not fulfilled or the Seller fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the City of Fayetteville. If the City of Fayetteville fails to fulfill his obligations under this contract or after all conditions have been met, the City of Fayetteville fails to close this transaction, the earnest money may, at the option of the Seller, become liquidated damages to the Seller.
4. Conveyance will be made to the City of Fayetteville by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the Seller.
5. The Seller shall furnish, a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. The cost of said title insurance policy shall be borne by the City of Fayetteville..
6. Seller agrees to allow the City of Fayetteville, if the City of Fayetteville so desires and at the City of Fayetteville's expense, to survey the property. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.
7. Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. The closing date shall occur within two(2) days after approval of the contract by the Fayetteville City Council. This contract shall be submitted to the Fayetteville City Council for consideration on the 16th day of September, 2003.
9. Possession of the property shall be delivered to the City of Fayetteville on the date of closing.

OFFER AND ACCEPTANCE CONTRACT
Page 2 of 5

10. Seller hereby grants permission for the City of Fayetteville or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
11. All fixtures, improvements and attached equipment are included in the purchase price.
12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.
13. Seller shall disclose to City of Fayetteville any and all environmental hazards of which Seller has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, City of Fayetteville and Seller shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Seller shall cure such, at Seller's expense, or in the alternative, at City of Fayetteville's discretion, City of Fayetteville may cure such environmental hazard, and Seller shall indemnify City of Fayetteville for all costs associated with said cure.
14. This agreement shall be governed by the laws of the State of Arkansas.
15. This agreement, when executed by both the Administration of the City of Fayetteville and the Seller shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
16. This contract expires, if not accepted by the Seller on or before the 7th day of September, 2003.
17. **NOTICE: CITY OF FAYETTEVILLE ASSERTS AND SELLER HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO THE CITY OF FAYETTEVILLE OF THE \$1,000 EARNEST MONEY DEPOSIT.**

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 5

SELLER:

Donald R. Williams
Donald R. Williams

Date: 9-4-03

Sharlene D. Williams
Sharlene Williams

Date: 9/4/03

James R. Williams
James R. Williams

Date: 9/4/03

Neeley J. Williams
Neeley J. Williams

Date: 9-4-03

AGENT OR WITNESS:

Date: _____

City of Fayetteville, Arkansas:
a municipal corporation

Dan Coody
Dan Coody, Mayor

Date: 9/3/03

Sondra Smith
Sondra Smith, City Clerk

Date: 9/3/03

OFFER AND ACCEPTANCE CONTRACT
Page 5 of 5

ACKNOWLEDGMENT

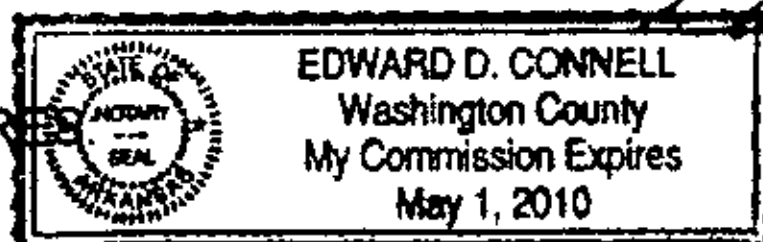
STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Donald R. Williams and Sharlene Williams**, husband and wife, and James R. Williams and Neeley Williams, husband and wife, to me well known as the person who executed the foregoing document, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 4th day of September, 2003.

MY COMMISSION EXPIRES

05-01-2010



Edward D. Connell Notary Public

ACKNOWLEDGMENT

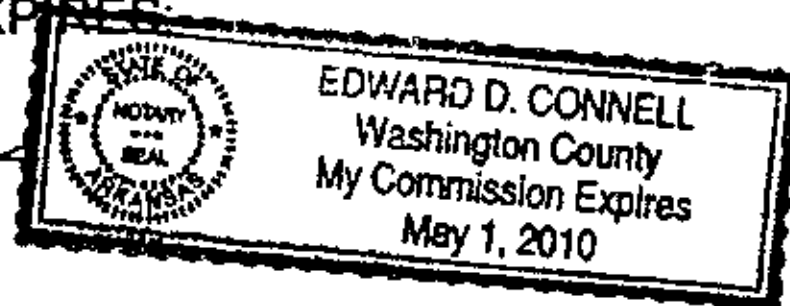
STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody and Sondra Smith**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that they are the **Mayor and City Clerk of the City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 3rd day of September, 2003.

MY COMMISSION EXPIRES

05-01-2010



Edward D. Connell Notary Public

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 5

File No. 2003-00015321

EXHIBIT "A"
PROPERTY DESCRIPTION

Tract I:

Part of the Northeast Quarter(NE¼) of then Southeast Quarter (SE¼) of Section Six (6), Township Sixteen (16) North, Range Thirty (30) west, and being more particularly described as follows, to-wit: Beginning at the Northeast corner of the said 40 acre tract, and running thence South 00° 12' 44" East 130.64 feet; thence South 79° 04' 00" West 7.77 feet to a point on the East Right-of-Way line of Mt. Comfort Road; thence along said East Right-of-Way line for 201.64 feet along a curve to the left having a radius of 314.5 feet, a delta angle of 36° 48' 47" and a leading tangent bearing of North 29° 50' 26" West; thence East 155.15 feet to the point of beginning, containing 0.20 acre, more or less.

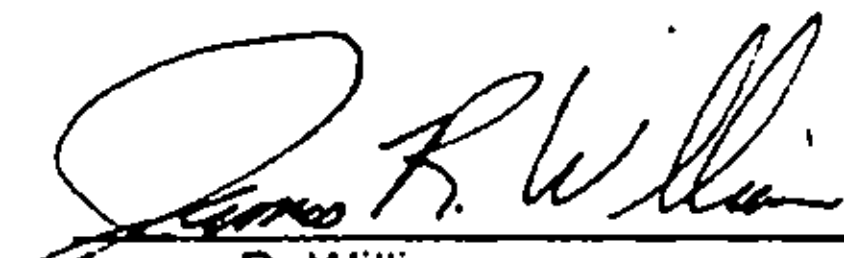
and

Part of the Northwest Quarter(NW¼) of then Southwest Quarter (SW¼) of Section Five (5), Township Sixteen (16) North, Range Thirty (30) west, and being more particularly described as follows, to-wit: Beginning at the Northwest corner of the said 40 acre tract; thence North 89° 23' 00" East along the North line thereof a distance of 297.2 feet to a point on the Westerly Right-of-Way line of U. S. Highway 71(now U.S. Highway 540); thence South 50° 54' 00" West along said right-of-way line a distance of 161.2 feet to a point; thence South 78° 38' 00" West along said Right-of-Way line a distance of 173.8 feet to a point on the West line of the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) of Section Five (5); thence North 00° 43' 00" West along said West line a distance of 132.7 feet to the point of beginning, containing 0.61 acre, more or less.

SIGNED FOR IDENTIFICATION:

SELLER:


Donald R. Williams


James R. Williams

The City of Fayetteville, Arkansas,
a municipal corporation

BY:


Dan Coody, Mayor

DATE: 9-3-03 CHECK REQUEST ☒ by 9-4-03

VENDOR NUMBER _____

PAYABLE TO : Donald R. Williams 1425 Lone Starway Dr
Shawnee Williams Waynesville, NC 27579
Charles R. Williams
Neeley Ch. Williams

FOR : Draw Payment (Earliest money) for property located
at 1425 Lone Starway Dr: NW - 5-16-30

PAYABLE FROM: FUND NAME CCP-Mt. Comfort/Shiloh Tensecon AMOUNT OF CHECK \$ 1000.00

MANUAL CHECK ☒ by 9-4-03

MAIL: YES ☐ NO ☐

RETURN CHECK TO: Tim Conwell

SEND COPY TO: F. Conwell

SEPARATE CHECK CODE _____

BANK NUMBER _____

CHARGED AS FOLLOWS:

ACCOUNT NAME	AMOUNT	ACCOUNT NUMBER						SUB PROJECT
		FUND	DEPT.	SUB DEPT.	BASE	DETAIL	PROJECT	
<u>Mt. Comfort/Shiloh Tensecon</u>	<u>1000.00</u>	<u>4470</u>	<u>9470</u>		<u>585</u>	<u>00</u>	<u>0300</u>	<u>001</u>
TOTAL	<u>1000.00</u>							

ADDITIONAL APPROVAL: ☐ Does Not ☐ Meet ☐ Purchasing ☐ Policy ☐ Contract ☐ Payment ☐ Other

Approved: _____

PREPARED BY: F. Conwell

APPROVED BY: _____

APPROVED BY: _____

APPROVED BY: _____

ENTERED BY: _____

ACCOUNTING USE - RECEIPTING:

G/L ACCOUNT NUMBER: _____

KEY CODE: _____

TO: Tim Conklin, Director of Community Planning and Engineering Services
FROM: Ed Connell, Land Agent
DATE: September 3, 2003
RE: Mt. Comfort/Porter Road - I-540 Prop.
James r. Williams and Donald R. Williams

I have reviewed the reimbursement request of James Williams relative to the subject property and believe that, if the City were to reimburse, it should only be done on the basis of out-of-pocket expenses. Since Mr. Williams has no summary of all the parts that make-up his total, it is difficult to be accurate in the following accounting:

Purchase Price	\$268,300.00
Appraisal Fee	2,500.00
Flood Certificate	42.00
Bank of Fayetteville Fee	50.00
Closing Fee	400.00
Document Prep.	100.00
Attorney' Opinion	40.00
Title Insurance	982.50
Real Estate taxes(765-13614-000 &13579-000)	236.63
Parcel 770-17533-000 2002 Est. Taxes (not this property)	-
Survey	527.00
Recording Fees	45.00
Revenue Stamps	884.00
Record Assignment Fee	17.00
Release Fee Bank of Fayetteville	11.00
Interest payment to Mitchell Oil Co. (at closing)	12,788.41
TRC & Assoc. Architectural Fee	13,000.00
Civil Engineering (Jorgensen & Associates)	850.00
Value of Removed House	14,340.00
Annexation and Rezoning Fees	650.00
Annexation Attorney's Fee	4,655.00
Annexation Advertizing	721.98
Loan Running interest (08-08-03 to 09-18-03)	10,753.13
As of 08-26-03 <u>Total Out-of Pocket Expenses</u>	<u>\$331,893.65</u>

Excluded are 1) Owners Time costs
2) Loss of rent
3) Tax payment of a parcel of Goshen property used as collateral

The above figure is our best estimate of total direct out-of pocket costs. Williams estimates the building could have been rented for \$8,000 in 2003 for a fireworks stand. This anticipated rental has not been included above. The City is to pick up all closing costs, which we anticipate to be about \$1,500, except for proration of taxes due for 2003.

Determine value of House as purchased by Williams from Mitchell Oil:

A. Per closing statements for the above transactions:

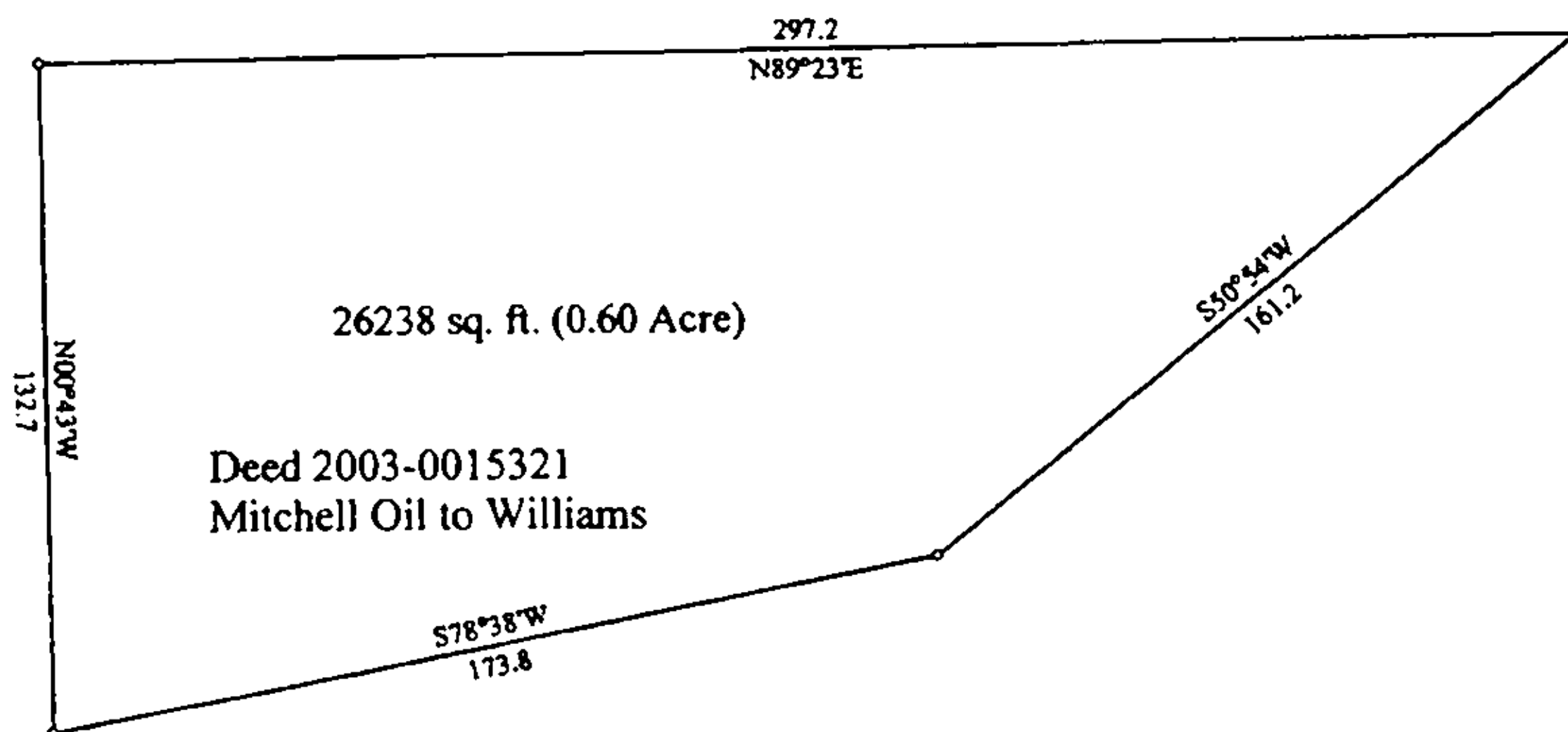
1. Tr# 1: 765-13579-000
26,238 sq. ft. or 0.602 acre

Cost: \$185,000 or \$7.05/ft²
2. Tr # 2: 765-13614-000
8,604 ft² or 0.198 acre
3. Tr# 2 Land Value = $8604 \times \$7.05/\text{ft}^2 = \$60,660$
House Value = $\$75,000 - \$60,660 = \underline{\$14,340}$

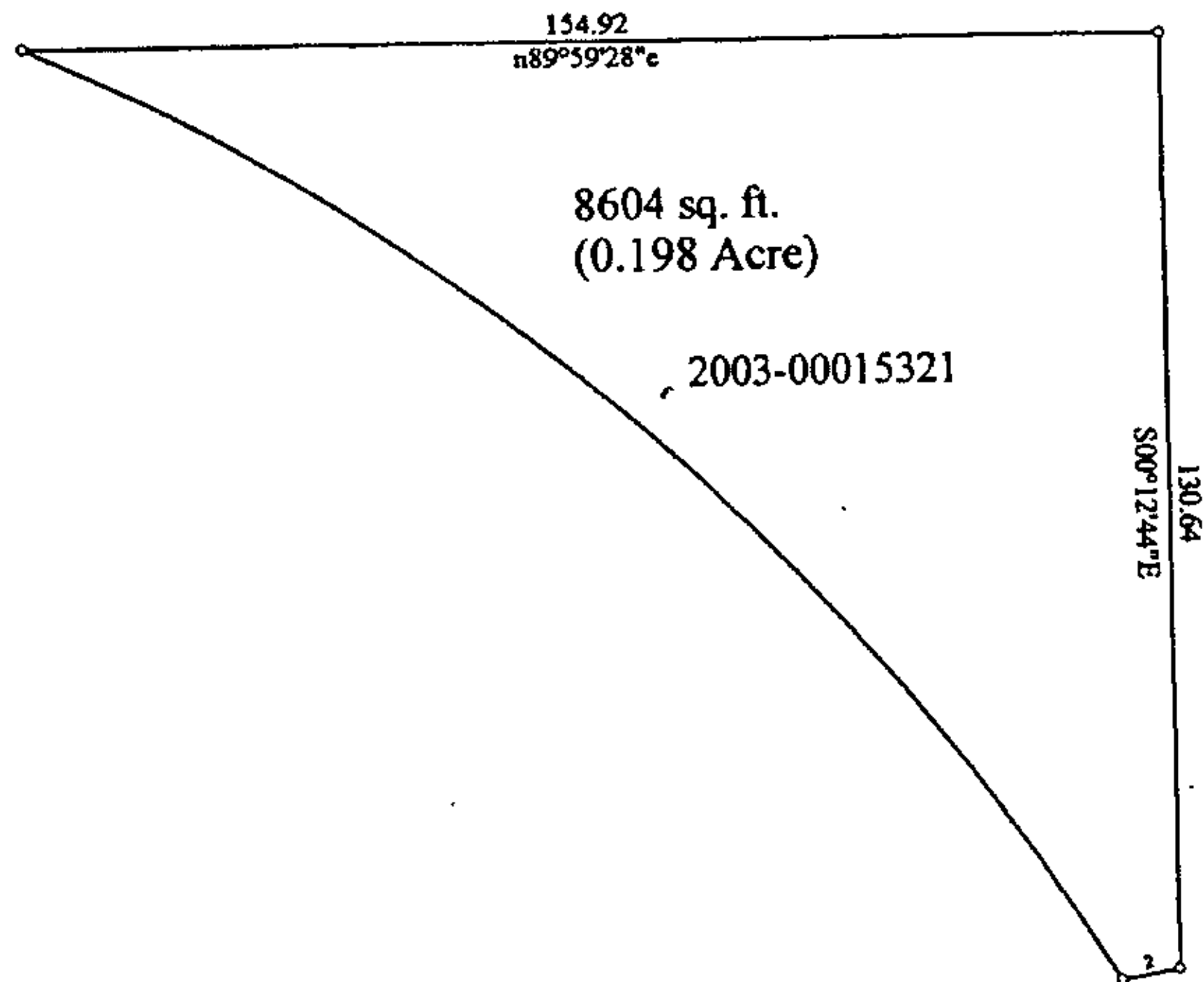
B. City Appraisal

1. Tr#1 $26,238 \times \$7.70/\text{ft}^2 = \$202,000$
2. Tr#2 $8,604 \times \$7.70/\text{ft}^2 = \$ 66,300$
(No building) \$268,300

Land Value Increase: Feb., 2003 to July, 2003:
 $7.70/7.05 = 109.2 \%$



Title: Lg Lot to Williams		Date: 08-27-2003
Scale: 1 inch = 52 feet	File: Williamstr1.des	
Tract 1: 0.602 Acres: 26238 Sq Feet: Closure = n47.3334w 0.05 Feet: Precision = 1/16990: Perimeter = 765 Feet		
001=N89.23E 297.2	003=S78.38W 173.8	
002=S50.54W 161.2	004=N00.43W 132.7	



Title:		Date: 08-27-2003
Scale: 1 inch = 38 feet	File: WilliamsTr2.des	
Tract 1: 0.198 Acres: 8604 Sq Feet: Closure = s72.3051w 0.00 Feet: Precision >1/9999999: Perimeter = 495 Feet		
001=S00.1244E 130.64	003: L1, R=314.5, Arc=201.64 T=N29.5026W	
002=S79.04W 7.77	004=n89.5928e 154.92 ?	

RECEIVED

AUG 15 2003

PLANNING DIV.

James R. Williams
Donald R. Williams
1425 Lake Sequoyah Dr.
Fayetteville, AR 72701
Phone 479-521-3533
Fax 479 571-4809

August 14, 2003

To: Tim Conklin, City Planner
City of Fayetteville
Re: Porter Rd. Project expenses

The following is a list of the expenses experienced while developing our Porter Rd. project. The first set of expenses were at closing and included reimbursement to Mitchell Oil Co. for interest, attorney fees, and advertising. The regular closing items were also paid at this time, these included an appraisal, title work, survey, taxes, flood certification, and document preparation. At closing the total expense was \$24,809.05, all of these expenses are listed on the closing statement.

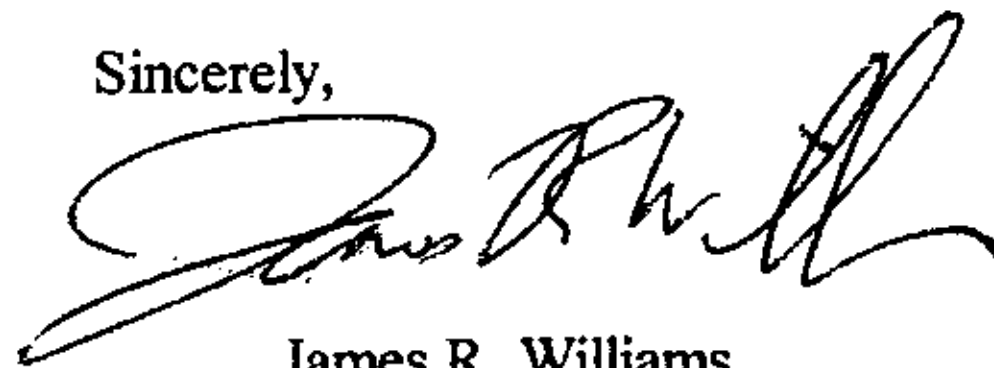
The next set of expenses were for construction preparation. The bill for the architectural plans prepared by TRC & Associates was \$13,000.00. Jorgensen & Associates were the civil engineers and their total bill was \$850.00. The other expenses were to the City of Fayetteville for the fees dealing with annexation and rezoning totaling \$650.00.

Interest expense since the closing date and as of 08/08/03 is \$8571.53 and is increasing at the rate of \$54.54 per day. The Bank of Fayetteville, even though the project has ended, still requires my brother and I to pay all the interest accrued quarterly, with the next interest payment due 09/03/03.

The last set of expenses are for the removal of the house, which now the city will not have to deal with. The lost income from the fireworks stand, if the annexation and rezoning had gone hand in hand instead of passing the annexation and delaying the rezoning portion we could still have collected rental income for the fireworks stand. Time and effort that my brother and myself have put into this project over the last two years is the final item. We have done the majority of work in every aspect of this project from picking the site to the design and layout of the store. The layout of the site and store was the sole work of my brother Rex, he put countless hours into developing what we thought was the perfect design for this site. I would take these to the city and the

architect to make something everybody could be happy with. We did all the work on the annexation and rezoning ourselves. We had talked with numerous companies about the construction phase and were ready to sign a contract when we were told of the problem, so all of the leg work had been completed by us. The value on the house, rent, and time is \$64,000.00. This will make a total of all expenses \$111,890.58.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Williams", written in a cursive style.

James R. Williams



July 28, 2003

Ms. Jill S. Goddard
Land Agent
City of Fayetteville
Fayetteville, AR 72701

**Re: 0.02 & 0.06 +/- ACRE TRACTS OF LAND, LOCATED NORTH of Mount
Comfort Rd., FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS**

Dear Ms. Goddard:

Pursuant to your request, I have inspected the land, and performed the analysis necessary for the purpose of estimating a current Fair Market Value of the Tracts of Land, located north of Mount Comfort Rd., Fayetteville, Arkansas. The Legal Description is:

**0.20 & 0.60 ACRES OF LAND, MORE OR LESS, BEING OUT OF SECTION 05,
TRACT 16 N, RANGE 30 W, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS**

I certify that, to the best of my knowledge and belief,

- (1) The statements of fact contained in this report, upon which the analysis, opinions and conclusions expressed herein are based, are true and correct.
- (2) The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and is my personal, unbiased professional analyses, opinions and conclusions.
- (3) I have no present or prospective interest in the property that is the subject of this analysis and I have no personal interest or bias with respect to the property or parties involved with this assignment.
- (4) My compensation is not contingent upon an action or event resulting from the analyses, opinions or conclusions in, or use of, this report, or upon developing or reporting of a predetermined value or direction of value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the use of the appraisal.

- (5) This assignment was not based upon a requested minimum value, a specific valuation, or the approval of a loan.
- (6) My analyses, opinions and conclusions were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP), as promulgated by the Appraisal Standards Board of the Appraisal Foundation, and the Code of Professional Ethics and Standards of the National Association of Master Appraisers.

I hereby certify that I have inspected the property described by way of a personal inspection and that all data gathered by my investigation is from sources believed reliable and true. At our client's request, the results of my investigation and analyses, which comprise a **Complete Appraisal**, are being presented via a **Summary Appraisal Report Format** as permitted by Standard 2-2a. It has been our intention to conduct our appraisal and prepare this report in compliance with the Uniform Standards of Professional Practice ("USPAP") and the Appraisal Standards Board of the Appraisal Foundation.

The function of this appraisal is to assist the client in determining a fair and equitable Market Value of the subject property. The value estimate is based on the real property only. No furniture, equipment or personal property is included in the value estimate.

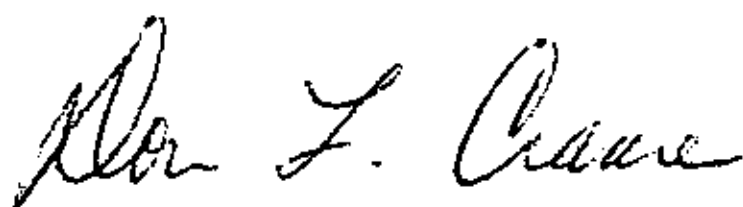
The value is based on the definition of Market Value as set forth by the FIRREA Act of 1989, effective August 24, 1990. Please refer to the definition in Exhibit "A" following this letter.

In the accompanying report, you will find the results of my investigation containing the facts, analysis and conclusions pertaining to the subject property and the final estimate of value. It is my opinion that the Market Value of the Subject property as of July 21, 2003, is as follows:

TWO HUNDRED SIXTY EIGHT THOUSAND DOLLARS
(\$268,000)

Intended Purposes/User: This appraisal report is intended to be used for estimating market value worth and this appraisal is intended to be used **only** by the client/addressee. The client is The City of Fayetteville. Any other use or reliance of this report by an unauthorized third party is prohibited unless otherwise specified.

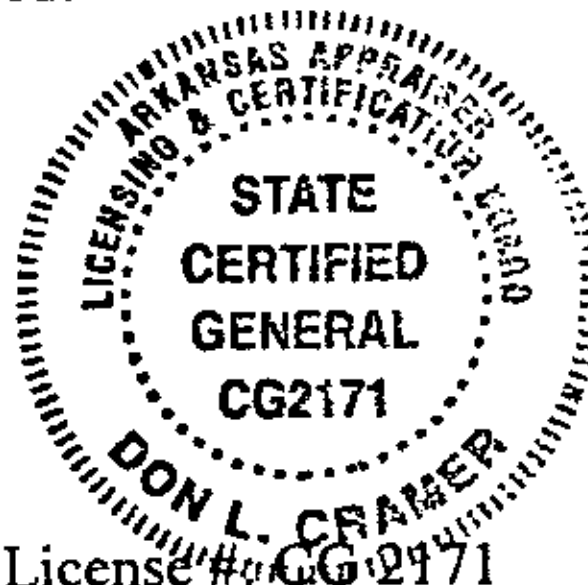
Respectfully submitted,

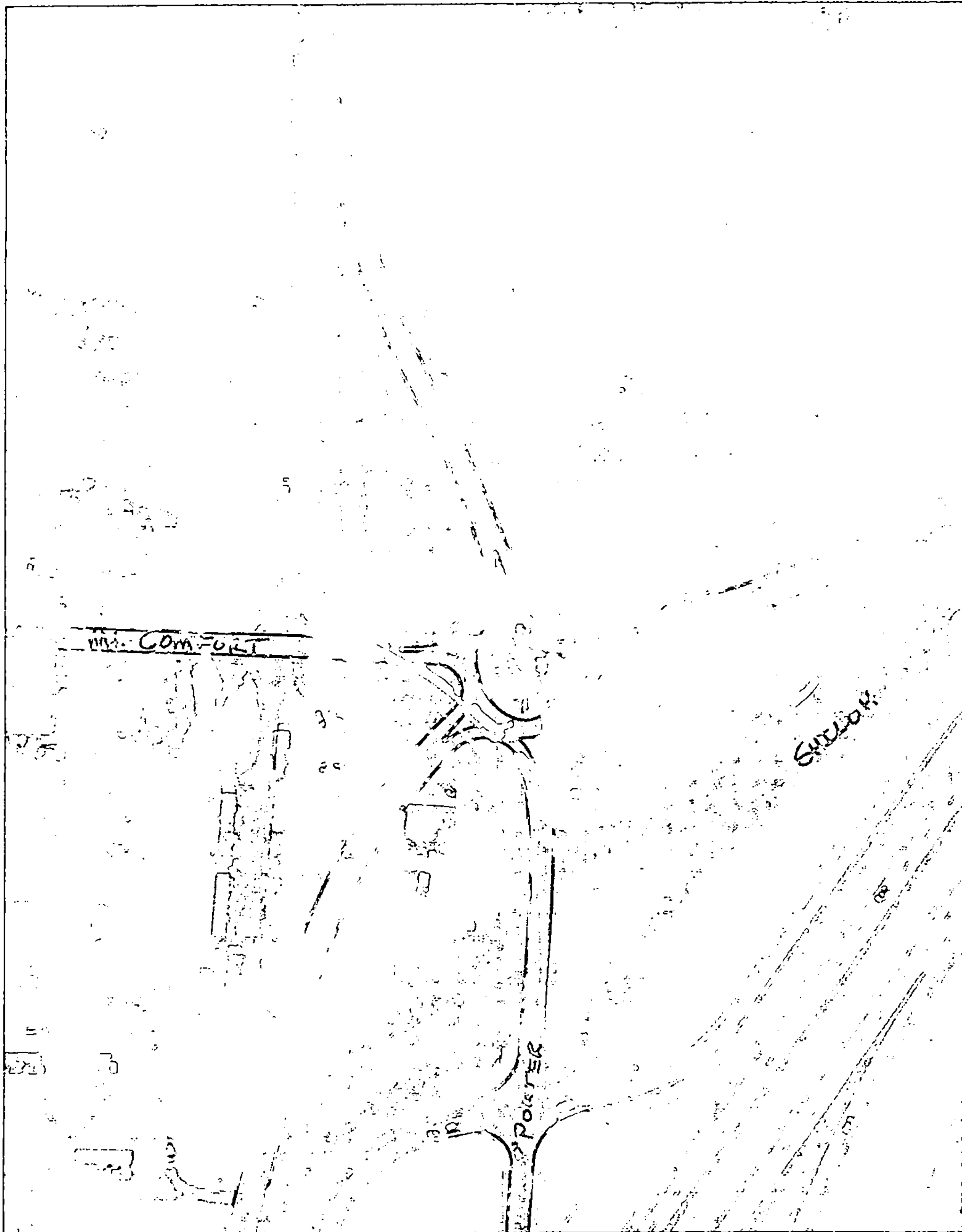


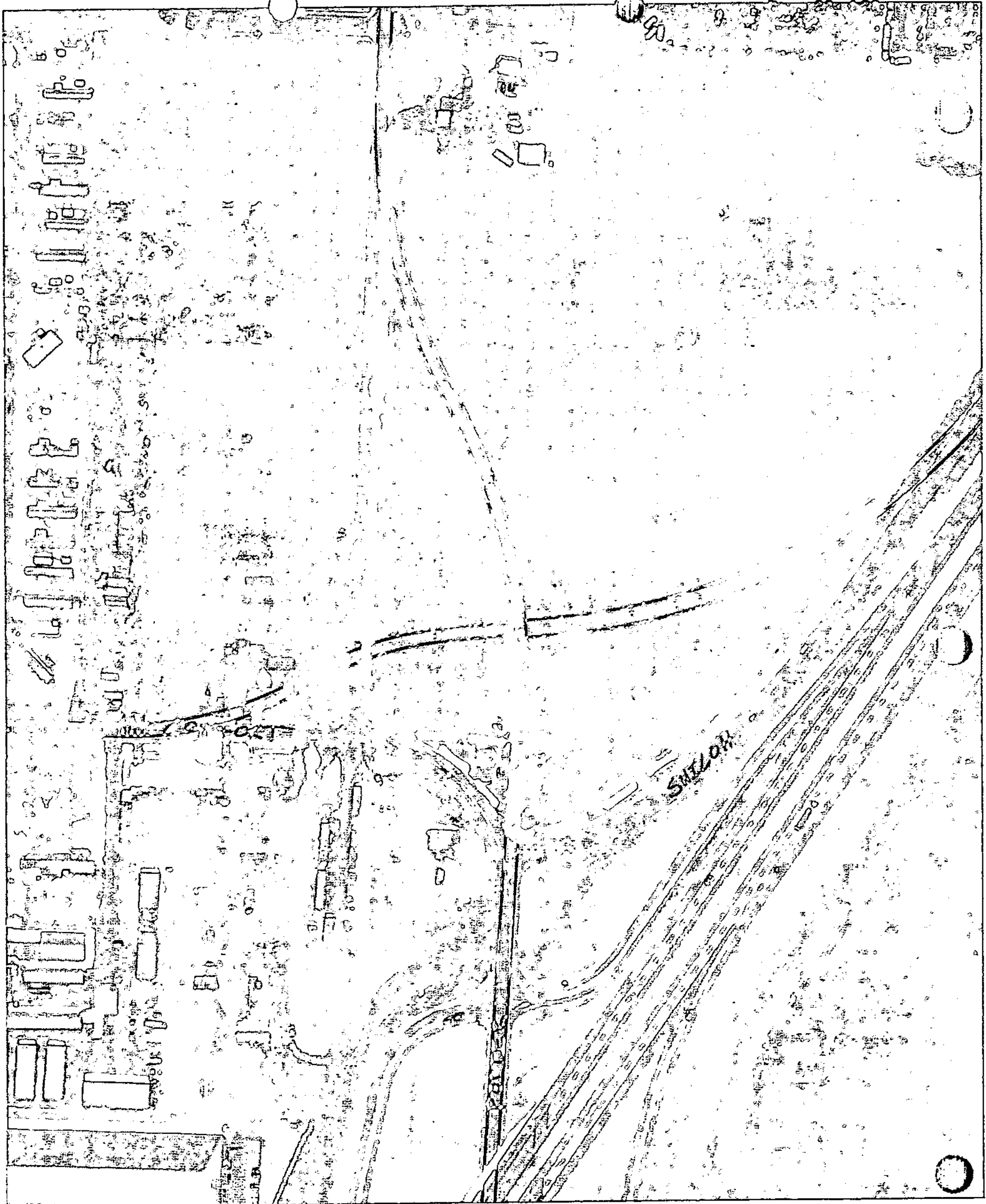
Don L. Cramer

Parrish Appraisals Inc.

State Certified General Appraiser, License # CG 2171







FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8264

COMMUNITY PLANNING AND ENGINEERING SERVICES DEPARTMENT

TO: Mayor Dan Coody
Fayetteville City Council

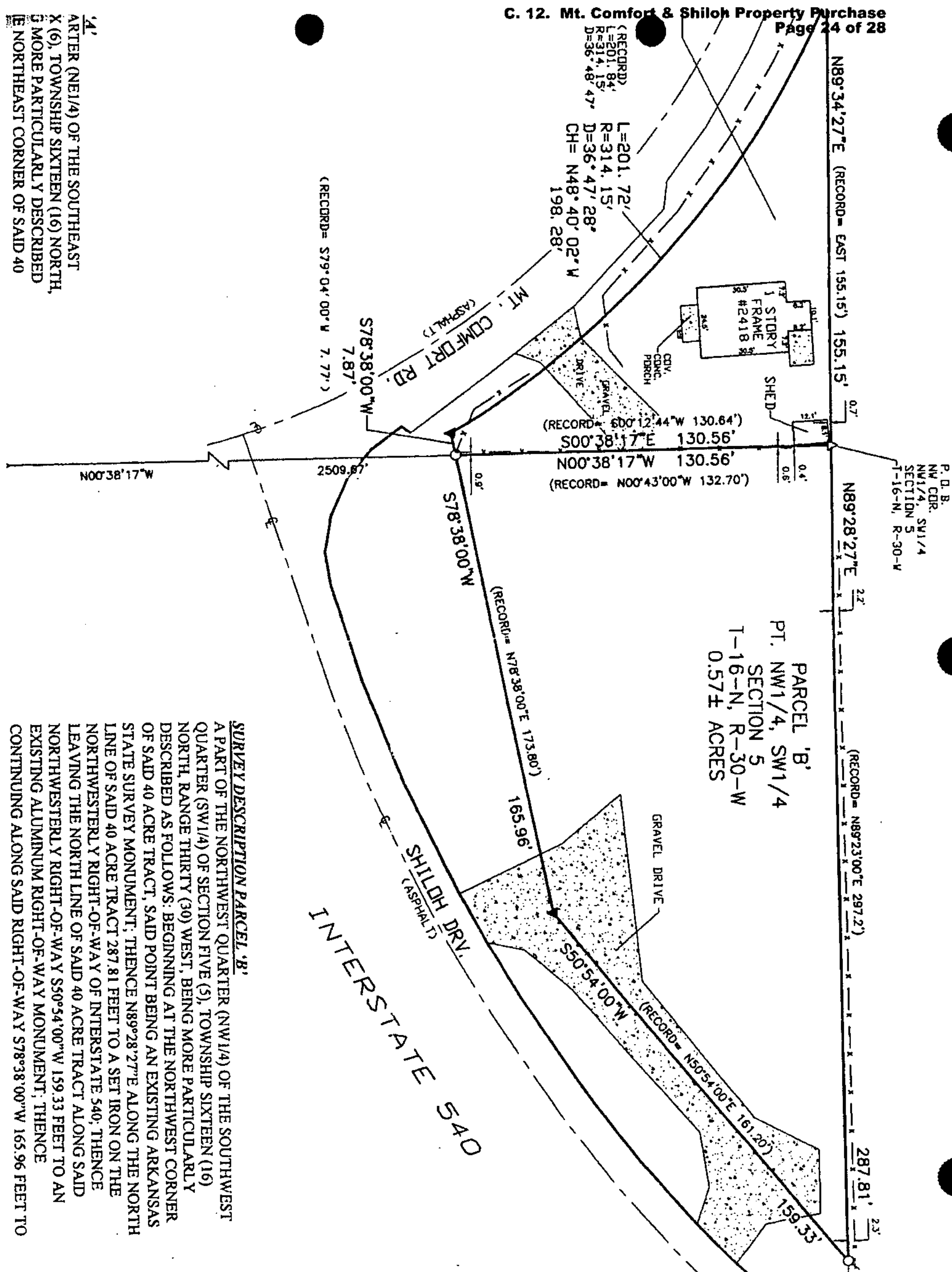
FROM: Tim Conklin, Director of Community Planning and Engineering Services *T.C.*

DATE: May 30, 2003

SUBJECT: Lowe's Traffic On Highway 62 And Information On Intersection Improvements
At Shiloh Drive/ I-540 And Mt. Comfort/Porter

Peters and Associates has provided additional information regarding the capacity of Highway 62 if the Lowe's project is approved (please see attached memo). I have also provided information from Bucher, Willis & Ratliff Corporation, BWR (Transportation Consultant) regarding the intersection of Shiloh Drive/ I-540 and Mt. Comfort/Porter. This intersection redesign will result in additional right-of-way acquisition and will impact the current rezoning request for Williams.

Due to the new information, staff feels that it is necessary to change the recommendation on this request. Staff will not be able to support the request due to BWR's recommendation for this intersection redesign. We have met with the property owners and will continue to work with them on this issue. Once again, we regret having to take this action; however, we believe not to act at this time would precipitate a much more serious problem in the future.



SURVEY DESCRIPTION PARCEL 'B'
A PART OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION FIVE (5), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING ARKANSAS STATE SURVEY MONUMENT; THENCE N89°28'27"E ALONG THE NORTH LINE OF SAID 40 ACRE TRACT 287.81 FEET TO A SET IRON ON THE NORTHWESTERLY RIGHT-OF-WAY OF INTERSTATE 540; THENCE LEAVING THE NORTH LINE OF SAID 40 ACRE TRACT ALONG SAID NORTHWESTERLY RIGHT-OF-WAY S50°54'00"W 159.33 FEET TO AN EXISTING ALUMINUM RIGHT-OF-WAY MONUMENT; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY S78°38'00"W 165.96 FEET TO

Maximus, Inc.: A resolution approving a contract with Maximus, Inc. in the amount of \$27,240.00 for a user fee study and cost allocation plan services; and approving a project contingency in the amount of \$2,760.00.

Resolution 82-03 As Recorded In The Office Of The City Clerk.

Juvenile Accountability Incentive Block Grant: A resolution accepting a Juvenile Accountability Incentive Block Grant (JAIBG) to fund D.A.R.E. and D.A.R.E. Plus programming, gang resistance training, and software and training to conduct threat assessments for the school population; and approving a budget adjustment in the amount of \$33,958.00 to recognize the grant revenue and appropriate the matching funds.

Resolution 83-03 As Recorded In The Office Of The City Clerk.

Local law Enforcement Block Grant: A resolution accepting a Local Law Enforcement Block Grant (LLEBG) from the U.S. Department of Justice for the purchase of ruggedized laptop computers, and approving a budget adjustment in the amount of \$35,797.00 to recognize the grant revenue and appropriate the matching funds.

Resolution 84-03 As Recorded In The Office Of The City Clerk.

Grubbs, Hoskyns, Barton & Wyatt, Inc.: A resolution to accept settlement proposal in the amount of \$105,000.00 from Grubbs, Hoskyns, Barton and Wyatt, Inc. and approval of a budget adjustment adding these funds to the Library Project.

Resolution 85-03 As Recorded In The Office Of The City Clerk.

Alderman Jordan moved to approve the consent as read. Alderman Davis seconded. The motion carried unanimously.

OLD BUSINESS:

RZN 03-14:00 (Williams): An ordinance rezoning that property described in rezoning petition RZN 03-14:00 as submitted by James Williams for property located at the northeast corner of Mt. Comfort Road and Shiloh Drive, Fayetteville, Arkansas from R-2, Medium Density Residential and A-1, Agricultural to C-1, Neighborhood Commercial. *This ordinance was left on the second reading at the May 20, 2003 City Council meeting.*

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

Mr. Williams read the ordinance.

Tim Conklin, Planning, said this rezoning request was initiated with an annexation of this corner, at the intersection of Porter Road and Shiloh Drive. Last year the City contracted with a BWR to do a master transportation study, part of that study included a task to look at five intersections in the City of Fayetteville. This intersection happens to be one of the intersections that they are studying. The City of Fayetteville Planning staff has been working with these applicants for the past year to year and a half on this issue and just recently we received additional information with regard to this intersection design. What BWR is recommending that the intersection be completely redesigned and the curb be removed. I have given the Council drawings of these intersection improvements. These are improvements that BWR will be recommending to the City Council. These drawings take Porter Road through what would be rezoned for the gasoline service station. Based on this additional information we recently received, Staff at this time would change our recommendation and ask that it not be rezoned. We have met with the applicant and explained to them this current situation. This is an area that provides access under Interstate 540, it is minor arterial street and BWR is recommending for the future traffic capacity in this area that the intersection should be redesigned. Where that leaves us is we did annex a piece of property, BWR will be here on June 17th to meet with Staff on the draft transportation plan. They are willing to sit down with the City of Fayetteville Street Committee and discuss further this intersection design if that is your desire. The applicants have purchased the property and have been working on plans to develop it. I recommend that we not rezone this property that we look to funding sources that we potentially could preserve this piece of property and acquire it. The last thing that I want to do is make a recommendation, build a gasoline service station there and then when BWR comes and shows us a complete intersection redesign through this gasoline service station. This will require us to look forward on how we plan our future intersections. Acting now will save us money.

Mayor Coody said you are asking us to deny this rezoning.

Mr. Conklin said yes, leave it zoned as A-1 and let Staff precede working with our traffic consultant to expedite their study of this intersection and to not delay this issue with the applicant.

Mayor Coody said when BWR comes to discuss this intersection, will there be conversation between the owners of the property, the consultants and us to see if there is a way that an intersection can be designed so that they can still do what they would like with their property there and make it work for them and us.

Mr. Conklin said BWR has reviewed their proposed plans, this is an arterial street, one plan did show a round about and the other a four way intersection. It would be very difficult to develop this property with a gasoline service station. The master street plan pretty much removes most of the development potential off the property.

Alderman Davis said his understanding was if we vote this down tonight they have to wait one year to bring it back up, in the event that the traffic consultant comes up with some alliterative design.

Mr. Conklin said he spoke with BWR this afternoon that are developing conceptual plans, which is what you have before you this evening, these plans remove the curve at this intersection. I have not seen any alternative plans.

Mr. Davis said if we vote this down it would have to wait one year in the event something else occurred.

Mr. Conklin said that is correct, one alternative would be to table this.

Alderman Davis said maybe we should table this and give the traffic study a chance to come back to us and see exactly what they are recommending so we can make a real decision.

Alderman moved to table the ordinance indefinitely. Alderman Jordan seconded.

Mayor Coody told the applicants that he was sorry that we had put them in this corner and that he understood they had been very gracious and patient.

Jim Bob Williams, the applicant, said they have three stores at this time. They approached their oil company, Mitchell Oil Company, and told them they had picked out the Mount Comfort area to put in a store. We acquired this property and some additional property; we had an architect draw up a plan of what we needed to see if it would fit the City's plans. We worked with the Planning Department for several months to get a layout design that we felt was agreeable for the City and that would work for us. Mitchell Oil purchased the property for us until we got our financing approved. We had the property annexed into the City then we come to the point to where we are ready to approve this and then all of a sudden we are more or less hung out to dry. We have money borrowed on this because we thought it was in the City's favor. I am shocked and very disappointed. I believe this would be a tremendous store. I don't believe we can find another piece of property like this one. We have tried our best to go along with the City staff and take their recommendations to heart and work in good faith with them and for some reason we have been blind-sided.

Mayor Coody apologized on behalf of the City staff and all of us in putting you in this predicament, we did not expect a year ago when you started this process to find ourselves now with the idea of having to completely rebuild an intersection interchange there. We are as surprised about this as anyone, but in the long run for all the citizens of Fayetteville it's our charge to try to look down the road. We would never choose to do this voluntarily. We are going to work with you to make this work out; if we need to we will make you whole. Please accept our apology.

Mr. Williams said what is the next step.

Mayor Coody said when the consultants come back to town you will be included in the conversation with the consultants and our Planning staff. We will know more at that time where we will go from there.

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

Unified Development Code: An ordinance repealing Title XV, Unified Development Ordinance (originally adopted by Ordinance 4100 on June 16, 1998) of the Code of Fayetteville and adopting and enacting an amended Title XV Unified Development Code. *This ordinance was left on the second reading at the May 20, 2003 City Council meeting.*

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

Mr. Williams read the ordinance

Dawn Warrick, Planning, said since the Council's last meeting considering the Unified Development Code the document has finalized and was placed on the web site for review in draft form. We have advertised, put the document out for review, we have been to the ordinance review committee; we have read through it and believe that this is a brand new codified version of our codes that is in a format ready for distribution.

Mayor Coody asked if anyone had had any feedback from the public on this since it has been posted.

Ms. Warrick said she has not heard from anyone in the public with regard to this document. Staff is very anxious to be able to use it.

Don McCandless, a builder, said he builds new homes, he asked that the City and every member of the Council read every ordinance carefully because a lot of the things that are going in this City are hurting the City economically, physically and are going to become a liability for the City. There are some ordinances that are on the books in the City of Fayetteville that are not real good. They are not good for growth, for people, the home builder or the economy that have been passed during the past two years. Ask that any ordinance that comes through you review it with scrutiny and put more forethought into the outcome and impact of the ordinance.

Mayor Coody asked Mr. McCandless to make a list of the ordinances that fit his description and give them to Mr. Conklin.

Mr. McCandless said he had two with him tonight.

Alderman Davis asked what two he had with him tonight.

Mr. McCandless the green space and park ordinance is one. He will turn them in to the Mayor's office for your review at the next meeting. Before you pass anything you need to think about the outcome towards everybody. The impact fee is getting ready to hit, I cannot build a house here like I can in Rogers. I can not build a house for sale at \$89,900 to \$91,000 because there is too much impact on everything that comes with the permit. Construction is the largest employer in

STAFF REVIEW FORM - FINANCIAL OBLIGATION

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

AIP #31 - Taxiway A Ext
APAC / McClinton Anchor

For the Fayetteville City Council Meeting of: September 16, 2003

FROM:

Ray M. Boudreaux

Aviation & Economic Development

General Government

Name

Division

Department

Review and accept a contract with APAC-Arkansas, Inc. McClinton Anchor Div. to construct the Taxiway A Extension and USDA Forest Service ramp for an amount of \$2,146,906.20. Approval of a project contingency of 10% (\$234,804.00). Approval of a budget adjustment. Signature of the Mayor.

COST TO CITY:

(\$802,698.00) Revenue
\$2,381,710.00

\$ 1,454,093.00

Taxiway A Extension Phase I

Cost of this request
5550.0955.4303.01

Category/Project Budget

Program Category / Project Name

5550.3960.7820.31

\$ 85,922.00

Airport Improvements

Account Number

Funds Used to Date

Program / Project Category Name

03012 - 1

\$ 1,368,171.00

Airport Capital

Project Number

Remaining Balance

Fund Name

BUDGET REVIEW:

☒

Budgeted Item

☒

Budget Adjustment Attached

[Signature]

8-29-03

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

[Signature]

8/29/03

Accounting Manager

Date

[Signature]

8/29/03

Internal Auditor

Date

[Signature]

8/29/03

City Attorney

Date

[Signature]

8/29/03

Purchasing Manager

Date

STAFF RECOMMENDATION: A

[Signature]

Division Head

Date

Department Director

9-3-03

Finance & Internal Services Dir.

Date

[Signature]

9-3-03

Chief Administrative Officer

Date

[Signature]

9/3/03

Mayor

Date

Received in Mayor's Office

Date

Cross Reference:

125-02, #121-03
#12-02, #117-03

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

XX



Staff Review Form - Page 2

Description Taxiway A, Phase 1 Construction Contract Meeting Date August 16, 2003

Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

Reference Comments:

RESOLUTION NO. _____

A RESOLUTION AWARDDING A CONSTRUCTION CONTRACT TO APAC-ARKANSAS, INC., McCLINTON-ANCHOR DIVISION IN THE AMOUNT OF TWO MILLION ONE HUNDRED FORTY-SIX THOUSAND NINE HUNDRED SIX DOLLARS AND TWENTY CENTS (\$2,146,906.20) TO CONSTRUCT THE TAXIWAY "A" EXTENSION AND USDA FOREST SERVICE RAMP; APPROVING A TEN PERCENT (10%) PROJECT CONTINGENCY OF TWO HUNDRED THIRTY-FOUR THOUSAND EIGHT HUNDRED FOUR DOLLARS (\$234,804.00); AND APPROVING A BUDGET ADJUSTMENT OF ONE MILLION ONE HUNDRED TWENTY-EIGHT THOUSAND SEVEN HUNDRED FORTY-SEVEN DOLLARS (\$1,128,747.00) FOR SAME.

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 construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of Two Million One Hundred Forty-Six Thousand Nine Hundred Six Dollars and Twenty Cents (\$2,146,906.20) to construct the Taxiway "A" Extension and USDA Forest Service ramp. 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 Ten Percent (10%) project contingency of Two Hundred Thirty-Four Thousand Eight Hundred Four Dollars (\$234,804.00).

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment of One Million One Hundred Twenty-Eight Thousand Seven Hundred Forty-Seven Dollars (\$1,128,747.00) for same.

PASSED and APPROVED this 16th day of September, 2003.

APPROVED

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

MEMORANDUM

TO: Dan Coody, Mayor
Members of the City Council

THRU: Staff Contract Review Committee

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

DATE: August 28, 2003

SUBJECT: Construction Contract for Taxiway A, Phase 1 at the Fayetteville Municipal Airport with APAC, for the Forest Service Fire Tanker Base in the amount of \$2,146,906.20 plus a 10% project contingency of \$234,804.00.

Background: The City Council, in previous actions, approved grant applications and agreements with the FAA and the State of Arkansas and a supplemental lease agreement with the USDA Forest Service to fund design engineering and construction of phase 1 of Taxiway A and the Forest Service aircraft parking ramp. This agenda request is to approve the construction contract with APAC-Arkansas Inc. MCClinton-Anchor Div. in the amount of \$2,146,906.20 plus a project contingency of \$234,804.00.

Budget Considerations:	FAA Project Funding	\$1,314,844
	USDA Funding	887,098
	State Funding 5% Grant	73,047
	City Funding 5%	73,047
	Total project	\$2,348,036
	Project Contingency 10%	234,804
	TOTAL	\$2,582,840

Requested Action: Approval of a construction contract with APAC-Arkansas, approval of a project contingency of \$234,804.00, and approval of a budget adjustment. Signature of the mayor required.

Attachments: Staff Review Form
Construction contract (4 cys)

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

Budget Year 2003	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested 8/19/2003	Adjustment Number
----------------------------	--	------------------------------------	-------------------

Project or Item Requested:
 To increase the Taxiway "A" Phase I capital project by \$1,128,747.

Project or Item Deleted:
 None. To recognize \$891,408 in Federal Cost Sharing revenue from the USDA. To recognize \$213,605 in Federal Funding from the DOT / FAA.

 To recognize \$11,867 in in State Funding from the Department of Aeronautics.

 To increase Use of Fund Balance \$11,867.

Justification of this Increase:
 The funds are needed to construct the turn-outs and the loading/parking ramps of the Taxiway as part of a cost sharing project with the USDA Forestry Service.

Justification of this Decrease:
 The USDA Forestry Service will fund its share of the construction of the project, \$802,698 plus 10% Project Contingency \$88,710.

 The DOT / FAA will fund 90% of the city's portion of the project expense.

 The Arkansas Department of Aeronautics will Fund 5% of the City's portion of the project cost.

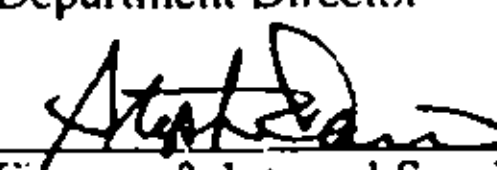
Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Building costs	5550	3960	5804	00	891,408	03012	1
Taxiway "A" Extension I	5550	3960	7820	31	237,339	03012	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
State grants on Fed proj	5550	0955	6803	00	11,867	03012	1
Taxiway "A" Extension I	5550	0955	6820	31	213,605	03012	1
Federal Cost Sharing	5550	0955	4303	01	891,408	03012	1
Use of fund balance	5550	0955	4999	99	11,867		

Approval Signatures

Requested By	Date
	8-29-03
Budget Manager	Date
Department Director	Date
	8-29-03
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Date of Approval

Posted to General Ledger	Initial	Date
Posted to Project Accounting	Initial	Date
Entered in Category Log	Initial	Date

Taxiway "A" - Phase I project (03012.1)

Account Number	Current Amended Budget	Budget Adjustments	Total Budget
5550.0955.4303.01 Federal Cost Sharing	84,400	891,408	975,808
5550.0955.6803.00 State Grant on Federal Prjs	68,485	11,867	80,352
5550.0955.6820.31 Taxiway A Grant	1,232,723	213,605	1,446,328
5550.0955.4999.99 Fund Balance	68,485	11,867	80,352
Total Revenues:	<u>1,454,093</u>	<u>1,128,747</u>	<u>2,582,840</u>
5550.3960.5804.00 Building Costs	84,400	891,408	975,808
5550.3960.7820.31 Taxiway A Grant	1,369,693	237,339	1,607,032
Total Expenses:	<u>1,454,093</u>	<u>1,128,747</u>	<u>2,582,840</u>



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

August 27, 2003

Mr. Ray Boudreaux
Airport Manager,
Fayetteville Municipal Airport
4500 S. School Suite F
Fayetteville, AR 72701

RE: Taxiway Extension
Fayetteville Municipal Airport

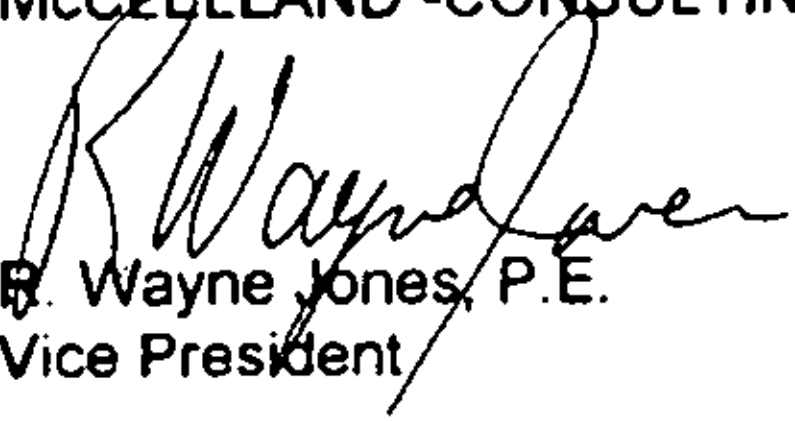
Dear Mr. Boudreaux:

We are enclosing a four (4) signed Contracts for the above referenced project from McClinton Anchor Co. for the City Council meeting of Sept. 16, 2003.

If there are any questions, please contact us.

Sincerely,

McCLELLAND -CONSULTING ENGINEERS, INC.



R. Wayne Jones, P.E.
Vice President

Enclosure: Contract (4)

DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the _____ day of _____ 2003, by and between APAC-Arkansas, Inc. McClinton-Anchor Div. herein called the Contractor, and the City of Fayetteville:

WITNESSETH:

That the Contractor, for the consideration hereinafter fully set out, hereby agrees with the City of Fayetteville as follows:

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled

Taxiway "A" Extension and USDA Forest Service Air Tanker Apron Area.

Advertisement for Bids
Instructions to Bidders
Bid and acceptance thereof
Performance Bond

Payment Bond
General Conditions
Supplemental Conditions
Specifications

2. That the City of Fayetteville hereby agrees to pay to the Contractor for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount Two Million One Hundred Forty Six Thousand Nine Hundred Six and 20/100 Dollars (\$2,146,906.20).
3. The Work will be completed and ready for final payment in accordance with the General Conditions within 180 days after the date when the Contract Time commences to run, as provided in the Notice to Proceed.
4. Liquidated Damages: City of Fayetteville and Contractor recognize that time is of the essence of this Agreement and the City of Fayetteville will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by City of Fayetteville if the Work is not completed on time. Accordingly, instead of requiring any such proof, City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay City of Fayetteville **Four Hundred Dollars (\$400.00)** for each day that expires after the time specified in Paragraph 3 for completion and readiness for final payment.

5. That within 30 days of receipt of an approved payment request, the City of Fayetteville shall make partial payments to the Contractor on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Contractor, LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville.
6. That upon submission by the Contractor of evidence satisfactory to the City of Fayetteville that all payrolls, material bills, and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by the Contractor of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville.
7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at his expense, within 5 days after the receipt of notice from the City of Fayetteville, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville.
8. No additional work or extras shall be done unless the same shall be duly authorized by appropriate action by the City of Fayetteville in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in three (3) counterparts, each of which shall, without proof or accounting for the other counterpart be deemed an original Contract.

SEAL:

APAC-Arkansas, Inc. McClinton-Anchor Div.

WITNESSES:

David Love

By James A. Cole
Admin. Vice President
Title

ATTEST:

CITY OF FAYETTEVILLE

City Clerk

By _____
Dan Coody, Mayor

DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the ____ day of _____ 2003, by and between APAC-Arkansas, Inc. McClinton-Anchor Div. herein called the Contractor, and the City of Fayetteville:

WITNESSETH:

That the Contractor, for the consideration hereinafter fully set out, hereby agrees with the City of Fayetteville as follows:

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled

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8. No additional work or extras shall be done unless the same shall be duly authorized by appropriate action by the City of Fayetteville in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in three (3) counterparts, each of which shall, without proof or accounting for the other counterpart be deemed an original Contract.

SEAL:

APAC-Arkansas, Inc. McClinton-Anchor Div.

WITNESSES:

David Love

By James A. Cole
Admin. Vice President
Title

ATTEST:

CITY OF FAYETTEVILLE

City Clerk

By _____
Dan Coody, Mayor

STAFF REVIEW FORM - FINANCIAL OBLIGATION

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of September 16, 2003

FROM:

Sid Norbash
Name

Engineering
Division

CP&E
Department

ACTION REQUIRED: Award of the construction contract to Crossland Heavy Contractors, Inc. in the amount of \$698,379.30, for Accelerated Water Line Replacements Project. Also approval of the project contingency fund in the amount of \$69,838 (10%).

COST TO CITY:

\$768,217.30	\$1,498,502	Waterline Replacements
Cost of this Request	Category/Project Budget 2003	Program Category/Project Name
5400-5600-5808-00	\$377,758	Water & Sewer Imprvts.
Account Number	Funds Used To Date 2003	Program/Project Category Name
02125-0020	\$1,120,744	Water/Sewer
Project Number	Remaining Balance 2003	Fund Name

BUDGET REVIEW: ☒ Budgeted Item

☐ Budget Adjustment Attached

[Signature] 8-27-03
Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

Masha Futhy 8/28/03

[Signature] 8/28/03
Accounting Manager Date

City Attorney Date

Danny Smith 8/28/03

[Signature] 8/28/03
Internal Auditor Date

Purchasing Manager Date

STAFF RECOMMENDATION: Approval of the contract, and project contingency.

[Signature] 8-27-03
Division Head Date

[Signature] Date
Department Director

[Signature] 8-28-03
Finance and Internal Services Director Date

[Signature] 8-29-03
Chief Administrative Officer Date

[Signature] 9/3/03
Mayor Date

Received in Mayor's Office

8/29/03
Date PH

Cross Reference:

Prev Ord/Res #: 78-02

Orig. Contract Date: May 7, 2002

Orig. Contract

New Item: Yes ☐ No ☒



STAFF REVIEW FORM

Page 2

Description Accelerated Waterline Replacement Project Construction Contract

Meeting Date 9-16-2003

Comments:

Reference Comments:

Budget Manager

Accounting Manager

Internal Auditor

Contract has not been signed by Contractor ✓ 

City Attorney

Purchasing Manager

Finance and Internal Services Director

-

-

Chief Administrative Officer

-

-

RESOLUTION NO. _____

A RESOLUTION AWARDDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF SIX HUNDRED NINETY-EIGHT THOUSAND THREE HUNDRED SEVENTY-NINE DOLLARS AND THIRTY CENTS (\$698,379.30) TO CROSSLAND HEAVY CONTRACTORS, INC. FOR THE CONSTRUCTION PHASE OF THE ACCELERATED WATERLINE REPLACEMENT PROJECT; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF SIXTY-NINE THOUSAND EIGHT HUNDRED THIRTY-EIGHT DOLLARS (\$69,838.00) FOR SAME.

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 construction contract in the amount of Six Hundred Ninety-Eight Thousand Three Hundred Seventy-Nine Dollars and Thirty Cents (\$698,379.30) to Crossland Heavy Contractors, Inc. for the construction phase of the Accelerated Waterline Replacement Project. A copy of which, 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 Project Contingency in the amount of Sixty-Nine Thousand Eight Hundred Thirty-Eight Dollars (\$69,838.00) for same.

PASSED and APPROVED this 16th day of September, 2003.

APPROVED

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

THE CITY OF FAYETTEVILLE, ARKANSAS

To: Dan Coody, Mayor

Thru: Hugh Earnest, CAO
Tim Conklin, Director CP&E
Gary Coover, City Engineer *gll*

From: Sid Norbash, Staff Engineer *sn*

Date: August 25, 2003

Re: **Accelerated Waterline Replacements Project Phase I
Award of Construction Contract to Crossland Heavy
Contractors, Inc.**

Background:

The above referenced project is part of an ongoing Capital Improvement Project, which was approved by the City Council in 2002. The purpose of this project is to replace old and leaky water mains.

In May of 2002, the City Council per Resolution 78-02, approved \$1,500,000 to fund replacement of existing leaky water mains which have become a maintenance problem.

In July of 2002, the Council approved the Engineering Contract for this project with Garver Engineers in the amount of \$250,000.

This project adheres to **Guiding Principle #2 "Well maintained City Infrastructure and Facilities"**

Status:

Garver Engineers completed the design of the first phase of this project in June, and the project was advertised for construction phase in July.

On August 13, 2003, official bids were received from 7 bidders. The low bidder is Crossland Heavy Contractors, Inc., in the amount of \$698,379.30.

For details of the bids please refer to the attached letter from Garver Engineers, and the Bid Tabulation sheets.

The following water lines will be replaced under this phase of the project:

1605 feet of 12"
2440 feet of 8"
1840 feet of 6"

For details please refer to the attached project location map.

Recommendations:

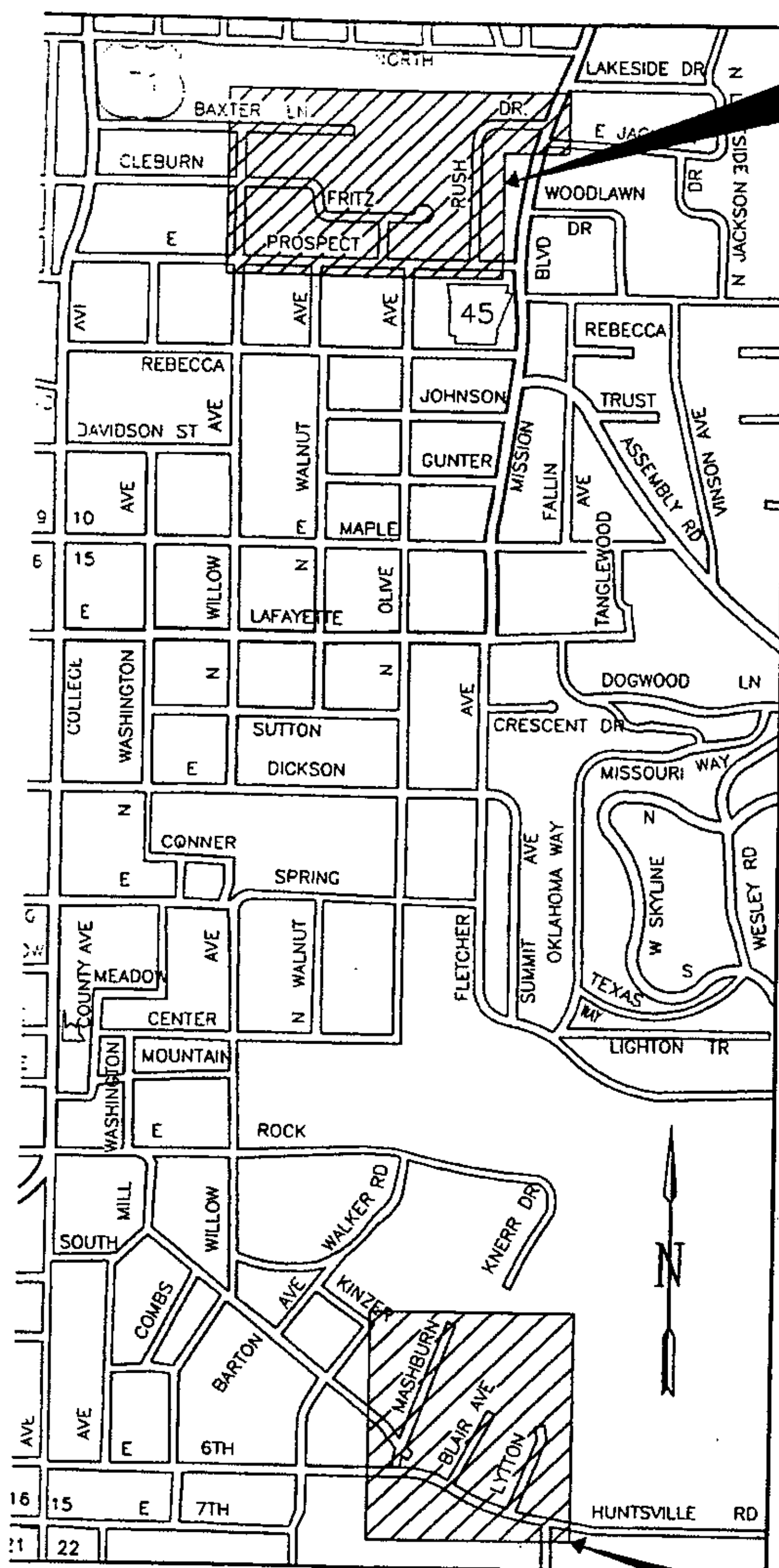
The Staff recommends that the Council approve the award of the construction contract to the low bidder, Crossland Heavy Contractors, Inc. in the amount of \$698,379.30.

Funding:

As approved by the City Council per Resolution 78-02

SN/sn

Attachments: Construction Contract
Bid Tabulations
Vicinity Map



Accelerated Water Line Replacements Project

Phase I

PROJECT
LOCATION #2

Garver Engineers, LLC

3810 Front Street, Suite 10
Fayetteville, AR 72703

479-527-9100
FAX 479-527-9101

www.garverengineers.com

C-14. Crossland Heavy Contractors
Accelerated Water Line

Page 7 of 16
RECEIVED
AUG 14 2003

Eugene

GARVERENGINEERS

August 13, 2003

Mr. Sid Norbash
City of Fayetteville Engineering Department
113 W. Mountain Street
Fayetteville, AR 72703

Re: Accelerated Waterline Replacements
Work Order No. 1
Recommendation of Award to Low Bidder
Garver Project No. 0296-3500

Dear Sid:

Six bids were received for the City of Fayetteville's "Accelerated Waterline Replacements – Work Order No. 1" project at Fayetteville City Hall at 10:00 A.M., Wednesday, August 13, 2003. The bids have been checked for accuracy. A tabulation of the bids is enclosed with this letter, with the summary amount for each bid shown below.

<u>Contractor</u>	<u>Bid</u>
Crossland Heavy Construction	\$ 698,379.30
Fayette Tree & Trench	\$ 743,877.50
Garver Engineers' Estimate	\$ 766,607.50
Goodwin & Goodwin	\$ 827,060.00
Mobley Contractors	\$ 880,820.66
Seven Valleys Construction Co.	\$ 893,303.75
Building & Utility Contractors	\$ 1,023,190.00

Crossland Heavy Construction Company submitted the lowest bid for the work contained in the Plans. We believe this bid represents a good value to the City of Fayetteville, and recommend award of the bid for the Accelerated Waterline Replacements – Work Order No. 1. If you have any questions regarding this matter, please contact me at your convenience.

Respectfully submitted,
GARVER ENGINEERS

Chris Parton
Chris Parton, P.E.
Senior Design Engineer

Cc: Greg Boettcher – Water & Wastewater Director
Gary Coover – City Engineer
Peggy Vice – Purchasing Agent

C. 14. Crossland Heavy Contractors
Accelerated Water Line
Page 8 of 16

ITEM	DESCRIPTION	UNIT	CROSSLAND CONSTRUCTION		FAYETTE TREE & TRENCHE		ENGINEERING ESTIMATE		GOODWIN & GOODWIN		MOBLEY CONTRACTORS		SEVEN VALLEY'S CONST.		UNIT PRICE
			ESTIMATED QUANTITY	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	
SP-02-5.1a	17" PVC C-900 DR-14 WATERLINE UNDER PAVEMENT (INCLUDING AUTO CLASS 7 GRANULAR BACKFILL)	L.F.	1,405	\$ 34.50	\$ 48,372.50	\$ 34.50	\$ 48,372.50	\$ 47.50	\$ 76,237.50	\$ 34.00	\$ 47,770.00	\$ 40.27	\$ 181,548.35	\$ 37.35	\$ 92,944.75
SP-02-5.1b	17" PVC C-900 DR-14 WATERLINE (UNDER PAVEMENT EXCLUDING AUTO CLASS 7 GRANULAR BACKFILL)	L.F.	195	\$ 43.50	\$ 8,482.50	\$ 32.00	\$ 6,240.00	\$ 33.00	\$ 6,435.00	\$ 36.00	\$ 7,056.00	\$ 64.54	\$ 12,583.30	\$ 39.00	\$ 7,665.00
SP-02-5.1c	8" PVC C-900 DR-14 WATERLINE UNDER PAVEMENT (INCLUDING AUTO CLASS 7 GRANULAR BACKFILL)	L.F.	2,440	\$ 50.00	\$ 122,000.00	\$ 31.00	\$ 75,640.00	\$ 40.00	\$ 97,600.00	\$ 29.00	\$ 70,760.00	\$ 56.75	\$ 137,903.20	\$ 49.70	\$ 121,244.00
SP-02-5.1d	8" PVC C-900 DR-14 WATERLINE	L.F.	50	\$ 37.00	\$ 1,850.00	\$ 24.00	\$ 1,200.00	\$ 27.50	\$ 1,375.00	\$ 23.00	\$ 1,150.00	\$ 57.29	\$ 2,844.50	\$ 31.00	\$ 1,550.00
SP-02-5.1e	8" PVC C-900 DR-14 WATERLINE UNDER PAVEMENT (INCLUDING AUTO CLASS 7 GRANULAR BACKFILL)	L.F.	1,840	\$ 46.00	\$ 84,640.00	\$ 29.00	\$ 53,360.00	\$ 37.50	\$ 68,850.00	\$ 27.00	\$ 49,950.00	\$ 51.84	\$ 95,422.40	\$ 49.00	\$ 91,172.00
SP-02-5.1f	8" PVC C-900 DR-14 WATERLINE	L.F.	300	\$ 34.00	\$ 10,200.00	\$ 24.00	\$ 7,200.00	\$ 23.00	\$ 6,900.00	\$ 23.00	\$ 6,900.00	\$ 45.23	\$ 13,569.00	\$ 18.20	\$ 5,460.00
SP-02-5.1g	DUCTILE IRON MECHANICAL JOINT WATERLINE FITTINGS	LBS.	3,940	\$ 3.40	\$ 13,396.00	\$ 10.00	\$ 39,400.00	\$ 8.00	\$ 31,520.00	\$ 4.00	\$ 15,760.00	\$ 8.09	\$ 32,036.40	\$ 8.00	\$ 31,520.00
SP-02-5.1h	10"x12" TAPPING SLEEVE, VALVE AND VALVE BOX	E.A.	1	\$ 3,900.00	\$ 3,900.00	\$ 4,500.00	\$ 4,500.00	\$ 10,000.00	\$ 10,000.00	\$ 3,500.00	\$ 3,500.00	\$ 4,826.61	\$ 4,826.61	\$ 4,000.00	\$ 4,000.00
SP-02-5.1i	12"x8" TAPPING SLEEVE, VALVE AND VALVE BOX	E.A.	1	\$ 2,213.30	\$ 2,213.30	\$ 2,400.00	\$ 2,400.00	\$ 3,000.00	\$ 3,000.00	\$ 2,500.00	\$ 2,500.00	\$ 3,403.67	\$ 3,403.67	\$ 3,000.00	\$ 3,000.00
SP-02-5.1j	8"x8" TAPPING SLEEVE, VALVE AND VALVE BOX	E.A.	5	\$ 647.50	\$ 3,237.50	\$ 2,000.00	\$ 10,000.00	\$ 3,000.00	\$ 15,000.00	\$ 2,200.00	\$ 11,000.00	\$ 2,656.49	\$ 13,282.45	\$ 2,750.00	\$ 13,750.00
SP-02-5.1k	8"x6" TAPPING SLEEVE, VALVE AND VALVE BOX	E.A.	3	\$ 637.00	\$ 1,911.00	\$ 1,600.00	\$ 4,800.00	\$ 2,500.00	\$ 7,500.00	\$ 1,800.00	\$ 5,400.00	\$ 1,823.38	\$ 5,470.14	\$ 2,500.00	\$ 7,500.00
SP-02-5.1l	12" BUTTERFLY VALVE AND VALVE BOX	E.A.	4	\$ 1,774.40	\$ 7,105.60	\$ 3,200.00	\$ 12,800.00	\$ 3,000.00	\$ 12,000.00	\$ 3,300.00	\$ 13,200.00	\$ 3,844.04	\$ 13,384.16	\$ 3,600.00	\$ 14,400.00
SP-02-5.1m	8" GATE VALVE AND VALVE BOX	E.A.	7	\$ 694.90	\$ 4,864.30	\$ 1,000.00	\$ 7,000.00	\$ 1,000.00	\$ 7,000.00	\$ 1,200.00	\$ 8,400.00	\$ 1,727.34	\$ 12,094.18	\$ 1,350.00	\$ 9,450.00
SP-02-5.1n	8" GATE VALVE AND VALVE BOX	E.A.	8	\$ 328.70	\$ 2,629.60	\$ 890.00	\$ 7,120.00	\$ 800.00	\$ 6,400.00	\$ 1,000.00	\$ 8,000.00	\$ 1,343.64	\$ 10,749.12	\$ 1,000.00	\$ 8,000.00
SP-02-5.1o	FIRE HYDRANT ASSEMBLY	E.A.	11	\$ 500.00	\$ 5,500.00	\$ 2,400.00	\$ 26,400.00	\$ 2,750.00	\$ 30,250.00	\$ 2,200.00	\$ 24,200.00	\$ 2,485.36	\$ 27,438.96	\$ 2,200.00	\$ 24,200.00
SP-02-5.1p	CUT AND CAP EXISTING 12" WATER MAIN	E.A.	3	\$ 203.10	\$ 609.30	\$ 2,000.00	\$ 6,000.00	\$ 2,500.00	\$ 7,500.00	\$ 1,500.00	\$ 4,500.00	\$ 1,994.61	\$ 5,983.83	\$ 2,000.00	\$ 6,000.00
SP-02-5.1q	CUT AND CAP EXISTING 8" WATER MAIN	E.A.	3	\$ 134.00	\$ 402.00	\$ 1,800.00	\$ 5,400.00	\$ 1,500.00	\$ 4,500.00	\$ 1,200.00	\$ 3,600.00	\$ 1,379.15	\$ 4,137.45	\$ 1,400.00	\$ 4,200.00
SP-02-5.1r	CUT AND CAP EXISTING 6" WATER MAIN	E.A.	1	\$ 242.50	\$ 242.50	\$ 1,600.00	\$ 1,600.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 540.77	\$ 540.77	\$ 1,000.00	\$ 1,000.00
SP-02-5.1s	CUT AND CAP EXISTING 4" WATER MAIN	E.A.	2	\$ 164.50	\$ 329.00	\$ 1,200.00	\$ 2,400.00	\$ 750.00	\$ 1,500.00	\$ 800.00	\$ 1,600.00	\$ 483.39	\$ 966.78	\$ 1,200.00	\$ 2,400.00
SP-02-5.1t	CUT AND CAP EXISTING 2" WATER MAIN	E.A.	4	\$ 163.20	\$ 652.80	\$ 600.00	\$ 3,600.00	\$ 300.00	\$ 1,200.00	\$ 400.00	\$ 1,600.00	\$ 483.39	\$ 1,933.56	\$ 1,200.00	\$ 4,800.00
SP-02-5.1u	1" SEWER LINE	E.A.	95	\$ 90.00	\$ 8,550.00	\$ 950.00	\$ 90,250.00	\$ 1,250.00	\$ 118,750.00	\$ 10.00	\$ 950.00	\$ 267.70	\$ 25,531.50	\$ 900.00	\$ 85,500.00
SP-02-5.1v	3/4" SEWER LINE	L.F.	300	\$ 5.30	\$ 1,590.00	\$ 40.00	\$ 12,000.00	\$ 3.00	\$ 900.00	\$ 8.00	\$ 2,400.00	\$ 11.56	\$ 3,468.00	\$ 30.00	\$ 9,000.00
SP-02-5.1w	WHEEL VALVE IN METER BOX	E.A.	4	\$ 116.40	\$ 465.60	\$ 160.00	\$ 25,600.00	\$ 200.00	\$ 800.00	\$ 150.00	\$ 600.00	\$ 204.57	\$ 818.28	\$ 100.00	\$ 400.00
SP-02-5.1x	PRESSURE REDUCING VALVE	E.A.	23	\$ 6.90	\$ 159.30	\$ 160.00	\$ 1,120.00	\$ 50.00	\$ 1,150.00	\$ 200.00	\$ 4,600.00	\$ 369.97	\$ 8,507.35	\$ 130.00	\$ 3,010.00
SP-02-5.1y	PERMANENT ACHM PAVEMENT REPAIR	S.Y.	2,033	\$ 9.90	\$ 20,126.70	\$ 50.00	\$ 101,750.00	\$ 45.00	\$ 91,425.00	\$ 85.00	\$ 172,925.00	\$ 44.87	\$ 91,443.43	\$ 60.00	\$ 122,100.00
SP-02-5.1z	PERMANENT CONCRETE PAVEMENT REPAIR	S.Y.	790	\$ 54.20	\$ 42,758.00	\$ 40.00	\$ 31,600.00	\$ 90.00	\$ 70,200.00	\$ 75.00	\$ 59,250.00	\$ 55.66	\$ 27,230.40	\$ 70.00	\$ 55,400.00
SP-02-5.1aa	REMOVE EXISTING FIRE HYDRANT AND DELIVER TO CITY OF FAYETTEVILLE WATER & SEWER DEPT.	E.A.	1	\$ 131.50	\$ 131.50	\$ 850.00	\$ 850.00	\$ 900.00	\$ 900.00	\$ 800.00	\$ 800.00	\$ 433.45	\$ 433.45	\$ 1,200.00	\$ 1,200.00
SP-02-5.1ab	SINKLE WATER METER SETTING	E.A.	20	\$ 233.80	\$ 4,676.00	\$ 500.00	\$ 10,000.00	\$ 1,000.00	\$ 20,000.00	\$ 350.00	\$ 7,000.00	\$ 465.03	\$ 9,300.60	\$ 350.00	\$ 7,000.00
SP-02-5.1ac	WATER METER YOKE	E.A.	4	\$ 138.90	\$ 555.60	\$ 290.00	\$ 1,640.00	\$ 250.00	\$ 1,000.00	\$ 100.00	\$ 400.00	\$ 322.00	\$ 1,288.00	\$ 100.00	\$ 400.00
SP-02-5.1ad	WATER METER BOX	E.A.	47	\$ 80.40	\$ 3,778.80	\$ 250.00	\$ 11,750.00	\$ 210.00	\$ 9,870.00	\$ 123.00	\$ 5,781.00	\$ 215.34	\$ 10,119.78	\$ 143.00	\$ 6,761.00
SP-02-5.1ae	WATER METER BOX LID	E.A.	17	\$ 48.00	\$ 816.00	\$ 90.00	\$ 1,530.00	\$ 214.00	\$ 4,238.00	\$ 75.00	\$ 1,275.00	\$ 220.31	\$ 3,745.27	\$ 150.00	\$ 2,550.00

ITEM	DESCRIPTION	CROSSLAND CONSTRUCTION			FAYETTE TALL & TREMON			LOCKNESS ESTIMATE			GOODWIN & GOODWIN			MOORE & CONTRACTORS			BEVERLY VALLEY CONST.			ECLIPSE & UTILITY CONTRACTORS		
		UNIT	QUANTITY	AMOUNT	UNIT	QUANTITY	AMOUNT	UNIT	QUANTITY	AMOUNT	UNIT	QUANTITY	AMOUNT	UNIT	QUANTITY	AMOUNT	UNIT	QUANTITY	AMOUNT	UNIT	QUANTITY	AMOUNT
2-0-3-14	ADJUST EXISTING WATER METER LOCATION	EA	11	\$ 79.34	\$ 2,712.74	\$ 150.00	\$ 34,114.00	\$ 210.00	\$ 2,310.00	\$ 2,712.00	\$ 29,832.00	\$ 170.00	\$ 1,870.00	\$ 281.19	\$ 3,124.61	\$ 160.00	\$ 1,760.00	\$ 100.00	\$ 1,100.00	\$ 100.00	\$ 1,000.00	
2-0-3-14	1/2" AIR RELEASE VALVE	EA	2	\$ 150.10	\$ 300.20	\$ 350.00	\$ 1,100.00	\$ 3,500.00	\$ 1	\$ 7,000.00	\$ 400.00	\$ 1,200.00	\$ 831.44	\$ 1,711.34	\$ 341.00	\$ 1,200.00	\$ 100.00	\$ 100.00	\$ 400.00	\$ 400.00		
2-0-3-14	1/2" BORED STEEL ENCASMENT PIPE	LJ	100	\$ 291.00	\$ 29,100.00	\$ 111.00	\$ 11,100.00	\$ 121.00	\$ 12,100.00	\$ 110.00	\$ 11,000.00	\$ 120.00	\$ 12,000.00	\$ 129.36	\$ 12,936.00	\$ 172.30	\$ 17,230.00	\$ 300.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	
2-0-3-14	1/2" BORED STEEL ENCASMENT PIPE	LJ	100	\$ 300.20	\$ 30,020.00	\$ 120.00	\$ 12,000.00	\$ 120.00	\$ 12,000.00	\$ 120.00	\$ 12,000.00	\$ 110.00	\$ 11,000.00	\$ 104.96	\$ 10,496.00	\$ 260.00	\$ 26,000.00	\$ 300.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	
2-0-3-14	1/2" STEEL ENCASMENT PIPE INSTALLED BY OTHER CLT	LJ	200	\$ 36.00	\$ 7,200.00	\$ 42.00	\$ 8,400.00	\$ 40.00	\$ 8,000.00	\$ 30.00	\$ 6,000.00	\$ 30.00	\$ 6,000.00	\$ 44.34	\$ 8,868.00	\$ 70.00	\$ 14,000.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	
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Section 00500

AGREEMENT

BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is dated as of the 16th day of September in the year 2003 by and between the City of Fayetteville, Arkansas (hereinafter called FAYETTEVILLE) and Crossland Heavy Contractors, Inc. (hereinafter called CONTRACTOR).

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

Article 1. WORK.

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

Accelerated Waterline Replacement Program

Installation of 12", 8", and 6" PVC water mains, along with steel encasement pipes, taps of various sizes, ductile iron water fittings, water valves, water service lines, water meters, connections to existing water lines and services, and pavement repairs as necessary, in and along Prospect, Cleburn, Fritz, and Baxter Streets, Rush and Fritz Drives, Lytton, Blair, and Mashburn Avenues, and Huntsville Road in Fayetteville, Arkansas.

Article 2. ENGINEER.

The Project has been designed by:

Garver Engineers, LLC
3810 Front Street, Suite 10
Fayetteville, AR 72703

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

Article 3. CONTRACT TIME.

3.1. The Work shall be substantially completed within 120 consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07 B & C of the General Conditions within 150 consecutive calendar days after the date when the Contract Time commences to run.

If delays in utility relocations by others impede the Contractor's progress for major Contract items and/or items critical to the prosecution of the work within the Contract Time, the Contract Time will be temporarily suspended or adjusted by the City as appropriate. During such periods, the Contractor will be allowed to work on minor Contract items, as approved by the City, without spending Contract Time.

3.2. *Liquidated Damages.* FAYETTEVILLE and CONTRACTOR recognize that time is of the essence of the Agreement and that FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, Fayetteville and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay FAYETTEVILLE Five Hundred dollars (\$500.00) for each day that expires after the time specified in paragraph 3.1 for substantial completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by FAYETTEVILLE, CONTRACTOR shall pay FAYETTEVILLE Five Hundred dollars (\$500.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

FAYETTEVILLE agrees to pay, and the CONTRACTOR agrees to accept, as full and final compensation for all work done under this agreement, the amount based on the prices bid in the Proposal which is hereto attached, for the actual amount accomplished under each pay item, said payments to be made in lawful money of the United States at the time and in the manner set forth in the Specifications.

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

Changes, modifications, or amendments in scope, price, or fees to this contract 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.

Article 5. PAYMENT PROCEDURES

5.1. *Progress Payments.* FAYETTEVILLE shall make periodic progress payments on the basis of Work completed as provided in paragraph 14.02 of the General Conditions and SC-14.02 of the Supplementary Conditions. Prior to Final Completion, progress payments will be made in an amount equal to the value of completed Work, plus the value of stored materials, less retainage, less the aggregate of payments previously made, and less such amounts as FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions:

Retainage: FAYETTEVILLE will retain ten percent of the value of completed Work until such time as 50 percent of the Work has been completed. If 50 percent of the Work has been completed, as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to FAYETTEVILLE, retainage will be fixed at five percent of the Contract Price. FAYETTEVILLE reserves the right to reinstate retainage at ten percent if the character and progress of the Work become unsatisfactory to FAYETTEVILLE.

Stored Materials: FAYETTEVILLE will pay 100 percent of the value of materials and equipment not incorporated in the Work but delivered, suitably stored, insured, and accompanied by documentation satisfactory to FAYETTEVILLE as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.2 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.06 and 14.07.B & C of the General Conditions, FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraphs 14.07.B & C.

Article 6. CONTRACTOR'S REPRESENTATIONS.

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

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

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

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

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

CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that FAYETTEVILLE and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or

assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

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

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

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

Article 7. CONTRACT DOCUMENTS

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

- 7.1. This Agreement (pages 1 to 6, inclusive).
- 7.2. Performance and Payment Bonds, (Exhibits A and B respectively).
- 7.3. Certificates of Insurance, (Exhibit C).
- 7.4. Documentation submitted by CONTRACTOR prior to Notice of Selection (Exhibit D).
- 7.5. General Conditions (pages 1 to 42, inclusive).
- 7.6. Supplementary Conditions (pages 1 to 15, inclusive).
- 7.7. Specifications consisting of Sections as listed in Table of Contents herein.
- 7.8. Addenda numbers ___ to ___, inclusive.
- 7.9. Drawings (not attached hereto) consisting of a cover sheet and sheets numbered 1

through 11, inclusive with each sheet bearing the following general title:

**City of Fayetteville
Accelerated Waterline Replacement**

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

7.10.1. Notice to Proceed

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

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

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

Article 8. MISCELLANEOUS.

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

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

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

8.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid

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.

IN WITNESS WHEREOF, FAYETTEVILLE and CONTRACTOR have signed this Agreement in six (6) counterparts. One counterpart each has been delivered to FAYETTEVILLE and ENGINEER, and two counterparts have been delivered to CONTRACTOR. All portions of the Contract Documents have been signed, initialed, or identified by FAYETTEVILLE and CONTRACTOR or identified by ENGINEER on their behalf.

This Agreement will be effective on _____, 20__ (which is the Effective Date of the Agreement).

OWNER: City of Fayetteville

By: _____
Mayor

CONTRACTOR: Crossland Heavy Contractors, Inc.

By: [Signature]

President
Title

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

Address for giving notices

Attest _____

Address for giving notices

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

License No. _____

Agent for service of process:

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

For the Fayetteville City Council Meeting of: September 16, 2003

<u>Name</u>	<u>Division</u>	<u>Department</u>
Stephen Davis	Finance & Internal Services Dir.	Finance & Internal Services

COST TO CITY:

BUDGET REVIEW:	Budgeted Item	Budget Adjustment Attached
----------------	---------------	----------------------------

CONTRACT/GRANT/LEASE REVIEW:

STAFF RECOMMENDATION: Adoption of the business license program and approval of a budget adjustment appropriating funding to implement the program.

<u>Division Head</u>	<u>Date</u>	<u>Cross Reference</u>
<u>Department Director</u>	<u>Date</u>	New Item: Yes No
<u>Finance & Internal Services Dir.</u>	<u>Date</u>	Previous Ord/Res#: _____
<u>Chief Administrative Officer</u>	<u>Date</u>	Orig. Contract Date _____
<u>Mavor</u>	<u>Date</u>	Orig. Contract Number _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor
Hugh Earnest, Chief Administrative Officer 

FROM: Stephen Davis, Finance & Internal Services Director 

DATE: August 23, 2003

SUBJECT: Business License Program

Background

City Staff has submitted to City Council a report titled "Business License Report" on August 4, 2003. This report was developed and issued as part of an information request by City Council during the 2003 Budget Hearing conducted in October/November 2002.

Discussion

Staff has distributed the above referenced report to all City Council members, the City Attorney, the City Clerk, the Advertising & Promotion Commission, the Fayetteville Chamber of Commerce, Downtown-Dickson Enhancement Project, Inc, the Press, the Washington County Collector's Office, Washington County Court Clerks Office, Washington County Assessor's Office, the Washington County Health Department, numerous City divisions as well interested citizens. Additionally, the proposed Business License Program, including the proposed application and flowchart, are posted on the City's web site.

The Proposed Business License Program (Program) is an extensive program in that it applies to all enterprises that have employees, sell goods or services, rent real or personal property unless the enterprise has a specific exemption authorized by Arkansas State law. The Program is a cost recovery licensing program based on the number of City divisions that are involved in either the initial or subsequent business license application review. The Program is predicted to take approximately eighteen (18) months to fully implement.

Recommendation

Staff recommends that the Business License Program be adopted and that funding be appropriated to implement the program. Additionally, Staff recommends that the Program be phased in with the first group of enterprises licensed being the businesses that are subject to the City's HMR taxes.

Business License Program -- City of Fayetteville

Introduction and Summary

The purpose of this business tracking program (Program) is two-fold: first, provide a predictable and effective method of knowing where businesses are within the City and what risk the business presents to neighbors, if any, and what type of emergency response may be required; second, develop a mechanism that requires temporary and/or transient vendors register with the City to better assist in capturing the appropriate sales & use tax and/or hotel, motel and restaurant taxes. Another application for the business license program could be to generate revenue for use by the City to fund government operations in General Fund.

The initial benefits of a business License program to the City include:

- Provide the opportunity to re-allocate existing staff time from developing new business information to other critical municipal services
- Provide the opportunity to enable Staff to determine that the business has located in the proper zoning for the business
- Provide the opportunity to better plan community wide emergency and evacuation plans
- Provide the opportunity to better plan for delivery of emergency response services if or when they may be needed
- Provide the opportunity to share information with other governmental units such as the Washington County Health Department, Washington County Assessor's Office, Washington County Collector's Office, State of Arkansas Department of Finance & Administration, Central Emergency Medical Services, the Fayetteville Convention & Visitors Bureau and the Advertising & Promotion Commission
- Provide the opportunity to better coordinate temporary and transient businesses that frequent the City for festivals
- Provide the opportunity to have a single database that provides the required information for compliance with the annual backflow device testing information and the required information for Stormwater Phase II compliance

Description of the Business License Program

The business License program would involve:

- a business license application (please refer to the attachment titled "Business License Application")
- public information concerning the business License program -- who is required to have a business license and how apply for a business license

- who, in the City, would be responsible for administering the program
- which City Divisions would be involved in reviewing a new business license application
- which City Division would be involved in reviewing and issuing business licenses for temporary or transient businesses
- how a business license will be renewed
- develop procedures and data that verifies, with reasonable accuracy, that businesses are obtaining a business license
- that business location information is shared within the City and with other governmental agencies as appropriate and as necessary. For example, the Washington County Health Unit could receive information on new hotels, motels, restaurants, convenience stores, caterers, etc.
- requirements that the business license be posted in a prominent place in the business establishment

The City would need to cooperate with and receive cooperation from various State and County agencies to insure that each governmental entity is informed on businesses, permanent, temporary and/or transient, that offer services or products within the City limits.

Business Application Process and Procedure

The business application is proposed to ask for the following information:

- Name of the business (need the official business name and the doing business as (DBA) name, if any)
- Street address of the business.
- Contact person, telephone number and mailing address. An email address is desired but not required unless the business application is submitted via the Web.
- Type of business (use the same industry classification that appears on the State Sales Tax Reports).
- Fire Sprinkler System - yes or no.
- Chemical or Flammable Material Storage – yes or no.

The applicant will need to print and post the completed application in a prominent place in the business and replace the application copy with the official business license issued by the City.

A business license is required

- When a business is newly established
- When a change in business name occurs
- When a change in ownership occurs
- When a change in the type of business

A renewal business license is required twelve months after the initial business license is approved.

Failure to apply or re-apply for a business license can result in penalty assessments. The penalties are listed below:

- 0 to 30 days late.....\$25.00
- 31 to 60 days.....\$50.00
- 61 to 90 days.....\$75.00
- 91 plus.....\$100.00

Additionally, for businesses that are 91 plus days late applying or re-applying for a business license other city licenses and/or permits may be canceled and no new licenses, permits or other regulatory approvals may be obtained until the business license is made current.

Temporary and/or Transient Business

Temporary and/or transient businesses may obtain a City of Fayetteville Business License by completing the business license application, presenting a copy of their sales tax permit or providing a copy of the transient business permit issued by Washington County and payment of the applicable business license fee.

City Department Review

Citizens will be able to contact several City Divisions to apply for a business licenses, renew a business license or inquire on a business license holder. The business will complete the business application and submit the application to the City either by mail, hand delivery or through the City's web site. City Staff in the Accounting Division and/or the Billing & Collections Division will enter the data from the application into the municipal management system, (Hanson) and Hanson will notify the Business Application Review Team that an application is ready for review and approval.

Applicability of the Business Application Process

All enterprises that have employees, sell goods or services, rent real and/or personal property will be required to submit a business application except those that have specific exemptions stipulated in the Arkansas Code. Governmental entities will be exempt from the Business License provisions.

Cost of a Business License Program

The cost of the business license program is comprised of two distinct elements: 1) capital cost of obtaining the necessary computer hardware and software including a web based portal; and 2) the on-going annual operational cost of having a business License system. The total cost of implementing a business license program is discussed below. The distribution of cost between the cost of issuing the initial business license and the cost of issuing a renewal business license is set forth in the attached worksheet titled "Business License Program Budget."

The predicted initial year cost to the City of having a business License program is approximately \$99,000 and is comprised of a one-time capital expenditure of \$56,000 and the initial one-year annual operating expense of \$43,000. This business License program proposes to have citizen and staff inquiry and processing with six divisions: Accounting, Billing & Collections, Planning,

Building Safety, City Clerk and Mayor's Administration Office. The primary divisions impacted by this Program are the Accounting, Billing & Collections, Planning, and Building Safety divisions with the Accounting and/or Billing & Collections divisions taking the lead in management of the Program.

The predicted cost does not include any use of a City-owned vehicle to perform field audits or verification. The proposed budget for the Business License Program is attached and titled "Business License Program Budget." Two flowcharts are attached and the flowcharts detail the offices that the initial business license application and/or a business license renewal are expected to have an effect on. The flowcharts are titled "Business License Program Flowchart – Initial Application and Business License Program Flowchart – Renewal Application."

It should be noted that these cost predictions involve utilization of existing software providers (New World and Hansen) and hiring an additional employee to staff the program. The cost of the program should be approximately the same whether the City recovers cost only or uses the business license program as a source of revenue for General Fund.

Implementation and Evaluation

The Business License program could be implemented beginning in the fourth quarter 2003 and continue through the end of the first quarter 2004. Hotels, motels, and restaurants are proposed to be the first applications mailed out. The next grouping would be those businesses that have other existing permits or licenses. The business listing compiled by City staff lists over 2,500 within the City limits of Fayetteville. The proposal for this program would be to phase in the business licenses over a six month period and have the annual renewals scheduled over the following twelve months to provide a more consistent work load for staff. The Washington County Collector's Office has requested that prior to the City issuing a business license, that the City confirms payment of personal property taxes owed. In order for this Program to be successful, several City divisions and several other government offices such as the Washington County Assessor's Office, the Washington County Collector's Office and the Washington County Health Unit will need to work cooperatively to insure that the majority of businesses are identified and the businesses are provided the opportunity to apply for a business license.

It is expected that full implementation of the business license program could take up to one and a half years. The projected time frame is to enable the City to purchase the two software packages and the web portal, schedule on-site installation, conduct staff training, work out information sharing with other governmental agencies and develop public information packets that details the business license program.

City Staff expects to use existing information available either in the Central Dispatch, Billing & Collections, Planning and Building Safety divisions or purchase a business listing from the Fayetteville Chamber of Commerce or other commercially available business listing to mail out the initial applications. Renewal business licenses will be processed to even out the work flow throughout the calendar year. Coordination with the appropriate Washington County and State offices will occur prior to approving the initial business license and any renewal business license.

The success or failure of the implementation can be determined in a number of ways. The most

quantifiable method would be by obtaining future reports from Dun & Bradstreet and obtaining information from the regional chambers of commerce and comparing these findings with the business listing from the City's business license program.

Other Uses of a Business License Program

The City could use the information captured in a business license program to develop some of the needed assessment information that will be required under the Phase II Stormwater regulations.

City of Fayetteville, Arkansas
Business License Program
Predicted Budget
July , 2003

	<u>Capital</u>	<u>Operations</u>
Personnel Services	\$	\$ 32,251
Office Supplies		2,000
Postage		700
Software Maintenance		5,710
Business Database Subscription		2,187
Computer, Monitor and Printer	3,500	
Software	19,400	
Web Portal	<u>33,000</u>	
Total	\$ <u><u>55,900</u></u>	\$ <u><u>42,848</u></u>



City of Fayetteville, Arkansas

New _____
Renewal _____
Change _____

Application for Business License

Business Name and Location			Business Mailing Address		
Name (give advertised name, D.B.A.)			Name (enter corporate name if applicable)		
Street and Highway (Do not use PO Box)			Street, Highway or PO Box Number		
City	State	Zip	City	State	Zip
Business Phone Number			Home Office Area Code and Phone Number		
E-mail Address					

Business Information			
Type of Ownership:	Name: _____		
	☐ Corporation ☐ Partnership ☐ Sole Proprietorship/Individual ☐ Other Not For Profit Agency, Church, or Government Entity		
Is the business:	☐ Alcoholic Beverage Sales ☐ Caterer ☐ Contractor ☐ Lodging	☐ Manufacturer ☐ Real Property Rental ☐ Retail ☐ Retail Food	☐ Service ☐ Wholesale ☐ Other: _____
Does the business:	☐ Store chemical/flammable materials ☐ Have a fire suppression (sprinkler) system		
Dominant Product Sold or Service Performed: _____			
Sales and Use Tax Permit SIC or NAICS Number: _____ Date Business Opens: _____			
Reason for filing this application:	☐ Change of Address ☐ Change in Corporate Structure ☐ Change in Type of Business ☐ New Business		
	☐ Purchase of existing business ☐ Renew of existing license ☐ Temporary/Transient Business		
Prior Business Name: _____			

Fee Calculation	
-----------------	--

License Fee: _____ + Late Fee: _____ = TOTAL: _____
(if applicable)

Signatures	
------------	--

Signature of Owners or Corporate Officer (All owners must sign and include photocopy of driver's license.)

Make check payable to "City of Fayetteville"
Please call (479) 575-8281 with questions.

Mail to: City of Fayetteville, Accounting Division
113 West Mountain, Fayetteville, AR 72701

Business Survey Form

Below is information that could be beneficial to the Fayetteville Police Department in case of an emergency. An emergency could be a burglary, fire, vandalism or alarm. Please fill out the information and mail or fax it to:

Kathleen Stocker, c/o Fayetteville Police Dept, P.O. Box 1988, Fayetteville, AR 72702.

Fax Number: 479-587-3563.

If you have any questions, you can contact someone at 479-587-3555. Thank you for your assistance.

Business Name: _____

Address: _____

Mailing Address: _____

Email Address: _____

Phone Number: _____

Manager/Owner: _____

Home Phone Number: _____

Cell Phone/Pager: _____

Please list at least two employees who we can contact in the event of an emergency and unable to reach the manager/owner. The employees list should have access to the building and alarm system (if applicable). Please list in the order you would like the employees called. If you are the manager/owner and don't want to be called first, please indicate on the form. Also, if you are leasing, please list whom you are leasing the building/ space from (indicating so after the name).

Name: _____	Home: _____
Cell: _____	Pager: _____

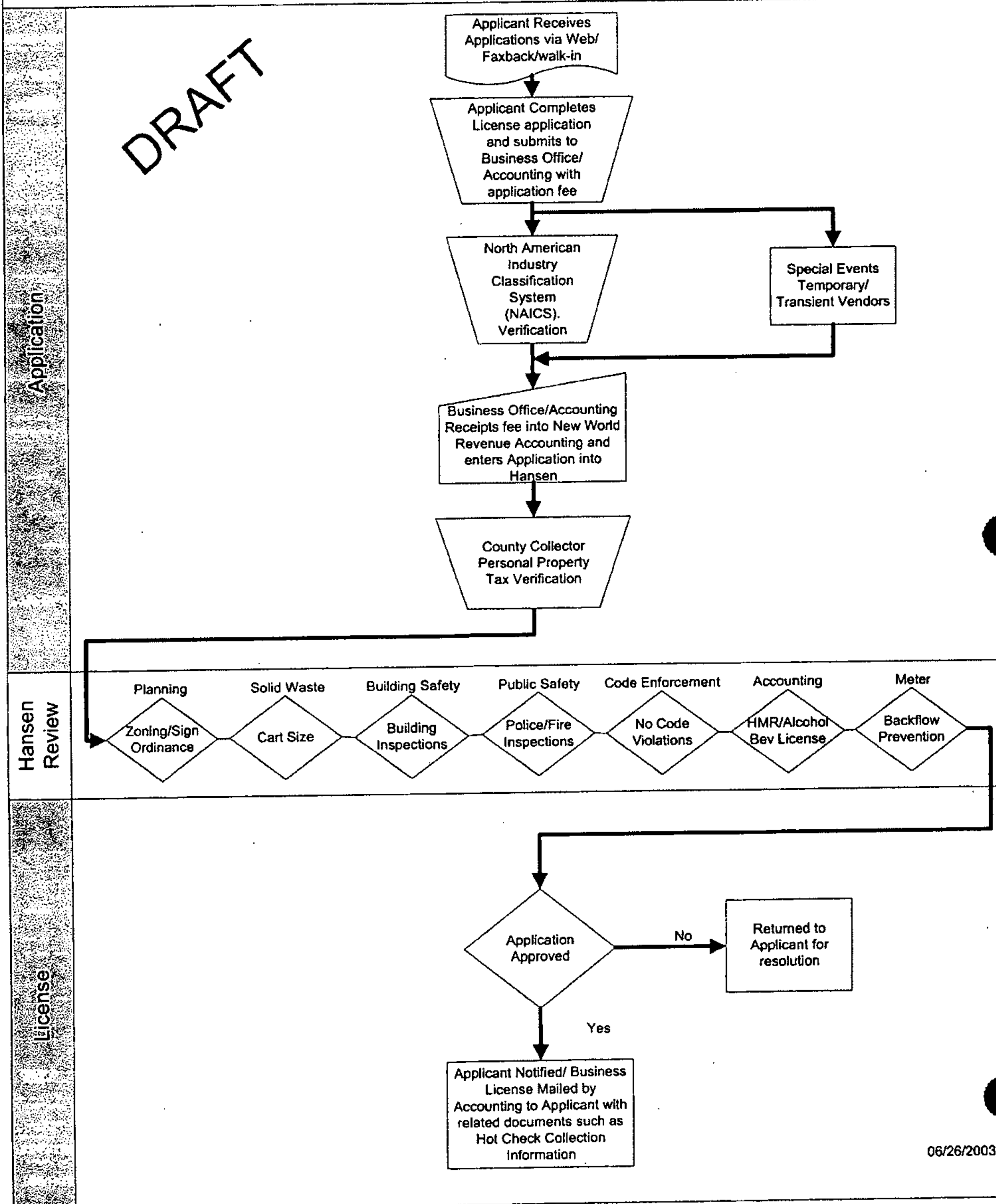
Name: _____	Home: _____
Cell: _____	Pager: _____

Name: _____	Home: _____
Cell: _____	Pager: _____

Business License Process

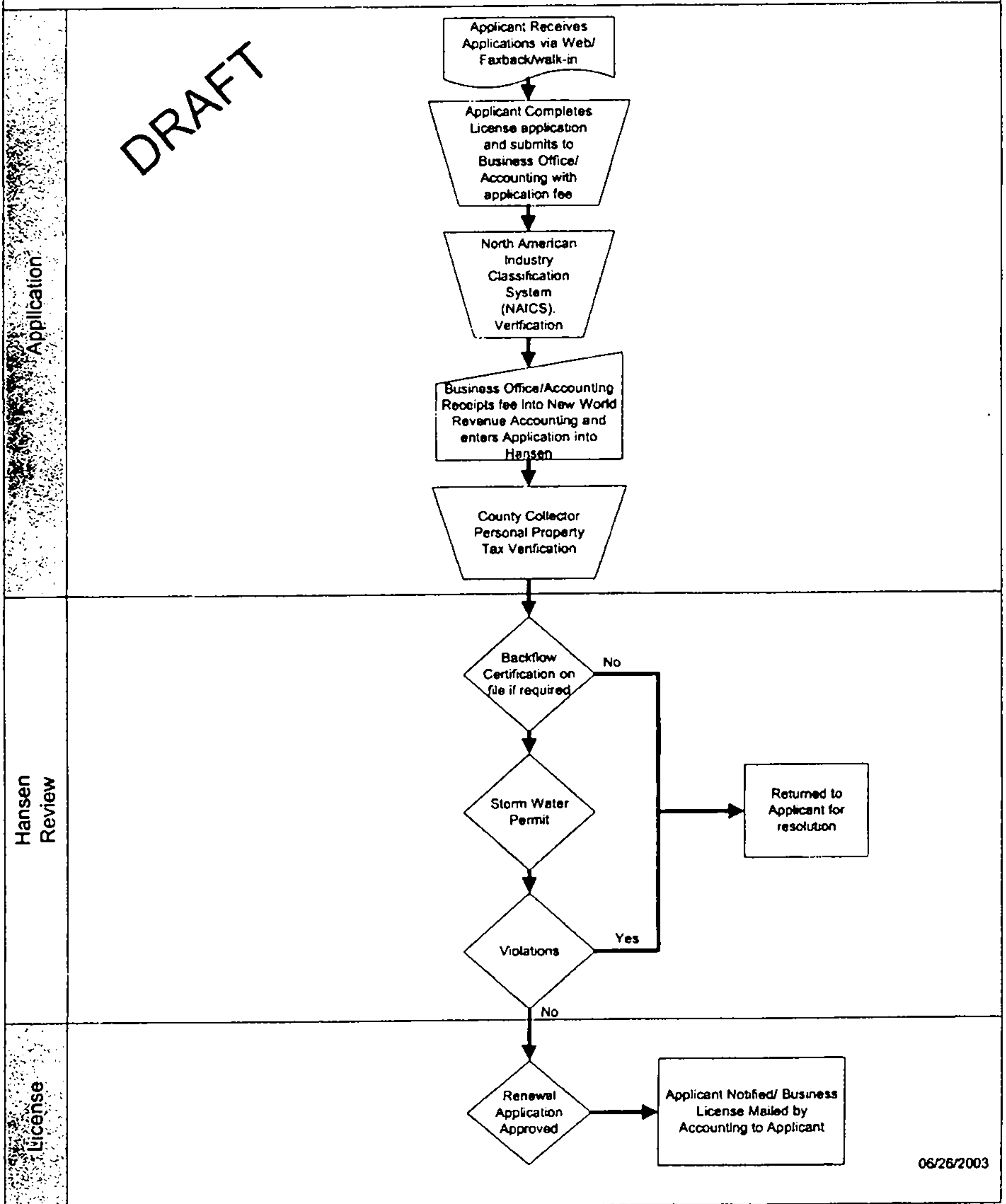
Initial Business License

DRAFT



Business License Process

Business License Renewal



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

August 22, 2003

Bret J. Schlyer
Maximus, Inc
Cost Services Division
940 North Tyler Road, Suite 204
Wichita, KS 67212

Subject: City of Fayetteville Proposed Business License Program

Dear Bret,

As we discussed when you were in for the initial field work on the City of Fayetteville Cost of Services Study I am submitting the business license program budget and two flow charts. The budget is organized in capital and operational expenses. The capital cost should be amortized over a three year/thirty-six month basis. The operational budget covers the direct cost of administering the program only and does not include the predicted time each of the work areas requires for their individual portion of the business license review, nor does it cover any indirect cost the City has.

My request from Maximus is for Maximus to calculate a business license cost using the data gathered under the cost of services engagement, the predicted capital cost recovery for the business license program and the two flow charts that show how to obtain a business license. A business license, under this proposed program, would issue approximately 2,600 business licenses annually. The table below lists a predicted breakdown of how many applicants will have to be reviewed by the various work stations.

Predicted Number of Applicants	Number of Reviews	Predicted Review Time
2,600	5	1 hour 15 minutes
400	6	1 hour 30 minutes
300	7	1 hour 45 minutes

All 2,600 businesses will go through the Planning to Code Enforcement reviews; of the 2,600 business, approximately 400 will go through an additional review either from the Accounting Division or the Meter Division and of the 2,600 businesses, approximately 300 will be reviewed by all seven reviewers.

I appreciate your prompt response to my information request. The business license program is scheduled to be submitted to City Council for action by mid-September and the rate per business license review category is critical to the program.

Sincerely,



Stephen L. Davis
Finance & Internal Services Director

Attachments:

Business License Program

Application for Business License

Business License Program Predicted Budget

Business License Process – Initial Business License Flowchart

Business License Process – Business License Renewal

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

XX AGENDA REQUESTFor the Fayetteville City Council Meeting of: September 16, 2003

FROM:

Greg Boettcher

Water & Wastewater Dir.

Water & Wastewater

Stephen Davis

Finance & Internal Services Dir.

Finance & Internal Services

Name

Division

Department

ACTION REQUIRED: Approve an ordinance amending (Chapter 51.136) the monthly water rates, monthly meter service charge, monthly standby fire protection service charge, monthly wholesale treated water rates outside city limits (Table W-19), add "Section 51.136 A(3) Customers may, when a common facility/building is served by multiple water meters and the water usage is for the same purpose for the water meters, petition the Water & Wastewater Director and/or the Finance & Internal Services Director to have the water consumption aggregated and have the tiered rates apply to the aggregated water quantity"; and amending monthly quantity charge, monthly services charge and extra strength surcharge (Table S-19), elimination of 51.137 B(1) and add "for domestic customers, the monthly wastewater charge shall be based on 85% of monthly water consumption"; add "Section 51.137 B(2) domestic customers with a single water meter and an existing irrigation system may petition the Water & Wastewater Director for extended time not to exceed 36 months from the adoption of the ordinance revisions to install an irrigation meter and be exempted from paying impact fees for the irrigation meter"; and amend the water and sewer ordinance (Chapter 51) to remove Public Works Director, Water & Sewer Services Superintendent and replace with Water & Wastewater Director or designee and/or Finance & Internal Services Director or designee, as appropriate.

SUMMARY EXPLANATION:

The City contracted with Black & Veatch to conduct a rate study in advance of the wastewater system improvements being completed. The rate study has been completed and contains the following recommendations: the water utility needs a rate adjustment of 10%. This rate adjustment is driven by the wholesale rate increase implemented by Beaver Water District. The wastewater utility needs a rate adjustment of 29.5% between 2003 and 2006. This rate adjustment is needed due to increased operational costs of the new wastewater treatment plant. The last time rates were adjusted for either utility was in 1997.

STAFF RECOMMENDATION: Approve ordinance revisions.

Division Head

Date

City Attorney

Date

Received in Mayor's Office

Date

Department Director

Date

Finance & Internal Services Dir.

Date

Chief Administrative Officer

Date

Mayor

Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item:

Yes

No



ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 51, WATER AND SEWERS, OF THE CODE OF FAYETTEVILLE, TO CHANGE NOMENCLATURE; AND ADJUST WATER AND SEWER RATES CONSISTENT WITH THE RECOMMENDATIONS OF THE BLACK & VEATCH RATE STUDY.

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

Section 1. That Chapter 51: Water and Sewers, Code of Fayetteville is hereby amended by deleting all references to the "Public Works Director" and the "Water & Sewer Services Superintendent", and replacing them with "the Water & Wastewater Director or designee, or the Finance & Internal Services Director, or designee."

Section 2. That §§ 51.136 & 51.137 of the Code of Fayetteville are hereby repealed, and Exhibit "A" attached hereto and made a part hereof, is inserted in their stead.

PASSED and APPROVED this 16th day of September, 2003.

APPROVED:

By _____

DAN COODY, Mayor

ATTEST:

By _____

SONDRA SMITH, City Clerk

EXHIBIT "A"

51.136 Monthly Water Rates

Effective as of the first billing statements issued after December 31, 2003, the following monthly rates shall be fixed as rates to be charged for water furnished by the waterworks system of the city, which rates the City Council finds and declares to be reasonable and necessary minimum rates to be charged:

(A) Monthly treated water rates.

- (1) The water usage of each customer shall be determined each month by meter measurement and the amount per 1,000 gallons to be paid for water usage by each customer shall be computed on the basis of the following schedule of rates. The minimum billing shall be 1,000 gallons per month.

Table A
Monthly Water Rates

Usage Rate (In gallons)	Inside City	Outside City
First 10,000	\$2.85	\$3.10
Next 290,000	2.55	2.65
Next 4,700,000	2.30	2.45
Over 5,000,000	2.00	2.10

- (2) All bills under such schedule shall be computed by adding the applicable meter service charge prescribed by subsection (B) to the amount determined to be due for water usage under this schedule. Applicable sales tax and franchise fees shall be added to the bill so computed.

- (3) When a common facility/building is served by multiple water meters and the water usage is for the same purpose, customers may petition the Water & Wastewater Director and/or the Finance & Internal Services Director to have the water consumption aggregated and have the tiered rates apply to the aggregated quantity.

(B) Monthly meter service charge.

- (1) In addition to the above, each customer shall pay a monthly meter service charge in accordance with the following schedule:

EXHIBIT "A"

Table B
Monthly Meter Service Charge*

Meter Size	Inside City	Outside City
5/8 inch	\$ 3.97	\$ 4.97
3/4 inch	5.40	6.79
1 inch	7.40	9.33
1 1/2 inch	13.12	16.59
2 inch	18.83	23.85
3 inch	43.99	55.80
4 inch	72.58	92.11
6 inch	144.04	182.86
8 inch	215.51	273.63

(2) The monthly treated water rates and the monthly meter service charge rates prescribed by subsections (A) and (B) of this section shall commence as of the first billing statements issued after December 31, 2003 for those customers outside the city limits receiving city water, and shall continue until such time as said customers either go off service or until such time as a revised rate structure is adopted by the City Council. Customers served through the white river water district system will pay the outside city rate plus an additional \$5.94 per the monthly service charge specific to this subsystem.

(C) *Monthly standby fire protection service charge.* Charges for unmetered service connections inside the city limits for standby fire protection and fire hydrants shall be:

Table C
Monthly Standby Fire Protection Service Charge

Line Size	Inside City	Outside City
2 inch	\$ 4.00	\$ 4.00
3 inch	12.00	12.00
4 inch	23.00	25.00
6 inch	64.00	69.00
8 inch	134.00	140.00
10 inch	230.00	248.00

* Includes \$0.25 Safe Water Act Fee

EXHIBIT "A"

(E) Monthly wholesale treated water rates outside city limits shall be:

Table D
Monthly Wholesale Treated Water Rates - Outside City Limits

Usage Rate Per 1,000 Gallons	\$ 2.01
Reduced demand	1.81
Meter charge	55.55

(F) Monthly charge for fire hydrants provided water by the city for municipalities and/or districts outside the city limits for billing statements issued after December 31, 2003 shall be \$10.00 per hydrant per month.

51.137 Monthly Sewer Rates

(A) *Monthly sewer rates.* All monthly sewer charges shall be calculated from the customer's monthly water usage. The following monthly rates are hereby fixed as rates to be charged for sewer services:

(1) Monthly quantity charge:

Table E-1
Monthly Quantity Charge - Usage Rates Per 1,000 Gallons Beginning December 31, 2003

Residential	\$2.49
Commercial/Industrial	2.49
Outside city limits	6.03
Elkins	5.24

Table E-2
Monthly Quantity Charge - Usage Rates Per 1,000 Gallons Beginning December 31, 2004

Residential	\$ 2.71
Commercial/Industrial	2.71
Outside city limits	6.57
Elkins	5.71

Table E-3
Monthly Quantity Charge - Usage Rates Per 1,000 Gallons Beginning December 31, 2005

Residential	\$ 2.95
Commercial/Industrial	2.95
Outside city limits	7.16
Elkins	6.22

EXHIBIT "A"

(2) Monthly service charge:

**Table F-1 Monthly Service Charge
After December 31, 2003**

Meter Size	Inside City	Outside City
5/8 inch	\$ 7.27	\$ 8.72
3/4 inch	9.89	11.87
1 inch	13.57	16.28
1½ inch	24.08	28.90
2 inch	34.60	41.51
3 inch	80.85	97.02
4 inch	133.41	160.09
6 inch	264.82	317.78
8 inch	396.22	475.47

**Table F-2 Monthly Service Charge
After December 31, 2004**

Meter Size	Inside City	Outside City
5/8 inch	\$ 7.92	\$ 9.50
3/4 inch	10.78	12.94
1 inch	14.79	17.75
1½ inch	26.25	31.50
2 inch	37.71	45.25
3 inch	88.13	105.75
4 inch	145.42	174.50
6 inch	288.65	346.38
8 inch	431.88	518.26

**Table F-3 Monthly Service Charge
After December 31, 2005**

Meter Size	Inside City	Outside City
5/8 inch	\$ 8.63	\$ 10.35
3/4 inch	11.75	14.10
1 inch	16.12	19.35
1½ inch	28.61	34.33
2 inch	41.10	49.32
3 inch	96.06	115.27
4 inch	158.51	190.21
6 inch	314.63	377.56
8 inch	470.75	564.90

(B) Determination of charge for domestic customers.

- (1) (a) The monthly wastewater charge for domestic customers shall be based on 85% of the customer's monthly water usage.
- (b) Each domestic customer shall be required to make a \$50.00 service deposit with each application for sewer service. This service deposit shall be retained in trust, without interest, by the city finance department. When service to the

EXHIBIT "A"

depositor is discontinued permanently, said service deposit shall be applied to the final billing and the remainder, if any, returned to the depositor.

- (2) Domestic customers with a single water meter and an existing irrigation system may petition the Water & Wastewater Director within 36 months of the effective date of this ordinance revision, to install an irrigation meter and to request a waiver of the meter impact fee for the pre-existing irrigation demand.

(C) *Determination of charge for commercial and industrial customers.* In the case of commercial and industrial customers the monthly sewer charge shall be determined by applying the schedule of rates prescribed in subsection (A) of this section to the monthly water usage of such customers. In the event that a commercial or industrial customer discharging waste into the city's sanitary sewer system produces evidence to the water and sewer superintendent demonstrating that a substantial portion of the total amount of water from all sources used for all purposes does not reach the sanitary sewer which is in excess of the factors used in establishing the rates in division (A) of this section, an estimated percentage of total water consumption to be used in computing charges may be established by the water and sewer superintendent. The factors used in establishing said rates are on file in the office of the water and sewer superintendent and are incorporated herein by reference thereto. Any rate so adjusted by the water and sewer superintendent shall be effective for a 12-month period beginning with the billing for the month when rates adjudged hereby go into effect.

(D) *Extra Strength Surcharge.* For all commercial and industrial customers whose wastewater discharge is greater than 300 mg/l of BOD₅ and/or TSS, the City shall levy an Extra Strength Surcharge for each parameter in accordance with the following unit charges:

	After December 31, 2003	After December 31, 2004	After December 31, 2005
(1) Extra Strength BOD ₅ ---	\$0.3822/lb.	0.4166/lb.	0.4541/lb.
(2) Extra Strength TSS -----	\$0.2994/lb.	0.3263/lb.	0.3557/lb.

Extra Strength Surcharges shall be billed monthly and shall be computed on the basis of water meter reading (wastewater discharge volume).

(E) *Definitions.*

For the purpose of this division the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (1) *Commercial, industrial customer or user.* All retail stores, restaurants, office buildings, laundries, and other private business and service establishments which contributes wastewater to the city's wastewater treatment plant. It shall include any nongovernmental, nonresidential user of publicly owned

EXHIBIT "A"

treatment works which is identified in the *Standard Industrial Classification Manual, 1972, Office of Management and Budget*, as amended and supplemented, under the following divisions; Division A-Agriculture, Forestry, and Fishing; Division B-Mining; Division D-Manufacturing; Division E-Transportation, Communications, Electric, Gas and Sanitary; and Division I-Services. It also includes social, charitable, religious, and educational activities such as schools, churches, hospitals, nursing homes, penal institutions and similar institutional users; legislative, judicial, administrative, and regulatory activities of federal, state and local governments.

- (2) *Domestic customer or user.* Any contributor of wastewater to the city's treatment works whose lot, parcel, or real estate, or building is used for domestic dwelling purposes only.
- (3) *Infiltration/inflow.* The total quantity of water other than wastewater from both infiltration and inflow without distinguishing the source from defective pipes, pipe joints, connections, manholes, roofleaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy area, cross connections, catch basins, cooling towers, storm waters, surface runoffs, street wash water, or drainage.
- (4) *Municipality.* A city, town, county, parish, district, association, or other public body (including an inter-municipal agency of two or more of the foregoing entities) created under state law having jurisdiction over disposal of sewage, industrial waste or other waste. The definition includes special districts such as water, sewer, sanitary, utility, drainage, transport, or disposal of liquid waste of the general public in a particular geographic area.
- (5) *Operation and maintenance.* Those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and which such works were designed and constructed. The term "operation and maintenance" includes replacement as defined in subsection (D)(1)(f) of this section.
- (6) *Replacement.* Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.
- (7) *Treatment works.* Any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and their appurtenances; extensions improvement; remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply

EXHIBIT "A"

such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost, and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

- (8) *Useful life.* The estimated period during which a treatment works will be operated.
- (9) *User charge.* That portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.
- (10) *Water meter.* A water volume measuring and recording device, furnished and installed by the water department of the city.

(F) *Deposit of revenues; fund.*

- (1) The revenues from user charges collected by the city shall be deposited in a separate non-lapsing fund known as the operation, maintenance, and replacement fund.

- (2) Fiscal year-end balances in the operation, maintenance and replacement fund shall be used for no other purpose than those designated. Moneys which may be transferred from other sources to meet temporary shortages in the operations, maintenance, and replacement fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates. The user charge rates shall be adjusted so that the transferred moneys will be returned to their respective accounts within six months of the fiscal year in which moneys were borrowed.

(3) *Application for review; adjustments to user.*

- (a) Any user who feels his user charge is unjust and inequitable may make written application to the director of public works requesting a review of his user charge. The written request shall, where necessary, show actual or estimated flows and/or strength of his wastewater, including how the measurements were made.
- (b) A review of the request shall be made by the public works director and if substantiated, the user charges for that user shall be recomputed based on the revised flow and/or strength characteristics. In no case, however, shall

EXHIBIT "A"

allowances or adjustments be made for claims of sewage strengths less than 300 mg/l suspended solids and 300 mg/l of BOD₅.

(c) Any adjustments will be applicable to the next billing period.

(4) *Annual review by city; revision of rates; notification of user.*

(a) The city shall review the user charges at least annually and revise the rates as necessary to ensure that adequate revenues are generated to pay the cost of operation, maintenance, and replacement, and that the system continues to provide for the proportional distribution of operation, maintenance, and replacement costs among users and user classes.

(b) The city shall notify each user at least annually, in conjunction with a regular bill, of the rates being charged for operation, maintenance and replacement of the treatment works.

DRAFT

Table W-19

**City of Fayetteville
Water Utility**

Proposed Rates

Years 2003, 2004, and 2005

(Proposed Rates Effective January 1 of each year shown)

	2004		2005		2006	
	Fayetteville	Outside City (a)	Fayetteville	Outside City (a)	Fayetteville	Outside City (a)
Volume Charge - \$/1,000 gallons						
First 10,000 gallons	2.85	3.10	2.85	3.10	2.85	3.10
Next 290,000 gallons	2.55	2.65	2.55	2.65	2.55	2.65
Next 4,700,000 gallons	2.30	2.45	2.30	2.45	2.30	2.45
Over 5,000,000 gallons	2.00	2.10	2.00	2.10	2.00	2.10
Minimum Bill (b) - \$/month						
5/8"	3.97	4.97	3.97	4.97	3.97	4.97
3/4"	5.40	6.79	5.40	6.79	5.40	6.79
1"	7.40	9.33	7.40	9.33	7.40	9.33
1/2"	13.12	16.59	13.12	16.59	13.12	16.59
2"	18.83	23.85	18.83	23.85	18.83	23.85
3"	43.99	55.80	43.99	55.80	43.99	55.80
4"	72.58	92.11	72.58	92.11	72.58	92.11
6"	144.04	182.86	144.04	182.86	144.04	182.86
8"	215.51	273.63	215.51	273.63	215.51	273.63
Wholesale Water Rates						
Volume Charge - \$/1,000 gallons		2.01		2.01		2.01
Reduced Demand (c) - \$/1,000 gallons		1.81		1.81		1.81
Meter Charge - \$/month		55.55		55.55		55.55
Private Fire Protection - \$/month						
2"	4.00	4.00	4.00	4.00	4.00	4.00
3"	12.00	12.00	12.00	12.00	12.00	12.00
4"	23.00	25.00	23.00	25.00	23.00	25.00
6"	64.00	69.00	64.00	69.00	64.00	69.00
8"	134.00	145.00	134.00	145.00	134.00	145.00
10"	230.00	248.00	230.00	248.00	230.00	248.00
Public Fire Protection - \$ (d)						
		10.00		10.00		10.00

(a) Under proposed rates, White River will pay outside City rates plus an additional \$5.94 per month.

(b) Includes \$0.25 Safe Water Act Fee.

(c) Applicable to customers with a storage capacity at least 2.5 times the average daily usage whose maximum daily usage does not exceed 2.0 times average daily usage.

(d) Per hydrant per month.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
X CONTRACT REVIEW
 GRANT REVIEW

For the Fayetteville City Council Meeting of: September 16, 2003

FROM:

Greg Boettcher Wastewater System Improvement Project Water and Wastewater
Name Division Department

ACTION REQUIRED: Approval of a professional services contract with Environmental Consulting Operations for the environmental permitting aspects of the Wastewater System Improvement Project (Design Phase only).

COST TO CITY:

<u>\$376,409.00</u>	<u>\$ 48,202,040.00</u>	<u>Water/Wastewater</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>4480.9480.5315.00</u>	<u>\$ 13,210,534.05</u>	<u>Wastewater System Improvements</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>02133-3030</u>	<u>\$ 34,991,505.95</u>	<u>Sales Tax-Wastewater</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item Budget Adjustment Attached

[Signature] 9-2-03
Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

<u>[Signature]</u> <u>9/2/03</u>	<u>[Signature]</u> <u>9/6/03</u>
Accounting Manager Date	Internal Auditor Date
<u>[Signature]</u> <u>9/3/03</u>	<u>[Signature]</u> <u>9/3/03</u>
City Attorney Date	Purchasing Manager Date

STAFF RECOMMENDATION:

<u>[Signature]</u> <u>9-2-03</u>	Date
Division Head	
<u>[Signature]</u> <u>9-3-03</u>	Date
Department Director	
<u>[Signature]</u> <u>9-3-03</u>	Date
Finance & Internal Services Dir.	
<u>[Signature]</u> <u>9-3-03</u>	Date
Chief Administrative Officer	
<u>[Signature]</u> <u>9/3/03</u>	Date
Mayor	

Received in Mayor's Office

9/3/03
Date J.H.

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No



ORDINANCE NO. _____

AN ORDINANCE TO WAIVE THE REQUIREMENTS OF
COMPETITIVE BIDDING AND TO APPROVE A CONTRACT
WITH ENVIRONMENTAL CONSULTING OPERATIONS, INC.
IN THE AMOUNT NOT TO EXCEED \$376,409

WHEREAS, Environmental Consulting Operations, Inc. has worked as a subcontractor for an engineering firm for a significant period of time on the Wastewater System Improvement Project and gained considerable knowledge and expertise related to this project's environmental aspects; and

WHEREAS, the City of Fayetteville wishes to hire an environmental firm to handle most of the necessary environmental analysis, permitting, etc. for the entire Wastewater System Improvement Project and has determined that due to Environmental Consulting Operations, Inc. knowledge base and proven competence in this project that normal competitive bidding is not feasible nor practical.

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 determines that an exceptional circumstance exists and waives the requirements of formal competitive bidding as not feasible nor practical in this case and approves a contract with Environmental Consulting Operations, Inc. (attached as Exhibit "A") in a not to exceed amount of \$376,409.00.

PASSED and APPROVED this the 16th day of September, 2003.

APPROVED:

By: **DRAFT**
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

WATER AND WASTEWATER DIVISION **DEPARTMENTAL CORRESPONDENCE**

TO: **Fayetteville City Council**

FROM: Greg Boettcher, P.E.
Water & Wastewater Director 

THRU: Dan Coody, Mayor of Fayetteville
Hugh Earnest, Chief Administrative Officer 

DATE: August 29, 2003

RE: **BID WAIVER REQUEST-TECHNICAL SERVICES AGREEMENT
WASTEWATER SYSTEM IMPROVEMENT PROJECT**
Environmental Consulting Operations
Environmental Permitting and Wetlands Mitigation Services
Design Phase Service Contract

BACKGROUND

Since the commencement of the revised Facility Planning for the Wastewater System Improvement Project, the technical services of Environmental Consulting Operations have been utilized to address environmental permitting and wetland mitigation issues. Environmental Consulting Operations has provided technical support services as a sub-consultant to McGoodwin, Williams and Yates, Inc. under the March 21, 2000 agreement between McGoodwin, Williams and Yates and the City of Fayetteville. Initially the scope of work for Environmental Consulting Operations related only to the environmental issues associated with the activities proposed at the site of the West Side Wastewater Treatment Plant. During the facility planning process, the consultant team recognized the need for a coordinated and comprehensive approach to the environmental aspects of the entire project (East Pipelines and Pump Stations, West Pipelines and Pump Stations, Noland Wastewater Plant Upgrading and West Wastewater Treatment Plant). To provide this cohesive environmental permitting strategy, the role of Environmental Consulting Operations was expanded to address the entire Wastewater System Improvement Project, seeking to secure centralized permits for the improvement program (as opposed to individual permits for each consultant's contract responsibilities). This holistic approach to the environmental permitting and wetlands mitigation eliminated redundancy in the scopes of work and ensured consistency across the multiple design contracts.

The original sub-agreement with Environmental Consulting Operations was \$17,086.00 and was increased to \$343,868.05 under Amendment Number 1 on February 5, 2002.

This contract amendment expanded the scope of Environmental Consulting Operation's services to include the entire project and to address various facility planning environmental requirements (environmental permitting assessments for all contracts, central 404 Corps of Engineers Permit, analysis of storm water permit needs, preparation of Environmental Information Document, coordination of environmental planning with regulatory/funding authorities and participation in the public information/outreach program). Environmental Consulting Operations has fulfilled the scope of work required by its sub-agreement with McGoodwin, Williams and Yates, with a summary of the work/deliverables being attached to this memorandum.

In August of 2003 the Fayetteville City Council approved five professional service contracts relating to the design/bidding phase services of the program manager and the engineering consultants. At the time of submission of these five engineering services contracts it was noted that the project scope would require the consideration of one additional professional services contract relating to the environmental permitting and wetlands mitigation aspects of this wastewater improvement program, with the environmental consultant of record being Environmental Consulting Operations.

DISCUSSION

Environmental Consulting Operations has provided competent and timely services relating to the facility planning phases of the Wastewater System Improvement Project, such involvement being facilitated by a sub-agreement with one of the prime engineering consultants. With this firm's role being expanded to cover the entire project's environmental permitting and wetland mitigation under a centralized program, the continuation of a sub-agreement arrangement is not deemed appropriate. The consultant needs to be under the direct control of the City of Fayetteville and have a prime contract with such entity, similar to that of the engineering consultants. Accordingly, an agreement has been negotiated with Environmental Consulting Operations for needed services during the design phase of the wastewater improvement program. This professional services agreement is modeled after the City of Fayetteville's standard engineering services agreement with appropriate modifications to address the nature of the services being provided. A specific contract scope and upper limit of costs have been negotiated with Environmental Consulting Operations, the services being provided on an hourly rate basis with a not to exceed cost limit of \$376,409.00. The Program Manager (Burns and McDonnell) has reviewed the scope and costs, confirming both to be necessary and reasonable considering the nature, scope, size and complexity of the Fayetteville Wastewater System Improvement Project.

Due to this firm's familiarity with and background on the project, it is recommended that a bid waiver be considered for this contract agreement. Waiver of competitive bidding is justified on the basis of Environmental Consulting Operations' familiarity with the project, the need for continuity in the environmental permitting/wetlands mitigation activities and the specialized knowledge and experience that this provider has regarding the Fayetteville Project. Failure to capitalize upon Environmental Consulting Operations' acquired learning and established relationships with various project interests (State Regulatory Agencies, Federal Regulatory Agencies, Engineering Consultants) poses serious risks regarding the timely completion of the environmental permitting and

wetlands mitigation components of the Fayetteville Wastewater System Improvement Project. It is deemed in the City of Fayetteville's best interest to continue the services of the environmental consultant of record.

RECOMMENDATIONS

To sustain the ordered, timely and consistent progress for the design phase of the Fayetteville Wastewater System, the City Administration recommends that the Fayetteville City Council approve a bid waiver for the contract with Environmental Consulting Operations (\$376,409.00) relating to necessary environmental permitting and wetland mitigation activities.

SUMMARY OF ECO, INC. CONTRACT DELIVERABLES DURING PLANNING & PRELIMINARY DESIGN PHASE FOR CITY OF FAYETTEVILLE WASTEWATER IMPROVEMENTS PROJECT

During the Planning and Preliminary Design Phase (January 2000 through November 2002), Environmental Consulting Operations, Inc. (ECO, Inc.) provided the following environmental consulting services under contract with McGoodwin, Williams and Yates Consulting Engineers. The primary objectives were to identify the project-specific environmental regulatory requirements, develop a project environmental regulatory program, complete the RLF environmental review process, and to initiate the environmental regulatory permit application process.

Project Activity	Time Period	Requirements/Objectives
Project Environmental Program Development	Jan. 2000 - present	Conferrals/training/regulatory updates to City/Project Team; attend monthly partnering meetings with engineering firms; identify project needs.
Preliminary Ecological Assessments	Jan. - Dec. 2000	Preliminary site evaluations of environmental features of Noland WWTP, Westside WWTP, Westside line work, Eastside line work; identify regulatory requirements; evaluate alternatives to mitigate impacts.
Conferrals with Regulatory Agencies	Aug. 2000 - present	Consultations/meetings with USFWS/COE/ASWCC/ADEQ to confirm requirements; site visits to ecologically sensitive areas with USFWS/COE.
Public Participation Process (PPP)	June 2000 - Oct. 2001	Attend/give presentations at 16 Public meetings/workshops/Public Hearing; PPP is required to qualify for ASWCC Construction Assistance.
Detailed Aquatic Resource Assessments	May 2001 - Oct. 2001	Conduct detailed stream surveys/wetland delineations for Westside line work, Eastside line work, and Westside WWTP, as required by Corps of Engineers for 404 permit application.
Arkansas Darter Candidate Conservation Agreement with Assurances	July 2001 - May 2002	Develop draft CCAA/submit to US Fish & Wildlife Service; CCAA will 1) minimize impacts to Arkansas darter & 2) prevent regulatory permits from being revoked if darter becomes federally listed as "endangered".
RLF NEPA Review Process	May 2000 - Oct. 2002	Develop Environmental Information Document & EID addendum, as a prerequisite for eligibility for ASWCC RLF loan award, as per requirements of the National Environmental Policy Act.
Section 404 Permit Application		
Draft Conceptual Wetland Compensatory Mitigation Plan	Oct. 2001 - Dec. 2001	Required by Corps of Engineers to compensate for wetlands that will be permanently altered by implementation of the project.
Part 1: Wetland Delineation for Westside WWTP	Oct. 2001 - June 2002	Detailed identification/delineation of wetlands where construction activities in "waters of the U.S." will occur; required by the Corps of Engineers as a part of the 404 permit application process.
Part 2: Aquatic Resource Assessment: Westside Line Work	May - Aug. 2002	Detailed identification/delineation of wetlands and detailed stream surveys where construction activities in "waters of the U.S." will occur; required by the Corps of Engineers as a part of the 404 permit application process.
Part 3: Aquatic Resource Assessment: Eastside Line Work	May - Aug. 2002	Detailed identification/delineation of wetlands and detailed stream surveys where construction activities in "waters of the U.S." will occur; required by the Corps of Engineers as a part of the 404 permit application process.
Part 4: 404 Permit Application Form 4345 & Supporting Information	July - Sept. 2002	Corps of Engineers 404 permit application form with project owner information, project purpose, maps, project locations, and details of acres of "waters of the U.S.", cubic yards of backfill material discharged, etc.
Part 5: Alternatives Analysis Evaluation	July - Sept. 2002	Required under Clean Water Act Section 404(b) guidelines to evaluate alternatives in terms of impacts to "waters of the U.S."

Table S-19

**City of Fayetteville
Wastewater Utility
Proposed Rates
Years 2003, 2004, and 2005
(Proposed Rates Effective January 1 of each year shown)**

	2004		2005		2006	
	Fayetteville	Outside City	Fayetteville	Outside City	Fayetteville	Outside City
Volume Charge - \$/1,000 gallons						
All Retail	2.49	6.03	2.71	6.57	2.95	7.16
Elkins		5.24		5.71		6.22
Minimum Bill - \$/month						
5/8"	7.27	8.72	7.92	9.50	8.63	10.35
3/4"	9.89	11.87	10.78	12.94	11.75	14.10
1"	13.57	16.28	14.79	17.75	16.12	19.35
1 1/2"	24.08	28.90	26.25	31.50	28.61	34.33
2"	34.60	41.51	37.71	45.25	41.10	49.32
3"	80.85	97.02	88.13	105.75	96.06	115.27
4"	133.41	160.09	145.42	174.50	158.51	190.21
6"	264.82	317.78	288.65	346.38	314.63	377.56
8"	396.22	475.47	431.88	518.26	470.75	564.90
Excess Strength Surcharge - \$/lb						
BOD over 300 mg/l	0.3822		0.4166		0.4541	
Suspended Solids over 300 mg/l	0.2994		0.3263		0.3557	

mg/l - milligrams per liter

August 7, 2003

Alderman Robert Reynolds
P.O. Box 1625
Fayetteville, AR 72702

RE: Water and Wastewater Rate Study
Fayetteville Benchmarking Study
Overview and Preliminary Schedule

Dear Alderman Reynolds,

Attached for your review and reference, please find copies of the Water and Wastewater Rate Study and the Fayetteville Benchmarking Study as prepared by Black and Veatch. A detailed presentation on both work products is scheduled for a Water and Sewer Committee Meeting immediately following the City Council Agenda session on August 12, 2003, with more abbreviated presentations to follow as necessary.

This letter is provided to summarize the key issues and objectives of both activities and to outline a tentative schedule for City Council actions. The process planned for the water and wastewater rate changes provides ample lead time for stakeholder reviews while still complying with the schedule constraints imposed by external sources (Arkansas Soil and Water Conservation Commission, Beaver Water District, Water and Wastewater Operations Budget). Much of this work has been completed for some time; however, it was not prudent to bring these issues before the committee and City Council until formal approval of the rate study by the Arkansas Soil and Water Conservation Commission was received (copy of July 25, 2003 approval letter enclosed).

Based upon scheduling factors and external constraints, the proposed timeline for the water and wastewater rate changes are highlighted as follows:

TARGET DATE	ACTIVITY
August 12, 2003	Black and Veatch Presentation to Water and Sewer Committee
August 13, 2003 (8:00 am – 12:00 pm)	Open Workshop for local elected officials, contract customers and other extended concerns – Black and Veatch to chair workshop
September 16, 2003	First Reading of Rate Change Ordinance-preceded by Black and Veatch overview
October 7, 2003	Second Reading of Rate Change

	Ordinance
October 21, 2003	Third and Final Reading of Rate Change Ordinance
October, 2003	Submit Rate Change Ordinance to Arkansas Soil and Water Conservation Commission
November, 2003	Beaver Water District to institute a 15% rate increase for customers
January, 2004	Billings to Fayetteville customers reflect water and wastewater rate changes

Integrated within these proposed milestone dates will be media notices, customer billing inserts, public meeting (if necessary), large-customer notices, and other public information tasks found appropriate.

WATER AND WASTEWATER RATE STUDY SUMMATION

- Water rates will increase an average of 10%, primarily as a result of bulk water rate increase by Beaver Water District
- Wastewater rates will increase by an average of 9%, reflecting the first step of a 28% total cost increase associated with the wastewater system improvement
- New policy allows contiguous integrated complexes to stack their water use, once customer charges are satisfied
- New rate methodology which bases wastewater charges on water charges is proposed to mirror utility industry practices, reduce administrative burdens and improve billing accuracy. Removal of winter averaging includes a compensating reduction in residential charges, making this a revenue-neutral methodology change
- New water and wastewater rates have been similarly completed for all customer classes and service jurisdictions providing an equitable distribution of expenses using cost of service

FAYETTEVILLE BENCHMARKING STUDY OBJECTIVES

- Various performance measures for similar utility systems have been completed to allow a comparative analysis of Fayetteville with peer communities
- Benchmarking data will be analyzed to reveal current operating strengths
- Benchmarking data will be critically evaluated to reveal opportunities for further improvements in operations
- Benchmarking information is being reviewed by department managers, and will be used for strategic improvements in future operations

CONCLUSIONS AND RECOMMENDATIONS

The immediate actions to be considered by the Fayetteville City Council relate only to utility rate methodology and rate structure, the benchmarking data will be used for continuing strategic analysis of operations. The recommended changes to water and

wastewater rate systems are necessary to maintain solvency of the enterprise operations and are consistent with communications set forth during the wastewater projects sales tax election. The recommended actions set forth in the proposed ordinance pose changes as follows:

- ✓ Replace winter averaging with an equivalent reduction in the residential rates-revenue neutral
- ✓ Allow stacking of water use for large complexes
- ✓ Institute nominal 10% water rate increase in 2004
- ✓ Phase in 9% wastewater rate increase in 2004 (part of 28% rate increase linked to wastewater improvement project)

We respectfully recommend the City Council's approval of the water and wastewater rate system changes.

Very truly yours,

CITY OF FAYETTEVILLE, ARKANSAS

Greg Boettcher
Water & Wastewater Director

Stephen Davis
Finance & Internal Services Director

cc: Hugh Earnest, Chief Administrative Officer
David Jurgens, Water & Sewer Maintenance Superintendent
Don Osburn, Water Services Supervisor
Rainy Laycox, Business Office Supervisor

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and
Fayetteville City Council

FROM: Greg Boettcher, P.E., *JB*
Water & Wastewater Director

COPY: Steve Davis, Hugh Earnest, Kit Williams

DATE: July 23, 2003

RE: **Rate Adjustment Notification**
External Customer Groups

Under the terms of our contracts with external customer groups, it is necessary that written notice be provided for forthcoming rate schedule adjustments. A copy of the typical letter being forwarded to such entities is attached for your information. Detailed information on adjustments, justifications and recommended actions will be provided to you in the coming weeks. This information is provided for your awareness should any of these entities report same to the media. Our external customer notifications were mailed to:

- **City of Elkins**
- **City of Farmington**
- **City of Goshen**
- **City of Greenland**
- **City of Johnson**
- **Mount Olive Water Authority**
- **City of West Fork**
- **Washington County Rural Development Authority**

THE CITY OF FAYETTEVILLE, ARKANSAS

July 23, 2003

Mayor Wallace Brt
City of Elkins
P.O. Box 331
Elkins, AR 72727

RE: WATER AND WASTEWATER RATE ADJUSTMENT
Water Purchase Contract-May 21, 1991
Wastewater Service Contract-July 23, 1981

Dear Mayor Brt:

In accordance with the provisions of the above noted contracts, this letter is provided as notice of a pending adjustment to the Elkins' rate schedule. The City of Fayetteville has retained Black and Veatch of Kansas City, Missouri to perform a cost of service study for Fayetteville's water and wastewater enterprises. The use of this firm complies with the determinations made sometime prior to 1991 by a joint selection committee that said firm perform such financial analyses. This study has been completed, and is currently under the review of the Arkansas Soil and Water Conservation Commission. We expect to receive written approval of the cost of service findings, enabling formal consideration of the recommended adjustments by Fayetteville government in the coming months. The nature and effective date of water and wastewater rate adjustments cannot be guaranteed at this time, as final decisions rest with our elected officials.

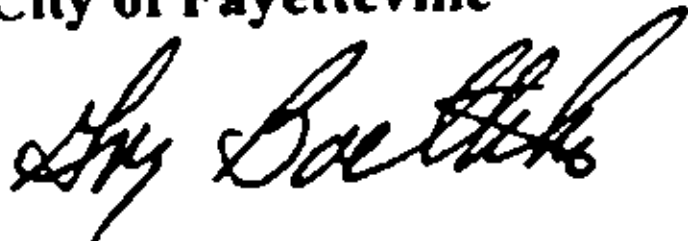
A tentative schedule has been proposed for the implementation of the adjusted cost of services, with key activities being noted as follows:

August 12, 2003	Fayetteville Water and Sewer Committee receives rate study presentation by Black and Veatch
August 13, 2003	Continuous rate study workshop in room 326, City Hall, Fayetteville, Arkansas for neighboring community representatives (Elkins, Farmington, Goshen, Greenland, Farmington, Johnson, Mount Olive Water Authority and West Fork)
September 2003	Fayetteville City Council considers water and wastewater rate adjustments
November 2003	Beaver Water District Rate Increase becomes effective
January 2004	Customer billings after January 1, 2004 reflect water and wastewater cost of service adjustments

The details of the water and wastewater rate adjustments will be defined in explicit terms for our customers in the coming months. Due to the use of "cost of service" methodology, the adjustments proposed will vary according to customer class to provide an equitable rate structure. The primary factor in the water rate adjustment is the increased cost of potable water being levied by Beaver Water District. The upgrading, expansion and enhancement of this water supply requires a rate increase to meet operation, maintenance and debt service obligations. Similarly, the improvement of the Fayetteville wastewater system and increasingly stringent operating requirements necessitate rate adjustments to meet growing operation, maintenance and replacement costs. The wastewater rate service adjustments are softened dramatically by Fayetteville citizens approving a 3/4-cent sales tax to make debt service payments on the \$125 million of capital costs. This action reduced the typical customer's wastewater rate increase from 134% to only 28%. In the current cost of service rate study, only a portion of the rate increase is to be implemented in 2004. Such an approach will allow customers to be transitioned gradually to the new wastewater service charges, matching the phased expense increases.

We will be in contact as firm dates for meetings are developed. Should there be questions, please feel free to contact either Steve Davis or the undersigned at 479-575-8330.

Sincerely,
City of Fayetteville



Greg Boettcher
Water & Wastewater Director

GB/pkh

cc: Kit Williams
Hugh Earnest
David Jurgens



Arkansas Soil & Water Conservation Commission



J.Randy Young, PE
Executive Director

101 East Capitol, Suite 350
Little Rock, Arkansas 72201
www.accessarkansas.org/aswcc

Phone: (501) 682-1611
Fax: (501) 682-3991
E-mail: aswcc@mail.state.ar.us

Mike Huckabee
Governor

July 25, 2003

The Honorable Dan Coody
Mayor, City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

RECEIVED

JUL 28 2003

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

RE: Arkansas Soil and Water Conservation Commission – Arkansas Clean Water State Revolving Loan Fund Program – City of Fayetteville – 00183-CWRLF-L– User Charge System

Dear Mayor Coody:

The proposed User Charge System, comprised of the User Charge Ordinance and RLF-122 rate structure documentation, is approved and a copy is enclosed for your project records.

Amendment number 1 to the Memorandum of Agreement, dated March 24, 2003, between the City of Fayetteville and the Arkansas Soil and Water Conservation Commission requires that the enacted rate ordinance be submitted by January 5, 2004. When you officially enact the Ordinance, please submit the following documents to our office:

1. Certified copy of the Ordinance
2. Proof of publication of the notice of public hearing
3. Transcript or minutes of the public hearing
4. Proof of publication of the User Charge Ordinance

Any future Ordinances affecting your rate structure must be in accordance with program requirements and must be approved by the Commission before enactment.

At some point in the near future, your Bond Counsel should begin preparation of the draft Bond Ordinance and Bond Purchase Agreement for this project. Considering application certification is not estimated until April 2004 and construction might not be ready to commence until May 2004, it is still premature; however, when the City is ready to involve its Bond Counsel, I recommended that he/she contact me to establish a tentative schedule regarding the preparation and submittal of these documents for review.

Thank you for your interest and cooperation in bringing this project closer to completion. If you have any questions or need assistance, please contact me at (501) 682-3086 or e-mail scott.savoy@mail.state.ar.us.

Sincerely,

Scott J. Savoy
Scott J. Savoy
Project Administrator

Enclosure

cc: Greg Boettcher, P.E., Water & Wastewater Director, 113 West Mountain Street, Fayetteville, AR 72701 w/enclosure

An Equal Opportunity Employer

Steve D. Amend Chapter 51.136 Monthly Water Rates
WSP - RESIGN
COSTS FILE (NEW)

PROPOSED USER CHARGE SYSTEM CHECKLIST

PROJECT NAME: Fayetteville, ARKANSAS

PROJECT NUMBER: CS-050803-03

YES NO

☒ 1. Each user (or user class) pays its proportionate share of operation, maintenance and replacement (OM&R) costs based upon their total wastewater discharge into the system.

☒ 2. The UCS has an adequate surcharge system for excessive strength wastewater discharges.

☒ 3. All users are notified annually, in conjunction with a regular bill, of the rate and portion of user charges which are attributable to wastewater treatment costs for OM&R. If notification is not through a regular bill, list other method: _____

☒ 4. Provide for an adequate financial management system?

☒ 5. Account accurately for all revenues generated by the system derived from OM&R, administration and debt service charges?

☒ 6. Will the project involve a revenue-producing technology? If not, mark N/A. If so,

a. List annual revenue estimate: \$ _____.

b. Does UCS include method to adjust user charges to account for this revenue?

☒ 7. Does the project accept wastewater from other municipalities? If not, mark N/A. If so,

☒ a. Are these municipalities subject to the applicant's User Charge System?

☒ b. If not, refer to Procedures For User Charge System, Section IIB, for review guidance.

☒ 8. The proposed User Charge Ordinance states that it will take precedence over all existing terms, ordinances, agreements or contracts pertaining to User Charges that conflict with its provisions.

X 9. Are User Charge rates consistent with project cost estimates contained in the Facility Plan (FP), Environmental Information Document (EID) and financial capability analysis? If not, discuss the situation with the Environmental Review Coordinator to see if a new Public Hearing will be necessary or if the FP, EID or Finding of No Significant Impact will need to be amended.

X 10. Is a pretreatment program in existence or required for this project? If so, list annual pretreatment costs: \$ _____

Indicate how these costs are/will be distributed among affected parties:

Pretreatment is user responsibility, only costs are extra strength surcharges

11.	Total Project Cost:	\$ 125,000,000
	RLF Amount:	\$ 100,000,000
	Local Funds:	\$ 25,000,000
	Other Funding Sources:*	\$ _____

*Note: List Other Funding Agencies:

12.	Annual OM&R Costs:	
	Operation:	\$ 9,914,344
	Maintenance:	\$ 1,351,956
	Replacement:	\$ 168,600
	Total:	\$ 11,434,900
13.	Annual Debt Service Costs:	
	Existing:	\$ 390,000
	Future:	\$ (sales tax to pay new debt service)
	Total:	\$ 390,000

14.	Total Annual UCS Costs (12 + 13):	
		\$ 11,824,900

Total Annual UCS Revenue (Estimate)	
	\$ 12,389,500

If expenses exceed revenues, consult Planning Section Manager for guidance.

15. Does the proposed User Charge Ordinance contain the following information:

- ☒ a. Defines purpose of Ordinance and how revenue will be utilized.
- ☒ b. Incorporates RLF model ordinance terminology.
- ☒ c. Rate structure and minimum bill are clearly defined so that rates and charges, which are subject to annual revision, can be easily changed without affecting other sections of the Ordinance.
- ☒ d. Defines appeal procedures for users who question rates and actions for delinquent payment.
- ☒ e. Ordinance contains invalidity clause.

Reviewed By: Steffi Suray (Project Administrator)

Comments:

The purpose of this proposed User Charge Ordinance is well defined with RLF model ordinance terminology incorporated throughout.

NOTE: Ensure That the User Charge System Methodology is attached.

Financial Capability Reviewed By:

Regina French

RLF Fund Manager's Comments:

af

Robert Hill

Date comment letter sent regarding deficiencies: _____

Date approval letter drafted (RLF-31): _____

-2-

IV. User Charge Calculation:

COPY

- A. The user charge methodology and costs are set forth in the attached study titled "Draft Report on Revenue Requirements, Costs of Service and rates for water and Wastewater Service" as developed by Black and Veatch in March of 2003. User charge design considers fixed and variable costs of service with equitable allocations of the costs to the various customer classes.
- B. The proposed rates that will be in effect in 2006 (using a phase in of the design rate over several years) are set forth in the following table as per the rate study:

VOLUME CHARGES-COST PER 1,000 GALLONS

RATE CATEGORY	EXISTING	2006
Residential-Fayetteville	\$2.39	\$2.95
Residential-Outside City	\$4.00	\$7.16
Commercial-Fayetteville	\$1.87	\$2.95
Commercial-Outside City	\$4.00	\$7.16
Retail-Fayetteville		\$2.95
Retail-Outside City		\$7.16
Elkins-Wholesale	\$1.80	\$6.22

CUSTOMER CHARGES-MINIMUM MONTHLY COST

Meter Size	Existing-Fayetteville	2006-Fayetteville	Existing-Outside	2006-Outside
5/8"	\$8.00	\$8.63	\$9.60	\$10.35
3/4"	\$9.25	\$11.75	\$11.10	\$14.10
1"	\$10.40	\$16.12	\$12.48	\$19.35
1-1/2"	\$14.54	\$28.16	\$17.45	\$34.33
2"	\$19.36	\$41.10	\$23.23	\$49.32
3"	\$40.40	\$96.06	\$48.48	\$115.27
4"	\$71.11	\$158.51	\$85.33	\$190.21
6"	\$135.75	\$314.63	\$162.90	\$377.56
8"	\$213.08	\$470.75	\$255.70	\$564.90

EXTRA STRENGTH SURCHARGE-COST PER POUND

Parameter	Current Charge	2006 Charge
BOD over 300mg/l	\$0.2061	\$0.4541
Suspended Solids over 300 mg/l	\$0.1030	\$0.3557

ASWCC MINIMUM REQUIREMENT

FAYETTEVILLE-CLEAN WATER RATE PRESENTATION - CURRENT RATES		00183-CWSRF-L	REVISED	6/10/03
			MINIMUM GALLONS BILLED	1,000
LOAN AMOUNT	\$100,000,000	<u>CUSTOMER CHARGES-MINIMUM MONTHLY COST</u>		
RATE	3.25%	<u>5/8" METER SIZE</u>		
TERM	20 YEARS			
ANNUAL BILLABLE WATER		FAYETTEVILLE	\$8.00	
FAYETTEVILLE	2,936,201,000 EST.	OUTSIDE CITY	\$9.60	
OUTSIDE CITY	115,645,000 EST.			
ELKINS-WHOLESALE	<u>12,954,000</u> EST.			
	3,064,800,000			
OPERATION & MAINTENANCE	\$11,637,900	<u>VOLUME CHARGE PER 1,000 GALLONS</u>		
REPLACEMENT	\$0	FAYETTEVILLE	\$2.39	
ANNUAL OM&R REQUIRED	<u>\$11,637,900</u>	OUTSIDE CITY	\$4.00	
CURRENT DEBT SERVICE	\$390,045	ELKINS-WHOLESALE	\$1.80	
RLF DEBT SERVICE	\$0 PAID BY SALES TAX			
ANNUAL DEBT SERVICE REQ.	<u>\$390,045</u>			
USER CLASSES/NO. OF CUSTOMERS PER CLASS				
FAYETTEVILLE-RES.	21,361 2000 + EST.			
OUTSIDE CITY-RES.	1,672			
FAYETTEVILLE-COMM	1,477			
OUTSIDE CITY-COMM	<u>71</u>			
TOTAL NO. OF USERS	<u>24,581</u>			
MINIMUM BILL FOR FAYETTEVILLE-RESIDENTIAL		<u>CUSTOMER CHARGES-MINIMUM MONTHLY COST</u>		
\$8.00 MINIMUM MONTHLY COST		FAYETTEVILLE-RES.	\$8.00 X 21,361 X 12 MO. =	\$2,050,656
\$2.39 VOLUME CHARGE 1,000 GAL		OUTSIDE CITY-RES	\$9.60 X 1,672 X 12 MO. =	\$192,614
<u>\$10.39</u> MINIMUM BILL FOR 1,000 GAL/MO		FAYETTEVILLE-COMM	\$8.00 X 1,477 X 12 MO. =	\$141,792
		OUTSIDE CITY-COMM	\$9.60 X <u>71</u> X 12 MO. =	<u>\$8,179</u>
			24,581	
BILL FOR 4,000 GALLONS FAYETTEVILLE-RESIDENTIAL		TOTAL MINIMUM MONTHLY COST		
\$8.00 MINIMUM MONTHLY COST				\$2,393,242
\$9.56 VOLUME CHARGE 4,000 GAL				
<u>\$17.56</u> BILL FOR 4,000 GAL/MO				
BILL FOR 6,000 GALLONS FAYETTEVILLE-RESIDENTIAL				
\$8.00 MINIMUM MONTHLY COST				
\$14.34 VOLUME CHARGE 6,000 GAL				
<u>\$22.34</u> BILL FOR 6,000 GAL/MO				
VOLUME CHARGE		IN 1,000 GALLONS		
	FAYETTEVILLE	\$2.39 X 2,936,201		\$7,017,521
	OUTSIDE CITY	\$4.00 X 115,645		\$462,579
	ELKINS-WHOLESALE	\$1.80 X <u>12,954</u>		<u>\$23,317</u>
		3,064,800		
MINIMUM BILL FOR OUTSIDE CITY		TOTAL VOLUME CHARGE		<u>\$7,503,417</u>
\$9.60 MINIMUM MONTHLY COST				
\$4.00 VOLUME CHARGE 1,000 GAL		TOTAL REVENUE		\$9,896,659
<u>\$13.60</u> MINIMUM BILL FOR 1,000 GAL/MO				
VARIOUS METER SIZES (5/8" TO 8")-USED 5/8"		REQUIRED DEBT SERV.		(\$390,045)
		REQUIRED OM&R		<u>(\$11,637,900)</u>
		NET		<u>(\$2,131,287)</u>

ASWCC MINIMUM REQUIREMENT

1

ASWCC MINIMUM REQUIREMENT

FAYETTEVILLE-CLEAN WATER RATE PRESENTATION - PROPOSED RATES		00183-CWSRF-L	REVISED	6/10/03
		MINIMUM GALLONS BILLED		1,000
LOAN AMOUNT	\$100,000,000	<u>CUSTOMER CHARGES-MINIMUM MONTHLY COST</u>		
RATE	3.25%	5/8" METER SIZE		
TERM	20 YEARS			
ANNUAL BILLABLE WATER		FAYETTEVILLE		\$8.00
FAYETTEVILLE	2,936,201,000 EST.	OUTSIDE CITY		\$9.60
OUTSIDE CITY	115,645,000 EST.			
ELKINS-WHOLESALE	<u>12,954,000 EST.</u>			
	3,064,800,000	<u>VOLUME CHARGE PER 1,000 GALLONS</u>		
OPERATION & MAINTENANCE	\$11,637,900	FAYETTEVILLE		\$3.20
REPLACEMENT	\$0	OUTSIDE CITY		\$4.20
ANNUAL OM&R REQUIRED	<u>\$11,637,900</u>	ELKINS-WHOLESALE-VOLUME ONLY		\$6.00
CURRENT DEBT SERVICE	\$390,045			
RLF DEBT SERVICE	\$0			
ANNUAL DEBT SERVICE REQ.	<u>\$390,045</u>			
USER CLASSES/NO. OF CUSTOMERS PER CLASS				
FAYETTEVILLE-RES.	21,361 2000 + EST.			
OUTSIDE CITY-RES.	1,672			
FAYETTEVILLE-COMM	1,477			
OUTSIDE CITY-COMM	<u>71</u>			
TOTAL NO. OF USERS	24,581			
<u>MINIMUM BILL FOR FAYETTEVILLE-RESIDENTIAL</u>		<u>CUSTOMER CHARGES-MINIMUM MONTHLY COST</u>		
\$8.00	MINIMUM MONTHLY COST	FAYETTEVILLE-RES.	\$8.00 X 21,361 X 12 MO. =	\$2,050,656
\$3.20	VOLUME CHARGE 1,000 GAL	OUTSIDE CITY-RES	\$9.60 X 1,672 X 12 MO. =	\$192,614
<u>\$11.20</u>	MINIMUM BILL FOR 1,000 GAL/MO	FAYETTEVILLE-COMM	\$8.00 X 1,477 X 12 MO. =	\$141,792
		OUTSIDE CITY-COMM	\$9.60 X <u>71</u> X 12 MO. =	<u>\$8,179</u>
			24,581	
<u>BILL FOR 4,000 GALLONS FAYETTEVILLE-RESIDENTIAL</u>		<u>TOTAL MINIMUM MONTHLY COST</u>		
\$8.00	MINIMUM MONTHLY COST			\$2,393,242
\$12.80	VOLUME CHARGE 4,000 GAL			
<u>\$20.80</u>	BILL FOR 4,000 GAL/MO			
<u>BILL FOR 6,000 GALLONS FAYETTEVILLE-RESIDENTIAL</u>				
\$8.00	MINIMUM MONTHLY COST			
\$19.20	VOLUME CHARGE 6,000 GAL			
<u>\$27.20</u>	BILL FOR 6,000 GAL/MO			
VOLUME CHARGE		IN 1,000 GALLONS		
	FAYETTEVILLE	\$3.20 X 2,936,201		\$9,395,844
	OUTSIDE CITY	\$4.20 X 115,645		\$485,708
	ELKINS-WHOLESALE	\$6.00 X <u>12,954</u>		<u>\$77,724</u>
		3,064,800		
MINIMUM BILL FOR OUTSIDE CITY		TOTAL VOLUME CHARGE		<u>\$9,959,276</u>
\$9.60	MINIMUM MONTHLY COST			
\$4.20	VOLUME CHARGE 1,000 GAL			
<u>\$13.80</u>	MINIMUM BILL FOR 1,000 GAL/MO			
		TOTAL REVENUE		\$12,352,518
VARIOUS METER SIZES (5/8" TO 8")-USED 5/8"		REQUIRED DEBT SERV.		(\$390,045)
		REQUIRED OM&R		(\$11,637,900)
		NET		<u>\$324,572</u>

**BLACK & VEATCH****RECEIVED**

JUL 15 2003

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

Black & Veatch Corporation

11401 Lamar Avenue
Overland Park, Kansas 66211 USA

Tel: (913) 458-2000

July 14, 2003

Mr. Stephen Davis
Finance and Internal Services Director
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mr. Davis:

In response to the Arkansas Soil & Water Conservation Commission letter dated June 25, 2003 regarding sewer charges to the City of Elkins, we are providing the following information.

The City of Fayetteville provides wastewater treatment service to the City of Elkins on a wholesale basis. Wastewater from Elkins is received into the Fayetteville system by way of a trunk sewer. As such, the City of Elkins does not utilize the smaller lateral sewer lines in the Fayetteville collection system, and should not share in costs associated with lateral sewer lines.

The allocation process is illustrated in the attached tables from our rate report. Table S-9 shows the allocation of net plant investment. Costs associated with larger trunk sewer lines are utilized by all customers inside and outside the City of Fayetteville, whether served on a retail or wholesale basis. Trunk sewer lines are therefore assigned to the "Common to All" category. Because lateral sewer lines are utilized by only those customers served on a retail basis, those costs are assigned to the "Retail Only" category.

Allocation of depreciation expense, shown in Table S-10, is similar to the allocation of net plant investment.

The result of the allocation process is that the rate for Elkins (\$6.22 per 1,000 gallons) is lower than the rate to other outside city customers such as Farmington, Greenland, and Growth Area that are served on a retail basis.

We trust the enclosed information adequately explains the rate differential in question. Should additional questions arise, however, we will be happy to respond.

Very truly yours,

BLACK & VEATCH CORPORATION

Blaine W. Bickel

Blaine W. Bickel

BWB/mdp
Enclosures

Table S-9

**City of Fayetteville
Wastewater Utility
Allocation of Net Plant Investment
to Functional Cost Components
Test Year 2006**

Line No		Total Net Plant Investment (a)	Common to All				Retail Only Volume
			Volume	BOD	SS	Customer	
		\$	\$	\$	\$	\$	\$
		<u>Q-12</u>					
1	Collection System						
	Trunk Sewer Lines	27,725,700	27,725,700				
2	Lateral Sewer Lines	14,164,200					14,164,200
3	Connections	640,200				640,200	
4	Subtotal Collection System	42,530,100	27,725,700	0	0	640,200	14,164,200
5	Wastewater Treatment Plant	113,126,100	45,250,500	45,250,400	22,625,200		
6	General Plant & Equipment	1,164,600	545,900	338,600	169,300	4,800	106,000
7	Total Net Plant Investment	156,820,800	73,522,100	45,589,000	22,794,500	645,000	14,270,200
	Percent of Total	100.0%	46.9%	29.1%	14.5%	0.4%	9.1%

(a) Excludes contributed plant.

Table S-10

**City of Fayetteville
Wastewater Utility
Allocation of Annual Depreciation Expense
to Functional Cost Components
Test Year 2006**

Line No		Total Plant Net Annual Depreciation (a)	Common to All				Retail Only Volume
			Volume	BOD	SS	Customer	
		\$	\$	\$	\$	\$	\$
<u>G-12</u>							
Collection System							
1	Trunk Sewer Lines	187,000	187,000				
2	Lateral Sewer Lines	302,300					302,300
3	Connections	26,000				26,000	
4	Subtotal Collection System	515,300	187,000	0	0	26,000	302,300
5	Wastewater Treatment Plant	3,540,900	1,416,300	1,416,400	708,200		
6	General Plant & Equipment	23,400	9,300	8,200	4,100	100	1,700
7	Total Depreciation Expense	4,079,600	1,612,600	1,424,600	712,300	26,100	304,000
	Percent of Total	100.0%	39.5%	34.9%	17.5%	0.6%	7.5%

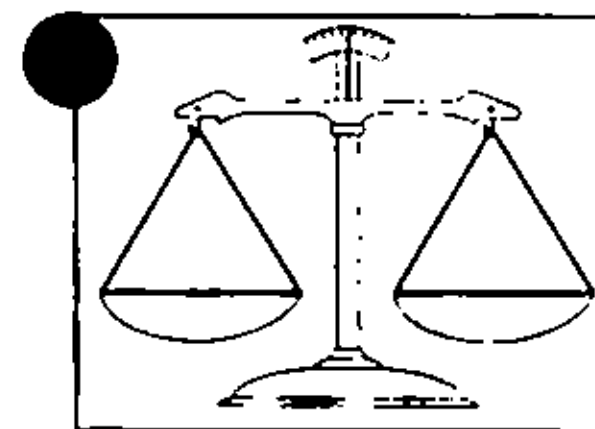
(a) Excludes contributed plant.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**

THRU: **Sondra Smith, City Clerk**

FROM: **David Whitaker, Assistant City Attorney**

A handwritten signature in black ink, appearing to read "D. Whitaker", written over the printed name.

DATE: **September 17, 2003**

RE: **Passed Resolutions and Ordinances**

from City Council meeting of September 16, 2003

The following Ordinances and Resolutions were passed at last night's City Council meeting and are ready for the mayor's signature.

Enclosed are:

1. **McClelland Consulting Engineers Amendment No. 1:** Resolution approving Amendment No. 1 to the Engineering Contract with McClelland Consulting Engineers in amount of \$139,020.00 for N. College Water Line Replacement project; approving 10% contingency; and approving budget adjustment for same;

136-03

2. **Walker Park Multi-use Trails Contract:** Resolution awarding construction contract to APAC-Arkansas in amount of \$183,786.50 to build Walker Park Multi-Use Trail; approving 15% project contingency of \$27,568.00 and approving budget adjustment in amount of \$225,000.00 for same;

137-03

3. **Time Striping, Inc.:** Resolution awarding Bid #03-43 and approving contract w/Time Striping, Inc. in amount of \$78,073.00 for parking lot improvements in Downtown Fayetteville;

138-03

139-03 4. **Air Cleaning Technologies, Inc.:** Resolution approving contract w/Air Cleaning Technologies, Inc. in amount of \$107,176.00 to purchase and install exhaust removal systems for four Fayetteville Fire Stations;

140-03 5. **Continue Federal Funding of Community Trails, Bikeways and Road Beautification:** Resolution to support full federal funding of Congressional transportation Enhancements Program to build community trails, bikeways and road beautification projects in Fayetteville and throughout America;

141-03 6. **McClinton Anchor Contract:** Resolution awarding construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in amount of \$2,146,906.20 to construct Taxiway "A" Extension and USDA Forest Services Ramp; approving 10% contingency of \$234,804.00 and approving budget adjustment of \$1,128,747.00 for same. Cost to City will be approximately \$73,047.00;

142-03 7. **Crossland Heavy Contractors, Inc.:** Resolution awarding construction contract in amount of \$698,379.30 to Crossland Heavy Contractors, Inc. for construction phase of accelerated waterline replacement project and approving contingency in amount of \$69,838.00 for same;

4513 8. **Sale of Animals from Public Property:** Ordinance to prohibit sale, distribution, or giving away of animals from public property and from private commercially or industrially zoned property (except from established animal business enterprises w/permanent structures) by enacting a new §92.29 of the Fayetteville Code;

4514 9. **Fayetteville Municipal Property Owners' Improvement District No. 5:** Ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center;

4515 10. **Environmental Consulting Operations Contract:** Ordinance to waive requirements of competitive bidding and to approve contract w/Environmental Consulting Operations, Inc. in amount not to exceed \$376,409.00;

143-03

11. **Mt. Comfort Road & Shiloh Drive Property Purchase:** Resolution approving Offer and Acceptance contract between City of Fayetteville and Donald R. Williams and Sharlene Williams, and James R. Williams and Neeley J. Williams for purchase of property located at Northeast Corner of Mt. Comfort Road and Shiloh Drive for amount of \$331,893.65 to allow for future intersection improvements; and approving budget adjustment in amount of \$337,659.00 for same.

**Tentative Agenda
For
City Council Meeting
September 16, 2003**

A meeting of the Fayetteville City Council will be held on September 16, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Golden Oak Award Presentation

Fayetteville Town Center report to the City Council

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the August 19, 2003, and September 2, 2003 meeting minutes.
2. **McClelland Consulting Engineers Amendment No. 1 - N. College Ave.-Water Line Replacement Project:** A resolution approving Amendment No. 1 to the Engineering Contract with McClelland Consulting Engineers in the amount of \$139,020.00 for the North College Avenue Water Line Replacement Project; approving a 10% project contingency; and approving a budget adjustment for same.
3. **Walker Park Multi-use Trails Contract:** A resolution awarding a construction contract to APAC-Arkansas in the amount of \$183,786.50 to build the Walker Park Multi-Use Trail; approving a 15% project contingency of \$27,568.00 and approving a budget adjustment in the amount of \$225,000.00 for same.
4. **Time Striping, Inc. - Parking Lot Improvements Downtown Fayetteville:** A resolution awarding Bid #03-43 and approving a contract with Time Striping, Inc. in the amount of \$78,073.00 for parking lot improvements in Downtown Fayetteville.
5. **Air Cleaning Technologies, Inc.:** A resolution to approve a contract with Air Cleaning Technologies, Inc. in the amount of \$107,176.00 to purchase and install exhaust removal systems for four Fayetteville Fire Stations.

B. OLD BUSINESS:

C. NEW BUSINESS:

1. **Sale of Animals from Public Property:** An ordinance to prohibit the sale, distribution, or giving away of animals from public property and from private commercially or industrially zoned property (except from established animal business enterprises with permanent structures) by enacting a new §92.29 of the Fayetteville Code.

~~2.~~ **Continue Federal Funding of Community Trails, Bikeways and Road Beautification:** A resolution to restore full federal funding of the Congressional Transportation Enhancements Program to continue federal funding of community trails, bikeways and road beautification projects in Fayetteville and throughout America.

3. **ANX 03-2.00 (Shiloh Community Church):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of 3.95 acres located North of Mt. Comfort Road and West of Ruppel Road owned by Shiloh Community Church.

4. **ANX 03-3.00 (James Coger):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of 18.38 acres located North of Mt. Comfort Road and West of Ruppel Road owned by James Coger.

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10. **Fayetteville Municipal Property Owners' Improvement District No. 5 – Appleby Landing Professional Center:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 5 – Apply Landing Professional Center.

11. **Environmental Consulting Operations Contract – Wastewater System Improvement Project:** An ordinance to waive the requirements of competitive bidding and to approve a contract with Environmental Consulting Operations, Inc. in the amount not to exceed \$376,409.

12. **Mt. Comfort Road and Shiloh Drive Property Purchase:** A resolution approving an Offer and Acceptance Contract between the City of Fayetteville and Donald R. Williams and Sharlene Williams, and James R. Williams and Neeley J. Williams for the purchase of property located at the Northeast Corner of Mt. Comfort Road and Shiloh Drive for the amount of \$331,893.65 to allow for future intersection improvements; and approving a budget adjustment in the amount of \$337,659.00 for same.

Alderman Jordan

Traffic Count

Future Develop.

*Units on Hamstring
LS now.*

Reynolds -

*Get with OMI
when Hamstring
will be complete*

List of openings for the end of Dec.
on Boards.

City Cost in Bold.

Consent
13. McClinton Anchor Contract - Taxiway A Extension and USDA Forest Service Ramp: A resolution awarding a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of \$2,146,906.20 to construct the Taxiway "A" Extension and USDA Forest Services Ramp; approving a 10% project contingency of \$234,804.00 and approving a budget adjustment of \$1,128,747.00 for same.

Consent
~~14. Crossland Heavy Contractors, Inc. - Accelerated Water Line Replacement Project: A resolution awarding a construction contract in the amount of **698,379.30** to Crossland Heavy Contractors, Inc. for the construction phase of the accelerated waterline replacement project; and approving a project contingency in the amount of \$69,838.00 for same.~~

~~15. Business License - An ordinance establishing a Business License program for the City of Fayetteville.~~

16. Amend Chapter 51.136 Monthly Water Rates: An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to change nomenclature; and adjust water and sewer rates consistent with the recommendations of the Black & Veatch Rate Study.

D. INFORMATIONAL:

~~1. Council Tour - September 15, 2011~~

Approx
City Share in Bold!
\$ 73,047

Business License
Ordinance Review

29
Sept. 30 - After Agenda meeting - Ordinance review - Business Lic. 4:30

Sept. 23 - Core/Non-Core with Council.
(5:00 ???) Room 326

~~Get Davis~~
~~Share time.~~

Cost ordinances
Published.

**Tentative Agenda
For
City Council Meeting
September 16, 2003**

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Golden Oak Award

Fayetteville Town Center report to the City Council

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the August 19, 2003, and September 2, 2003 meeting minutes.

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Consent

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10. **Sale of Library Building at 217 E. Dickson:** An ordinance to amend Ordinance No. 4358 in order to exempt the City Library Complex on Dickson Street.

11. **Fayetteville Municipal Property Owners' Improvement District No. 5 - Appleby Landing Professional Center:**

12. **Environmental Consulting Operations Contract - Wastewater System Improvement Project:** *Ordinance*

Kit Consent

13. **Walker Park Multi-use Trails Contract:** *Resolution*

Hugh

14. **Mt. Comfort Road and Shiloh Drive Property Purchase:**

15. **McClinton Anchor Contract - Taxiway A Extension and USDA Forest Service Ramp:**

16. **Crossland Heavy Contractors, Inc. - Accelerated Water Line Replacement Project:**

Consent

17. **Time Striping, Inc. - Parking Lot Improvements:**

~~18. **Council on Aging, Inc. - Lease Fayetteville Senior Activity Center at Walker Park:**~~

~~19. **Raze and Removal - 1533 S. Duncan:** An ordinance providing for the Raze and Removal of buildings or houses that have become dilapidated, unsafe, unsanitary, or detrimental to the public welfare; and providing for a lien on the real property.~~

Kit

20. **Business License:**

21. **Amend Chapter 51.136 Monthly Water Rates:**

Consent

22. **Air Cleaning Technologies**

C. OLD BUSINESS:

D. INFORMATIONAL:

1. **Council Tour - September 15, 2003**

NORTHWEST ARKANSAS EDITION

Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Heidi Williams, do solemnly swear that I am
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 Aguda
9-15-03 was inserted in the regular editions on

PO# 03-0000154-001

** Publication Charge: \$ 243.08

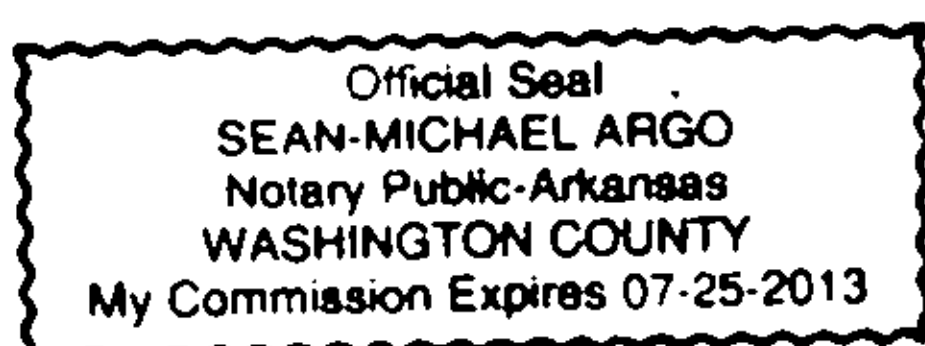
Subscribed and sworn to before me this

17th day of September, 2003.

Sean-Michael Argo
Notary Public

My Commission Expires: 07/25/2013

** Please do not pay from Affidavit.
An invoice will be sent.



RECEIVED

SEP 19 2003

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**Final Agenda
For
City Council Meeting
September 16, 2003**



A meeting of the Fayetteville City Council will be held on September 16, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Golden Oak Award Presentation

Fayetteville Town Center report to the City Council

Nominating Committee Report

A. CONSENT:

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8. **Crosland Heavy Contractors, Inc. - Accelerated Water Line Replacement Project:** A resolution awarding a construction contract in the amount of \$698,379.30 to Crosland Heavy Contractors, Inc. for the construction phase of the accelerated waterline replacement project, and approving a project contingency in the amount of \$69,838.00 for same.

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D. INFORMATIONAL:

Fayetteville City Council Nominating Committee Report

September 10, 2003

- I **Members Present:** Alderman Cook, Alderman Lucas, Alderman Marr, and Alderman Rhoads
- II **Seven Applicants for City Committees were interviewed. The Council's Nominating Committee is making the following recommendations**
- a.) One open un-expired term for the Sidewalk and Trails Task Force – Partial term through 12/31/2003 the nominating committee is recommending the appointment of Scott Mashburn
 - b.) Five Terms for the Telecommunications Board, with staggered terms, the nominating committee is recommending the appointment of four members.
 - a. Craig Brown
 - b. Susan Cromwell
 - c. John Loftin
 - d. Elliott Nance

The Nominating committee is requesting the Cable Administrator Marvin Hilton have these newly appointed representatives draw for the staggered terms as outlined in the newly adopted Telecommunications Ordinance. Two member shall draw for the two year term, Two Members shall draw for the three year term, and the two most recently appointed telecommunications board members prior to these appointments - Mr. David Young and Mr. Stephen Smith shall serve the two four year terms, leaving One, one year term to be appointed at the next nominating committee interviewing process.

- c.) The Youth Activities Committee has One teacher term ending 8/31/04 open, One Citizen at Large term ending 8/31/2004, Three Student terms – one student from Ramay Junior High, One from East Campus and one West Campus of Fayetteville High School. The Nominating committee is recommending Mary Margaret Hui be appointed as the East Campus Representative. All other Openings remain open until the next committee interviews take place.
- d.) The Environmental Concerns Committee has One Community Citizen-at-Large term ending 9/30/2006 and One Citizen-at-Large un-expired term ending 6/30/2005 open. No applicants were received for this committee.

III The Nominating committee recommends that the next round of open committee positions seeking applicants be advertised in the local newspapers, Public Access Television, and at the beginning of Council Meeting to try and generate more interest from the citizens of Fayetteville and a longer application period be tried (1 months notice minimum), and then should no interested applicants come forward, then the nominating committee will recommend that the council evaluate the number of committees and citizen interest in these standing committees and whether they should be discontinued or moved to a more Ad-Hoc committee environment

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ord. 10. Fayetteville Municipal Property Owners' Improvement District No. 5 - Appleby Landing Professional Center: ~~No Information~~ Mayor has.

Gregg Res. 11. Environmental Consulting Operations Contract - Wastewater System Improvement Project: No Information

12. Walker Park Multi-use Trails Contract: ~~No Information~~ Hugh

13. Mt. Comfort Road and Shiloh Drive Property Purchase: ~~No Information~~ Hugh

Res 14. McClinton Anchor Contract - Taxiway A Extension and USDA Forest Service Ramp: ~~No Information~~ Steve Davis

Res 15. Crossland Heavy Contractors, Inc. - Accelerated Water Line Replacement Project: ~~No Information~~ Mayor has

Res. 16. Time Striping, Inc. - Parking Lot Improvements: ~~No Information~~ Mayor has

Res 17. Council on Aging, Inc. - Lease Fayetteville Senior Activity Center at Walker Park: ~~No Information~~ Hugh

18. Raze and Removal - 1533 S. Duncan: ~~No Information~~ In package

C. OLD BUSINESS:

D. INFORMATIONAL:

1. Council Tour - September 15, 2003

Business License
16th ??

Check list
of agenda
Hem

Debra Bridges
Shera

~~Check list of
Agenda item~~

~~Get info for tonight
meeting~~

~~List of Committee for
H.M.~~