Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynol
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rho
Ward 3 Position 2 - Conrad Odom
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Final Agenda
City of Fayetteville Arkansas
City Council Meeting
December 7, 2004

A meeting of the Fayetteville City Council will be held on December 7, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Pledge of Allegiance

Roll Call

Airport Board Annual Report

A. CONSENT:

1. **Approval of the Minutes:** Approval of the November 16, 2004 City Council meeting minutes.

   APPROVED.

2. **Fire Safety House Purchase:** A resolution awarding Bid #04-79 to Surrey Fire Safety House on the amount of $23,845.00 to provide a new fire safety house to the Fayetteville Fire Department; and approving a budget adjustment in the amount of $25,287.00 for same.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 186-04.

3. **OMI Contract Amendment No. 10:** A resolution approving Amendment No. 10 (A) to the contract with Operations Management International (OMI) in the amount of $16,416.00 to fund out-of-scope flood emergency expenses incurred during Spring 2004; and approving a budget adjustment in the amount of $16,416.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 187-04.

4. **OMI Contract Amendment No. 11:** A resolution approving Amendment No. 11 to the contract with Operations Management International (OMI) in the amount of $4,484,325.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2005.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 188-04.

5. **Garver Engineers Contract Amendment:** A resolution to approve contract Amendment No. 4 with Garver Engineers, LLC for additional design, bidding and construction phase services for the Gregg Street waterline relocation in the lump sum amount of $121,500.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 189-04.

6. **Aspen Ridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept approximately 1.24 acres of land and approximately $93,425.00 cash in lieu of the required park land dedication (less Credit for the Developer's cost to construct Indian Trail) for Aspen Ridge Development.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 190-04.

7. **Riggins–Stonebridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $64,935.00 cash in lieu of the required park land dedication for Riggins-Stonebridge Development.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 191-04.

8. **Transportation Division Dump Truck Purchase:** A resolution approving the purchase of one (1) 15 yard dump truck for the Transportation Division from Diamond International in the amount of $84,426.47.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 192-04.

9. **Animal Services Van Purchase:** A resolution approving the purchase of one (1) Dodge Sprinter 3500 van for the Animal Services Division from Breeden Dodge of Fort Smith in the amount of $43,360.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 193-04.

10. **Police Pursuit Motorcycle Purchase:** A resolution approving the purchase of two (2) police pursuit motorcycles from Denny's Harley Davidson of Fort Smith in the amount of $37,700.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 194-04.

11. **Mid-South Sales Contract:** A resolution approving a contract with Mid South Sales of Fayetteville to provide engine oil and lubricants for the Fleet Operations Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 195-04.

12. **New World Systems Contract:** A resolution approving a contract with New World Systems in the amount of $67,700.00 to provide CAD Mapping and Automatic Vehicle Locator (AVL) Software and support to the Fayetteville Police Department.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 196-04.

13. **Smith Communications, LLC Bid Award:** A resolution awarding Bid #04-85 to Smith Communications, LLC in the amount of $164,361.00 to provide IP Mobilenet Equipment and Tower Site Upgrade to the Fayetteville Police Department; and approving a budget adjustment in the amount of $159,849.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 197-04.

14. **Sage House Replacement Lease:** A resolution to end the current lease of City property to Sage House and approve a replacement lease of City property to Sage House.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 198-04.

15. **Seven Hills Homeless Center, Inc. Lease:** A resolution to approve a lease of City property to Seven Hills Homeless Center, Inc.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 199-04.

16. **Solid Waste and Recycling Division Commercial Collection Vehicle Purchase:** A resolution approving the purchase of three (3) front-load commercial collection vehicles for the Solid Waste and Recycling Division from Downing Sales and Service in the amount of $526,709.61.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 200-04.

17. **AVFUEL Corporation Contract:** A resolution approving a fuel services contract with AVFUEL Corporation to provide aviation fuel, refueler trucks, and other services to the Fayetteville Municipal Airport.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 201-04.

B. UNFINISHED BUSINESS

1. **RZN 04-1243 (Medley):** An ordinance rezoning that property described in rezoning petition RZN 04-1243 as submitted by Ronald Dean Medley for property located at 3507 W. 6th Street containing approximately 1.03 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial. ***This ordinance was left on the First Reading at the November 16, 2004 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4645.

2. **2005 Proposed Annual Budget and Work Program Adoption:** A resolution adopting the proposed 2005 Annual Budget and Work Program. ***This resolution was tabled at the November 16, 2004 City Council meeting until the December 7, 2004 City Council meeting.***

   THIS ITEM WAS TABLED UNTIL DECEMBER 21, 2004 MEETING.

3. **Highway 71 East Square Redevelopment District Project Plan Adoption:** An ordinance adopting the Project plan for the Highway 71 East Square Redevelopment District, finding the Plan is economically feasible and authorizing the issuance of Tax Increment Financing Bonds to fund the improvements outlined in the plan. ***This ordinance was left on the First Reading at the November 30, 2004 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4646.

C. NEW BUSINESS:

1. **R-PZD 04-1154 (Cliffside):** An ordinance establishing a residential planned zoning district titles R-PZD 04-1154, Cliffside located east of Happy Hollow Road, South of the Cliffs Apartments, planned unit development, containing approximately 26.114 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the associated residential development plan as approved by the Planning Commission.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4647.

2. **Ecological Engineering Group Contract:** An ordinance to waive the requirements of competitive bidding and to approve a proposed contract with the Ecological Engineering Group in the amount of $129,989.00 for a four year Physical and Biological Stream Assessment and Monitoring Program.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4648.

3. **Youth Center Inc. Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center Inc. in the amount of $250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2005.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4649.

4. **Council on Aging Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $50,000.00 to provide public recreation services for the senior citizens of Fayetteville for 2005.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4650.

5. **Legislative Packet Approval:** A resolution to recommend the approval of the Legislative Packet of the City of Fayetteville.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 202-04.

6. **§ 34.27 "Sale of Municipally Owned Real Estate" Amendment:** An ordinance to amend § 34.27 Sale of Municipally Owned Real Estate to add an exemption for lands acquired pursuant to approved redevelopment project plans.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4651.

7. **Sign Appeal Process Clarification:** An ordinance clarifying and streamlining the process of appealing administrative decisions or interpretations regarding signs and granting of variances from the requirements of Chapter 174, Signs, Unified Development Code.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4652.

8. **Scull Creek Trail Corridor Development:** A resolution to consider spending as much as $1,000,000.00 of the proceeds from the sale of the Wilson Springs Property in the development of the Scull Creek Trail Corridor.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 203-04.

9. **2004 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2004 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City Library, and certifying the same to the County Clerk of Washington County, Arkansas.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4653.

D. PUBLIC HEARINGS:

1. **Cardinal Cab Company; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Cardinal Cab Company for the operation of a taxicab service within the City of Fayetteville, Arkansas.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 204-04.

2. **CTS Airport Shuttle and Limousine Service; Certificate of Public Convenience and Necessity:** A resolution granting a certificate of Public Convenience and necessity to CTS Airport Shuttle and Limousine Service for the operation of a limousine service within the City of Fayetteville, Arkansas.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 205-04.

3. **Tony-C Taxi & Limo Service; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Tony-C Taxi & Limo Co., LLC for the operation of a taxicab and limousine service within the City of Fayetteville, Arkansas.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 206-04.

E. INFORMATIONAL:

Council Tour: No City Council Tour

MEETING ADJOURNED AT 12:05 A.M.

City Council Meeting December 7, 2004

Meeting Adjourned at 12:05 AM.

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

Subject:	Consent				
Motion To:		Approve			
Motion By:		Reynolds			
Seconded:		Jordan			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

passed 8-0 8/16-04 to 201-04

City Council Meeting December 7, 2004

Subject:		RZN 04-1243 (Medley)			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Thiel	Marr		
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	N	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Lucas	✓	✓	N	
	Jordan	✓	✓	N	
	Mayor Coody			Yes	

Unfinished B.1.

Passed 4-4 Mayor Coody Voted yes 4645

Subject:		2005 Proposed Budget			
Motion To:		Table until	12/21/04		
Motion By:		Reynolds			
Seconded:		Odom			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

Unfinished B.2.

Tabled until 12/21/04

City Council Meeting December 7, 2004

Subject:	Highway 71 East Square			
Motion To:	2nd read			
Motion By:	Lucas			
Seconded:	Reynolds			
Reynolds	✓			
Thiel	✓			
Cook	✓			
Marr	✓			
Rhoads	✓			
Odom	✓			
Lucas	✓			
Jordan	✓			
Mayor Coody				

Unfinished
B.3

2nd read

Subject:	Highway 71 East Square			
Motion To:	Amend to Section K: to add cost			
Motion By:	Marr	incurred by the	City.	
Seconded:	Lucas	(Check tape for	description	
Reynolds	✓	of	the cost.)	
Thiel	✓			
Cook	✓			
Marr	✓			
Rhoads	✓			
Odom	✓			
Lucas	✓			
Jordan	✓			
Mayor Coody				

B.3

Amendment Passed

8-0

City Council Meeting December 7, 2004

Subject:		Highway 71 East			
Motion To:		3rd read	Pass		
Motion By:		Lucas			
Seconded:		Reynolds			
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Odom	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

B.3.

Passed

8-0

4646

Subject:		R-PZD 04-1154 (Cliffside)			
Motion To:		2nd read	3rd read	Passed	
Motion By:		Thiel	Thiel		
Seconded:		Reynolds	Reynolds		
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	N	
	Mayor Coody				

New Business

C.1.

passed

7-1

4647

City Council Meeting December 7, 2004

Subject:		Ecological Engineering Group			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Jordan		
Seconded:		Jordan	Marr		
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

New Business C.2.

Passed

8-0

4648

Subject:		Youth Center			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Reynolds		
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

New Business C.3.

Passed

8-0

4649

City Council Meeting December 7, 2004

Subject:	Council on Aging			
Motion To:		2nd read	3rd read	Pass
Motion By:		Jordan	Jordan	
Seconded:		Marr	Reynolds	
Reynolds		✓	✓	✓
Thiel		✓	✓	✓
Cook		✓	✓	✓
Marr		✓	✓	✓
Rhoads		✓	✓	✓
Odom		✓	✓	✓
Lucas		✓	✓	✓
Jordan		✓	✓	✓
Mayor Coody				

New Business
C.4.
Passed
8-0
4650

Subject:	Legislative Packet			
Motion To:				
Motion By:		Thiel		
Seconded:		Marr		
Reynolds		✓		
Thiel		✓		
Cook		✓		
Marr		✓		
Rhoads		✓		
Odom		✓		
Lucas		✓		
Jordan		✓		
Mayor Coody				

New Business
C.5.
Passed
8-0
202-04

City Council Meeting December 7, 2004

Subject:		34.27 Sale of Municipally Owned Real Property			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Rhoads	Rhoads		
Seconded:		Odom	Marr		
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

C.6
New Business

Passed

8-0

4651

Subject:		Sign Appeal Process			
Motion To:		2nd read	3rd read	Pass	
Motion By:		~~Blackerby~~ Jordan	Jordan		
Seconded:		Odom	Thiel		
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

New Business
C.7.

passed

8-0

4652

City Council Meeting December 7, 2004

Subject:		Scull Creek Trail			
Motion To:		Amend to	Spend up	to $ 500,000 based	
Motion By:		Thiel		on the Mayors	
Seconded:		Jordan		recommendation	
	Reynolds	N			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	N			
	Jordan	✓			
	Mayor Coody				

C.8, New Business

6-2 Passed to Amend

Subject:		Scull Creek			
Motion To:		Approve	resolution	Spending up to	
Motion By:		Cook		$ 500,000 on Scull	
Seconded:		Jordan		Creek	
	Reynolds	N			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	N			
	Jordan	✓			
	Mayor Coody				

6-2

Passed

203-04

City Council Meeting December 7, 2004

Subject:		2004 Millage Levy			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Odom	Thiel		
Seconded:		Jordan	Reynolds		
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

C.G. New Business

Passed 4653

Subject:		Cardinal Cab Company Cof PC&N			
Motion To:		Pass			
Motion By:		Reynolds			
Seconded:		Cook			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

D. 1.

Public Hearing

passed 204-04

City Council Meeting December 7, 2004

Subject:		Add Chapter 117 to Agenda to			
Motion To:				discuss Changing	
Motion By:		Rhoads			
Seconded:		Reynolds			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

Passed to Add to the Agenda

Subject:		Amend Chapter 117.60			(listen to the tape)
Motion To:					
Motion By:		Rhoads			
Seconded:		Reynolds			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

passed to Amend ordinance

City Council Meeting December 7, 2004

Subject:	CTS Airport Shuttle				
Motion To:					
Motion By:					
Seconded:		Cook			
	Reynolds	N			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

D.2.

Public Hearing

7-1 passed

205-04

Subject:	Tony C's			
Motion To:		Approve		Revisit insurance issue. He is self insured & that does not fit with our Code.
Motion By:		Marr		
Seconded:		Jordan		
	Reynolds	✓		
	Thiel	✓		
	Cook	✓		
	Marr	✓		
	Rhoads	✓		
	Odom	✓		
	Lucas	✓		
	Jordan	✓		
	Mayor Coody			

D.3.

Public Hearing

8-0.

~~206~~-04

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

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

Final Agenda
City of Fayetteville Arkansas
City Council Meeting
December 7, 2004

A meeting of the Fayetteville City Council will be held on December 7, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Pledge of Allegiance

Roll Call

Airport Board Annual Report

A. CONSENT:

1. **Approval of the Minutes:** Approval of the November 16, 2004 City Council meeting minutes.

2. **Fire Safety House Purchase:** A resolution awarding Bid #04-79 to Surrey Fire Safety House on the amount of $23,845.00 to provide a new fire safety house to the Fayetteville Fire Department; and approving a budget adjustment in the amount of $25,287.00 for same.

3. **OMI Contract Amendment No. 10:** A resolution approving amendment No. 10 (A) to the contract with Operations Management International (OMI) in the amount of $16,416.00 to fund out-of-scope flood emergency expenses incurred during Spring 2004; and approving a budget adjustment in the amount of $16,416.00.

4. **OMI Contract Amendment No. 11:** A resolution approving amendment No. 11 to the contract with Operations Management International (OMI) in the amount of $4,484,325.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2005.

5. **Garver Engineers Contract Amendment:** A resolution to approve contract amendment No. 4 with Garver Engineers, LLC for additional design, bidding and construction phase services for the Gregg Street waterline relocation in the lump sum amount of $121,500.00.

6. **Aspen Ridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept approximately 1.24 acres of land and approximately $93,425.00 Cash in Lieu of the Required Park Land Dedication (less Credit for the Developer's cost to construct Indian Trail) for Aspen Ridge Development.

7. **Riggins-Stonebridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $64,935.00 cash in lieu of the required Park Land Dedication for Riggins-Stonebridge Development.

8. **Transportation Division Dump Truck Purchase:** A resolution approving the purchase of one (1) 15 yard dump truck for the Transportation Division from Diamond International in the amount of $84,426.47.

9. **Animal Services Van Purchase:** A resolution approving the purchase of one (1) Dodge Sprinter 3500 van for the Animal Services Division from the Breeden Dodge of Fort Smith in the amount of $43,360.00.

10. **Police Pursuit Motorcycle Purchase:** A resolution approving the purchase of two (2) police pursuit motorcycles from Denny's Harley Davidson of Fort Smith in the amount of $37,700.00.

11. **Mid-South Sales Contract:** A resolution approving a contract with Mid South Sales of Fayetteville to provide engine oil and lubricants for the Fleet Operations Division.

12. **New World Systems Contract:** A resolution approving a contract with New World Systems in the amount of $67,700.00 to provide CAD Mapping and Automatic Vehicle Locator (AVL) Software and support to the Fayetteville Police Department.

13. **Smith Communications, LLC Bid Award:** A resolution awarding Bid #04-85 to Smith Communications, LLC in the amount of $164,361.00 to provide IP Mobilenet Equipment and Tower Site Upgrade to the Fayetteville Police Department; and approving a budget adjustment in the amount of $159,849.00.

14. **Sage House Replacement Lease:** A resolution to end the current lease of City property to Sage House and approve a replacement lease of City property to Sage House.

15. **Seven Hills Homeless Center, Inc. Lease:** A resolution to approve a lease of City property to Seven Hills Homeless Center, Inc.

16. **Solid Waste and Recycling Division Commercial Collection Vehicle Purchase:** A resolution approving the purchase of three (3) front-load commercial collection vehicles for the Solid Waste and Recycling Division from Downing Sales and Service in the amount of $526,709.61.

17. **AVFUEL Corporation Contract:** A resolution approving a fuel services contract with AVFUEL Corporation to provide aviation fuel, refueler trucks, and other services to the Fayetteville Municipal Airport.

B. UNFINISHED BUSINESS

1. **RZN 04-1243 (Medley):** An ordinance rezoning that property described in rezoning petition RZN 04-1243 as submitted by Ronald Dean Medley for property located at 3507 W. 6th Street containing approximately 1.03 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial. ***This ordinance was left on the First Reading at the November 16, 2004 City Council meeting.***

2. **2005 Proposed Annual Budget and Work Program Adoption:** A resolution adopting the proposed 2005 Annual Budget and Work Program. ***This resolution was tabled at the November 16, 2004 City Council meeting until the December 7, 2004 City Council meeting.***

3. **Highway 71 East Square Redevelopment District Project Plan Adoption:** An ordinance adopting the Project plan for the Highway 71 East Square Redevelopment District, finding the Plan is economically feasible and authorizing the issuance of Tax Increment Financing Bonds to fund the improvements outlined in the plan. ***This ordinance was left on the First Reading at the November 30, 2004 City Council meeting.***

C. NEW BUSINESS:

1. **R-PZD 04-1154 (Cliffside):** An ordinance establishing a residential planned zoning district titles R-PZD 04-1154, Cliffside located east of Happy Hollow Road, South of the Cliffs Apartments, planned unit development, containing approximately 26.114 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the associated residential development plan as approved by the Planning Commission.

2. **Ecological Engineering Group Contract:** An ordinance to waive the requirements of competitive bidding and to approve a proposed contract with the Ecological Engineering Group in the amount of $129,989.00 for a four year Physical and Biological Stream Assessment and Monitoring Program.

3. **Youth Center Inc. Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center Inc. in the amount of $250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2005.

4. **Council on Aging Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $50,000.00 to provide public recreation services for the senior citizens of Fayetteville for 2005.

5. **Legislative Packet Approval:** A resolution to recommend the approval of the Legislative Packet of the City of Fayetteville.

6. **§34.27 "Sale of Municipally Owned Real Estate" Amendment:** An ordinance to amend §34.27 Sale of Municipally Owned Real Estate to add an exemption for lands acquired pursuant to approved redevelopment project plans.

7. **Sign Appeal Process Clarification:** An ordinance clarifying and streamlining the process of appealing administrative decisions or interpretations regarding signs and granting of variances from the requirements of Chapter 174, Signs, Unified Development Code.

8. **Scull Creek Trail Corridor Development:** A resolution to consider spending as much as $1,000,000.00 of the proceeds from the sale of the Wilson Springs Property in the development of the Scull Creek Trail Corridor.

9. **2004 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2004 fixing the rate therof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City Library, and certifying the same to the County Clerk of Washington County, Arkansas.

D. PUBLIC HEARINGS:

1. **Cardinal Cab Company; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Cardinal Cab Company for the operation of a taxicab service within the City of Fayetteville, Arkansas.

2. **CTS Airport Shuttle and Limousine Service; Certificate of Public Convenience and Necessity:** A resolution granting a certificate of Public Convenience and necessity to CTS Airport Shuttle and Limousine Service for the operation of a limousine service within the City of Fayetteville, Arkansas.

3. **Tony-C Taxi & Limo Service; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Tony-C Taxi & Limo Co., LLC for the operation of a taxicab and limousine service within the City of Fayetteville, Arkansas.

E. INFORMATIONAL:

Council Tour: No City Council Tour

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

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

Final Agenda
City of Fayetteville Arkansas
City Council Meeting
December 7, 2004

A meeting of the Fayetteville City Council will be held on December 7, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Pledge of Allegiance

Roll Call

Airport Board Annual Report

A. CONSENT:

1. **Approval of the Minutes:** Approval of the November 16, 2004 City Council meeting minutes.

2. **Fire Safety House Purchase:** A resolution awarding Bid #04-79 to Surrey Fire Safety House on the amount of $23,845.00 to provide a new fire safety house to the Fayetteville Fire Department; and approving a budget adjustment in the amount of $25,287.00 for same.

3. **OMI Contract Amendment No. 10:** A resolution approving amendment No. 10 (A) to the contract with Operations Management International (OMI) in the amount of $16,416.00 to fund out-of-scope flood emergency expenses incurred during Spring 2004; and approving a budget adjustment in the amount of $16,416.00.

4. **OMI Contract Amendment No. 11:** A resolution approving amendment No. 11 to the contract with Operations Management International (OMI) in the amount of $4,484,325.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2005.

5. **Garver Engineers Contract Amendment:** A resolution to approve contract amendment No. 4 with Garver Engineers, LLC for additional design, bidding and construction phase services for the Gregg Street waterline relocation in the lump sum amount of $121,500.00.

6. **Aspen Ridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept approximately 1.24 acres of land and approximately $93,425.00 Cash in Lieu of the Required Park Land Dedication (less Credit for the Developer's cost to construct Indian Trail) for Aspen Ridge Development.

7. **Riggins–Stonebridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $64,935.00 cash in lieu of the required Park Land Dedication for Riggins-Stonebridge Development.

8. **Transportation Division Dump Truck Purchase:** A resolution approving the purchase of one (1) 15 yard dump truck for the Transportation Division from Diamond International in the amount of $84,426.47.

9. **Animal Services Van Purchase:** A resolution approving the purchase of one (1) Dodge Sprinter 3500 van for the Animal Services Division from the Breeden Dodge of Fort Smith in the amount of $43,360.00.

10. **Police Pursuit Motorcycle Purchase:** A resolution approving the purchase of two (2) police pursuit motorcycles from Denny's Harley Davidson of Fort Smith in the amount of $37,700.00.

11. **Mid-South Sales Contract:** A resolution approving a contract with Mid South Sales of Fayetteville to provide engine oil and lubricants for the Fleet Operations Division.

12. **New World Systems Contract:** A resolution approving a contract with New World Systems in the amount of $67,700.00 to provide CAD Mapping and Automatic Vehicle Locator (AVL) Software and support to the Fayetteville Police Department.

13. **Smith Communications, LLC Bid Award:** A resolution awarding Bid #04-85 to Smith Communications, LLC in the amount of $164,361.00 to provide IP Mobilenet Equipment and Tower Site Upgrade to the Fayetteville Police Department; and approving a budget adjustment in the amount of $159,849.00.

14. **Sage House Replacement Lease:** A resolution to end the current lease of City property to Sage House and approve a replacement lease of City property to Sage House.

15. **Seven Hills Homeless Center, Inc. Lease:** A resolution to approve a lease of City property to Seven Hills Homeless Center, Inc.

16. **Solid Waste and Recycling Division Commercial Collection Vehicle Purchase:** A resolution approving the purchase of three (3) front-load commercial collection vehicles for the Solid Waste and Recycling Division from Downing Sales and Service in the amount of $526,709.61.

17. **AVFUEL Corporation Contract:** A resolution approving a fuel services contract with AVFUEL Corporation to provide aviation fuel, refueler trucks, and other services to the Fayetteville Municipal Airport.

B. UNFINISHED BUSINESS

1. **RZN 04-1243 (Medley):** An ordinance rezoning that property described in rezoning petition RZN 04-1243 as submitted by Ronald Dean Medley for property located at 3507 W. 6th Street containing approximately 1.03 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial. ***This ordinance was left on the First Reading at the November 16, 2004 City Council meeting.***

2. **2005 Proposed Annual Budget and Work Program Adoption:** A resolution adopting the proposed 2005 Annual Budget and Work Program. ***This resolution was tabled at the November 16, 2004 City Council meeting until the December 7, 2004 City Council meeting.***

3. **Highway 71 East Square Redevelopment District Project Plan Adoption:** An ordinance adopting the Project plan for the Highway 71 East Square Redevelopment District, finding the Plan is economically feasible and authorizing the issuance of Tax Increment Financing Bonds to fund the improvements outlined in the plan. ***This ordinance was left on the First Reading at the November 30, 2004 City Council meeting.***

C. NEW BUSINESS:

1. **R-PZD 04-1154 (Cliffside):** An ordinance establishing a residential planned zoning district titles R-PZD 04-1154, Cliffside located east of Happy Hollow Road, South of the Cliffs Apartments, planned unit development, containing approximately 26.114 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the associated residential development plan as approved by the Planning Commission.

2. **Ecological Engineering Group Contract:** An ordinance to waive the requirements of competitive bidding and to approve a proposed contract with the Ecological Engineering Group in the amount of $129,989.00 for a four year Physical and Biological Stream Assessment and Monitoring Program.

3. **Youth Center Inc. Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center Inc. in the amount of $250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2005.

4. **Council on Aging Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $50,000.00 to provide public recreation services for the senior citizens of Fayetteville for 2005.

5. **Legislative Packet Approval:** A resolution to recommend the approval of the Legislative Packet of the City of Fayetteville.

6. **§34.27 "Sale of Municipally Owned Real Estate" Amendment:** An ordinance to amend §34.27 Sale of Municipally Owned Real Estate to add an exemption for lands acquired pursuant to approved redevelopment project plans.

7. **Sign Appeal Process Clarification:** An ordinance clarifying and streamlining the process of appealing administrative decisions or interpretations regarding signs and granting of variances from the requirements of Chapter 174, Signs, Unified Development Code.

8. **Scull Creek Trail Corridor Development:** A resolution to consider spending as much as $1,000,000.00 of the proceeds from the sale of the Wilson Springs Property in the development of the Scull Creek Trail Corridor.

9. **2004 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2004 fixing the rate therof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City Library, and certifying the same to the County Clerk of Washington County, Arkansas.

D. PUBLIC HEARINGS:

1. **Cardinal Cab Company; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Cardinal Cab Company for the operation of a taxicab service within the City of Fayetteville, Arkansas.

2. **CTS Airport Shuttle and Limousine Service; Certificate of Public Convenience and Necessity:** A resolution granting a certificate of Public Convenience and necessity to CTS Airport Shuttle and Limousine Service for the operation of a limousine service within the City of Fayetteville, Arkansas.

3. **Tony-C Taxi & Limo Service; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Tony-C Taxi & Limo Co., LLC for the operation of a taxicab and limousine service within the City of Fayetteville, Arkansas.

E. INFORMATIONAL:

Council Tour: No City Council Tour

A.3
OMI Contract
Amendment No. 10(A)

AMENDMENT NO. 10 (A)
TO THE
AGREEMENT FOR OPERATIONS,
MAINTENANCE, AND MANAGEMENT SERVICES
FOR THE CITY OF FAYETTEVILLE, ARKANSAS
WASTEWATER TREATMENT PLANT

THIS AMENDMENT NO. 10(A) to the Agreement for Operations, Maintenance and Management Services for the City of Fayetteville, Arkansas Wastewater Treatment Plant dated August 16, 1994 (the "Agreement") is made effective this 23rd day of November, 2004, by and between the City of Fayetteville, Arkansas, whose address for any formal notice is 113 W. Mountain St, Fayetteville, Arkansas 72701 and Operations Management International, Inc., (hereinafter "OMI") with offices at 9193 S. Jamaica Street, Suite 400, Englewood, Colorado 80112.

NOW THEREFORE, The City of Fayetteville and OMI agree to amend the Agreement as follows:

1. Record flooding during early 2004 required out-of-scope serviced by OMI relating to the emergency flood response efforts and subsequent flood damage recovery actions. Washington County was declared a disaster area and became eligible for FEMA assistance. Fayetteville included the out-of-scope expenses incurred by OMI as a result of the flood disaster in its claims, receiving a portion of this amount in direct federal and state reimbursement.

2. Fayetteville must amend the 2004 contract to reflect the costs incurred by OMI and properly distribute the FEMA funds to the cost center incurring the losses. Accordingly, the fee paid to OMI for calendar year 2004 shall be increased by $16,416.000 to account for the impacts of the flooding emergency that occurred during 2004 and to correct the contract values for the costs approved and reimbursed by the Federal Emergency Management Agency (FEMJA) relating to OMI's emergency and recovery flood costs. The fee increase reflects FEMA's eligible cost determination of sixteen thousand four hundred sixteen dollars ($16,416.00).

3. Such funds will be paid to OMI by the City of Fayetteville on or before December 31, 2004.

This Amendment No. 10(A), together with the Agreement constitutes the entire agreement between the Parties and supersedes all prior oral and written understandings with respect to the subject matter set forth herein. Unless specifically stated all other terms and conditions of the Agreement shall remain in full force and effect. Neither this Amendment nor the Agreement may be modified except in writing signed by an authorized representative of the Parties.

The Parties, intending to be legally bound, indicate their approval of the Amendment by their signatures below.

OPERATIONS MANAGEMENT INTERNATIONAL, INC.

Roger B. Quayle

Roger B. Quayle
Senior Vice President,
Date: 11/23/04

~~HG~~
11-23-04

CITY OF FAYETTEVILLE

Dan Coody
Mayor
Date:

Appendix B

LOCATION OF PROJECT

B.1 OMI agrees to provide the services necessary for the management, operation and maintenance of the following:

a) All equipment, vehicles, grounds and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Wastewater Treatment Plant located at:

1400 North Fox Hunter Road
Fayetteville, Arkansas

b) All equipment, grounds, and facilities now existing within the present property boundaries of pump stations described as follows:

WW1	978 E. Zion Road
WW2	4938 Mission Blvd. (Timbercrest)
WW3	Crystal Springs/Salem Road
WW4	691 W. Poplar
WW5	3896 N. Gregg
WW6	3021 N. Old Wire Road
WW7	2034 N. County Road 877
WW8	729 W. North Street
WW9	1336 N. Porter
WW10	716 Futrall Drive
WW11	4412 W. 6th Street
WW12	398 N. Double Springs Road
WW13	878 S. Stonebridge Road
WW14	1820 S. Armstrong
WW15	203 E. 29th Circle
WW16	3917 S. McCollum Road
WW17	4394 S. School
WW18	202 N. Sandy (Greenland)
WW19	988 S. Mallywagnon Road
WW 20	3212 N. Highway 112
WW21	1687 S. Happy Hollow Road
WW22	630 N. Double Springs Road
WW23	Masters Addition (Country Club – 2)
WW24	4071 South McCollum (Airport East)
WW25	Willow West (Farmington)
WW26	74 S. Kestrel (Sequoyah Preserve)
WW27	1031 River Meadows Drive (Stonebridge Meadow)
WW28	1603 Plantation Avenue (Heritage Village)
WW29	Greenland (Todd Bohannan)

WW30	2324 Rupple Road
WW31	2318 Internet (Research Park)
WW32	478 N. Durango Place (Silverthorne)
WW33	4644 N. Crossover Road (Copper Creek)
WW34	Airport South
WW37	Clabber Creek

c) All equipment, grounds, and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Sludge Management Site located east of the wastewater treatment facility across the White River:

d) The potable water SCADA system at the following locations:

W1	215 W. 24th Street	Pump Station
W2	844 N. Crossover Road	Pump Station
W4	1016 E. Ash Street	Pump Station
W5	707 E. Rogers Drive	Pump Station
W6	456 E. Baxter Lane	Ground Storage Tank
W7	707 E. Rogers Drive	Ground Storage Tank
W8	113 N. Sang	Elevated Storage Tank
W9	1170 E. South Skyline	Elevated Storage Tank
W10	1044 E. Township Road	Elevated Storage Tank
W11	Mt. Kessler	Elevated Storage Tank
W12	Highway 45 Valve Station	Pressure-reducing Valve
W13	Fire Tower Avenue (Goshen)	Ground Storage Tank.
W14	Fire Tower Avenue (Goshen)	Pump Station
W15	Co. Road # 55 (Round Mountain)	Ground Storage Tank
W16	Co. Road # 4343 (Benson Mountain)	Ground Storage Tank
W17	Gulley Road Tank	Elevated Storage Tank
W18	Gulley Road Station	Pump Station
	1475 Cato Springs Road	Water & Sewer Ops Center
	12141 Ed Edwards Road	Mt. Robinson Tower Site

Appendix E

VEHICLE AND MOBILE EQUIPMENT DESCRIPTION

Unit #	Unit Description	Year
1092	Ford Explorer	2002
2009	Ford Ranger 4 X 4	1997
239	Ford F150 Flare Side	
266	GMC V-Jimmy	1990
284	Ford Ranger 4 X 4	1992
310	Ford F-350 3-Way Dump	1990
320	Ford F-350 Crew Cab	1999
324	Ford F-350 w/crane	1999
339	Ford F-350 4 X 4	2002
539	Ford CM224 Mower	1994
550	Ford 5640 Tractor w/Loader	1995
551	Ford 3930 Tractor	1995
556	Ford/New Holland 8160 Tractor w/Loader	1997
562	New Holland 8160 Tractor	1999
563	New Holland Tractor	1999
564	New Holland Tractor w/Loader	1999
566	Ford LS55 Lawn Tractor	1999
570	New Holland 95 hp Tractor	2000
644	New Holland Backhoe/Loader	2000
701	Ford 8000 Dump	1983
712	Ford 8000 (Gooseneck)	1983
734	Freight Liner	1987
76	Caterpillar Articulated Tanker	1988
77	Caterpillar Articulated Tanker	1988
806	Case 1150G Bulldozer	1995
82	Sykes 6" Pump/Trailer	1995
900	Generator	1987
9002	New Holland 648 Round Baler	1999
9003	New Holland 1411 Mower	1999
9004	John Deere 348-C Square Baler	1999
9017	New Holland 1411 Mower	2000
9031	E-Z Go Workhorse	2001
9034	Yale Forklift	2001
9037	E-Z Go Workhorse	2002
910	16 Ft. Trailer N/C	1987
927	24' Parker Gooseneck Trailer	1991
959	Bush Hog 2620 Cutter	1995
966	18 Ft. Trailer	1996

969	Lo-Boy Trailer	1996
987	Hesston Large Square Baler	1998
988	Hesston Wheel Rake	1998
989	M & W Wheel Rake	1998
990	New Holland 1411 Mower	1998
991	Polaris 500 4 X 4	1998
992	Polaris 500 4 X 4	1998

Appendix H

THIRTY-DAY CHEMICAL INVENTORY

Chemical	Purpose	30-Day Supply
Liquid Alum	Phosphorus Removal	2,200 Gallons
Ferrous Sulfate	Lift Station Odor Control	10,000 Gallons
Liquid Oxygen	Effluent Dissolved Oxygen	50,000 Cubic Ft
Polymer	Belt Filter Press	6870 Pounds

Appendix J

COST DETAIL

The annualized estimated costs for the calendar year of 2004 are revised as follows:

	Approved for 2004	Amended for 2004
Direct Labor & Benefits	$1,671,667	$1,674,354.65
Labor Markup	$501,500	$502,306.30
Electricity	$660,000	$660,000
Electrical Markup (0% Markup for 2003)	$0	$0
Existing Other Direct Costs	$768,057	$779,738.76
Other Direct Costs Markup	$76,806	$77,974.19
Additional Other Direct Costs	$306,915	$306,915
Other Direct Costs Markup	$30,692	$30,692
Subtotal	$4,015,637	$4,031,980.90
Fixed Fee	$78,139	$78,211.10
Lift Station Odor Control	$179,175	$179,175
Capital Item Amortization	$100,622	$100,622
Total O & M Budget	$4,373,573	$4,389,989
SCADA Upgrade Project	$0	$0
Total Annualized Budget	$4,373,573	$4,389,989
Net Annualized Increase		$16,416

The following are some of the major reasons for cost change in 2004:

1. Record flooding during early 2004 required out-of-scope serviced by OMI relating to the emergency flood response efforts and subsequent flood damage recovery actions. Washington County was declared a disaster area and became eligible for FEMA assistance. Fayetteville included the out-of-scope expenses incurred by OMI as a result of the flood disaster in its claims, receiving 95% of this amount in direct federal and state reimbursement. Fayetteville must amend the 2004 contract to reflect the costs and properly distribute the FEMA funds to the cost center incurring the losses.

A.12
New World Systems
Contract

New World Systems
The Public Sector Software Company

November 19, 2004

ADDITIONAL SERVICES AGREEMENT

Ms. Judy Cohea
Fayetteville Police Department
100 West Rock Street
Fayetteville, AR 72702

Dear Ms. Cohea:

New World Systems is pleased to provide additional services for the upgrade to Mobile Messaging 5.x.

The attached form (Exhibit B) is to be reviewed and approved by you and/or your authorized representative. It describes the additional services you have requested along with the related fees.

Other than for the purposes of internal review, we ask that you treat our fees as confidential information. This is due to the competitive nature of our business.

The General Terms and Conditions from our original License Agreement are incorporated and continue to apply.

We thank you for your continued business with New World Systems. We look forward to working on this project with you.

Sincerely,

NEW WORLD SYSTEMS CORPORATION

AGREED AND ACCEPTED:

NEW WORLD SYSTEMS CORPORATION	**FAYETTEVILLE POLICE DEPT., AR**
By: Larry D. Lamberti	**By:** _____
Title: President	**Title:** _____
Date: 11-19-04	**Date:** _____

Each individual signing above represents that (s)he has the requisite authority to execute this Agreement on behalf of the organization for which (s)he represents and that all the necessary formalities have been met.

EXHIBIT B
ADDITIONAL SUPPORT SERVICES AND FEES

1. **Support Hours Recommended**

Allocating adequate support service resources for the upgrade to Mobile Messaging 5.x is estimated at 80 hours. **Actual usage may be higher or lower based on Customer's requirements and use of these support services.**

The installation and training support services are typically performed at **Customer**'s premises but, at **Customer's** option, may be provided at **New World** national headquarters in Troy, Michigan. (Other support services often involve services performed at the **New World's** national headquarters.) Customer agrees to reimburse **New World** for support trips canceled by **Customer** less than ten (10) days before the scheduled start date to cover **New World's** out of pocket costs and lost revenues.

2. **Support Service Fees Estimate**

The minimum hours cited above will be provided at the rate of **$140** per hour. Any additional support services provided by **New World** after execution of this Agreement will be provided at the **Customer's** hourly rate in effect at that time.

Based on the hours listed above, the support service cost is estimated at $11,200. (Plus all actual and reasonable travel expenses incurred by **New World** divided proportionately between all **New World** customers visited on a single trip, and actual employee travel time up to but not exceeding four (4) hours per **Customer** visit.)

3. **Additional Services Available**

Other **New World** services may be required or requested for the following:

(a) File conversion assistance;
(b) Consulting with **New World** technical staff;
(c) Modifying the Licensed Standard Software;
(d) Designing and programming Custom Software;
(e) Maintaining modified Licensed Standard Software and/or Custom Software;
(f) **New World** Consultation with other vendors or third parties; and/or
(g) Software testing; and/or
(h) Assistance as Customer is going "live".

Customer may request these additional services in writing using **New World**'s Request For Service (RFS) procedure (or other appropriate procedure mutually agreed upon by **Customer** and **New World**).

4. **Payments for Services and Travel Costs**

All hours for services and travel costs will be billed weekly for the previous calendar week. Any taxes or fees imposed from the course of this Agreement are the responsibility of the **Customer** and **Customer** agrees to remit when imposed. If an exemption is claimed by the **Customer**, an exemption certificate must be submitted to **New World. Payments are due within thirty (30) days from receipt of invoice.**

[M:\2004RFP\ARKANSAS\FAYETTEVILLE\6 CNT\ADD SERVICES Mobile Messaging 5.x UPGRD r1.DOC]

12-7-04 A-13. Smith Two Way Bid Award

CONTRACT

This contract executed this ____ day of _____, 2004, between the City of Fayetteville, Arkansas, 113 W Mountain, Fayetteville, Arkansas, 72701 and Smith Communications LLC, a wholly owned subsidiary of Smith Two-Way Radio, Inc., 520 N. College Avenue, Fayetteville, AR 72701.

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Smith Communications LLC at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per bid 04-85 as stated in Smith Communications LLC bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid #04-85, all included herein as if spelled out word for word.

2. The City of Fayetteville shall pay $164,361.12 for turnkey completion of the project based on prices indicated in Smith Communications LLC bid proposal for Mobile Data Backbone IP MobileNet equipment and site upgrade. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.

3. The Contract documents which comprise the contract between the City of Fayetteville and Smith Communications LLC consist of this Contract and the following documents attached hereto, and made a part hereof:

   A. Bid form identified as Invitation to Bid 04-85 with the specifications and conditions typed thereon.

   B. Smith Communications LLC bid proposal.

   C. The Notice to Prospective Bidders and the Bid Tabulation.

4. These Contract documents constitute the entire agreement between the City of Fayetteville and Smith Communications LLC and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Smith Communications LLC.

5. Smith Communications LLC shall not assign it's duties under the terms of this agreement.

6. Smith Communications LLC agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Smith Communications LLC performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.

7. Smith Communications LLC shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Smith Communications LLC shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Workmen's Compensation	Statutory Amount
Comprehensive General & Automobile Insurance	
Bodily Injury Liability	$250,000 for each person injured. $500,000 for each accident.
Property Damage Liability	$100,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by Smith Communications LLC.

8. Smith Communications LLC to furnish proof of licensure as required by all local and state agencies.

9. This contract may be terminated by the City of Fayetteville or Smith Communications LLC with 10 days written notice.

10. 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, the contractor 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 photo coping costs pursuant to the FOIA may be assessed for this compliance.

WITNESS OUR HANDS THIS_____DAY OF _____, 2004.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

BY_____
MAYOR

ATTEST: CITY CLERK

_____

Smith Communications LLC

BY Michael B. Smith President
PRINTED NAME AND TITLE

ATTEST: COMPANY SECRETARY

_____

_____
BUSINESS ADDRESS

NOTARY PUBLIC-STATE OF ARKANSAS
WASHINGTON COUNTY
My Commission Expires 11-20-2013

Donna S. Sullivan

Comm. Expires 11-20-2013

A. 14
Sage House
Replacement Lease

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF DECEMBER 7, 2004

FROM:

ALDERMAN BRENDA THIEL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To End The Current Lease Of City Property To Sage House And Approve A Replacement Lease Of City Property To Sage House

APPROVED FOR AGENDA:

Brenda Thiel, Alderman — 11/24/04 Date

City Attorney (as to form) — 11-24-04 Date

LEASE AGREEMENT

This Agreement, made and entered into this _____ day of December, 2004, by and between the City of Fayetteville, Arkansas, Lessor, and Sage House, Lessee, Witnesseth:

WHEREAS, Sage House is a non-profit agency established and dedicated to serve as a rent subsidized transitional housing facility; and

WHEREAS, providing transitional housing is a valid public purpose; and

WHEREAS, Sage House will provide such service to Fayetteville citizens within the City of Fayetteville.

NOW, THEREFORE, the City of Fayetteville and Sage House agree as follows:

1. **Leased Premises.** For and in consideration of Sage House's promise to promptly provide transitional housing for needy Fayetteville citizens, the release and mutually agreed termination of the lease dated April 2, 2002 between the parties and the covenants and agreements herein entered into and agreed upon by Sage House as obligations to the City of Fayetteville, the City lets, leases and demises unto Sage House, subject to the terms and conditions contained herein, the following described property situated in Washington County, Arkansas. (Attached as Exhibit A is the legal description and map.)

To have and to hold said premises unto the said Sage House for and during the term herein stated, subject to the covenants, terms and conditions herein contained.

2. **Term.** This lease shall commence on December 1, 2004, and shall extend for a term of Ninety-Nine (99) years, ending at midnight on November 30, 2103.

3. **Consideration.** The primary consideration for the City is Sage House's agreement in paragraph 4 to serve Fayetteville citizens by promptly providing its transitional housing project for needy Fayetteville citizens. "Promptly providing its transitional housing project" means that Sage House shall have such housing available no later than December 1, 2009, unless an extension is agreed to by City Council Resolution before that date.

4. **Use.** Sage House agrees to use the lease premises for the purpose of constructing, operating and maintaining a transitional housing facility. If at any time the property ceases to be used for this purpose, the lease shall terminate. Sage House agrees to furnish rent subsidized transitional housing for Fayetteville citizens and residents throughout this lease period. Sage House shall deliver quarterly written reports to the Mayor's office concerning the number of Fayetteville citizens/residents housed or otherwise assisted by Sage House.

5. **Improvements.** Sage House may make any such improvements as are necessary to carry out the service of providing rent subsidized transitional housing facilities. Design for any such improvements shall be approved by the City of Fayetteville. Upon termination of this lease, all improvements shall become the property of the City.

6. **Taxes**. Sage House shall pay any and all ad valorem taxes and special improvement district taxes levied and assessed against said premises and the improvements located thereon during the term of this lease.

7. **Notices**. All notices, requests, demands and other communications required by or permitted hereunder shall be in writing and shall be directed to the following:

City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Sage House
614 E. Emma, Suite M401
Springdale, AR 72764

8. **Assignment**. Sage House shall not assign this lease or sublet the lease premises without prior written consent of the City. Any such assignment or subletting shall in no way relieve Sage House from liability for the obligation imposed by this lease. Sage House may only be released from liability for the obligation imposed by this lease by a specific written release executed by the City.

9. **Insurance**.

A. Sage House shall be solely responsible for maintaining insurance on its property, including movables, trade fixtures, furniture, furnishings and inventory, as well as improvements to the property.

B. Sage House shall, during the term of this lease, maintain public liability insurance. The limits of such public liability insurance shall not be less than $500,000.00 per person and $500,000.00 per accident. The policy shall contain a clause that the insurer will not cancel or change the insurance without giving the City of Fayetteville, ten days prior written notice. A certificate of such insurance shall be delivered to the City.

10. **Maintenance**. Sage House shall be responsible for all maintenance, routine preventative or corrective, on any and all improvements made to the leased property. Sage House and Sage House shall cooperate and jointly equip, use and maintain the playground located between their leased premises.

11. **Compliance with Laws**. Sage House agrees not to violate any law, ordinance, rule or regulation of any governmental authority having jurisdiction of the leased premises. This agreement shall be governed by the laws of the State of Arkansas.

12. **Waste/Nuisance**. Sage House agrees not to commit waste, nor permit waste to result or to be done to or upon the aforesaid premises. Further, Sage House agrees not to operate, nor permit to be operated, nor to exist thereon or therein, any public or private nuisance.

13. **Title and Quiet Enjoyment**. The City of Fayetteville covenants and warrants that it is the owner in fee simple absolute of the leased premises and may lease said premises as herein provided. Upon the observance and performance of all the covenants, terms and conditions upon Sage House's part to be observed and performed, Sage House shall peaceably and quietly hold and enjoy the demised premises for the term hereby demised without hindrance or interruption by the City or any other person or persons lawfully or equitably claiming by, through or under the City, subject to the terms and conditions of this lease.

14. **Entire Agreement.** This lease agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto

IN WITNESS WHEREOF, the parties hereto have hereunto set their hand and seals on this the _____ day of December, 2004.

CITY OF FAYETTEVILLE, Lessor

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

SAGE HOUSE, Lessee

By: Nancy Bolin, President
Name, Title
Nancy Bolin, President

ATTEST:

By: _____

Title: Board Member

A.15
Seven Hills Lease

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF DECEMBER 7, 2004

FROM:

ALDERMAN BRENDA THIEL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve A Lease Of City Property To Seven Hills Homeless Center, Inc.

APPROVED FOR AGENDA:

Brenda Thiel, Alderman — 11/24/04 Date

City Attorney (as to form) — 11-24-04 Date

LEASE AGREEMENT

This Agreement, made and entered into this _____ day of December, 2004, by and between the City of Fayetteville, Arkansas, Lessor, and Seven Hills Homeless Center, Inc. (hereinafter "Seven Hills"), Lessee, Witnesseth:

WHEREAS, Seven Hills is a non-profit agency established and dedicated to provide a Homeless Shelter and to provide transitional housing for the homeless; and,

WHEREAS, providing transitional housing to Fayetteville citizens and permanent supportive housing for persons with disabilities are valid public purposes; and,

WHEREAS, Seven Hills will provide such service to Fayetteville citizens so that these citizens can reestablish themselves, obtain employment, and move to private housing within a fairly short period of time and to disabled citizens for permanent supportive housing.

NOW, THEREFORE, the City of Fayetteville and Seven Hills agree as follows:

1. **Leased Premises**. For and in consideration of Seven Hills' promise to promptly provide transitional housing for needy, homeless Fayetteville citizens and permanent supportive housing and the covenants and agreements herein entered into and agreed upon by Seven Hills as obligations to the City of Fayetteville, the City lets, leases and demises unto Seven Hills, subject to the terms and conditions contained herein, the following described property situated in Washington County, Arkansas. (Attached as Exhibit A is the legal description and map.)

To have and to hold said premises unto the said Seven Hills for and during the term herein stated, subject to the covenants, terms and conditions herein contained.

2. **Term**. This lease shall commence on December 1, 2004, and shall extend for a term of Ninety-Nine (99) years, ending at midnight on November 30, 2103.

3. **Consideration**. The primary consideration for the City is Seven Hills' agreement in paragraph 4 to serve Fayetteville citizens by promptly constructing its transitional housing project.

4. **Use**. Seven Hills agrees to use the lease premises for the purpose of constructing, operating and maintaining a transitional housing facility. If at any time the property ceases to be used for this purpose, the lease shall terminate. Seven Hills agrees to furnish rent subsidized transitional housing for Fayetteville citizens and residents throughout this lease period. Seven Hills shall deliver quarterly written reports to the Mayor's office concerning the number of Fayetteville citizens/residents housed or otherwise assisted by Seven Hills.

5. **Improvements**. Seven Hills may make any such improvements as are necessary to carry out the service of providing rent subsidized transitional housing facilities. Design for any such improvements shall be approved by the City of Fayetteville. Upon termination of this lease, all improvements shall become the property of the City.

6. **Taxes.** Seven Hills shall pay any and all ad valorem taxes and special improvement district taxes levied and assessed against said premises and the improvements located thereon during the term of this lease.

7. **Notices.** All notices, requests, demands and other communications required by or permitted hereunder shall be in writing and shall be directed to the following:

City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Seven Hills Homeless Center, Inc.
P.O. Box 474
Fayetteville, AR 72702-0474

8. **Assignment.** Seven Hills shall not assign this lease or sublet the lease premises without prior written consent of the City. Any such assignment or subletting shall in no way relieve Seven Hills from liability for the obligation imposed by this lease. Seven Hills may only be released from liability for the obligation imposed by this lease by a specific written release executed by the City.

9. **Insurance.**

A. Seven Hills shall be solely responsible for maintaining insurance on its property, including movables, trade fixtures, furniture, furnishings and inventory, as well as improvements to the property.

B. Seven Hills shall, during the term of this lease, maintain public liability insurance. The limits of such public liability insurance shall not be less than $500,000.00 per person and $500,000.00 per accident. The policy shall contain a clause that the insurer will not cancel or change the insurance without giving the City of Fayetteville, ten days prior written notice. A certificate of such insurance shall be delivered to the City.

10. **Maintenance.** Seven Hills shall be responsible for all maintenance, routine preventative or corrective, on any and all improvements made to the leased property. Sage House and Seven Hills shall cooperate and jointly equip, use and maintain the playground located between their leased premises.

11. **Compliance with Laws.** Seven Hills agrees not to violate any law, ordinance, rule or regulation of any governmental authority having jurisdiction of the leased premises. This agreement shall be governed by the laws of the State of Arkansas.

12. **Waste/Nuisance.** Seven Hills agrees not to commit waste, nor permit waste to result or to be done to or upon the aforesaid premises. Further, Seven Hills agrees not to operate, nor permit to be operated, nor to exist thereon or therein, any public or private nuisance.

13. **Title and Quiet Enjoyment.** The City of Fayetteville covenants and warrants that it is the owner in fee simple absolute of the leased premises and may lease said premises as herein provided. Upon the observance and performance of all the covenants, terms and conditions upon Seven Hills' part to be observed and performed, Seven Hills shall peaceably and quietly hold and enjoy the demised premises for the term hereby demised without hindrance or interruption by the City or any other person or persons lawfully or equitably claiming by, through or under the City, subject to the terms and conditions of this lease.

14. **Entire Agreement**. This lease agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto

IN WITNESS WHEREOF, the parties hereto have hereunto set their hand and seals on this the _____ day of December, 2004.

CITY OF FAYETTEVILLE, Lessor

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

SEVEN HILLS HOMELESS CENTER, INC., Lessee

By: _____
LOWELL GRISHAM, President
Board of Directors of
Seven Hills Homeless Center, Inc.

ATTEST:

By: _____

Title: _____

BETH C. HOUSLEY
MY COMMISSION EXPIRES
May 13, 2014
NOTARY PUBLIC, STATE OF ARKANSAS
WASHINGTON COUNTY

A.17
AVFUEL
Corp. Contract

City Council Meeting of: December 7, 2004
Agenda Item Number:

Final Agenda

CITY COUNCIL AGENDA MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

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

DATE: November 18, 2004

SUBJECT: Approval of Fuel Service Contract with AvFuel Corporation

---

RECOMMENDATION: Approve the contract with AvFuel Corporation and forward for signature by the Mayor.

BACKGROUND: The first FBO Fuel Service Contract since the airlines relocated to XNA was with AvFuel Corporation. Their contract expired at the end of October 2004. An RFP was issued and five providers responded. A selection committee was formed and after a thorough review and analysis it was determined that AvFuel would continue as the fuel provider.

DISCUSSION: The City currently operates the fuel and line service fixed base operation (FBO). The contractor provides service, advertising credit, service trucks, credit card processing, fuel, training and other considerations to help FBO's increase sales and provide customer service. Local customers are also customers of the fuel service provider. AvFuel remains our provider by providing good fuel pricing, good service, new computer software and interface, training, fuel farm upgrades and no cost lease trucks for the first 18 months of the contract. Should the airport staff and Airport Board recommend to the City Council and Mayor to contract out the fuel and line service FBO, it would not affect this contract.

BUDGET IMPACT: The Airport purchases fuel from AvFuel for resale to aircraft customers. As an incentive to remain with AvFuel, AvFuel will provide $6,000.00 towards the purchase and installation of a new software package specifically designed for use with FBO's and $6,000.00 towards needed improvements to the fuel farm. The new contract provides that should the City fail to purchase fuel from AvFuel and purchase from other providers, the City would repay any amortized "unpaid" balance of the incentives at a rate of 7.75% per annum over the prime term of the contract.

Attachments: Staff Review Form
Contract

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

FIXED BASE OPERATOR
AVIATION FUEL SUPPLY AGREEMENT

SPECIAL TERMS AND CONDITIONS

AVFUEL CORPORATION
FIXED BASE OPERATOR
AVIATION FUEL SUPPLY AGREEMENT

Reference Date: November 1, 2004 **Effective Date:** November 1, 2004

SUMMARY

This Agreement is between Avfuel Corporation and its affiliates and subsidiaries all of which have principal offices at 47 West Ellsworth Road, Ann Arbor, MI 48108 USA, hereinafter referred to, individually or collectively as "Avfuel", and **City of Fayetteville** having its principal office at (Street address only) 113 West Mountain Street , hereinafter called "Customer", collectively called "the Parties", and is effective on the Effective Date or, if no Effective Date is specified then on the Reference Date noted above.

THIS IS AN INTEGRATED AGREEMENT CONSISTING OF SEVERAL PARTS, ALL OF WHICH SHALL BE READ TOGETHER AND INTERPRETED AS ONE AGREEMENT. The parts shall include this Summary, the Special Terms and Conditions, and the General Terms and Conditions. In the event of any inconsistencies between the Special Terms and Conditions and the General Terms and Conditions, the Special Terms and Conditions shall govern. Avfuel offers other programs that it believes are of benefit to Customer. Customer chooses to participate in those programs that are checked below and agrees that the applicable provisions of the Special and General Terms and Conditions govern those programs. Additions or deletions to this agreement are governed by the Changes Provision set forth in Section 17 of the General Terms and Conditions.

Applicable Certificates of Insurance are attached hereto, Insurance Company Name _____

X Customer Credit Program
X Brand Program
X AVTRIP Program
X Credit and Charge Cards Acceptance Program
X Contract Fuel Dealer Program
Avsurance Primary Commercial Insurance Program

X Equipment Lease Agreement
X Pricing Addendum
X Attachment C
X Promissory Note & Financing Agreement
_____

CUSTOMER FEIN:

TYPE OF BUSINESS: _____
(i.e. C-corp, S-corp, Partnership, LLC, Sole Prop, or other)

STATE ID NUMBER:

STATE OF INCORPORATION: _____

FOR AVFUEL CORPORATION:

By: _____

Mark Haynes
Print Name

Title: **Vice President, Sales**

FOR:

By: _____ [redacted]
(Signature)

_____
(Print Name)

Title: _____
(Print Title)

The undersigned hereby guarantee(s) payment and performance of this Agreement by Customer.

By: _____ _____ _____
Signature Name Printed Social Security Number

By: _____ _____ _____
Signature Name Printed Social Security Number

FIXED BASE OPERATOR
AVIATION FUEL SUPPLY AGREEMENT

SPECIAL TERMS AND CONDITIONS

CUSTOMER NAME: City of Fayetteville

BILLING ADDRESS:
(if different than street address)

CITY_____ STATE____ ZIPCODE____

DELIVERY ADDRESS:
(if different than street address)
4500 South School Street

CITY Fayetteville STATE: AR ZIPCODE 72701

AIRPORT ID (IATA CODE): _____

PRODUCT (s): Jet-A X Jet-A with Anti-ice XAvgas/100LL Other_____

PAYMENT TERMS: Net 30 Days

EQUIPMENT LEASED:

Description	SN or VIN	Lease Rate
1991 3000 Gallon Ford	A07138	$1,050.00
2000 750 Gallon Isuzu	006822	$ 750.00

CONTRACT FUEL DEALER:

		Rate
Airport Flowage Fee:	YES X NO	_____ $/g (i.e. $0.03)
Storage Fee:	YES X NO	_____ c/g

Into wing Fee: **Established Prices On File**

Fuel Type	Gallons from/to	Rate

OTHER SPECIAL TERMS AND CONDITIONS: If the City of Fayetteville should cease operation or sale the FBO, then the City must give Avfuel 60 days written notice of termination of the contract.

ADDENDUM
to the
AVIATION FUEL SUPPLY AGREEMENT
between
AVFUEL CORPORATION
And
CITY OF FAYETTEVILLE, AR

The following is incorporated and made part of the above named agreement with a reference date of November 1, 2004

Product: Jet-A Fuel with Additive

Delivered Price: Previous weeks average of Group 3 Jet Mean as reported by Platt's Oilgram, plus a differential of $0.1360 per gallon. The Platt's average price will be calculated each Monday (or Tuesday when Monday is a holiday) for the previous week (Monday-Friday-published trading days only) and will be effective for the following Tuesday through Monday period. Price excludes all taxes, fees, into-plane charges and other fees.

In the event that there is a change in Avfuel's costs for the above products, Avfuel reserves the right to amend the price differential stated above. In such case, Avfuel will notify City of Fayetteville in writing of the change in its cost and the new differentials will take effect as of the date in the notification. Change in Avfuel's costs may be due to, but not limited to, changes in freight rates or changes in Avfuel's current cost differential from refineries or changes in the terminal used to supply Customer. If any surcharges are imposed upon Avfuel, Avfuel reserves the right to assess surcharges to customer.

Section 15 Governing Law:

This agreement shall be construed as having been made in the State of Arkansas, and all right and obligations under it shall be governed by the laws of the State of Arkansas without regard to its Conflict of Laws provisions. All litigation arising hereunder shall be brought in the State of Arkansas, and exclusive jurisdiction shall lie with the courts located in Washington County, Arkansas and each Part hereby submits to the exclusive jurisdiction of those courts.

REFUELER REQUIREMENTS

Avfuel will provide the city with the refueler trucks currently being leased by the city for a period of Eighteen (18) months at NO CHARGE effective with the implementation of a new 5-year contract. Commencing on the 7th month of the 2nd year of the contract the lease rates for these

refuelers will be based on the city's selection of either Proposal #1 or Proposal #2 of this RFP. The city will have the option to lease trucks on a short-term basis for special events or circumstances. Avfuel will provide the city with the option to lease-to-purchase refueler(s) if that becomes necessary.

Leased truck maintenance: The city shall be responsible for securing a local maintenance provider for the Avfuel leased refuelers. The city shall notify Avfuel prior to conducting maintenance on the leased refuelers. The leased truck agreement excludes: gasoline, oil, tires and batteries.

Proposal #2 - Avfuel will be responsible for the maintenance of the leased refuelers through the city's selection of a maintenance provider to exclude gasoline, oil, tires and batteries.

Avfuel will not maintain the city's fuel farm.

Avfuel will be available, upon request, to inspect the city's leased trucks and fuel farm. See attachment C for maintenance coverage.

Avfuel Corporation

By: _____

Its: Mark Haynes V.P.

Date: 11/19/04

City of Fayetteville, AR

By: _____

Its: _____

Date: _____

FINANCING AGREEMENT

THIS FINANCING AGREEMENT, dated November 1, 2004 is between City of Fayetteville 4500 South School Street, Fayetteville, AR 72701 ("Borrower") and AVFUEL CORPORATION, 47 West Ellsworth Road, Ann Arbor, Michigan 48107 ("Avfuel") and confirms the terms and conditions upon which Avfuel has agreed to loan Borrower $12,000.00 (the "Loan") to fund capital and/or operating expenses for Borrower's business.

1. **Loan**.

Avfuel agrees to loan City of Fayetteville the sum of $12,000 upon the terms and conditions set forth herein. Borrower's obligation to repay the loan will be evidenced by a Promissory Note in the form attached hereto as Exhibit A (the "Note").

2. **Repayment**.

Unless earlier prepaid pursuant to Section 3, the Loan will be repaid by means of rebates, at the rate of $241.88 per month (the "Rebate") for each month in which all of Borrowers aviation fuel, as described in Section 2, is purchased and paid for by Borrower under the AVIATION FUEL SUPPLY AGREEMENT dated as of November 1, 2004 between Borrower and Avfuel (the "AFSA"). The Rebate will begin with the month of November 2004 and continuing thereafter until the last day of the calendar month immediately preceding the calendar month in which the Loan is repaid in full. The Rebate for aviation fuel for which Borrower makes payment in each calendar month will be credited to Borrower as of the 15th day of the next calendar month and will be applied against a monthly installment due under the Note as of such date.

3. **Mandatory Prepayment/Repayment**.

Borrower acknowledges that Avfuel has agreed to fund the Loan in reliance upon Borrower's representation that it will continue to control and operate the FBO through October 31, 2009 and that, for the period beginning November 1, 2004 and ending on October 31, 2009, all aviation fuel which is stored and distributed at the FBO will be supplied by Avfuel, including both aviation fuel which is purchased and used or resold by Borrower and aviation fuel which is purchased and used by third parties which utilize tank capacity at the FBO. As a consequence, Borrower agrees that if, at any time prior to [Date of last payment], for any reason, whether voluntarily or involuntarily on the part of Borrower, Borrower either ceases to control and operate the FBO or Borrower causes or permits aviation fuel supplied by any party other than Avfuel to be stored or distributed at the FBO, or this Agreement is terminated pursuant to section 3, then Borrower, within ten (10) days after delivery of written demand by Avfuel, shall be required to prepay in full the entire unpaid balance of principal and interest under the Loan. Borrower acknowledges that the prepayment and repayment provisions in this Section 3 are in addition to, and not in substitution of, any claims that Avfuel might otherwise assert under contract law if the cessation is the result of a breach by Borrower of its obligations under the AFSA or any other Document.

2. **CONDITIONS OF FUNDING**

The obligation of Avfuel to fund the Loan shall be subject to satisfaction of the following conditions, unless waived in writing by Avfuel:

a) All legal matters and Documents incident to the transactions contemplated hereby shall be satisfactory, in form and substance, to Avfuel's counsel;

b) Avfuel shall have received (i) a certificate signed by Borrower certifying that all requisite action has been taken in connection with the transactions contemplated hereby, and (ii) such other documents as Avfuel may reasonably require to be executed by, or delivered on behalf of, Borrower; and

c) Avfuel shall have received the Documents signed by an authorized officer of Borrower.

3. **TERMINATION.**

Avfuel may terminate this Agreement forthwith upon the occurrence of any of the following events:

a) If any representation or warranty made by Borrower in any oral written statement, certificate, report, or financial statement at any time furnished by Borrower in connection herewith, is or becomes incorrect or misleading in any material respect; or

b) If Borrower discontinues its business; is adjudicated a bankrupt or insolvent under any law of any jurisdiction; ceases, is unable, or admits in writing its inability, to pay its debts generally as they mature; makes a general assignment for the benefit of creditors; applies for, or consents to, the appointment of any receiver, trustee, or similar officer for it or for any substantial part of its property, or any such receiver, trustee, or similar officer is appointed without the application or consent of Borrower and such appointment continues thereafter un-discharged for a period of thirty (30) days; institutes, or consents to the institution of any bankruptcy, insolvency, reorganization, arrangement, readjustment or debt, dissolution, liquidation, or similar proceeding relating to it under the laws of any jurisdiction or any such proceeding is instituted against Borrower and remains thereafter un-dismissed for a period of thirty (30) days; or any judgment, writ, warrant of attachment or execution, or similar process is issued or levied against a substantial part of the property of Borrower and such judgment, writ, or similar process is not effectively stayed within thirty (30) days after its issue or levy; or

c) If, in Avfuel's sole discretion, for any reason or for no reason at all, it appears to Avfuel that Borrower may not be able to meet its repayment obligations under the loan, or

d) If Borrower fails to pay any amount owing by Borrower to Avfuel or any of it's affiliates under any AFSA Document or any other document within fifteen (15) days after its due date, whether at maturity, by acceleration, or otherwise or is otherwise in default under any AFSA Document or any other document.

4. **MISCELLANEOUS.**

a) No waiver of any provision of this Agreement or any Document, or consent to departure therefrom, is effective unless in writing and signed by Avfuel. No such consent or waiver extends beyond the particular case and purpose involved. No amendment to this Agreement is effective unless in writing and signed by Borrower and Avfuel.

b) Borrower shall indemnify and hold Avfuel harmless against any and all liabilities, losses, damages, costs, and expenses of any kind (including, without limitation, the reasonable fees and disbursements of counsel) suffered or incurred in connection with any investigative, administrative or judicial proceeding relating to Borrower (provided, however, that Avfuel shall have no right to be indemnified hereunder for its own bad faith or willful misconduct as determined by a court of competent jurisdiction).

c) This Agreement and each of the Documents will be governed by and construed in accordance with the laws of the State of Michigan, without regard to principles of conflict of laws. Any dispute arising hereunder shall be subject to the jurisdiction of the Washtenaw County Michigan Circuit Court and/or the Federal District Court for the Eastern District of Michigan, Southern Division. The several captions to different Sections of this Agreement are inserted for convenience only and shall be ignored in interpreting the provisions hereof.

d) Any notice permitted or required under this Agreement shall be in writing and shall be deemed "delivered" as follows: (i) if by hand delivery, on the date of actual delivery; (ii) if by facsimile transmission, on the next business day following the date of transmission; (iii) if by mail, on the third business day following the date that the notice is deposited with the United States Postal Services, postage prepaid, the address of the party to whom notice is being given.

e) All agreements, representations, and warranties made in this Agreement will survive the signing of this Agreement and the funding of the Loan, and will bind and inure to the benefit of Borrower and Avfuel and their respective successors and assigns.

f) If any provision of this Agreement or any other Document, or any action taken hereunder or thereunder, or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement or any Document, each of which shall be construed and enforced without reference to such illegal or invalid portion and shall be deemed to be effective or taken in the manner and to the full extent permitted by law.

g) This Agreement and the other Documents integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral representations and negotiations and prior writings with respect to the subject matter hereof.

5. **INDEMNIFICATION.**

Borrower shall indemnify and hold Avfuel harmless against any and all liabilities, losses, damages, costs, and expenses of any kind (including, without limitation, the reasonable fees and disbursements of counsel) suffered or incurred in connection with any investigative, administrative or judicial proceeding relating to Borrower (provided, that Avfuel shall have no right to be indemnified hereunder for its own bad faith or willful misconduct as determined by a court of competent jurisdiction). Borrower further agrees to indemnify Avfuel against any loss or expense which Avfuel may sustain or incur as a consequence of any default by Borrower in payment when due of any amount due hereunder in respect of the Loan or Rebate.

IN WITNESS WHEREOF, Borrower and Avfuel have each caused this Agreement to be executed by their duly authorized officers effective this as of the date first above written.

Borrower:

City of Fayetteville

By: _____

Name: _____

Title: _____

AVFUEL CORPORATION

By: _____

Name: Mark Haynes

Title: Vice President

EXHIBIT "A"

PROMISSORY NOTE

$12,000.00 November 1, 2004

FOR VALUE RECEIVED, City of Fayetteville (the "Borrower"), promises to pay to the order of AVFUEL CORPORATION, a Michigan corporation ("Avfuel"), the principal sum of $12,000.00 thereon at the rate of 7.75% per annum, payable in 60 equal monthly installments of $241.88 each, beginning on November 1, 2004 and continuing on the first day of each month thereafter.

All payments against this Promissory Note shall be applied first to any accrued interest and then to principal. The acceptance by Avfuel of any payment in an amount less than the amount then due shall be deemed an acceptance on account only, and the failure of the Borrower to pay the entire amount due shall be and continue to be an event of default, and at any time thereafter and until the entire amount due has been paid, Avfuel shall be entitled to exercise all rights conferred upon it in the event of default.

This Promissory Note may be prepaid in full or in part without charge. However, no payment may be designated as a "prepayment" unless all monthly payments then due under the note have been paid. Prepayments shall be applied first to any accrued but unpaid interest on the prepayment amount and then to principal. Prepayments will not result in any change in the monthly payment amount or the due date for monthly payments.

This Promissory Note is issued pursuant to a Financing Agreement of even date herewith between Avfuel and Borrower, and is secured by the security interest granted by Borrower to Avfuel pursuant to the Security Agreement also of even date herewith (collectively, the "Loan Documents"). Reference is made to those Loan Documents regarding occurrences constituting events of default thereunder.

Any failure of the Borrower to pay any installment under this Promissory Note within thirty (30) days after its due date shall constitute an event of default under this Promissory Note. Any occurrence constituting an event of default under any Loan Document or any other Agreement between Avfuel and Borrower shall constitute an event of default under this Promissory Note. Upon the occurrence of an event of default under this Promissory Note, Avfuel, in addition to all other rights and remedies as may be permitted under any Loan Document or under applicable law, may declare the entire balance of principal and interest under this Promissory Note immediately due and payable and, upon such declaration, take such actions and exercise such remedies as may be prescribed or permitted under applicable law to obtain collection from the Borrower.

Presentment for payment, notice of dishonor, protest, notice of protest, and diligence in collection are waived, and the time of payments or any part thereof may be deferred by the holder hereof, without in any way limited liability hereunder.

In the event that this Promissory Note is placed in the hands of an attorney for collection, or suit is brought thereon, the Borrower shall be liable for reasonable attorney's fees and costs incurred thereby.

This Promissory Note, and the rights and duties of Avfuel and the Borrower hereunder, shall be interpreted in accordance with the laws of the State of Michigan.

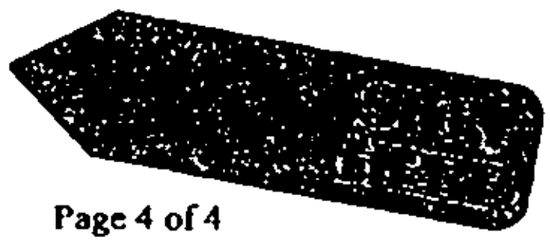
City of Fayetteville

By: _____

Name: _____

Its: _____

Form FA 05/02



ATTACHMENT C

STANDARD MAINTENANCE

MAINTENANCE:

Except as noted in 7.3 below, the City of Fayetteville will maintain the Equipment in a condition equivalent to that as of the day of this Lease Agreement, normal wear and tear excepted, and, to that end, will, at the City of Fayetteville's sole expense, provide all preventative maintenance (including but not limited to lubrication, oil and filter changes, etc.), repairs, and replacement parts as are necessary to preserve the Equipment in good operating condition and in compliance and in conformity with all laws, rules, regulation, and industry standards which are applicable to the operation of refuelers. Complete and accurate maintenance records shall be kept by City of Fayetteville and AVFUEL shall be entitled to inspect the Equipment and the maintenance records at any time during regular business hours. At AVFUEL's option, any item of repair or maintenance which would be the responsibility of City of Fayetteville may be performed by AVFUEL and billed back to City of Fayetteville as additional rent.

City of Fayetteville shall be responsible for all tire maintenance, repair, and replacement. CHANGING A TIRE ON A REFUELER IS VERY DANGEROUS AND MUST NOT BE ATTEMPTED BY UNTRAINED PERSONNEL. CITY OF FAYETTEVILLE AGREES THAT IT WILL PERMIT TIRES TO BE CHANGED ONLY BY AN OUTSIDE CONTRACTOR WHO IS PROFESSIONALLY TRAINED TO DO SUCH WORK.

7.3 Except as noted in 7.5 below, Avfuel shall be responsible for the following repairs when, in its opinion, repair is necessary: overhauls or replacement of the engine, transmission, differential, or belly valve. Avfuel shall be permitted access to the Equipment at any reasonable time in order to perform the repairs and modifications which are its obligation hereunder. Repairs and maintenance to be performed by Avfuel shall be completed within a reasonable time after notice. Avfuel assumes no responsibility for loss of use or any other items of ancillary damage which may be caused by or result to City of Fayetteville by reason of the fact that the equipment becomes inoperable.

City of Fayetteville shall not make any alterations or modifications to the Equipment of any kind including but not limited to painting, mounting of radios or antennas, applying decals or lettering without the express written consent of Avfuel.

7.5 City of Fayetteville shall promptly notify of the need for any repair or maintenance which is required and which is not the City of Fayetteville's responsibility. If such repair or maintenance is required as the result of intentional conduct, negligence, or failure to perform repair or maintenance on the part of City of Fayetteville or any of City of Fayetteville's agents or employees, City of Fayetteville shall be liable for all costs associated with performing such repairs and/or maintenance.

FULL MAINTENANCE

Full maintenance provided at AVFUEL'S cost will be that as stated in AVFUEL'S proposal under Refueler Requirements (pg. 10), and described as "Proposal #2" (pg. 12), and will include a Preventive Maintenance (PM) program of monthly inspection and minor maintenance, and on-call unscheduled repairs when required. Maintenance to be contracted with a local vendor subject to change, currently Aviation Maintenance Professionals (AMP), c/o Mike Sergeant, 4158 S. School St., Fayetteville, AR, 72701, phone: 479-527-9661 fax: 479-582-0830, email: aviationmaintpro@aol.com. See attached schedule of cost (Attachment D). It will not cover tires, oil changes, or light bulbs. Cost of the PM and repairs to the City of Fayetteville, with the exception of the excluded items, will be reimbursed to the City of Fayetteville by AVFUEL upon presentation of approved invoices.

Avfuel Corporation

By: _____
Its: Mark Haynes V.P.
Date: 11/19/04

City of Fayetteville, AR

By: _____ SIGN HERE
Its: _____
Date: _____

AVIATION FUEL SUPPLY AGREEMENT

GENERAL TERMS AND CONDITIONS

1. PURCHASE AND SALE: Subject to the terms and conditions contained herein, throughout the entire term of this Agreement, Avfuel agrees to sell and deliver, and City of Fayetteville agrees to purchase and pay for, the City of Fayetteville's entire requirements for Products and all products to be handled, stored, used, distributed or sold by City of Fayetteville or its affiliates at each airport represented by the Delivery Addresses listed in the Special Terms and Conditions.. If, at any time during the term of the AFSA City of Fayetteville, or any entity controlled by or in common control with City of Fayetteville, operates any other facility at the Airport that sells aviation fuels (a "Supplemental FBO"), then City of Fayetteville will, or will cause such other entity to, enter into a new AVIATION FUEL SUPPLY AGREEMENT with Avfuel (on the same terms and for the same duration as the AFSA) for the supply of 100% of the requirements of the Supplemental FBO for aviation fuel. CITY OF FAYETTEVILLE represents and warrants that all products and services purchased hereunder will be for the purpose of conducting its business. Avfuel has relied on this representation in entering into this Agreement.

2. TERM: The initial term of this Agreement is five (5) years, beginning on the Effective Date specified in the Summary. The term shall be automatically renewed for successive three (3) year terms until one Party delivers a Notice to the other Party of its intent to terminate at the end of the then current term. Such notice shall be delivered at least ninety (90) but not more than one hundred twenty (120) days prior to the expiration of the current term.

3. PRICE AND PAYMENT:

3.1. Unless otherwise agreed in writing the price per gallon for Products delivered to City of Fayetteville shall be as established by Avfuel from time to time in its discretion based upon market and other conditions that it deems pertinent based on the date and time that Avfuel loads the Products into delivery trucks. Prices shall be F.O.B. the Delivery Address(es) and shall be exclusive of all taxes, fees, surcharges and other charges.

3.2. Unless otherwise agreed in writing or otherwise required by the state law where the Product is delivered, the standard unit of measurement of quantities of Products purchased and delivered shall be the Net Gallon. The term "Net Gallon" shall mean the volumetric measurement, in U.S. gallons, of a Product actually loaded and measured at the point of shipment, adjusted to the number of U.S. gallons that would have been loaded at a temperature of sixty degrees Fahrenheit (60°F). The conversion ratio shall be from the current American Society for Testing and Materials ("ASTM") IP Petroleum Measurement Tables.

3.3. Unless otherwise agreed in writing by the Parties, City of Fayetteville agrees to pay in advance by bank wire transfer for all Products purchased hereunder. Failure to pay in advance shall be construed as a credit transaction and shall be subject to the Terms and Conditions of the Customer Credit Program set forth below.

4. TAXES AND OTHER CHARGES:

4.1. City of Fayetteville shall pay all taxes, assessments, fees and other charges (the "Taxes") which are imposed by any federal, state or local governmental agency or by any airport authority (collectively, the "Taxing Authorities") based upon the delivery, sale, importation, inspection, storage or use of the Products purchased by or leased to City of Fayetteville, excepting Taxes which are imposed upon Avfuel based upon its net income or revenues.

4.2. If the Taxing Authorities collect the Taxes directly from City of Fayetteville, then City of Fayetteville shall pay all such Taxes on or before their due dates. If the Taxing Authorities require that Avfuel collect the Taxes from City of Fayetteville at the time of sale, Avfuel will use its best efforts to include all such Taxes in its invoices to City of Fayetteville and City of Fayetteville shall pay all such invoices on or before their due dates. (In its invoices, Avfuel will identify those Taxes as separate items.) If City of Fayetteville is entitled to an exemption from any Taxes which the Taxing Authorities require be collected by Avfuel, then, in order to permit Avfuel not to collect those Taxes, City of Fayetteville shall obtain and provide to Avfuel current and valid exemption certificates relating to those Taxes. If, subsequent to the issuance of any invoice, the Taxing Authorities or Avfuel advise City of Fayetteville of additional Taxes payable with respect to the Products covered by that invoice, then City of Fayetteville shall promptly pay such additional Taxes.

4.3. City of Fayetteville acknowledges that it remains solely responsible for all such Taxes, and will indemnify Avfuel against any liability for such Taxes even if Avfuel fails for any reason to include any such Taxes in its invoices to City of Fayetteville. However, Avfuel will indemnify City of Fayetteville against any late charges, penalties or

other charges that City of Fayetteville incurs if Avfuel's failure to include any Taxes in its invoice is due to gross negligence or willful misconduct.

4.4. City of Fayetteville's obligation to indemnify Avfuel shall extend to any Taxes which are assessable against City of Fayetteville as a result of any subsequent change or reinterpretation of the laws relating to those Taxes or any exemptions from those Taxes and to any Taxes for which an exemption had been claimed but which are subsequently assessed by Taxing Authorities based upon its rejection of the claimed exemption for the Products or City of Fayetteville.

5. DELIVERY:

5.1. Deliveries shall be made to the Delivery Address(es) listed in the Special Terms and Conditions. Avfuel or its authorized shipping agent ("Shipping Agent") shall be provided access to City of Fayetteville's storage facilities during normal business hours, or at such other times as may be approved by City of Fayetteville's authorized representative, for the purpose of unloading the Products. Unless otherwise agreed in writing, the minimum delivery of Jet A fuel will be a full standard transport tanker load which is equivalent to 7,500 Gross Gallons, and the minimum delivery for Avgas fuel will be a full standard transport tanker load which is equivalent to 8,500 Gross Gallons. Avfuel reserves the right to impose a surcharge for deliveries of less than a full tanker load.

5.2. Delivery shall be into tanks designated by City of Fayetteville. Such designation shall be construed as a warranty that the designated tanks and containment areas have been inspected and approved by the appropriate regulatory agencies. City of Fayetteville shall be responsible for all unloading operations including the placement of hoses into the proper storage tanks. City of Fayetteville shall specifically designate and gauge the available capacity of the tanks into which the Product shall be unloaded, and shall bear all responsibility of spillage or contamination of the Product after it leaves the end of any properly operating hose provided by Avfuel or its Shipping Agent. Access to City of Fayetteville's tanks shall be furnished in such a manner that Avfuel or its Shipping Agent can safely and conveniently reach City of Fayetteville's storage facility with the hoses available, and Avfuel or its Shipping Agent may refuse to complete any delivery which Avfuel or the Shipping Agent determines, in it sole discretion, cannot be made safely.

5.3. Any claim by City of Fayetteville of any discrepancy in the quantity of the Product delivered shall be effective only if made by written notice delivered to Avfuel within twenty-four (24) hours after the Product is delivered to City of Fayetteville. **GIVEN THE NATURE OF THE PRODUCTS, TIME IS OF THE ESSENCE WITH RESPECT TO SUCH CLAIMS AND NO CLAIM SHALL BE PERMITTED OR EFFECTIVE UNLESS DELIVERED WITHIN THE SPECIFIED PERIOD.**

6. FORCE MAJEURE: Except as provided below, neither Party shall be responsible for any failure to comply with the terms of this Agreement due to causes beyond its reasonable control for the period the effects of such causes continue. These causes shall include but shall not be restricted to: fire, storm, flood, earthquake, explosion, accident, acts of any local, state or federal authority or agency or of a public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restrictions, labor disputes, transportation embargoes or delays, acts of God and unavailability of the Product. For purposes of this Agreement, the term "unavailable" shall mean that Avfuel, for any reason whatsoever, including but not limited to government action, reduced or allocated fuel supplies, lack of transportation or the like, is unable to procure and deliver a specific Product on a commercially reasonable basis within two (2) days of the specific time requested by City of Fayetteville. In that event, and only to the extent of such unavailability, the Parties hereto shall be relieved of their obligations under the applicable provisions of this Agreement. If and as applicable, Avfuel will comply with any governmental statute or regulation mandating the allocation of available supplies of Products. The provisions of this Section shall not apply to the failure of a Party to pay any monetary amounts when due under this Agreement.

7. LIMITED WARRANTY:

7.1. Avfuel warrants that all products delivered pursuant to this agreement, regardless of whether title transfers at that time, will, at the time of delivery, conform to the then latest revision of following specifications: Aviation Gasoline will conform to the ASTM Specification D910; and Jet Fuel will conform to the ASTM Specification D1655. Avfuel retains the right to revise the applicable specifications upon written notice to City of Fayetteville.

7.2. THE LIMITED WARRANTY STATED ABOVE IS THE ONLY WARRANTY GIVEN BY AVFUEL REGARDING THE PRODUCTS. AVFUEL DISCLAIMS ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

7.3. City of Fayetteville shall sample and test each shipment of Product prior to delivery using industry standard test procedures. If City of Fayetteville determines or suspects non-conformity then Avfuel must be immediately notified, while the Shipping Agent is still present, and the delivery shall not be completed until either City of Fayetteville accepts the Product, acknowledging conformity, or Avfuel replaces the Product. City of Fayetteville will permit Avfuel access to City of Fayetteville's premises and records during normal business hours and upon four (4) hours' telephonic or written notice to City of Fayetteville for purposes of investigating any claim of non-conformity. If it is determined that the Product is non-conforming, Avfuel's sole obligation shall be either (1) replacement of the non-conforming Product with conforming Product, or (2) removal of the non-conforming Product and cancellation of the invoice for that Product or refund of the amount paid for that Product, as determined by Avfuel. Avfuel will be reasonably prompt in its actions hereunder. **TIME IS OF THE ESSENCE AND ANY FAILURE TO FOLLOW THE ABOVE PROCEDURE SHALL VOID THE LIMITED WARRANTY.**

8. COMPLIANCE WITH LAWS:

8.1. Each Party shall, at all times and in all respects, comply with all federal, state, county or municipal laws, ordinances, rules and regulations governing its actions in the purchase, storage, handling and sale of the Products and all industry standards pertaining thereto, including those that may contain tetraethyl lead or lead alkyl. Further, each of the Parties agree to use its reasonable best efforts to assist the other Party in complying with such laws, ordinances, rules and regulations which the other Party may be required to observe in the performance of its obligations under this Agreement. Each Party reserves the right to terminate those portions of this Agreement governing the purchase of a Product if the other Party violates the provisions of this subsection with respect to that Product. In such event, the remaining provisions of this Agreement shall continue in full force and effect.

8.2. Each Party shall properly instruct its employees, agents and contractors with regard to compliance with all applicable laws, ordinance, rules, regulations and standards governing the sale and distribution of the Products that are the subject of this Agreement.

9. INDEPENDENT STATUS: Each Party shall at all times function as an independent contractor and not as a subcontractor, employee or other agent of the other Party. Neither Party shall have the authority to and shall not purport to make any commitments or representations on behalf of the other Party or otherwise to take any actions on behalf of the other Party.

10. RECPROCAL INDEMNIFICATION: Except as otherwise provided in this Agreement, each Party (the "Indemnifying Party") agrees to indemnify and to hold harmless the other party and the officers, directors, employees and agents of the other party (the "Indemnified Parties") from and against any and all claims, demands, losses, liabilities, causes of action, costs or expenses (including attorney's fees) of whatsoever nature which are asserted against or incurred by any Indemnified Party as a result of the breach by the Indemnifying Party of its obligations under this Agreement or as a result of any wrongful act or omission of the Indemnifying Party or of any officers, directors, employees or agents of the Indemnifying Party. Any amount payable by the Indemnifying Party under this Section 10 shall be due within ten (10) days after written demand and any such amount which is not paid when due shall bear interest from the due date to the date of payment at the rate of 16% per annum (or, if less, at the maximum rate of interest permitted under the laws of the State in which the Indemnifying Party has its principal place of business). Without limiting the above provisions, the obligation of the Indemnifying Party under this Section 10 shall include any reasonable attorney's fees or other costs incurred by the Indemnified Parties in enforcing the obligation of indemnity under this Section. Each party's obligation to indemnify shall survive the termination of this Agreement and shall remain in full force and effect until the lapse of all applicable statutes of limitations or similar time periods within which an action for indemnity or contribution must be brought.

11. BREACH AND TERMINATION:

11.1. Failure of a Party to comply with the provisions of this Agreement shall constitute a breach of the Agreement by the non-complying Party. Except as otherwise permitted under this Agreement, the non-breaching Party shall provide Notice of that breach to the other Party in the manner set forth in Section 14. The Notice shall specify the alleged breach and the period within which the breach must be cured which, except as provided in Section 11.2, shall be at least ten (10) business days. The Party receiving such Notice shall respond thereto in writing within three (3) business days. If the breach is not cured or the dispute resolved within the period specified in the Notice, the Party claiming breach, by further written Notice, at its election, may affirm this Agreement and initiate appropriate legal actions to require the other Party to remedy that breach or may immediately terminate this Agreement. In either instance, the Party claiming the breach may by appropriate legal proceedings seek and secure recovery of any damages resulting from that breach.

11.2. The provisions of Section 11.1 to the contrary notwithstanding, if the breach is of the City of Fayetteville's obligation to make a payment to Avfuel when due, then Avfuel may declare all amounts owed to it immediately due and payable, and Avfuel, in addition to all other rights hereunder, may suspend its performance or terminate this Agreement forthwith and without giving City of Fayetteville Notice or the opportunity to cure. Avfuel shall also have the right to offset any amount that Avfuel then or thereafter owes to City of Fayetteville, to any guarantor of the City of Fayetteville's obligations under this Agreement or to any affiliate entity that owns, is owned by or is under common ownership with the City of Fayetteville against any amounts owed by City of Fayetteville to Avfuel. City of Fayetteville warrants that it is authorized to make this commitment with respect to amounts owed by Avfuel to such guarantors and affiliate entities. In addition, Avfuel or its agents or employees may, without further notice and without legal process enter onto any facility of City of Fayetteville for the purpose of repossessing any item of Equipment or any personal property of any description owned by Avfuel, and City of Fayetteville shall use its best efforts to assist Avfuel in such repossession. Pursuit of the foregoing shall not preclude pursuit of any other remedies provided by law, nor constitute a waiver of any amount due by City of Fayetteville hereunder or of any damages accruing by reason of the breach of any of the terms or conditions contained herein. Aviation fuels on board repossessed Equipment will become the property of Avfuel, and credited against any amount owed Avfuel by City of Fayetteville at that day's market price.

11.3. The Party claiming a breach may waive that breach by giving Notice to the other party in the manner set forth in Section 14 below. The waiver of any breach shall not constitute a waiver of any subsequent breach of the same or any other term or condition. Any failure of either Party to enforce rights or seek remedies arising out of any breach by the other Party shall not prejudice or affect the rights and remedies of that Party in the event of any subsequent breach by the other Party.

11.4. Except as set forth in Section 11.2 above, any dispute that arises under this Agreement, pursuant to Section 11.1 above or otherwise, shall be submitted to a senior officer or other person having the authority to negotiate the resolution of such disputes for each Party. Those persons shall attempt, in good faith, to resolve the dispute, and no action in law or equity shall lie until the process set forth herein shall have run its course. If the dispute involves the payment of money, all undisputed amounts shall be paid when due regardless of whether the undisputed amount is only part of an invoice.

11.5. The exercise of a Party's right to terminate the Agreement as aforesaid or to seek any other remedy shall not be deemed an election of remedies and shall be without prejudice to the Terminating Party's rights to seek any other remedy afforded to it by this Agreement or by law or equity. In any action related to the enforcement or breach of this Agreement, the prevailing Party shall have the right to recover its reasonable attorney's fees and costs actually incurred.

12. INSURANCE:

12.1. Prior to the Effective Date stated in the Summary, City of Fayetteville shall submit proof that it holds, or, if it does not so hold, shall secure, at its cost, the following insurance and furnish Avfuel a Certificate of Insurance evidencing: (1) aviation general liability insurance, including products and completed operations liability, with limits not less than one million dollars ($1,000,000.00) combined single limit for bodily injury and property damage; and (2) automobile liability insurance with limits not less than one million dollars ($1,000,000.00) combined single limit for bodily injury and property damage; (3) workers

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 16, 2004

FROM:

Tim Conklin, AICP	Comm. Planning & Engineering	CP&E
Name	Division	Department

ACTION REQUIRED: Resolution Approval.

SUMMARY EXPLANATION:

Approval of a resolution accepting an offer and acceptance contract in the amount of $178,555 with Stephen L. Davis to purchase the former Shake's Building located at 2050 W. Sixth Street.

STAFF RECOMMENDATION: Approval.

Division Head — Date

City Attorney — 10-30-04 Date

Department Director — 10-26-04 Date

Finance & Internal Services Dir. — Date

Chief Administrative Officer — 10-31-04 Date

Mayor — 11/07/04 Date

Received in Mayor's Office — Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

RECEIVED 10/16/04

RESOLUTION NO. 95-04

MICROFILMED

A RESOLUTION OF INTENT TO SELL MUNICIPALLY OWNED PROPERTY AT THE CORNER OF SANG AVENUE AND SIXTH STREET (A PORTION OF THE FORMER SHAKE'S FROZEN CUSTARD LOT AND BUILDING)

WHEREAS, Ordinance No. 4358 requires municipally owned real estate to be offered for sale only after an express authorization, by resolution, of the City Council, and numerous other requirements.

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 determines that the remainder of Parcel No. 765-12164-000 (Shake's Frozen Custard former lot and building at the corner of Sang Avenue and Sixth Street) no longer serves a municipal service, should not be rezoned and should be sold pursuant to Ordinance No. 4358.

PASSED and **APPROVED** this 1st day of June, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

RESOLUTION NO. 126-04

A RESOLUTION TO GRANT APPROVAL TO SOLICIT SEALED BIDS FROM THE PUBLIC TO PURCHASE THE PORTION OF CITY PROPERTY (FORMERLY SHAKE'S FROZEN CUSTARD) NOT USED FOR THE INTERSECTION IMPROVEMENT ON SIXTH STREET

WHEREAS, the City Council of the City of Fayetteville, Arkansas has already passed a resolution to offer this property for sale as required by Fayetteville Code §34.27 (A); and

WHEREAS, two simultaneous and independent appraisals of the real property have been obtained and provided to the City Council pursuant to Fayetteville Code §34.27 (C); and

WHEREAS, public notification including at least four newspaper publications, certified mail to all adjacent property owners and signs, prominently displayed at all approaches to the property, have been accomplished pursuant to Fayetteville Code §34.27 (D); and

WHEREAS, Fayetteville Code §34.27 (E) provides "Upon an affirmative vote of the City Council, the city shall solicit sealed bids, at a minimum price set by the City Council from all interested parties. Bids must equal or exceed the minimum price set by the City Council and the appraised value of the property."

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 directs the staff to solicit sealed bids at a minimum price of $178,000.00 for the city owned property at 2050 W. 6th Street.

PASSED and **APPROVED** this the 17th day of August, 2004.

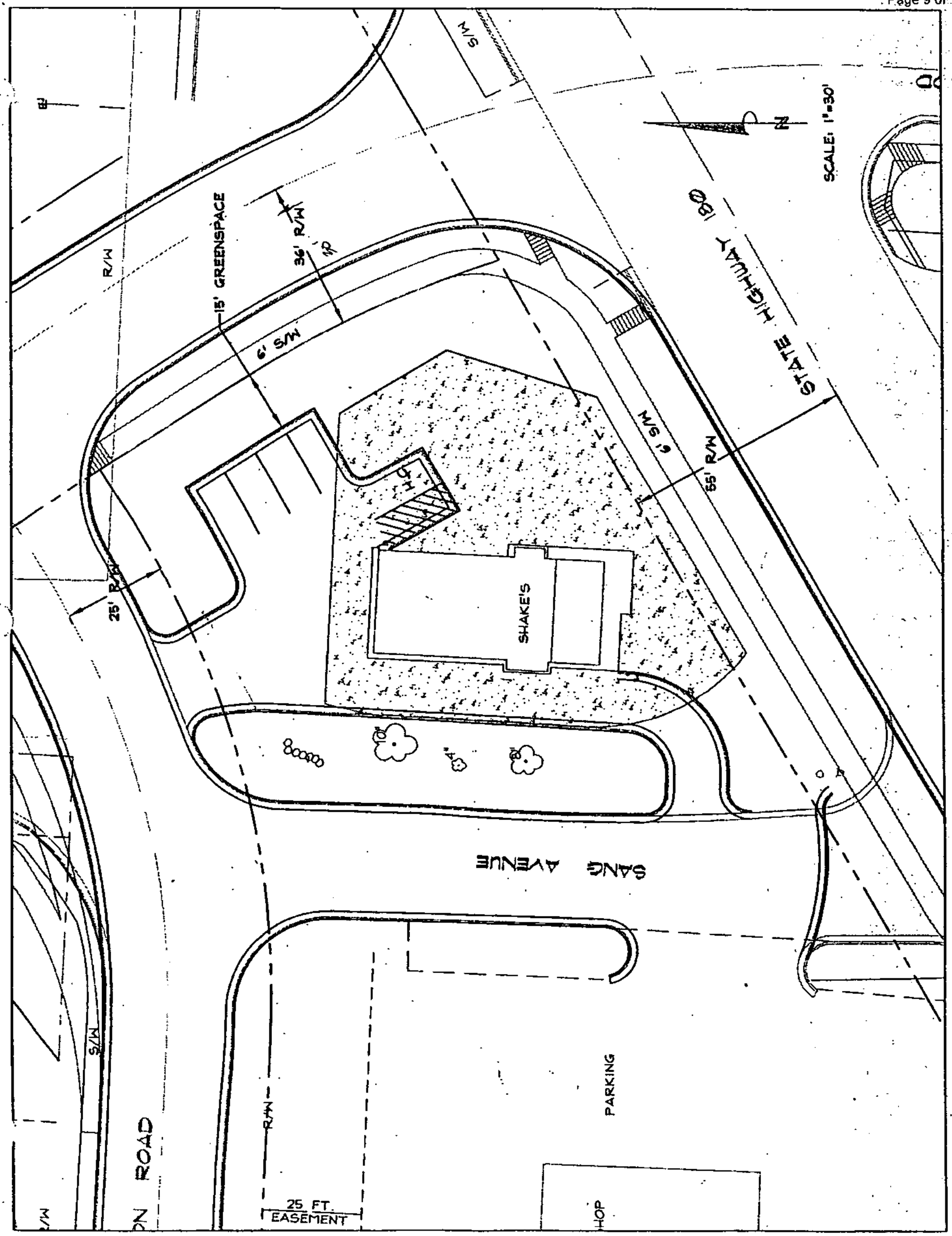
APPROVED:

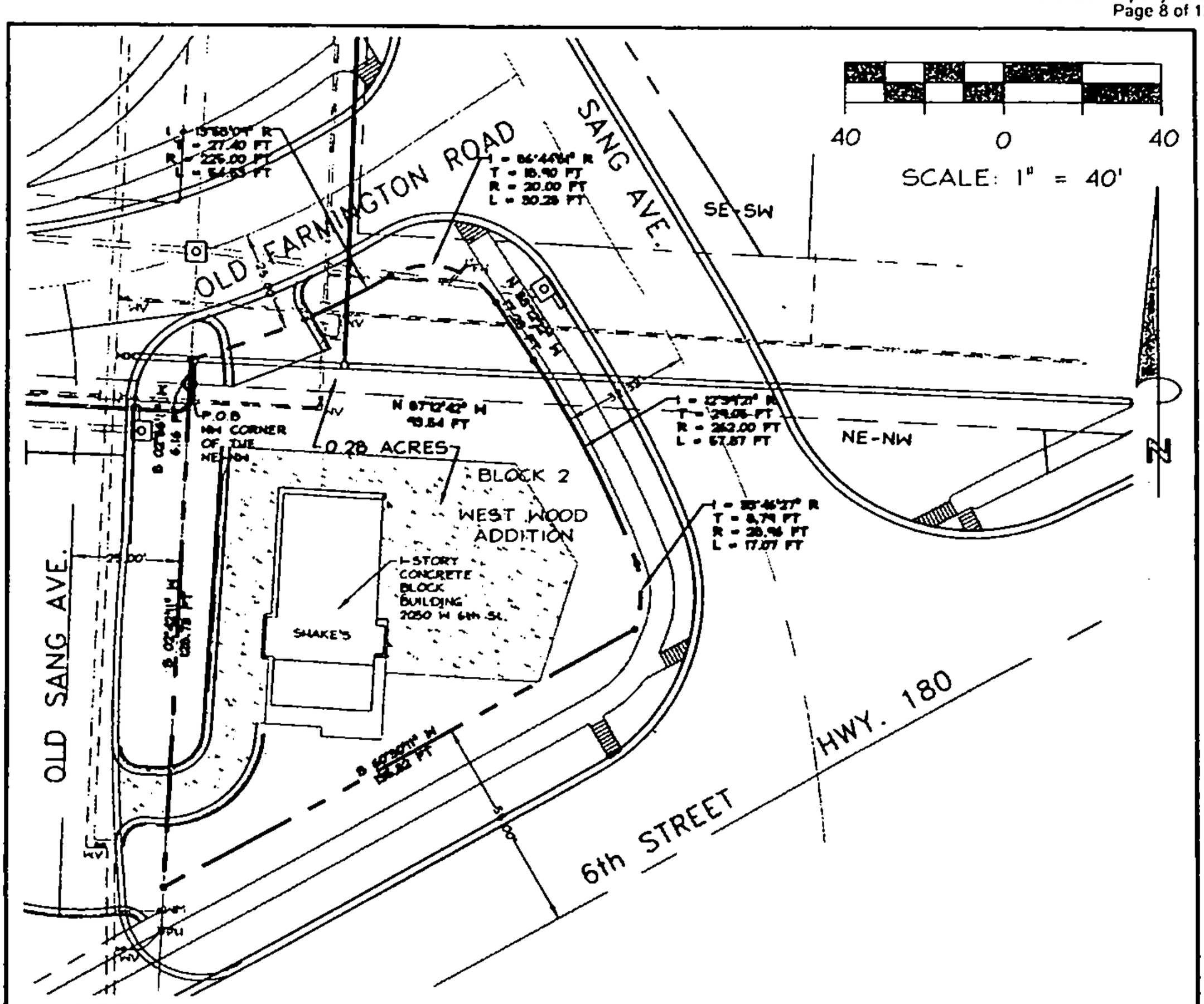
By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY


SCALE: 1"=30'
N
R/W
15' GREENSPACE
36' R/W
6' S/W
M/S
M/S 6'
55' R/W
STATE HIGHWAY 180
SHAKE'S
25' R/W
SANG AVENUE
S/W
ROAD
R/W
25 FT.
EASEMENT
PARKING



LEGAL DESCRIPTION

All that certain tract or parcel of land being a part of the SE ¼ of the SW1/4, and part of the NE ¼ of the NW 1/4of Section 17, Township 16 North, Range 30 West, Washington County, Arkansas. And being more particularly described by metes and bounds as follows:

Beginning at the SW Corner of the SE ¼ of the SW ¼ of Section 17, Township 16 North, Range 30 West, Washington County, Arkansas. Said point being the NW Corner of Block 2 of Westwood Addition to the City of Fayetteville, Arkansas.
THENCE - North 02° 56' 11" East 6.16' to the south right-of-way line of Old Farmington Road;
THENCE - with said right-of-way through the following calls:
THENCE -through a curve to the left with a radius of 225.00', a central angle of 25° 27' 53", arc length of 54.53', a cord bearing of North 66° 59' 31" East for a distance of 54.40';
THENCE - through a curve to the right with a radius of 20.00', a central angle of 286° 28' 44", arc length of 30.28', a cord bearing of South 76° 34' 38" East for a distance of 27.47';
THENCE - South 33° 12' 12" East 17.23';
THENCE - through a curve to the right with a radius of 262.00', a central angle of 21° 52' 07", arc length of 57.87', a cord bearing of South 26° 52' 32" East for a distance of 57.75';
THENCE - through a curve to the right with a radius of 28.96', a central angle of 33° 46' 27", arc length of 17.07', a cord bearing of South 01° 38' 09" East for a distance of 16.83' to the north right-of-way of State Highway No. 62;
THENCE - South 60° 30' 11" West 135.82' with said right-of-way to a set 5/8" I.Pin;
THENCE - North 02° 42' 11" West 134.89' to the POINT OF BEGINNING. The above described property having been surveyed by Bart L.Petray contains 0.28 acres of land more or less.

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 4

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are _____ of _____ and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said _____, and further stated and acknowledged that he/she/they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2003.

_____
Notary Public

MY COMMISSION EXPIRES:

_____

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody** and **Sondra Smith**, to me well known as the persons 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 _____ day of _____, 2003.

_____
Notary Public

MY COMMISSION EXPIRES:

_____

EXHIBIT "A"
PROPERTY DESCRIPTION

REFER TO APPRASIAL PERFORMED FOR THE CITY OF FAYETTEVILLE

SIGNED FOR IDENTIFICATION:

_____ Date:_____

_____ Date:_____

_____ Date:_____
Dan Coody, Mayor

_____ Date:_____
Sondra Smith, City Clerk

OFFER AND ACCEPTANCE CONTRACT
Page 2 of 4

14. This agreement shall be governed by the laws of the State of Arkansas.

15. This agreement, when executed by both the buyer and City of Fayetteville 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 City of Fayetteville on or before the _____ day of _____, 2004.

17. The buyer shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within _____ (____) days of acceptance by the City of Fayetteville.

18. **NOTICE:** **THE BUYER ASSERTS AND CITY OF FAYETTEVILLE HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS SALE OFFER 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 BUYER OF THE $_____ EARNEST MONEY DEPOSIT.**

Stephen L Ord Date: 10-11-04

_____ Date: _____

AGENT OR WITNESS:

_____ Date: _____

City of Fayetteville, Arkansas,
A municipal corporation

_____ Date: _____
Dan Coody, Mayor

_____ Date: _____
Sondra Smith, City Clerk

OFFER AND ACCEPTANCE CONTRACT

1. Stephen L. Davis 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, Stephen L. Davis ~~178,555.~~ shall pay for the property at closing, the total and cash payment of $ 178,555.00.

3. **Contingent Earnest Money Deposit**: Stephen L. Davis ~~1,000.00~~ herewith tenders a check for $ 1,000 to the City of Fayetteville, as earnest money, which shall apply on the purchase price. This sale 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 _____ by the City of Fayetteville. If title requirements are not fulfilled or the City of Fayetteville fail(s) to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the seller. If the buyer fails to fulfill their obligations under this contract or, after all conditions have been met, the buyer fails to close this transaction, the earnest money may, at the option of City of Fayetteville, become liquidated damages to the City of Fayetteville.

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

5. City of Fayetteville shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the buyer. The buyer and City of Fayetteville shall share equally in the cost of the title insurance.

6. City of Fayetteville agree(s) to allow the Buyer, if the buyer so desires, at the buyers expense, to survey the property. The City of Fayetteville agree(s) to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the Buyer.

7. Taxes and special assessments due on or before closing shall be paid by the City of Fayetteville. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.

8. The closing date shall be within _____ (___) days after approval of this offer by the City Council. If such date of closing falls on a weekend or holiday, it will be held the following working day.

9. Possession of the property shall be delivered to the buyer on the date of closing.

10. City of Fayetteville hereby grant(s) permission for the buyer 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 City of Fayetteville.

13. City of Fayetteville shall disclose to the buyer any and all environmental hazards of which the City of Fayetteville has/have actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, the buyer and the City of Fayetteville 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, the City of Fayetteville shall cure such, at their expense; or, in the alternative, at the buyers discretion, the buyer may cure such environmental hazard, and the City of Fayetteville shall indemnify the buyer for all costs associated with said cure.

BID PROPOSAL

Proposed By: Stephen L. Davis (contact person)
756 N. Washington Ave.
Fayetteville, AR 72701

Email: davishealth@aol.com
Fax: 443-9500
Phone: 443-5850
Cell: 283-7530

Property: Former Shake's Building, 2050 W. Sixth Street, Fayetteville, AR

Description of Proposed Use: -Retail store with food service
-Limited inside and patio seating
-One drive-through lane

Offer Price: $178,555.00

Terms: As City Requires

Authorized Signature Stephen L. Davis
Stephen L. Davis

Attachment: Engineer's drawing of property and possible parking arrangement showing entrance to parking and drive-through at north side from Old Farmingron Road.

RESOLUTION NO. _____

A RESOLUTION TO ACCEPT AN OFFER FROM STEPHEN L. DAVIS TO PURCHASE THE REMAINDER OF THE FORMER SHAKE'S PROPERTY AND BUILDING FOR $178,555.00

WHEREAS, Mr. Stephen L. Davis properly submitted a sealed bid in excess of the minimum amount authorized by the City Council for the sale of city property at 2050 West Sixth Street ($178,000.00); and

WHEREAS, this bid of $178,555.00 was the only bid tendered for this property.

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 accepts the bid of Stephen L. Davis in the amount of $178,555.00 for the land and former Shake's building located at 2050 West Sixth Street, Fayetteville, AR.

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby sells this property at 2050 West Sixth Street to Stephen L. Davis for $178,555.00 and authorizes Mayor Coody to execute a deed and any other necessary papers to effect a transfer of ownership of this property to Stephen L. Davis.

PASSED and **APPROVED** this 16th day of November, 2004.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

City Council Meeting of November 16, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Tim Conklin, Community Planning and Engineering Services Director

Date: October 26, 2004

Subject: Approval of an offer and acceptance contract in the amount of $178,555 with Stephen L. Davis to purchase the former Shake's Building located at 2050 W. Sixth Street.

RECOMMENDATION

Staff recommends approval of a resolution accepting the offer and acceptance contract in the amount of $178,555 with Stephen L. Davis to purchase the former Shake's Building located at 2050 W. Sixth Street.

BACKGROUND

Parcel No. 765-12164-000 (Shake's Frozen Custard) was acquired in its entirety as part of the realignment and signalization of the Hollywood/Sang/6th Street Intersection. Last June, the City Council passed Resolution No. 95-40 authorizing City staff to begin the process to sell this parcel and building. Last August, the City Council passed Resolution No. 126-04 setting the minimum bid price at $178,000 based on the higher appraised value from the two required appraisals.

The sale of the property was advertised in the commercial real estate and legal sections of the Northwest Arkansas Times, "For Sale" signs were posted, notice was placed on the city's web site, and notice was sent out by e-mail approximately 30 days prior to the bid deadline of October 11, 2004.

The City received one offer and acceptance bid for this property by Stephen L. Davis.

BUDGET IMPACT

Sale of the property will result in an additional $178,555 in revenue to the Street Fund.

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

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

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
December 7, 2004

A meeting of the Fayetteville City Council will be held on December 7, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Pledge of Allegiance

Roll Call

Airport Board Annual Report

A. CONSENT:

1. **Approval of the Minutes:** Approval of the November 16, 2004 City Council meeting minutes.

2. **Shake's Property Offer:** A resolution to accept an Offer from Stephen L. Davis to purchase the remainder of the former Shake's property and building for $178,555.00.

3. **Fire Safety House Purchase:** A resolution awarding Bid #04-79 to Surrey Fire Safety House on the amount of $23,845.00 to provide a new fire safety house to the Fayetteville Fire Department; and approving a budget adjustment in the amount of $25,287.00 for same.

4. **OMI Contract Amendment No. 10:** A resolution approving amendment No. 10 (A) to the contract with Operations Management International (OMI) in the amount of $16,416.00 to fund out-of-scope flood emergency expenses incurred during Spring 2004; and approving a budget adjustment in the amount of $16,416.00.

5. **OMI Contract Amendment No. 11:** A resolution approving amendment No. 11 to the contract with Operations Management International (OMI) in the amount of $4,484,325.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2005.

6. **Garver Engineers Contract Amendment:** A resolution to approve contract amendment No. 4 with Garver Engineers, LLC for additional design, bidding and construction phase services for the Gregg Street waterline relocation in the lump sum amount of $121,500.00.

7. **Aspen Ridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept approximately 1.24 acres of land and approximately $93,425.00 Cash in Lieu of the Required Park Land Dedication (less Credit for the Developer's cost to construct Indian Trail) for Aspen Ridge Development.

8. **Riggins–Stonebridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $64,935.00 cash in lieu of the required Park Land Dedication for Riggins-Stonebridge Development.

9. **Transportation Division Dump Truck Purchase:** A resolution approving the purchase of one (1) 15 yard dump truck for the Transportation Division from the Diamond International in the amount of $84,426.47.

10. **Animal Services Van Purchase:** A resolution approving the purchase of one (1) Dodge Sprinter 3500 van for the Animal Services Division from the Breeden Dodge of Fort Smith in the amount of $43,360.00.

11. **Police Pursuit Motorcycle Purchase:** A resolution approving the purchase of two (2) police pursuit motorcycles from Denny's Harley Davidson of Fort Smith in the amount of $37,700.00.

12. **Mid-South Sales Contract:** A resolution approving a contract with Mid South Sales of Fayetteville to provide engine oil and lubricants for the Fleet Operations Division.

13. **New World Systems Contract:** A resolution approving a contract with New World Systems in the amount of $67,700.00 to provide CAD Mapping and Automatic Vehicle Locator (AVL) Software and support to the Fayetteville Police Department.

14. **Smith Communications, LLC Bid Award:** A resolution awarding Bid #04-85 to Smith Communications, LLC in the amount of $164,361.00 to provide IP Mobilenet Equipment and Tower Site Upgrade to the Fayetteville Police Department; and approving a budget adjustment in the amount of $159,849.00.

15. **Sage House Replacement Lease:** A resolution to end the current lease of City property to Sage House and approve a replacement lease of City property to Sage House.

16. **Seven Hills Homeless Center, Inc. Lease:** A resolution to approve a lease of City property to Seven Hills Homeless Center, Inc.

B. UNFINISHED BUSINESS

1. **RZN 04-1243 (Medley):** An ordinance rezoning that property described in rezoning petition RZN 04-1243 as submitted by Ronald Dean Medley for property located at 3507 W. 6th Street containing approximately 1.03 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial. ***This ordinance was left on the First Reading at the November 16, 2004 City Council meeting.***

2. **2005 Proposed Annual Budget and Work Program Adoption:** A resolution adopting the proposed 2005 Annual Budget and Work Program. ***This resolution was tabled at the November 16, 2004 City Council meeting until the December 7, 2004 City Council meeting.***

C. NEW BUSINESS:

1. **R-PZD 04-1154 (Cliffside):** An ordinance establishing a residential planned zoning district titles R-PZD 04-1154, Cliffside located east of Happy Hollow Road, South of the Cliffs Apartments, planned unit development, containing approximately 26.114 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the associated residential development plan as approved by the Planning Commission.

2. **Ecological Engineering Group Contract:** An ordinance to waive the requirements of competitive bidding and to approve a proposed contract with the Ecological Engineering Group in the amount of $129,989.00 for a four year Physical and Biological Stream Assessment and Monitoring Program.

3. **Youth Center Inc. Contract:** An ordinance waiving the requirements of formal and competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center Inc. in the amount of $250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2005.

4. **Council on Aging Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $50,000.00 to provide public recreation services for the senior citizens of Fayetteville for 2005.

5. **Solid Waste and Recycling Division Commercial Collection Vehicle Purchase:** A resolution approving the purchase of three (3) front-load commercial collection vehicles for the Solid Waste and Recycling Division from the Downing Sales and Service in the amount of $526,709.61.

6. **Legislative Packet Approval:** A resolution to recommend the approval of the Legislative Packet of the City of Fayetteville.

7. **§34.27 "Sale of Municipally Owned Real Estate" Amendment:** An ordinance to amend §34.27 Sale of Municipally Owned Real Estate to add an exemption for lands acquired pursuant to approved redevelopment project plans.

8. **Sign Appeal Process Clarification:** An ordinance clarifying and streamlining the process of appealing administrative decisions or interpretations regarding signs and granting of variances from the requirements of Chapter 174, Signs, Unified Development Code.

9. **Scull Creek Trail Corridor Development:** A resolution to consider spending as much as $1,000,000.00 of the proceeds from the sale of the Wilson Springs Property in the development of the Scull Creek Trail Corridor.

10. **2004 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2004 fixing the rate therof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City Library, and certifying the same to the County Clerk of Washington County, Arkansas.

11. **AVFUEL Corporation Contract:** A resolution approving a fuel services contract with AVFUEL Corporation to provide aviation fuel, refueler trucks, and other services to the Fayetteville Municipal Airport.

D. PUBLIC HEARINGS:

1. **Cardinal Cab Company; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Cardinal Cab Company for the operation of a taxicab service within the City of Fayetteville, Arkansas.

2. **CTS Airport Shuttle and Limousine Service; Certificate of Public Convenience and Necessity:** A resolution granting a certificate of Public Convenience and necessity to CTS Airport Shuttle and Limousine Service for the operation of a limousine service within the City of Fayetteville, Arkansas.

3. **Tony-C Taxi & Limo Service; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Tony-C Taxi & Limo Co., LLC for the operation of a taxicab and limousine service within the City of Fayetteville, Arkansas.

E. INFORMATIONAL:

Council Tour: December 6, 2004 – 4:30 pm

C-4
Council on Aging
Contract

CONTRACT

Between The City of Fayetteville
and
Council on Aging, Inc.

WHEREAS, the City of Fayetteville has long been associate with and worked with the Council on Aging, Inc. to provide public recreation to the citizens of Fayetteville; and

WHEREAS, the Council on Aging, Inc. has long provided public recreation to the senior citizens of Fayetteville; and

WHEREAS, it remains in the best interest of the City of Fayetteville and its Citizens to provide operating, promotion and development revenues to the Council on Aging, Inc. in consideration for the substantial recreational programs provided by the Council on Aging, Inc. to the senior citizens of Fayetteville.

NOW, THEREFORE, IT IS AGREED:

The City of Fayetteville shall provide the sum of $4,166.66 monthly to the Council on Aging, Inc. throughout the year of 2005 in consideration of the following duties and obligations to be preformed by the Council on Aging, Inc.:

A. The Council on Aging, Inc., shall be responsible for providing staff, programming, promotion, and development for the Hillcrest Towers and Walker Park Community Centers. The Council on Aging, Inc. agrees to use funding from the City to pay for the promotion and development of recreational programs designed specifically for senior citizens.

B. The Council on Aging, Inc. shall to make substantial portions of its programs or facilities available to Fayetteville citizens (the public) at little or no cost for the needy senior citizens. The Council on Aging, Inc. shall report on a quarterly basis the approximate number of Fayetteville citizens served by its programs.

C. The Council on Aging, Inc. shall follow the general Working Procedures and Responsibilities for the City of Fayetteville Parks and Recreation Division and the Council on Aging, Inc. which is attached as Exhibit A, and made a part hereof.

City of Fayetteville

By: _____
DAN COODY, Mayor

Council On Aging, Inc.

By: Janet Limbaugh
Executive Director
Title

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT A

RECREATION IN FAYETTEVILLE

WORKING PROCEDURES AND RESPONSIBILITIES FOR THE CITY OF FAYETTEVILLE PARKS AND RECREATION DIVISION AND THE COUNCIL ON AGING, INC.

This agreement is made and entered into between the City of Fayetteville Parks and Recreation Division (Parks and Recreation) and the Council On Aging (hereinafter COA).

WHEREAS, the parties are two of the providers of recreational programs for the citizens of Fayetteville and wish to define a working agreement which may be revised and modified each year upon mutual agreement between the Superintendent of the Parks and Recreation and the Executive Director of the COA; and,

WHEREAS, it is the goal of both parties to work in cooperation to enhance the recreation facilities and programs offered by the parties and to act together in meeting the needs of the citizens of Fayetteville; and,

WHEREAS, increased communications and a new set of operating procedures will assist with the working relationship and will benefit both agencies and their operations; and,

WHEREAS, Parks and Recreation believes the goals of Parks and Recreation and COA would best be accomplished by defining and streamlining responsibilities and procedures; and, is therefore recommending the merging of facility and program management for all recreation offerings, thereby providing administrative accountability for all services provided to the citizens.

NOW, THEREFORE, in the order to define and improve the current working relationship between Parks and Recreation and COA, the following set of detailed operating procedures and responsibilities are hereby established.

1. COA shall be responsible for providing staffing, programming, promotion and development of recreational programs for senior citizens which includes, but not limited to, recreational trips, arts and crafts, music and games.

2. Parks and Recreation shall be responsible for providing or approving the staffing, programming, maintenance, promotion and development of the parks systems within the city and the recreational events occurring within the city for all ages.

3. The COA Executive Director and Parks and Recreation Director shall have periodic meetings to ensure communication between the two entities.

4. It is understood and agreed that the City's annual purchase of services will be negotiated on a yearly basis.

5. The COA Board of Directors is responsible for the management and operation of annual funding allocation to COA from the City of Fayetteville and shall have the responsibility for prioritizing the use of such funds. However, 75 percent of the funding shall be expended for promotion and development of recreation.

6. COA shall schedule a meeting and submit an annual financial report to the Parks and Recreation Director no more than thirty (30) days after the end of the COA fiscal year, which ends on June 30, 2005. Such report shall detail COA's use of the City of Fayetteville's funding allocation and accomplishment of performance measures as stated in number eight (8).

7. COA shall comply with the schedules and procedures established by the Budget & Research Division of the City of Fayetteville for annual funding requests.

8. Quarterly reports shall be submitted to the Parks and Recreation Director on, or before, the following dates: April 10, July 10, October 10, and January 10 (2006). These reports shall detail the following performance measures:

A. Increase the amount of adult citizens served yearly by five percent.
B. Provide 10 educational/recreational programs at the Community Adult Center and Fayetteville Senior Center.
C. Serve more than 1,000 citizens/participants at the Fayetteville Senior Center and the Community Adult Center at Hillcrest Towers.
D. Provide community education through public relations and marketing by producing a marketing flyer for senior citizens and the general public.

9. The working procedures and responsibilities contained herein shall become effective January 1, 2005.

10. COA shall acknowledge the City of Fayetteville's contribution on general marketing flyers, brochures and other general marketing materials.

City of Fayetteville

By: _____
DAN COODY, Mayor

Council On Aging, Inc.

By: _____

_____
Title

ATTEST:

By: _____
Sondra Smith, City Clerk

C.7
Sign Appeal Process
Clarification

ORDINANCE NO. _____

AN ORDINANCE CLARIFYING AND STREAMLINING THE PROCESS OF APPEALING ADMINISTRATIVE DECISIONS OR INTERPRETATIONS REGARDING SIGNS AND THE GRANTING OF VARIANCES FROM THE REQUIREMENTS OF CHAPTER 174, SIGNS, UNIFIED DEVELOPMENT CODE.

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

Section 1. That §§ 33.290-33.292, City of Fayetteville Code of Ordinances are hereby repealed.

Section 2. That Section §155.01, Unified Development Code, City of Fayetteville Code of Ordinances, is hereby repealed, and Exhibit "A" attached hereto and made a part hereof, is inserted in its stead.

Section 3. That Section §155.02(C)(2), Unified Development Code, City of Fayetteville Code of Ordinances, is hereby repealed, and the following is inserted in its stead:

(2) *Zoning and Development Administrator.* Appeals made to the Planning Commission or Board of Adjustment shall be filed with the Zoning and Development Administrator.

DRAFT

Section 4. That Section §155.06(C)(1), Unified Development Code, City of Fayetteville Code of Ordinances is hereby repealed, and subsections (D) and (E) are to be (C) and (D) respectively.

Section 5. That §155.07, Unified Development Code, City of Fayetteville Code of Ordinances, is hereby repealed, and §155.08 is renumbered to be §155.07, with §§155.08-§155.99 reserved.

Section 6. That subsection (C) of §174.02, Unified Development Code, City of Fayetteville Code of Ordinances, is hereby enacted as follows:

(C) *Appeals of Sign Permit Denials.* All decisions and interpretations of the Zoning and Development Administrator under this Chapter shall be considered final administrative actions for the purpose of the appeals set forth at §155.01.

Section 7. That §156.05, Unified Development Code, City of Fayetteville Code of Ordinances, is hereby repealed, and Exhibit "B" attached hereto and made a part hereof, is inserted in its stead.

PASSED and **APPROVED** this _____ day of _____ 2004

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

EXHIBIT "A"

§155.01 Circuit Court

Unless set forth otherwise below, all appeals from final actions taken by the City Council, Planning Commission, Board of Adjustment, and the Zoning and Development Administrator shall be taken to the Circuit Court of Washington County.

DRAFT

EXHIBIT "B"

156.05 Sign Regulations

Consideration by the Zoning and Development Administrator. The Zoning and Development Administrator shall not grant any variance of Chapter 174, Signs, unless and until an applicant demonstrates:

(A) Special conditions. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or building in the same district.

(B) *Deprivation of rights.* That literal interpretation of the provisions of the sign regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the sign regulations.

(C) *Resulting actions.* That the special conditions and circumstances do not result from the actions of the applicant.

(D) *No special privileges.* That granting the variance requested will not confer on the applicant any special privilege that is denied by Chapter 174, Signs, to other lands, structures, or building in the same district.

(E) *Nonconforming uses.* No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(F) *Time Limitation.* Any variance granted shall automatically be revoked if the applicant does not comply with the terms of the variance within 90 days from the granting thereof; and, the applicant shall be required to comply with the literal provisions of Chapter 174, Signs.

(G) *Prohibited.* The Zoning and Development Administrator shall not permit as a variance any sign the erection of which or the continuance of which is prohibited by Chapter 174, nor shall any variance be granted to allow a greater number of signs than specifically set forth therein.

(H) *Content Neutrality; Restrictions.* The Zoning and Development Administrator shall not take into account the content of any message sought to be displayed on the sign when determining whether to grant a variance. Variances can only be granted for setbacks, area, height, the proposed on-site location of the sign, or other technical requirements, and shall not exceed 15% of the Code requirement.

DRAFT

D. 1

Cardinal Cab

ACORD CERTIFICATE OF LIABILITY INSURANCE

CSR KB
CARDI-1

DATE (MM/DD/YYYY)
11/18/04

PRODUCER

Farris Insurance Agency, Inc.
P.O. Box 345
Springdale AR 72765
Phone: 479-756-6330 Fax: 479-756-9262

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

Cardinal Cab Co
Attn: Harry Robinson
800 N. Jefferson, Suite 3
Springdale AR 72764

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: A/R Liberty Mutual Insurance	
INSURER B:	
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	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
		GENERAL LIABILITY				EACH OCCURRENCE	$
		☐ COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	$
		☐ CLAIMS MADE ☐ OCCUR				MED EXP (Any one person)	$
						PERSONAL & ADV INJURY	$
		GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	$
		☐ POLICY ☐ PRO-JECT ☐ LOC				PRODUCTS - COMP/OP AGG	$
A		AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	$ 75,000
		☐ ANY AUTO	AS1391434856014	06/30/04	06/30/05	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 AUTO ONLY: EA ACC	$
						ACC	$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	$
		☐ OCCUR ☐ CLAIMS MADE				AGGREGATE	$
							$
		☐ DEDUCTIBLE					$
		☐ RETENTION $					$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				☐ WC STATU-TORY LIMITS ☐ OTH-ER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	$
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	$
						E.L. DISEASE - POLICY LIMIT	$
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER

CITYPAY

City of Fayetteville
Fax #479-587-3522
Attn: Tad Scott
113 West 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 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

Steve M. Batchelor

© ACORD CORPORATION 1988

D.2
CTS; Cert.
Of Public Conv.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**
City Council

FROM: **Kit Williams**, City Attorney

DATE: **November 30, 2004**

RE: **Limousine service**

Our newly passed (October 5, 2004) amendment to "Limousine Service" defines such term as:

> "Transportation service over the streets of the city, in a type of automobile commonly referred to as a limousine and having a manufacturer's seating capacity of at least eight persons, including the driver. This definition excludes taxicabs." Fayetteville Code §117.60

Thus, to be a "limousine" in Fayetteville you must not only have a seating capacity of at least eight, but also be what is "commonly referred to as a limousine." When interpreting an ordinance, we follow the same rules as for an interpretation of a statute.

> "In determining the meaning of a statute, the first rule is to construe it just as it reads, giving the words their ordinary and usually accepted meaning in common language." Clemmens v. Office of Child Support Enforcement, 345 Ark. 330, 47 S.W. 3d 227, 234 (2001).

Merriam Webster's Collegiate Dictionary defines "limousine" as follows:

> "**limousine** **1.** a large luxurious, often chauffeur- driven **sedan** that sometimes has a glass partition separating the driver's seat from the passenger compartment **2.** a large vehicle for transporting passengers to and from an airport" (page 674, Tenth Edition) (emphasis added)

Thus, a "limousine" is either a stretch **sedan** or a large vehicle servicing an airport. **A stretch sedan is not a minivan.** The stretch sedan type of limousine can deliver passengers from locations in Fayetteville to other locations in Fayetteville and elsewhere.

A van can be a "limousine" if it is restricted to transporting passengers to and from an airport. However, a van or minivan transporting passengers from one Fayetteville location (not the airport) to another non-airport location would fall outside the normal definition of "limousine."

C.3
Youth Center
Contract

CONTRACT

Between The City of Fayetteville
And
Fayetteville Youth Center, Inc.

WHEREAS, the City of Fayetteville has long been associated with and worked with the Fayetteville Youth Center, Inc. to provide public recreation to the citizens of Fayetteville; and

WHEREAS, the Fayetteville Youth Center, Inc. has long provided public recreation to the youth and citizens of Fayetteville; and

WHEREAS, it remains in the best interest of the City of Fayetteville and its citizens to provide operating, promotion and development revenues to the Fayetteville Youth Center, Inc. in consideration for the substantial recreational programs provided by the Fayetteville Youth Center, Inc. to the youth and citizens of Fayetteville.

NOW, THEREFORE, IT IS AGREED:

The City of Fayetteville shall provide the sum of $20,833.33 monthly to the Fayetteville Youth Center, Inc. throughout the year of 2005 in consideration of the following duties and obligations to be performed by the Fayetteville Youth Center, Inc.:

A. The Fayetteville Youth Center, Inc. shall be jointly responsible with the Fayetteville School System to provide staffing, programming, maintenance, promotion and development for the following facilities: Asbell Gymnasium, Holcomb Gymnasium, Vandergriff Gymnasium and the main facility of the Boys and Girls Club on Rupple Road. The Fayetteville Youth Center, Inc. agrees to use funding from the City to pay for gymnasium supervisors and custodians at these sites.

B. The Fayetteville Youth Center, Inc. shall make a substantial portion of its programs or facilities available to Fayetteville citizens (the public) at little or no cost for needy youth. Although basic membership fees may be required for many Fayetteville residents, no needy youth wishing to participate at the Fayetteville Youth Center, Inc. facility shall be denied access solely because he or she does not have sufficient funds to pay for a regular membership. The Fayetteville Youth Center, Inc. shall report on a quarterly basis the approximate number of Fayetteville Citizens served by its programs and shall include the number of "scholarships" or free memberships provided to Fayetteville citizens.

C. The Fayetteville Youth Center, Inc. shall continue to follow the general Working Procedures and Responsibilities for the City of Fayetteville Parks and Recreation Division and The Fayetteville Youth Center, Inc. which is attached as Exhibit A, and made a part hereof.

CITY OF FAYETTEVILLE

BY: _____
DAN COODY, Mayor

FAYETTEVILLE YOUTH CENTER, INC.

BY: _____
President
Title

ATTEST:

BY: _____
Sondra Smith, City Clerk

EXHIBIT A

RECREATION IN FAYETTEVILLE

WORKING PROCEDURES AND RESPONSIBILITIES FOR THE CITY OF FAYETTEVILLE PARKS AND RECREATION DIVISION AND THE FAYETTEVILLE YOUTH CENTER, INC.

This agreement is made and entered into between the City of Fayetteville Parks and Recreation Division (Parks and Recreation) and the Fayetteville Youth Center, Inc., d/b/a Fayetteville Boys and Girls Club (hereinafter FYC).

WHEREAS, the parties are two of the providers of recreational programs for the citizens of Fayetteville and wish to define a working agreement which may be revised and modified each year upon mutual agreement between the Director of Parks and Recreation and the Executive Director of the Fayetteville Boys and Girls Club; and,

WHEREAS, it is the goal of both parties to work in cooperation to enhance the recreation facilities and programs offered by the parties and to act together in meeting the needs of the citizens of Fayetteville; and,

WHERAS, increase communications and a new set of operating procedures will assist with the working relationship and will benefit both agencies and their operations; and,

WHEREAS, Parks and Recreation believes the goals of Parks and Recreation and FYC would best be accomplished by defining and streamlining responsibilities and procedures; and, is therefore recommending the merging of facility and program management for all recreation offerings, thereby providing administrative accountability for all services provided to the citizens.

NOW, THEREFORE, in order to define and improve the current working relationship between Parks and Recreation and FYC, the following set of detailed operating procedures and responsibilities are hereby established.

1. FYC shall be responsible for working with the Fayetteville School System to provide staffing, programming, maintenance, promotion and development for the following facilities: Asbell Gymnasium, Holcomb Gymnasium, Vandergriff Gymnasium and the Boys and Girls Club. FYC will be responsible for the hiring, evaluating, and supervising of gymnasium supervisors and custodians at Holcomb, Asbell, and Vandergriff Gymnasiums.

2. Parks and Recreation shall be responsible for providing or approving the staffing, programming, maintenance, promotion and development for the city and school parks, including the following facilities which are utilized for sport programming; Asbell Soccer/Softball Complex, Lake Fayetteville Softball Complex, Gary Hampton Softball Complex, Lewis Street Soccer Complex, Walker Baseball/Soccer Complex, White River Baseball Complex, and the Wilson Park Softball Field. Parks and Recreation shall be responsible for outdoor facilities owned or leased by the City of Fayetteville, excluding the property leased to FYC pursuant to written agreements.

3. FYC shall be responsible for providing or approving the management, staffing and promotions and development of the following programs and activities. FYC shall coordinate with the Fayetteville School System for use of their facilities. FYC shall be responsible for the majority of sports and activities held at indoor recreation facilities, including but not limited to the following:

- Basketball
- Baton
- Camps (Environment Study, Spring Break, Christmas Break, Summer)
- Cheerleading
- Dance
- Fishing Rodeo
- Flag Football (Youth)
- Golf
- Gymnastics
- Karate
- Ping Pong
- School Kids Connection
- Swim Lessons
- Volleyball
- Tackle Football
- Track
- Special Events
- FYC shall not compete/duplicate with those services listed in paragraph 4.

4. Parks and Recreation shall be responsible for providing or approving the management, staffing and promotion and development of the following programs and activities. Parks and Recreation shall be responsible for the majority of sports and activities held at outdoor recreation facilities, including but not limited to the following:

- Baseball
- Softball
- Flag Football (Adult)
- Hobby Use Groups
- Sand Volleyball
- Soccer
- Special Events
- Swim Lessons
- Tennis Lessons

5. FYC agrees not to establish a program that competes/duplicates with an established program provided by Parks and Recreation. Moreover, FYC agrees to provide Parks and Recreation with information relating to any of its program including roster of players, coaches, rules of the league and similar relevant data upon request by Parks and Recreation. It is the intent of both parties to work together for the common good of the citizens of Fayetteville by not providing public funding for duplicate program offerings. It is understood that FYC and Parks and Recreation both currently provide swim lessons and aquatic programs and that both parties agree to work together for the common good for both parties.

6. In the event the FYC wishes to allow program which fall in the general description of paragraph 5 above, which does not believe competes with current Parks and Recreation program, FYC shall provide advance notice of intent to start the program to Parks and Recreation with time to determine whether it is a competing program or not. In the event that FYC offers a program that the Parks and Recreation believes is a duplicate program within the meaning of this document, Parks and Recreation Staff shall give FYC written notices of its assessment. FYC shall either cease operating such program within 30 days of such notice or shall provide a written response to Parks and Recreation that disputes whether such program is in fact a competing program. If FYC fails to cease such program or respond to the assessment from Parks and Recreation, the City may discontinue funding for FYC on the 31st day after such notice. If FYC files a dispute, the issue shall be resolved by City Council and finding of City Council shall be final and not subject to appeal. If FYC fails to cease operation of such a program within 30 days of a decision requiring such cessation by City Council, then the City may stop annual funding to FYC.

7. The FYC Executive Director and Parks and Recreation Director shall have periodic meetings to ensure communication between the two entities.

8. It is understood and agreed that the City's annual purchase of services shall be negotiated on a yearly basis.

9. The FYC Board of Directors is responsible for the management and operation of the annual funding allocation to FYC from the City of Fayetteville and shall have the responsibility for prioritizing the use of such funds. However, 75 percent of the funding shall be expended for promotion and development of recreation.

10. As part of the annual funding, FYC agrees to make its facilities available to residents of the City of Fayetteville for a nominal daily fee without the need to purchase a membership to the club.

11. FYC shall schedule a meeting and submit an annual financial report to the Parks and Recreation Director on or before July of each year. Such report shall detail FYC's use of the City of Fayetteville's funding allocation and accomplishment of performance measures as stated below in number 13.

12. FYC shall comply with schedules and procedures established by the Budget and Research Division of the City of Fayetteville for annual funding requests.

13. Quarterly reports shall be submitted to the Parks and Recreation Director on the following dates: April 10, July 10, October 10, and January 10 (2006). These reports will detail the following performance measures:

    A. Provide a minimum of 30 open recreation hours per week at the Donald W. Reynolds Boys and Girls club facilities.
    B. Provide a minimum of 10 youth instructional/educational programs.
    C. Provide a minimum of three youth sports programs.
    D. Provide a minimum of two free community-wide events at the Donald W. Reynolds Boys and Girls club facilities.
    E. Provide marketing materials to Fayetteville school children for major sport programs.
    F. Implement three customer service surveys for Boys and Girls Club programs.
    G. Apply for 10 grants/major corporate sponsorships to provide additional funding to operate the Fayetteville Boys and Girls Club facilities and programs.
    H. Add Parks and Recreation logo to organizational web site and acknowledge the City of Fayetteville on sponsor wall located in the Donald W. Reynolds Boys and Girls Club.

compensation covering all employees of City of Fayetteville and (4) physical damage coverage covering the value of any leased Equipment. Insurance policies shall be issued by insurance companies acceptable to Avfuel (whose acceptance may not be unreasonably withheld), shall name Avfuel, or its subsidiary, as applicable, as an additional insured and/or loss payee, and shall provide for at least thirty (30) days' written notice to Avfuel prior to cancellation or modification. City of Fayetteville shall maintain such policies in full force and effect throughout the term of this Agreement. City of Fayetteville may, if it chooses, apply for this insurance through Avfuel's subsidiary, Avsurance Corporation.

12.2. Avfuel currently maintains an excess aviation products liability policy under which its qualified customers may be named as additional insureds. For so long as Avfuel elects to continue to maintain that insurance and permit City of Fayetteville to be additional insureds, upon the written request of City of Fayetteville and to the extent that City of Fayetteville qualifies for such coverage, City of Fayetteville shall be added as an additional insured under that policy upon payment by City of Fayetteville of any additional premium required by Avfuel's insurer for such coverage. If Avfuel no longer offers this product liability insurance program, or the product liability insurance is no longer free to City of Fayetteville, Avfuel will notify City of Fayetteville with thirty (30) days' written notice of this change or Avfuel's intent to terminate the product liability insurance program.

13. ASSIGNMENT: City of Fayetteville shall not assign its rights or delegate its obligations under this Agreement, in whole or in part, unless with the prior written consent of Avfuel, which consent will not be unreasonably withheld. Any transfer of a controlling interest in City of Fayetteville shall be deemed an assignment requiring the consent of Avfuel.

14. NOTICES: All notices permitted or required under this Agreement shall be in writing. Notices by facsimile shall be deemed "delivered" on the date of confirmed transmission, without error, to the fax number designated in the Summary. Notices by mail shall be deemed delivered three (3) business days following the date deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed to the Party at the address of the principal office. Notices sent by overnight courier shall be effective on the next business day following deposit with the overnight courier for overnight delivery with the delivery fee prepaid, addressed to the Party at the address of the principal office, and with instructions to obtain the signature of the addressee.

15. GOVERNING LAW: This Agreement shall be construed as having been made in the State of Michigan, and all rights and obligations under it shall be governed by the laws of the State of Michigan without regard to its Conflict of Laws provisions. All litigation arising hereunder shall be brought in the State of Michigan, and exclusive jurisdiction shall lie with the courts located in Washtenaw County, Michigan and each Party hereby submits to the exclusive jurisdiction of those courts.

16. SEVERABILITY: In the event that any court of competent jurisdiction shall determine that any provision of this Agreement shall be unenforceable, then that provision shall be deemed to be null and void and the remaining provisions hereof shall remain in full force and effect.

17. ENTIRE AGREEMENT TERMS: This Agreement, including all of its parts, sets forth the entire agreement between Avfuel and City of Fayetteville with respect to the subject matter hereof and there are no other terms or conditions, oral or written, express or implied, relating to or otherwise affecting such subject matter. No term or condition of this Agreement shall be changed, supplemented, cancelled or waived unless in writing and signed by both Avfuel and City of Fayetteville. If Avfuel and City of Fayetteville have, prior to the effective date, been parties to any other agreement relating directly to the sale of Products to City of Fayetteville (a "Prior Agreement"), such Prior Agreement, except for guarantees, shall be superseded as of the effective date and all rights and obligations between Avfuel and City of Fayetteville with respect to the supply of Products from and after the effective date shall be governed by the terms of this Agreement. The terms and conditions of such Prior Agreement shall, however, remain in full force and effect with respect to rights and obligations relating to the supply of Products prior to the effective date and nothing contained in this Agreement shall be construed as terminating or otherwise affecting any such rights or obligations.

CUSTOMER CREDIT PROGRAM:

IN THE EVENT THAT AVFUEL CHOOSES TO DELIVER GOODS OR SERVICES THAT HAVE NOT BEEN PAID FOR IN FULL BY WIRE TRANSFER PRIOR TO THE TIME OF THAT DELIVERY, AVFUEL SHALL BE CONSTRUED AS HAVING EXTENDED CREDIT TO CITY OF FAYETTEVILLE AND THE FOLLOWING TERMS AND CONDITIONS SHALL APPLY.

1. Credit terms may not be used during any period in which the City of Fayetteville is in default of this Agreement. In addition to the provisions of Section 11 of the General Terms and Conditions, for the specific purposes of this City of Fayetteville Credit Program, the City of Fayetteville will be in default if (1) any amount charged to the City of Fayetteville's account is not paid in accordance with the agreed upon payment terms; (2) if and for so long as the City of Fayetteville is in breach of any of its obligations under any Agreement with Avfuel or any of its subsidiaries; or (3) if Avfuel determines that there is any misrepresentation or breach of a warranty by the City of Fayetteville under or with respect to any Agreement with Avfuel. Use of credit is limited to the amount specified in the Special Terms and Conditions of this Agreement. No purchase may be made which would cause the total amount owed under this Agreement to exceed that credit limit.

2. Upon termination of this Agreement, City of Fayetteville shall have no right to credit terms for new purchases, but all obligations incurred prior to the termination, as well as all remedies provided for default or breach, shall survive. If Avfuel, intentionally or unintentionally, permits any purchases on credit after termination, then the terms of this Agreement shall pertain to those charges.

3. Subject to the approval by Avfuel at its offices in Michigan, all purchases by City of Fayetteville for which Avfuel does not receive payment at or prior to the time of delivery to City of Fayetteville shall be charged as principal to City of Fayetteville's account. Avfuel may require City of Fayetteville or City of Fayetteville's authorized representative, as a condition of delivery or at any time thereafter, to give receipt for all deliveries in writing and to sign sales slips and other documents in Avfuel's opinion necessary to record or substantiate any or all transactions resulting in a charge to City of Fayetteville's account.

4. Avfuel shall invoice City of Fayetteville for all Fuel products delivered to City of Fayetteville or to City of Fayetteville's designees. Invoices shall include the selling price of the product delivered, taxes, duties, and any other charges as separate line items. Invoices are payable on or before that due date specified in the invoice. Unless otherwise determined by Avfuel in its discretion, all payments received will be applied by Avfuel (subject to collection of remittance if other than cash) first to interest, if any, accrued on City of Fayetteville's account, then to the unpaid principal balance owed upon such account in direct calendar order of due date. City of Fayetteville agrees to pay to Avfuel upon demand a fee of $50.00 for each check, draft or other form of remittance that is not honored by the drawee upon due presentment by Avfuel or its agents. From time to time, Avfuel may send City of Fayetteville a statement of City of Fayetteville's account for City of Fayetteville's information showing in summary, or in such detail as Avfuel may deem appropriate, current transactions Avfuel posted to City of Fayetteville's account to date thereof, the amount of interest (if any) which has accrued, and the balance owing thereon; however, the failure of Avfuel to furnish any such statement shall not relieve City of Fayetteville of the obligation to make payment against invoices when due in accordance with the other terms of this Agreement. City of Fayetteville agrees to review all statements promptly after receipt, and shall have fifteen (15) days from date of receipt to notify Avfuel in writing of any discrepancies. If no such notice is given, such statement shall be conclusively presumed correct.

5. In the event that any invoice is not paid in full by the due date stated therein, the unpaid amount of the invoice shall bear interest until paid at the lower of 18% per annum or the highest rate which may lawfully be contracted for, charged and received according to applicable law for business purchases at the time of delivery. Notwithstanding anything in this Agreement to the contrary, City of Fayetteville shall never be obligated to pay and Avfuel shall never be entitled to receive any interest upon any indebtedness incurred by City of Fayetteville pursuant hereto in excess of the maximum contract rate of interest authorized by applicable law for business purposes, and it is expressly understood and agreed that if Avfuel shall render any charge for the payment of usurious interest, such charge shall be automatically and unconditionally reduced to the maximum non-usurious amount, and the excess, if paid, shall be applied as credit to City of Fayetteville's account. If such application results in a credit balance in City of Fayetteville's said account, such balance shall be refunded to City of Fayetteville or applied to the next due amount in such account as City of Fayetteville shall direct.

6. If, at any time during the term of this Agreement, the financial responsibility of City of Fayetteville becomes impaired or unsatisfactory to Avfuel, in the sole judgment of Avfuel, Avfuel, effective immediately upon delivery of Notice to City of Fayetteville, may require the advance cash payment or other security satisfactory to Avfuel for any shipment of fuel and shipment may be withheld until such payment or security is received.

7: For the purpose of securing a payment of all indebtedness of City of Fayetteville to Avfuel from time to time outstanding (including, without limitation, any amounts due under this Agreement or any other agreement or instrument between Avfuel and the City of Fayetteville) grants to Avfuel a purchase money security interest in and to all of City of Fayetteville's inventory of aviation fuels and other products of similar type or description as are purchased from Avfuel, and all accounts, contract rights and other proceeds from such inventory, whether now owned or hereafter acquired. City of Fayetteville warrants that the purchase money security interest granted herein is and shall remain superior to any other security interests granted by City of Fayetteville to any other entity. For so long as this Agreement is in effect, all of City of Fayetteville's inventory of aviation fuels will be presumed to be merchandise purchased pursuant to the Agreement and subject to the purchase money security interest granted by this Agreement. City of Fayetteville hereby authorizes Avfuel to sign and record all financing statements and other instruments which Avfuel may reasonably require in order to create, perfect and continue in force said security interest and first priority lien. City of Fayetteville authorizes Avfuel to file a true copy of this Agreement in lieu of any financial statement. The rights and obligations of Avfuel and the City of Fayetteville under and with respect to the security interest and first priority lien created by this Section shall be interpreted in accordance with the Uniform Commercial Code in effect in the state of the Billing Address of the City of Fayetteville as stated in the Summary.

8. THIS PARAGRAPH APPLIES ONLY TO THOSE PERSONS WHO'S SIGNATURES APPEAR AS GUARANTORS ON THE SIGNATURE PAGE OF THIS AGREEMENT. PERSONS SIGNING AS GUARANTORS SHALL BE CONSTRUED AS PERSONAL GUARANTORS REGARDLESS OF ANY OTHER DESIGNATION. In consideration of the extension of credit by Avfuel to City of Fayetteville, each of the parties signing as Guarantors on the signature page of this Agreement agrees to guarantee the prompt payment of all amounts owed to Avfuel by City of Fayetteville whether such amounts are existing at the time that this Guarantee is signed or are incurred at any time during the life of this Guarantee. Avfuel may demand payment from a Guarantor under this Guarantee at any time that it deems itself insecure with respect to any amount owed by City of Fayetteville. Each Guarantor hereby waives notice of acceptance of this Guarantee by Avfuel, notice of default by City of Fayetteville, and all other notices that the Guarantor may otherwise be entitled to receive. Failure on the part of Avfuel to give any such notice shall not discharge any obligation of any Guarantor under this Guarantee. Each Guarantor also hereby waives any requirement that Avfuel proceed against City of Fayetteville before making a demand for payment hereunder, and agrees to pay all attorney's fees and court costs incurred by Avfuel in the enforcement of its rights hereunder. This is a continuing Guarantee and shall not be revoked by the death of any individual party or by the dissolution of any corporate party or any other entity that is a party hereto, and shall remain in force until Avfuel receives written notice to extend no further credit to City of Fayetteville on the security of this Guarantee. Such notice shall not discharge any obligation of any Guarantor as to any then existing indebtedness or obligation of City of Fayetteville arising out of a transaction that took place prior to the receipt of such notice, regardless of the time for determination, maturity, or performance thereof. Each Guarantor agrees to provide periodic statements of financial condition to Avfuel upon request. This Guarantee shall survive the termination of this Agreement until all amounts due Avfuel under this Agreement have been paid in full.

BRAND PROGRAM:

IF CITY OF FAYETTEVILLE HAS ELECTED TO PARTICIPATE IN AVFUEL'S BRAND PROGRAM, THE FOLLOWING WILL APPLY.

1. City of Fayetteville has been invited and has elected to participate in Avfuel's Brand Program. Accordingly, Avfuel hereby licenses City of Fayetteville as a dealer ("Branded Dealer") to use Avfuel's Brand Names and Trademarks subject to the provisions set forth herein.. All trade names, trademarks, service marks, logos and other commercial symbols that Avfuel either owns or has the right to sub-license (the "Intellectual Property") shall be and remain the property of Avfuel. Further all signs, decals, graphic materials and other tangible property supplied by Avfuel which bear or are imprinted with any of the Intellectual Property or are used to imprint or display the same (the "Branded Property") and all replacements thereof shall be and remain the property of Avfuel. Any use of the Intellectual Property or the Branded Property by the City of Fayetteville otherwise than as expressly authorized by this Agreement is hereby expressly prohibited. Upon termination of City of Fayetteville's participation in the Brand Program City of Fayetteville shall, at its expense, de-install and return to Avfuel all salvageable signage and return or destroy all other items that identify City of Fayetteville as a branded Avfuel dealer.

2. Avfuel agrees to supply to City of Fayetteville, for City of Fayetteville's use and possession during the term of this Agreement such signs, decals, credit card imprinters and other graphic materials as Avfuel deems necessary in order to identify City of Fayetteville as an Avfuel Branded Dealer. Unless otherwise agreed in writing, Avfuel will bear all costs of such materials. City of Fayetteville agrees to honor all Avfuel charge cards, subject to the provisions of the Credit and Charge Card Acceptance Program set forth below, during City of Fayetteville's participation in Avfuel's Brand Program.

3. City of Fayetteville shall be responsible for obtaining all necessary permits and for installation of all Branded Property including (without limitation) all electrical and other connections, and shall make sure that all installations shall comply with all brand specifications and with all applicable state and local codes, ordinances and governmental regulations (if any). Unless otherwise agreed in writing, the City of Fayetteville will bear all costs of installation. No signage shall be installed so as to become a fixture upon real property. The use of color schemes and Intellectual Property painted on facilities and equipment owned by City of Fayetteville or others and used in the conduct of City of Fayetteville's business, shall comply with particular and displayed specifications. City of Fayetteville shall be responsible for maintenance and upkeep of Branded Property and Paint-ons, and agrees to keep and maintain the same at all times in a good, clean, safe, operative and first class condition, neatly painted and displayed. If any of such installation or maintenance is performed by Avfuel, City of Fayetteville agrees to remit upon demand all costs thereof, including (without limitation) all expenditures for labor, materials and the like. If any Branded Property is damaged, lost or destroyed while in City of Fayetteville's use, possession or control, or if City of Fayetteville shall deliver any of such property to anyone not herein expressly authorized to use or possess it, City of Fayetteville agrees to repair, recover or replace such property forthwith, at City of Fayetteville's expense.

4. City of Fayetteville shall keep all Branded Property insured at all times against loss, theft, fire or physical damage, up to the full replacement cost thereof, designating Avfuel as the loss payee. The City of Fayetteville shall pay when due all personal property taxes and assessments assessed against the Branded Property and shall neither suffer nor permit any lien or encumbrance or any attachment against any of such Branded Property.

5. City of Fayetteville agrees that it will not use or display any Branded Property or Intellectual Property: (1) in a manner which causes or is calculated to cause confusion among patrons of City of Fayetteville or the general public as to the type, characteristics, quality, manufacture or sponsorship of any fuel or other product which City of Fayetteville offers for sale; (2) for the purpose of selling or promoting the sale of aviation fuel other than fuels supplied by Avfuel; or (3) for the purpose of selling or offering for sale any product which has been diluted or adulterated, whether intentionally or not. City of Fayetteville further agrees that it will at all times maintain its facilities and conduct its operations in compliance with those standards and procedures established from time to time by Avfuel and applicable to aviation fixed base operators displaying any of the Intellectual Property. Such standards and procedures may include (without limitation) image quality standards for the brand displayed, quality control and refueling procedures for products bearing such brand, and standards for services offered and facilities utilized by City of Fayetteville in conjunction with such products. Avfuel may, but shall be under no obligation to conduct periodic tests and inspections as it may deem appropriate to evaluate compliance with this Agreement. Copies of all test and inspection reports shall be given to City of Fayetteville. It is expressly understood that the purpose of any such tests or inspections is to assist City of Fayetteville in complying with the standards set for a Branded Dealer. By performing such tests or inspections Avfuel assumes no responsibility for City of Fayetteville's failure to comply with the Standards or for safety hazards, latent or patent, created or maintained by City of Fayetteville. If Avfuel determines, in its sole discretion, that City of Fayetteville is or has violated this provision, then Avfuel may suspend or terminate City of Fayetteville's right to use Avfuel's Brands and or Trademarks.

Avfuel reserves the right to amend, suspend, or terminate the program at any time. City of Fayetteville may withdraw from this Program upon 60 days Notice to Avfuel. See Section 14 of the General Terms and Conditions regarding Notices. Termination of City of Fayetteville's participation in this Program shall not be construed as terminating the Agreement or City of Fayetteville's participation in another Program.

AVTRIP PROGRAM:

IF CITY OF FAYETTEVILLE HAS ELECTED TO PARTICIPATE IN AVFUEL'S AVTRIP PROGRAM, THE FOLLOWING WILL APPLY.

1. City of Fayetteville has been invited and has elected to participate in Avfuel's AVTRIP Program a marketing incentive program intended to reward pilots who choose to purchase fuel and services from participating Avfuel dealers.

2. City of Fayetteville will:

2.1. Use its best efforts to enroll pilots in the AVTRIP Program;

2.2. Award all participating pilots two AVTRIP Points for each U.S. gallon of fuel purchased from City of Fayetteville and, at City of Fayetteville's discretion, a minimum of one point for each U.S. dollar, or part thereof, spent by a participating pilot for parts and services at City of Fayetteville's facilities;

2.3. Pay to Avfuel, by deduction from amounts due to City of Fayetteville or in cash if no amounts are due City of Fayetteville, $ 01 for each AVTRIP point awarded;

2.4. Maintain complete records of all points earned by participating pilots;

2.5. Train its personnel in the operation of the AVTRIP Program, and prominently post written materials relating to AVTRIP in and around its facilities in order to encourage pilot participation in the program; and

2.6. Promptly send all enrollments to Avfuel so that the enrollee can be added to the list of AVTRIP participants. Not less frequently than every two weeks, City of Fayetteville will send Avfuel copies of all records pertaining to points earned by pilots that have not been previously reported via POS transmission, and remit to Avfuel all sums due hereunder.

3. Avfuel will:

3.1. Act as the administrator of the AVTRIP Program; and

3.2. Include the AVTRIP Program in its local, national and international marketing and advertising efforts as it deems appropriate to encourage pilot participation in the AVTRIP Program.

4. The price charged to any pilot for fuel, parts or service shall not be based on whether a pilot participates in the AVTRIP Program.

5. Avfuel reserves the right to amend, suspend, or terminate the AVTRIP Program at any time. Avfuel also reserves the right to terminate any individual's participation at any time for misuse of the AVTRIP card, violation of the rules of the program, or inactivity for a period of 12 consecutive months. City of Fayetteville may withdraw from this Program upon 90 days Notice to Avfuel. See Section 14 of the General Terms and Conditions regarding Notices. Termination of City of Fayetteville's participation in this Program shall not be construed as terminating the Agreement or City of Fayetteville's participation in any other program.

CREDIT AND CHARGE CARD ACCEPTANCE PROGRAM:

IF CITY OF FAYETTEVILLE HAS ELECTED TO PARTICIPATE IN AVFUEL'S CREDIT CARD ACCEPTANCE PROGRAM, THE FOLLOWING WILL APPLY.

1. City of Fayetteville has been invited and has elected to participate in Avfuel's Credit and Charge Card Acceptance Program. Accordingly, City of Fayetteville may honor any valid credit or charge card listed in the most current Accounts Receivable Discounts Schedule ("ARDS") issued by Avfuel ("Acceptable Cards") for the purchase of products and services if the purchase has been specifically approved by Avfuel. Avfuel's ARDS is subject to change upon five (5) days prior written notice.

2. City of Fayetteville may also choose to participate in the Avfuel Honor All Program. The Honor All Program permits City of Fayetteville to extend credit to any customer that has a billing address within the United States or its Territories or Canada and that presents a valid credit card from any nationally recognized oil company on Avfuel's approved Honor All list if: (1) City of Fayetteville does not have a merchant agreement with the issuer of the card or any processor of such accounts other than Avfuel; and (2) the purchase has been specifically approved by Avfuel. The discount schedule for Honor All transactions will generally be higher than the discounts applied under the ARDS. If City of Fayetteville chooses to participate in the Honor All program, then all Honor All invoices must contain the current telephone number and current billing address of both the cardholder and the Authorized User, and City of Fayetteville shall inform the presenter that cardholder will be billed directly by Avfuel and not by the card issuer. Honor All transactions are limited to a total of $250 for miscellaneous services such as tie downs, catering, aircraft storage, pilot supplies, charts, repairs and other services, and to an aggregate total of $2,000.00 for a single transaction.

3. City of Fayetteville shall prepare a voucher for each credit card, charge card or Honor All transaction and shall promptly submit those vouchers to Avfuel. The term "voucher" means a machine imprinted credit card slip or other written record of a credit sale in form acceptable to Avfuel that has been fully completed by City of Fayetteville manually or electronically by a Point of Sale (POS) machine in accordance with the instructions contained in the then current edition of Avfuel's manual and signed by the Authorized User. If the voucher is prepared manually, the City of Fayetteville is responsible to make sure that the voucher is complete and legible. The City of Fayetteville is also responsible for making sure that the card presented is not expired and that the person signing the voucher is an Authorized User. If imprinted and hand written amounts on invoices do not agree the lesser amount shall be presumed to be correct. City of Fayetteville shall make a manual imprint of all cards electronically processed but requiring that the card number be entered manually, in order to prove that the card was present at the time of sale. "Promptly" means, in the case of POS transmissions, batches should be submitted at least once per day and by 11:00 PM Central Time but in no case any less frequently than once every 72 hours, and in the case of manually prepared vouchers, weekly, but not later than ten days after transaction date. City of Fayetteville must keep copies of vouchers and summaries for a period of seven (7) years and supply Avfuel with duplicates if requested

4. Upon receipt from City of Fayetteville of a properly prepared voucher together with any necessary summaries thereof on forms prescribed by Avfuel, Avfuel shall remit to City of Fayetteville or, as Avfuel may elect, credit City of Fayetteville's fuel purchase account with Avfuel, in an amount equal to the total face amount of all such vouchers less such discounts as applicable according to Avfuel's then current ARDS or the Honor All discount schedule, and any fees for AVTRIP point awards.

5. City of Fayetteville acknowledges receipt of, and agrees to observe, Avfuel's current instructions for recording and processing credit transactions. Avfuel reserves the right to amend any and all instructions and to add new instructions from time to time, and City of Fayetteville agrees to be bound by all such amendments and new instructions. Avfuel also reserves the right to issue new or revised forms, POS equipment, software and imprinters from time to time, and to issue instructions regarding their use to be effective upon five (5) days prior written notice.

6. City of Fayetteville shall be solely liable and responsible for remittance of all taxes to the proper authorities regardless of whether charged to purchaser. Avfuel does not assume responsibility for the payment of any tax applicable to sales or other transactions resulting in credit card accounts receivable and City of Fayetteville shall defend, indemnify and hold harmless Avfuel from any such claims.

7. Without limiting the generality of other provisions of this Agreement pertaining to charge backs, it is specifically understood and agreed that Avfuel may decline to accept or, if accepted, may subsequently charge back to City of Fayetteville any voucher:

7.1. Where any of the required information is omitted or illegible;

7.2. That is imprinted or processed with an expired credit card;

7.3. Covering a purchase not authorized by the cardholder or involving fraud or any misuse of a credit card by the purchaser with or without City of Fayetteville's knowledge;

7.4. Covering a transaction that has not been authorized by Avfuel or does not carry a valid authorization code;

7.5. Covering a transaction or series of related transactions (constituting in the reasonable opinion of Avfuel a single sale transaction) the aggregate face amount of that exceeds any of the single sale limitations to which the parties hereto may agree;

7.6. That becomes the subject of a dispute between City of Fayetteville and purchaser;

7.7. Where the Authorized User has not received his copy of the voucher;

7.8. For which City of Fayetteville has received or will receive any payment or reimbursement from any person other than Avfuel;

7.9. Where City of Fayetteville has granted any right of ownership or security interest to any person other than Avfuel unless the invoice is accompanied by a written waiver of such interest;

7.10. Presented by City of Fayetteville to Avfuel more than ten (10) days after the transaction date;

7.11. If the transaction occurred after the date of expiration or termination of this Agreement;

7.12. Created by any person other than City of Fayetteville, or in any transaction other than a transaction in which City of Fayetteville has sold merchandise or services to a purchaser presenting his credit card for use in payment therefor;

7.13. For Honor All transactions, bearing a billing address for the cardholder or Authorized User that is outside the territorial limits of the United States or the Dominion of Canada;

7.14. Representing Honor All transactions not paid by the cardholder within ninety (90) days after assignment to Avfuel;

7.15. That are charged back to Avfuel by a card issuer for any reason at all; or

7.16. That in any other manner does not conform to this Agreement or with Avfuel's instructions for recording and processing credit card transactions.

8. In the event that a charge back exceeds the credit balance in City of Fayetteville's fuel purchase account then carried by Avfuel, City of Fayetteville agrees to pay such amounts within thirty (30) days after notice that such amounts are due. Upon reimbursement, title to the subject voucher and all indebtedness represented thereby shall pass to City of Fayetteville. If any funds come into Avfuel's possession for any voucher that has previously been charged back to City of Fayetteville, Avfuel will promptly credit the full amount thereof to City of Fayetteville's account. Avfuel's charge back rights and rights of recourse against City of Fayetteville shall survive the termination of this Agreement.

9. Cash advances may not be charged on any card. Lessons, aircraft rental, charters, and aircraft parts and accessories not incorporated in repairs or mounted upon the aircraft may not be charged under the Honor All program. A single sale to any one purchaser resulting in one or more than one credit card voucher shall be specifically limited to quantities of fuel and lubricants not greater than the useful capacity of the aircraft, and shall only include fuels from stocks delivered by and purchased from Avfuel.

10. From time to time, Avfuel will send City of Fayetteville a Credit Card Remittance Summary for City of Fayetteville's information showing in such detail as Avfuel may deem appropriate the transactions and amounts that have been credited to City of Fayetteville's account or paid to City of Fayetteville during the period since the last report. The failure of Avfuel to furnish any such Report shall not relieve City of Fayetteville of any obligations hereunder. City of Fayetteville agrees to review all such Reports promptly after receipt. In any event, City of Fayetteville shall be solely responsible for making sure that it has received proper payment for each transaction submitted. City of Fayetteville shall have forty-five days (45) days from the date of a transaction to provide Avfuel Notice that the transaction has not been properly accounted for or that payment has not been received. If no such notice is given, such transaction shall be conclusively presumed to have been settled and closed.

11. Avfuel reserves the right to amend, suspend, or terminate the program at any time. City of Fayetteville may withdraw from this Program upon 60 days Notice to Avfuel. See Section 14 of the General Terms and Conditions regarding Notices. Termination of City of Fayetteville's participation in this Program shall not be construed as terminating the Agreement or City of Fayetteville's participation in any other Program.

CONTRACT FUEL DEALER PROGRAM:

IF CITY OF FAYETTEVILLE HAS ELECTED TO PARTICIPATE IN AVFUEL'S CONTRACT FUEL DEALER PROGRAM, THE FOLLOWING WILL APPLY.

1. City of Fayetteville has been invited and has elected to participate in Avfuel's Contract Fuel Dealer Program (the "CFD Program"). Accordingly, City of Fayetteville agrees to sell and deliver to clients who participate in Avfuel's Contract Fuel Program (the "CFCs" or a CFC" as the context may require) aviation fuel supplied by Avfuel and other products and services supplied by the City of Fayetteville. A CFC is a person or entity that has executed a Contract Fuel User's Agreement with Avfuel or that is specifically authorized in writing, in accordance with authorization procedures established from time to time by Avfuel, to purchase aviation fuel and other products and services. The City of Fayetteville will secure authorization from Avfuel before completing a sale to a CFC and the failure to obtain such authorization may result in Avfuel's dishonor of the invoice for that sale.

2. Subject to agreement between City of Fayetteville and Avfuel, Products supplied hereunder shall be supplied from either Avfuel inventory on site or from City of Fayetteville inventory. If, as a convenience to City of Fayetteville, Avfuel maintains inventory at City of Fayetteville's facility then City of Fayetteville agrees to the following: a) City of Fayetteville shall measure Avfuel's inventory and reconcile that inventory at least monthly. Reconciliation reports, in a form satisfactory to Avfuel, shall be delivered to Avfuel no later than the 5th day following the end of each month. b) Gains and losses shall be allocated proportionally to the parties sharing the storage facility based on receipts of fuel during the month and losses shall be limited to no more than ¼% of total receipts for per annum. Book inventory shall be adjusted to coincide with actual inventory each month. c) Unless the Products are contaminated by an act or omission of Dealer, Avfuel will be liable if the Products do not conform to specifications. If the Products are supplied from the City of Fayetteville's inventory, the City of Fayetteville will be liable if the Products do not conform to specifications. d) City of Fayetteville shall maintain Avfuel's inventory level in accordance with Avfuel's guidelines and shall specify when ordering fuel whether that fuel is for City of Fayetteville's or Avfuel's inventory (which is subject to approval by Avfuel).

3. Under the CFD Program, all aviation fuel delivered by the City of Fayetteville to a CFC will be deemed sold by Avfuel and will be at the prices and terms independently established between Avfuel and the CFC. If Avfuel maintains an inventory of aviation fuel at the City of Fayetteville's facilities, then aviation fuel supplied by the City of Fayetteville to CFCs will be drawn from Avfuel's inventory. If Avfuel does not maintain an inventory of aviation fuel at the City of Fayetteville's facilities, then aviation fuel supplied to a CFC is drawn from the City of Fayetteville's inventory and Avfuel will account for that aviation fuel by issuing a credit to the City of Fayetteville equal to the City of Fayetteville's cost for that aviation fuel, including applicable taxes, based upon the City of Fayetteville's cost for the last load of aviation fuel purchased from Avfuel prior to the date of supply to the CFC.

4. The charges for all aviation fuel supplied to the CFC will be payable solely to Avfuel. Avfuel will be responsible for collecting and remitting any taxes imposed thereon by any local, state or federal taxing authority. Avfuel will invoice and collect those charges and taxes from the CFC.

5. In all sales of aviation fuel drawn from Avfuel's inventory, title to that aviation fuel will be retained by Avfuel until the point in time that the aviation fuel enters into the aircraft of the CFC, at which point in time title will pass to the CFC. In all sales of aviation fuel drawn from City of Fayetteville's inventory, title to that aviation fuel will be retained by the City of Fayetteville until the point in time that the aviation fuel enters into the aircraft of the CFC, at which point in time title will pass instantaneously first to Avfuel and then to the CFC. The risk of loss or contamination of aviation fuel will be borne at each point in time by the party who or which holds title to that aviation fuel at that point in time. If, while Avfuel holds title, any aviation fuel is lost or contaminated as a result of the acts or omissions of the City of Fayetteville, then the City of Fayetteville will be liable to Avfuel for that loss or contamination.

6. If the City of Fayetteville provides any services or products other than aviation fuel to the CFC for which a fee is charged, such other products and services will be deemed sold by the City of Fayetteville and will be at the City of Fayetteville's normally established rates. Such other products may include, without limitation, lubricants, spare parts, food and other amenities. Such other services may include, without limitation, flowage fees, tie-down services, into-wing services, catering services and similar services that expedite deliveries and facilitate arrangements for the CFC. No cash advances will be permitted as "other products or services". The City of Fayetteville will supply all such other products or services as an independent contractor to the CFC and not as an agent or a subcontractor of Avfuel.

7. All other products and services that are supplied by City of Fayetteville to CFCs will be provided in accordance with procedures and quality standards that are commercially reasonable and that comply with all legal requirements in the jurisdiction where the City of Fayetteville's facilities are located. City of Fayetteville will be solely liable if such other products and services do not conform to such standards, procedures or requirements.

8. The charges for all other products and services supplied by the City of Fayetteville to the CFC will be payable solely to the City of Fayetteville. The City of Fayetteville will be responsible for collecting and remitting any taxes imposed thereon by any local, state or federal taxing authority. City of Fayetteville may directly invoice and collect such charges from the CFC.

Alternatively, at the City of Fayetteville's option, City of Fayetteville may assign to Avfuel for collection the account receivable from the CFC for other products and services supplied by the City of Fayetteville (a "CFC Receivable"). If the City of Fayetteville assigns a CFC Receivable to Avfuel, then Avfuel will issue a credit to the City of Fayetteville's account for the amount of that CFC Receivable and Avfuel will thereafter invoice, collect and retain those charges from the CFC.

9. Any fees for any services supplied by the City of Fayetteville in the delivery of aviation fuel to a CFC, including, without limitation any flowage fees or into-wing fees, will be earned by the City of Fayetteville only after it has completed delivery of the entire load of aviation fuel into the aircraft of the CFC and title to that aviation fuel has passed to the CFC. Initial into-wing fees are established in the Special Terms and Conditions and City of Fayetteville may change those fees upon seven (7) days written notice to Avfuel.

10. City of Fayetteville will generate a written record (a "Ticket") of all aviation fuel supplied to a CFC at the City of Fayetteville's facility. Each Ticket will include the following information: the CFC's name; the authorization number; pilot's name; aircraft registration number; flight or ID number provided by the CFC if applicable, transaction date(s); and type and quantity of fuel products provided, as measured in U.S. gallons. In addition, if the City of Fayetteville assigns to Avfuel the CFC Receivable for other products and services supplied by the City of Fayetteville to the CFC, the City of Fayetteville will include in the Ticket the type and quantity of such other products or services and the charges payable by the CFC for such other products or services. Any charges for such other products or services must be separately stated and clearly identified as fees charged by the City of Fayetteville that are separate from and independent of the amounts charged by Avfuel for aviation fuel. The pilot or other responsible representative of the CFC shall sign and be given a copy of the completed Ticket.

11. The Ticket (or all information required to be shown on the Ticket) for each sale to a CFC shall be delivered to Avfuel by POS Transmission or facsimile within twenty-four (24) hours following the completion of that sale. The original Tickets shall be kept on file by City of Fayetteville for a period of five (5) years from the invoice date and will be sent to Avfuel upon request. Avfuel will from time to time provide City of Fayetteville with instructions for processing these transactions and may provide the forms for doing so. Avfuel reserves the right to change these procedures upon seven (7) days written notice to City of Fayetteville.

12. The total amount due with respect to each Ticket shall be paid or credited to City of Fayetteville's by Avfuel within 10 days following Avfuel's receipt of the Ticket.

13. Except as provided herein, all Tickets will be accepted by Avfuel without recourse. The exceptions are: a) City of Fayetteville warrants the validity of all charges, and any charge that is disputed by the CFC, correctly or incorrectly, on grounds that the charge is invalid or inaccurate or that the aviation fuel, products or services supplied were unsatisfactory may be charged back to City of Fayetteville at Avfuel's option; b) charges not previously authorized by Avfuel may be charged back to City of Fayetteville at Avfuel's option; and c) any Ticket that is incomplete, illegible, or is otherwise not prepared in accordance with Avfuel's processing instructions may be charged back to City of Fayetteville at Avfuel's option.

14. Avfuel reserves the right to amend, suspend, or terminate the CFD Program at any time. City of Fayetteville may withdraw from the CFD Program at any time upon 60 days Notice to Avfuel. See Section 14 of the General Terms and Conditions regarding Notices. Termination of City of Fayetteville's participation in this Program shall not be construed as terminating the Agreement or City of Fayetteville's participation in any other Program.

AVSURANCE PRIMARY COMMERCIAL INSURANCE PROGRAM:

IF CITY OF FAYETTEVILLE HAS ELECTED TO PARTICIPATE IN THE AVSURANCE PRIMARY COMMERCIAL INSURANCE PROGRAM, THE FOLLOWING WILL APPLY.

1. City of Fayetteville has been invited to, and has elected to, participate in the Avsurance Primary Commercial Insurance Program.

2. City of Fayetteville agrees to file an application and request for a quote for all insurance policies related to its aviation business. All price quotes from Avsurance contain Avsurance proprietary information, are confidential, and may not be disclosed to any person other than employees and agents of City of Fayetteville with a bona fide need to have such information and that have signed a non-disclosure agreement that is satisfactory to Avsurance.

3. City of Fayetteville may accept or reject any quote for an individual policy, and the acceptance of any specific quote shall not be conditioned on the acceptance of any other quote.

4. Upon City of Fayetteville's acceptance, Avsurance will bind the coverage and have the policy issued in due course.

5. Avfuel reserves the right to amend, suspend, or terminate the program at any time. Termination of this Program shall not be construed as terminating the Agreement or City of Fayetteville's participation in any other Program.

EQUIPMENT LEASE:

IF CITY OF FAYETTEVILLE HAS ELECTED TO PARTICIPATE IN AVFUEL'S EQUIPMENT LEASING PROGRAM, THE FOLLOWING WILL APPLY.

1. City of Fayetteville has elected to participate in Avfuel's Equipment Lease Program. Accordingly, Avfuel, either for its own account or through one of its subsidiaries, agrees to deliver and lease the equipment identified in the Special Terms and Conditions (the "Equipment") at the lease rates shown in the Special Terms and Conditions to City of Fayetteville for its sole use. All additional equipment or replacement equipment delivered to City of Fayetteville but not listed in the Special Terms and Conditions shall also constitute Equipment subject to the provisions of this section. For example, City of Fayetteville may lease POS equipment from Avfuel at the then current lease price. City of Fayetteville hereby agrees to pay Avfuel in advance the monthly lease payments prorated for any partial month. Avfuel may increase the rent during the term of the Lease upon 30 days written notice. City of Fayetteville shall be permitted to notify Avfuel within the first 15 days of that notice period of its intention to terminate the lease effective on the date that the increase goes into effect. If Avfuel rescinds the rate increase, the lease shall continue in effect at the then current rates. If it does not rescind the increase, the lease shall expire on the date the increase goes into effect. Unless otherwise agreed, the term of the lease of each item of Equipment (a "Lease") shall correspond to the term of this Agreement.

2. City of Fayetteville shall inspect the Equipment and shall make a written note as to any defects that are observed. A copy of all such notes shall be faxed to Avfuel within forty eight (48) hours of delivery. Upon termination of a Lease, City of Fayetteville shall return the Equipment, freight prepaid to Avfuel's place of business in Ann Arbor, Michigan in as good condition as when City of Fayetteville received it, normal wear and tear accepted. Failure to return the Equipment shall be deemed a breach of this Agreement and City of Fayetteville will be billed for necessary repairs and the replacement of missing equipment.

3. Avfuel warrants that it has all necessary rights to lease said Equipment to City of Fayetteville. Further, the parties agree that as between themselves, Avfuel has title to the Equipment and City of Fayetteville shall keep the Equipment free of liens and shall not do or permit anything to be done that will prejudice the title of Avfuel, or it's rights in the Equipment. Each item of Equipment shall bear a legend denoting it as the property of Avfuel and City of Fayetteville shall not remove or deface that legend under any circumstances. City of Fayetteville also agrees and understands that Avfuel may file such evidence of its ownership of the equipment as may be necessary in the state where the equipment is located. **AVFUEL MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, REGARDING DEFECTS IN MATERIAL, WORKMANSHIP, DESIGN, CAPACITY, MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR ANY PURPOSE, OR WHICH EXTEND BEYOND THE DESCRIPTION OF THE EQUIPMENT THAT APPEARS IN THE SPECIAL TERMS AND CONDITIONS.**

4. Any of the Equipment that is used to store or transport Products shall be used solely for storing or transporting Products supplied to City of Fayetteville under this Agreement. The Equipment shall not be moved from the facility to which it was delivered nor operated on any public road without the prior written consent of Avfuel. City of Fayetteville will comply with all laws, ordinances and regulations applicable to the possession, operation or use of the Equipment and will demonstrate compliance upon request.

5. The maintenance obligations with regard to the Equipment are as follows.

5.1. Except as set forth in Section 5.2 below, City of Fayetteville will maintain the Equipment in as good a condition as it was on the day of delivery, normal

wear and tear excepted. City of Fayetteville shall, at its sole expense, provide all preventative maintenance (including but not limited to lubrication, oil and filter changes, etc.), repairs, and replacement parts as are necessary to preserve the Equipment in good operating condition and in compliance and in conformity with all laws, rules, regulation, and industry standards which are applicable to the operation of the Equipment. City of Fayetteville shall also be responsible for all tire maintenance, repair, and replacement. **CHANGING A TIRE ON A REFUELER TRUCK IS VERY DANGEROUS AND MUST NOT BE ATTEMPTED BY UNTRAINED PERSONNEL. CITY OF FAYETTEVILLE AGREES THAT IT WILL PERMIT TIRES TO BE CHANGED ONLY BY AN OUTSIDE CONTRACTOR WHO IS PROFESSIONALLY TRAINED TO DO SUCH WORK.** City of Fayetteville shall keep complete and accurate maintenance records and Avfuel is entitled to inspect the Equipment and the maintenance records at any time during regular business hours. At Avfuel's option, any item of repair or maintenance that would be the responsibility of City of Fayetteville may be performed by Avfuel and billed back to City of Fayetteville as additional rent. City of Fayetteville shall not make any alterations or modifications to the Equipment of any kind including but not limited to painting, mounting of radios or antennas, applying decals or lettering without the prior express written consent of Avfuel.

5.2 Avfuel shall be responsible for the following refueler truck repairs when, in its opinion, repair is necessary: overhauls or replacement of the engine, transmission, differential, or belly valve. Avfuel shall be permitted access to the Equipment at any reasonable time in order to perform the repairs and modifications, which are its obligation hereunder. Repairs and maintenance to be performed by Avfuel shall be completed within a reasonable time after it learns of the need for such repairs. Avfuel assumes no responsibility for loss of use or any other items of ancillary damage, which may be caused by, or result to City of Fayetteville by reason of the fact that the Equipment becomes inoperable. If any such repair or maintenance is required as the result of intentional conduct, negligence, or failure to perform repair or maintenance on the part of City of Fayetteville or any of City of Fayetteville's agents or employees, City of Fayetteville shall be liable for all costs associated with performing such repairs and/or maintenance.

6. City of Fayetteville shall be responsible for all Federal, State, and Local taxes, fees, etc. that are assessed on the use or value of the Leased Equipment, including but not limited to, personal property, sales, and use taxes.

7. City of Fayetteville agrees to indemnify and hold Avfuel and/or the owner of the Equipment harmless from and against any and all claims, liabilities, losses, expenses (including attorney's fees), obligations and causes of action for injury to or death of any and all persons, or for damage to or destruction of any or all property arising out of or resulting from the condition, existence, use or maintenance of the Equipment.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Chris Bosch, Fire Chief CB

Date: November 18, 2004

Subject: Resolution approving the award of Bid 04-79 to Surrey Fire Safety House

RECOMMENDATION

The Fire Department recommends approval of a Resolution to purchase a new Fire Safety trailer from Surrey Fire Safety House based on their submitted bid (04-79).

BACKGROUND

Approximately 7 years ago, the Fire Department collected several donations from area merchants and citizens to purchase a fire safety trailer to use as a vital training tool for public education related to fire and life safety. Since the initial purchase, the Fire Safety Trailer has proven to be an invaluable tool that has enhanced the Department's ability to teach school age children, as well as adults, about the dangers of fire and in-home emergencies. Because of the community's initial commitment to the funding of this educational tool, the Fire Dept has responded by participating in every community held in Fayetteville and by making periodic visits to all area schools in Fayetteville. Through these efforts the Fire Safety Trailer has become an indispensable part of the Fire Department's Community Education Program.

DISCUSSION

By awarding this bid, the Fire Department will be able to purchase a new Fire Safety Trailer at a significantly reduced cost. The original bid amount for the Fire Safety Trailer is $40,845; however, as part of the bid the Surry Company has agreed to give the Department a trade-in value of $17,000 for the current trailer, which reduces the actual cost of the new unit to $23,845. The Fire Department plans on utilizing funds received from the sale of outdated fire equipment which was sold at auction on November 17, 2004 to cover the remaining cost of the new unit. Through this sale the Department received approximately $25,287. Due to the age and amount of use the current unit has received, it is beginning to show signs of wear and tear which contribute to increased maintenance costs. The purchase a new Fire Safety Trailer will allow the Fire Department to avoid future maintenance costs and therefore make the best use of public funds.

The new model will allow the Fire Department to accommodate many more people through a better use of space as the new trailer offers numerous enhancements which were not available when the existing trailer was purchased. These enhancements include a Severe Weather Training Unit; updated video capabilities located inside the trailer, an exterior awning which will help us keep children out of the elements during inclement weather. The new unit also offers bleacher style seating inside the trailer, which will allow us to seat more children during presentations. The cost of the new trailer also includes additional exterior graphics which will make the trailer more noticeable at large community events.

BUDGET IMPACT

The actual budget impact of this item will be $ 23,845 which will be provided through funds we received as a result of the recent City sponsored auction held on November 17, 2004 at Drake Field. As a result of this auction the Fire Department received $25,287 from the sale of excess tools, equipment and hose.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #04-79 TO SURREY FIRE SAFETY HOUSE IN THE AMOUNT OF $23,845.00 TO PROVIDE A NEW FIRE SAFETY HOUSE TO THE FAYETTEVILLE FIRE DEPARTMENT; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $25,287.00 FOR SAME.

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

Section 1. That the City Council of Fayetteville, Arkansas, hereby awards Bid #04-79 to Surrey Fire Safety House in the amount of $23,845.00 to provide a new Fire Safety House to the Fayetteville Fire Department.

Section 2. That the City Council of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of $25,287.00 for same.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Fire Division: Fire Program: Operations	Date Requested	Adjustment Number
2004		12/7/2004	

Project or Item Requested:	Project or Item Deleted:
$40,845 in the Fixed Assets account for the purchase of a Fire Safety House.	None. To recognize $42,287 in additional revenue received in the Gain/Loss on the Sale of Assets account.
Justification of this Increase:	**Justification of this Decrease:**
The funding is for the purchase of a Fire Safety House from Surrey Safety House.	$17,000 received in additional revenue will be from the trade in of the old fire safety house. The remaining $25,287 in additional revenue comes from the sale of various Fire Department items and equipment.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number
Fixed assets	1010	3020	5801	00	40,845	
Use of fund balance	1010	0001	4999	99	1,442	

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number
Gain/loss-sale of assets	1010	0001	4881	02	17,000	
Gain/loss-sale of assets	1010	0001	4881	02	25,287	

Approval Signatures		Budget Office Use Only		
Requested By	Date	Type: A B C D E		
Budget Manager	11-18-04 Date	Date of Approval	Initial	Date
Department Director	11/18/04 Date	Posted to General Ledger	Initial	Date
Finance & Internal Services Director	Date	Posted to Project Accounting	Initial	Date
Mayor	Date	Entered in Category Log	Initial	Date

CITY OF FAYETTEVILLE
113 W. Mountain St.
Fayetteville, AR 72701

INVITATION TO BID

BID #: 04-79 DATE ISSUED: 10/5/2004

DATE & TIME OF OPENING: 10/21/04 at 2:00 PM

BUYER: Peggy Vice, Purchasing Manager, Room 306 - (479) 575-8289

*GUARANTEED DELIVERY

DATE: 10 months from date of order

F.O.B. Fayetteville, AR

THIS INVITATION TO BID IS BASED ON THE NEED FOR ACQUISITION OF 1 UNIT AS WELL AS THE ABILITY TO TRADE IN ONE UNIT, AS LISTED IN SPECIFICATIONS ATTACHED. HOWEVER, THE CITY RESERVES THE RIGHT TO ACCEPT OR REJECT ANY OR ALL BIDS IN WHOLE OR IN PART, WAIVE FORMALITIES IN THE BIDDING, AND MAKE A BID AWARD DEEMED TO BE IN THE BEST INTEREST OF THE CITY.

ITEMS TO BE BID AND OR TRADED

ITEM: DESCRIPTION:	QUANTITY:	*TOTAL PRICE:
1. **TO BUY, Scotty Fire Safety House Split Level SA 35 Bleacher Model or Equivalent**	1	$ 36840.00
2. **TO TRADE, 1998 Year Model 1 Level Scotty HD 32FRB Fire Safety House Rear bedroom home decor**	1	$ 17000.00 for old unit

PLEASE SPECIFY:

*MANUFACTURER: Surrey Fire Safety House

*MODEL: 36BSTDE

*NAME OF FIRM:

Surrey Fire Safety House division of Walters Group Inc

*BUSINESS ADDRESS: 222 E. Front St., PO Box 388

*CITY: Napoleon *STATE: OH

*ZIP: 43545

*PHONE: 419-592-9806 *FAX: 419-599-7417

*BY :(PRINTED NAME)

Jack N. Walters

*AUTHORIZED SIGNATURE: Jack N Walters

*TITLE: V. President

PLEASE NOTE: ALL ITEMS MARKED * ARE CONSIDERED MANDATORY REQUIREMENTS FOR CONSIDERATION OF BID. FAILURE TO COMPLETE THESE ITEMS MAY RESULT IN REJECTION OF BID.

SURREY

FIRE SAFETY HOUSE

1-800-283-8233 FAX 1-419-599-7417
PO BOX 388 NAPOLEON OHIO. 43545

WE BUILD QUALITY FROM THE GROUND UP!

TO; PEGGY VICE
TERRY LAWSON
ELIZABETH MANN
CITY OF FAYETTEVILLE FIRE

OCT 13 2004

AS PER REQUEST OF TERRY LAWSON I HAVE INCLUDED ADDITIONAL QUOTES. ALL OF THE ADDITIONAL QUOTES ARE FOR A FLAT FLOOR BLEACHER MODEL. THIS FLOOR PLAN ALLOWS FULL ADA ACCESS THROUGH OUT THE UNIT NOT JUST THE KITCHEN AS THE UNIT SPEC'D ON LINE.

THE DIFFERENCE IN THE (3) ADDITIONAL QUOTES IS THE EXTERIOR OF THE UNIT. WALL CONSTRUCTION AND SUSPENSION VARIABLES.

PLEASE READ THE SPEC'S PROVIDED WITH EACH QUOTE AS THEY ARE DIFFERENT. ALSO ATTACHED YOU WILL FIND A PRINT OUT OF SURREY ADVANTAGES AS THEY PERTAIN TO EACH MODEL QUOTED. THERE ARE SIMILARITIES IN THE LISTED ADVANTAGES BUT THEY ARE NOT IDENTICAL.

THE STD SERIES IS STANDARD RV ALUMINUM (ENTRY LEVEL)
THE HS SERIES IS VINYL SIDING AND SHUTTERS
THE LTD SERIES IS OUR TOP OF THE LINE FIBERGLASS
"THE MOST DURABLE, BEST LOOKING EXTERIOR.

JACK WALTERS

Original

SURREY

FIRE SAFETY HOUSE

1-800-283-8233 FAX 1-419-599-7417
PO BOX 388 NAPOLEON OHIO. 43545

WE BUILD QUALITY FROM THE GROUND UP!

TRADE IN:

SURREY FIRE SAFETY HOUSE WILL ALLOW A TRADE ALLOWANCE OF $17,000 FOR THE 1998 SCOTTY FIRE SAFETY HOUSE.

WE DO NOT GET MANY TRADE IN UNITS DUE TO THE FACT WHEN THE WORD GETS OUT THAT YOU HAVE A USED SAFETY HOUSE FOR SALE THEY NEVER GO FAR FROM THEIR ORIGINAL LOCATION. THERE IS AN ADVANTAGE TO SELLING THE UNIT LOCALLY ALSO BECAUSE THE OLD UNIT HELPS TAKE THE LOAD OFF OF THE NEWER UNIT

SURREY FIRE SAFETY HOUSE
A DIVISION OF WALTERS GROUP INC.

JACK N. WALTERS

SURREY

FIRE SAFETY HOUSE

1-800-283-8233 FAX 1-419-599-7417
PO BOX 388 NAPOLEON OHIO. 43545

WE BUILD QUALITY FROM THE GROUND UP!

WARRANTY

SURREY TWO YEAR STRUCTURAL WARRANTY!

WARRANTY: ALL WARRANTY REPAIR MAY BE PERFORMED BY A QUALIFIED RV DEALER IN YOUR AREA. WITH THE EXCEPTION OF ELECTRONICS ASSOCIATED WITH SEVERE WEATHER TRAINING AND 911 TELEPHONE. THOSE ELECTRONICS MUST BE SERVICED BY SURREY. THE ELECTRONICS MUST BE SHIPPED TO US FOR REPAIR. AFTER THE WARRANTY PERIOD YOU MAY RETURN THE ELECTRONICS TO US FOR SERVICE REQUIRED.

COVER ALL
EVERY SURREY FIRE SAFETY HOUSE OR COMMAND CENTERS ARE COVERED BY SEVERAL DIFFERENT WARRANTIES.
COVER ALL BUMPER TO BUMPER WARRANTY COVERS THE COMPLETE UNIT FOR A PERIOD OF 1 YEAR FROM DATE OF PURCHASE.

ROOF
ALL ROOF COVERING MATERIAL ITSELF RUBBER OR ALUMINUM IS WARRANTED FOR A PERIOD OF 12YEARS. IT IS THE BUYERS RESPONSIBILITY TO PERFORM AN ANNUAL VISUAL INSPECTION OF ROOF SEALER TO INSURE THERE ARE NO CRACKS AND ALLOW WATER DAMAGE. MAINTENANCE OF THIS ROOF SEALER IS THE RESPONSIBILITY OF THE BUYER. THE MORE THE UNIT IS INDOOR THE LONGER THE ROOF SEALER WILL LAST

APPLIANCES
ALL APPLIANCES , FURNACE, STOVE , AIR CONDITIONING, ARE COVERED FOR A PERIOD OF 2 YEARS FROM DATE OF PURCHASE. ROOF MATERIAL IS COVERED FOR A PERIOD OF 10 YEARS. THESE WARRANTIES ARE PROVIDED BY THE INDIVIDUAL APPLIANCE MANUFACTURER.

"SURREY" Fire Safety House

Quote

Date of Quote 10/8/2004

Alternate

Quote Prepared For

Fayetteville (City of) Fire Dept
Terry Lawson (479) 575-8289
113 W. Mountain St.
Fayetteville, AR. 72701

SURREY FIRE SAFETY HOUSE # 36BHS1 Vinyl Siding

Description	Qty	Price	Extended Price
36' VINYL-HOMESTYLE W/ BLEACHER "Flat Floor Unit"	1	$29,395.00	$29,395.00
AIR CONDITIONING UPGRADE TO 15,000 BTU	1	$175.00	$175.00
CAMERA SYSTEM - COLOR	1	$1,850.00	$1,850.00
DOUBLE ROOF INSULATION	1	$100.00	$100.00
ENTERTAINMENT CENTER - SOLID OAK	1	$200.00	$200.00
HEARING IMPAIRED SMOKE ALARM-W/ CUTOFF SWITCH	1	$125.00	$125.00
HEATED DOOR KNOB	1	$50.00	$50.00
PA SYSTEM COMPLETE W/ WIRELESS MIC	1	$750.00	$750.00
PULL STATION-W/STROBE, HORN, & CUTOFF SWITCH	1	$125.00	$125.00
SEVERE WEATHER TRAINING - BLEACHER UNIT	1	$4,200.00	$4,200.00
SMOKE MACHINE-WIRELESS REMOTE OPTION	1	$70.00	$70.00
SMOKING DOOR OPTION	1	$450.00	$450.00
SPARE WHEEL & TIRE-6 LUG	1	$140.00	$140.00
Y-GRAPHICS CREATED IN HOUSE - AVERAGE COST	1	$2,000.00	$2,000.00
Z-DELIVERY	1	$915.00	$915.00
Z-PREP CHARGE	1	$300.00	$300.00

Total Items	**$40,845.00**
Total Labor/Shipping	**$0.00**
Tax Exempt Sale	**$0.00**
Quote Total	**$40,845.00**

X _____

By signing above I agree to the unit described above.

This bid/quote is good for 120 days. Our Units are built from the ground up using all new materials

WALTERS GROUP INC. FED ID # 34-1943826 DUNS# 120440235 We are a Veteran Owned Small Business.

SURREY FIRE SAFETY HOUSE
Model # 36BHS1
Bleacher Seating - Home Style Decor
SPECIFICATION SHEET

LENGTH: 36' 6"	WIDTH: 8'0"	GVW: 6,400#	GVWR: 10,400#
HEIGHT: 11' 6"	Interior Ht.: 90"	HITCH WT.: 800#	AXLE WT.: 5,600#

ADA Compliant: All units handicap accessible.

FRAME & SIDEWALL CONSTRUCTION

FRAME 2X8 high strength Bull Moose® 3/16" steel tube rails. Welded battery rack on tongue with a steel tube 4x4 rear bumper with aluminum cover and standard safety chains. Rear skid bars for additional protection.

SIDEWALL CONSTRUCTION

2x3 members 16" on center. Studs are bonded to 5/32 plywood paneling for high strength and lightweight. ABS fenders with galvanized wheel pans. Hand cut fiberglass insulation in sidewalls with a R 7 rating.

EXTERIOR: The exterior of the house is white vinyl siding with a lifetime guarantee, black shutters and commercial simulated cedar shakes on the mansard roof.

AXLES AND BRAKES

Unit shall have tandem rubber torsion axles rated at 5,200 lb. each. The axles are spring leaf. 4 wheel 12 " electric brakes will be utilized mfg by Hayes or equal. A brake away switch will be attached to the frame as an emergency stop, in the unlikely event of unit separation.

TIRES AND WHEELS: ST225/75/R15 trailer tires on heavy duty styled white 6 lug wheels and center caps.

LIGHTS-INTERIOR: Hi Efficiency *12-volt lights shall be fluorescent* lights on the ceiling . Bedroom-3, , Control room-1, learning room-6 Storage compartment-1 dome 2 wall lights over electric fireplace, (Except with Severe Weather or Earthquake training)

LIGHTS-EXTERIOR:2 porch lights. 1 on door side and one on rear. The lights are 110-volt fixture with the ability to flash a distress signal to responding assistance. A light fixture is provided in the top of the generator storage compartment. Standard ICC lights are in place as required. 2 hook up lights are on the power tongue jack. A 12 volt power source with an on/off switch is prewired to the roof for a strobe or rotator. The wall switch will be located in the control room. (4) lights are at steps.

ROOF A 1 piece TPO (Thermal Poly Olyhan) roof is provided over a 7/16 OSB underlayment Tapered 2x6 roof truss system provides a crown to the roof eliminating puddling. 4 roof vents are in place.

FLOOR: The floor is constructed of 5/8" exterior grade tongue & groove plywood on 2x4 support members 12" on center. Living room, bedroom and stairs are fully carpeted with a ½" rebond pad. Kitchen and control room as well as the storage compartments have a fully insulated floor with heavy-duty vinyl under belly for maximum weather shielding at a minimal weight.

WINDOWS

All windows are heat-treated safety glass. Shutters are provided on all side and front windows. A single hung 36"x 36" control room picture window with screen and mini blind is provided. Living room and bedroom windows are vinyl residential, with insulated glass. Curtains, with tiebacks, and valances with the exception of the 40"x 45" sliding window leading onto the escape ladder.

FIREPLACE

An electric fireplace with crackling sounds will be located in the living room. It will have a screen and simulated brick face. An on/off switch will be wall mounted next to the fireplace.

REAR LADDER: A commercially available chain escape ladder shall be bolted securely for escape simulation. The ladder will be mounted in a manner that allows shoe clearance between siding and chain ladder.

KITCHEN

The kitchen shall be equipped with a functional 3-burner stove with oven. The stove will be equipped with a shut off valve in the gas supply line. A city water hook up is provided to allow use of the double stainless steel sink. A functional microwave oven will be provided as well as a place for a refrigerator with 4 power outlets. An exhaust fan and hood with light will also be provided. Upper and lower cabinets are in place. There are two carpeted benches provided.

FRONT ROOM-carpeted bleacher seats shall be provided for students

SMOKE MACHINE AND FLUID

Smoke machine and 1 case of water base smoke fluid is standard. MSDS sheet provided.

CONTROL ROOM

A control room will be provided allowing control of many educational functions. A hands free 911-phone system for 911 training. On/off switch for 110 volt smoke alarms. An on/off switch for bedroom electrically heated door shall be in the control room. ABS smoke ducting system (schedule 40) with control valves allowing room selection as well as an operating location and outlet for water base smoke machine. A smoke ready light in the control room will be controlled by the training officer in the bedroom. The control room will have a 48" counter with storage cabinets and a 48" x 15.5"x 23" cushion on a bench for the control room operator. A 3'x3' single hung window with screen and mini blind. Observation ports in bedroom & living room. A power vent is also provided.

GENERATOR STORAGE A generator compartment is provided to store and transport a generator. It is located so that the wheel chair ramp can be used to load and unload generator.

TV CABINET: A TV cabinet and slide-out shelf is provided on the awning side of the unit.
A slide out shelf will be in place. This allows the tv position to be adjusted to accommodate changing light conditions

DOORS-OUTSIDE:

(2) 36"x 75" out swinging residential door is provided on the curbside. A 7"x55" door with key lock will be on left side for handicap ramp storage compartment as well as a 40"x11" door with key lock for under bed storage access.

COOLING, HEATING AND VENTILATION

13,500 BTU air conditioning is standard, with ducting to bedroom, living room, control room and kitchen. Heat will be provided by a 35,000 BTU Atwood #8500 forced air furnace ducted throughout. 4 power roof vents shall be installed to aid in removing non toxic smoke as well as help hold the smoke to the ceiling during training.

BEDROOM

The bedroom shall be on the main floor. It will be fully carpeted with rebond pad, curtains with tiebacks

valances and mini blinds on the single hung windows. A bed with vinyl covered mattress, bedspread and pillow sham. A carpeted bench is included. An exhaust fan shall be roof mounted with an on/off switch control, allowing instructor to monitor smoke removal. A smoke on signal in the control room can be activated by the instructor in the bedroom A sliding window in the rear of the unit will allow access to rear escape ladder. An electrically heated door is used to simulate fire on the opposite side.

ELECTRICAL-110 VOLT:

A 30-amp power supply cord shall be provided for 110-volt AC power needs. All wall receptacles are functional. Ground fault receptacles are in the kitchen as well as both outside outlets. Power is supplied through circuit breakers built into a 55 amp DC solid-state power converter.

ELECTRICAL-12 VOLT:12-volt power for the unit is provided by a 55-amp solid-state power converter mfg by Elixir or equal.. The converter will supply all 12-volt needs of the unit when plugged in. The unit will have a deep cycle battery and box to supply 12 volt power on short term when not plugged in.

BATTERY CUT OFF

A switch is provided to shut the battery down for storage. This eliminates a dead battery from accidentally leaving on a light during storage. Your battery will be charged and ready to go.

BACK UP BEEPER

An audible tone will be heard at the rear of the safety house warning any one in the area that the unit is moving in reverse. (The tow vehicle must be properly wired to activate this alarm)

911 PHONE With Call back feature:

A wall phone will be located in the living room allowing a child to experience dialing 911 or any number and reaching (control room) a fire fighter or dispatcher. The system is hands free for the control room operator. An external phone jack will be located on the door side of the unit, allowing 911 training from outside the unit or to demonstrate the need to exit the home in a fire situation and call from a neighbor.

HITCH JACK

A 12-volt power tongue jack manufactured by Barker Mfg. will be in place. The unit will have manual back up capability as well as a hookup light.

STABILIZER JACK

4 BAL or equal, crank down stabilizer jacks shall be frame mounted. These jacks will stabilize the unit and eliminate suspension travel while occupied.

AWNING

A 21 ft roll up awning shall be in place on the curb side of the unit. The awning shall cover the main entrance door.

OUTLETS

Control room-5, Kitchen-4, Living room-3, Bedroom-4, Outside-2.

Due to the constant refinement and development of the Safety House the specifications may change with out notice

Effective 07/01/03

STAFF REVIEW FORM

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: **December 7, 2004**

FROM:

Chris Bosch	**Fire Operations**	**Fire Department**
Name	Division	Department

ACTION REQUIRED: A resolution awarding bid 04-79 to Surrey Safety House in the amount of $23,845 for the purchase of a new Fire Safety House to replace the existing unit. Approval is also requested for a budget adjustment of $25,287 in the Fixed Asset account and Misc Revenue account.

COST TO CITY:

$23,845.00	$ -	Fire Safety House
Cost of this request	Category / Project Budget	Program Category / Project Name
1010.3020.5801.00	$ -	Fire Operations
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	General Fund
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

D. J. White — 11/17/04
City Attorney — Date

Purchasing Manager — Date

STAFF RECOMMENDATION:

Division Head — 11/17/04 Date

Department Director — 11/17/04 Date

Finance & Internal Services Dir. — Date

Chief Administrative Officer — 11-17-04 Date

Mayor — 11/19/04 Date

11/17/04 P.A.

Cross Reference

New Item: **Yes** **No**

Previous Ord/Res#: _____

Orig. Contract Date _____

Orig. Contract Number _____

11-17-04 RECEIVED

Fayetteville

City Council Meeting of December 7, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Greg Boettcher, Water/Wastewater Director

Date: November 19, 2004

Subject: Resolution approving Amendment Number 10 (A) with Operations Management International, Inc. to fund the out-of-scope flood emergency expenses incurred during the spring of 2004, including a budget adjustment to tranfer the funds to the wastewater plant operations account.

RECOMMENDATION

Fayetteville City Administration recommends approval of "Amendment No. 10 (A) to the Agreement for Operations, Maintenance and Management Services for the City of Fayetteville, Arkansas Wastewater Treatment Plant." This contract amendment increases the contract value by $16,416.00 to fund the FEMA approved expenses for the flood emergency in the spring of 2004, said change requiring a budget adjustment. This amendment increases the 2004 contract to a total of $4,389,989.00.

BACKGROUND

The City of Fayetteville's wastewater treatment facilities suffered adverse impacts from the flooding in the spring of 2004, said event qualifying Washington County for emergency assistance from state and federal agencies. FEMA's review of the flood-fighting efforts and the damages by FEMA has documented $16,416.00 in labor, equipment and materials expenses committed by OMI to this flood emergency; with FEMA approving a 78% reibursement of said amount as direct flood recovery assistance. With the private contract operations being utilized for the wastewater plant and pumping stations, these out-of-scope expenses must be covered by a contract amendment. The FEMA grant will cover $12,804.00, with water and sewer funds providing the remaining $3,612.00. The expenses approved by FEMA, the allocation of costs and the documentation of the damages is attached for reference.

DISCUSSION

A flood emergency required OMI to perform out-of-scope services in the spring of 2004, said costs being tabulated and submitted to FEMA for review and approval. Fayetteville has received state and federal assistance for the claimed expenses that recover 78% of the total losses. The attached contract amendment 10 (A) formally incorporates the claimed flood costs into the contract between OMI and the City, which is the origin of the losses.

BUDGET IMPACT

The contract amendment completes the audit path for the grant funds and adjusts the contract value to reflect documented out-of-scope flood expenses.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT NO. 10 (A) TO THE CONTRACT WITH OPERATIONS MANAGEMENT INTERNATIONAL (OMI) IN THE AMOUNT OF $16,416.00 TO FUND OUT-OF-SCOPE FLOOD EMERGENCY EXPENSES INCURRED DURING SPRING 2004; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $16,416.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 10 (A) to the contract with Operations Management International (OMI) in the amount of $16,416.00 to fund out-of-scope flood emergency expenses incurred during Spring 2004. A copy of Amendment No. 10 (A), marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of $16,416.00.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

Greg

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

FROM: Dan Coody, Mayor

DATE: July 6, 2004

SUBJECT: FEMA Claims

FEMA representatives left the City on June 22 after having completed their assessment of damages sustained during the April 2004 flood event. The table below lists the damage location and FEMA damage assessment as well as the cost split between FEMA, Arkansas and the City.

The City received a check today in the amount of $43,367.74 which represents the Federal and State share of the damage cost for all of the projects where the estimate is $53,000 or less. If the actual cost is greater than the estimate the City can request additional reimbursement. FEMA representatives stated that should the City seek additional reimbursement FEMA would expect an accounting, by FEMA Project Number, of all costs incurred on all other claims under $53,000 so that any left over money from those projects would first be applied to fund the overrun. Projects over $53,000 will be paid in progress payments through the Arkansas Department of Emergency Management. For the most part FEMA only reimbursed the City for overtime and equipment usage.

Damage Location	Total Amount	FEMA & State Share	City Share
Lake Wilson Spillway	$294,736	$227,391	$67,345
Water & Sewer Locations: City-wide	4,049	3,159	890
North Crossover (Old Wire) Lift Station	8,600	6,708	1,892 – OMI
Emergency Assistance: City-wide	1,133	884	249
Airport – Fence	18,200	14,196	4,004
Kings Drive – North	2,202	1,717	485
Sanitary Sewers – Pipe Crossings	5,885	4,591	1,294
Airport Perimeter Road	1,173	915	258
Emergency Work – Noland	3,768	2,939	829 – OMI
Sludge Management Site - Road	4,048	3,157	891 – OMI
Debris Removal: City-wide	6,542	5,103	1,439
Total	**$350,336**	**$270,760**	**$79,576**

CC: Kit Williams, City Attorney
Sondra Smith, City Clerk
Department Directors

J:\City Council\Informational Reports\FEMA Claim_April Flood_City Council.doc

2004 FLOODING

9/8

FEDERAL EMERGENCY MANAGEMENT AGENCY

PROJECT WORKSHEET

O.M.B. No. 3067-0151
Expires April 30, 2001

PAPERWORK BURDEN DISCLOSURE NOTICE

Public reporting burden for this form is estimated to average 30 minutes. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and submitting the forms. You are not required to respond to this collection of information unless a valid OMB control number is displayed in the upper right corner of the forms. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (3067-0151). **NOTE:** Do not send your completed form to this address.

DECLARATION NO.	PROJECT NO.	FIPS NO.	DATE	CATEGORY
FEMA- 1516 -DR- AR	300	143-23290-00	June 10, 2004	F

DAMAGED FACILITY: LIFT STATION

WORK COMPLETE AS OF: 6/10/04 : 0 %

APPLICANT: CITY OF FAYETTEVILLE, ARKANSAS

COUNTY: WASHINGTON

LOCATION	LATITUDE	LONGITUDE
NORTH CROSSOVER RO0AD	N36.10576	W94.12079

DAMAGE DESCRIPTION AND DIMENSIONS

Severe storms and flooding of the declared disaster flooded the lift station. Damages occurred to all electrical systems. Damages @ Electronic Relay Equipment System, Space heater, Dehumidifier, two(2) Motors, three (3) Fuses, Three (3) Switches, One (1) Pressure Switch,underground (Pannels,Relays, Alternators & Phase Monitor) and one (1) dislodged Manhole Cover.

SCOPE OF WORK

Replace the Electronic Relay Equipment System, Space Heater, Dehumidifier, Three (3) Fuses, Three (3)switches, One (1)Pressure Switch, and underground (Panels,Relays, Alternators & Phase Monitor). Repair Two (2) Motors and a dislodged Manhole .

NOTE:

The site was visited and documented. This PW reflects the observations made and documented. All documented material is attached and/or on file with the applicant. The applicant understands it must be retained for at lease three (3) years.

GENERAL COMMENT: 964

Does the Scope of Work change the pre-disaster conditions at the site? ☐ Yes ☒ No

Special Considerations issues included? ☐ Yes ☒ No Hazard Mitigation proposal included? ☐ Yes ☒ No

Is there insurance coverage on this facility? ☒ Yes ☐ No

PROJECT COST

ITEM	CODE	NARRATIVE	QUANTITY/UNIT	UNIT PRICE	COST
1		WORK TO BE COMPLETED	/		$0.00
2	9999	Damaged Electronic Equipment (REPLACEMENT)	1.00 / LS	$7,500.00	$7,500.00
3	9999	Damaged Equipment (REPAIR)	1.00 / LS	$1,100.00	$1,100.00
			/		$0.00
			/		$0.00
			/		$0.00
			/		$0.00
			/		$0.00
			/		$0.00
			/		$0.00
			/		$0.00
		Stephen Davis 6-18-04	/		$0.00
		STEPHEN DAVIS - TRADE & INTERFACE SERVICES		TOTAL COST	$8,600.00

PREPARED BY: JAMES H. DAWSON & GREG McDANIEL / TITLE: FEMA & ADEM PROJECT OFFICERS

2/8

FEDERAL EMERGENCY MANAGEMENT AGENCY PROJECT WORKSHEET – Maps and Sketches Sheet				O.M.B. No. 3067-0151 Expires April 30, 2001
DECLARATION NO. FEMA-1596-DR-AR	PROJECT NO. 300	FIPS NO. 143-23290-00	DATE	CATEGORY F
APPLICANT CITY OF FAYETTEVILLE, AR		COUNTY		

...COST OF EQUIPMENT...

* NOTE:

THE FOLLOWING COST FIGURES WERE GOTTON FROM THE BUILDER OF THE ELECTRONIC EQUIPMENT AND OPERATOR OF THE FACILITY.

* DAVID LOENNEKE of OPERATIONS MANAGEMENT INTERNATIONAL (OMI)

REPLACE

ELECTRONIC RELAY EQUIPMENT	$6,100
SPACE HEATER	50
DEHUMIDIFIER	200
THREE (3) FUSES	100
THREE (3) SWITCHES	250
ONE (1) PRESSURE SWITCH	200
PANELS, RELAYS, ALTERNATOR & PHASE MONITOR	600
	$7,500

REPAIR

TWO (2) MOTOR REPAIRS	800
ONE (1) MANHOLE COVER (Remove & Repair)	300
	$1,100

TOTAL $8,600

FEDERAL EMERGENCY MANAGEMENT AGENCY
SPECIAL CONSIDERATIONS QUESTIONS

1. APPLICANT'S NAME	2. FIPS NUMBER	3. DATE
CITY OF FAYETTEVILLE, ARKANSAS	143-23290-00	6/10/04
4. PROJECT NAME	**5. LOCATION**	
LIFT STATION	CROSSOVER ROAD	

Form must be filled out for each project

1. Does the damaged facility or item of work have insurance and/or is it an insurable risk? *(e.g., buildings, equipment, vehicles, etc.)*

☐ Yes ☒ No ☐ Unsure Comments

2. Is the damaged facility located within a floodplain or coastal high hazard area, or does it have an impact on a floodplain or wetland?

☐ Yes ☐ No ☒ Unsure Comments

3. Is the damaged facility or item of work located within or adjacent to a Coastal Barrier Resource System Unit or an Otherwise Protected Area?

☐ Yes ☒ No ☐ Unsure Comments

4. Will the proposed facility repairs/reconstruction change the pre-disaster condition? *(e.g., footprint, material, location, capacity, use or function)*

☐ Yes ☒ No ☐ Unsure Comments

5. Does the applicant have a hazard mitigation proposal or would the applicant like technical assistance for a hazard mitigation proposal?

☐ Yes ☒ No ☐ Unsure Comments

6. Is the damaged facility on the National Register of Historic Places or the state historic listing? Is it older than 50 years? Are there more, similar buildings near the site?

☐ Yes ☒ No ☐ Unsure Comments

7. Are there any pristine or undisturbed areas on, or near, the project site? Are there large tracts of forestland?

☐ Yes ☒ No ☐ Unsure Comments

8. Are there any hazardous materials at or adjacent to the damaged facility and/or item of work?

☐ Yes ☒ No ☐ Unsure Comments

9. Are there any other environmentally or controversial issues associated with the damaged facility and/or item of work?

☐ Yes ☒ No ☐ Unsure Comments

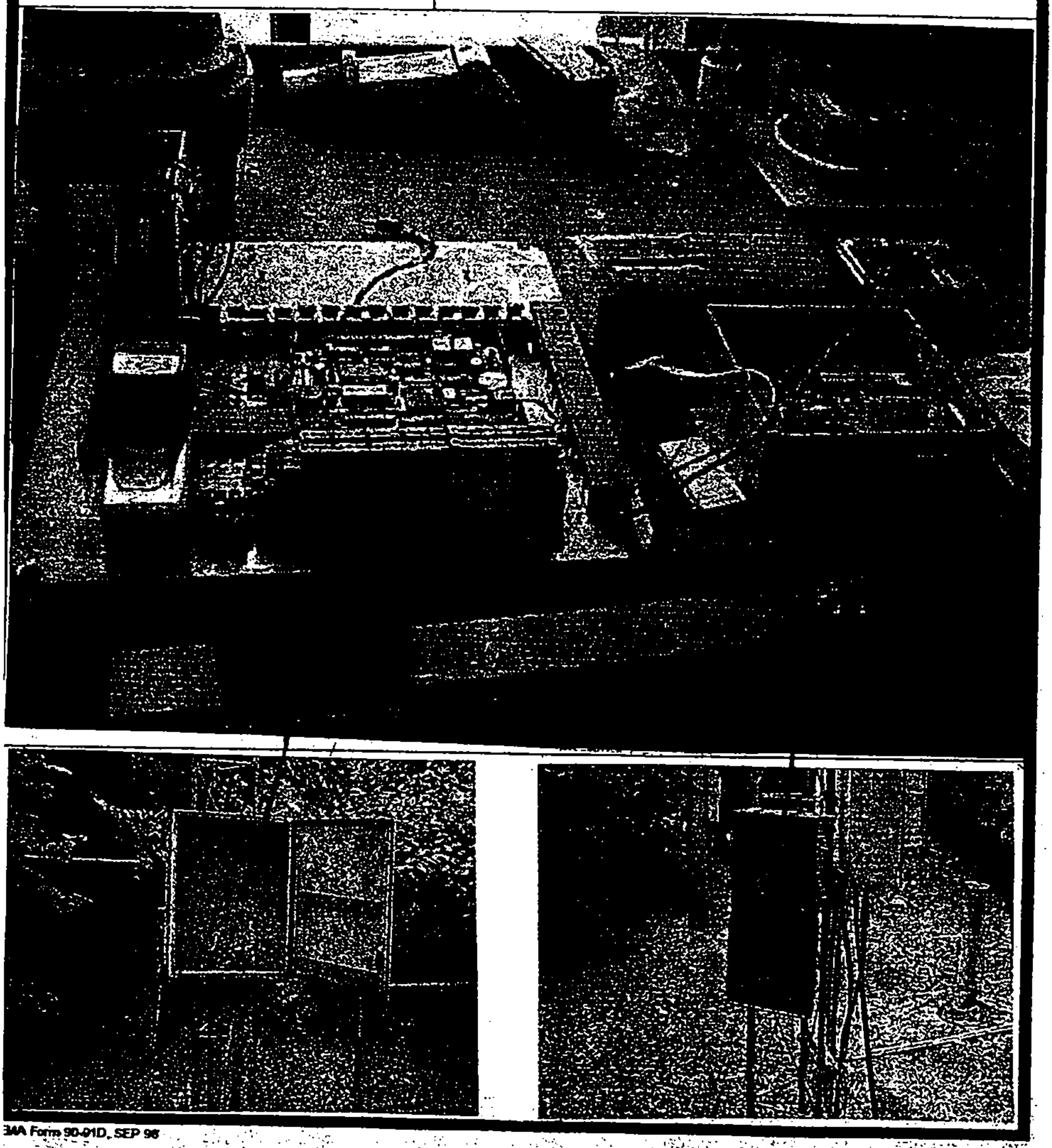
4/8

FEDERAL EMERGENCY MANAGEMENT AGENCY
PROJECT WORKSHEET – Photo Sheet

O.M.B. No. 3067-0151
Expires April 30, 2001

DECLARATION NO.	PROJECT NO.	FIPS NO.	DATE	CATEGORY
FEMA- 1516-DR- AR	300	143-23290-00	6/10/04	F

APPLICANT	COUNTY
CITY OF FAYETTEVILLE, AR	WASHINGTON



FEMA Form 90-91D, SEP 98

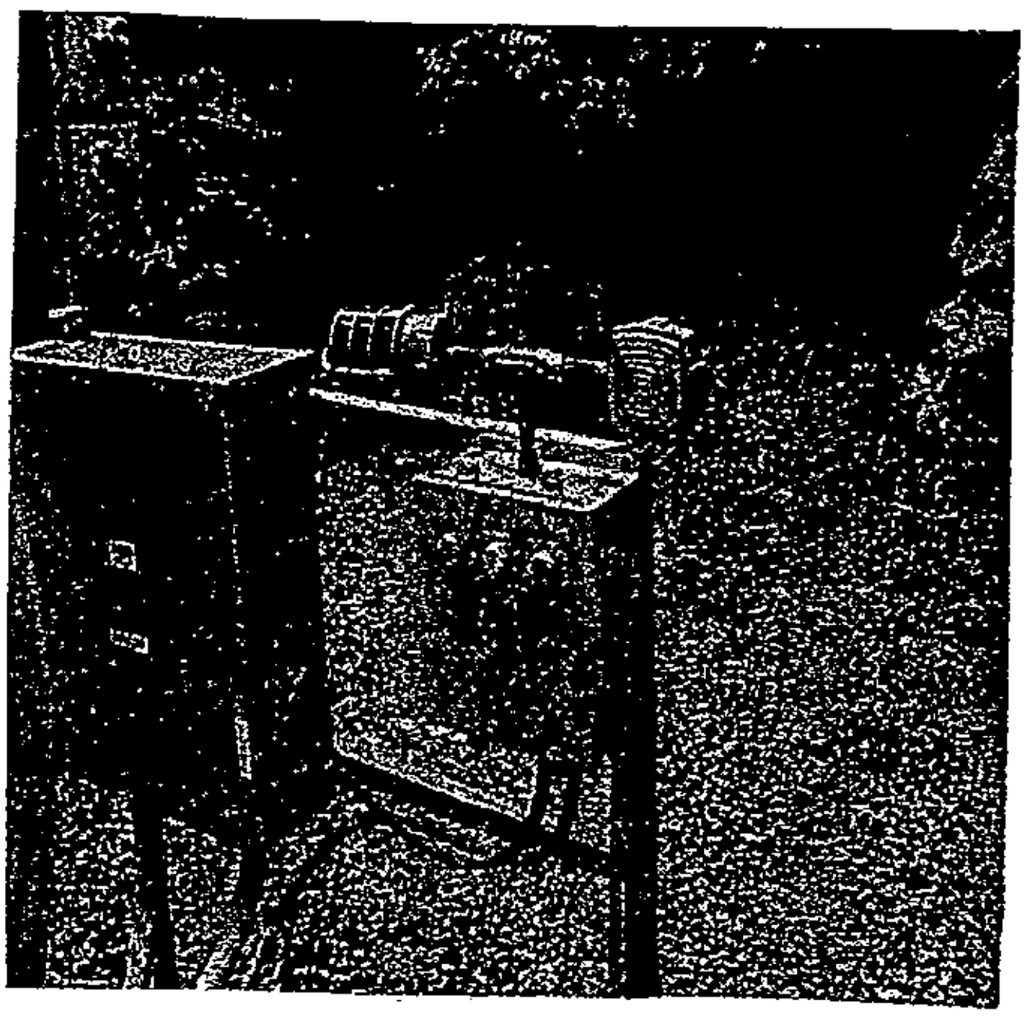
5/8

FEDERAL EMERGENCY MANAGEMENT AGENCY
PROJECT WORKSHEET – Photo Sheet

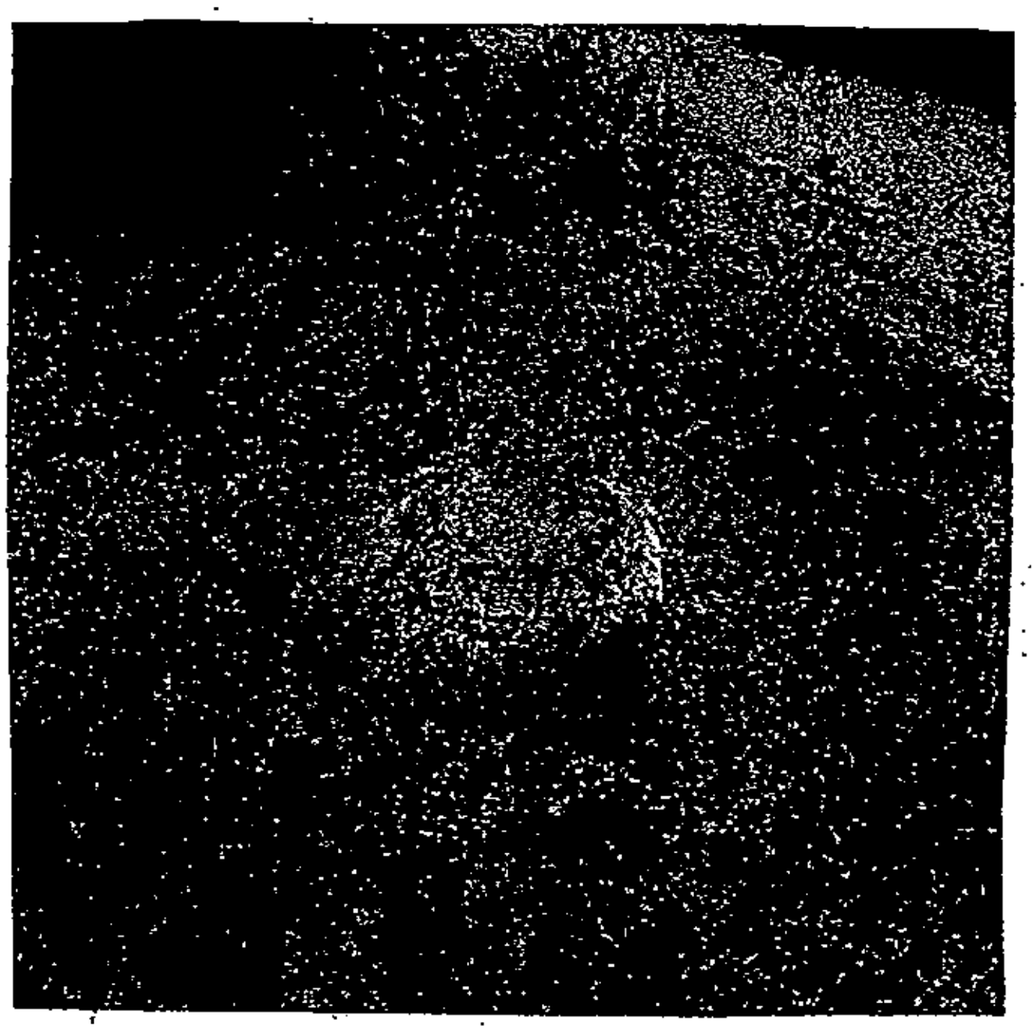
O.M.B. No. 3067-0151
Expires April 30, 2001

DECLARATION NO.	PROJECT NO.	FIPS NO.	DATE	CATEGORY
FEMA-1516-DR-AR	300	143-2329-00	6/10/04	F

APPLICANT	COUNTY
CITY OF FAYETTEVILLE, AR	WASHINGTON



THESE SWITCHES WERE UNDERWATER AND DAMAGED.



THE CONCRETE AND MANHOLE COVER WERE DISLODGED BY THE WATER PRESSURE.

6/8

FEDERAL EMERGENCY MANAGEMENT AGENCY

RECONNAISSANCE / REVIEW REPORT FOR FLOODPLAIN MANAGEMENT

(USE ONLY FOR PROJECTS IN CATEGORY C-G)
(FOR PROJECTS OVER $ 5,000 ONLY)

A B 1 C D E 2 6 7 8

A
(1) Facility
2. Bldg./Structure
3. Non-Emergency Debris Disposal

APPLICANT CITY OF FAYETTEVILLE CATEGORY F
PW REFERENCE NUMBER 300

B
1. Yes
X No

1. Is the project in a Wetland (swamp, marsh, etc.)? ____Yes ___No

2. Is the project in one of the following zones on a FIA/FEMA map? ____Yes ___No
   If it is, give map no. (if not, write in "estimated") _____.
   If an FIA/FEMA map is unavailable, please estimate the following.

(CHECK ONLY ONE)

STEP 1
(1)
2
3
4
5

(1) ✔ 100-year Floodplain
(2) _____ 500-year Floodplain (CRITICAL ACTION)
(3) _____ Floodway
(4) _____ Coastal High Hazard Area
(5) _____ Check if project is outside floodplain, but supports development in floodplain

IF PROJECT IS NEITHER IN NOR AFFECTS THE FLOODPLAIN
OR WETLAND, STOP AT THIS POINT, PROCEED TO BOTTOM, SIGN FORM

3. Total PW estimated cost of restoration. (Check one)

C
1
2
3
4

(1) ✔ 0-49% of replacement cost
(2) _____ 50-99% of replacement cost
(3) _____ 100% of replacement cost
(4) _____ Not applicable (Example - Debris Disposal)

4. Has the project been structurally damaged by flooding before? ____Yes ____ No.
   If Yes, when_____. Has a flood insurance payment(s) ever been received? (BUILDINGS ONLY)
   _____ Yes _____ No

D
Declared Disaster/ Insurance Payment?
1. Yes
2. No
3. Don't know or N/A

5. Mark type of land use upstream and downstream.

	UPSTREAM	DOWNSTREAM
(A) Pasture/Cropland (Sparse development)	✔	✔
(B) Forest/Desert (Undeveloped)		
(C) Urban (Developed)		
(D) Not applicable (Example - Debris Disposal)		

6. Recommendation (Check one)

1. Relocate outside base floodplain
2. Restore facility/structure with mitigation
3. Transfer function to another facility
4. Restore scope of work or cost
5. Restore facility/structure without mitigation ✔
6. No action (disapprove project)
7. More information required (explain)

NOTES: For each recommendation, except 3, 4, 5 and 6, complete and attach a Hazard Mitigation Proposal showing the estimated work and costs. Submit signed reports with pw.

Project Officer James H Dawson Date 6/10/04

1/8

(THIS PAGE FOR REVIEWER USE ONLY)

NOTE TO REVIEWER: If the project is outside the floodway and coastal high hazard area, has not sustained prior structural damages and total damages are less than 50% of replacement cost and less that $25,000, complete only steps 4, 5 & 8. For the Floodplain Number, fill in blocks A, B, 1, C & D; enter "x" in block E, 2, 6, and 7; and "2" or "5" in block 8, as appropriate.

7. Justification for Floodway or Coastal High Hazard Area Location (BlockE)

E
1. Functionally dependent use
2. Facility open space use
X Neither

8. Initial Notice Determination
   (a) Degree of Public Need: Esstential_____ Useful _____ Minimal _____
   (b) No. of Individual Affected: less than 100____; 100 to 5,000____; more than 5,000____

	Repair/Replacement		Relocate		No FEMA action	
	Yes	No	Yes	No	Yes	No
(c) Potential for Controversy	___	___	___	___	___	___
(d) Potential Impact	___	___	___	___	___	___

STEP 2
0. Cumulative
1. Individual

9. Are the following alternatives feasible? *(Base your decision on the considerations listed below).*
   (a) Engineering (c) Economic Aspects (e) Legal Constraints
   (b) Natural Environment (d) Social Concerns

	yes	no
1. Relocated outside the base floodplain	___	___
2. Restore facility/structure with mitigation	___	___
3. Transfer function to another facility	___	___
4. Reduce scope of work	___	___
5. Restore facility/structure without mitigation	___	___
6. No action (disapprove project)	___	___
7. Maintain or improve social resources	___	___

STEP 3

10. Circle below, the number of each feasible alternative and determine if each alternative will adverse impacts or not [Indicate Yes (Y) or No (N)]

	1	2	3	4	5	6	7
1. Minimize danger to lives	___	___	___	___	___	___	___
2. Minimize damages to facility	___	___	___	___	___	___	___
3. Minimize damages elsewhere	___	___	___	___	___	___	___
4. Reduce support of floodplain or wetland development	___	___	___	___	___	___	___
5. Maintain or improve economic resources	___	___	___	___	___	___	___
6. Maintain or improve social resources	___	___	___	___	___	___	___

STEP 4 & 5

11. Re-evaluate the alternatives. Insert the number of the chosen alternative from STEP 3 in the box. If none, enter "x" here and indicate suspension in step 8 with a "7".

STEP 6

12. Final Notice Determination
    First check if any of the following apply:
    ___ Crtical action
    ___ PW greater than $100,000
    ___ Repair is a substantial improvement
    ___ Previously damaged in a declared flooding disaster
    ___ Located in Floodway or Coastal High Hazard Area
    ___ An individual first notice was issued
    ___ Past flood insurance payment(s)

STEP 7
1. None of the criteria apply (no final notice necessary)
2. Cumulative Final notice necessary)
3. Individual Final Notice
4. Federal EIS is required

13. Reviewer's Recommendation (Circle recommended alternative)

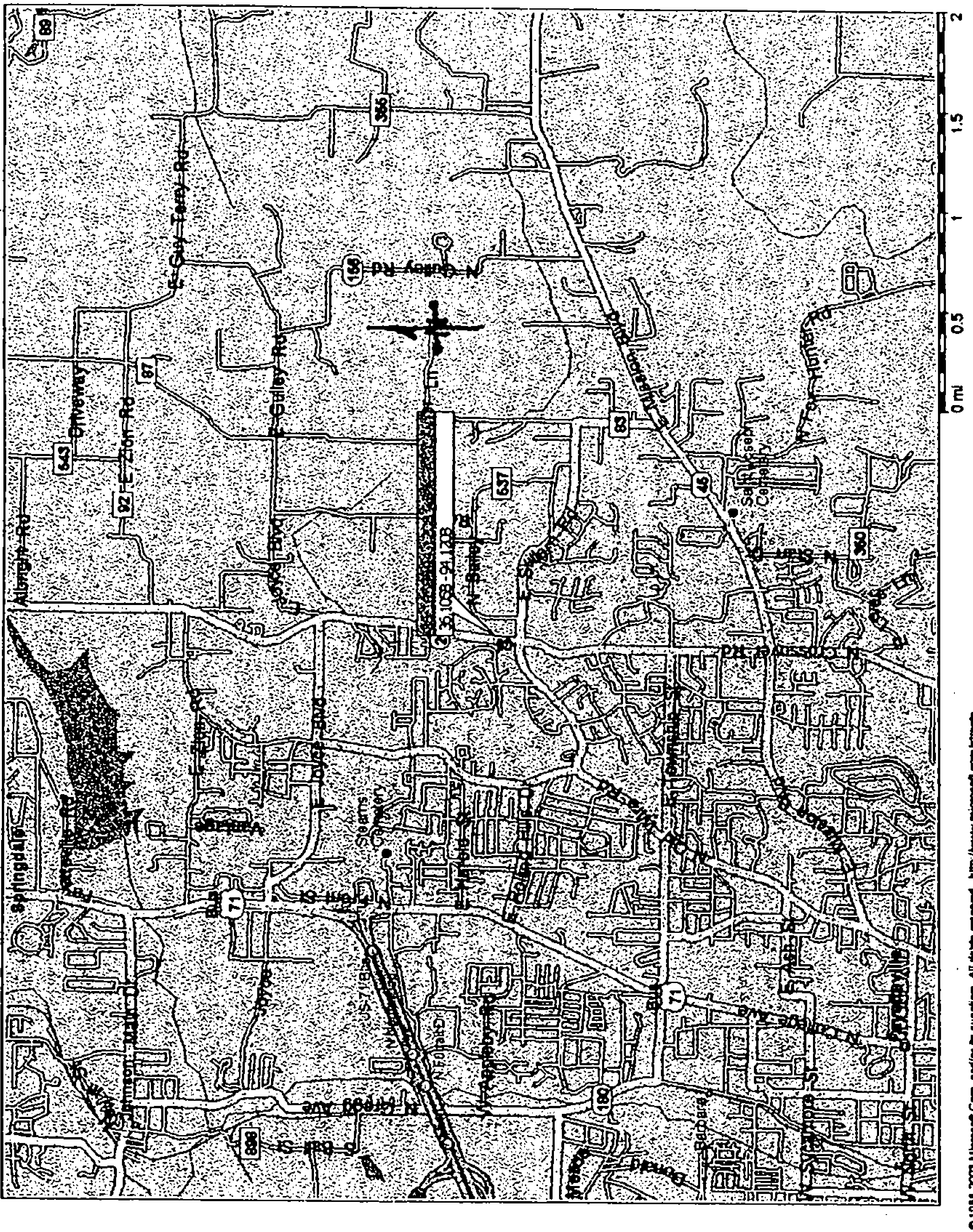
STEP 8
1 2 3 4 5 6 7

FEMA 11988/Floodplain Reviewer _____ Date _____

143-23290-00 1516
PW 300

8/8

Fayetteville, Arkansas, United States



Copyright © 1988-2003 Microsoft Corp. and/or its suppliers. All rights reserved. http://www.microsoft.com/streets
© Copyright 2002 by Geographic Data Technology, Inc. All rights reserved. © 2002 Navigation Technologies. All rights reserved. This data includes information taken with permission from Canadian authorities © 1991-2002 Government of Canada
(Statistics Canada and/or Geomatics Canada), all rights reserved.

FEDERAL EMERGENCY MANAGEMENT AGENCY

PROJECT WORKSHEET

O.M.B. No. 3067-0151
Expires April 30, 2001

PAPERWORK BURDEN DISCLOSURE NOTICE

Public reporting burden for this form is estimated to average 30 minutes. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and submitting the forms. You are not required to respond to this collection of information unless a valid OMB control number is displayed in the upper right corner of the forms. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (3067-0151). **NOTE:** Do not send your completed form to this address.

DECLARATION NO.	PROJECT NO.	FIPS NO.	DATE	CATEGORY
FEMA- 1516 -DR- AR	800	143-23290-00	June 14, 2004	B

DAMAGED FACILITY: WATER AND SEWER FACILITIES

WORK COMPLETE AS OF: 6/14/04 : 100 %

APPLICANT: CITY OF FAYETTEVILLE, ARKANSAS

COUNTY: WASHINGTON

LOCATION	LATITUDE	LONGITUDE
WATER AND SEWER, CITY WIDE	N36.08128	W94.08843

DAMAGE DESCRIPTION AND DIMENSIONS

Severe storms and flooding of the declared disaster required protective measures at the Water and Sewer Plant and other locations, to prevent damages and to maintain operation at these facilities. These facilities are maintained and operated by a "full time" Contracted Work Force, Operations Management International (OMI).

SCOPE OF WORK

At the time of this inspection all work had been completed. LABOR @ $3,493.95, Equipment @136.84, Materiaql @ $65.10 and Management Fee $72.07.

NOTE:

The site was visited and documented. This PW reflects the observation made and documented. All documented material is attached and/or on file with the applicant. The applicant understands it must be retained for at lease three (3) years.

GENERAL COMMENT: 964

Does the Scope of Work change the pre-disaster conditions at the site? ☐ Yes ☒ No

Special Considerations issues included? ☐ Yes ☒ No Hazard Mitigation proposal included? ☐ Yes ☒ No

Is there insurance coverage on this facility? ☐ Yes ☒ No

PROJECT COST

ITEM	CODE	NARRATIVE	QUANTITY/UNIT	UNIT PRICE	COST
1		WORK COMPLETED	/		$0.00
2	9007	Labor	1.00 / LS	$3,493.95	$3,493.95
3	9008	Equipment	1.00 / LS	$136.84	$136.84
4	9009	Material	1.00 / LS	$65.10	$65.10
5	9999	Management Fee	1.00 / LS	$72.07	$72.07
			/		$0.00
			/		$0.00
			/		$0.00
			/		$0.00
			/		$0.00
		STEPHEN DAVIS FINANCE/INTERNAL SERVICE DIRECTOR 6-18-04		TOTAL COST	$3,767.96

PREPARED BY: JAMES H. DAWSON & GREG McDANIEL TITLE: FEMA & ADEM PROJECT OFFICERS

2/5

FEDERAL EMERGENCY MANAGEMENT AGENCY
SPECIAL CONSIDERATIONS QUESTIONS

1. APPLICANT'S NAME	2. FIPS NUMBER	3. DATE
CITY OF FAYETTEVILLE, ARKANSAS	143-23290-00	6/14/04
4. PROJECT NAME	**5. LOCATION**	
EMERGENCIES	WATER AND SEWER PLANT	

Form must be filled out for each project

1. Does the damaged facility or item of work have insurance and/or is it an insurable risk? *(e.g., buildings, equipment, vehicles, etc.)*

☐ Yes ☒ No ☐ Unsure Comments

2. Is the damaged facility located within a floodplain or coastal high hazard area, or does it have an impact on a floodplain or wetland?

☐ Yes ☐ No ☒ Unsure Comments

3. Is the damaged facility or item of work located within or adjacent to a Coastal Barrier Resource System Unit or an Otherwise Protected Area?

☐ Yes ☒ No ☐ Unsure Comments

4. Will the proposed facility repairs/reconstruction change the pre-disaster condition? *(e.g., footprint, material, location, capacity, use or function)*

☐ Yes ☒ No ☐ Unsure Comments

5. Does the applicant have a hazard mitigation proposal or would the applicant like technical assistance for a hazard mitigation proposal?

☐ Yes ☒ No ☐ Unsure Comments

6. Is the damaged facility on the National Register of Historic Places or the state historic listing? Is it older than 50 years? Are there more, similar buildings near the site?

☐ Yes ☒ No ☐ Unsure Comments

7. Are there any pristine or undisturbed areas on, or near, the project site? Are there large tracts of forestland?

☐ Yes ☒ No ☐ Unsure Comments

8. Are there any hazardous materials at or adjacent to the damaged facility and/or item of work?

☐ Yes ☒ No ☐ Unsure Comments

9. Are there any other environmentally or controversial issues associated with the damaged facility and/or item of work?

☐ Yes ☒ No ☐ Unsure Comments

FEDERAL EMERGENCY MANAGEMENT AGENCY

CONTRACT WORK SUMMARY RECORD

PAGE 1 OF 1

O.M.B. No. 3067-0151
Expires September 30, 2005

APPLICANT	PA ID NO.	PROJECT NO.	DISASTER
City of Fayetteville, AR	143-23290-00	800	1516

LOCATION/SITE	CATEGORY	PERIOD COVERING
City of Fayetteville, AR Water Sewer Division	B	04/21/04 to 05/04/04

DESCRIPTION OF WORK PERFORMED
Responding to high water alarms and flooded lift station

DATES WORKED	CONTRACTOR	BILLING/INVOICE NUMBER	AMOUNT	COMMENTS - SCOPE
04/24 to 04/26	OMI		3767.96	

GRAND TOTAL → $3,767.96

I CERTIFY THAT THE ABOVE INFORMATION WAS OBTAINED FROM PAYROLL RECORDS, INVOICES, OR OTHER DOCUMENTS THAT ARE AVAILABLE FOR AUDIT.

CERTIFIED	TITLE	DATE
	Finance & Internal Services Director	6-11-04

FEMA Form 90-126, OCT 02

Location:	Wastewater Treatment Plant - 1400 N. Fox Hunter Road														
Work Description:	Monitoring the plant and adjusting equipment to handle the increased flow to the WWTP.														
	24-Apr		25-Apr		26-Apr		Hourly Rate	Total Hourly	Labor Markup	Sub-Total Labor	Equipment	Hours Used	Equipment Rate	Total Equip. Cost	Parts & Materials
	Reg. Hr.	O/T	Reg. Hr.	O/T	Reg. Hr.	O/T									
Duyen Tran	8						$35.92	$215.54	$64.66	$280.21					
John Tenberge		14					$18.35	$385.43	$115.63	$501.06					
Thom Vinson	12						$26.67	$320.04	$96.01	$416.05					
Location:	Lift Station #19 - 988 S. Mallywagnon Road														
Work Description:	Responding to high water alarms and flooded stations. Lift station 19 Mally Wagnon station was submerged by the flood waters.														
David Loenneke	10.5	0	12	0			$40.61	$918.23	$275.47	$1,193.69	Truck 320	10	$5.68	$56.80	
Michael Perry	9	0	9	0	4		$35.34	$777.39	$233.22	$1,010.61	Truck 339	12	$5.79	$69.48	$65.10
Samuel Palmer		2					$23.67	$71.02	$21.31	$92.33	Truck 324	2	$5.28	$10.56	
Total Labor						$3,493.95				$3,493.96					
Total Equipment						$136.84								$136.84	
Total Parts						$65.10									$65.10
Management Fee (1.95%)						$72.07									
TOTAL TIER ONE EMERGENCY COSTS DUE OMI						$3,767.96									

Operations Management International, Inc.
1400 North Fox Hunter Road
Fayetteville, Arkansas 72701
(479) 443-3292
Statement Date: June 10, 2004

Thank You.

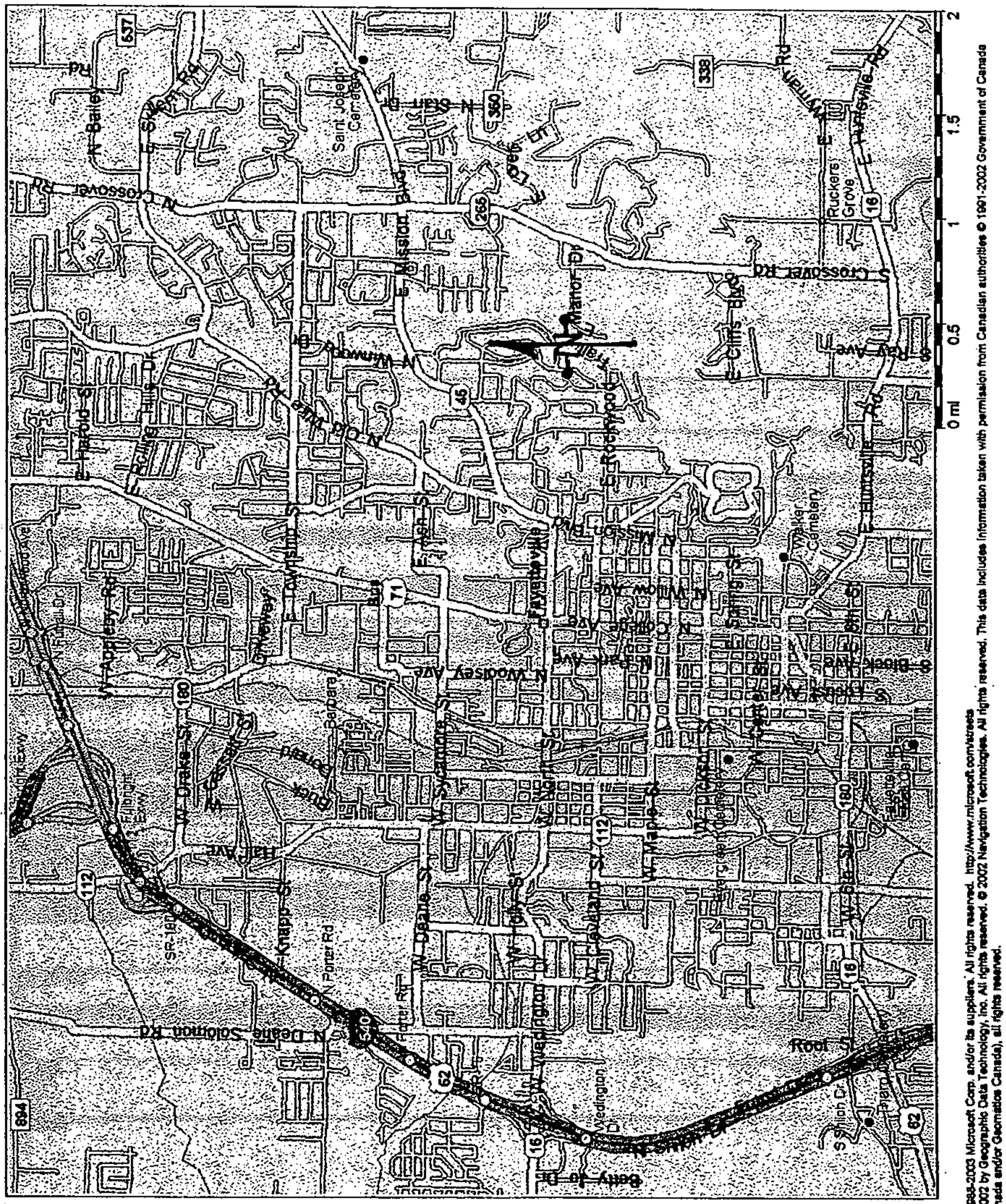
Billy Ammons
Project Manager

PAID 143-23290-00
PW 800
1516 DR-AR

5/5

PAID 143-23290-00
PW 800

1516 DR-AR



Copyright © 1988-2003 Microsoft Corp. and/or its suppliers. All rights reserved. http://www.microsoft.com/streets
© Copyright 2002 by Geographic Data Technology, Inc. All rights reserved. © 2002 Government of Canada
(Statistics Canada and/or Geomatics Canada), all rights reserved.

FEDERAL EMERGENCY MANAGEMENT AGENCY

PROJECT WORKSHEET

O.M.B. No. 3067-0151
Expires April 30, 2001

PAPERWORK BURDEN DISCLOSURE NOTICE

Public reporting burden for this form is estimated to average 30 minutes. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and submitting the forms. You are not required to respond to this collection of information unless a valid OMB control number is displayed in the upper right corner of the forms. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (3067-0151). **NOTE:** Do not send your completed form to this address.

DECLARATION NO.	PROJECT NO.	FIPS NO.	DATE	CATEGORY
FEMA- 1516 -DR- AR	900	143-23290-00	June 16, 2004	C

DAMAGED FACILITY	WORK COMPLETE AS OF:
ROAD	6/16/04 : 0 %

APPLICANT	COUNTY
CITY OF FAYETTEVILLE, ARKANSAS	WASHINGTON

LOCATION	LATITUDE	LONGITUDE
SLEDGE MANAGEMENT SYSTEM (THE FARM)	N36.08257	W94.07419

DAMAGE DESCRIPTION AND DIMENSIONS

Severe storms and flooding of the declared disaster flowing over the road caused damage to the Road base @ 0.5'X12' X528' and Aggregate surface @ 0.25X12'X2,640'.

SCOPE OF WORK

Place 0.5'X12'X528'=117.33CY of base material, distributed at badely damaged road sections and place 0.25'X12'x2,640'=293.33CY of Aggregate material on the damaged road.

NOTE:

The site was visited and documented. This PW reflects the observation made and documented. All documented material is attached and/or on file with the applicant. The applicant understands it must be retained for at lease three (3) years.

GENERAL COMMENT: 964

Does the Scope of Work change the pre-disaster conditions at the site? ☐ Yes ☒ No

Special Considerations issues included? ☐ Yes ☒ No Hazard Mitigation proposal included? ☐ Yes ☒ No

Is there insurance coverage on this facility? ☐ Yes ☒ No

PROJECT COST

ITEM	CODE	NARRATIVE	QUANTITY/UNIT	UNIT PRICE	COST
1		WORK TO BE COMPLETED	/		$0.00
2	3020	Base Material (Fill)	117.33 / CY	$7.00	$821.31
	3011	Aggregare Course	293.33 / CY	$11.00	$3,226.63
			/		$0.00
			/		$0.00
			/		$0.00
			/		$0.00
			/		$0.00
			/		$0.00
			/		$0.00
			/		$0.00
		STEPHEN DAVIS FINANCE & INTERNAL SERVICE DIRECTOR		TOTAL COST	$4,047.94

6-18-04

PREPARED BY: JAMES H. DAWSON & GREG McDANIEL TITLE: FEMA & ADEM PROJECT OFFICERS

2/4

FEDERAL EMERGENCY MANAGEMENT AGENCY
SPECIAL CONSIDERATIONS QUESTIONS

1. APPLICANT'S NAME	2. FIPS NUMBER	3. DATE
CITY OF FAYETTEVILLE, ARKANSAS	143-23290-00	6/14/04
4. PROJECT NAME	**5. LOCATION**	
ROAD	SLEDGE MANAGEMENT SYSTEM (THE FARM)	

Form must be filled out for each project

1. Does the damaged facility or item of work have insurance and/or is it an insurable risk? *(e.g., buildings, equipment, vehicles, etc.)*

☐ Yes ☒ No ☐ Unsure Comments _____

2. Is the damaged facility located within a floodplain or coastal high hazard area, or does it have an impact on a floodplain or wetland?

☐ Yes ☐ No ☒ Unsure Comments _____

3. Is the damaged facility or item of work located within or adjacent to a Coastal Barrier Resource System Unit or an Otherwise Protected Area?

☐ Yes ☒ No ☐ Unsure Comments _____

4. Will the proposed facility repairs/reconstruction change the pre-disaster condition? *(e.g., footprint, material, location, capacity, use or function)*

☐ Yes ☒ No ☐ Unsure Comments _____

5. Does the applicant have a hazard mitigation proposal or would the applicant like technical assistance for a hazard mitigation proposal?

☐ Yes ☒ No ☐ Unsure Comments _____

6. Is the damaged facility on the National Register of Historic Places or the state historic listing? Is it older than 50 years? Are there more, similar buildings near the site?

☐ Yes ☒ No ☐ Unsure Comments _____

7. Are there any pristine or undisturbed areas on, or near, the project site? Are there large tracts of forestland?

☐ Yes ☒ No ☐ Unsure Comments _____

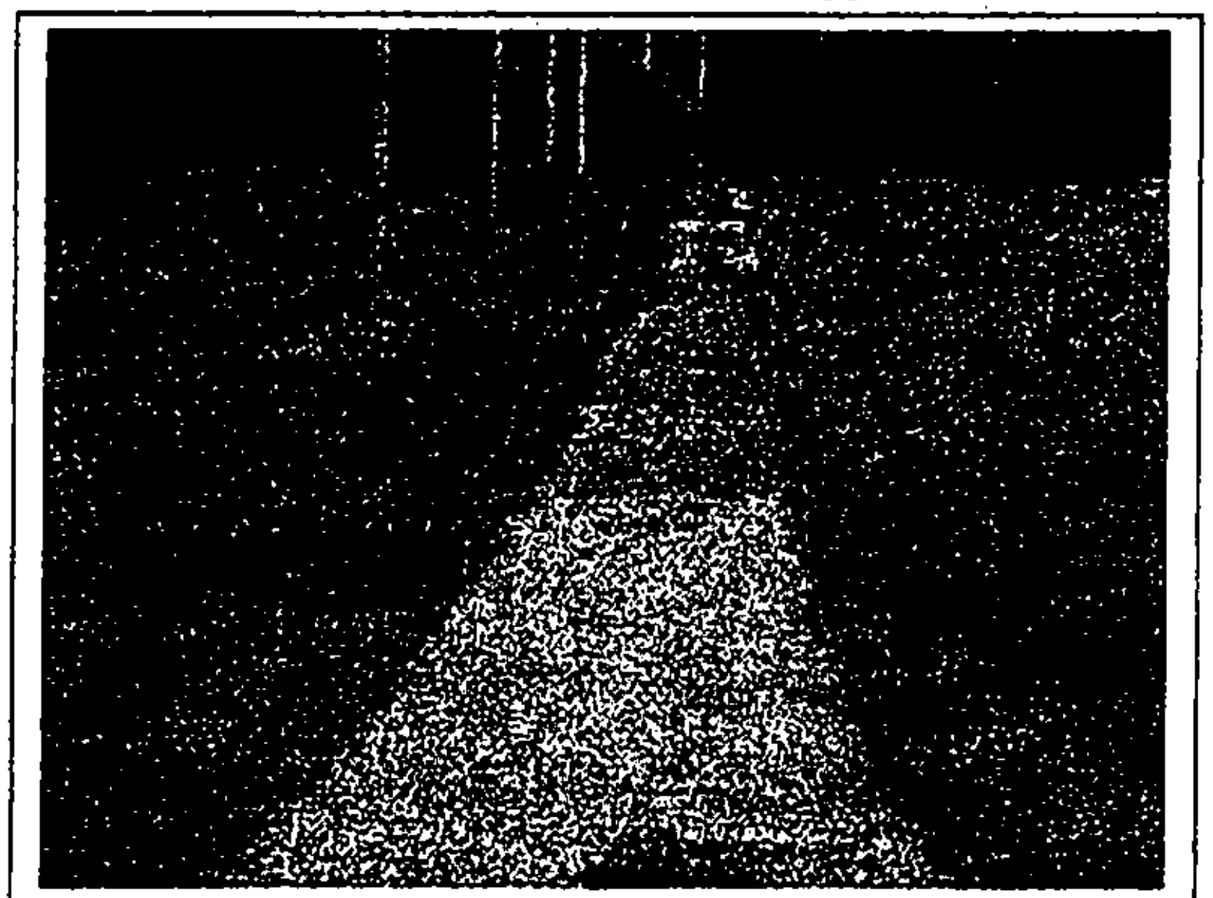
8. Are there any hazardous materials at or adjacent to the damaged facility and/or item of work?

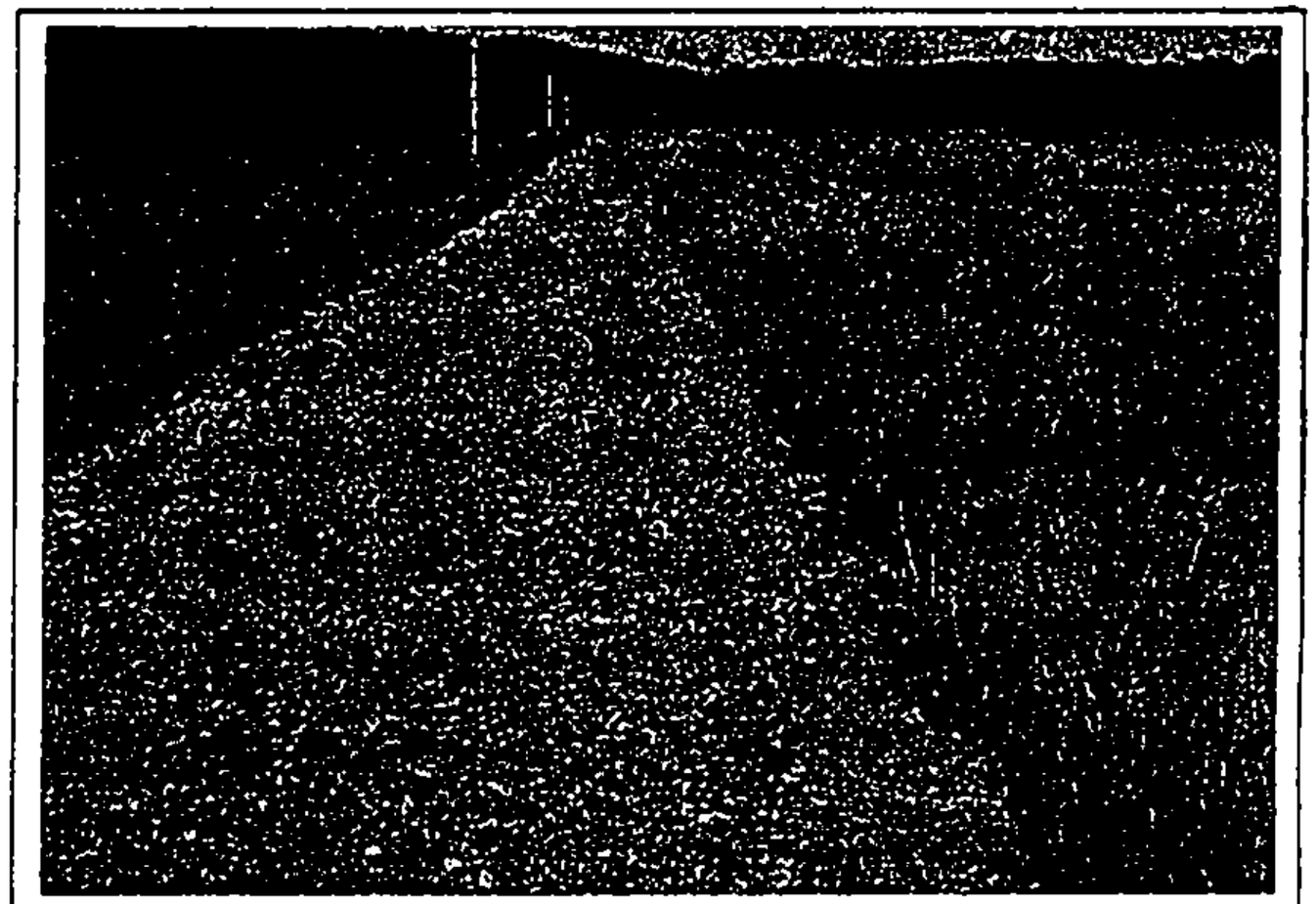
☐ Yes ☒ No ☐ Unsure Comments _____

9. Are there any other environmentally or controversial issues associated with the damaged facility and/or item of work?

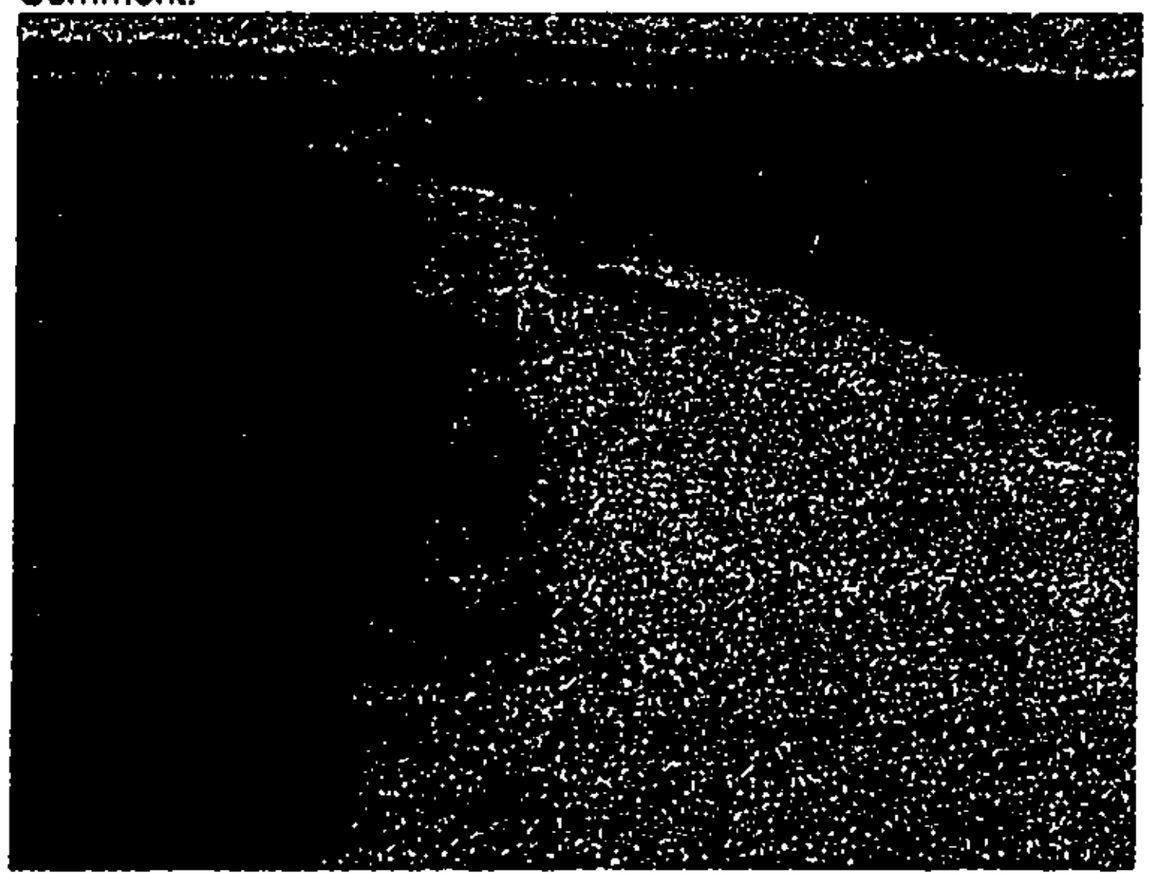
☐ Yes ☒ No ☐ Unsure Comments _____

Photo Page Disaster 1516-DR-AR Applicant- PA ID No. 143-23290-00





Comment:



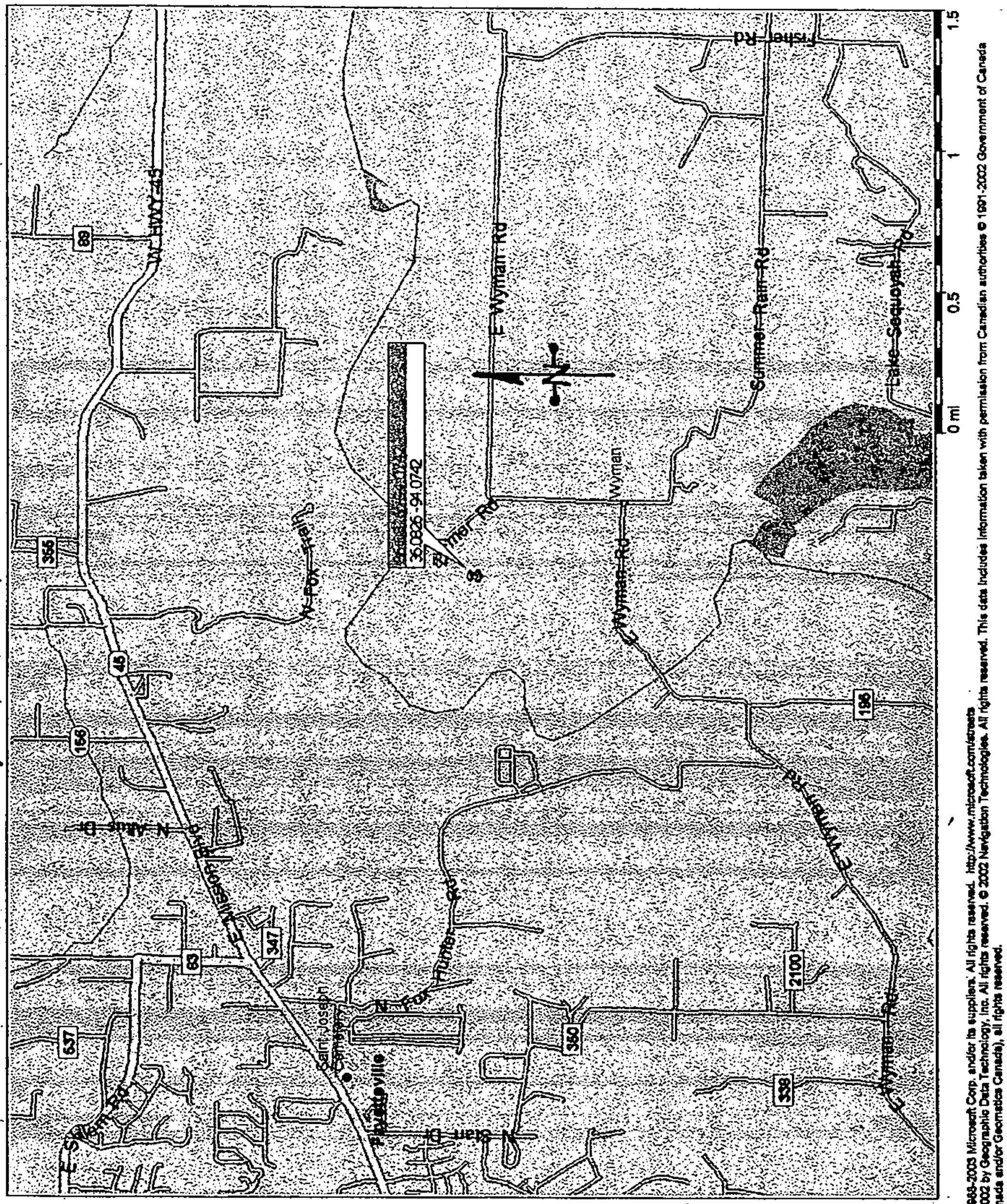
Comment:

VIEWS OF DAMAGED ROAD SECTIONS ON "THE FARM"

PAID 143-23290-00
PW900

1516 DR-AR

4/4



AMENDMENT NO. 10 (A)
TO THE
AGREEMENT FOR OPERATIONS, MAINTENANCE, AND MANAGEMENT SERVICES FOR THE CITY OF FAYETTEVILLE, ARKANSAS WASTEWATER TREATMENT PLANT

THIS AMENDMENT, entered into this _____ day of _____ __, 2004, by and between the City of Fayetteville, Arkansas, whose address for any formal notice is 113 W. Mountain St, Fayetteville, Arkansas 72701 and Operations Management International, Inc., (hereinafter "OMI") with offices at 9193 S. Jamaica Street, Suite 400, Englewood, Colorado 80112 is made and entered into for purposes of amending certain provisions of the "Agreement for Operations, Maintenance, and Management Services for the City of Fayetteville's Wastewater Treatment Plant," dated August 16, 1994 (the "Agreement") to prevent the facilities covered by the Agreement from being deemed to be used in the trade or business of OMI pursuant to Section 141 (b) of the Internal Revenue Code of 1986, as amended.

This is Amendment No. 10 (A) to the Agreement dated the 16th day of August, 1994, between the City of Fayetteville and OMI.

NOW THEREFORE, The City of Fayetteville and OMI agree to amend the Agreement to reflect the impacts of the flooding emergency during 2004 and to correct the contract values for the costs approved and reimbursed by the Federal Emergency Management Agency (FEMJA) relating to OMI's emergency and recovery flood costs. The changes in the contract reflect FEMA's eligible cost determination of sixteen thousand four hundred sixteen dollars ($16,416.00) said amount being being incorporated into the contract as follows:

1. **Article 4.1 is hereby deleted in its entirety and replaced with the following Article 4.1**:

   4.1 For services rendered during the ninth year of this Agreement the City of Fayetteville shall pay to OMI the actual cost of services performed plus an annualized management fee of Seventy Nine Thousand Nine Hundred Fifty Seven Dollars ($79,957.00). Said fee and estimated cost (base fee) shall be paid in twelve (12) equal monthly installments. The management fee for subsequent years will be determined proportional to the increase in estimated cost.

2 Article 4.3 is hereby deleted in its entirety and replaced with the following Article 4.3:

   4.3 OMI estimates the cost for services for the calendar year 2004 shall be Four Million Three Hundred Seventy Three Thousand Five-Hundred Seventy Three Dollars ($4,373,573.00) annually. Details of said cost are shown in Appendix J. The base fee shall be negotiated each year in September, beginning in 2004 for calendar year 2005.

Should the City of Fayetteville and OMI fail to agree, the base fee will be determined by the application of the base fee adjustment formula shown in Appendix F. Should the actual expenditures exceed estimated expenditures by more than Twenty Thousand Dollars ($20,000), in any year of this Agreement, specific approval will be obtained from the City of Fayetteville.

3. Article 4.4 is hereby deleted in its entirety and replaced with the following Article 4.4:

4.4 An administrative fee of 30 percent is added to personnel services and 10 percent to all other costs for administration, support, management and overhead, with the exception of electricity and lift station odor control direct expenses.

5. Appendices B, E, H, J and K are hereby deleted in their entirety and replaced with the attached Appendices B, E, H and J.

All other terms and conditions remain in effect in accordance with the Agreement referenced in this Amendment.

Both parties indicate their approval of this Amendment to the Agreement by their signatures below as of the date shown above.

Authorized Signature:	Authorized Signature:
_____	_____
Edward F. Forbes, Jr. Executive Vice President for Project Delivery	Dan Coody Mayor
OPERATIONS MANAGEMENT INTERNATIONAL, INC.	CITY OF FAYETTEVILLE
Date: _____	Date: _____

Appendix B

LOCATION OF PROJECT

B.1 OMI agrees to provide the services necessary for the management, operation and maintenance of the following:

a) All equipment, vehicles, grounds and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Wastewater Treatment Plant located at:

1400 North Fox Hunter Road
Fayetteville, Arkansas

b) All equipment, grounds, and facilities now existing within the present property boundaries of pump stations described as follows:

WW1	978 E. Zion Road
WW2	4938 Mission Blvd. (Timbercrest)
WW3	Crystal Springs/Salem Road
WW4	691 W. Poplar
WW5	3896 N. Gregg
WW6	3021 N. Old Wire Road
WW7	2034 N. County Road 877
WW8	729 W. North Street
WW9	1336 N. Porter
WW10	716 Futrall Drive
WW11	4412 W. 6th Street
WW12	398 N. Double Springs Road
WW13	878 S. Stonebridge Road
WW14	1820 S. Armstrong
WW15	203 E. 29th Circle
WW16	3917 S. McCollum Road
WW17	4394 S. School
WW18	202 N. Sandy (Greenland)
WW19	988 S. Mallywagnon Road
WW 20	3212 N. Highway 112
WW21	1687 S. Happy Hollow Road
WW22	630 N. Double Springs Road
WW23	Masters Addition (Country Club – 2)
WW24	4071 South McCollum (Airport East)
WW25	Willow West (Farmington)
WW26	74 S. Kestrel (Sequoyah Preserve)
WW27	1031 River Meadows Drive (Stonebridge Meadow)
WW28	1603 Plantation Avenue (Heritage Village)
WW29	Greenland (Todd Bohannan)

WW30	2324 Rupple Road
WW31	2318 Internet (Research Park)
WW32	478 N. Durango Place (Silverthorne)
WW33	4644 N. Crossover Road (Copper Creek)
WW34	Airport South
WW37	Clabber Creek

c) All equipment, grounds, and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Sludge Management Site located east of the wastewater treatment facility across the White River:

d) The potable water SCADA system at the following locations:

W1	215 W. 24th Street	Pump Station
W2	844 N. Crossover Road	Pump Station
W4	1016 E. Ash Street	Pump Station
W5	707 E. Rogers Drive	Pump Station
W6	456 E. Baxter Lane	Ground Storage Tank
W7	707 E. Rogers Drive	Ground Storage Tank
W8	113 N. Sang	Elevated Storage Tank
W9	1170 E. South Skyline	Elevated Storage Tank
W10	1044 E. Township Road	Elevated Storage Tank
W11	Mt. Kessler	Elevated Storage Tank
W12	Highway 45 Valve Station	Pressure-reducing Valve
W13	Fire Tower Avenue (Goshen)	Ground Storage Tank
W14	Fire Tower Avenue (Goshen)	Pump Station
W15	Co. Road # 55 (Round Mountain)	Ground Storage Tank
W16	Co. Road # 4343 (Benson Mountain)	Ground Storage Tank
W17	Gulley Road Tank	Elevated Storage Tank
W18	Gulley Road Station	Pump Station
	1475 Cato Springs Road	Water & Sewer Ops Center
	12141 Ed Edwards Road	Mt. Robinson Tower Site

Appendix E

VEHICLE AND MOBILE EQUIPMENT DESCRIPTION

Unit #	Unit Description	Year
1092	Ford Explorer	2002
2009	Ford Ranger 4 X 4	1997
239	Ford F150 Flare Side	
266	GMC V-Jimmy	1990
284	Ford Ranger 4 X 4	1992
310	Ford F-350 3-Way Dump	1990
320	Ford F-350 Crew Cab	1999
324	Ford F-350 w/crane	1999
339	Ford F-350 4 X 4	2002
539	Ford CM224 Mower	1994
550	Ford 5640 Tractor w/Loader	1995
551	Ford 3930 Tractor	1995
556	Ford/New Holland 8160 Tractor w/Loader	1997
562	New Holland 8160 Tractor	1999
563	New Holland Tractor	1999
564	New Holland Tractor w/Loader	1999
566	Ford LS55 Lawn Tractor	1999
570	New Holland 95 hp Tractor	2000
644	New Holland Backhoe/Loader	2000
701	Ford 8000 Dump	1983
712	Ford 8000 (Gooseneck)	1983
734	Freight Liner	1987
76	Caterpillar Articulated Tanker	1988
77	Caterpillar Articulated Tanker	1988
806	Case 1150G Bulldozer	1995
82	Sykes 6" Pump/Trailer	1995
900	Generator	1987
9002	New Holland 648 Round Baler	1999
9003	New Holland 1411 Mower	1999
9004	John Deere 348-C Square Baler	1999
9017	New Holland 1411 Mower	2000
9031	E-Z Go Workhorse	2001
9034	Yale Forklift	2001
9037	E-Z Go Workhorse	2002
910	16 Ft. Trailer N/C	1987
927	24' Parker Gooseneck Trailer	1991
959	Bush Hog 2620 Cutter	1995
966	18 Ft. Trailer	1996

969	Lo-Boy Trailer	1996
987	Hesston Large Square Baler	1998
988	Hesston Wheel Rake	1998
989	M & W Wheel Rake	1998
990	New Holland 1411 Mower	1998
991	Polaris 500 4 X 4	1998
992	Polaris 500 4 X 4	1998

Appendix H

THIRTY-DAY CHEMICAL INVENTORY

Chemical	Purpose	30-Day Supply
Liquid Alum	Phosphorus Removal	2,200 Gallons
Ferrous Sulfate	Lift Station Odor Control	10,000 Gallons
Liquid Oxygen	Effluent Dissolved Oxygen	50,000 Cubic Ft
Polymer	Belt Filter Press	6870 Pounds

Appendix J

COST DETAIL

The annualized estimated costs for the calendar year of 2004 are revised as follows:

	Approved for 2004	Amended for 2004
Direct Labor & Benefits	$1,671,667	$1,674,354.65
Labor Markup	$501,500	$502,306.30
Electricity	$660,000	$660,000
Electrical Markup (0% Markup for 2003)	$0	$0
Existing Other Direct Costs	$768,057	$779,738.76
Other Direct Costs Markup	$76,806	$77,974.19
Additional Other Direct Costs	$306,915	$306,915
Other Direct Costs Markup	$30,692	$30,692
Subtotal	$4,015,637	$4,031,980.90
Fixed Fee	$78,139	$78,211.10
Lift Station Odor Control	$179,175	$179,175
Capital Item Amortization	$100,622	$100,622
Total O & M Budget	$4,373,573	$4,389,989
SCADA Upgrade Project	$0	$0
Total Annualized Budget	$4,373,573	$4,389,989
Net Annualized Increase		$16,416

The following are some of the major reasons for cost change in 2004:

1. Record flooding during early 2004 required out-of-scope serviced by OMI relating to the emergency flood response efforts and subsequent flood damage recovery actions. Washington County was declared a disaster area and became eligible for FEMA assistance. Fayetteville included the out-of-scope expenses incurred by OMI as a result of the flood disaster in its claims, receiving 95% of this amount in direct federal and state reimbursement. Fayetteville must amend the 2004 contract to reflect the costs and properly distribute the FEMA funds to the cost center incurring the losses.

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Water & Wastewater Division: Wastewater Treatment Program: Wastewater Treatment Plant	Date Requested	Adjustment Number
2004		11/19/2004	

Project or Item Requested:
Adjust wastewater plant operations budget by $16,416.00 for amendment 10 (A) relating to flood damages reimbursed, in part, by FEMA.

Project or Item Deleted:
$12,804 is direct reimbursement funds from FEMA and $3,612.00 will be the Use of Fund Balance

Justification of this Increase:
Flood fighting and repair of flood-damaged facililties are not included in the basic scope of OMI's services.

Justification of this Decrease:
State and federal grant funds are specific purpose and must be transferred to the cost center, the balance must be secured from use of fund balance. Sufficient funding remains to comply with City Policy.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number
PCP operation contract	5400	5100	5328	00	16,416	

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number
#N/A	5400	0940	4309	01	12,804	
Use of fund balance	5400	0940	4999	99	3,612	

Approval Signatures

Requested By — Date

Budget Manager — Date

Department Director (Guy Boulton) — Date 11-19-04

Finance & Internal Services Director — Date

Mayor — Date

Budget Office Use Only

Type: A B C D E

Date of Approval — Initial — Date

Posted to General Ledger — Initial — Date

Posted to Project Accounting — Initial — Date

Entered in Category Log — Initial — Date

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Dec-04
City Council Meeting Date

Greg Boettcher	Water and Wastewater	Wastewater Treatment Program
Submitted By	Division	Department

Action Required:

Resolution approving Amendment Number 10 (A) with Operations Management International, Inc. for out-of-scope expenses incurred during the spring of 2004 in connection with the flood emergency.

$16,416.00	$ 4,378,044.00	Water/Wastewater
Cost of this request	Category/Project Budget	Program Category / Project Name
5400.5100.5328	$ 4,009,808.58	Wastewater Treatment
Account Number	Funds Used to Date	Program / Project Category Name
	$ 368,235.42	Water and Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [X]

Guy Boettcher — 11-19-04
Department Director — Date

Previous Ordinance or Resolution # ____

Original Contract Date: 1-Sep-94

Original Contract Number: ____

D. J. Whit — 11/22/04
City Attorney — Date

Received in Mayor's Office
11-22-04 JM

Chief Administrative Officer — 11-22-04
Date

Received in City Clerk's Office

Dan Coody — 11/22/04
Mayor — Date

Comments:

RECEIVED 11-22-04 CW

Fayetteville

City Council Meeting of December 7, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Greg Boettcher, Water/Wastewater Director

Date: November 19, 2004

Subject: Resolution approving Amendment Number 11 with Operations Management International, Inc. for operation of wastewater treatment facilities for calendar year 2005.

RECOMMENDATION

Fayetteville City Administration recommends approval of "Amendment No. 11 to the Agreement for Operations, Maintenance and Management Services for the City of Fayetteville, Arkansas Wastewater Treatment Plant." This contract amendment totalling $4,484,325.00 provides services for 2005 and is included in the proposed Fiscal Year 2005 Budget.

BACKGROUND

The City of Fayetteville's first private operating contract commenced in 1987 with this year marking 18 years of privatized services from Operations Management International, Inc. (OMI). In May of 2003, Fayetteville City Council approved Amendment No. 9 extending this agreement through December 31, 2008.

The scope of services provided by OMI to the City of Fayetteville include: (1) Operate and maintain the Noland Wastewater Treatment Plant, (2) Operate and maintain 37 wastewater pumping stations, (3) Administer the city's NPDES discharge permit, (4) Manage the city's sludge disposal program, (5) Implement the city's industrial pretreatment program, (6) Support the SCADA (supervisory control and data acquisition system) network that monitors water/wastewater facilities, (7)Pursue operation economies, efficiencies, and permit compliance, and (8) Actively participate in the design and construction of the Wastewater System Improvement Project providing technical, operational and maintenance input

To encourage operational economy and innovation an incentive provision is incorporated within the contract, whereby, budget underruns are distributed as follows: 87.5% to City and 12.5% to OMI.

DISCUSSION

The operating expenses for fiscal year 2005 contain a slight increase from 2004 due to escalated utility consumption, higher fuel costs, labor, aging equipment and growth of loadings. The annual increase in contract value is 2.5%. Such escalation is considerably below the combined effects of the ± 3 % of customer growth and the ± 2.5 % cost-of-living adjustment.

BUDGET IMPACT

The full value of $4,484,325.00 of Contract Amendment No. 11 with Operations Management International is included in the proposed budget for Fiscal Year 2005. The approval of Contract Amendment No. 11 is consistent with the City's financial management plan. The authorization of Amendment No. 11 will be conditioned upon the approval of the 2005 budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT NO. 11 TO THE CONTRACT WITH OPERATIONS MANAGEMENT INTERNATIONAL (OMI) IN THE AMOUNT OF $4,484,325.00 FOR THE OPERATION AND MANAGEMENT OF THE FAYETTEVILLE WASTEWATER TREATMENT PLANT FOR 2005.

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. 11 to the contract with Operations Management International (OMI) in the amount of $4,484,325.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2005. A copy of Amendment No. 11, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to sign Amendment No. 11 to the contract with OMI, contingent upon final approval of the FY2005 Budget.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

AMENDMENT NO. 11
TO THE
AGREEMENT FOR OPERATIONS, MAINTENANCE, AND MANAGEMENT SERVICES FOR THE CITY OF FAYETTEVILLE, ARKANSAS WASTEWATER TREATMENT PLANT

THIS AMENDMENT NO. 11 to the Agreement for Operations, Maintenance and Management Services for the City of Fayetteville, Arkansas Wastewater Treatment Plant dated September 1, 1994 (the "Agreement"), entered into this 1st day of January, 2005, by and between the City of Fayetteville, Arkansas, whose address for any formal notice is 113 W. Mountain St, Fayetteville, Arkansas 72701 and Operations Management International, Inc., (hereinafter "OMI") with offices at 9193 S. Jamaica Street, Suite 400, Englewood, Colorado 80112 is made and entered into for purposes of amending certain provisions of the Agreement, to prevent the facilities covered by the Agreement from being deemed to be used in the trade or business of OMI pursuant to Section 141 (b) of the Internal Revenue Code of 1986, as amended.

NOW THEREFORE, The City of Fayetteville and OMI agree to amend the Agreement as follows:

1. Article 4.1 is hereby deleted in its entirety and replaced with the following:

   4.1 For services rendered during calendar year 2005 the City of Fayetteville shall pay to OMI the actual cost of services performed plus an annualized management fee of Eighty Two Thousand Three Hundred Forty Nine Dollars ($82,349.00). Said fee and estimated cost (base fee) shall be paid in twelve (12) equal monthly installments. The management fee for subsequent years will be determined proportional to the increase in estimated cost.

2 Article 4.3 is hereby deleted in its entirety and replaced with the following Article 4.3:

   4.3 OMI estimates the cost for services for calendar year 2005 shall be Four Million Four Hundred Eighty Four Thousand Three Hundred Twenty Five Dollars ($4,484,325.00). Details of said cost are shown in Appendix J. The base fee shall be negotiated each year in September for the upcoming calendar year. Should the City of Fayetteville and OMI fail to agree, the base fee will be determined by the application of the base fee adjustment formula shown in Appendix F. Should the actual expenditures exceed estimated expenditures by more than Twenty Thousand Dollars ($20,000), in any year of this Agreement, specific approval will be obtained from the City of Fayetteville.

3. Appendices B, D, E, H, and J are hereby deleted in their entirety and replaced with the attached Appendices B, D, E, H and J.

This Amendment No. 11 together with the Agreement constitutes the entire agreement between the Parties and supersedes all prior oral and written understandings with respect to the subject matter set forth herein. Unless specifically stated all other terms and conditions of the Agreement shall remain in full force and effect. Neither this Amendment nor the Agreement may be modified except in writing signed by an authorized representative of the Parties.

The Parties, intending to be legally bound, indicate their approval of the Amendment by their signatures below.

OPERATIONS MANAGEMENT INTERNATIONAL, INC.

Roger B. Quayle
Roger B. Quayle
Senior Vice President
Date: 10-22-04

HG
10-22-04

CITY OF FAYETTEVILLE

Dan Coody
Mayor
Date:

Appendix B

LOCATION OF PROJECT

B.1 OMI agrees to provide the services necessary for the management, operation and maintenance of the following:

a) All equipment, vehicles, grounds and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Wastewater Treatment Plant located at:

1400 North Fox Hunter Road
Fayetteville, Arkansas

b) All equipment, grounds, and facilities now existing within the present property boundaries of pump stations described as follows:

WW1	978 E. Zion Road
WW2	4938 Mission Blvd. (Timbercrest)
WW3	2805 N. Salem Road (Crystal Springs)
WW4	691 W. Poplar
WW5	3896 N. Gregg
WW6	3021 N. Old Wire Road
WW7	2034 N. County Road 877
WW8	729 W. North Street
WW9	1336 N. Porter
WW10	716 Futrall Drive
WW11	4412 W. 6th Street
WW12	398 N. Double Springs Road
WW13	878 S. Stonebridge Road
WW14	1820 S. Armstrong
WW15	203 E. 29th Circle (Country Club)
WW16	3917 S. McCollum Road
WW17	4394 S. School
WW18	202 N. Sandy (Greenland)
WW19	988 S. Mallywagnon Road
WW 20	3212 N. Highway 112
WW21	1687 S. Happy Hollow Road
WW22	630 N. Double Springs Road
WW23	440 E. Fairway Ln (Masters Addition/Country Club #2)
WW24	4071 South McCollum (Airport East)
WW25	511 W. Aster Ave. – Farmington (Willow West)
WW26	74 S. Kestrel (Sequoyah Preserve)
WW27	1031 River Meadows Drive (Stonebridge Meadow)
WW28	1603 Plantation Avenue (Heritage Village)
WW29	390 N. Cato Springs Road - Greenland (Todd Bohannan)
WW30	2324 Rupple Road (Holt Middle School)
WW31	2130 W. More Ln (Research Park)
WW32	478 N. Durango Place (Silverthorne)
WW33	4644 N. Crossover Road (Copper Creek)
WW34	7572 S. School (Airport South)
WW35	3083 W, 6th Street (Lowe's)
WW36	1642 N. Willowbrook Dr. (Skyler Place)
WW37	3848 W. Edgewater Dr. (Clabber Creek)

c) All equipment, grounds, and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Sludge Management Site located east of the wastewater treatment facility across the White River:

d) The potable water SCADA system at the following locations:

W1	215 W. 24th Street	Pump Station
W2	844 N. Crossover Road	Pump Station
W4	1016 E. Ash Street	Pump Station
W5	707 E. Rogers Drive	Pump Station
W6	456 E. Baxter Lane	Ground Storage Tank
W7	707 E. Rogers Drive	Ground Storage Tank
W8	113 N. Sang	Elevated Storage Tank
W9	1170 E. South Skyline	Elevated Storage Tank
W10	1044 E. Township Road	Elevated Storage Tank
W11	Mt. Kessler	Elevated Storage Tank
W12	Highway 45 Valve Station	Pressure-reducing Valve
W13	Fire Tower Avenue (Goshen)	Ground Storage Tank
W14	Fire Tower Avenue (Goshen)	Pump Station
W15	Co. Road # 55 (Round Mountain)	Ground Storage Tank
W16	Co. Road # 4343 (Benson Mountain)	Ground Storage Tank
W17	Gulley Road Tank	Elevated Storage Tank
W18	Gulley Road Station	Pump Station
	1475 Cato Springs Road	Water & Sewer Ops Center
	12141 Ed Edwards Road	Mt. Robinson Tower Site

e) SCADA system repeater, antenna, transmission line, cabinet and backup power supply located at the City of Fayetteville communications site atop Mt. Robinson at 12141 Edwards Rd.

Appendix D

INDUSTRIAL PRETREATMENT PROGRAM

D.1 a) Conduct a survey of the industrial user base 1 time per 3 years. Update, as required, the list of significant industrial users (SIUs) as described in Appendix D according to the definition of SIU in 40 CFR 403 or the definition in the approved pretreatment program (Program), whichever is more stringent.

b) Carry out inspection, surveillance, and monitoring procedures to determine if the SIUs are in compliance with the Pretreatment Standards and the approved Program. Each SIU shall be sampled and inspected at the frequency established in 40 CFR 403 or the approved Program, whichever is more stringent. Maintain adequate records.

c) Maintain the laboratory analysis program for each SIU as described in Appendix D. Results of all industrial sampling and testing shall be reported to The City of Fayetteville, as required, in a timely manner.

d) Implement the approved industrial permitting system. Prepare for renewal all necessary industrial user control mechanisms within 45 days of the expiration date or within 180 days after the industry has been determined to be an SIU.

e) Prepare notices of violation for noncompliance with 40 CFR 403 or the approved Program, whichever is more stringent, and initiate other enforcement actions by notifying the City of Fayetteville of the appropriate enforcement action according to the approved enforcement response plan.

f) Prepare for submission to the Approval Authority (EPA and/or the appropriate State agency) an annual report describing the Program activities over the previous Program year in accordance with 40 CFR 403 or the approved Program, whichever is more stringent. Assist The City of Fayetteville with annual public notice of dischargers in significant noncompliance as required by 40 CFR 403.

g) Advise the City of Fayetteville of changes in federal and State Pretreatment Standards and regulations and how the changes affect the local Program. Request approval from the City of Fayetteville and the Approval Authority prior to implementing significant changes to the approved Program in accordance with 40 CFR 403.18(c).

h) Local limits evaluation, if requested, may be provided as an out of scope service. The costs of such evaluation will be determined and negotiated at the time of the request.

D.2 Industrial Waste Dischargers and Monitoring Program City of Fayetteville

Industry	Parameters Analyzed
Ayrshire Electronics, LLC 1101 S. Beechwood Fayetteville, AR 72701 Mr. Tim Pearce 442-5356 ext. 2113	Cadmium, chromium, copper, lead, nickel, silver, zinc
Cooper Power Systems/Kearney Operation 3660 S. School Avenue Fayetteville, AR 72701 Mr. James Raynor 587-6335	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Elkhart Products Corporation PO Box 1129 Fayetteville, AR 72702 Mr. Jerry Whiteside 443-2367	Chromium, copper, lead, nickel, zinc, oil & grease
Hiland Dairy Company PO Box 3478 Fayetteville, AR 72702 Mr. Dale Schoen 521-1707	Biochemical oxygen demand, total suspended solids, phosphorus, pH, oil & grease
Danaher Tool Group/K-D Tools 2900 City Lake Road Fayetteville, AR 72701 Mr. Kelly Jones 442-7779	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Marshalltown Tools 2200 Industrial Drive Fayetteville, AR 72701 Mr. Jim Glass 521-4306 ext. 163	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Pinnacle Foods Corporation PO Box G Fayetteville, AR 72702 Mr. Fred McLane 443-3451 ext. 216	Biochemical oxygen demand, total suspended solids, phosphorus, pH, oil & grease
Superior Industries International, Inc. 1901 Borick Drive Fayetteville, AR 72701 Mr. Garnett Wise 443-7870	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Tyson Foods, Inc. 2615 S. School Fayetteville, AR 72701 Mr. Richard Stockton 521-0677	Biochemical oxygen demand, total suspended solids, phosphorus, pH, oil & grease

Appendix E

VEHICLE AND MOBILE EQUIPMENT DESCRIPTION

Unit #	Unit Description	Year
1092	Ford Explorer	2002
2009	Ford Ranger 4 X 4	1997
228	Ford Ranger 4 X 4	1996
239	Ford F150 Flare Side	
266	GMC V-Jimmy	1990
310	Ford F-350 3-Way Dump	1990
320	Ford F-350 Crew Cab	1999
324	Ford F-350 w/crane	1999
339	Ford F-350 4 X 4	2002
539	Ford CM224 Mower	1994
551	Ford 3930 Tractor	1995
556	Ford/New Holland 8160 Tractor w/Loader	1997
562	New Holland 8160 Tractor	1999
563	New Holland Tractor	1999
564	New Holland Tractor w/Loader	1999
566	Ford LS55 Lawn Tractor	1999
570	New Holland 95 hp Tractor	2000
581	New Holland T100 Truck w/Loader	2004
582	New Holland 1412 Mower	2004
644	New Holland Backhoe/Loader	2000
701	Ford 8000 Dump	1983
712	Ford 8000 (Gooseneck)	1983
734	Freight Liner	1987
76	Caterpillar Articulated Tanker	1988
77	Caterpillar Articulated Tanker	1988
806	Case 1150G Bulldozer	1995
82	Sykes 6" Pump/Trailer	1995
900	Generator	1987
9004	John Deere 348-C Square Baler	1999
9017	New Holland 1411 Mower	2000
9031	E-Z Go Workhorse	2001
9034	Yale Forklift	2001
9037	E-Z Go Workhorse	2002
910	16 Ft. Trailer N/C	1987
927	24' Parker Gooseneck Trailer	1991
959	Bush Hog 2620 Cutter	1995
966	18 Ft. Trailer	1996
969	Lo-Boy Trailer	1996
987	Hesston Large Square Baler	1998
988	Hesston Wheel Rake	1998
989	M & W Wheel Rake	1998
990	New Holland 1411 Mower	1998
991	Polaris 500 4 X 4	1998
992	Polaris 500 4 X 4	1998
9021	Volvo Penta 400 RD – Portable Diesel Power Generator at LS#8	2001
9025	Volvo Penta 400 RD – Portable Diesel Power Generator at LS#9	2001

Appendix H

THIRTY-DAY CHEMICAL INVENTORY

Chemical	Purpose	30-Day Supply
Liquid Alum	Phosphorus Removal	2,200 Gallons
Ferrous Sulfate	Lift Station Odor Control	10,000 Gallons
Liquid Oxygen	Effluent Dissolved Oxygen	50,000 Cubic Ft
Polymer	Belt Filter Press	6870 Pounds

Appendix J

COST DETAIL

The annualized estimated costs for calendar year 2005 are as follows:

	Current 2004	Proposed 2005
Direct Labor & Benefits	$1,671,667	$1,671,071
Labor Markup	$501,500	$501,321
Electricity	$660,000	$642,720
Electrical Markup	$0	$0
Other Direct Costs	$1,074,972	$1,288,073
Other Direct Costs Markup	$107,497	$128,807
Subtotal	$4,015,637	$4,231,992
Fixed Fee	$78,139	$82,349
Lift Station Odor Control	$179,175	$69,362
Capital Item Amortization	$100,622	$100,622
Total O & M Budget	$4,373,573	$4,484,325
Total Annualized Budget	$4,373,573	$4,484,325
Net Annualized Increase		$110,730

The following are some of the major reasons for cost circumstances:

1. Continued increase in the efficient use of technological automation and job-sharing within the OMI network.

2. Continued upward pressure on the cost of fuel and vehicle expenses.

3. Ever increasing cost to maintain community-expected high level of performance with many pieces of equipment nearing the end of their life cycle and destined to be replaced or upgraded as part of the ongoing Wastewater Improvement Project.

4. Continued population growth causing a related increase in sludge production and ultimate sludge disposal costs.

5. Additional costs for maintenance of 4-5 new sewage lift stations during the next year.

6. Potentially less expensive sludge disposal alternatives continue to be evaluated, which may or may not become feasible within the next 12 months.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Dec-04
City Council Meeting Date

Greg Boettcher	Water and Wastewater	Wastewater Treatment Program
Submitted By	Division	Department

Action Required:

Resolution approving Amendment Number 11 with Operations Management International, Inc. for operation of the wastewater treatment facilities for calendar year 2005.

$4,484,325.00	$ 6,394,776.00	Water/Wastewater
Cost of this request	Category/Project Budget	Program Category / Project Name
5400.5100.5328	$ -	Wastewater Treatment
Account Number	Funds Used to Date	Program / Project Category Name
	$ 6,394,776.00	Water and Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Department Director — 11-16-04 Date

Previous Ordinance or Resolution # ____

Original Contract Date: 1-Sep-94

Original Contract Number: ____

City Attorney — 11/17/04 Date

Chief Administrative Officer — 11-18-04 Date

Mayor — 11/19/04 Date

Received in Mayor's Office
11/17/04 P.M.

Received in City Clerk's Office

Comments:

11-17-04

City Council Meeting of December 7, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Operations Director

From: Gary Coover, City Engineer GKC

Date: November 18, 2004

Subject: Approval of Contract Amendment No. 4 in the amount of $121,500 with Garver Engineers for engineering, bidding and construction phase services for the northern portion of the Phase II of the Gregg Avenue waterline relocation and improvement project between Futrall and Township.

RECOMMENDATION

Staff recommends adoption of Contract Amendment No. 4.

BACKGROUND

On September 17, 2002, City Council approved a phased design contract with Garver Engineers to design the relocation and upgrade of the main waterline along Gregg Avenue between Mud Creek and Sycamore Street. Phase I is the portion of the waterline between Futrall Drive and Mud Creek, Phase II is the portion of the waterline between Futrall Drive and Sycamore Street. The relocation of this waterline is necessary due to AHTD widening and improvements planned for Gregg Avenue between Mud Creek and Township Street, and in order to meet future water demand the line is being upgraded to an 18-inch waterline.

All design, bidding and construction services are complete on Phase I, between Mud Creek and Futrall Drive, and waterline construction was completed in July of 2004.

DISCUSSION

Garver Engineers were only authorized to perform surveying, preliminary and final engineering design for Phase II, with bidding and construction services to be negotiated at a later date. At 90% completion of the final design for Phase II, the project was put on hold in April of 2003 awaiting final approval of the proposed roadway cross section and preliminary roadway alignment design from AHTD for the section between Futrall Drive and Township Street.

AHTD has recently provided the City with their preliminary roadway design, and due to major alignment, elevation and storm sewer conflicts with the previous waterline design, significant portions of the waterline project between Futrall Drive and Township Street will need to be redesigned.

This amendment only includes funds for additional engineering, bidding, construction staking and construction inspection services for the northern portion of Phase II between Futrall Drive and Township Street.

Since the southern portion of Phase II between Township Street and Sycamore Street is currently on the CIP Unfunded List, it is recommended that additional engineering services not be authorized on this segment until funds have been budgeted for construction.

BUDGET IMPACT

This $121,500 expenditure will come from Project# 02129 "Gregg - Water Line Relocation," which has a remaining 2004 budget of $858,732.80. Preliminary construction cost estimates indicate that the final construction cost could be approximately $1,000,000, and depending on the final construction bid price, a budget adjustment might be required at time of construction contract award.

# # #

RESOLUTION NO. _____

A RESOLUTION TO APPROVE CONTRACT AMENDMENT NO. 4 WITH GARVER ENGINEERS, LLC FOR ADDITIONAL DESIGN, BIDDING AND CONSTRUCTION PHASE SERVICES FOR THE GREGG STREET WATERLINE RELOCATION IN THE LUMP SUM AMOUNT OF $121,500.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Contract Amendment No. 4 with Garver Engineers, LLC for additional design, bidding and construction phase services for the Gregg Street Waterline Relocation in the lump sum amount of $121,500.00 and authorizes Mayor Coody to execute this contract.

PASSED and **APPROVED** this 7th day of December, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Garver Engineers, LLC

3810 Front Street, Suite 10
Fayetteville, Arkansas 72703

(479) 527-9100
FAX (479) 527-9101

www.garverengineers.com

GARVER|ENGINEERS

November 19, 2004

Mr. Gary Coover, PE
City Engineer
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72703

Re: Gregg Street Waterline Relocation – Contract Amendment No. 4
Garver Project No. 0296-3600

Dear Gary:

In accordance with our recent discussion, please consider this 2nd revision to the proposed Amendment No. 4 to our original professional services contract for Gregg Avenue Waterline Relocation, dated September 17, 2002.

This amendment will apply to the portion of Phase 2 of the project from Township to Futrall and will cover additional design services, as well as bidding and construction phase services which were not part of our original agreement for Phase 2. Based on your direction, this amendment does not include any revisions or final completion of bid documents for the portion of the project from Sycamore to Township; any redesign and final completion of this section will be negotiated in the future after this section is included on the City's CIP list. We understand we have completed our current contractual obligations for the section between Sycamore and Township.

Based on your direction, we will redesign the portion of the project between Township and Futrall to accommodate the Gregg Avenue Improvements designed by AHTD, which conflict significantly with the previous waterline relocation design. This will involve major coordination with City and AHTD staff. In addition to typical construction observation and support services, we will stake the proposed AEP pole locations, the City Right-of-Way along the west side of Gregg from Township to Futrall, and the proposed waterline from Township to Futrall.

Your approval of this amendment will add a lump sum fee amount of **$121,500** for Design, Bidding, and Construction Support Services as described herein for Phase 2. For informational purposes, a breakdown of the Engineer's estimated costs is included in Appendix B with approximate current hourly rates for each employee classification.

We are available to meet with you to discuss this proposed amendment at your convenience. Please call me if you have any questions. Thank you.

Respectfully,
GARVER ENGINEERS

Brock Hoskins, P.E.
Vice President / Project Manager

Approved by: _____

Title: _____

Date: _____

APPENDIX B

CITY OF FAYETTEVILLE
GREGG AVE WATERLINE RELOCATION - PHASE 2
(SYCAMORE TO FUTRALL)
11/19/2004

PAGE 1 OF 4

FEE SUMMARY

Design Services	$23,080.00
Bidding Services	$5,350.00
Construction Support Services	$93,070.00
Total Lump Sum Fee	**$121,500.00**

APPENDIX B

CITY OF FAYETTEVILLE
GREGG AVE WATERLINE RELOCATION - PHASES 2A and 2B (SYCAMORE TO TOWNSHIP & TOWNSHIP TO FUTRALL)
11/19/04

Design Services

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Project Surveyor	Survey Coord	Environmental Scientist	Senior Tech / Draftsman	Tech. / Draftsman	Clerical	Survey Crew	Senior Constr Engineer	Const Engineer	Senior Constr Observer	Constr Observer
	$143.00 hr	$120.00 hr	$105.00 hr	$88.00 hr	$82.00 hr	$65.00 hr	$78.00 hr	$75.00 hr	$83.00 hr	$72.00 hr	$57.00 hr	$40.00 hr	$130.00 hr	$76.00 hr	$65.00 hr	$69.00 hr	$63.00 hr
Civil Engineering																	
Design Meetings with City/AHTD			16			16											
Reconfigure Final Plans			4			16											
Revise Plans from Township to Futrall (8 P&P)			24			80											
Upgrade Traffic Control Plans from Township to Futrall			4			26											
Coordination with Utility Companies			4			8											
Coordination with City			6			8											
Coordination with AHTD			3			3											
Update Specifications/Contract Documents (2 sets)			12			24											
Revise Quantities/Cost Opinion			2			12											
Plan-In-Hand Review			4			6											
OC Review/Administration		2	8											2			
Subtotal - Civil Engineering	0	2	87	0	0	199	0	0	0	0	0	0	0	2	0	0	0
Structural Engineering																	
Subtotal - Structural Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mechanical Engineering																	
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Electrical Engineering																	
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hours	0	2	87	0	0	199	0	0	0	0	0	0	0	2	0	0	0
Salary Costs	$0.00	$240.00	$9,135.00	$0.00	$0.00	$12,935.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$152.00	$0.00	$0.00	$0.00

SUBTOTAL - SALARIES **$22,462.00**

NON-LABOR EXPENSES

Reproduction/Printing	$518.00	
Survey Supplies	$0.00	
Computer Modeling Software Use	$0.00	
GPS Equipment	$0.00	
Travel Costs	$100.00	$618.00

TOTAL COST **$23,080.00**

APPENDIX B

CITY OF FAYETTEVILLE
GREGG AVE WATERLINE RELOCATION - PHASE 2A (TOWNSHIP TO FUTRALL)
11/19/04

Bidding Services

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Project Surveyor	Survey Coord	Environmental Scientist	Senior Tech./ Draftsman	Tech. / Draftsman	Clerical	Survey Crew	Senior Constr Engineer	Const Engineer	Senior Constr Observer	Constr Observer
	$143.00 /hr	$120.00 /hr	$106.00 /hr	$88.00 /hr	$82.00 /hr	$65.00 /hr	$78.00 /hr	$75.00 /hr	$83.00 /hr	$72.00 /hr	$57.00 /hr	$40.00 /hr	$130.00 /hr	$76.00 /hr	$65.00 /hr	$69.00 /hr	$63.00 /hr
Civil Engineering																	
Dispense plans and specs to prospective bidders			1			2						8					
Addendums/Inquiries		1	4			8						4					
Pre-Bid Meeting			4			4											
Bid Opening			2			2											
Prepare bid tabulation			1			3											
Evaluate bids and recommend award			2			2											
Prepare construction contracts		1	2			4						8					
Subtotal - Civil Engineering	0	2	16	0	0	25	0	0	0	0	0	20	0	0	0	0	0
Structural Engineering																	
Subtotal - Structural Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mechanical Engineering																	
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Electrical Engineering																	
Addendums/Inquiries		1		4													
Subtotal - Electrical Engineering	0	1	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0
Hours	0	3	16	4	0	25	0	0	0	0	0	20	0	0	0	0	0
Salary Costs	$0.00	$360.00	$1,680.00	$352.00	$0.00	$1,625.00	$0.00	$0.00	$0.00	$0.00	$0.00	$800.00	$0.00	$0.00	$0.00	$0.00	$0.00

SUBTOTAL - SALARIES **$4,817.00**

NON-LABOR EXPENSES		
Reproduction/Printing/Courier	$508.00	
Survey Supplies	$0.00	
Computer Modeling Software Use	$0.00	
GPS Equipment	$0.00	
Travel Costs	$25.00	$533.00

TOTAL COST **$5,350.00**

APPENDIX B

CITY OF FAYETTEVILLE
GREGG AVE WATERLINE RELOCATION - PHASE 2A (TOWNSHIP TO FUTRALL)
11/19/04

Construction Support Services

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Project Surveyor	Survey Coord	Environmental Scientist	Senior Tech./ Draftsman	Tech. / Draftsman	Clerical	Survey Crew	Senior Constr Engineer	Const Engineer	Senior Constr Observer	Constr Observer
	$150.00 hr	$135.00 hr	$110.00 hr	$92.00 hr	$86.00 hr	$69.00 hr	$82.00 hr	$78.00 hr	$87.00 hr	$76.00 hr	$60.00 hr	$42.00 hr	$130.00 hr	$80.00 hr	$69.00 hr	$73.00 hr	$65.00 hr
Civil Engineering																	
Issue NTP			1									1					
Preconstruction Meeting/Utilities Coordination Meeting			4			4	4										
Stake Existing West Right-of-Way (Township to Futrall)			4				24						44				
Stake Proposed Power Poles (Township to Futrall)			2				8						16				
Stake Proposed Waterline (Township to Futrall)			4				16						60				
Process Monthly Pay Requests			8									8				16	
Progress Meetings with Contractor/Owner			16			16										16	
Shop Drawings/Material Submittals			2			8						4				8	
Record Drawings			4			8	6				8		16				
On-Site Meetings/Engineering Support			40			40						4		24			
Construction Observation (5 hours/day, 5 days/week, 180 calendar days)																650	
Final Inspection/Punchlist Resolution			6			6										8	
Subtotal - Civil Engineering	0	0	91	0	0	82	58	0	0	0	8	17	136	24	0	698	0
Structural Engineering																	
Subtotal - Structural Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mechanical Engineering																	
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Electrical Engineering																	
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hours	0	0	91	0	0	82	58	0	0	0	8	17	136	24	0	698	0
Salary Costs	$0.00	$0.00	$10,010.00	$0.00	$0.00	$5,658.00	$4,756.00	$0.00	$0.00	$0.00	$480.00	$714.00	$17,680.00	$1,920.00	$0.00	$50,954.00	$0.00

SUBTOTAL - SALARIES $92,172.00

NON-LABOR EXPENSES		
Reproduction/Printing	$250.00	
Survey Supplies	$0.00	
Computer Modeling Software Use	$0.00	
GPS Equipment	$0.00	
Travel Costs	$648.00	$898.00

TOTAL COST **$93,070.00**

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 7, 2004

FROM:

Gary Coover	Engineering	Operations
Name	Division	Department

ACTION REQUIRED: Approval of Contract Amendment No. 4, adjusting the contract with Garver Engineers in the amount of $121,500.00 for additional engineering, bidding and construction support services for the portion of the Phase II of the Gregg Avenue Waterline Improvement Project between Futrall Drive and Township Street.

COST TO CITY:

$121,500.00	$ 984,209.00	Gregg - Waterline Relocation
Cost of this request	Category/Project Budget	Program Category / Project Name
5400-5600-5808.00	$ 125,476.20	Water & Sewer Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02129	$ 858,732.80	Water & Sewer
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 — 11-14-04 Date — Purchasing Manager — Date

STAFF RECOMMENDATION:

Division Head — 11-19-04 Date — Received in Mayor's Office — 11/19/04 Date P.H.

Department Director — 11-19-04 Date — Cross Reference:

Finance & Internal Services Dir. — Date — Previous Ord/Res#:

Chief Administrative Officer — Date — Orig. Contract Date:

Mayor — 11/19/04 Date — Orig. Contract Number:

New Item: Yes No

City Council Meeting of December 7, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Dircctor of Parks and Recreation

From: Alison Jumper, Park Planner

Date: November 15, 2004

Subject: Resolution to accept the recommendation of the Fayetteville Parks and Recreation Advisory Board to accept a combination of money, land and services for the Park Land Dedication Requirement of Aspen Ridge.

RECOMMENDATION

Fayetteville Parks and Recreation Advisory Board (PRAB) and Parks and Recreation Staff recommend money, land and services as the Park Land Dedication requirement for Aspen Ridge.

BACKGROUND

The Aspen Ridge development is located south of the intersection of Hwy 62 and Duncan Ave. The owner is Broyles Commercial Development and the engineering firm is Crafton, Tull & Associates. The development contains 220 single-family units on 28 acres. The requirement for park land is 5.28 acres and money in lieu is $122,100. No parks are located within a half mile radius.

The Park Land Dedication Ordinance states if a major development is over 40 acres or 100 units, the requirement is land.

> *"...However, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks Board with instructions or further study."* (Unified Development Ordinance No. 166.03K)

Parks and Recreation Staff met with the owners and Matt Crafton of Crafton, Tull & Associates to evaluate the site. The development was presented to the Parks and Recreation Advisory Board on November 8, 2004.

DISCUSSION

The Parks and Recreation Staff and PRAB recommend a combination of money, land, and services for the Park Land Dedication requirement. Approximately .36 acres of land for the Indian Trail corridor will be dedicated as well as approximately .88 acres of land for a park. The developers will bid the construction of the trail from the east property line to the east edge of an existing rail road bridge. The cost of the construction will be deducted from the remaining fees due in lieu of land. The remaining money-in-lieu contribution will be used for park improvements in the southwest park district. This decision is based upon the identification of Indian Trail as the number one priority and the need for parkland in this area. If you have any questions, please call me at 444-3469.

Attachments;

Aspen Ridge Concept Plan
Location Map
PRAB November 8, 2004 Meeting Minutes

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE PARKS AND RECREATION ADVISORY BOARD'S RECOMMENDATION TO ACCEPT APPROXIMATELY 1.24 ACRES OF LAND AND APPROXIMATELY $93,425.00 CASH IN LIEU OF THE REQUIRED PARK LAND DEDICATION (LESS CREDIT FOR THE DEVELOPER'S COST TO CONSTRUCT INDIAN TRAIL) FOR ASPEN RIDGE DEVELOPMENT.

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 accepts the Parks and Recreation Advisory Board's recommendation to accept approximately 1.24 acres of land and approximately $93,425.00 in lieu of the required Park Land Dedication (less credit for the developer's cost to construct Indian Trail) for Aspen Ridge Development.

PASSED and **APPROVED** this 7th day of December 2004.

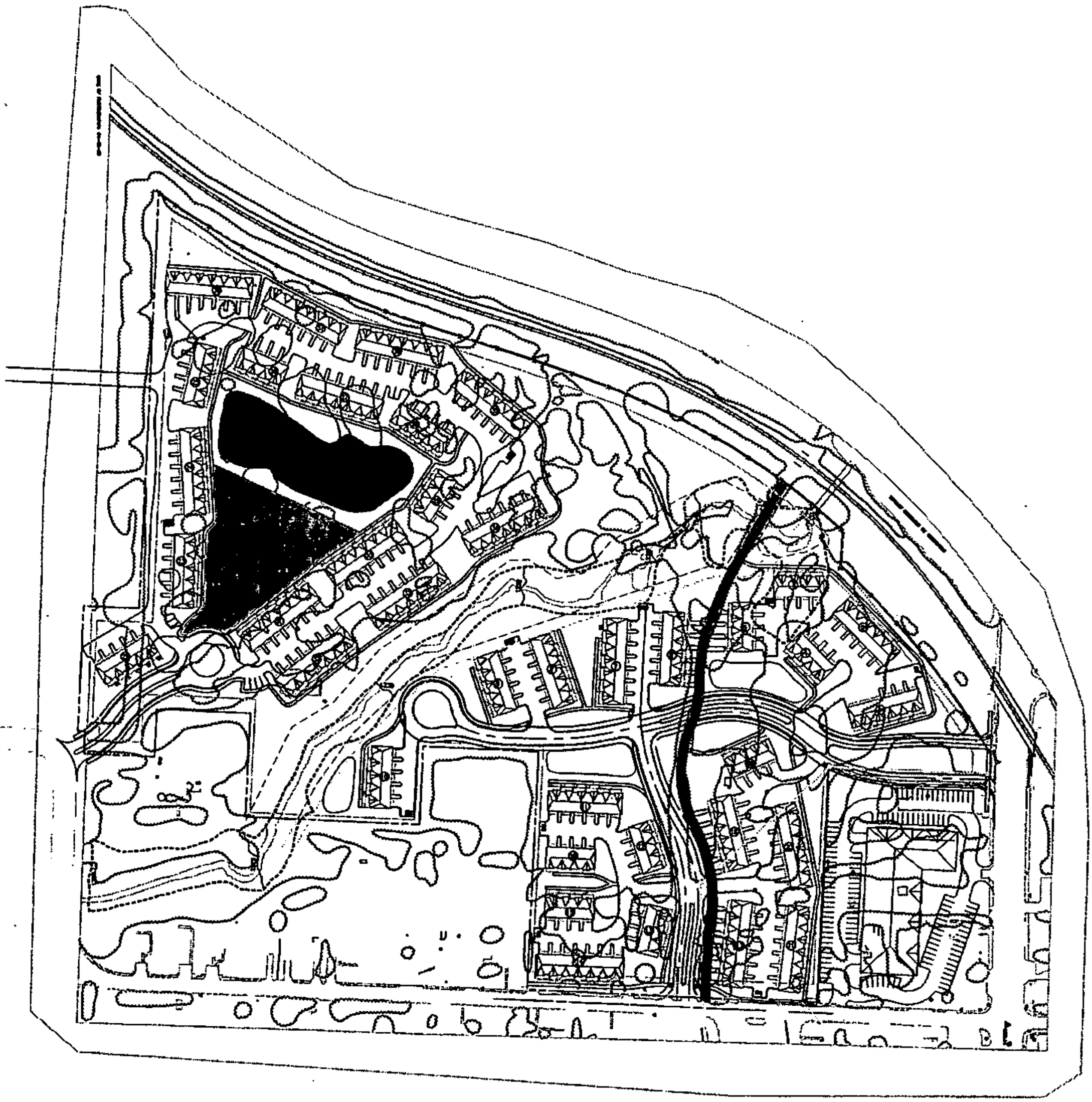
APPROVED:

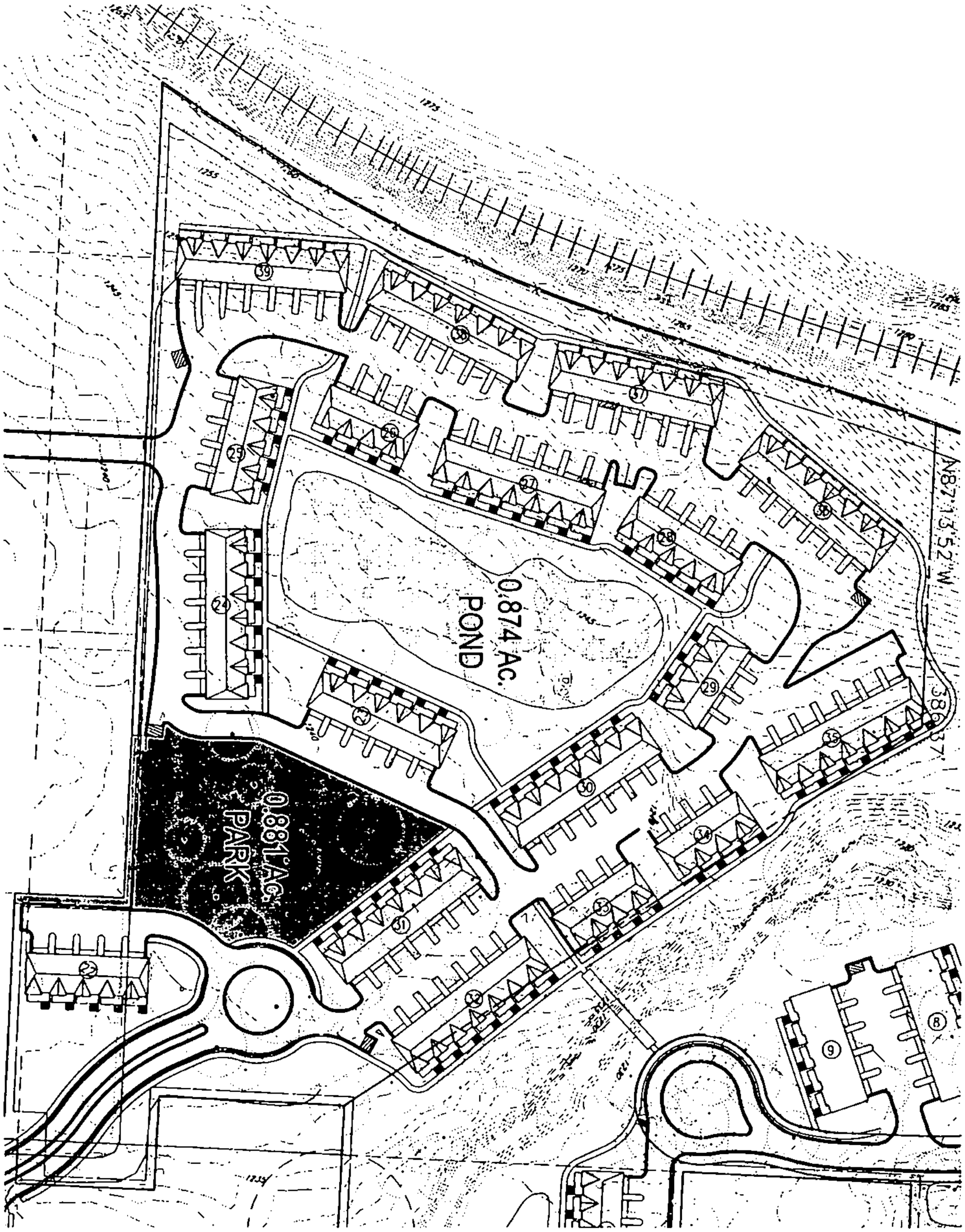
By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

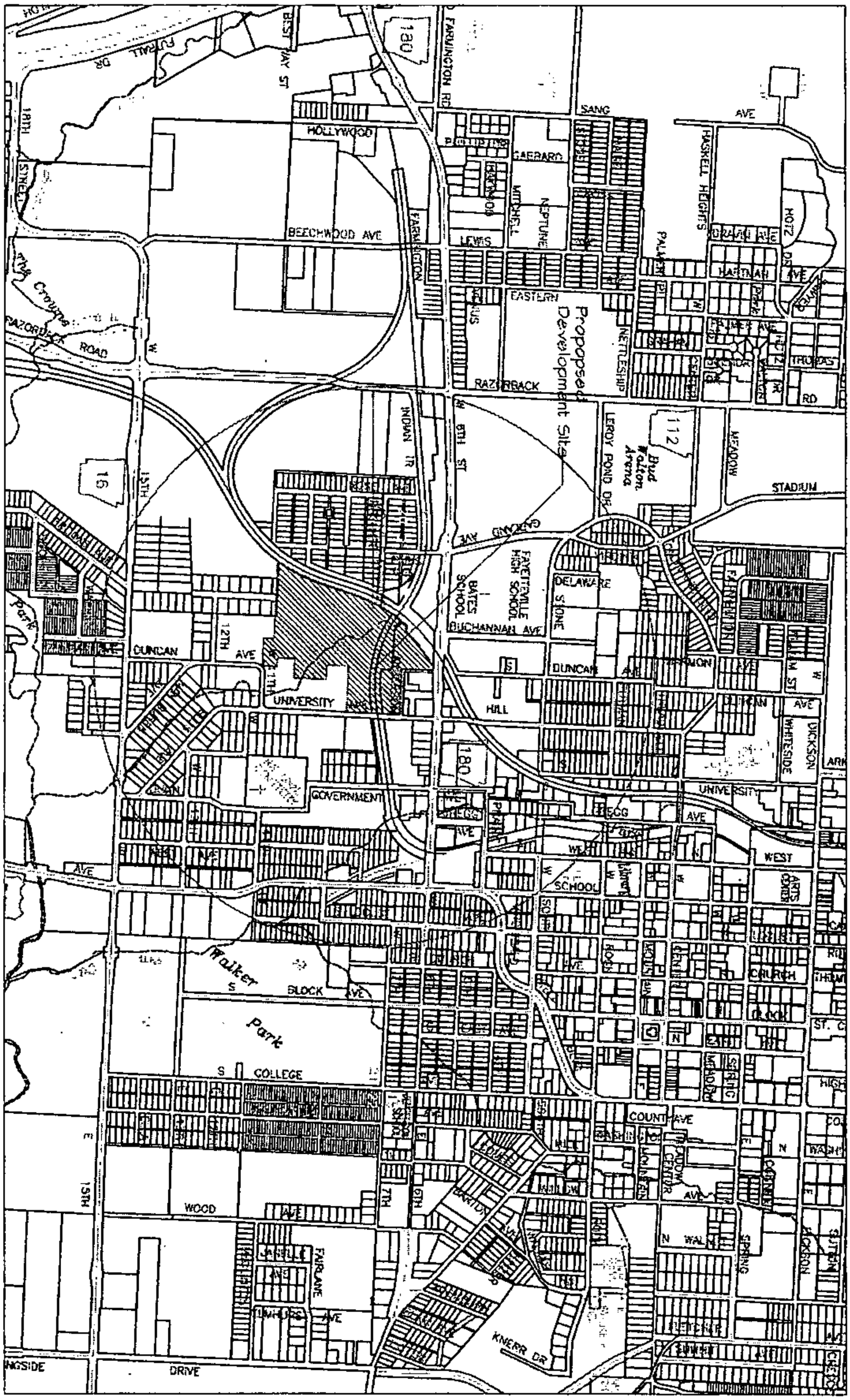
DRAFT




0.874 Ac.
POND
0.881 Ac.
PARK
N87°13'52"W
1755
1775
1765
1745
1735
1725
1715
1705
1695
1685
1675
1665
1655
1645
1635
1625
1615
1605
1595
1585
1575
1565
1555
1545
1535
1525
1515
1505
1495
1485
1475
1465
1455
1445
1435
1425
1415
1405
1395
1385
1375
1365
1355
1345
1335
1325
1315
1305
1295
1285
1275
1265
1255
1245
1235
1225
1215
1205
1195
1185
1175
1165
1155
1145
1135
1125
1115
1105
1095
1085
1075
1065
1055
1045
1035
1025
1015
1005
995
985
975
965
955
945
935
925
915
905
895
885
875
865
855
845
835
825
815
805
795
785
775
765
755
745
735
725
715
705
695
685
675
665
655
645
635
625
615
605
595
585
575
565
555
545
535
525
515
505
495
485
475
465
455
445
435
425
415
405
395
385
375
365
355
345
335
325
315
305
295
285
275
265
255
245
235
225
215
205
195
185
175
165
155
145
135
125
115
105
95
85
75
65
55
45
35
25
15
5

PROJECT PROXIMITY MAP - ASPEN RIDGE

0 25 ml. .5 ml. .75 ml.



PROXIMITY MAP
ASPEN RIDGE
Boyles Commercial Funding

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes
November 8, 2004

Opening:
The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:34 p.m. on November 8, 2004 in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Chairman Colwell.

Present:
Parks and Recreation Advisory Board members Colwell, Eads, Hill, Mauritson, Bailey, Marley, Shoulders, and Pawlik Holmes; City staff Wright, Jumper, Gipson, Weber, Hatfield, Edmonston, and Audience.

1. Park Land Dedication: Alison Jumper, Park Planner

Development Name:	Aspen Ridge
Engineer:	Crafton Tull and Associates
Owner:	Hank Broyles, Hal Forsythe
Location:	Off of Hwy. 62
Park District:	SW
Units:	220 Single Family
Total Acres:	28
Land Dedication Requirement:	5.28 Acres
Money in Lieu Requirement:	$122,100

Existing Parks: There are no parks within a half mile radius of this project.
Developer's Request: Combination of money, land and services. The developer proposes to dedicate .36 acres of land for the trail corridor and .86 acres of parkland, and pay the remaining requirements as money in lieu. To offset the money in lieu, the developer proposes to construct the trail from the east property line to the east end of the rail bridge; city to purchase an existing engineering study for the bridge for $3,000, and construct playground equipment in the amount of $62,029.
Staff Recommendation: Combination of money, land, and services as stated below:
Dedicate approximately .36 acres of land for the trail and construct 856 l.f. of 12' trail. All trail layout, design and construction shall be approved by park

staff. Trail shall be constructed per City standard construction details for an asphalt trail. Approximately 500 l.f. of the trail will serve as the sidewalk; therefore, costs for land and construction for this portion will not be counted towards the park land dedication requirement.

In addition, approximately .86 acres, located on the southern edge of the development, will be dedicated. This property has the potential to be added to on the south side from the adjoining property. The remaining dedication would be accepted as money in lieu. The following is a breakdown of the dedication requirements. The cost estimate for the trail construction is included in the attachments.

$122,100.00 required
- 28,212.50 (1.22 acres for trail and park)
- 24,270.69 (construction costs of trail**)

$69,616.81
12,500.00 (amount required for sidewalk construction)
$82,116.81 total remaining requirement

**The trail construction costs are based on approximately 500 l.f. of 7' trail and 356 l.f. of 12'trail. Typical sidewalk construction costs are included for the 500 l.f. of trail that functions as a sidewalk.

This recommendation would require a waiver of the Park Land Ordinance to the City Council due to the project including over 100 units.

"...However, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks Board with instructions or further study." (Unified Development Ordinance No. 166.03K)

Justification: The masterplan indicates that a park is needed in this area. Indian trail is located within this development. This trail is identified on the FATT plan as the #1 priority trail.

Jumper reviewed the Power Point Presentation showing the proposed park land.

Edmonston explained that this land is near the Duncan property which PRAB has reviewed previously.

Bailey asked is there a stream to the NW and what is going to happen to it?

Chris responded the stream will be dedicated as Corp of Engineers water. The stream will remain unharmed.

Hill explained when you are using a cost estimate the final outcome can go either way. It may be over expended or under expended. Are there a lot of amenities they are adding to the trail?

Hatfield replied no, the trail will be built to our specs

Colwell asked if the bridge can go from property line too property line.

Edmonston stated David Whitaker has advised staff to use our own cost estimates to go by.

MOTION:

Hill moved to accept staff recommendation of money, land, and services. The money in lieu requirements will be first applied to trail construction through a bid process. The remaining balance will then be applied to amenities for this park. Park staff to work with neighborhood in the selection of the amenities.

Colwell seconded the motion.

The motion was approved 7-1-0 with Colwell, Hill, Mauritson, Marley, Eads, Bailey, Shoulders, voting 'yes' and Pawlik Holmes voting 'no'.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

12/7/2004
City Council Meeting Date

Connie Edmonston CE	Parks and Recretion	Operations
Submitted By	Division	Department

Action Required:

Resolution to accept the recommendation of the Fayetteville Parks and Recreation Advisory Board to accept a combination of money, land , and services for the Park Land Dedication requirement of Aspen Ridge.

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

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director — 11-18-04 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

City Attorney — 11/19/2004 Date

Received in City Clerk's Office

Mayor — 11/19/04 Date

Received in Mayor's Office
11/19/04 P.H.

Comments:

ENTERED
11-19-04
JT

City Council Meeting of December 7, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Director of Parks and Recreation

From: Alison Jumper, Park Planner

Date: November 15, 2004

Subject: Resolution to accept the recommendation of the Fayetteville Parks and Recreation Advisory Board to accept a combination of money in lieu of land for the Park Land Dedication Requirement of Riggins-Stonebridge Development.

RECOMMENDATION

Fayetteville Parks and Recreation Advisory Board (PRAB) and Parks and Recreation Staff recommend money in lieu of land as the Park Land Dedication requirement for Riggins-Stonebridge Development.

BACKGROUND

The Riggins-Stonebridge Development development is located south of Hwy 16 and east of Roberts Road. The owner is Doris Faye Roberts and the engineering firm is Engineering Services, Inc. The development contains 117 single-family units on 47.13 acres. The requirement for park land is 2.81 acres and money in lieu is $64,935. Eagle Park is located within a half mile radius of this development.

The Park Land Dedication Ordinance states if a major development is over 40 acres or 100 units, the requirement is land.

> *"...However, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks Board with instructions or further study."* (Unified Development Ordinance No. 166.03K)

The development was presented to the Parks and Recreation Advisory Board on November 8, 2004.

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE PARKS AND RECREATION ADVISORY BOARD'S RECOMMENDATION TO ACCEPT $64,935.00 CASH IN LIEU OF THE REQUIRED PARK LAND DEDICATION FOR RIGGINS-STONEBRIDGE DEVELOPMENT.

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 accepts the Parks and Recreation Advisory Board's recommendation to accept $64,935.00 cash in lieu of the required Park Land Dedication for Riggins-Stonebridge Development.

PASSED and **APPROVED** this 7th day of December 2004.

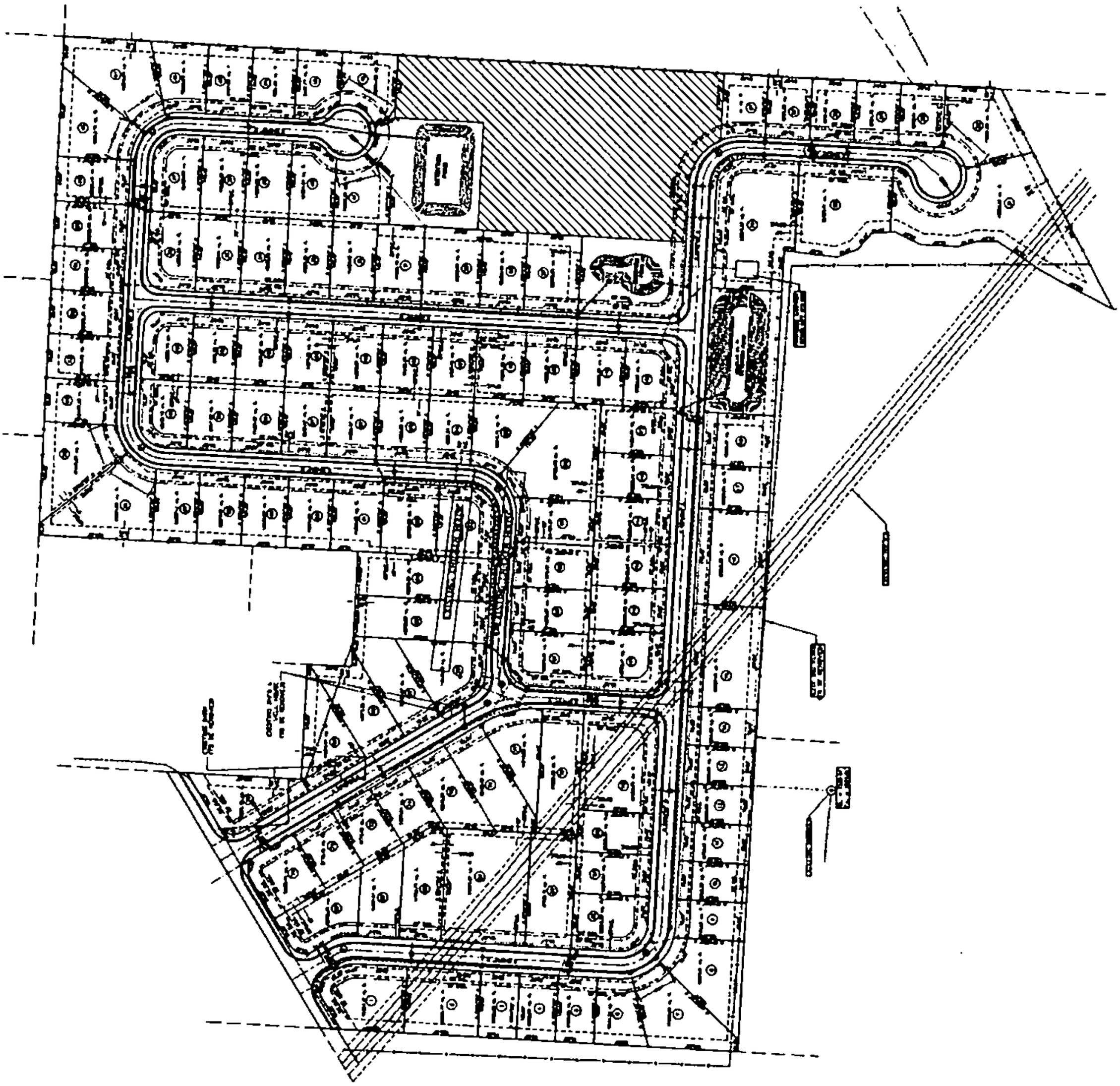
APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

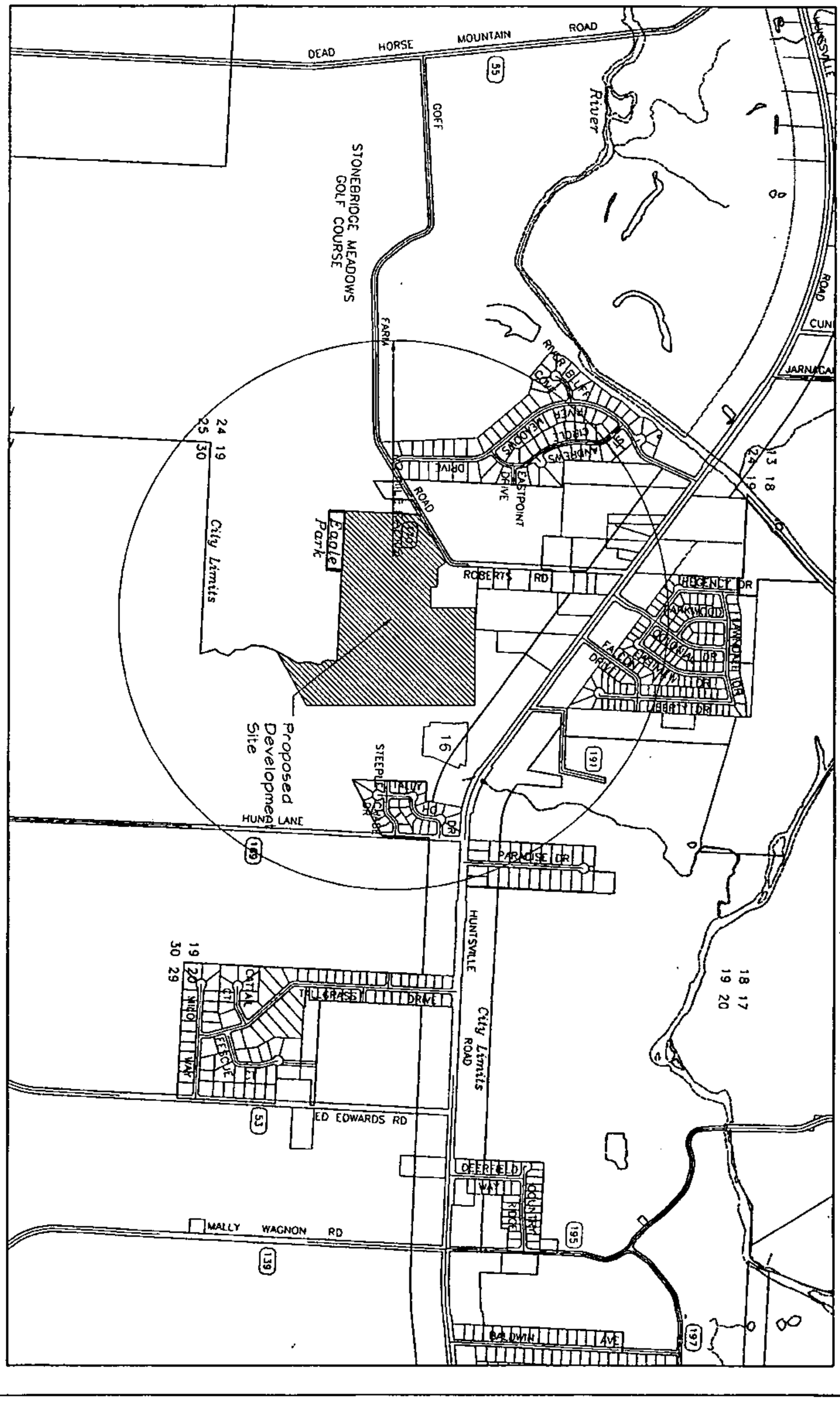
By: _____
SONDRA SMITH, City Clerk

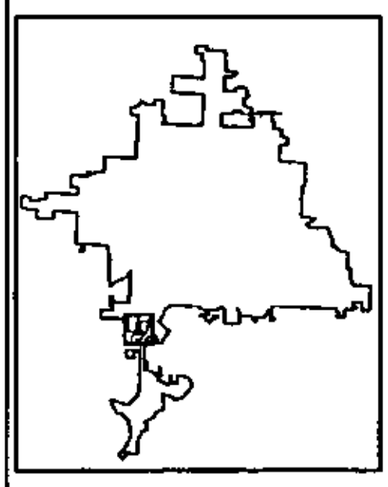
DRAFT



PROJECT PROXIMITY MAP - Riggins

0 .25 mile .5 mile .75 mile





PROXIMITY MAP
Riggins
Doris Faye Roberts

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes
November 8, 2004

Opening:
The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:34 p.m. on November 8, 2004 in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Chairman Colwell.

Present:
Parks and Recreation Advisory Board members Colwell, Eads, Hill, Mauritson, Bailey, Marley, Shoulders, and Pawlik Holmes; City staff Wright, Jumper, Gipson, Weber, Hatfield, Edmonston, and Audience.

1. Park Land Dedication: Alison Jumper, Park Planner

Development Name:	Riggins-Stonebridge
Engineer:	Engineering Services, Inc.
Owner:	Doris Faye Roberts
Location:	South of Goff Farm Road, adjacent and East of Stonebridge Meadows Subdivision.
Park District:	SE
Units:	117 Single Family
Total Acres:	47.13
Land Dedication Requirement:	2.81
Money in Lieu Requirement:	$64,935
Existing Parks:	Eagle Park (approx. 5 acres)
Developer's Request:	Money in Lieu
Staff Recommendation:	Money in Lieu

This recommendation would require a waiver of the Park Land Ordinance to the City Council due to the project including over 100 units.

> *"...However, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks Board with instructions or further study."* (Unified Development Ordinance No. 166.03K)

Justification: The recreational needs of this area are being met by Eagle Park which is on the southern border of this development.

MOTION:

Marley moved to accept money in lieu requirements of $64, 935 for the SE Quadrant.

Eads seconded the motion.

The motion was approved 8-0-0 with Colwell, Mauritson, Hill, Marley, Eads, Bailey, Shoulders, and Pawlik Holmes voting 'yes'.

DISCUSSION

The Parks and Recreation Staff and PRAB recommend money in lieu of land in the amount of $64,935 for the Park Land Dedication requirement. This decision is based upon the recreational needs of this area being met by Eagle Park. If you have any questions, please call me at 444-3469.

Attachments;

Riggins-Stonebridge Concept Plan
Location Map
PRAB November 8, 2004 Meeting Minutes

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Dec-04
City Council Meeting Date

Connie Edmonston	Parks and Recreation	Operations
Submitted By	Division	Department

Action Required:

Approval of Resolution to accept the recommendation of the Fayetteville Parks and Recreation Advisory Board to accept a combination of money in lieu of land for the Park Land Dedication Requirement of Riggins-Stonebridge Development.

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

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director — 11-18-04 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

City Attorney — 11/19/2004 Date

Received in City Clerk's Office

Mayor — 11/19/04 Date

Received in Mayor's Office 11/19/04 PM.

Comments:

ENTERED 11-19-04

Fayetteville
ARKANSAS

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

To: **Mayor/City Council**

Thru: **Gary Dumas, Director of Operations**

From: **David Bragg, Fleet Operations Superintendent**

Date: **November 16, 2004**

Subject: **Purchase of 15 yard Dump Truck for Transportation Division**

RECOMMENDATION: That City Council approve the purchase from Diamond International of one 15 yard dump truck for Transportation Division for the bid price of $84,426.47.

BACKGROUND: This truck is a replacement for unit #720 which is a 1993 Mack dump truck with 192,000 miles. This unit is three years past its scheduled replacement. Further repair of this unit is not cost effective and it is no longer dependable. Bids were opened on October 8, 2004 - four bids were received. A bid detail sheet is attached. The second lowest bid from Diamond International (formerly Bell International) of Lowell meets all specifications.

I recommend acceptance of the Diamond International bid in the amount of $84,426.47.

Funds are available for this purchase in 9700.1920.5802.00, Project #02079, Medium/Heavy Utility Vehicles.

The purchase of this unit was approved by the Equipment Committee at the meeting of November 9, 2004.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) 15-YARD DUMP TRUCK FOR THE TRANSPORTATION DIVISION FROM DIAMOND INTERNATIONAL IN THE AMOUNT OF $84,426.47.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one (1) 15-yard dump truck for the Transportation Division from Diamond International in the amount of $84,426.47.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

Fayetteville
ARKANSAS

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

TO: **City of Fayetteville, Equipment Committee**
Robert Reynolds, Chairman
Kyle Cook
Lioneld Jordan
Don Marr
Billy Sweetser

FROM: **David Bragg, Fleet Operations Supt.**

DATE: **November 8, 2004**

SUBJECT: **Equipment Committee Meeting – November 9, 2004**

Bids were opened on September 15, 2004 for a replacement van for Animal Services Division. Two bids were received. A bid detail sheet is attached. The low bid from Breeden Dodge of Fort Smith meets or exceeds all specifications except for requested delivery time. I recommend acceptance of the low bid plus an alternative to provide all new cages for an additional $1,663 in lieu of refurbishing and reusing old cages. In addition to the benefit of new cages, the existing van will not be out of service for 4-6 weeks while cages are remounted by the body company if this alternative is accepted. Total amount of recommended bid is $43,360.00.

This is a replacement for unit #230 a 1995 Ford van with 128,000 miles. This unit is one year past its scheduled replacement, the diesel engine has weak compression and is difficult to start in cool weather. Further repair of this unit is not cost effective. OK APPROVED 11/9/04 DB

Bids were opened on October 8, 2004 for a 15 yard dump truck for Transportation Division. Four bids were received. A bid detail sheet is attached. The second lowest bid from Diamond International (formerly Bell Int'l) of Lowell meets all specifications. I recommend acceptance of the Diamond International bid in the amount of $84,426.47. OK APPROVED 11/9/04 DB

This is a replacement for unit #720 a 1993 Mack dump truck with 192,000 miles. This unit is three years past its scheduled replacement.

DUMP TRUCK BIDS

04-76

10/8/2004

			Amt. greater than next lower bid		TOTAL UNIT BID
DIAMOND INTERNATIONAL					
INTERNATIONAL 7600 SBA				$ 72,528.97	
HILBILT	15 Yd. Dump Body			$ 11,897.50	$ 84,426.47
	120 Days delivery	120 days specified			
	Chassis complies				
	Body complies				
GLOVERS TRUCK PARTS & EQUIPMENT					
STERLING	LT9513			$ 72,957.00	
DAVIS	15 Yd. Dump Body		$ (69.47)	$ 11,400.00	$ 84,357.00
	180 Days delivery	120 days specified			
3.1,a	Mercedes - Detroit vs. Cummins engine specified			UNACCEPTABLE	
3.1,h	Exhaust stack interfers with specified cab to bed spacing				
STERLING	LT9513			$ 72,957.00	
HILBILT	15 Yd. Dump Body		$ 497.50	$ 11,897.50	$ 84,854.50
	180 Days delivery	120 days specified			
3.1,a	Mercedes - Detroit vs. Cummins engine specified				
3.1,h	Exhaust stack interfers with specified cab to bed spacing				
BARLOWORLD					
FREIGHTLINER	FLD120			$ 76,854.80	
HILBILT	15 Yd. Dump Body		$ 3,897.80	$ 11,897.50	$ 88,752.30
	160 Days delivery	120 days specified			
3.1,a	Caterpillar engine vs. Cummins engine specified				
TULSA MACK					
MACK	CV713	GRANITE		$ 78,544.87	
DAVIS	15 Yd. Dump Body		$ 1,192.57	$ 11,400.00	$ 89,944.87
	180 Days delivery	120 days specified			
3.1,a	Mack engine vs. Cummins engine specified				

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Transportation Program: Operations & Admin Date of Request: 5/27/2003

Acct.# Currently Charged: 2100-4120 Acct. # to be Charged: 2100-4120

Expansion ___ or Replacement X 5 Date Required: ASAP

Unit # for Vehicle being Replaced: 720 Unit # for Expansion/Replacement: 7XX2

Purchase Price of Exp./Replace Vehicle: 86,000.00 CIP Budget / Project # 9700.1920.5802: 02079

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 456.00 Maintenance: 456.00 Overhead: 340.00

# of Months Budgeted: 12.00 Total Budgeted: 15,024.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 1,136.00 Maintenance: 265.00 Overhead: 265.00

# of Months to be in Service for Current Year: 5.00 Current Year Expense: 8,330.00

Description of the equipment to be purchased/transferred:

Replacing current tri-axle dump truck with tandem-axle dump truck.

Justification for this equipment:

Current vehicle is past replacement life. Was due for replacement and currently has in excess of 172,000 miles. The tandem axle replacement vehicle will be easier to maneuver on smaller city streets.

Approval Signatures:

Division Head — 5-28-03 Date

Fleet Operations Superintendent — 5-28-03 Date

Budget Manager — 6/4/03 Date

Approval Signatures:

Department Director — 6-10-03 Date

Finance and Internal Services Director — 6-10-03 Date

Chief Administrative Officer — 6-11-03 Date

Mayor — 6/13/03 Date

B. Fell

City Of Fayetteville

(Not a Purchase Order)

Vendor # 14039	Vendor Name: DIAMOND INTERNATIONAL			Requisition No.	Date: 11/16/2004
				P.O Number	Expected Delivery Date:
Address:		Fob Point:		Mail Yes:__ No:_XX_	
				Taxable Yes:_XX_ No:____	
City:	State:	Zip Code	Ship to code: 050	Divison Head Approval	Quotes Attached Yes:____ No:____
Requester BARBARA OLSEN BO		Requester's Employee # 1940		Extension: 495	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2005 International 7600 SBA with	1	EA	$84,426.47	$84,426.47	9700.1920.5802.00	02079.1		
2	Hilbilt 15 yard Dump Body		EA		$0.00				
3	To be unit #744, Fixed Asset # to		EA		$0.00				
4	be #700744		EA		$0.00				
5			EA		$0.00				
6			EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

_____

Subtotal: _____ 84,426.47

Tax: _____

Total:_____ 84,426.47

Approvals:

Mayor: _____

Department Director:_____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager:_____

Dispatch Manager:_____

Utilities Manager:_____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 7, 2004

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Approval of purchase of a 15 yard dump truck for the Transportation Division from Diamond International.

COST TO CITY:

$84,426.47	$ 191,835.00	Medium/Heavy Utility Vehicles
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ 82.50	Vehicles & Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02079	$ 191,752.50	Shop
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 — 11/19/04 Date

Purchasing Manager — Date

STAFF RECOMMENDATION:

Division Head — 11/17/04 Date

Department Director — 11/18/04 Date

Finance & Internal Services Dir. — Date

Chief Administrative Officer — Date

Mayor — 11/19/04 Date

Received in Mayor's Office 11/19/04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: **Yes** **No**

ENTERED
11-18-04
FA

Fayetteville
ARKANSAS

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: November 16, 2004

Subject: Purchase of Dodge Sprinter 3500 Van for Animal Services Division

RECOMMENDATION: That City Council approve the purchase from Breeden Dodge of Fort Smith of one Dodge Sprinter 3500 Van for Animal Services Division for the bid price of $43,360.

BACKGROUND: This van is a replacement for unit #230 which is a 1995 Ford van with 128,000 miles. This unit is one year past its scheduled replacement. The diesel engine has weak compression and is difficult to start in cool weather. Further repair of this unit is not cost effective.

Bids were opened on September 15, 2004 - two bids were received. A bid detail sheet is attached. The low bid from Breeden Dodge of Fort Smith meets or exceeds all specifications except for requested delivery time. I recommend acceptance of the low bid plus an alternative to provide all new cages for an additional $1,663 in lieu of refurbishing and reusing the old cages. Accepting this alternative will result in the benefit of new cages as well as the benefit that the existing van will not be out of service for 4 – 6 weeks while the cages are remounted by the body company.

I recommend acceptance of this bid in the amount of $43,360.00.

Funds are available for this purchase in 9700.1920.5802.00, Project #02078, Light/Medium Utility Vehicles.

The purchase of this unit was approved by the Equipment Committee at the meeting of November 9, 2004.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) DODGE SPRINTER 3500 VAN FOR THE ANIMAL SERVICES DIVISION FROM BREEDEN DODGE OF FORT SMITH IN THE AMOUNT OF $43,360.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one (1) Dodge Sprinter 3500 Van for the Animal Services Division from Breeden Dodge of Fort Smith in the amount of $43,360.00.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

ANIMAL SERVICE VAN

9/15/2004

04-67

TOTAL BID

Amt. greater than next lower bid

BREEDEN DODGE

DODGE	SPRINTER 3500	$ 29,466.00		
MAVRON ALUMINUM INTERIOR		$ 12,231.12		
REMOUNT CAGES		$ -	$ 41,697.12	

180 Days delivery - No delivery guarantee
Chassis complies
Body exceeds specs in opinion of Fleet and User
Mavron price include interior, hauling old van to factory and return plus refurb and remount of old cages per specifications.

NEGOTIATED ALTERNATE

DODGE	SPRINTER 3500	$ 29,466.00		
MAVRON ALUMINUM INTERIOR				
COMPLETE WITH	ALL NEW CAGES	$ 13,894.00	$ 43,360.00	$ 1,662.88

180 Days delivery - No delivery guarantee
Chassis complies
Body exceeds specs in opinion of Fleet and User

BARLOWORLD FREIGHTLINER

FREIGHTLINER	SPRINTER C2500	$ 37,300.00		
RHINO CUSTOM INTERIOR		$ 5,955.00		
REMOUNT CAGES		$ 1,473.00	$ 44,728.00	$ 1,368.00

120 Days delivery
Chassis complies
Body meets specs

Fayetteville
ARKANSAS

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

TO: **City of Fayetteville, Equipment Committee**
Robert Reynolds, Chairman
Kyle Cook
Lioneld Jordan
Don Marr
Billy Sweetser

FROM: **David Bragg, Fleet Operations Supt.**

DATE: **November 8, 2004**

SUBJECT: **Equipment Committee Meeting – November 9, 2004**

Bids were opened on September 15, 2004 for a replacement van for Animal Services Division. Two bids were received. A bid detail sheet is attached. The low bid from Breeden Dodge of Fort Smith meets or exceeds all specifications except for requested delivery time. I recommend acceptance of the low bid plus an alternative to provide all new cages for an additional $1,663 in lieu of refurbishing and reusing old cages. In addition to the benefit of new cages, the existing van will not be out of service for 4-6 weeks while cages are remounted by the body company if this alternative is accepted. Total amount of recommended bid is $43,360.00.

This is a replacement for unit #230 a 1995 Ford van with 128,000 miles. This unit is one year past its scheduled replacement, the diesel engine has weak compression and is difficult to start in cool weather. Further repair of this unit is not cost effective. OK APPROVED 11/9/04 DBB

Bids were opened on October 8, 2004 for a 15 yard dump truck for Transportation Division. Four bids were received. A bid detail sheet is attached. The second lowest bid from Diamond International (formerly Bell Int'l) of Lowell meets all specifications. I recommend acceptance of the Diamond International bid in the amount of $84,426.47. OK APPROVED 11/9/04 DBB

This is a replacement for unit #720 a 1993 Mack dump truck with 192,000 miles. This unit is three years past its scheduled replacement.

TO BUDGET

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Animal Services Program: _____ Date of Request: 10/7/2004

Acct.# Currently Charged: 1010-2710 Acct. # to be Charged: 1010-2710

Expansion ___ or Replacement X Date Required: January,2005

Unit # for Vehicle being Replaced: 230 Unit # for Expansion/Replacement: _____

Purchase Price of Exp./Replace Vehicle: 44,200.00 CIP Budget / Project # 9700.1920.5802 02078

Monthly Motor Pool Charges for Current Vehicle/Equipment:

Replacement: 0.00 Maintenance: 184.00 Overhead: 101.00

# of Months Budgeted: 12.00 Total Budgeted: 3,420.00

Monthly Motor Pool Charges for New Exp/Repl. Vehicle/Equipment:

Replacement: 581.00 Maintenance: 150.00 Overhead: 45.00

# of Months to be in Service for 2005 Year: 12.00 2005 Year Expense, New: 9,312.00

Current Year Expense, Old: 3,420.00

Total Current Year Expense: 3,420.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

2005 E350 Panel Van

$44,200 8 yr. life

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

Unit #230 was due for replacement in 2003. It is no longer dependable or economical for regular daily use.

Approval Signatures:

Division Head	10/11/04 Date	Finance & Internal Services Dir.	11-2-04 Date
Fleet Operations Superintendent	10/8/04 Date	Chief Administrative Officer	11-04-04 Date
Budget Manager	10.20.04 Date	Mayor	11/4/04 Date
Department Director	10/26/04 Date	Please return original form to Fleet when signed by all.	

B Fall 11-8-4

City Of Fayetteville

(Not a Purchase Order)

Vendor #		Vendor Name: **Breeden Dodge**					Requisition No.	Date: **11/16/2004**	
Address:				Fob Point:			P.O Number	Expected Delivery Date:	
							Mail Yes:__ No:_XX_		
							Taxable Yes:_XX_ No:____		
City:		State:		Zip Code	Ship to code: **050**		Divison Head Approval	Quotes Attached Yes:____ No:____	
Requester **BARBARA OLSEN** BO				Requester's Employee # **1940**			Extension: **495**		

Item	Description	Quantity	Unit of issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	**2005 Dodge Sprinter 3500 with**	**1**	**EA**	**$43,360.00**	**$43,360.00**	**9700.1920.5802.00**	**02078**		
2	**Mavron Aluminum Interior, complete**		**EA**		**$0.00**				
3	**with all new cages. To be unit**		**EA**		**$0.00**				
4	**#2067 , Fixed Asset #** 702067		**EA**		**$0.00**				
5			**EA**		**$0.00**				
6			**EA**		**$0.00**				
7			**EA**		**$0.00**				
8			**EA**		**$0.00**				
9			**EA**		**$0.00**				
10			**EA**		**$0.00**				
	Shipping/Handling		**Lot**		**$0.00**				

Special Instructions:

_____

Subtotal: _____ **43,360.00**

Tax: _____

Total:_____ **43,360.00**

Approvals:

Mayor: _____

Department Director:_____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager:_____

Dispatch Manager:_____

Utilities Manager:_____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 7, 2004

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Approval of purchase of a van for Animal Services Division from Breeden Dodge of Fort Smith in the amount of $43,360.

COST TO CITY:

$43,360.00	$ 745,639.00	Light/Medium Utility Vehicles
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ 461,288.00	Vehicles & Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02078	$ 284,351.00	Shop
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 11/12/04 Date

Purchasing Manager ____ Date

STAFF RECOMMENDATION:

Division Head 11/17/04 Date

Department Director 11/18/04 Date

Finance & Internal Services Dir. ____ Date

Chief Administrative Officer ____ Date

Mayor 11/19/04 Date

Received in Mayor's Office 11/19/04 Date T.H.

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

New Item: **Yes** **No**

ENTERED 11-17-04

Fayetteville
ARKANSAS

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: November 16, 2004

Subject: Purchase of two Police Pursuit Motorcycles, per bid 04-54, for the Police Department

RECOMMENDATION: That City Council approve the purchase from Denney's Harley-Davidson of Fort Smith of two Police Pursuit Motorcycles for use by the Police Department.

BACKGROUND: These are replacements for units #1030 and #1031, 1999 Harley-Davidsons with 35,000 and 44,000 miles. Police Harley-Davidsons are unique among municipal fleet vehicles due to unusual demand in the used market and corresponding high resale value. Statistical evaluation of typical resale value in conjunction with maintenance cost at various ages indicates that lowest cost of ownership is achieved by replacing these units when they are approximately three years old. It is important to replace these 5 year old units as soon as possible to recoup maximum resale return and minimize maintenance and down time.

The bid from Denney's Harley-Davidson of Fort Smith meets all specifications. The bid came in at $18,250. PD has requested substituting windshield only for fork mounted fairing with windshield. PD has also requested antilock brakes. This is a new option that was not available when specification was developed.

Original bid	$18,250
Substitute windshield only	(300)
Add antilock brakes	900
Total cost/motorcycle	$18,850

I recommend acceptance of this bid in the amount of $37,700.00 for two units.

Funds are available for this purchase in 9700.1920.5802.00, Project #02081, Police/Passenger Vehicles.

The purchase of these units was approved by the Equipment Committee at the meeting of August 10, 2004.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF TWO (2) POLICE PURSUIT MOTORCYCLES FROM DENNY'S HARLEY-DAVIDSON OF FORT SMITH IN THE AMOUNT OF $37,700.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of two (2) Police Pursuit Motorcycles from Denny's Harley-Davidson of Fort Smith in the amount of $37,700.00.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

Fayetteville
ARKANSAS

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

TO: **City of Fayetteville, Equipment Committee**
Robert Reynolds, Chairman ✓
Kyle Cook ✓
Lioneld Jordan ✓
Don Marr ✓
Billy Sweetser ✓ BY PHONE.

FROM: **David Bragg, Fleet Operations Supt**

DATE: **August 9, 2004**

SUBJECT: **Equipment Committee Meeting – August 10**

Bid #04-59 was opened on July 30, 2004 for one Extended cab 4X4 truck with utility body for use by Water and Sewer Division. Six bids were received:

Ron Blackwell Ford	Bentonville, AR	Ford F550 – Reading Body	$39,105.42
Grant Truck Equip	Tulsa, OK	Ford F550 – Reading Body	$39,151.42
North Point Ford	N. Little Rock, AR	Ford F550 – Knapheid Body	$40,036.00
Landers Ford	Little Rock, AR	Ford F550 – Rawson Koenig	$40,635.00
J & R Equipment	Oklahoma City, OK	Ford F550 – Reading Body	$41,897.00
Ford of Tulsa	Tulsa, OK	Ford F550 – Knapheid Body	$42,068.46

The lowest bid from Ron Blackwell Ford of Bentonville meets all specifications. I recommend acceptance of the lowest bid from Ron Blackwell Ford in the amount of $39,105.42.

This is a replacement for unit #316, a 1996 Ford F-350 with 122,000 miles that is out of service and uneconomically repairable. Funds for this purchase are available in 2004 Fleet Replacement Project Account 02078 – Light/Medium trucks.

Bid #04-58 was opened on July 30, 2004 for one Extended cab 4X4 truck with flat body and crane attachment for use by Water and Sewer Division. Six bids were received:

Ron Blackwell Ford	Bentonville, AR	Ford F550 - Grant body - Autocrane	$45,904.50
Grant Truck Equip	Tulsa, OK	Ford F550 - Grant body - Autocrane	$45,950.50
Ford of Tulsa	Tulsa, OK	Ford F550 - Cadet body - Autocrane	$46,838.46

North Point Ford	N. Little Rock, AR	Ford F550 - Knapheid body - Autocrane	$46,892.00
J & R Equipment	Oklahoma City, OK	Ford F550 - Cadet body - IMT crane	$47,897.00
Landers Ford	Little Rock, AR	Ford F550 - Davis body -Ventura crane	$47,835.00

The lowest bid from Ron Blackwell Ford of Bentonville meets all specifications. I recommend acceptance of the lowest bid from Ron Blackwell Ford in the amount of $45,904.50.

This is a replacement for unit #315, a 1996 Ford F-350 with 106,000 miles that is no longer dependable or economical for regular daily use. Funds for this purchase are available in 2004 Fleet Replacement Project Account 02078 – Light/Medium trucks.

Bid #04-60 was opened on July 30, 2004 for three crew cab 4X2 trucks with dump bodies for use by Transportation Division (2) and Parks Division (1). Five bids were received:

North Point Ford	N. Little Rock, AR	Ford F550 – Hilbilt body	$36,292.00
Ron Blackwell Ford	Bentonville, AR	Ford F550 – Hilbilt body	$36,501.46
Grant Truck Equip	Tulsa, OK	Ford F550 – Mabar body	$36,786.00
Landers Ford	Little Rock, AR	Ford F550 – Davis body	$37,389.00
Ford of Tulsa	Tulsa, OK	Ford F550 – Heil body	$39,665.46

The lowest bid from North Point Ford of North Little Rock meets all specifications. I recommend acceptance of the lowest bid from North Point Ford in the amount of $108,876.00 for three units.

One is a replacement for unit #214, a 1994 Ford F-350 assigned to Parks Division with 81,000 miles that is no longer dependable or economical for regular daily use. Funds for this purchase are available in 2004 Fleet Replacement Project Account 02078 – Light/Medium trucks.

Two are expansion units for Transportation Division paving program. Funds for this purchase are available in Transportation Division Account 2100-4120-5802.00

Bid #04-54 was opened on July 30, 2004 for two Police Pursuit Motorcycles for use by the Police Department. One bid was received:

Denney's Harley-Davidson	Fort Smith, AR	Harley-Davidson FLHTP1	$18,250.00

The bid from Denney's Harley-Davidson of Fort Smith meets all specifications. I recommend acceptance of the bid from Denney's Harley-Davidson in the amount of $36,500.00 for two units.

These are replacements for units #1030 and 1031, 1999 Harley-Davidsons with 35,000 and 44,000 miles. Resale value on Police Harley-Davidsons is such that these units should be replaced when three years old to achieve minimum cost of ownership. Funds for this purchase are available in 2004 Fleet Replacement Project Account 02081 – Police/Passenger Vehicles.

8/10/04
APPROVED
JBB

Cc:
Gary Dumas

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Police Program: Patrol Date of Request: 10/31/2003

Acct.# Currently Charged: 1010.2940. Acct. # to be Charged: 1010.2940.

Expansion ___ or Replacement X Date Required: _____

Unit # for Vehicle being Replaced: 1030 Unit # for Expansion/Replacement: #1118 ~~1005~~

Purchase Price of Exp./Replace Vehicle: 20,000.00 CIP Budget / Project # 9700.1920.5802. 2081

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 369.00 Maintenance: 106.00 Overhead: 94.00

# of Months Budgeted: 12.00 Total Budgeted: 6,828.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 404.00 Maintenance: 50.00 Overhead: 101.00

# of Months to be in Service for Current Year: 0.00 2005 Expense: $6660.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

Harley Davidson Motorcycle, police package

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

This motorcycle needs to be replaced to maintain the reliability of the fleet. Due to high civilian demand for used police H.D. Motorcycles, a 3 year replacement cycle has proven to provide the lowest cost of ownership.

Approval Signatures:

Division Head	Date	Finance & Internal Services Dir.	11-19-03 Date
Fleet Operations Superintendent	11/4/03 Date	Chief Administrative Officer	11-20-03 Date
Budget Manager	11.18.03 Date	Mayor	11/21/03 Date
Department Director	11-17-03 Date	Please return original form to Fleet when signed by all.	

KB Fill

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Police Program: Patrol Date of Request: 10/31/2003

Acct.# Currently Charged: 1010.2940. Acct. # to be Charged: 1010.2940.

Expansion ___ or Replacement X Date Required: ___

Unit # for Vehicle being Replaced: 1031 Unit # for Expansion/Replacement: #1119 ~~1002~~

Purchase Price of Exp./Replace Vehicle: 20,000.00 CIP Budget / Project # 9700.1920.5802. 2081

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 369.00 Maintenance: 106.00 Overhead: 94.00

# of Months Budgeted: 12.00 Total Budgeted: 6,828.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 404.00 Maintenance: 50.00 Overhead: 101.00

# of Months to be in Service for Current Year: 0.00 2005 Expense: #6660.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

Harley Davidson Motorcycle, police package

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

This motorcycle needs to be replaced to maintain the reliability of the fleet. Due to high civilian demand for used police H.D. Motorcycles, a 3 year replacement cycle has proven to provide the lowest cost of ownership.

Approval Signatures:

Division Head	Date	Finance & Internal Services Dir.	11-19-03 Date
Fleet Operations Superintendent	11/4/03 Date	Chief Administrative Officer	11-20-03 Date
Budget Manager	11-18-03 Date	Mayor	11/20/03 Date
Department Director	11-17-03 Date	Please return original form to Fleet when signed by all.	

B. Fall

A 11
Police Pursuit Motorcycle Purchase
Page 7 of 8

City Of Fayetteville

(Not a Purchase Order)

Requisition No.		Date: 11/16/2004	
P.O Number		Expected Delivery Date:	
Vendor # 12132	Vendor Name: HARLEY DAVIDSON OF FORT SMITH	Mail Yes:__ No:_XX_	
Address:	Fob Point:	Taxable Yes:_XX_ No:___	
City:	State: Zip Code	Ship to code: 050	Divison Head Approval
Requester BARBARA OLSEN BO.	Requester's Employee # 1940	Extension: 495	Quotes Attached Yes: No:

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2005 FLHTPI POLICE SPECIAL	2	EA	$18,850.00	$37,700.00	9700.1920.5802.00	02081.1		
2	HARLEY DAVIDSON PURSUIT		EA		$0.00				
3	MOTORCYCLES, TO BE UNITS		EA		$0.00				
4	#1118, FIXED ASSET #701118 AND		EA		$0.00				
5	#1119, FIXED ASSET #701119		EA		$0.00				
6	BID 04-54		EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

_____

Subtotal: _____ 37,700.00

Tax: _____

Total: _____ 37,700.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 7, 2004

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Approval of purchase of two Police Pursuit Motorcycles for use by the Police Department, bid 04-54.

COST TO CITY:

$37,700.00	$ 751,279.00	Police/Passenger Vehicles
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ 116,898.00	Vehicles and Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02081	$ 634,381.00	Shop
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 D. G. White 11/19/04 Date

Purchasing Manager ____ Date

STAFF RECOMMENDATION:

Division Head R B 11-16-4 Date

Department Director Gary D Adams 11/17/04 Date

Finance & Internal Services Dir. ____ Date

Chief Administrative Officer ____ Date

Mayor Dan Coody 11/18/04 Date

Received in Mayor's Office 11/19/04 Date PH

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

New Item: **Yes** **No**

ENTERED 11-18-04 TH

Fayetteville
ARKANSAS

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

To: **Mayor/City Council**

Thru: **Gary Dumas, Director of Operations**

From: **David Bragg, Fleet Operations Superintendent** DBB

Date: **November 17, 2004**

Subject: **Approval of annual contract from Mid South Sales for engine oils and lubricants**

RECOMMENDATION: That City Council approve a contract with Mid South Sales to supply engine oils and lubricants for the Fleet Operations Division.

BACKGROUND: Bids were opened on October 8, 2004 for a contract to supply engine oil and lubricants for the Fleet Operations Division. The contract is for a period of one year with the option to renew for four additional one year periods. The contractor will supply bulk storage and dispensing equipment. Several of the advantages of contract purchase are listed on the attached letter sent to the Equipment Committee for the meeting of November 9, 2004.

Two bids were received from Mid South Sales for two types of oil. Two other vendors had professed an interest but neither one submitted a bid by the opening deadline. Purchasing Division records indicate that these vendors were properly notified. The lower bid submitted for "Coastal" brand oil is not considered an approved oil equal to the brand and quality specified. Because the prices quoted for Citgo are reasonable, it was not deemed necessary to re-bid the contract. The bid specifications are attached.

I recommend award of a contract to Mid South Sales of Fayetteville for Citgo products which meet all minimum specifications. The bid amount for estimated annual quantities is $21,900.74 which has been rounded up to $22,000.

Funds are available for this purchase in 9700.1910.5214.00, line item for Parts, Oil, and Accessories in the Materials & Supplies category.

The Equipment Committee approved entering into a contract with Mid South Sales at the meeting of November 9, 2004.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH MID SOUTH SALES OF FAYETTEVILLE TO PROVIDE ENGINE OIL AND LUBRICANTS FOR THE FLEET OPERATIONS DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a contract with Mid South Sales of Fayetteville to provide engine oil and lubricants for the Fleet Operations Division. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

Fayetteville
ARKANSAS

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

TO: **City of Fayetteville, Equipment Committee**
Robert Reynolds, Chairman
Kyle Cook
Lioneld Jordan
Don Marr
Billy Sweetser

FROM: **David Bragg, Fleet Operations Supt.**

DATE: **November 8, 2004**

SUBJECT: Equipment Committee Meeting – November 9, 2004

EQUIPMENT AUCTION

Based upon the success of the Blackmon Auction sale conducted last year, we have scheduled a sale to be conducted November 17, 2004 at Drake Field. Contract terms are the same as last year: no commission charged to the City, 10% buyer's commission, Blackmon contracts directly with the Airport, Blackmon solicits consignments from other government agencies and selected private dealers and contractors. Madison County is participating in this year's sale.

We have identified 32 pieces of retired vehicles and equipment to be sold along with miscellaneous equipment from Fire and other departments. Blackmon will handle all advertising and provide full cash settlement on sale day.

I am requesting approval of the Equipment Committee to sell all retired City of Fayetteville equipment at this sale without minimum.

APPROVED
11/9/04

LUBE OIL BIDS

Bids were opened on October 8, 2004 for a contract to supply engine oil and lubricants for the Fleet Operations Division. The contract is for a period of one year with option to renew for four additional one year periods. The contractor will supply bulk storage and dispensing equipment. Advantages of contract purchase include:

1. 8% - 19% savings on bulk oil vs. drums
2. No drum storage, clutter, or deposits
3. Dispensing equipment reduces risk of new oil contamination
4. Single contract vendor
   - Reduced administrative cost
   - Eliminates questions of lubricant warranty responsibility.
5. Drain oil analysis program provided by oil manufacturer
   - Alerts to engine and transmission problems before failure.
   - Scientifically optimizes (extend) drain interval based on actual fleet data.

I recommend award of a contract to Mid South Sales of Fayetteville for Citgo products. The bid amount for estimated annual quantities is $21,900.74. This is the lowest bid meeting minimum specifications.

APPROVED
11/9/04

CONTRACT

This contract executed this ____ day of _____, 2004, between the City of Fayetteville, Arkansas, a municipal corporation, and Mid South Sales of Fayetteville.

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Mid South Sales of Fayetteville at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per bid #04-72 as stated in Mid South Sales of Fayetteville's bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid #04-72, all included herein as if spelled out word for word.

2. The City of Fayetteville shall pay $22,000.00 for products based on prices indicated in Mid South Sales of Fayetteville's bid proposal. Payments will be made only after submission of invoice. Payments will be made approximately 30 days after receipt of invoice.

3. The Contract documents which comprise the contract between the City of Fayetteville and Mid South Sales of Fayetteville consist of this Contract and the following documents attached hereto, and made a part hereof:

   A. Bid form identified as Invitation to Bid #04-72 with the specifications and conditions typed thereon.

   B. Mid South Sales of Fayetteville's bid proposal.

   C. The Notice to Prospective Bidders and the Bid Tabulation.

4. These Contract documents constitute the entire agreement between the City of Fayetteville and Mid South Sales of Fayetteville and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Mid South Sales of Fayetteville.

5. Mid South Sales of Fayetteville shall not delegate it's duties under the terms of this agreement.

6. Mid South Sales of Fayetteville agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Mid South Sales of Fayetteville's performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.

7. Mid South Sales of Fayetteville shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Mid South Sales of Fayetteville shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Workmen's Compensation	Statutory Amount
Comprehensive General & Automobile Insurance	

Bodily Injury Liability	$250,000 for each person injured. $500,000 for each accident.
Property Damage Liability	$100,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by Mid South Sales of Fayetteville.

8. Mid South Sales of Fayetteville to furnish proof of licensure as required by all local and state agencies.

9. This contract may be terminated by the City of Fayetteville or Mid South Sales of Fayetteville with 10 days written notice.

10. 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, Mid South Sales of Fayetteville 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 photo coping costs pursuant to the FOIA may be assessed for this compliance.

WITNESS our hands this _____ day of _____ 2004.

CITY OF FAYETTEVILLE

BY_____
DAN COODY, Mayor

ATTEST:

_____
SONDRA SMITH, City Clerk

MID SOUTH SALES OF FAYETTEVILLE

BY_____

Dwight L Mitchell
PRINTED NAME AND TITLE

ATTEST:

_____
~~**COMPANY SECRETARY**~~

731 S. Razorback Rd

Fayetteville, AR, 72701
BUSINESS ADDRESS

Fayetteville
ARKANSAS

CITY OF FAYETTEVILLE
113 W. Mountain St.
Fayetteville, AR 72701

FLEET OPERATIONS
(479) 444-3494
INVITATION TO BID

MAXIMUM 2 WEEKS DELIVERY OF EQUIPMENT

BID #: 04-72

DATE ISSUED: September 22, 2004

DATE & TIME OF OPENING: October 8, 2004 2:30 P.M.

BUYER: Peggy Vice, Purchasing Manager, Room 306 - (479) 575-8289

THIS INVITATION TO BID IS BASED ON THE NEED FOR AN ANNUAL CONTRACT FOR LUBRICATING OILS AND HYDRAULIC OILS, AS LISTED IN SPECIFICATIONS ATTACHED. HOWEVER, THE CITY RESERVES THE RIGHT TO ACCEPT OR REJECT ANY OR ALL BIDS, WAIVE FORMALITIES IN THE BIDDING, AND MAKE A BID AWARD DEEMED TO BE IN THE BEST INTEREST OF THE CITY.

F.O.B. Fleet Operations Division, Fayetteville, AR 72701

ITEM:	DESCRIPTION:	QUANTITY:	*UNIT PRICE:	*TOTAL PRICE
1.	Gasoline service engine oil, API service class SL, SAE grade 5W-30			
	BULK DELIVERY – Price per gallon	1,000	$ 3,95	$ 3950.
	55 GALLON DRUM – Price per gallon	110	$ 4.25	$ 467,5
	QUART CONTAINER – Price per quart	240	$ 1,64	$ 393,60

Please Specify:

BRAND: CITGO **GRADE NAME:** 5W30

2.	Diesel service engine oil, API service class CI4/SL, SAE grade 15W-40			
	BULK DELIVERY – Price per gallon	2,000	$ 3.92	$ 7860,
	55 GALLON DRUM – Price per gallon	110	$ 4,38 1.09 5/qt	$ 481,80
	QUART CONTAINER – Price per quart	480	$ 1,53	$ 734,40

Please Specify:

BRAND: CITGO **GRADE NAME:** 600 15W40

ITEM:	DESCRIPTION:	QUANTITY:	*UNIT PRICE:	*TOTAL PRICE
3.	AW Hydraulic oil, ISO Grade 68			
	BULK DELIVERY – Price per gallon	1,200	$ 2.42	$ 2904.
	55 GALLON DRUM – Price per gallon	110	$ 2.88	$ 316.80
	5 GAL. CONTAINER – Price per gallon	50	$ 3.37	$ 168.50

Please Specify:

BRAND: CITGO **GRADE NAME:** AW68

4.	Tractor Hydraulic Fluid			
	55 GALLON DRUM – Price per gallon	550	$ 3.99	$ 2194.50
	5 GAL. CONTAINER – Price per gallon	60	$ 4.57	$ 274.20

Please Specify:

BRAND: CITGO **GRADE NAME:** Tractor Hydraulic

5.	Automatic Transmission Fluid – MERCON V			
	55 GALLON DRUM – Price per gallon	55	$ 9.43	$ 518.65
	5 GAL. CONTAINER – Price per gallon	20	$ 10.18	$ 203.60
	QUART CONTAINER – Price per quart	120	$ 2.43	$ 291.60

Please Specify:

BRAND: CITGO **GRADE NAME:** MERCON V

6.	Multi-purpose Gear Lubricant – Grade 85W-140			
	80w90 → .811			
	120 POUND DRUM – Price per pound	240	$ .739	$ 177.36
	5 GAL. CONTAINER – Price per pound	150	$ .716	$ 107.40

Please Specify:

BRAND: CITGO **GRADE NAME:** Rem. Gear Oil 85w140

7.	Multi-Purpose Grease – Lithium EP #2			
	120 POUND DRUM – Price per pound	240	$ 1.49	$ 357.60
	5 GAL. CONTAINER – Price per pound	75	$ 1.514	$ 113.55
	1 POUND CARTRIDGE – Price Each	240	$ 1.607	$ 385.68

Please Specify:

BRAND: Citgo/Mystik **GRADE NAME:** SY-6 Hi-Temp

ITEM:	DESCRIPTION:	QUANTITY:	*UNIT PRICE:	*TOTAL PRICE
8.	Miscellaneous Services			
	Gasoline Engine Oil Sample Analysis	100	$ FREE WITH	$ CITGO OIL
	Automatic Transmission Oil Sample Analysis	25	$ 0	$ 0
	Hydraulic Oil Sample Analysis	25	$ 0	$ 0
	Other Component Oil Sample Analysis	15	$ 0	$ 0
TOTAL BID PRICE:				$ 21,900.74
9.	Other Charges			
	55 Gallon Drum Deposit (Refundable)	17	$ 0	
	Option to purchase dispensing equipment Par. 2.5	1	$ 2500,00	

Items 1 through 9 will be awarded to a single vendor – all or none.
Please total extended quantity prices of items 1 through 8 to determine "Total Bid Price" for purposes of calculating lowest responsive bid. Listed quantities are estimates and not a guaranteed minimum purchase.

EXECUTION OF BID - Upon signing this Bid, the bidder certifies that he/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on. *Bids must be submitted on this bid form in its entirety AND accompanied by descriptive literature on the products being bid.* If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein. Unsigned bids will be rejected. Items marked * are mandatory for consideration.

***NAME OF FIRM:** MID-SOUTH SALES, INC.

***BUSINESS ADDRESS:** 731 S. RAZORBACK ROAD

***CITY:** FAYETTEVILLE ***STATE:** AR ***ZIP:** 72701

***PHONE:** 479-442-6451 **FAX:** (479) 442-4663

***BY :(PRINTED NAME)** Murray Benton

***AUTHORIZED SIGNATURE:** Murray Benton

***TITLE:** President

PLEASE NOTE: ALL ITEMS MARKED * ARE CONSIDERED MANDATORY REQUIREMENTS FOR CONSIDERATION OF BID. FAILURE TO COMPLETE THESE ITEMS MAY RESULT IN REJECTION OF BID.

TERMS & CONDITIONS

1. All bids shall be submitted in a sealed envelope and must be submitted on forms acquired by the vendor from the City of Fayetteville Purchasing website (www.accessfayetteville.org).

2. The item bid and the bid number shall be stated on the face of the sealed bid envelope.

3. Bids received after the date and time set for receiving bids will not be considered.

4. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City. The City shall be able to purchase more or less than the quantity indicated subject to availability of funds.

6. All products delivered shall comply with applicable standards of quality.

7. Any exceptions to the specification requirements of the City of Fayetteville must be noted on the Bid Form.

8. Prices shall include all labor, materials, overhead, profit, insurance, etc., to cover the furnishing of the items bid. ***Sales tax is not to be included in the bid price.*** Applicable Arkansas sales tax laws will apply to this bid, but will not be considered in award of the bid.

9. Each bidder shall state on the face of the bid form the anticipated number of days from the date of receipt of an order for delivery of equipment and installation to the City of Fayetteville. Failure to deliver on or before the time specified in the contract may subject the contractor to payment of damages or other appropriate sanctions.

10. Copy of the warranty shall accompany the bid, and any exceptions to the warranty shall be clearly noted on the bid form. Written warranties shall specify the greater of the manufacturer's standard warranty or the minimum warranty specified herein by the City.

11. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.

12. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.

13. The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by bidder in preparation of bid.

14. The City will not be responsible for misdirected bids. Vendor should call the Purchasing Office at (501) 575-8289 to insure receipt of their bid documents prior to opening time and date listed on the bid form.

15. If products and/or components other than those described in this bid document are proposed, the bidder must include complete descriptive literature and technical specifications. All requests for additional information must be received within five working days following the request. Each apparent low bid will be reviewed line by line to ensure compliance with specifications prior to recommendation for award.

16. Bids must be hand delivered or received by mail in the Purchasing Office, Room 306, 113 W. Mountain St. Fayetteville, AR 72701, on or before the time of closing listed on the face of the bid. To check on delivery of Bids to the City of Fayetteville please call (479)575-8289 or E-Mail bbell@cl.fayetteville.ar.us.

17. Items bid must be delivered FOB Fleet Operations Division, 1525 S. Happy Hollow Road, Fayetteville, AR 72701. Units must be fully assembled, serviced, and ready for operation as delivered unless otherwise specified. No dealer/distributor logo or other identification will be installed other than standard manufacturer name badges and specification plates.

SPECIFICATIONS – OIL AND LUBRICANTS

1. GENERAL -

1.1 All product(s) bid must meet or exceed the minimum requirements or they will be deemed incomplete and will not be considered for bid award.
1.2 All specifications written are to *minimums*, unless otherwise noted.
1.3 Vendor must state brand name for all items listed on the pricing sheets. Vendor shall not substitute a different brand or grade without prior authorization from the City.
1.4 All products delivered must be sealed and bear trademark of manufacturer. Vendor must be a licensed re-packager for bulk and repackaged products.
1.5 All bulk delivery trucks must have Weights and Measures certified meters. Copies of current certificates must be provided.
1.6 The City staff shall be the sole judge of the sufficiency of quality of material. Vendor warrants, represents, and assures that the products and services to be provided shall conform in all respects to the requirements of the specifications and as designed will meet the functional and performance standards contained herein and will meet or exceed the representations contained in this bid.
1.7 Contract shall be for a term of one year from date of award. Contract may be extended for four additional one year terms upon mutual agreement of the City and the vendor.
1.8 Prices may be adjusted up or down upon presentation of documented price change from the lubricant manufacture applicable to all commercial users. Adjustment shall not exceed actual cost change to the vendor. Adjustments shall be limited to six changes and a maximum of ten percent in any contract year.
1.9 Quantities listed are approximate anticipated annual requirements based on prior purchases. The City agrees to purchase its requirements of the listed products solely from the successful bidder, however no minimum purchase quantity is guaranteed.
1.10 Vendor agrees to sell products required for specific applications not listed in this bid from the same manufacturer at the same cost factor from published price lists.
1.11 The City reserves the right to secure from another source if needed product cannot be delivered within the specified time.
1.12 The City reserves the right to procure from other sources packaged oil and lubricant products not listed in this bid solicitation as deemed necessary to meet the needs of the City and for testing purposes.

2. DELIVERY, STORAGE AND DISPENSING EQUIPMENT

2.1 Products ordered under this contract shall be delivered F. O. B. to the Fleet Operations shop facility within 48 hours of receipt of order.
2.2 Vendor will furnish the following bulk storage and dispensing equipment at no charge to the City for the duration of the contract.
a. ✓ Three 250 gallon minimum ob-round storage tanks with floor stands
b. ✓ Three Balcrank 1130-005 or approved equal air operated pumps
c. ✓ Three Balcrank 2120-013 hose reel or approved equal
d. ✓ Two Balcrank 3331-001 60 quart preset meter or approved equal (15W40 lube oil and AW hydraulic oil)
e. ✓ One Balcrank 3330-082 metered control handle (5W30 lube oil)
f. ✓ Necessary filters, regulators, fittings and installation hardware.

2.3 Vendor will assemble dispensing equipment on site and provide necessary maintenance for the duration of the contract. The City will specify location of tanks and equipment within the maintenance garage, provide one air line connection to the equipment, mount hose reels overhead and provide plumbing between oil pumps and hose reels.

2.4 Upon termination of contract, either by expiration of term, or by cancellation by either party for failure to perform or other reason, the City shall have the right to maintain possession of equipment until inventory is exhausted at normal rate of consumption.

2.5 Upon expiration of the fourth contract renewal (fifth year of contract), the City will be granted the option to purchase above equipment at the price stated in Item 9.

3. ***ITEM 1 – GASOLINE SERVICE ENGINE OIL***

3.1 SAE Grade 5W-30:
- a. ✓ API service class SL
- b. ✓ Motorcraft, Valvoline, Citgo Supergard, or approved equal
- c. ✓ OEM approved for Ford, GM, Chrysler, Honda gasoline engines through current year model.

4. ***ITEM 2 – DIESEL SERVICE ENGINE OIL***

4.1 SAE Grade 15W-40:
- a. ✓ API service class CI-4, CH-4, CG4/SL
- b. ✓ Shell Rotella T, Citgo Citgard 600, or approved equal
- c. ✓ OEM approved for Ford, GM, Navistar, Mack, Cummins, Detroit, Caterpillar, John Deere, New Holland, Komatsu, Mercedes diesel engines through current year model.

4.2 OIL ANALYSIS PROGRAM:
- a. ✓ Vendor shall provide engine oil sample analysis at no charge
- b. ✓ Sample supplies and shipping shall be provided
- c. ✓ Sample results shall be available via computer within 5 days of receipt by lab.
- d. ✓ Oil analysis history, trend data, and management reports shall be available via computer for each unit in the City's fleet.
- e. ✓ Sample analysis for non engine components shall be provided. Any additional cost shall be listed in Page 3, Item 8.

5. ***ITEM 3 – ANTI-WEAR HYDRAULIC OIL***

5.1 ISO Grade 68:
- a. ✓ Citgo A/W 68 or approved equal
- b. ✓ Viscosity index minimum 95
- c. ✓ Must meet Vickers M-2950-S, M-286-S; Denison HF- O.
- d. ✓ OEM approved for hydraulic equipment within the City's fleet including LaBrie, Leach, Heil, Bandit, Schwarze, Vickers, Parker (Commercial), Dennison.

6. ***ITEM 4 – TRACTOR HYDRAULIC FLUID***

6.1 Multifunction tractor hydraulic/transmission fluid:
- a. ✓ Citgo Transgard Tractor Hydraulic Fluid; John Deere Quatrol, J20C; Ford NH M2C134D or approved equal
- b. ✓ OEM approved for construction equipment and farm tractors manufactured by Case, Caterpillar, Ford, New Holland, John Deere, Komatsu, Kubota.

7. ***ITEM 5 – AUTOMATIC TRANSMISSION FLUID***

7.1 Extended life automotive automatic transmission fluid:

a. ✓ Citgo Transgard ATF MERCON V or approved equal

b. ✓ OEM approved for Ford MERCON, MERCON V, General Motors DEXRON III

8. ***ITEM 6 – MULTI-PURPOSE GEAR LUBRICANT***

8.1 Grade 85W-140:

a. ✓ API Service designation GL5

b. ✓ Citgo Premium Gear Oil (MP) or approved equal

c. ✓ OEM approved for Ford, General Motors, Mack, Navistar International, Sterling, Caterpillar, Komatsu, Ford New Holland, and other major equipment represented in the City fleet.

9. ***ITEM 7– MULTI-PURPOSE GREASE***

9.1 High Temp Lithium EP #2:

a. ✓ MYSTIK JT-6 High Temp Grease or approved equal

b. ✓ OEM approved for Ford, General Motors, Mack, Navistar International, Sterling, Caterpillar, Komatsu, Ford New Holland, and other major equipment represented in the City fleet.

10. ***WARRANTY***

10.1 Vendor and product manufacturer shall warrant products to be suitable for use as specified within the City fleet and be financially responsible for any damage to fleet equipment due to lubricant failure or incompatibility with equipment manufacturer specifications.

10.2 Copies of manufacturer warranties on all products bid must accompany bid documents.

11. ***DELIVERY***

11.1 All products furnished are to be delivered F.O.B. to the City's Fleet Operations facility, located at 1525 S. Happy Hollow Road, Fayetteville, Arkansas 72701.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 7, 2004

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Approval of annual contract to supply engine oil and lubricants for the Fleet Operations Division from Mid South Sales of Fayetteville.

COST TO CITY:

$22,000.00	$ 1,253,515.00	Materials and Supplies
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1910.5214.00	$ -	Fleet Operations
Account Number	Funds Used to Date	Program / Project Category Name
	$ 1,253,515.00	Shop
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 — 11/19/2004 Date

Purchasing Manager — Date

STAFF RECOMMENDATION:

Division Head — 11/18/04 Date

Department Director — 11/18/04 Date

Finance & Internal Services Dir. — Date

Chief Administrative Officer — Date

Mayor — 11/22/04 Date

Received in Mayor's Office 11-22-04 Date

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

New Item: **Yes** **No**

ENTERED 11-19-04

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and member of the City Council

FROM: Frank Johnson, Chief of Police

DATE: November 18, 2004

SUBJECT: Approval of Contracts to Upgrade Mobile Data System

RECCOMENDATION:

Council accepts bid # 04-85 and authorize Mayor Coody to issue a purchase order to Smith Communications, LLC for IP MobileNet equipment and tower site upgrade totaling $164,361.11. Also approve contracts to New World Systems for the purchase of CAD Mapping and Automatic Vehicle Locator (AVL) software and support for installation and training in the amount of $67,700.00. The total project is $232,062.

BACKGROUND:

The Fayetteville Police in 1999 implemented New World Mobile Data software utilizing a radio frequency backbone. This system provides officers the ability to receive incident information from Dispatch, perform car to car messaging and send messages to Dispatch. This software also provided an interface to the Arkansas Crime Information Center allowing the officer to perform driver license, vehicle registration and stolen property inquiries. Current Mobile Data software has become obsolete and prevents updates of new features such as AVL, logging office activity, improved screen layout and will also give us the capability to pass photos to the car.

DISCUSSION:

The Fayetteville Police Department has fully utilized the benefits of the current Mobile Data System. Technology improvements and software requirements have made it necessary to upgrade the current system. In order to keep mobile software supported and add new features to this system we must purchase the equipment and software listed above. This mobile data system provides essential information to officers responding to calls for service. They are able to see detailed information about the call before they arrive at the scene. The addition of AVL will improve efficiency of dispatching officers to calls for service. The dispatchers will actually see what unit is closest to the call and the result will be an improvement in response times.

BUDGET IMPACT:

The hardware and equipment installation will be purchased from Bid 04-85. We received two responses to this bid. Smith Communications LLC. meets all requirements and is recommended to be awarded the contract. The New World software, which includes upgrades to current mobile software and addition of CAD Mapping and AVL software, is also included in this project. The City of Fayetteville currently has a bid waiver in effect for the purchase of New World Software. A budget adjustment is attached adding $159,849 to the Mobile Data project. The amount moved from other police projects is $111,325; Federal Grant and matching funds provided $12,792; and $35,732 came from unreserved fund balance. Funding for this project has been reviewed by the Budget & Research Division. This procurement followed the existing City policies and utilizes a contract form approved by the City Attorney's Office.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH NEW WORLD SYSTEMS IN THE AMOUNT OF $67,700.00 TO PROVIDE CAD MAPPING AND AUTOMATIC VEHICLE LOCATOR (AVL) SOFTWARE AND SUPPORT TO THE FAYETTEVILLE POLICE DEPARTMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves a contract with New World Systems in the amount of $67,700.00 to provide CAD Mapping and Automatic Vehicle Locator (AVL) software and support to the Fayetteville Police Department.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

New World Systems®
The Public Sector Software Company

November 19, 2004

ADDITIONAL SERVICES AGREEMENT

Ms. Judy Cohea
Fayetteville Police Department
100 West Rock Street
Fayetteville, AR 72702

Dear Ms. Cohea:

New World Systems is pleased to provide additional services for the upgrade to Mobile Messaging 5.x.

The attached form (Exhibit B) is to be reviewed and approved by you and/or your authorized representative. It describes the additional services you have requested along with the related fees.

Other than for the purposes of internal review, we ask that you treat our fees as confidential information. This is due to the competitive nature of our business.

The General Terms and Conditions from our original License Agreement are incorporated and continue to apply.

We thank you for your continued business with New World Systems. We look forward to working on this project with you.

Sincerely,

NEW WORLD SYSTEMS CORPORATION

AGREED AND ACCEPTED:

NEW WORLD SYSTEMS CORPORATION	**FAYETTEVILLE POLICE DEPT., AR**
By:_____	**By:** _____
Title:_____	**Title:**_____
Date:_____	**Date:** _____

Each individual signing above represents that (s)he has the requisite authority to execute this Agreement on behalf of the organization for which (s)he represents and that all the necessary formalities have been met.

EXHIBIT B
ADDITIONAL SUPPORT SERVICES AND FEES

1. Support Hours Recommended

Allocating adequate support service resources for the upgrade to Mobile Messaging 5.x is estimated at 80 hours. **Actual usage may be higher or lower based on Customer's requirements and use of these support services.**

The installation and training support services are typically performed at **Customer's** premises but, at **Customer's** option, may be provided at **New World** national headquarters in Troy, Michigan. (Other support services often involve services performed at the **New World's** national headquarters.) Customer agrees to reimburse **New World** for support trips canceled by **Customer** less than ten (10) days before the scheduled start date to cover **New World's** out of pocket costs and lost revenues.

2. Support Service Fees Estimate

The minimum hours cited above will be provided at the rate of **$140** per hour. Any additional support services provided by **New World** after execution of this Agreement will be provided at the **Customer's** hourly rate in effect at that time.

Based on the hours listed above, the support service cost is estimated at $11,200. (Plus all actual and reasonable travel expenses incurred by **New World** divided proportionately between all **New World** customers visited on a single trip, and actual employee travel time up to but not exceeding four (4) hours per **Customer** visit.)

3. Additional Services Available

Other **New World** services may be required or requested for the following:

(a) File conversion assistance;
(b) Consulting with **New World** technical staff;
(c) Modifying the Licensed Standard Software;
(d) Designing and programming Custom Software;
(e) Maintaining modified Licensed Standard Software and/or Custom Software;
(f) **New World** Consultation with other vendors or third parties; and/or
(g) Software testing; and/or
(h) Assistance as Customer is going "live".

Customer may request these additional services in writing using **New World's** Request For Service (RFS) procedure (or other appropriate procedure mutually agreed upon by **Customer** and **New World**).

4. Payments for Services and Travel Costs

All hours for services and travel costs will be billed weekly for the previous calendar week. Any taxes or fees imposed from the course of this Agreement are the responsibility of the **Customer** and **Customer** agrees to remit when imposed. If an exemption is claimed by the **Customer**, an exemption certificate must be submitted to **New World**. **Payments are due within thirty (30) days from receipt of invoice.**

New World Systems®
The Public Sector Software Company

November 19, 2004

ADDITIONAL SOFTWARE LICENSE AGREEMENT

Ms. Judy Cohea
Fayetteville Police Department
100 West Rock Street
Fayetteville, AR 72702

Dear Ms. Cohea:

New World Systems is pleased to license you additional software per your request.

The attached forms (Exhibits A and B) are to be reviewed and approved by you and/or your authorized representative. They describe the additional software and services you have requested along with the related fees.

Other than for the purposes of internal review, we ask that you treat our fees as confidential information. This is due to the competitive nature of our business.

The General Terms and Conditions from our original License Agreement are incorporated and continue to apply. Any taxes or fees imposed from the course of this Agreement are the responsibility of the Customer.

We thank you for your continued business with New World Systems. We look forward to working on this project with you.

Sincerely,

NEW WORLD SYSTEMS CORPORATION

AGREED AND ACCEPTED:

NEW WORLD SYSTEMS CORPORATION	**FAYETTEVILLE POLICE DEPT., AR**
By:_____	**By:** _____
Title:_____	**Title:** _____
Date:_____	**Date:** _____

Each individual signing above represents that (s)he has the requisite authority to execute this Agreement on behalf of the organization for which (s)he represents and that all the necessary formalities have been met.

EXHIBIT A
FOR LICENSED STANDARD SOFTWARE AND FEES

November 19, 2004

A. STANDARD SOFTWARE FROM NEW WORLD

Application Package	Cost
CAD	
1. Additional *Aegis*®/400 Software for Computer Aided Dispatch[1]	
- CAD Mapping (ESRI based)	$15,000
MOBILE SOFTWARE	
2. Additional Aegis Software for RS/6000 Message Switch	
- AVL Interface (1-30 devices)[2]	7,000
MOBILE SOFTWARE ON THE iSERIES 400	
3. Aegis/400 Mobile Integration Software	
- AVL CAD Interface [2] (1-30 users)	7,000
MOBILE MANAGEMENT SERVER	
4. Aegis Mobile Management Server Software (1-30 users)	
- Base CAD/NCIC/Messaging	N/C
- AVL Mapping	8,000
NEW WORLD STANDARD SOFTWARE LICENSE FEE	**$37,000**
LESS DEMONSTRATION SITE DISCOUNT	**(7,400)**
TOTAL SOFTWARE LICENSE FEE [3,4]	**$29,600**

THE ABOVE SOFTWARE PACKAGE FEES ARE VALID THROUGH DEC. 15, 2004.

Note: Annual Standard Software Maintenance Agreement (SSMA) fees of $5,920 for the above software will be added to **Customer**'s current SSMA fees and will commence 90 days after delivery of the software.

Exhibit A/LICENSED STANDARD SOFTWARE AND FEES
Page 2

Endnotes

1 *Does not include any required third party hardware or software.*

2 *Requires 3rd party GPS hardware.*

3 *Prices assume that all software proposed is licensed.*

4 *If taxes or fees are imposed, they are the responsibility of the purchaser and will be remitted to New World upon being invoiced.*

Exhibit A/LICENSED STANDARD SOFTWARE AND FEES
Page 3

B. PAYMENTS SCHEDULE

1.	DOWN PAYMENT (40% of the total Exhibit A cost - Invoiced upon receipt of signed Licensing Agreement)	$11,840
2.	DELIVERY PAYMENT (50% of each application cost - Invoiced as each Exhibit A Licensed Standard Software package is delivered to **Customer**)	$14,800
3.	FINAL PAYMENT (10% of each application cost - Invoiced 90 days after delivery of each Licensed Standard Software package)	$2,960
	TOTAL LICENSED STANDARD SOFTWARE PAYMENTS DUE	**$29,600**

ALL PAYMENTS ARE DUE WITHIN THIRTY (30) DAYS FROM RECEIPT OF INVOICE.

EXHIBIT B
PROJECT MANAGEMENT, INSTALLATION AND TRAINING SUPPORT SERVICES AND FEES

1. Project Management Services

New World shall act as Project Manager to assist **Customer**'s management in implementing the Exhibit A software. This responsibility will include documenting, coordinating and managing the overall Implementation Plan with **Customer**'s management and the **Customer** liaison. Project Management Services include:

(a) a summary level Implementation plan;
(b) a detail level Implementation plan;
(c) revised Implementation plans (if required);
(d) monthly project status reports; and
(e) Project Status meetings
- a project review (kickoff) meeting at **Customer**'s location
- progress status meeting(s) will occur during implementation via telephone conference or at **Customer**'s location; and
- a project close out meeting at **Customer**'s location or via telephone conference to conclude the project.

(f) **New World** Consultation with other vendors or third parties.

To implement the Exhibit A applications, the project management fee will be $3,000.

2. Training and Installation Support Hours Recommended

Allocating adequate support service hours for each application of Licensed Standard Software listed on Exhibit A is not only recommended but also is critical for a successful installation of and training on each application package. Based on the Licensed Standard Software listed on Exhibit A, 100 hours of **New World** installation and training support services have been allocated. Avoiding or minimizing custom or modified features will aid in keeping the support costs to the amount allocated. **Customer** agrees to reimburse **New World** for support trips canceled by **Customer** less than ten (10) days before the scheduled start date to cover **New World's** out of pocket costs and lost revenues. The recommended installation and training support services include:

(a) Installation of each package of Licensed Standard Software; and
(b) **Customer** training and/or assistance in testing for each package of Licensed Standard Software; and
(c) Tailoring of Licensed Standard Software by **New World** technical staff and/or consultation with **New World** technical staff.

The project management, training and installation support services are performed at **Customer**'s premises and/or at **New World** national headquarters in Troy, Michigan (e.g., portions of project management are performed in Troy).

3. Support Service Fees Estimate

The **100** hours of training and installation support services cost has been calculated using a rate of **$140** per hour. This rate is guaranteed for work performed on this contract within 6 months of acceptance. Beyond that date, these and any additional services will be provided at your then current rate.

Based on the services suggested above, the Project Management, and Training and Installation Support Service cost will be $17,000. (Plus all actual and reasonable travel expenses incurred by **New World** divided proportionately between all **New World** customers visited on a single trip and actual employee travel time for Installation and Training up to but not exceeding four (4) hours per **Customer** visit.)

Exhibit B/PROJECT MANAGEMENT, INSTALLATION AND TRAINING SUPPORT SERVICES AND FEES
Page 2

4. **Additional Services Available**

Other **New World** services may be required or requested for the following:

(a) Additional software training;
(b) Tailoring of Licensed Standard Software by **New World** technical staff and/or consultation with **New World** technical staff;
(c) **New World** Consultation with other vendors or third parties;
(d) Modifying the Licensed Standard Software;
(e) Designing and programming Custom Software;
(f) Maintaining modified Licensed Standard Software and/or Custom Software.

Customer may request these additional services in writing using **New World**'s Request For Service (RFS) procedure (or other appropriate procedure mutually agreed upon by **Customer** and **New World**).

5. **Payments for Project Management Services**

Project Management Services will be billed as follows:

Day 10 after Agreement Signed	$ 3,000
Total:	$ 3,000

6. **Payments for Training and Installation Support Services and Travel Costs**

All hours for training and installation support services and all travel costs will be billed weekly for services provided in the previous calendar week. Any taxes imposed from the course of this Agreement are the responsibility of the **Customer** and **Customer** agrees to remit when imposed. If an exemption is claimed by the **Customer**, an exemption certificate must be submitted to **New World**.

All payments are due no later than 30 days from receipt of invoice.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Dec-04
City Council Meeting Date

Frank Johnson	Police	Police
Submitted By	Division	Department

Action Required:

Approval of Bid 04-85 for Mobile Data Backbone and Automatic Vehicle Locator equipment, approve contract to Smith Communications LLC in the amount of $164,361.11; approve contracts with New Systems for CAD Mapping Software, AVL software and training installation and upgrade of current Mobile Data software in the amount of $67,700 and a budget adjustment increasing the Mobile Data project by $159,849.

$232,061.11	$ 90,000.00	Mobile Data
Cost of this request	Category/Project Budget	Program Category / Project Name
4470-9470-5801.00	$ 15,930.37	Police Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02062	$ 74,069.63	Sales Tax Capital Improvement
Project Number	Remaining Balance	Fund Name

Budgeted Item [x] Budget Adjustment Attached [x]

Previous Ordinance or Resolution # _____

Frank Johnson 11/19/04
Department Director Date

Original Contract Date: _____

Original Contract Number: _____

D. P. White 11/22/04
City Attorney Date

Received in City Clerk's Office

Dan Coody 11/22/04
Mayor Date

Received in Mayor's Office
11-22-04 JM

Comments:

Entered TM 11/19/04

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and member of the City Council

FROM: Frank Johnson, Chief of Police

DATE: November 18, 2004

SUBJECT: Approval of Contracts to Upgrade Mobile Data System

RECCOMENDATION:

Council accepts bid # 04-85 and authorize Mayor Coody to issue a purchase order to Smith Communications, LLC for IP MobileNet equipment and tower site upgrade totaling $164,361.11. Also approve contracts to New World Systems for the purchase of CAD Mapping and Automatic Vehicle Locator (AVL) software and support for installation and training in the amount of $67,700.00. The total project is $232,062.

BACKGROUND:

The Fayetteville Police in 1999 implemented New World Mobile Data software utilizing a radio frequency backbone. This system provides officers the ability to receive incident information from Dispatch, perform car to car messaging and send messages to Dispatch. This software also provided an interface to the Arkansas Crime Information Center allowing the officer to perform driver license, vehicle registration and stolen property inquiries. Current Mobile Data software has become obsolete and prevents updates of new features such as AVL, logging office activity, improved screen layout and will also give us the capability to pass photos to the car.

DISCUSSION:

The Fayetteville Police Department has fully utilized the benefits of the current Mobile Data System. Technology improvements and software requirements have made it necessary to upgrade the current system. In order to keep mobile software supported and add new features to this system we must purchase the equipment and software listed above. This mobile data system provides essential information to officers responding to calls for service. They are able to see detailed information about the call before they arrive at the scene. The addition of AVL will improve efficiency of dispatching officers to calls for service. The dispatchers will actually see what unit is closest to the call and the result will be an improvement in response times.

BUDGET IMPACT:

The hardware and equipment installation will be purchased from Bid 04-85. We received two responses to this bid. Smith Communications LLC. meets all requirements and is recommended to be awarded the contract. The New World software, which includes upgrades to current mobile software and addition of CAD Mapping and AVL software, is also included in this project. The City of Fayetteville currently has a bid waiver in effect for the purchase of New World Software. A budget adjustment is attached adding $159,849 to the Mobile Data project. The amount moved from other police projects is $111,325; Federal Grant and matching funds provided $12,792; and $35,732 came from unreserved fund balance. Funding for this project has been reviewed by the Budget & Research Division. This procurement followed the existing City policies and utilizes a contract form approved by the City Attorney's Office.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #04-85 TO SMITH COMMUNICATIONS, LLC IN THE AMOUNT OF $164,361.00 TO PROVIDE IP MOBILENET EQUIPMENT AND TOWER SITE UPGRADE TO THE FAYETTEVILLE POLICE DEPARTMENT; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $159,849.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby awards Bid #04-85 to Smith Communications, LLC in the amount of $164,361.00 to provide IP MobileNet equipment and tower site upgrade to the Fayetteville Police Department.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of $159,849.00.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

CONTRACT

This contract executed this ____ day of _____, 2004, between the City of Fayetteville, Arkansas, 113 W Mountain, Fayetteville, Arkansas, 72701 and Smith Communications LLC, a wholly owned subsidiary of Smith Two-Way Radio, Inc., 520 N. College Avenue, Fayetteville, AR 72701.

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Smith Communications LLC at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per bid 04-85 as stated in Smith Communications LLC bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid #04-85, all included herein as if spelled out word for word.

2. The City of Fayetteville shall pay $164,361.12 for turnkey completion of the project based on prices indicated in Smith Communications LLC bid proposal for Mobile Data Backbone IP MobileNet equipment and site upgrade. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.

3. The Contract documents which comprise the contract between the City of Fayetteville and Smith Communications LLC consist of this Contract and the following documents attached hereto, and made a part hereof:

   A. Bid form identified as Invitation to Bid 04-85 with the specifications and conditions typed thereon.

   B. Smith Communications LLC bid proposal.

   C. The Notice to Prospective Bidders and the Bid Tabulation.

4. These Contract documents constitute the entire agreement between the City of Fayetteville and Smith Communications LLC and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Smith Communications LLC.

5. Smith Communications LLC shall not assign it's duties under the terms of this agreement.

6. Smith Communications LLC agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Smith Communications LLC performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.

7. Smith Communications LLC shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Smith Communications LLC shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Workmen's Compensation	Statutory Amount
Comprehensive General & Automobile Insurance	
Bodily Injury Liability	$250,000 for each person injured. $500,000 for each accident.
Property Damage Liability	$100,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by Smith Communications LLC.

8. Smith Communications LLC to furnish proof of licensure as required by all local and state agencies.

9. This contract may be terminated by the City of Fayetteville or Smith Communications LLC with 10 days written notice.

10. 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, the contractor 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 photo coping costs pursuant to the FOIA may be assessed for this compliance.

WITNESS OUR HANDS THIS_____DAY OF _____, 2004.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

BY_____
MAYOR

ATTEST: CITY CLERK

_____

_____
Smith Communications LLC

BY_____
PRINTED NAME AND TITLE

ATTEST: COMPANY SECRETARY

_____

_____
BUSINESS ADDRESS

NORTHWEST ARKANSAS EDITION
Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Diane 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:

Bid 04-83
November 1, 2004.

was inserted in the regular editions on

PO# N/A

** Publication Charge: $ 33.75

RECEIVED
NOV 3 - 2004
PURCHASING

Subscribed and sworn to before me this

1st day of November, 2004.

Catherine Sills
Notary Public

My Commission Expires:

Catherine Sills
Notary Public, State of Arkansas
Washington County
My Commission Expires 02/27/05

** Please do not pay from Affidavit.
An invoice will be sent.

NOTICE TO BIDDERS
Bid 04-83
Mobile Data System

The City of Fayetteville, Arkansas, will receive sealed bids until 2:00 p.m. November 15th, 2004 at the City Administration Building, City Hall, Room 326, 113 West Mountain Street, Fayetteville, Arkansas, for a Mobile Data System.

Bid forms may be downloaded from the City's Purchasing Web Site at www.accessfayetteville.org.

The City reserves the right to reject any and all bids, and to waive formalities deemed to be in the City's best interest.

Peggy Vice
Purchasing Manager
2707/6808 November 1, 2004

BID: 04-85
11/15/2004
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Fayetteville
ARKANSAS

Mobile Data Backbone

BIDDERS	Item	Alternate Proposal	
1. Data Radio Company	$120,100.00	$96,800.00	(Does not Meet Spec.)
2. Smith Two Way Radio	$154,986.90		(Does Meet Spec.)

CERTIFIED: P Vice — P. VICE PURCH MGR
B Williams — WITNESS
11-15-04 — DATE

Smith Communications LLC

A Wholly Owned Subsidiary of Smith Two-Way Radio, Inc.
Arkansas Licensed Contractor – # 0147600705

520 N. College Ave.
Fayetteville, AR 72701

Main: 479.443.2222
Fax: 479.443.5677

November 15th, 2004

Ref: Mobile Data Backbone – Bid # 04-85

The City of Fayetteville
Purchasing Office
113 West Mountain Street – Room 306
Fayetteville, AR 72701

Dear Sir or Madam:

Today I'm pleased to provide a bid response to your invitation to bid on your anticipated purchase of a new public safety mobile data system. We thank you kindly for the opportunity to respond!

First, I'd like to make known that Smith Communications LLC is the contracting subsidiary of Smith Two-Way Radio, Inc. As you are likely aware, general contractors who render contracts in amounts of $20,000.00 or more are by state law required to be licensed with the state Contractor's Licensing Board. We are quite proud to have achieved this professional milestone during this past year, our 75th year in business.

Next, I hope you'll be pleased with the level of attention to detail we have expended in the preparation of this bid response. We feel that the equipment and project management plan for it's installation provides the City of Fayetteville the best possible value in a mobile data solution.

Please note that behind the first tab of this bid package is where you will find the specific bid information you requested in your invitation to bid. Please note that this information has been categorized and separated into sub-sections, each with their own divider. We specifically want to call your attention to the JOB COSTING sub-section of BID RESPONSE. In this section you will see specific line item costs for the hardware and labor of which this project entails. Please note also that we have identified extended warranty and spares options on the last page of the JOB COSTING section. To ensure that your new system experiences minimal downtime in the event of a failure, we recommend the purchase of 1 mobile unit and 1 base state unit as spares. Further, we recommend that the base station unit be installed in the system rack with the other equipment so that it can easily be initiated in the event of a failure in the primary base station.

We look forward to serving you should we be awarded this bid. And, of course, if you have any questions whatsoever, please do not hesitate to give me a call.

Most Respectfully,

Michael B. Smith - President

CITY OF FAYETTEVILLE

113 W. Mountain St.
Fayetteville, AR 72701
Bid # 04-85

Fayetteville

INVITATION TO BID

DATE ISSUED: October 28, 2004

DATE & TIME OF OPENING: November 15, 2004 2:00 P.M.

BUYER: Peggy Vice, Purchasing Manager, Room 306 - (479) 575-8289

F.O.B. Fayetteville, AR

BID Specifications for Mobile Data System

I. General Requirements

- Private radio system operating on 800 MHz frequencies to service 29 vehicles whose coverage area extends at least two (2) miles beyond the Fayetteville city limits.
- Multi-site, multi-frequency operation
- Open system uses industry-standard IP data protocols (TCP/IP, UDP, etc.)
- Middleware, proprietary-to-IP protocol conversion software is not acceptable
- Integrated (one-piece) 800 MHz mobile radio/modem design
- Integrated (one-piece) 800 MHz base station radio/modem design
- Integrated data and optional digital voice system capability
- System conserves RF resources; no control channel is required
- Base stations and Communications Center may be connected via existing DDS, microwave services, or other bandwidth bridge devices
- Multiple base station operation managed by a central IP-based Network Controller
- Integrated GPS data for vehicle location in a format compatible with ESRI mapping.
- Identify the system installation and trouble shooting time allowed under the proposal.
- Propose an Acceptance Test Plan
- Mobile radios meet or exceed EIA/TIA specifications for shock, vibration, humidity and temperature variation

II. Base Station/Mobile Radio Specifications

a) Receivers:
2-branch diversity reception capability (mobile)
3-branch diversity reception capability (base station)
Dedicated receiver synthesizer supports 256 channels

b) Transmitters:
- Base station transmitters rated for full-duplex, continuous duty operation rated power 40 watts to 100 watts.
- All transmitters protected against infinite load mismatch
- Separate transmitter synthesizer for under 1 mS attack time
- Base station power amp is protected from infinite load mismatch, over-temperature, and other faults

c) RF modem:
- Modem is built into mobile and base station radios
- Supports a minimum of 32 KBPS data transmission rate
- Support for industry-standard IP data protocols (TCP/IP, UDP, etc.)
- Forward error detection and correction
- Bit interleaving for burst error protection
- Ethernet connector for back-haul
- Base station modem supports remote configuration and diagnostics

III. IP Network Controller Specifications

a) Network Controller requirements

- Must be based upon industry standard computer hardware
- Utilizes LINUX or Windows 2000/2003 Server operating system software
- Performs FDMA controller functions
- Provides central control of one or more base station sites via IP tunneling
- Tracks vehicle locations and assigns optimum server sites
- Maintains list of active users, and inhibits data to unavailable users
- Logs and archives system activity for report purposes
- Serves as a host for other application servers

IV. System Proposal

a) Provide a configuration diagram

Vendors must include in their proposals a diagram depicting the configuration of the proposed system. The configuration diagram must show all hardware components along with the proposed communication lines and devices.

b) Provide system proposal

The vendor is expected to provide a hardware configuration necessary for the proper operation of this proposed system.
Bid pricing should be based on the recommended requirements. The vendor should include all hardware and software necessary for the base or server system needed.

V. Warranty

a) Provide a factory warranty for two (2) years from the date of shipment.
Provide warranty terms.
Offer 1 year, 2 year, and 5 year extended warranty terms.
Provide estimates for turn around times of component replacements under warranty.

VI. Site Contact Info

To schedule a tour of the facility or tower site contact:

Devon Hendricks
Phone: 479-587-3577
Email: dhendricks@ci.fayetteville.ar.us

VII. Additional Requirements

- Must provide 24-hour notice before disrupting current Mobile Data System. Police Department reserves the right to stop work if necessary for public safety.
- The GPS data must integrate with New World Systems Public Safety Software – CAD Mapping. You may contact New World Systems Mr. Brady Moore (248)269-1000
- The Mobile Data System must integrate with New World Systems Mobile Data Product. You may contact New World Systems Mr. Brady Moore (248)269-1000
- Successful bidder shall appoint a competent Project Manager to act as its representative and single point of contact, and to supervise its employees and subcontractors in the delivery, installation and testing of the system. The name of the Project Manager shall be submitted in writing as a part of the bid proposal and shall be subject to approval by the City. Once submitted, no change of the Project Manager shall take place without the mutual consent of the City of Fayetteville.
- System Proposal Section IV. Re-use of current antenna and/or location of antennas is preferred. List all antennas and describe any changes that would take place during your installation.
- As a part of the proposed Acceptance Test Plan the system shall meet:
  - Reliability: 95% area coverage both transmit and receive
  - Service area required: an area to include the City limits and 2 miles beyond the City Limits
  - Vehicle location plotted on maps utilizing New World Cad Mapping Software.
  - Produce car-to-car messages, car to CAD, and CAD to car utilizing New World Systems software.

VIII. General Provisions

1. All bids shall be submitted on forms provided by the City, with the item bid and the bid number stated on the face of the sealed envelope. Bidders MUST provide the City with their bids signed by an employee or officer having legal authority to submit bids on behalf of the bidder. The entire cost of preparing, and providing responses shall be borne by the bidder.

2. The successful bidder shall observe and comply with all federal, state, and local laws, safety and health regulations, ordinances, and all ordinances and regulations which in any manner affect the conduct of the work.

3. The successful bidder agrees to accept full responsibility for any and all damages, including damage to property as a result of operations. The successful bidder further agrees to promptly repair any such damages in accordance with the City of Fayetteville's instructions.

4. Prior to the beginning of work the successful bidder shall provide the City of Fayetteville with the successful bidders Certificate of Insurance for the following limited minimum insurance coverage; such coverage shall be kept in effect throughout the full term of the agreement.

   a. Workers Compensation Insurance
      i. Amount – Statutory
   b. Comprehensive General Liability Insurance
      i. Amounts – Bodily Injury $ 500,000.00 Single Incident
         $ 1,000,000.00 Aggregate
      ii. Property Damage $ 500,000.00 Single Incident
         $ 1,000,000.00 Aggregate
   c. Comprehensive Automobile Liability Insurance
      i. Amounts – Bodily Injury $ 500,000.00
         Property Damage $ 75,000.00

Successful bidder shall be responsible for any deductible stated in the policy.

5. Successful bidder agrees to indemnify the City of Fayetteville from any and all claims and liability due to the acts of the successful bidder its employees and the operations of their equipment. The successful bidder also agrees to indemnify the City of Fayetteville from any and all expenses, including attorney fees, incurred by City of Fayetteville in litigation or otherwise resisting such claims or liabilities as a result of the successful bidders employees' activities. Further, the successful bidder agrees to protect, indemnify and save harmless the City of Fayetteville from and against all claims, demands and causes of action of every kind and character brought by an employee of the successful bidder against the City of Fayetteville. No statement shall be constructed to waive the tort immunity as provided for under Arkansas Law.

6. The Successful Bidder will confine all operations to daylight hours.

7. The City of Fayetteville will notify the successful bidder, by issuance of a work order or minute order to begin operations on the agreeable date.

8. All operations must meet the approval of the City of Fayetteville. Failure by the successful bidder to satisfactorily perform the work as herein specified shall be cause of immediate suspension of the work and possible cancellation of the contract by declaration of default after review by the Mayor's office of the City of Fayetteville.

9. The successful bidder will not be permitted to assign, sell, transfer, or otherwise dispose of the contract or any portion thereof, or his rights, title or interest therein. The successful bidder will be responsible for the project in whole and will not be permitted to sublet any portion of the bid.

IV. Total Bid Amount: **$154,986.90**

Note: this price includes the required IPMobileNet infrastructure and antenna modifications at the tower site. Warranty options and recommended spares are not included in this price. Please see the complete pricing breakdown, including warranty option pricing, in the following section.

X. **The Bidder understands the City of Fayetteville reserves the right to reject any or all bids and to waive formalities deemed to be in the City's best interest.**

Bidder agrees that this bid shall be good and may not be withdrawn for a period of sixty (60) calendar days after the scheduled closing time for receiving bids.

COMPANY NAME Smith Communications LLC

CONTACT PERSON Gary Cochran

TITLE Operations Manager

ADDRESS 520 N. College Ave.

Fayetteville, AR 72701

TELEPHONE 479-443-2222 **FAX** 479-443-5677

E-Mail gcochran@smithradio.com

SIGNATURE: Gary Cochran 11/15/04

All inclusive bids must be submitted no later than November 15th, 2004 at or before 2:00 PM, to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope marked *"Mobile Data Backbone"* "Bid 04-85." Each bidder will be required to meet or exceed the specifications. Any deviation must be noted with specifications attached to bid. Questions should be directed to Devon Hendricks, Phone: 479-587-3577
Email: dhendricks@ci.fayetteville.ar.us. All questions related to the bidding process should be directed towards the purchasing division at purchasing@ci.fayetteville.ar.us

SMITH Two-Way RADIO

BID RESPONSE

"MOBILE DATA BACKBONE"

"BID # 04-85"

City of Fayetteville, AR Police Department

Mobile Data Backbone - IP MobileNet Equipment

IP MOBILENET

UNIT QTY	ITEM DESCRIPTION	Price Each	Extended Price
1	**IPMOBILENET CONTROLLER 'IPNC':** Package consists of one (1) network server, color monitor, keyboard, and mouse. It also includes a communications modem required to connect to a customer supplied telephone line for servicing and trouble shooting system problems. IPMN IP Network Controller software is loaded on the server and this proprietary software manages the system. The IPNC provides end-to-end TCP/IP communications. The IPNC is supplied with the capability of managing base station and mobile traffic. IPNC is scalable, and may be configured for multiple base station support. Price includes two (2) years of 24 hours a day, 7 days a week telephone and modem-based support for the *IP* MobileNe application software. Hardware and software products not built by IPMN are covered by the warranties provided by their respective manufacturers. IPNC warranty period begins on shipment.	$ 5,000.00	$ 5,000.00
1	**IPNC Installation and Configuration:** Factory configuration of IPNC server and installation and configuration of IPNC software on server	$ 4,500.00	$ 4,500.00
1	***IP* MobileNet IP800 IP Data Base Station:** Package consists of one (1) digital data base station for communications over a single radio channel. Price includes an IP Base Station, power cables, I/O board, and manual. Client is required to specify exact RX and TX frequencies when ordering. IPMobileNet will make engineering recommendations based on the new site propagation studies. Base station includes a two-year factory direct warranty. The warranty goes into effect upon shipment.	$ 9,995.00	$ 9,995.00
1	***IP* MobileNet IP800 Base Station Amplifier:** Package consists of one (1) IPMN RF power amplifier. This unit boost the base station transmits power to one hundred fifty (150) watts (to be adjusted to 100 watts output). Power amplifier includes a one-year factory direct warranty. The warranty goes into effect upon shipment.	$ 4,295.00	$ 4,295.00
1	***IP* MobileNet Equipment Rack Option:** Package consists of one (1) Power supply, rack cables, CSU/DSU modems (2), cabling materials, rack mounting hardware, and labor. This price includes racking of base station and high power amplifier into a standard nineteen (19) inch rack. Warranty provided by manufacture. **If customer's rack is used a $200.00 reduction in this price will be allowed.**	$ 5,800.00	$ 5,800.00
2	**Telewave Bandpass Filters # TPRC8604-2:** Filtering cavities for two receive antennas	$ 611.00	$ 1,222.00
1	**On-Site Technical Assistance (Two Days):** An IPMN engineer will travel on-site to assist in the installation of the IPMobileNet system. This includes the IPNC and verification of system configuration.	$ 5,000.00	$ 5,000.00
1	**Technical Assistance Program:** The Technical Assistance Program (TAP) is a bundled, discounted package of support services for the installation, integration, and maintenance of the system. Includes up to 80 hous of telephonic and/or, at IPMobileNet's discretion, onsite support. In the event that onsite support is required, purchaser will responsible for actual travel, lodging and meal costs for IPMN employee(s). Support time is accrued in 15 minute intervals, and includes all telephonic, dial-in, and onsite support services.	$ 8,000.00	$ 8,000.00
29	***IP* MobileNet IP800 Mobile 32Kbps Modems:** Package consists of one (1) IP800 Radio Modem with GPS Receiver and mounting bracket, power cable, and technical manual. Price includes radio configuration and programming and a two-year factory direct warranty. Extended warranties are available.	$ 2,795.00	$ 81,055.00
29	**Installation Fee for Modems:** Includes wiring the modem to the vehicle's power system and installing two 800 MHz antennas, and one GPS Antenna on PD vehicles. Includes removal of mobile data system that is being replaced	$ 115.00	$ 3,335.00
29	***Motorola* 800MHz Mobile Antennas:** Package consists of two (2) antennas per vehicle for diversity reception. Includes chrome whip, connector, antenna mount, and cable.	$ 85.20	$ 2,470.80
29	***IP* MobileNet Mobile Installation Kit,** Includes DC Filter, ChargeGuard unit, shielded ethernet cable, and all necessary cabling for the mobile unit installation	$ 329.00	$ 9,541.00
1	**Installation Fee for Site Equipment:** Includes installing and wiring the site equipment at the Mt. Sequoah facility.	$ 1,680.00	$ 1,680.00
29	**Mobile GPS Antenna:** Package consists of one (1) antenna per vehicle for GPS receiver (hard mount).	$ 88.80	$ 2,575.20
1	**Acceptance / Testing Software *IPLinkView*:** Package consist with IPMN acceptance and testing software.	$ 995.00	$ 995.00
	TOTAL BACKBONE EQUIPMENT AND INSTALLATION		$ 145,464.00

BID RESPONSE

"MOBILE DATA BACKBONE"

"BID # 04-85"

City of Fayetteville, AR Police Department

Mobile Data Backbone - Site Upgrade

QTY	ITEM DESCRIPTION		Price Each	Ext. Price
	Replace old Fire Department Antenna with New 800MHz Antenna for Mobile Data System RF Reception			
1	***ANDREW 7/8 inch Coax Cable - 250 Foot Run at $6.00 per foot:*** Part # LDF5-50A		$ 1,500.00	$ 1,500.00
2	***ANDREW 7/8 inch N-Female Connectors:*** Part # L5PNF		$ 96.00	$ 192.00
1	***DECIBEL PRODUCTS***: 800Mhz Base Station Antenna - Part # DB-809KT3		$ 1,444.00	$ 1,444.00
1	***ANDREW***: Part # LDF4-50A 1/2 inch Jumper (3 foot) top side for antenna.		$ 175.00	$ 175.00
1	***ANDREW:*** SuperFlex 1/2 inch Jumper (25 foot) for equipment end		$ 190.00	$ 190.00
2	***ANDREW***: Part # 31768A Stainless Steel Hangers Box - 10 per box		$ 78.50	$ 157.00
2	***ANDREW***: Snap-in Hangers - 10 per box		$ 50.00	$ 100.00
1	***POLYPHASER***: Lightning Protection for Antenna Coax		$ 96.95	$ 96.95
3	***ANDREW***: Grounding Kits for Andrew LDF5-50A Coax		$ 50.00	$ 150.00
1	**Miscellaneous Hardware & Freight**		$ 500.00	$ 500.00
1	**LABOR to install all of the above**		$ 950.00	$ 950.00
		SUB TOTAL		$ 5,464.95
	Use existing 800MHz antenna - Replace Coax			
1	***ANDREW 7/8 inch Coax Cable - 225 Foot Run at $6.00 per foot:*** Part # LDF5-50A		$ 1,350.00	$ 1,350.00
2	***ANDREW 7/8 inch N-Female Connectors:*** Part # L5PNF		$ 96.00	$ 192.00
1	***ANDREW***: Part # LDF4-50A 1/2 inch Jumper (3 foot) top side for antenna.		$ 175.00	$ 175.00
1	***ANDREW:*** SuperFlex 1/2 inch Jumper (25 foot) for equipment end		$ 190.00	$ 190.00
4	***ANDREW***: Part # 31768A Stainless Steel Hangers Box - 10 per box		$ 78.50	$ 314.00
4	***ANDREW***: Snap-in Hangers - 10 per box		$ 50.00	$ 200.00
1	***POLYPHASER***: Lightning Protection for Antenna Coax		$ 96.95	$ 96.95
3	***ANDREW***: Grounding Kits for Andrew LDF5-50A Coax		$ 50.00	$ 150.00
1	**Miscellaneous Hardware & Freight**		$ 500.00	$ 500.00
1	**LABOR to install all of the above**		$ 900.00	$ 900.00
		SUB TOTAL		$ 4,067.95
		TOTAL SITE UPGRADE PRICING		$ 9,522.90

BID RESPONSE

"MOBILE DATA BACKBONE"

"BID # 04-85"

City of Fayetteville, AR Police Department

OPTIONS

UNIT QTY	ITEM DESCRIPTION	Price Each	Extended Price
	EXTENDED WARRANTY - Priced Per year (multiply cost by number of years required)		
29	**IP Mobile Radio with GPS (150, 450, 800 MHz)**	$ 95.00	$ 2,755.00
1	**IP Base Station (150, 450, 800MHz)**	$ 335.00	$ 335.00
1	***150 Watt Power Amplifier (UHF, VHF 800 MHz)***	$ 135.00	$ 135.00
1	**IPNC – Supports IPNC with 1 Base Station**	$ 3,600.00	$ 3,600.00
	NOTE: PRICES SHOWN ARE FOR ONE YEAR - FOR ADDITIONAL YEARS MULTIPLY THE NUMBER OF YEAR EXTENSIONS DESIRED BY THE PRICING SHOWN. IN ADDITION, THESE WARRANTY OPTIONS CAN BE PURCHASED AT ANY TIME DURING THE INITIONAL PRODUCT WARRANTY (2 YEARS).		
	RECOMMENDED SPARES		
1	***IP*MobileNet IP800 IP Data Base Station:** Package consists of one (1) digital data base station for communications over a single radio channel. Price includes an IP Base Station, power cables, I/O board, and manual. Client is required to specify exact RX and TX frequencies when ordering. IPMobileNet will make engineering recommendations based on the new site propagation studies. Base station includes a two-year factory direct warranty. The warranty goes into effect upon shipment.	$ 9,995.00	$ 9,995.00
1	***IP*MobileNet IP800 Mobile 32Kbps Modems:** Package consists of one (1) IP800 Radio Modem with GPS Receiver and mounting bracket, power cable, and technical manual. Price includes radio configuration and programming and a two-year factory direct warranty. Extended warranties are available.	$ 2,795.00	$ 2,795.00
	TURNAROUND ON REPAIRS: IPMobileNet has a priority repair for base station and system infrastructure equipment. The typical turnaround for base stations is one week. The typical turnaround for a mobile unit is two weeks. We do recommend, to insure the least downtime of the system, the purchase of the spare units identified above.		
	TOTAL EXTENDED WARRANTY OPTION PER YEAR		$ 19,615.00

Project Manager

Mr. Jeff Henretty
479-443-2222 office
479-443-5677 fax
479-530-8123 cellular phone
e-mail: jhenretty@smithradio.com

City of Fayetteville Police Department
Mobile Data Backbone Project Timeline

Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8
Overall Project Time Requirement: 8 weeks							
Equipment Procurement. Note: equipment will be arriving in stages							
			Base Antenna Installation				
				Install IPMobileNet Equipment			
					Configure IPMobileNet Equipment		

NOTE: During the last two weeks of the project, the existing mobile data system will be turned off. During this time the existing mobile radio modems will be removed, and the new ones installed. At the end of this final stage the system will be turned on and acceptance testing performed.

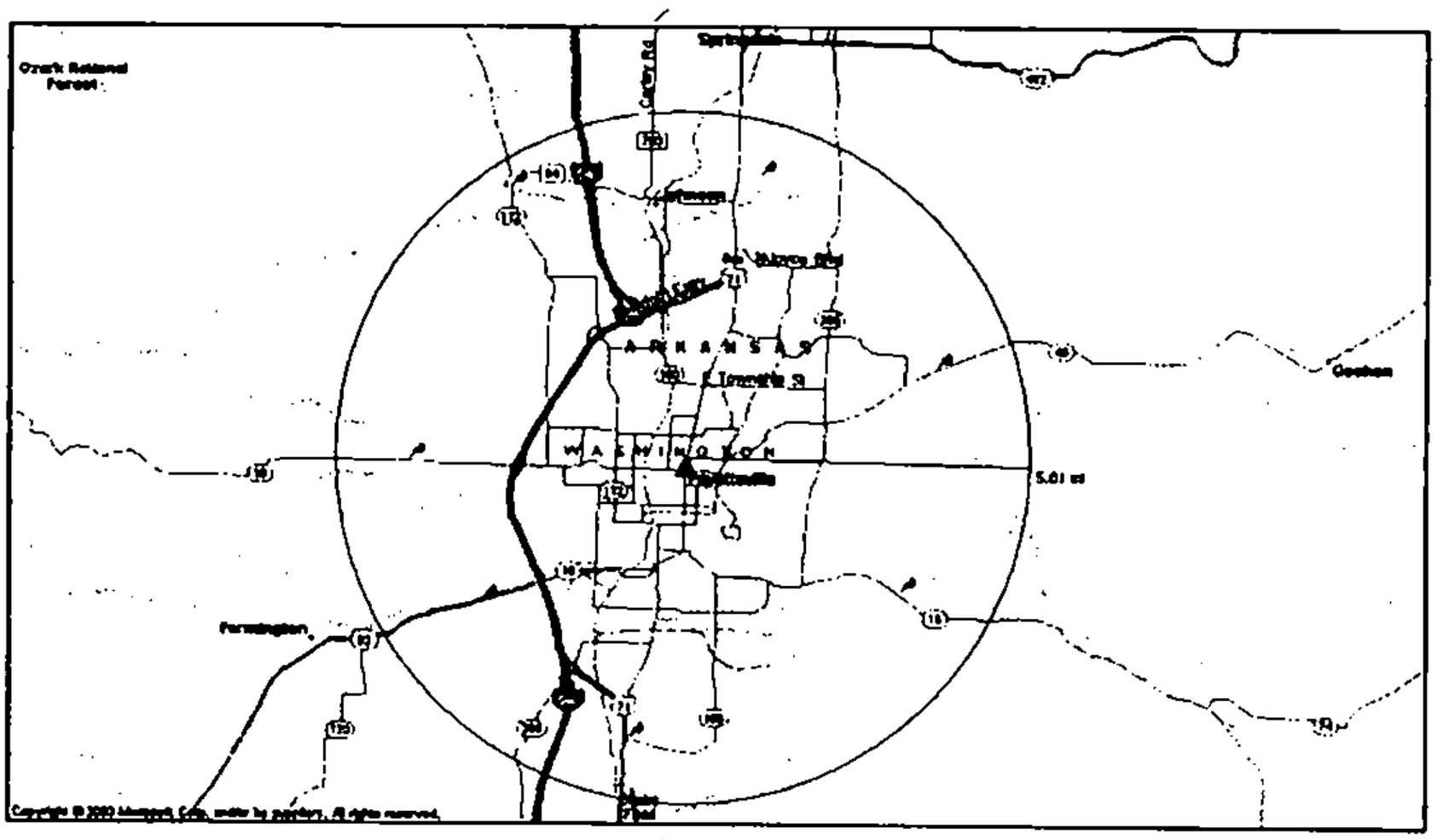
Recommended System Acceptance Testing

1. The system shall be considered acceptable if it meets the following performance objective (hereinafter referred to as the "Acceptance Criteria"); in a moving test vehicle traveling over a randomly selected drive test route throughout the target service area, a minimum of 90% of all uplink and downlink test messages shall be successfully received. Up to 3 retransmissions shall be permitted for any individual test message to be considered successful. Test messages shall be 100 bytes in length.

2. ACCEPTANCE CRITERIA RESULTS

TEST RESULTS

Waypoint	Intersection	L->R	R->L
Waypoint 1	Police Department Locale – FOR REFERENCE ONLY		
Waypoint 2	North of Lake Fayetteville		
Waypoint 3	Hwy 112 in the vicinity of Restaurant on the Corner		
Waypoint 4	Hwy 16 West		
Waypoint 5	Hwy 62 West		
Waypoint 6	Hwy 71 South at Drake Field		
Waypoint 7	Hwy 16 East just East of the White River crossing		



City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Police Division: Police Program: Support Services	Date Requested	Adjustment Number
2004		11/17/2004	

Project or Item Requested:	Project or Item Deleted:
Funding to complete the upgrade of hardware and software to support the radio frequency backone utilized by the Mobile Data System in Police vehicles. This project also includes the addition of a geographic positing system for all marked police vehicles with the information appearing on mapping software displayed in Central Dispatch Center.	None: The funding for building improvements will be reduced therefore major improvements such as the electrical upgrade would not be completed until other funding is found. The 2004 Local Law Enforcement Block Grant ($11,512) will be applied to help fund this project. This grant requires a 10% match $1,280 to be funded from Fund Balance. The balance of $35,732 will be charged to Fund Balance in 2004 and the 2005 Mobile Data project will be reduced by this amount negating the effect on the Fund Balance.
Justification of this Increase:	**Justification of this Decrease:**
This project is necessary to improve the radio frequency backbone and allow the most current software solution for Mobile Data to work for our department. The GPS will allow CDC to dispatch the closest officer to answer the call for service and improve response time and efficiency.	We have been postponing this project to ensure these funds would not be needed for more necessary projects for the past two years.

Increase Expense (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	4470	9470	5802	00	121,749	04002	1
Contract services	4470	9470	5315	00	38,100	04002	1

Decrease Expense (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Federal grants	4470	0947	4309	00	11,512	04002	1
Minor equipment	4470	9470	5210	00	21,305	02062	1
Public notification	4470	9470	5301	00	20	02062	1
Building & grounds maint	4470	9470	5400	00	90,000	02047	1
Use of fund balance	4470	0947	4999	99	1,280		
Use of fund balance	4470	0947	4999	99	35,732		

Approval Signatures		Budget & Research Use Only				
		Type:	A	B	C	D E
Requested By	Date					
		Date of Approval				
Budget Manager	Date				Date	Initial
Frank Johns	11/19/04	Posted to General Ledger				
Department Director	Date				Date	Initial
		Posted to Project Accounting				
Finance & Internal Services Director	Date				Date	Initial
		Entered in Category Log				
Mayor	Date				Date	Initial

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Dec-04
City Council Meeting Date

Frank Johnson	Police	Police
Submitted By	Division	Department

Action Required:

Approval of Bid 04-85 for Mobile Data Backbone and Automatic Vehicle Locator equipment, approve contract to Smith Communications LLC in the amount of $164,361.11; approve contracts with New Systems for CAD Mapping Software, AVL software and training installation and upgrade of current Mobile Data software in the amount of $67,700 and a budget adjustment increasing the Mobile Data project by $159,849.

$232,061.11	$ 90,000.00	Mobile Data
Cost of this request	Category/Project Budget	Program Category / Project Name
4470-9470-5801.00	$ 15,930.37	Police Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02062	$ 74,069.63	Sales Tax Capital Improvement
Project Number	Remaining Balance	Fund Name

Budgeted Item [x] Budget Adjustment Attached [x]

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Frank Johnson — Department Director — 11/19/04 Date

D. P. White — City Attorney — 11/22/04 Date

Received in City Clerk's Office

Dan Coody — Mayor — 11/22/04 Date

Received in Mayor's Office 11-22-04 JM

Comments:

Entered TM 11/19/04

RESOLUTION NO. _____

A RESOLUTION TO END THE CURRENT LEASE OF CITY PROPERTY TO SAGE HOUSE AND APPROVE A REPLACEMENT LEASE OF CITY PROPERTY TO SAGE HOUSE

WHEREAS, on April 2, 2002, Sage House and the City of Fayetteville entered into a long term lease of city property on Huntsville Road so that Sage House would construct rent-subsidized transitional housing to serve citizens of Fayetteville; and

WHEREAS, Sage House and Seven Hills Homeless Center, Inc. have cooperated with City staff to utilize a slightly larger tract of city property to accommodate building sites for both nonprofit transitional housing service providers for Fayetteville residents; and

WHEREAS, Sage House has agreed to terminate its current lease in exchange for the new lease attached hereto as Exhibit A.

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 accepts Sage House's agreement to terminate its April 2, 2002 lease of city property and agrees to a replacement long term lease of city property (attached as Exhibit A) near Huntsville Road so it can construct transitional housing to serve Fayetteville residents.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Coody to sign the lease to Sage House attached as Exhibit A.

PASSED and **APPROVED** this 7th day of December, 2004.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

LEASE AGREEMENT

This Agreement, made and entered into this _____ day of December, 2004, by and between the City of Fayetteville, Arkansas, Lessor, and Sage House, Lessee, Witnesseth:

WHEREAS, Sage House is a non-profit agency established and dedicated to serve as a rent subsidized transitional housing facility; and

WHEREAS, providing transitional housing is a valid public purpose; and

WHEREAS, Sage House will provide such service to Fayetteville citizens within the City of Fayetteville.

NOW, THEREFORE, the City of Fayetteville and Sage House agree as follows:

1. **Leased Premises**. For and in consideration of Sage House's promise to promptly provide transitional housing for needy Fayetteville citizens, the release and mutually agreed termination of the lease dated April 2, 2002 between the parties and the covenants and agreements herein entered into and agreed upon by Sage House as obligations to the City of Fayetteville, the City lets, leases and demises unto Sage House, subject to the terms and conditions contained herein, the following described property situated in Washington County, Arkansas. (Attached as Exhibit A is the legal description and map.)

To have and to hold said premises unto the said Sage House for and during the term herein stated, subject to the covenants, terms and conditions herein contained.

2. **Term**. This lease shall commence on December 1, 2004, and shall extend for a term of Ninety-Nine (99) years, ending at midnight on November 30, 2103.

3. **Consideration**. The primary consideration for the City is Sage House's agreement in paragraph 4 to serve Fayetteville citizens by promptly providing its transitional housing project for needy Fayetteville citizens. "Promptly providing its transitional housing project" means that Sage House shall have such housing available no later than December 1, 2009, unless an extension is agreed to by City Council Resolution before that date.

4. **Use**. Sage House agrees to use the lease premises for the purpose of constructing, operating and maintaining a transitional housing facility. If at any time the property ceases to be used for this purpose, the lease shall terminate. Sage House agrees to furnish rent subsidized transitional housing for Fayetteville citizens and residents throughout this lease period. Sage House shall deliver quarterly written reports to the Mayor's office concerning the number of Fayetteville citizens/residents housed or otherwise assisted by Sage House.

5. **Improvements**. Sage House may make any such improvements as are necessary to carry out the service of providing rent subsidized transitional housing facilities. Design for any such improvements shall be approved by the City of Fayetteville. Upon termination of this lease, all improvements shall become the property of the City.

6. **Taxes**. Sage House shall pay any and all ad valorem taxes and special improvement district taxes levied and assessed against said premises and the improvements located thereon during the term of this lease.

7. **Notices**. All notices, requests, demands and other communications required by or permitted hereunder shall be in writing and shall be directed to the following:

City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Sage House
614 E. Emma, Suite M401
Springdale, AR 72764

8. **Assignment**. Sage House shall not assign this lease or sublet the lease premises without prior written consent of the City. Any such assignment or subletting shall in no way relieve Sage House from liability for the obligation imposed by this lease. Sage House may only be released from liability for the obligation imposed by this lease by a specific written release executed by the City.

9. **Insurance**.

A. Sage House shall be solely responsible for maintaining insurance on its property, including movables, trade fixtures, furniture, furnishings and inventory, as well as improvements to the property.

B. Sage House shall, during the term of this lease, maintain public liability insurance. The limits of such public liability insurance shall not be less than $500,000.00 per person and $500,000.00 per accident. The policy shall contain a clause that the insurer will not cancel or change the insurance without giving the City of Fayetteville, ten days prior written notice. A certificate of such insurance shall be delivered to the City.

10. **Maintenance**. Sage House shall be responsible for all maintenance, routine preventative or corrective, on any and all improvements made to the leased property. Sage House and Sage House shall cooperate and jointly equip, use and maintain the playground located between their leased premises.

11. **Compliance with Laws.** Sage House agrees not to violate any law, ordinance, rule or regulation of any governmental authority having jurisdiction of the leased premises. This agreement shall be governed by the laws of the State of Arkansas.

12. **Waste/Nuisance**. Sage House agrees not to commit waste, nor permit waste to result or to be done to or upon the aforesaid premises. Further, Sage House agrees not to operate, nor permit to be operated, nor to exist thereon or therein, any public or private nuisance.

13. **Title and Quiet Enjoyment**. The City of Fayetteville covenants and warrants that it is the owner in fee simple absolute of the leased premises and may lease said premises as herein provided. Upon the observance and performance of all the covenants, terms and conditions upon Sage House's part to be observed and performed, Sage House shall peaceably and quietly hold and enjoy the demised premises for the term hereby demised without hindrance or interruption by the City or any other person or persons lawfully or equitably claiming by, through or under the City, subject to the terms and conditions of this lease.

14. **Entire Agreement**. This lease agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto

IN WITNESS WHEREOF, the parties hereto have hereunto set their hand and seals on this the _____ day of December, 2004.

CITY OF FAYETTEVILLE, Lessor

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

SAGE HOUSE, Lessee

By: _____
Name, Title

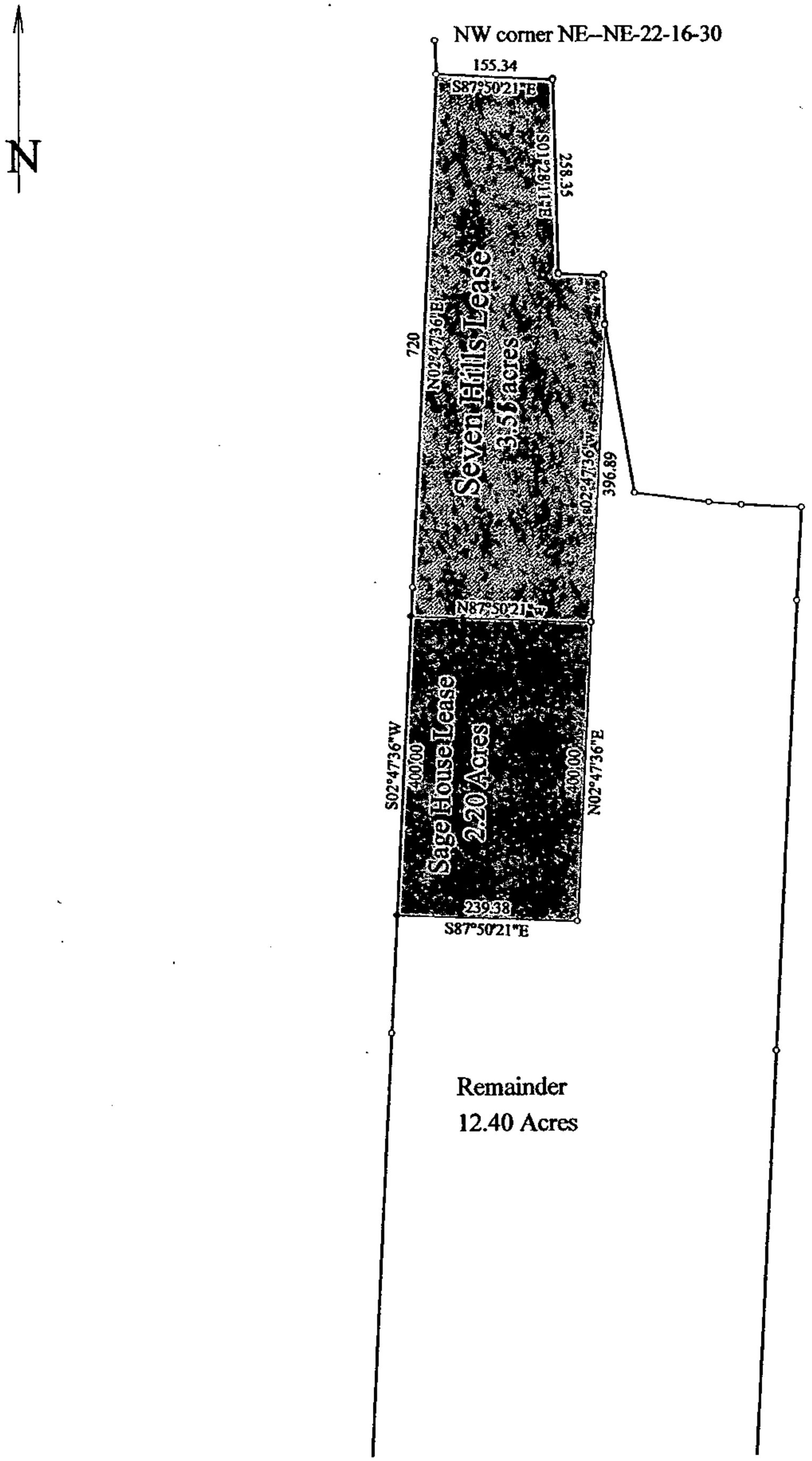
ATTEST:

By: _____

Title: _____

SAGE House Lease Property Description:

A part of the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Twenty-two (22), Township Sixteen (16) North, Range Thirty (30) West of the 5th Principal Meridian, being more particularly described herewith as follows: Beginning at a point South 02° 47' 36" East 764.25 feet from the Northwest corner of the NE¼ of the NE¼ of said Section 22, said point being on the West 40 acre tract line; thence South 87° 50' 21" East 239.38 feet; thence South 02° 47' 36" West 400.00 feet; thence North 87°50' 21" West 239.38 feet to the West line of said 40 acre tract; thence along said west line North 02° 47' 36" West 400.00 feet to the Point of Beginning, containing 2.20 acres, more or less, being subject to rights of way and easements of record.


N
NW corner NE--NE-22-16-30
155.34
S87°50'21"E
S01°28'11"E
258.35
720
N02°47'36"E
Seven Hills Lease
35.60 acres
396.89
N02°47'36"W
N87°50'21"W
Sage House Lease
2.20 Acres
S02°47'36"W
400.00
400.00
N02°47'36"E
239.38
S87°50'21"E
Remainder
12.40 Acres

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A LEASE OF CITY PROPERTY TO SEVEN HILLS HOMELESS CENTER, INC.

WHEREAS, Seven Hills Homeless Center, Inc. is a nonprofit agency established and dedicated to provide homeless shelter, transitional housing and supportive housing for persons with disabilities; and

WHEREAS, Seven Hills Homeless Centers' services are badly needed, valid public purposes for Fayetteville residents; and

WHEREAS, the City Council has determined that the value of the services to be offered by Seven Hills Homeless Center to Fayetteville residents is sufficient and adequate consideration for the rental value of the city property to be leased to Seven Hills for this purpose.

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 agrees to a long term lease of city property to Seven Hills Homeless Center, Inc. (Attached as Exhibit A) near Huntsville Road so it can construct transitional housing and supportive housing to serve Fayetteville residents.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Coody to sign the lease to Seven Hills Homeless Center, Inc. (attached as Exhibit A).

PASSED and **APPROVED** this 7th day of December, 2004.

APPROVED:

By: _____ DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

LEASE AGREEMENT

This Agreement, made and entered into this _____ day of December, 2004, by and between the City of Fayetteville, Arkansas, Lessor, and Seven Hills Homeless Center, Inc. (hereinafter "Seven Hills"), Lessee, Witnesseth:

WHEREAS, Seven Hills is a non-profit agency established and dedicated to provide a Homeless Shelter and to provide transitional housing for the homeless; and,

WHEREAS, providing transitional housing to Fayetteville citizens and permanent supportive housing for persons with disabilities are valid public purposes; and,

WHEREAS, Seven Hills will provide such service to Fayetteville citizens so that these citizens can reestablish themselves, obtain employment, and move to private housing within a fairly short period of time and to disabled citizens for permanent supportive housing.

NOW, THEREFORE, the City of Fayetteville and Seven Hills agree as follows:

1. **Leased Premises**. For and in consideration of Seven Hills' promise to promptly provide transitional housing for needy, homeless Fayetteville citizens and permanent supportive housing and the covenants and agreements herein entered into and agreed upon by Seven Hills as obligations to the City of Fayetteville, the City lets, leases and demises unto Seven Hills, subject to the terms and conditions contained herein, the following described property situated in Washington County, Arkansas. (Attached as Exhibit A is the legal description and map.)

To have and to hold said premises unto the said Seven Hills for and during the term herein stated, subject to the covenants, terms and conditions herein contained.

2. **Term**. This lease shall commence on December 1, 2004, and shall extend for a term of Ninety-Nine (99) years, ending at midnight on November 30, 2103.

3. **Consideration**. The primary consideration for the City is Seven Hills' agreement in paragraph 4 to serve Fayetteville citizens by promptly constructing its transitional housing project.

4. **Use**. Seven Hills agrees to use the lease premises for the purpose of constructing, operating and maintaining a transitional housing facility. If at any time the property ceases to be used for this purpose, the lease shall terminate. Seven Hills agrees to furnish rent subsidized transitional housing for Fayetteville citizens and residents throughout this lease period. Seven Hills shall deliver quarterly written reports to the Mayor's office concerning the number of Fayetteville citizens/residents housed or otherwise assisted by Seven Hills.

5. **Improvements**. Seven Hills may make any such improvements as are necessary to carry out the service of providing rent subsidized transitional housing facilities. Design for any such improvements shall be approved by the City of Fayetteville. Upon termination of this lease, all improvements shall become the property of the City.

6. **Taxes**. Seven Hills shall pay any and all ad valorem taxes and special improvement district taxes levied and assessed against said premises and the improvements located thereon during the term of this lease.

7. **Notices**. All notices, requests, demands and other communications required by or permitted hereunder shall be in writing and shall be directed to the following:

City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Seven Hills Homeless Center, Inc.
P.O. Box 474
Fayetteville, AR 72702-0474

8. **Assignment**. Seven Hills shall not assign this lease or sublet the lease premises without prior written consent of the City. Any such assignment or subletting shall in no way relieve Seven Hills from liability for the obligation imposed by this lease. Seven Hills may only be released from liability for the obligation imposed by this lease by a specific written release executed by the City.

9. **Insurance**.

A. Seven Hills shall be solely responsible for maintaining insurance on its property, including movables, trade fixtures, furniture, furnishings and inventory, as well as improvements to the property.

B. Seven Hills shall, during the term of this lease, maintain public liability insurance. The limits of such public liability insurance shall not be less than $500,000.00 per person and $500,000.00 per accident. The policy shall contain a clause that the insurer will not cancel or change the insurance without giving the City of Fayetteville, ten days prior written notice. A certificate of such insurance shall be delivered to the City.

10. **Maintenance**. Seven Hills shall be responsible for all maintenance, routine preventative or corrective, on any and all improvements made to the leased property. Sage House and Seven Hills shall cooperate and jointly equip, use and maintain the playground located between their leased premises.

11. **Compliance with Laws**. Seven Hills agrees not to violate any law, ordinance, rule or regulation of any governmental authority having jurisdiction of the leased premises. This agreement shall be governed by the laws of the State of Arkansas.

12. **Waste/Nuisance**. Seven Hills agrees not to commit waste, nor permit waste to result or to be done to or upon the aforesaid premises. Further, Seven Hills agrees not to operate, nor permit to be operated, nor to exist thereon or therein, any public or private nuisance.

13. **Title and Quiet Enjoyment**. The City of Fayetteville covenants and warrants that it is the owner in fee simple absolute of the leased premises and may lease said premises as herein provided. Upon the observance and performance of all the covenants, terms and conditions upon Seven Hills' part to be observed and performed, Seven Hills shall peaceably and quietly hold and enjoy the demised premises for the term hereby demised without hindrance or interruption by the City or any other person or persons lawfully or equitably claiming by, through or under the City, subject to the terms and conditions of this lease.

14. **Entire Agreement**. This lease agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto

IN WITNESS WHEREOF, the parties hereto have hereunto set their hand and seals on this the _____ day of December, 2004.

CITY OF FAYETTEVILLE, Lessor

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

SEVEN HILLS HOMELESS CENTER, INC., Lessee

By: _____
LOWELL GRISHAM, President
Board of Directors of
Seven Hills Homeless Center, Inc.

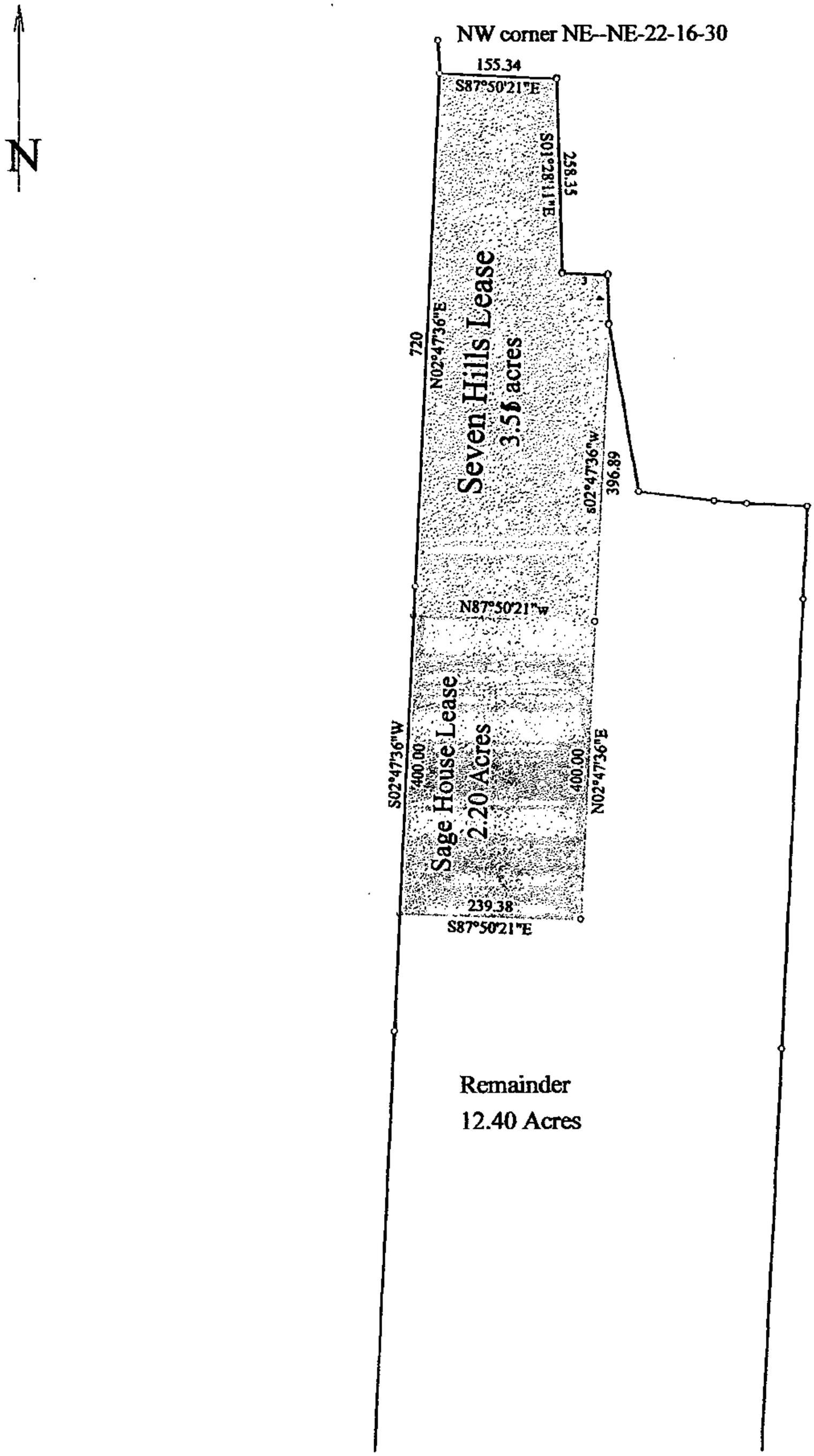
ATTEST:

By: _____

Title: _____

Seven-Hills Lease Property Description:

A part of the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Twenty-two (22), Township Sixteen (16) North, Range Thirty (30) West of the 5th Principal Meridian, being more particularly described herewith as follows: Beginning at a point South 02° 47' 37" East 44.29 feet from the Northwest corner of the NE¼ of the NE¼ of said Section 22, said point being on the West 40 acre tract line and the south right of way line of Huntsville Road; thence running along said south right of way line of Huntsville Road South 87° 50' 21" East 155.34 feet; thence leaving said south right of way line of Huntsville Road and running South 01° 28' 11" East 258.35 feet; thence South 87° 28' 11" East 60.00 feet; thence South 01°28' 11" East 65.00 feet; thence South 02° 47' 36" West 396.89 feet; thence North 87° 50' 21" West 239.38 feet to the west line of the NE¼ of the NE¼ of said Section 22; thence along said west line North 02° 47' 36" East 720.00 feet to the Point of Beginning, containing 3.51 acres, more or less, being subject to rights of way and easements of record.


N
NW corner NE--NE-22-16-30
155.34
S87°50'21"E
S01°28'11"E
258.35
720
N02°47'36"E
Seven Hills Lease
3.56 acres
S02°47'36"W
396.89
N87°50'21"W
S02°47'36"W
400.00
Sage House Lease
2.20 Acres
400.00
N02°47'36"E
239.38
S87°50'21"E
Remainder
12.40 Acres

City Council Meeting of November 16, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator

Date: October 26, 2004

Subject: Rezoning for Medley (RZN 04-1243)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 1.03 acres of property from R-A, Residential Agricultural, to C-1, Neighborhood Commercial.

BACKGROUND

The subject property contains a 1-acre tract with a single family home located upon it. Most of the property consists of a vacant field, located behind the existing home. The entirety of the property is located within the 100-year floodplain, approximately 0.13 miles west of the Lowe's C-PZD on 6th Street (Hwy 62). The property is bordered to the west by both vacant and occupied commercial buildings and an automobile salvage yard (an existing nonconforming use in a C-2 district). A portion of this property remains zoned R-A; the majority is C-2 property, and has been zoned as such since before 1970. Property to the south is occupied by a Church (an existing nonconforming use in an R-A district). To the east is vacant property (a strip of R-A and C-2). Several large tracts of land to the west were zoned from R-A to C-2, RMF-24, R-O and RSF-4 in 1987 (see attached), a portion of which was subsequently rezoned in recent years to C-PZD for the Lowe's development. To the north the subject property is bound by Hwy 62 and a Tire & Auto shop, along with other commercial developments, all of which have existed as C-2 pre-1970.

The applicant's request was to rezone the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial. The applicant proposes a rezoning of the subject property to facilitate the future sale and potential development of the property at an appreciated value, based on recommendations from the applicant's Realtor.

DISCUSSION

Staff recommended denial of the proposed rezoning to C-2, finding that the proposed rezoning is not consistent with future land use planning objectives, principles, and policies for Mixed Use Areas.

Left on 1st reading 11/16/04

City Council Meeting of November 16, 2004
Agenda Item Number

On October 25, 2004, the Planning Commission voted 7-1-0 to forward this item to the City Council with a recommendation for rezoning the property C-1, Neighborhood Commercial, with Commissioner Ostner voting no.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1243 AS SUBMITTED BY RONALD DEAN MEDLEY FOR PROPERTY LOCATED AT 3507 W. 6TH STREET CONTAINING APPROXIMATELY 1.03 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO C-1, NEIGHBORHOOD COMMERCIAL.

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 C-1, Neighborhood Commercial 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 _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

DRAFT

EXHIBIT "A"

RZN 04-1243

A PART OF THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHWEST QUARTER (NW ¼) AND A PART OF THE NORTHWEST QUARTER (NW ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION NINETEEN (19) IN TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT AN IRON PIPE 15.174 CHAINS SOUTH AND 11.116 CHAINS EAST OF THE NORTHWEST CORNER OF THE FRACTIONAL SOUTHWEST QUARTER (FRL. SW ¼) OF THE FRACTIONAL NORTHWEST QUARTER (FRL. NW ¼) OF SECTION 19, AND RUNNING THENCE SOUTH 175.3 FEET; THENCE EAST 138 FEET TO A POINT ON THE SOUTH LINE OF THE RIGHT OF WAY OF U.S. HIGHWAY #62 FOR A PLACE OF BEGINNING OF LAND CONVEYED; THENCE SOUTH 21°30' EAST 377 FEET TO WHERE LEHMAN'S SOUTH LINE INTERSECTS EAST BANK OF CREEK; THENCE NORTH 60° EAST WITH LEHMAN'S SOUTH LINE 158 FEET TO LEHMAN'S SOUTHEAST CORNER; THENCE NORTH 29° WITH LEHMAN'S EAST LINE 347 FEET TO THE SOUTH LINE OF RIGHT OF WAY OF HIGHWAY #62; THENCE WITH RIGHT OF WAY SOUTHWEST 115 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPT A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

STARTING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19; THENCE SOUTH 02°01' WEST ALONG THE WEST LINE OF SECTION 19 A DISTANCE OF 111.0 FEET TO A POINT ON THE EXISTING SOUTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 62; THENCE NORTH 75°47' EAST ALONG SAID EXISTING RIGHT OF WAY LINE A DISTANCE OF 907.9 FEET TO A POINT FOR THE POINT OF BEGINNING; THENCE CONTINUE NORTH 75°47' EAST ALONG SAID EXISTING RIGHT OF WAY LINE A DISTANCE OF 115.0 FEET TO A POINT; THENCE SOUTH 25°26' EAST A DISTANCE OF 15.83 FEET TO A POINT ON THE PROPOSED SOUTHERLY RIGHT OF WAY LINE OF SAID U.S. HIGHWAY; THENCE SOUTH 54°30' WEST ALONG SAID PROPOSED RIGHT OF WAY LINE A DISTANCE OF 4.29 FEET TO A POINT; THENCE SOUTH 75°47' WEST ALONG SAID PROPOSED RIGHT OF WAY LINE A DISTANCE OF 112.7 FEET TO A POINT; THENCE NORTH 18°35' WEST A DISTANCE OF 15.0 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.04 ACRE, MORE OR LESS.

Fayetteville
ARKANSAS

PC Meeting of October 25, 2004

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Senior Planner
Matt Casey, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: October 18, 2004

RZN 04-1243: Rezoning (MEDLEY, 557/596): Submitted by RONALD DEAN MEDLEY for property located at 3507 W 06TH STREET.. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.03 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial. Planner: JEREMY PATE

RECOMMENDATION:

Staff recommends denial of the requested rezoning, based on the findings included as part of this report.

PLANNING COMMISSION ACTION:	**Required**	**YES**
Date: October 25, 2004	**○ Approved**	**○ Denied**
CITY COUNCIL ACTION:	**Required**	**YES**
	○ Approved	**○ Denied**
Date: November 16, 2004 (1st reading if recommended)		

Comments: _____

_____

_____

BACKGROUND:

Property description: The subject property contains a 1-acre tract with a single family home located upon it. Most of the property consists of a vacant field, located behind the existing home. The entirety of the property is located within the 100-year floodplain, approximately 0.13 miles

west of the Lowe's C-PZD on 6th Street (Hwy 62). The property is bordered to the west by both vacant and occupied commercial buildings and an automobile salvage yard (an existing nonconforming use in a C-2 district). A portion of this property remains zoned R-A; the majority is C-2 property, and has been zoned as such since before 1970. Property to the south is occupied by a Church (an existing nonconforming use in an R-A district). To the east is vacant property (a strip of R-A and C-2). Several large tracts of land to the west were zoned from R-A to C-2, RMF-24, R-O and RSF-4 in 1987 (see attached), a portion of which was subsequently rezoned in recent years to C-PZD for the Lowe's development. To the north the subject property is bound by Hwy 62 and a Tire & Auto shop, along with other commercial developments, all of which have existed as C-2 pre-1970.

Proposal: The applicant proposes a rezoning of the subject property to facilitate the future sale and potential development of the property at an appreciated value, based on recommendations from the applicant's Realtor (see applicant letter).

Request: The request is to rezone the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	H&R Tire & Auto, commercial	C-2, Thoroughfare Commercial
South	Church of God International	R-A, Residential Agricultural
East	Vacant	R-A, C-2
West	Vacant commercial bldgs, Auto Salvage yard	R-A, C-2

INFRASTRUCTURE:

Streets: Currently the site has access to 6th Street. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements will include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

Water: The site currently does have access to public water. The nearest water main is a 12" main to the north along Highway 62 (6th Street). Water service will need to be extended within the property at the time of development.

Sewer: The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. The nearest sewer main is a 6" main to the west along Highway 62 (6th Street). A capacity analysis of the 6" sewer downstream of the site shall be conducted prior to development.

Fire: The subject property is located 1.4 miles from Fire Station #6. Fire response time is approximately 2-3 minutes.

Police: 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.

LAND USE PLAN: The Future Land Use Plan designates this site for Mixed Use. Rezoning this property to C-2 is not consistent with the land use plan.

FINDINGS OF THE STAFF

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

Finding: **The proposed rezoning is not consistent with future land use planning objectives, principles, and policies for Mixed Use Areas. The Future Land Use plan identifies this area to "allow mixing of uses and integration of design through the planning process." Additionally, Ch. 9.14 states: "in the past, strip development in the areas along heavily traveled (generally state) highways has been the common pattern. If Fayetteville is to retain its identity as a unique place, strip development should be discouraged...." The existing zoning and land use decisions for nearby properties were made under at least three different General Plans, and reflect a wide variety of General Plan policy in the City. Several surrounding properties have for the most part existed in situ for over 30 years, and consist of many nonconforming uses that were established prior to the adoption of more current zoning regulations in 1970. Property to the east is the most recently zoned in the immediate vicinity (1987), under a different General Plan. And yet another policy decision to rezone the Lowe's site to C-PZD (2002) further to the east combined land use and development plans together. Staff finds continuing a C-2, Thoroughfare Commercial zoning district along the frontage of Hwy 62 in this location does not comport to the Future Land Use plan guiding policies and strategies for implementation established today. A more comprehensive request, planning for intended uses, as opposed to speculative zoning, is more appropriate for this area of the city.**

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 not justified or needed. The applicant's stated intent is to rezone the property based on a Realtor's recommendation for**

appreciation of land value and immediate resale following. No development plans are proposed. The property is located entirely within the 100-year floodplain as regulated by FEMA; future development of any kind, regardless of timing, will have certain restrictions imposed upon it both by the city and FEMA based on its location in the floodplain.

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

Finding: **The size of the subject property will limit a great increase in traffic danger and congestion, due to the size of development generated by 1.03 acres. However, traffic volumes in this area are high, and increasing. Planning of any future development on this site must address safe access and cross access concerns. Hwy 62, a Principal Arterial, exists directly to the north. At the time of development, improvement to this street will be required.**

Police – **It is the opinion of the Fayetteville Police department that an appreciable increase and traffic danger and congestion will not be created by this rezoning request.**

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 substantially alter the population density in the area, based on the C-2 zoning requested. Public service providers have responded accordingly:**

Police – It is the opinion of the Fayetteville Police department that this rezoning request will not substantially alter the population density thereby undesirably increasing the load on police services.

Fire – Response time to the subject property (actual drive time) is approximately 2-3 minutes (approx. 1.4 miles) from station #6

Engineering - Currently the site has access to 6th Street. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements will include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

The site currently does have access to public water. The nearest water main is a 12" main to the north along Highway 62 (6th Street). Water service will need to be extended within the property at the time of development.

The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. The nearest sewer main is a 6" main to the west along Highway 62 (6th Street). A capacity analysis of the 6" sewer downstream of the site shall be conducted prior to development.

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: **Staff is recommending denial of the subject request, and finds there are no peculiar or extenuating circumstances which justify the rezoning.**

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half

(D) Bulk and area regulations.

Lot width minimum	200 ft.
Lot Area Minimum: Residential: Nonresidential:	 2 acres 2 acres
Lot area per dwelling unit	2 acres

(E). *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None

161.17 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 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. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half

(D) Bulk and area regulations.

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None

161.17 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 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. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

RECEIVED
OCT 19 2004
PLANNING DIV.

October 18, 2004

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 **RZN 04-01243 Medley, 557/596** for property located at 3507 W. 6th Street would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 479-587-3555 FAX: 479-587-3522

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out	Projected Fire/Other Calls for Service at Maximum Build Out	Projected EMS Calls for Service at Maximum Build Out
RZN 04-1243	Medley			FS 6	1.4 miles	2-3 min.	2-3 min.	N/A	N/A	N/A
ANX 04-1252	Nooncaster	Yes	14.53	FS 4	4.2 miles	11-13 min.	11-13 min.			
RZN 04-1253	Nooncaster			FS 4	4.2 miles	11-13 min.	11-13 min.	10	4	6

City of Fayetteville, Arkansas - Rezoning

September 16, 2004

I, Ronald Dean Medley, own the property at 3507 W. 6th street, Fayetteville, Arkansas, 72704. I intend to sell the property to help pay the expenses incurred by my mother, Vera Medley, who is residing in an Assisted Care Facility in Springdale, Arkansas. Also to care for the needs of me and my brother, Gary Medley. This property was deeded to me by my father just a year prior to his passing in death. His instructions were for me to use this inheritance to provide for the needs of the immediate family members.

The reasons for rezoning is to benefit as fully as possible by the sale of the property at 3507 W. 6th street. I was advised by a real estate agent to rezone this property as commercial. All adjoining property has already been rezoned commercial. It would seem appropriate to follow suit and thereby be allowed to gain the full potential that this property would allow.

It relates to surrounding property by joining with them in being zoned as commercial. In this way - there will be no danger in this one acre of land being used as a residence in which the owner could have difficulty entering or leaving said property. It poses no threat to the already existing traffic regulations and flow that has been allowed to have occurred by the rezoning of the adjoining property on all sides.

Please see attachment as to the availability of water and sewer lines.

Thank you for your consideration.

Ronald Dean Medley

City of Fayetteville, Arkansas
Rezoning

September 16, 2004

In regards to the property at 3507 W. 6th Street: We are filing for C-2 Commercial. All the adjoining property on all sides of this acre have already been zoned for Commercial. It stands to reason to have this rezoned in like manner in order for the property to be appreciated for its full value. This is in accord with a recommendation from Gary Boyle, Realtor.

This property is to be sold, effective immediately after the determination for rezoning. How the "then" owner decides to use this property will have to be in accordance with the laws and regulations of the City of Fayetteville and said owner will have to approach the City Counsel with his future plans. This is not for me to know in advance. I am merely requesting the rezoning to aid in the sale of property that has been surrounded by land that the planning division has already allowed to be rezoned as Commercial. Therefore...in not wanting to be discriminated against...I feel safe in requesting for said property to be zoned the same as all adjacent property.

The increase in traffic and congestion has already been altered by the rezoning of property all around the acre located at 3507 W. 6th Street. No one can deny that a five lane highway that services a Wal-Mart and a newly built Lowes is capable to handling any additional traffic imposed by the rezoning of this one acre. I doubt that any commercial use of land that is merely one acre in size will alter any public services such as schools, water or sewer facilities.

Under the existing classification of this property (Residential-Agricultural) it is impractical to suggest either a family or a farm is to be instituted sandwiched between commercial property and on a five lane highway used for the main use of restaurants, car lots, motels, banks, bars and clubs, Wal-Mart, Lowes, tire shop and garage, carpet store, etc. It would be dangerous for this property to remain zoned for a family to use as a residence as the existing traffic would be a danger to small children and it is not practical for farming as moving farm equipment would cause a traffic hazard. For the safety of citizens and to prevent congestion from farm machinery - it is in the best interests of the City to grant the property at 3507 W. 6th Street to be rezoned as Commercial.

Respectfully,

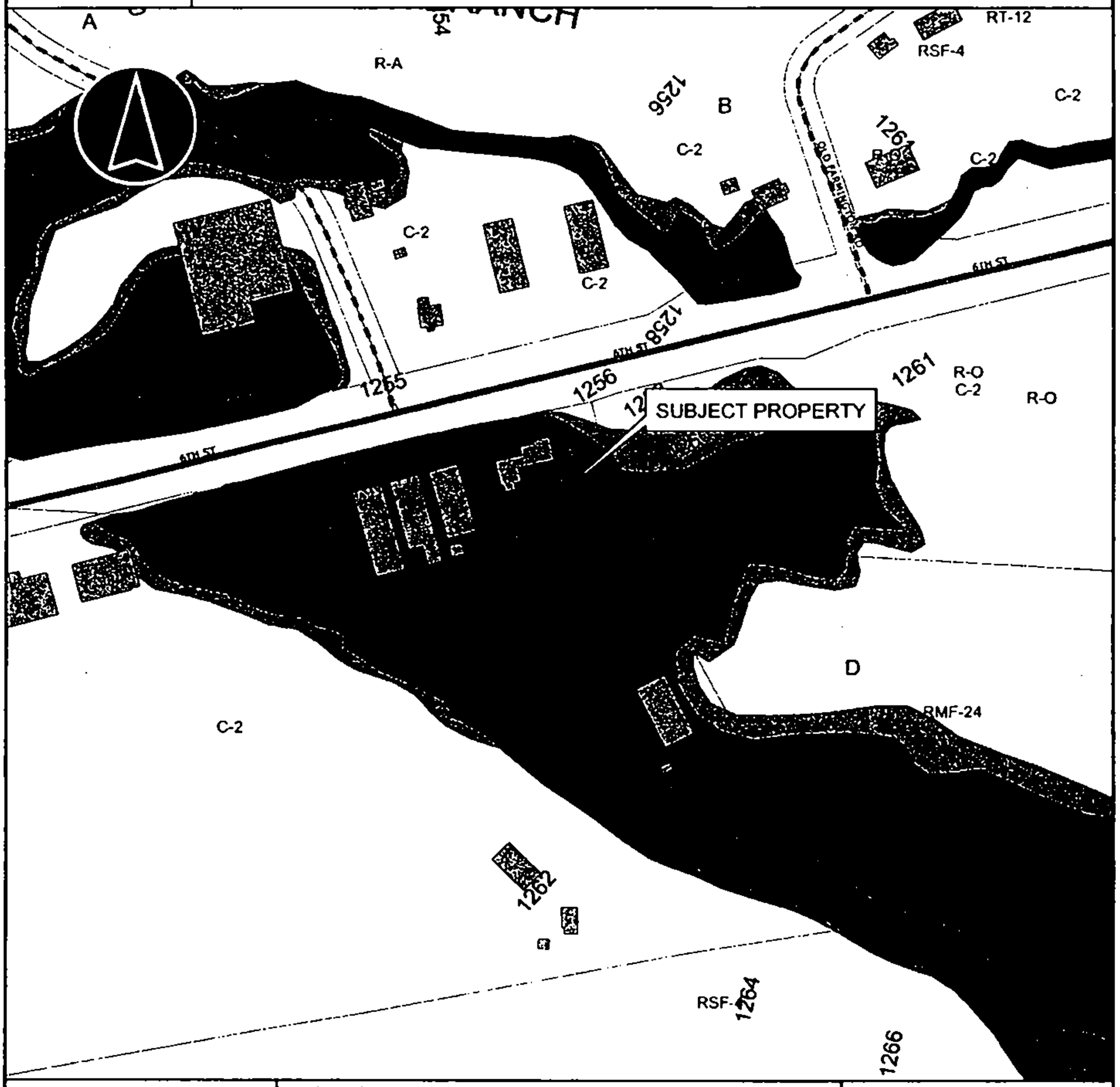
Ronald Dean Medley

C-2
3534
3511
3507
3517
C-2
R-O
RMF-24
3499
R-A
C-2
RSF-4

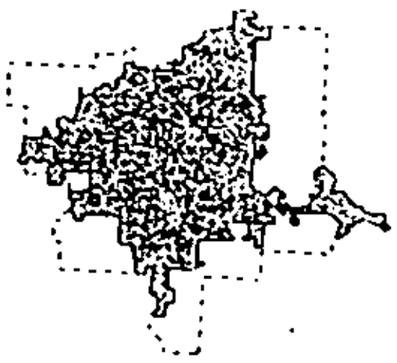
RZN04-1243

Close Up View

MEDLEY



Overview



Legend

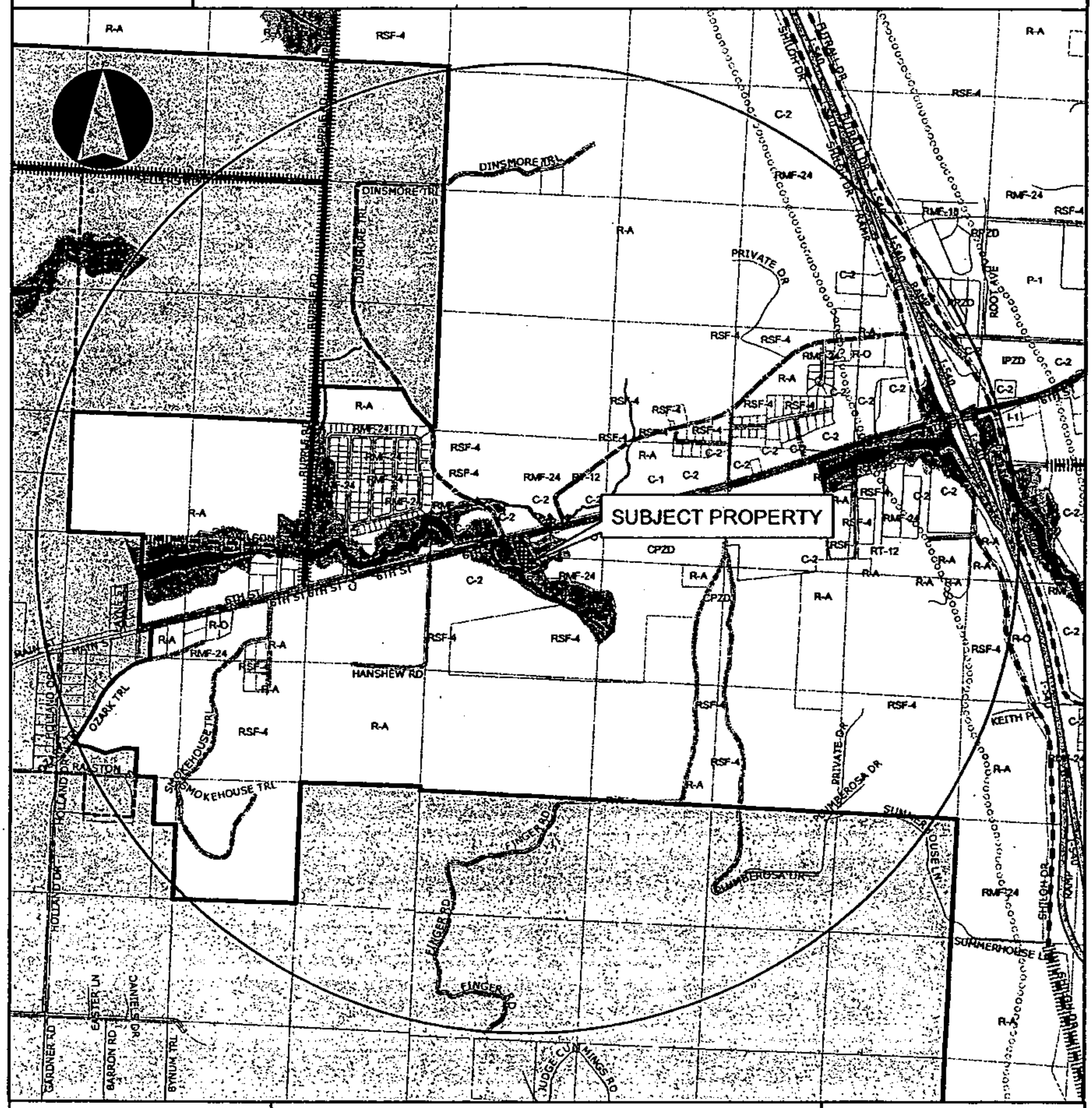
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Baseline Profile
- RZN04-1243
- Fayetteville
- Outside City

0 75 150 300 450 600 Feet

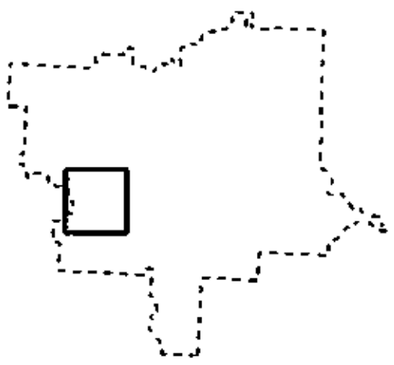
RZN04-1243

One Mile View

MEDLEY



Overview



Legend

Subject Property

RZN04-1243

Boundary

Planning Area

Overlay District

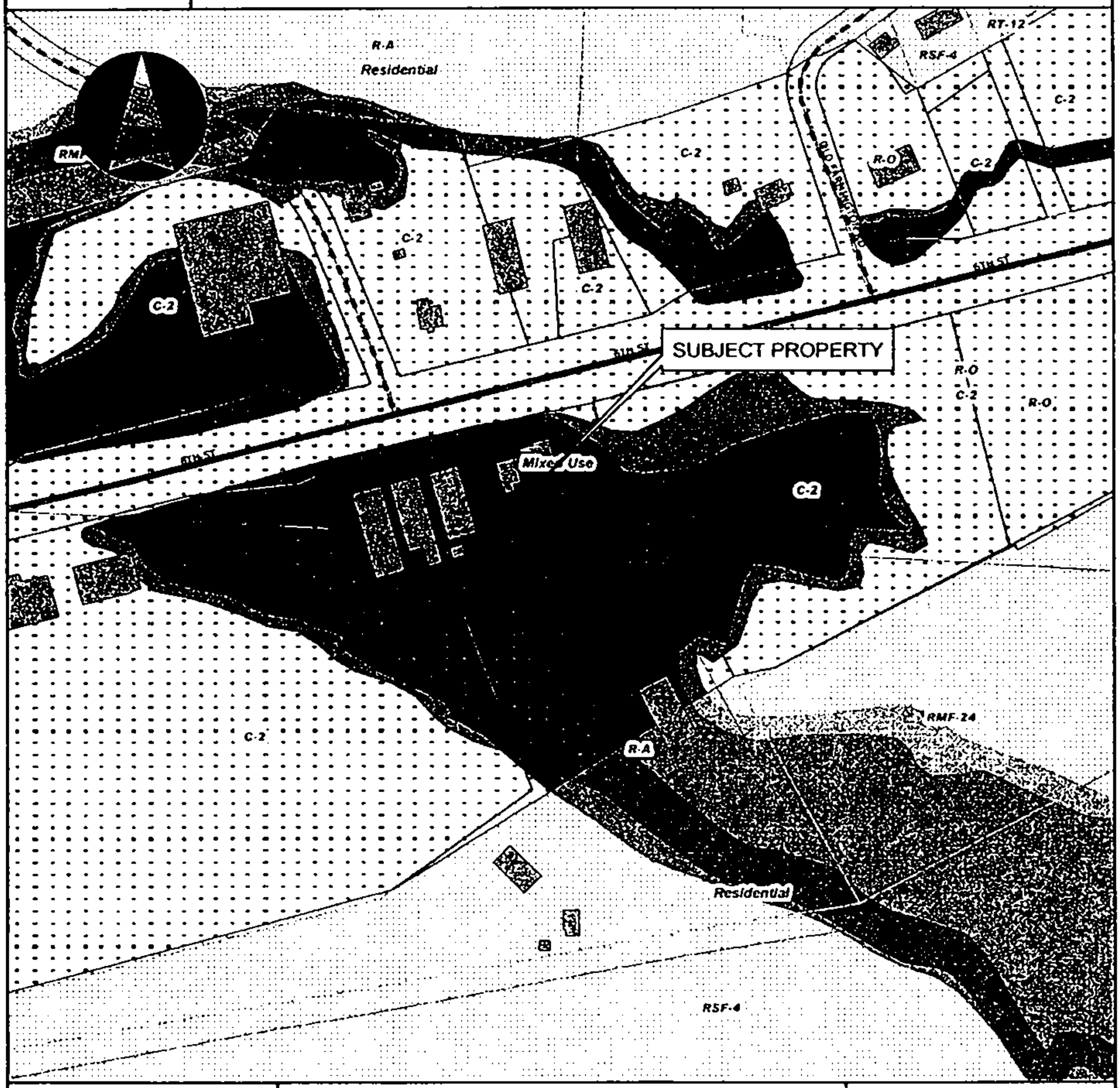
Outside City

0 0.1 0.2 0.4 0.6 0.8 Miles

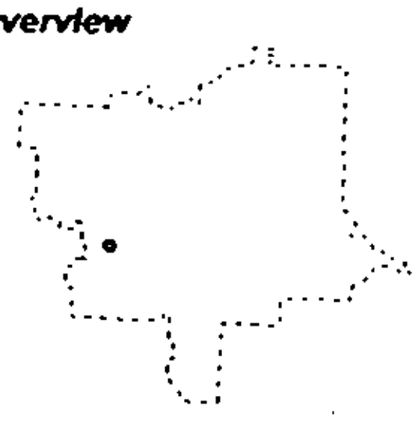
RZN04-1243

Future Land Use

MEDLEY



Overview



Legend

Subject Property
RZN04-1243

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
Outside City

Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 75 150 300 450 600
Feet

RZN 04-1243: Rezoning (MEDLEY, 557/596): Submitted by RONALD DEAN MEDLEY for property located at 3507 W 6TH STREET. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.03 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial.

Ostner: Our next item is a rezoning, RZN 04-1243, rezoning for Medley.

Warrick: The subject property is located at 3507 W. 6th Street. It contains approximately 1.03 acres. The property is currently zoned R-A, Residential Agricultural. The development on the site currently is a single family home. Most of the property behind the home consists of a vacant field. The entirety of the property is located within the 100 year flood plain. This site is just west of, it's not adjacent to, but it's slightly west of the property that contains Lowe's, and that was zoned C-PZD for the Lowe's Development and the associated outbuildings and other lots that were a part of that Preliminary Plat project. The property is bordered to the west by vacant as well as occupied commercial structures as well as an automobile salvage yard. That is an existing non-conforming use within the C-2 district. A portion of the property is zoned R-A, that's the adjacent property, with the majority being C-2. Many of the surrounding properties contain existing nonconformities. Through the years we tried to do a little bit of history to understand how the various zonings have been applied to properties surrounding this. We believe that many of the developments or many of the structures preexisted our 1970 zoning ordinances. There was a large rezoning request. Several different districts requested for property located adjacent to this in 1987; however, that property really hasn't developed under the zoning districts that were applied at that point in time. The applicant does propose to rezone the subject property to C-2 Thoroughfare Commercial in order to facilitate future sale and potential development of the property. The site currently has access to 6th street. It does have access to public water, however, it does not have access to sanitary sewer, that would have to be extended to provide for any future development on the site. Fire response time is between two and three minutes, and the report from the Police Department states that the requested rezoning would not substantially alter population density, therefore would not undesirably increase the load on public services. The land use plan, or future land use plan, does designate this site as mixed use. Staff feels that rezoning the property to a C-2 designation would not be consistent with the City's adopted future land use plan. I think that the finding that staff feels is the most relevant with regard to our recommendation is the first finding, which you're required to make, and that is a determination of the degree to which the proposed zoning is consistent with land use planning objectives, principals, and policies and with land use and zoning plans. And within that finding, staff believes that the future land use plan identifies this area as mixed use to allow the mixing of uses and integration of design through the planning

process. Additionally, that same chapter, 9.14 states, "In the past, strip development in the areas along heavily traveled, generally state highways, has been the common pattern. If Fayetteville is to retain its identity as a unique place, strip development should be discouraged." For that reason and for the reason of compatibility and being able to ensure that we have the best understanding of how this property would develop, staff is not in favor of the requested rezoning to C-2 Thoroughfare Commercial.

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

Medley: Ladies and gentlemen, my name is Dean Medley. And I'd like to explain why I'd like to rezone this property. My mother is in an assisted care living facility. It costs $350.00 above her medical expenses to take care of her. Now you're interested in why the Planning Commission says I can't rezone this property. I need to get as much out of this property as I can to take care of her care. That's one of the biggest reasons that I'm rezoning this property. Now I don't know if that fits in with the Planning Commission's plans or anything else, but I understand that there are limitations and you worry about the use of this property. Well when I sell this property, I talked to a realtor, and he said that I can stipulate what kind of a person buys that. That the Planning Commission will only accept this and the Planning Commission will only accept that. I'd like to know from the Planning Commission, if they're going to turn this down, I want to know what they will accept in there.

Ostner: Thank you Mr. Medley. At this point, I'll open it up to the public for any comments concerning this RZN 04-1243. Seeing none, I'll close it to the public and bring it back to the Commission.

Trumbo: Question for Dawn, what would you be in favor of rezoning this to?

Warrick: I thought you'd ask that question. Obviously we think that the C-2 zoning is too intense a designation and it is a zoning district that would basically encourage the type of strip development that the Council and the City, the citizens have identified as undesirable. We do have an R-O zoning district, which is Residential Office, it is specifically a mixed use district, which would allow for professional offices as well as single family or duplex developments. That would very likely be a more appropriate designation. In a perfect world, we'd love to look at this piece of property with the adjacent properties and have some sort of comprehensive understanding of what collectively we could do on that grouping of properties. That's not what we're looking at and I know that Mr. Medley doesn't have the ability to bring forward his property as well as his neighbors and everything along the lines for us to review. I think the Residential Office district, if we were going to make a recommendation

for the City Council, would be an appropriate starting point. They certainly are going to be the ones making the policy decision to determine if it fits with their vision of this part of the City. C-2 would be as I mentioned, a very intense district, and it's not something that is easy to deal with when you're looking at a property that's wholly within the 100-year flood plain. A development of professional offices or residences would likely be easier to regulate in an R-O district with the situation of flood plain on the site. I guess what I'm saying in a very long winded way is R-O would probably be an appropriate district.

Trumbo: Thank you.

Medley: You know the R-O might be acceptable with me. I'm not trying to create problems for the City at all. No problems at all. If they'll just hear me out. If we're talking about an R-O, I'd like to have a variance where if someone like, would the Planning Commission be opposed to something like McDonald's or would they opposed to something like Wendy's or maybe, I have a friend that's got a restaurant, would you be opposed to something like that? If they're talking R-O, could you have R-O with a variance? Thank you.

Warrick: The Residential Office district would allow for a sit down restaurant, not a drive-through, only by Conditional Use approval by the Planning Commission. The R-O district does not allow for Use Unit 18, which is restaurants that allow for drive-through, so many of the fast food chains that were mentioned would not be something that we could approve even under a conditional use condition, however, if it was a more eat-in restaurant without the drive through facility, that's something that the Planning Commission could consider, but it would have to come to you as a Conditional Use and you'd have to be able to consider, I believe one of the primary things that you're going to have to be looking at, or that we will be collectively looking at in the future, is access. The access to this site will be very important and what we're trying to regulate is 6th Street not becoming College Avenue, which is what everyone points to and says, we're not really willing to do that again because we feel that there are too many problems inherent in that type of development. So access management is probably one of the key points that we'll have to look at for any type of development on the property, but as far as land use, you can't grant a variance on zoning, but you can look at Conditional Uses that are specified as the types of specific uses that you can request under any particular zoning district. An R-O would allow for an eating place that does not have a drive-through.

Ostner: Thank you.

Vaught: Question for staff. Just because I don't have it in front of me. A C-1, what's the difference between an R-O and a C-1?

Warrick: C-1 allows much more shopping, retail type activities, it would also allow for drive-through restaurants I believe.

Vaught: What I'm debating is it's an acre site, so no matter what, it's going to be fairly limited on what goes on there. You know, I do think that C-2 for such a small site might be a little intense, but I'm debating between the difference of C-1 and R-O. As far as being appropriate, granted, I mean, it's an acre in the middle of a C-2 island.

Warrick: I would just want to add that the C-1 zoning district is designated neighborhood commercial. It is primarily to provide convenience goods, personal service type items, and as I mentioned it does allow for neighborhood shopping, which is most of your retail type establishments. Gas stations and drive-through restaurants are also included in that grouping.

Shackelford: I'm kind of going down the same road as Commissioner Vaught. I've said many times tonight, I'm in agreement with City staff and their findings, I'm not so sure that I wholeheartedly agree with these tonight. As you drive out to this property, it's very much, in my opinion, a commercial field on the site. You look at some of the adjoining properties, it's almost an industrial field with the salvage yard and some other properties that are very close in proximity to this property. You look at the map on 10.17, there's C-2 directly across the street from this property to the north, there's C-2, back to the east, you know I'm not so sure that this corridor isn't a significantly different corridor than it was when the land use plan was put together with the improvements of the Lowe's and the other things out there and the traffic counts that we're seeing. I understand the design and the desire for mixed use, I'm just thinking that this property's going to struggle developing as a mixed use piece of property. And on top of that, you throw into the mix that it's entirety is within the 100 year flood plain, which I think is going to further limit the desire, or even the ability, to develop this as an R-O zoning, with a residential house, duplex, or some sort of nice professional office. I don't know that those types of uses, from many different stand points are going to flow very well in a flood plain area. This is one that I've struggled with, I've looked at, and I understand where the staff is coming from on the specific findings of fact, although I understand that they're following the land use plan that was put in place, my common sense is that this is a commercial piece of property. And it makes sense to consider it with that zoning, so that's my comments at this point.

Ostner: Thank you.

Vaught: I have one further question for staff. C-1 to C-2, what does it now allow, C-1 versus the C-2?

Warrick: The C-2 district, beyond the uses permitted in C-1, opens up commercial recreation land use, adult live entertainments, liquor stores, trades and services. Trades and services is a pretty wide open land use or use unit, and it basically includes, automobile sales and service, truck sales, used car lots, boats and accessories, and a wide variety of service type uses. So those are the uses that in addition to those permitted in C-1 would expand the ability for development in C-2.

Ostner: I'd just like to throw in my opinion here. When we were on tour, I quizzed you pretty thoroughly about this because I didn't quite understand your standpoint either. Because I would agree with Commissioner Shackelford, there is a commercial field. It's apparent that there aren't going to be homes built on this spot. But what Ms. Warrick explained to me, is it's almost an issue of scale. And as she referred to, this gentleman does not have the ability to get with all of his neighbors and get a 20 acre PZD together, just to get his project rezoned. But with a larger development, there would be, instead of 12 curb cuts, 1. And that makes a big difference between creating a College Avenue or creating something more organized. Still commercial, it's still all developed, with a commercial field, but it happens in a different pattern. I'm inclined to vote with staff, that this zoning, with this scale, with this barely 1.03 acres, is not, does not go with our plans to try to stop strip development. So, that's what I have to say.

Vaught: My two cents, my gut is I understand that, and I wholeheartedly believe it, but we're dealing with an acre in the middle of all this C-2. More than likely, if we wanted to really control the development in this area, it being a C-2 and being able to combine some of the areas around it for a possibly a larger development would make more sense to me than having a little island that's forced to develop by itself. Ideally, if this would come back as a PZD or something where we could see an overall plan for the area but we don't have that luxury in this case. So we're looking at a one acre tract in the middle of a large ocean of commercials. Granted, some of it's undeveloped, and we would love to see it come through as a whole. So I'm more inclined to make it a zoning that could be combined with some areas around it, and be incorporated, because more than likely, this one acre will be, need to be, due to its terrain and location, so that's where I'm torn. I don't know if I feel R-O is necessarily the proper zoning for this single piece of property. I just don't know if I believe R-O for this tiny one acre tract is going to accomplish our desires for the overall area, but I also understand you've got to start somewhere. It's one of those that it's

difficult, but I'm more inclined to rezone it for some sort of commercial use than leave it as an R-O, or to make it an R-O.

Ostner: Those are good points, I would want to continue that dialogue because I agree. I'm not relishing the fact that he's somewhat suffering at the expense of the overall plan. But once this one acre is rezoned, with that zoning goes development rights. And the buyer does not have to coordinate with anyone. And that's where small parcels are given their development rights just like College Avenue. So that I completely understand.

Vaught: And that's why I'm leaning towards C-1 to further limit some of those service and trade type of developments I think that come along with those development rights. Even though it is surrounded by C-2, and it's next door to several service trades.

Ostner: I guess I'm really talking more curb cuts than anything else.

Vaught: No matter what we zone it, this one piece of property would get a curb cut.

Ostner: Not necessarily, not at all.

Vaught: Not unless it's combined with others. If this is rezoned anything, then they come through for development and they have to have access.

Ostner: Unless they're coordinating with a large development.

Vaught: Unless they're coordinating, but an R-O coordinating with a C-2 is what would be an interesting coordination.

Clark: Maybe this is inappropriate, but tonight we are just deciding whether a C-2 is appropriate for this piece of land, correct? It seems, and I'm concerned by the same thing that both of you have discussed. I think that C-2 is way too intense, I'm going to agree with staff on that. There are options. R-O might not work, C-1 seems like a very workable thing. Regardless, I think that that can be worked out between Mr. Medley and the staff. So I'm just going to blaze ahead and move that we reject RZN 04-1243 as a C-2. It can come back.

Warrick: Before you vote, I'd just like to add that it is within your purview, the Planning Commission can approve, modify or disapprove a rezoning that is before you. So you do have the ability to consider either R-O or C-1 or whatever other district you feel might be appropriate for this particular site as a recommendation to the City Council. It's my opinion that it would be appropriate for you to do that so that Mr. Medley doesn't have to start this process again in order to get a recommendation.

Clark: Okay, that's a new rule; I didn't know we could do that.

Warrick: You do have that ability.

Ostner: We do it all the time. Commissioner Shackelford's good at it. Would you like to amend your motion?

Clark: C-1 okay with you. Why not, we'll take a time out.

Medley: First of all, I'd like to thank all of you. You're considerate, and I'm willing to work with you all. If we could amend it to C-1, that's fine, like I say, I'm willing to work with you.

MOTION:

Clark: C-1's okay, then I will amend my motion, to move we approve RZN 04-1243 as a C-1 zoning.

Myres: I'll second.

Ostner: I have a motion for approval for a C-1 zoning on Item 04-1243. Motion was from Commissioner Clark, a second from Commissioner Myres. I'm going to vote against this. I believe C-1 is too intense for this piece of property. Is there further discussion? Call the roll please.

Roll Call: Upon completion of roll call the motion to recommend approval of RZN 04-1243 to the City Council with a recommendation for C-1 zoning was approved by a vote of 7-1-0 with Commissioner Ostner voting no.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 16, 2004

FROM:

Dawn T. Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1243: Rezoning (Medley, pp 557/596): Submitted by Ronald Dean Medley for property located at 3507 W 6th Street. The property is zoned R-A, Residential Agricultural and contains approximately 1.03 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick 10/29/04
Division Head Date

10/30/04
City Attorney Date

10-26-04
Department Director Date

Finance & Internal Services Dir. Date

10-31-04
Chief Administrative Officer Date

11/2/04
Mayor Date

Received in Mayor's Office Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 10/31/04

Fayetteville
ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THRU: Hugh Earnest, Chief Administrative Officer
Stephen Davis, Finance & Internal Services Director

FROM: Kevin Springer, Budget Manager

DATE: October 27, 2004

SUBJECT: **Proposed 2005 Annual Budget & Work Program**

Recommendation:
Consider the Proposed 2005 Annual Budget & Work Program for adoption by the December 21, 2004 City Council meeting.

Discussion:
The Proposed 2005 Annual Budget & Work Program document was distributed to City Council on Tuesday, November 2 for consideration.

A brief overview of the Proposed 2005 Annual Budget & Work Program document is scheduled for **Tuesday, November 9** following the City Council agenda session that starts at 4:30 PM in room 326. Staff is proposing the dates below as the minimum amount of hearings for the Proposed 2005 Budget.

Date	Budget Meeting
Tuesday, November 9 2004	2005 Proposed Budget Presentation
Tuesday, November 16 2004	City Council Meeting
Tuesday, November 30 2004	Budget Working Session (agenda session)
Tuesday, December 7 2004	City Council Meeting
Tuesday, December 14 2004	Budget Working Session (agenda session)
Tuesday, December 21 2004	City Council Meeting

If you have any questions concerning the Proposed 2005 Annual Budget & Work Program, please feel free to contact either Stephen Davis at 575-8330 or myself at 575-8226. Thank you for your attention to this matter.

Tabled to 12/7/04 mlg 11/16/04

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE PROPOSED 2005 ANNUAL BUDGET AND WORK PROGRAM.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby adopts the Proposed 2005 Annual Budget & Work Program, attached as Exhibit "A".

PASSED and **APPROVED** this 21st day of December, 2004.

APPROVED:

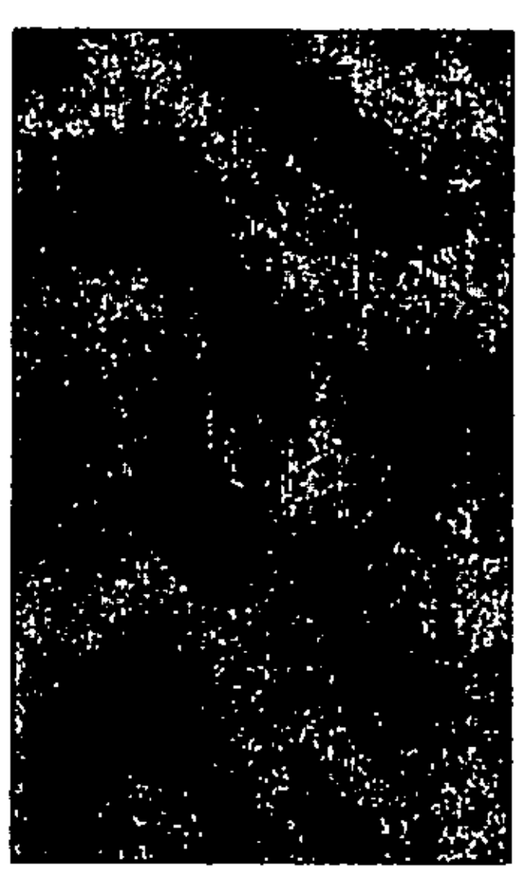
By: _____
DAN COODY, Mayor

ATTEST:

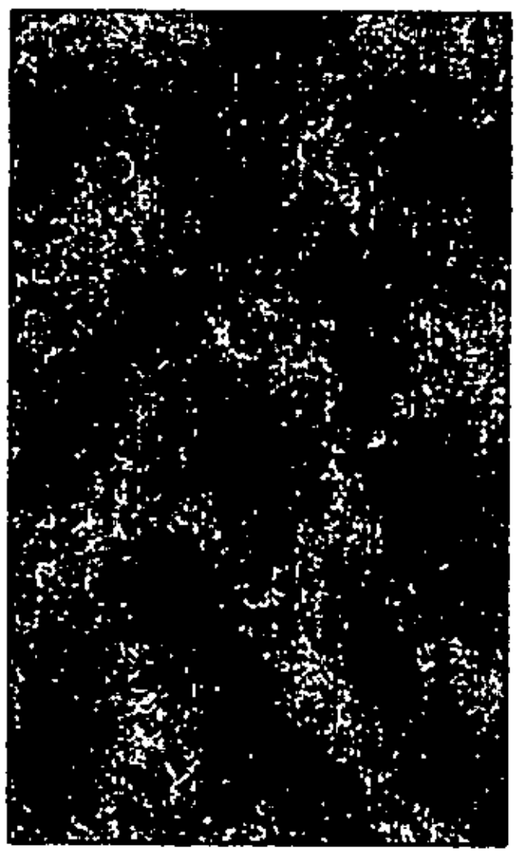
By: _____
SONDRA SMITH, City Clerk

DRAFT

2005



Fayetteville
ARKANSAS



City of Fayetteville, Arkansas

Proposed Annual Budget & Work Program

STAFF REVIEW FORM - Financial Obligation

[X] AGENDA REQUEST
[ ] CONTRACT REVIEW
[ ] GRANT REVIEW

For the Fayetteville City Council Meeting of: November 16, 2004

FROM:

Kevin Springer	Budget & Research	Finance & Internal Services
Name	Division	Department

Approve a resolution adopting the Proposed 2005 Annual Budget & Work Program.

COST TO CITY:

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

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager ____ Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager ____ Date

Internal Auditor ____ Date

City Attorney D. J. Thompson 10/27/04 Date

Purchasing Manager ____ Date

STAFF RECOMMENDATION: Staff recommends approval of the Proposed 2005 Annual Budget.

Division Head 10-27-04 Date

Department Director ____ Date

Finance & Internal Services Dir. 10-27-04 Date

Chief Administrative Officer 10-28-04 Date

Mayor 10/28/04 Date

Cross Reference

New Item: Yes No

Previous Ord/Res#: ____

Orig. Contract Date ____

Orig. Contract Number ____

Rec'd in Mayor's Office 10/27/04 4PM

CITY CLERK 10/27/04 4PM

City Council Meeting of December 07, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator

Date: November 10, 2004

Subject: Residential Planned Zoning District for Cliffside (R-PZD 04-1154)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating the Residential Planned Zoning District (R-PZD) for Cliffside. This action will establish a unique zoning district for a residential subdivision on a 26.114-acre tract located in east Fayetteville, north of Hwy 62. The proposal entails a residential subdivision with 111 with both single family detached dwellings and two-family attached townhouses.

BACKGROUND

Property Description: The property consists of a total 26.114 acres located in east Fayetteville north of Hwy 62 (Huntsville Rd) and east of Happy Hollow Rd. The proposed development is south of Cliffs Apartments and north of Happy Hollow Elementary School. The site is currently vacant and zoned RSF-4. Floodway crosses the subject property from north to south. In addition, a 50' electric easement and 50' water easement overlap creating a 75' easement which runs east-west across the northern portion of the property. With the exception of Cliffs Apartments and the school, the surrounding property is currently developed for single family.

Proposal: The applicant requested a rezoning and preliminary plat approval for a residential subdivision within a unique R-PZD zoning district. The proposed use of the site is for a residential development consisting of 111 single-family residential dwelling units, of which 15 are single family detached and 48 are two-family attached townhouses. The proposed density for the R-PZD is 4.25 DU/acre, slightly greater than the existing RSF-4 zoning. The applicant proposed lot sizes and setbacks slightly smaller than those allowed in typical zoning districts, a trail corridor, tree preservation areas following the existing riparian corridor, and an off-site extension of Ray Avenue north of 4th Street.

DISCUSSION

The Planning Commission voted 8-0-0 to forward this request with a recommendation of approval on Monday, November 08, 2004. Approval of a planned zoning district requires City Council approval as it includes zoning (land use) as well as development approval

City Council Meeting of December 07, 2004
Agenda Item Number

(preliminary plat). Recommended conditions were approved by the Planning Commission, which are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 04-1154, CLIFFSIDE LOCATED EAST OF HAPPY HOLLOW ROAD, SOUTH OF THE CLIFFS APARTMENTS, PLANNED UNIT DEVELOPMENT, CONTAINING APPROXIMATELY 26.114 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION.

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 RSF-4, Residential Single Family, four units per acre, to R-PZD 04-1154 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. **That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on November 8, 2004.**

Section 3: **That this ordinance shall take effect and be in full force at such time as all of the requirements of the development plan have been met.**

Section 4. **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 _____, 2004.

APPROVED:

By:_____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

DRAFT

EXHIBIT "A"
R-PZD 04-1154

A PART OF THE NE ¼ OF THE SW ¼ OF SECTION 14, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: 30.00 ACRES OF EQUAL AND UNIFORM WIDTH OFF THE NORTH SIDE OF THE NE ¼ OF THE SW ¼ OF SECTION 14, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS.

LESS AND EXCEPT:

A PART OF THE NE ¼ OF THE SW ¼ OF SECTION 14, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT S00°33'00"W, 753.00 FEET AND N89°28'36"E, 43.14 FEET FROM THE NW CORNER OF SAID 40 ACRE TRACT, RUNNING THENCE N89°28'36"E, 551.49 FEET; THENCE S00°33'00"W, 237.00 FEET; THENCE S89°28'36"W, 551.49 FEET; THENCE N00°33'00"E, 237.00 FEET TO THE POINT OF BEGINNING, CONTAINING 3.00 ACRES, MORE OR LESS.

ALSO LESS AND EXCEPT:

A PART OF THE NE ¼ OF THE SW ¼ OF SECTION 14, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: 20.00 FEET OF EQUAL AND UNIFORM WIDTH OFF THE WEST SIDE OF THE NORTH 753.00 FEET OF THE FOLLOWING DESCRIBED PROPERTY: 30.00 ACRES OF EQUAL AND UNIFORM WIDTH OFF THE NORTH SIDE OF THE NE ¼ OF THE SW ¼ OF SECTION 14, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, CONTAINING 15,060.00 SQUARE FEET (0.346 ACRES) MORE OR LESS.

ALSO LESS AND EXCEPT:

A PART OF THE NE¼ OF THE SW ¼ OF SECTION 14, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NE ¼ OF THE SW ¼; THENCE S00°33'00"W, 753.00 FEET TO THE POINT OF BEGINNING; THENCE N89°28'36"E, 211.00 FEET; THENCE N00°33'00"E, 111.11 FEET; THENCE S89°28'00"W, 211.00 FEET; THENCE S00°33'00"W, 111.11 FEET TO THE POINT OF BEGINNING, CONTAINING 0.54 ACRES, MORE OR LESS.

DRAFT

PRELIMINARY PLAT OF CLIFFSIDE SUBDIVISION
CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

LATITUDE: 36°03'40" N
LONGITUDE: 94°07'59" W

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

CURRENT ZONING=RSF-4

DENSITY 4.25 UNITS PER AC.

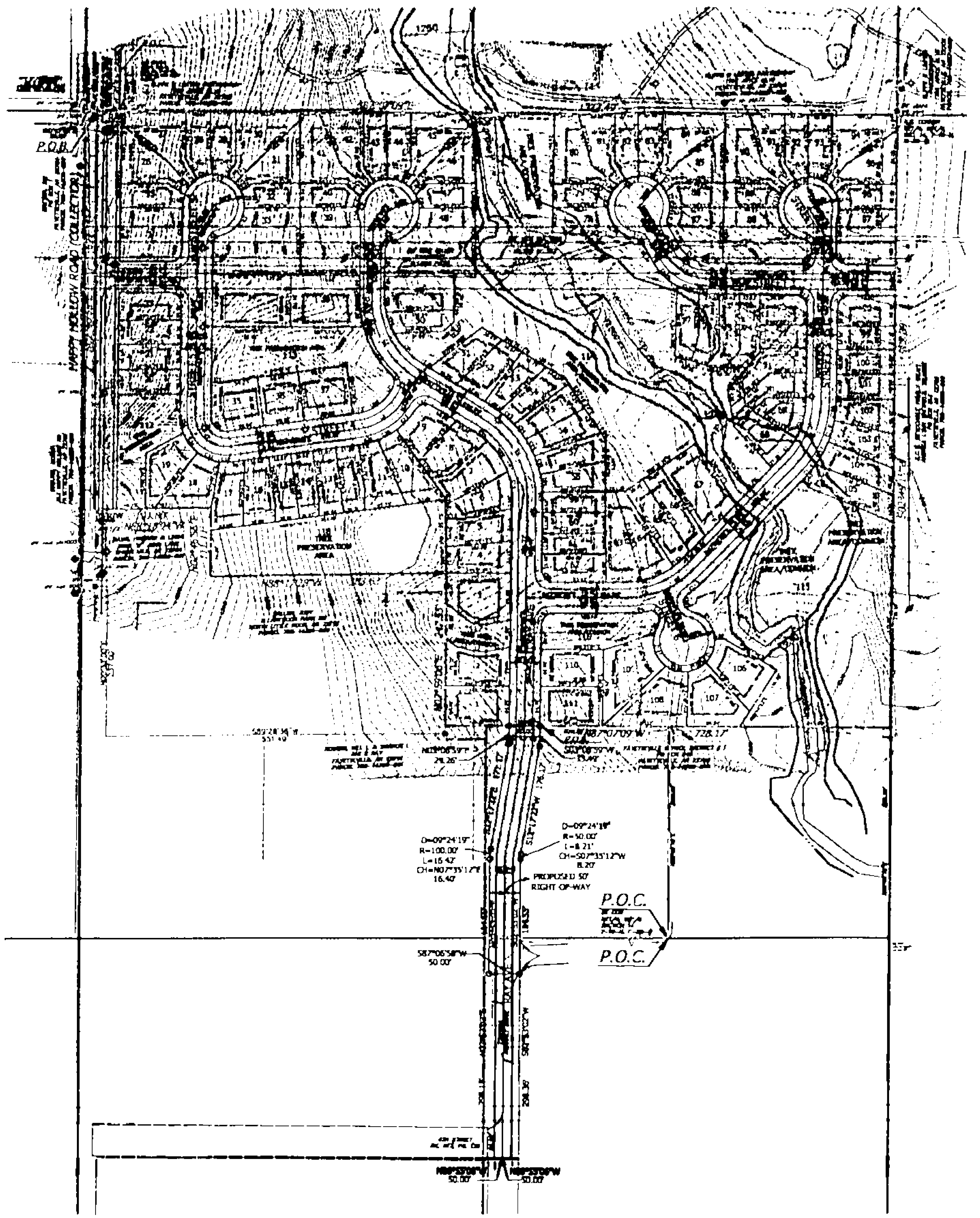
USE UNIT 1 CITY WIDE USE BY RIGHT
USE UNIT 8 SINGLE FAMILY
USE UNIT 9 TWO FAMILY

NUMBER OF UNITS – 111
NUMBER OF ATTACHED SINGLE FAMILY UNITS – 96
NUMBER OF DETACHED SINGLE FAMILY UNITS – 15
TOTAL ACREAGE–25.87 AC.

SETBACKS
FRONT – 20'
REAR=20'
SIDE – 8'

NOTES:

1. ALL DRIVEWAY WIDTHS WILL BE A MAXIMUM OF 24 FOOT AT THE RIGHT-OF-WAY LINE FOR SHARED DRIVES AND A MAXIMUM OF 12 FOOT AT THE RIGHT OF-WAY FOR DRIVES NOT SHARED.
2. ELECTRIC LINES AND OTHER UTILITIES TO BE PLACED UNDERGROUND.
3. SIDEWALKS TO BE CONSTRUCTED ACCORDING TO THE CITY OF FAYETTEVILLE STANDARDS W/ SIDEWALKS MIN. 1/4" PER. FOOT ABOVE THE TOP OF CURB.



LEGEND:

BOUNDARY LINE
RIGHT OF WAY LINE
SECTION LINE
BUILDING SETBACK LINE
EASEMENT LINE
OVERHEAD ELECTRIC
WATER LINE
CHAINLINK FENCE
WIRE FENCE
WOOD FENCE
IRON PIN FOUND
IRON PIN SET
UTILITY POLE
GUY WIRE
ELECTRIC RISER
GAS METER
TELEPHONE RISER
TELEPHONE VAULT
WATER METER
FIRE HYDRANT
WATER VALVE
SIGN
MAILBOX

GENERAL NOTES:

[illegible]

SURVEY DESCRIPTION

[illegible]

LOT NUMBERS	PROPOSED LAND USE
1–3,34–38, 87,106–111	SINGLE FAMILY USE UNIT 8
4–33, 39–86 88–105	TWO-FAMILY DWELLINGS USE UNIT 9
112–118	MAINTAINED BY POA NON-BUILDABLE COMMON/TREE PRESERVATION AREA

FLOOD CERTIFICATION

[illegible]

NOT FOR RECORDING

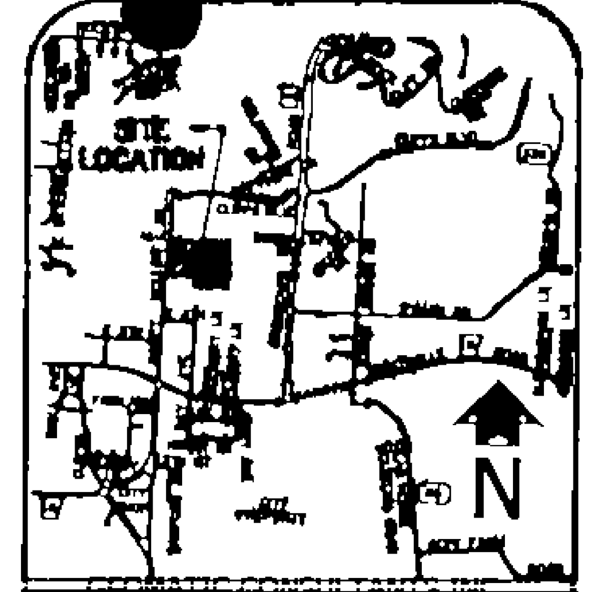
CERTIFICATE OF SURVEY & ACCURACY:
I hereby certify that the plan shown and described hereon is a true and correct survey and the monuments have been placed as shown hereon as required by the subdivision regulations of the City of Fayetteville.

REGISTERED PROFESSIONAL LAND SURVEYOR

BRIAN D. SCOTT, RPLS# 1287
REGISTERED LAND SURVEYOR

DATE

PLAT PAGE NUMBER 526



GEOMATIC CONSULTANTS INC.
134 N. MAIN STREET
CAVE SPRINGS, AR 72718
PHONE: (479) 248-1466
FAX: (479) 248-1462

PROJECT DESIGN CONSULTANTS, INC.
CIVIL ENGINEERS
130 N. MAIN ST.
CAVE SPRINGS, AR 72718
479-248-1466

130 N. MAIN ST.
CAVE SPRINGS, AR 72718
Ph: (479) 248-1466
Fx: (479) 248-1462

SCALE: 1"=100'	PROJECT NO. 2004-014
DRAWN BY: LGP/CK	DATE: Sept. 22, 2004
APPROVED BY: BDS	DATE:

CAD FILE: 40083 PRELIM PLAT rev1.DWG

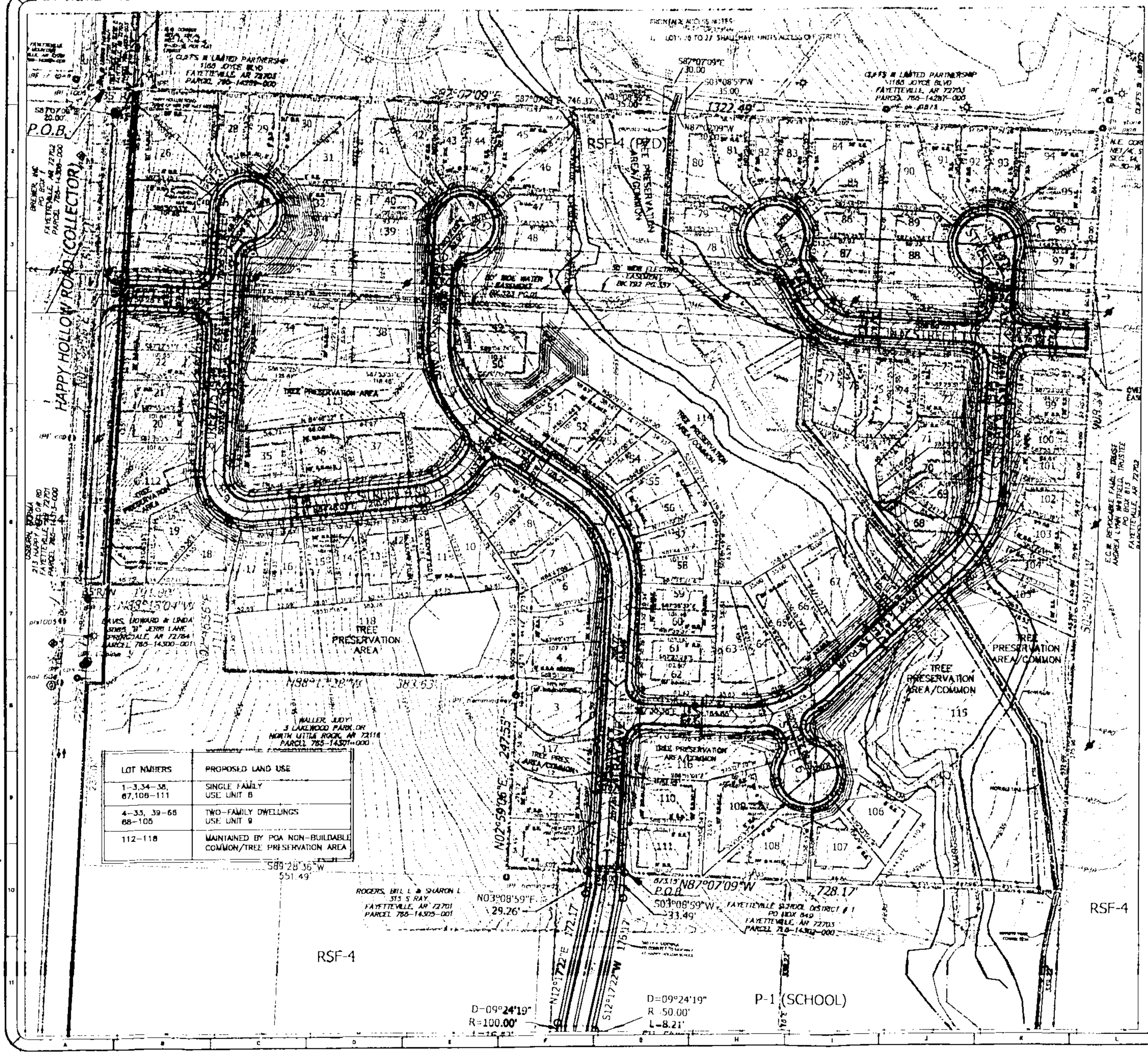
NO.	REVISION:	DATE:
	BY:	
	BY:	
	BY:	
	BY:	

PROJECT:
CLIFFSIDE SUBDIVISION
CITY OF FAYETTEVILLE
WASHINGTON COUNTY, AR.

SHEET TITLE:
PRELIMINARY PLAT

PLOT DATE: OCT. 19, 2004

SHEET NUMBER: 1.1 OF 4.0



LOT NUMBERS	PROPOSED LAND USE
1–3,34–38, 67,108–111	SINGLE FAMILY USE UNIT 8
4–33, 39–66 68–106	TWO–FAMILY DWELLINGS USE UNIT 9
112–118	MAINTAINED BY POA NON–BUILDABLE COMMON/TREE PRESERVATION AREA

PLAT PAGE # 526

N

GRAPHIC SCALE

LEGEND

EXISTING
- IRON PIN/PIPE FOUND
- IRON PIN SET
- BOUNDARY LINE
- RIGHT OF WAY LINE
- SECTION LINE
- BUILDING SETBACK LINE
- WIRE FENCE
- MAILBOX
- SIGN

PROPOSED
- STREET CENTERLINE/CURB LINE
- ASPHALT PAVING
- 4" CONCRETE SIDEWALK
- STREET LIGHT

NOTES:

1. ALL PROPOSED PAVEMENT SHALL BE CONCRETE PAVING PER TYPICAL PAVEMENT SECTION DETAILS ON DETAIL SHEETS.

CURRENT ZONING=RSF-4

DENSITY 4.25 UNITS PER AC.

USE UNIT 1 CITY WIDE USE BY RIGHT
USE UNIT 8 SINGLE FAMILY
USE UNIT 9 TWO FAMILY

NUMBER OF UNITS = 111
NUMBER OF ATTACHED SINGLE FAMILY UNITS = 85
NUMBER OF DETACHED SINGLE FAMILY UNITS = 16
TOTAL ACREAGE=25.87 AC.

SETBACKS
FRONT = 20'
REAR=20'
SIDE = 5'

OWNER/DEVELOPER:
SBC INVESTMENTS LLC
ATTN: BRANDON BARBOR
P.O. BOX 8783
FAYETTEVILLE, ARKANSAS 72703
(479) 273-2265

NOTES:

1. ALL DRIVEWAY WIDTHS WILL BE A MAXIMUM OF 24 FOOT AT THE RIGHT OF WAY LINE FOR SHARED DRIVES AND A MAXIMUM OF 12 FOOT AT THE RIGHT OF WAY FOR DRIVES NOT SHARED.
2. ELECTRIC LINES AND OTHER UTILITIES TO BE PLACED UNDERGROUND.
3. SIDEWALKS TO BE CONSTRUCTED ACCORDING TO THE CITY OF FAYETTEVILLE STANDARDS W/ SIDEWALKS RUN 1/4" PER FOOT ABOVE THE TOP OF CURB.

CALL BEFORE YOU DIG 811 ARKANSAS ONE CALL SYSTEM

SEAL:

STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
N. ARTHUR SCOTT

CERTIFICATE OF AUTHORIZATION
PROJECT DESIGN CONSULTANTS, INC.
ARKANSAS - UNLIMITED
741

DATE: _____

This drawing is "PRELIMINARY - NOT FOR CONSTRUCTION" until above seal holder acknowledges the Cancellation of this disclaimer below:

N. Arthur Scott, P.E.

DATE

PROJECT DESIGN CONSULTANTS, INC.
PDC
130 N. MAIN ST.
CAVE SPRINGS, AR 72718
PH: (479) 248-1161
FX: (479) 248 1462

SCALE:	PROJECT NO.:
AS NOTED	2004014
DRAWN BY:	DATE:
CSK	7/14/04
APPROVED BY:	DATE:
NAS	

NO	REVISION	DATE
	REVISED PER CITY OF FAYETTEVILLE COMMENTS DATED 7/28/04	08-01-04
	REVISED PER CITY OF FAYETTEVILLE COMMENTS DATED 8/19/04	08-24-04
	REVISED PER CITY OF FAYETTEVILLE COMMENTS DATED 9/20/04	09-13-04

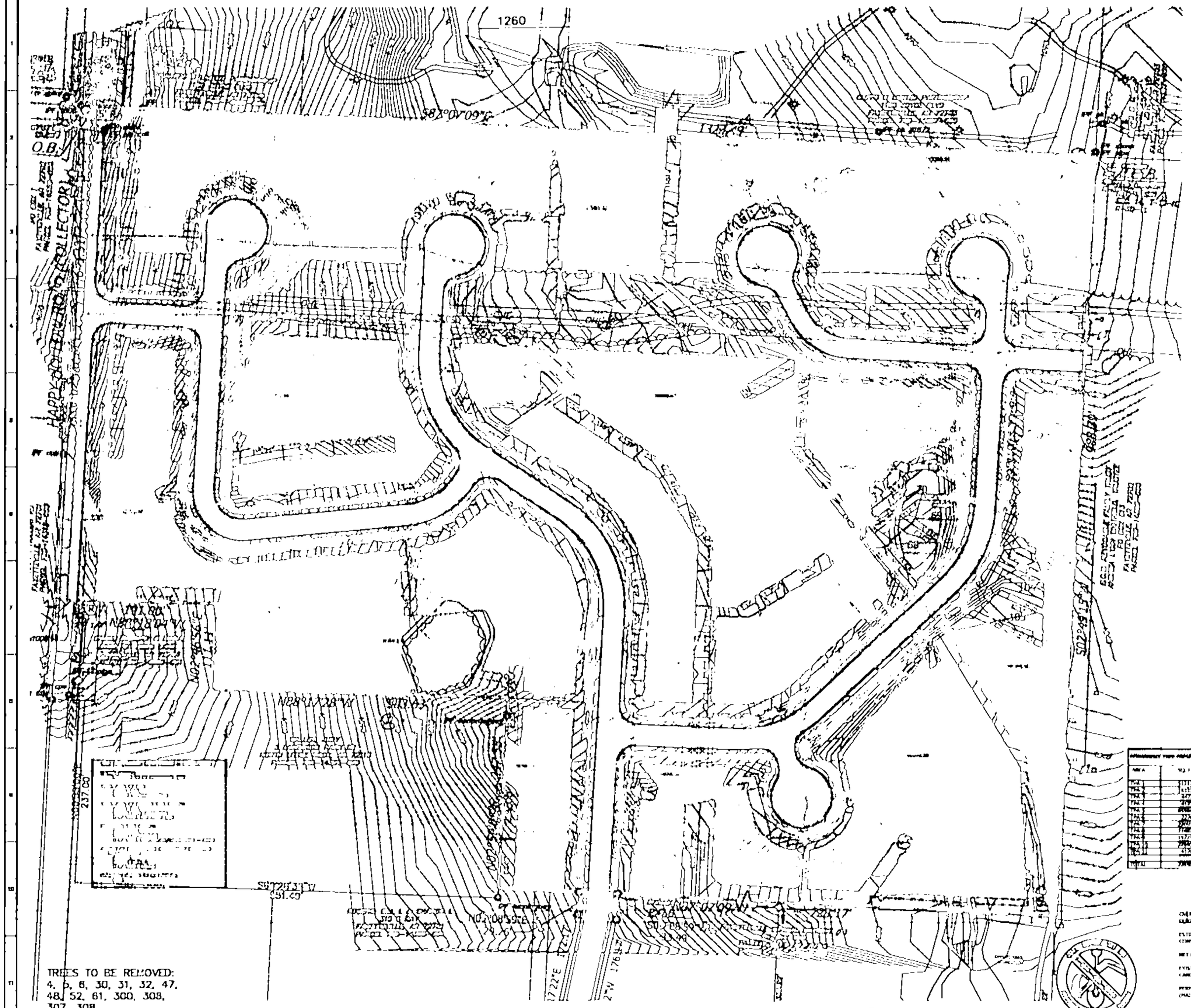
PROJECT:

CLIFFSIDE
PLANNED ZONING
DEVELOPMENT
FAYETTEVILLE, AR

SHEET TITLE:

SITE PLAN

SHEET NUMBER: 2.0 OF 4.0



N

GRAPHIC SCALE

TREE TABLE

SEAL:

DATE:

PROJECT DESIGN CONSULTANTS, INC.
PDC
130 N. MAIN ST.
CAVE SPRINGS, AR 72718
PH: (479) 248 1161
FX: (479) 248 1462

SCALE: N.T.S.	PROJECT NO.: 20040014
DRAWN BY:	DATE: 07/15/04
APPROVED BY: ACS	DATE: 00/00/04

NO.	REVISION	DATE
1		
2		
3		
4		
5		

PROJECT:
CLIFFSIDE
PLANNED ZONING
DEVELOPMENT

SHEET TITLE:
TREE PRESERVATION/
GRADING PLAN

SHEET NUMBER: 2.1 | OF 4

N

GRAPHIC SCALE

TREE PRESERVATION GENERAL NOTES:

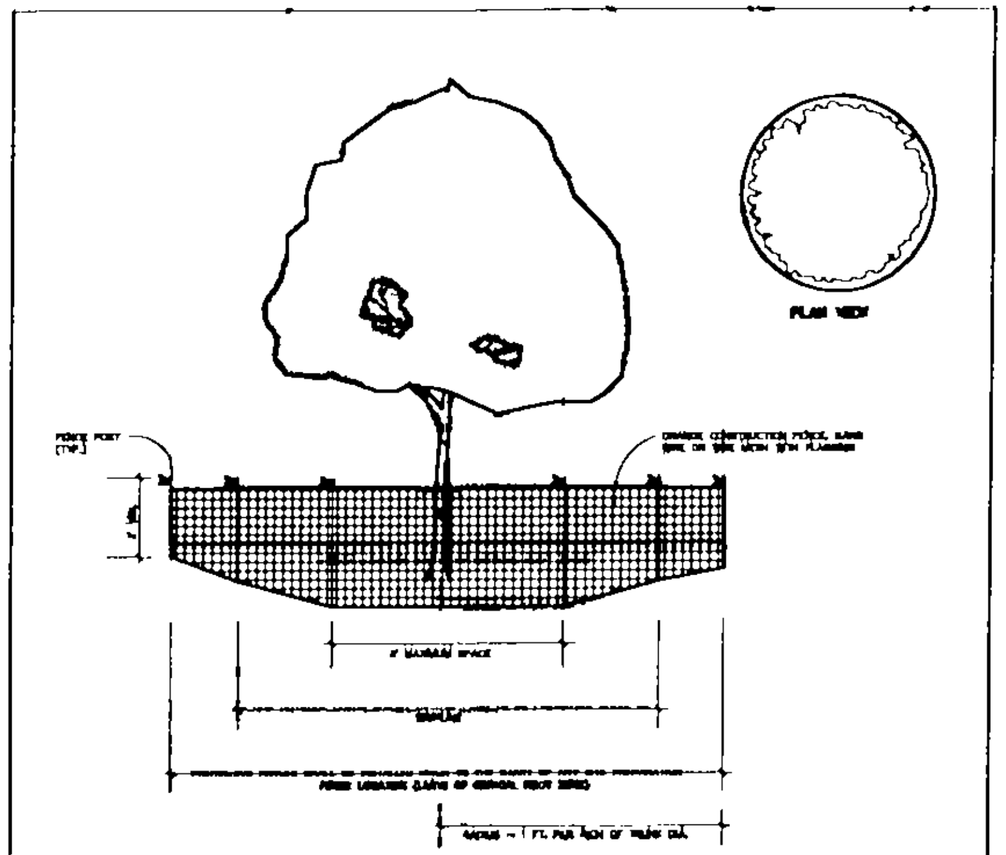
1. APPLICANT WILL WORK WITH THE LANDSCAPE ADMINISTRATOR AT THE TIME OF CONSTRUCTION PLAN REVIEW TO LOCATE MORE PRECISELY TREE PROTECTION FENCING. ALL AREAS NOT DISTURBED BY THE CONSTRUCTION OF NECESSARY INFRASTRUCTURE, UTILITIES OR OTHER GRADING SHALL BE PROTECTED, UNDER THE PURVIEW OF THE LANDSCAPE ADMINISTRATOR.

2. WHERE ROOT PRUNING IS NEEDED, PER LANDSCAPE ADMINISTRATOR'S OPINION, A CITY CERTIFIED ARBORIST SHALL BE CONSULTED.

3. CONSTRUCTION OF THE PEDESTRIAN TRAIL SHALL BE COORDINATED WITH THE LANDSCAPE ADMINISTRATOR TO PROTECT TREES WITHIN THE TREE PRESERVATION AREAS.

4. DEVELOPER SHALL COORDINATE CONSTRUCTION OF THE PROPOSED TRAIL ALONG THE RIPARIAN AREA WITH THE LANDSCAPE ADMINISTRATOR, TO FACILITATE THE BEST PLACEMENT, WITH REGARD TO TREE PRESERVATION.

5. LOTS 112 TO 118 ARE NONBUILDABLE TREE PRESERVATION LOTS.



PERMANENT TREE PRESERVATION AREA		
AREA	SQ. FT.	ACRES
TPA 1	3,111	0.07
TPA 2	6,134	0.14
TPA 3	2,191	0.05
TPA 4	1,917	0.04
TPA 5	11,542	0.26
TPA 6	5,116	0.12
TPA 7	4,600	0.11
TPA 8	4,600	0.11
TPA 9	9,116	0.21
TPA 10	3,600	0.08
TPA 11	3,600	0.08
TOTAL	255,527	5.87

TEMP. TREE PRESERVATION AREA		
AREA	SQ. FT.	ACRES
TPA 1	6,116	0.14
TPA 2	5,600	0.13
TPA 3	3,116	0.07
TPA 4	11,116	0.26
TPA 5	1,116	0.03
TPA 6	3,116	0.07
TPA 7	3,116	0.07
TPA 8	16,116	0.37
TPA 9	3,116	0.07
TPA 10	3,116	0.07
TPA 11	3,116	0.07
TPA 12	3,116	0.07
TPA 13	3,116	0.07
TPA 14	3,116	0.07
TPA 15	3,116	0.07
TPA 16	3,116	0.07
TPA 17	74,121	1.70
TOTAL	387,456	8.89

OVERALL TREE AREA TO BE PROTECTED DURING CONSTRUCTION	13.52 ACRES
ESTIMATED CANOPY LOSS DUE TO HOME CONSTRUCTION	3.90 ACRES
NET PRESERVED TREE CANOPY	13.62 ACRES
EXISTING CANOPY AREA/NET CANOPY AREA	38.7%
PERMANENT TREE PRESERVATION AREA (MAINTAINED BY POA OR LOTS 112 TO 118)	5.87 ACRES

TREES TO BE REMOVED:
4, 5, 6, 30, 31, 32, 47, 48, 52, 61, 300, 306, 307, 308

R-PZD 04-1154; PLAT PAGE 526

SEAL:

DATE: _____

This drawing is "PRELIMINARY - NOT FOR CONSTRUCTION" until above seal holder acknowledges the Cancellation of this disclaimer below:

_____
N. Arthur Scott, P.E.

_____
DATE

PROJECT DESIGN CONSULTANTS, INC.
130 N. MAIN ST.
CAVE SPRINGS, AR 72718
Ph: (479) 248-1161
Fx: (479) 248-1462

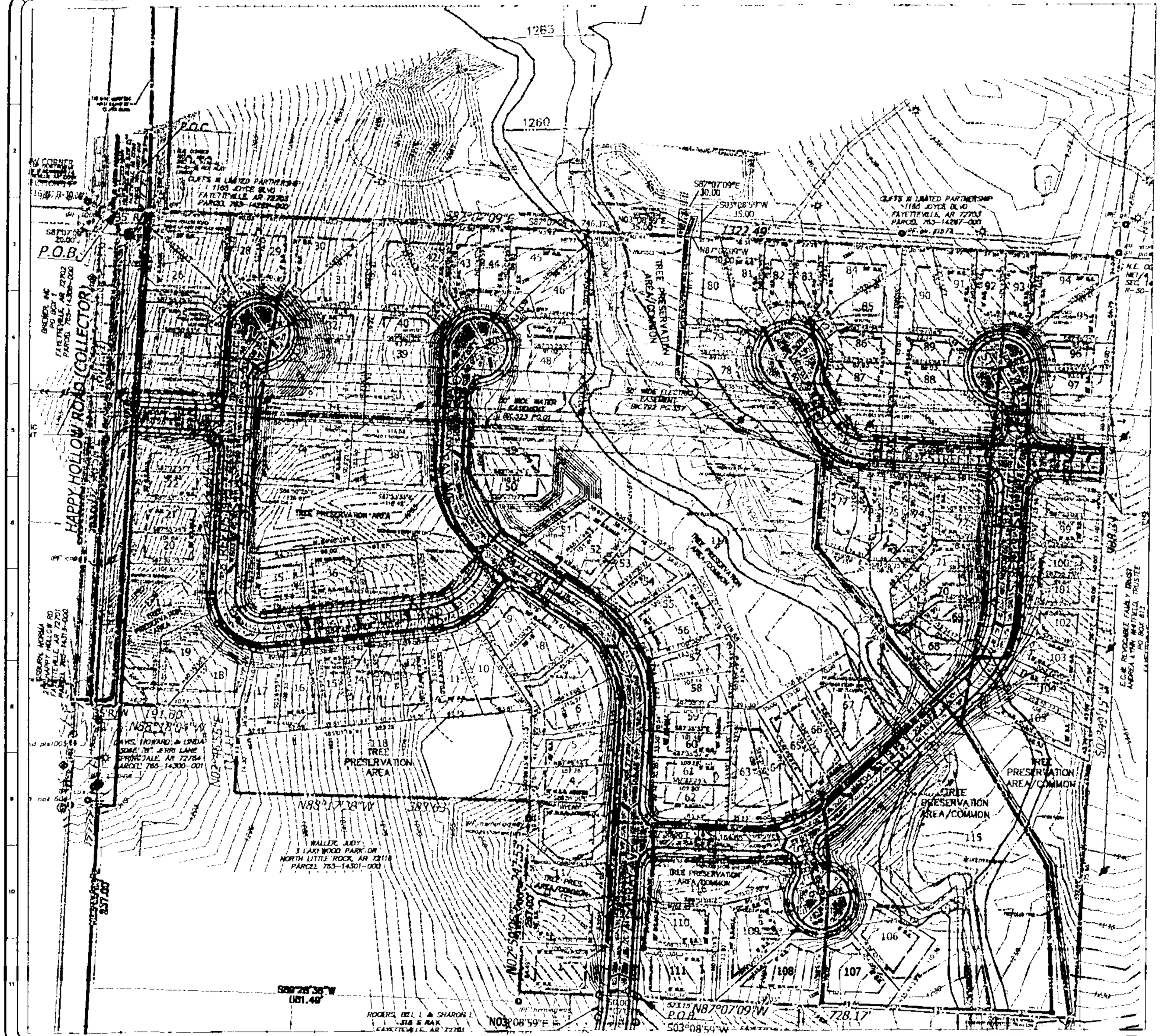
SCALE: N.T.S.	PROJECT NO.: 20040014
DRAWN BY:	DATE: 07/15/04
APPROVED BY: ACS	DATE: 00/00/04

NO	REVISION	DATE

PROJECT:
CLIFFSIDE
PLANNED ZONING
DEVELOPMENT

SHEET TITLE:
TREE PRESERVATION/ GRADING PLAN

SHEET NUMBER: 2.2 | OF 4



N

GRAPHIC SCALE

CALL BEFORE YOU DIG
811
811.ORG
PROTECTION ONE CALL SYSTEM

ALL PROPOSED UTILITIES ARE TO BE PLACED UNDERGROUND.

LEGEND

EXISTING		PROPOSED
	SANITARY SEWER	
	FIRE HYDRANT	
	8" WATER VALVE	
	FLOWLINE	
	CONTOUR LINE	
	ACCESS DOOR/HOLE	
	MANHOLE	
	TELEPHONE	
	GAS LINE	
	TREE	
	STREET LAMP	
	ELECTRIC RISER (TYP.)	
	UNDERGROUND ELECTRIC	
	WATER METER	
	SOLID WASTE PIPE	
	CURB INLET	
	PLANTED AREA (MEDIAN)	
	CURB LINE	
	PAVING	
	6" CONCRETE DRIVEWAY	
	SIGN LOCATION	

NOTES:

1. ALL WATERLINE TO BE INSTALLED PER CITY OF FAYETTEVILLE REQUIREMENTS.
2. CONTRACTOR IS RESPONSIBLE TO CONTACT THE CITY OF FAYETTEVILLE WATER UTILITIES FOR OBSERVATION, PROCEDURE AND REQUIREMENTS FOR TAPPING PUBLIC WATER MAIN. 48 HOURS BEFORE WORK IS TO BEGIN.
3. ALL WATER LINE CONSTRUCTION SHALL BE IN STRICT CONFORMANCE WITH THE LATEST REVISION OF THE CITY OF FAYETTEVILLE WATER UTILITY STANDARD SPECIFICATION FOR WATER AND SEWER.
4. THE NUMBER AND LOCATION OF FIRE HYDRANTS SHALL BE DETERMINED BY THE FIRE DEPARTMENT.
5. ALL LOTS TO BE SERVICED WITH DOUBLE WATER METER SETTERS

PLAT PAGE # 526

SEAL:

ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
N. ARTHUR SCOTT

CERTIFICATE OF AUTHORIZATION
PROJECT DESIGN CONSULTANTS, INC.
#741
ARKANSAS - CONTRACT

DATE: _____

This drawing is "PRELIMINARY NOT FOR CONSTRUCTION" until above seal holder acknowledges the Cancellation of this disclaimer below:

_____
N. Arthur Scott, P.E.

_____
DATE

PROJECT DESIGN CONSULTANTS, INC.
PDC
110 N. MAIN ST.
CAVE SPRINGS, AR 72718
Ph: (479) 248-1161
Fx: (479) 248-1467

SCALE:	PROJECT NO.:
AS NOTED	2004014
DRAWN BY:	DATE:
CRK	7/14/04
APPROVED BY:	DATE:
NAS	

NO.	REVISION	DATE
1	PER CITY COMMENTS 8/9/04	08-12-04
2	PER CITY COMMENTS 8/24/04	08-24-04
3	PER CITY COMMENTS 9/15/04	09-15-04

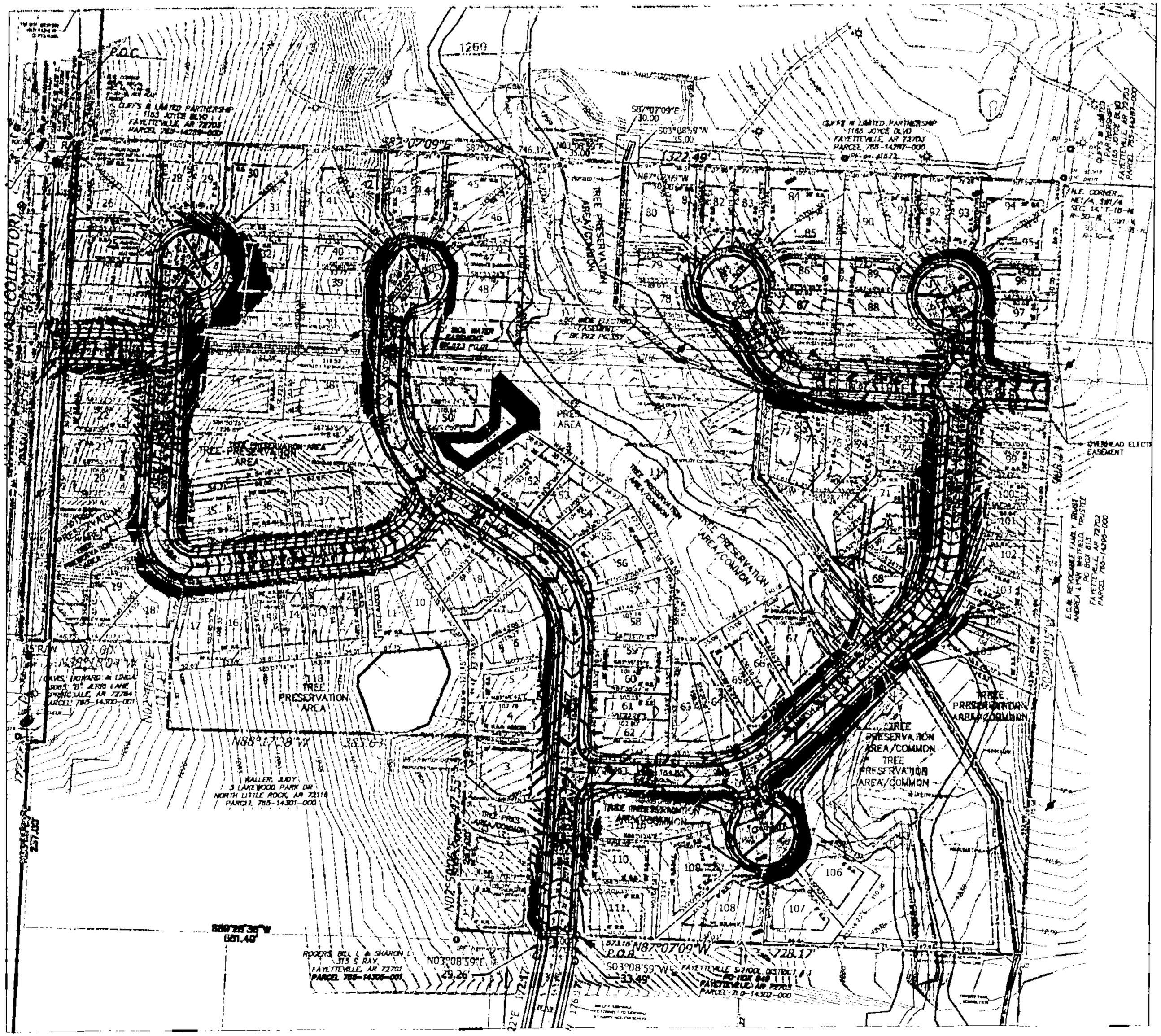
PROJECT:

CLIFTSIDE
A PLANNED ZONING DISTRICT
FAYETTEVILLE, AR

SHEET TITLE:

UTILITY PLAN

SHEET NUMBER:	OF
3.0	4.0



N

GRAPHIC SCALE

LEGEND

SEAL:

ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
N. ARTHUR SCOTT
DATE: 8741

CERTIFICATE OF AUTHORIZATION
PROJECT DESIGN CONSULTANTS, INC.
ARKANSAS - ENGINEER

DATE: _____

This drawing is "PRELIMINARY - NOT FOR CONSTRUCTION" until above seal holder acknowledges the Cancellation of this disclaimer below:

N. Arthur Scott, P.E.

DATE

PROJECT DESIGN CONSULTANTS, INC.

130 N. MAIN ST.
CAVE SPRINGS, AR 72718
Ph: (479) 248-1161
Fx: (479) 248-1462

SCALE:	PROJECT NO.:
AS NOTED	2004014
DRAWN BY:	DATE:
PLW	7/14/04
APPROVED BY:	DATE:
NAS	

NO.	REVISION	DATE

PROJECT:

CLIFTSIDE
A PLANNED ZONING DEVELOPMENT
FAYETTEVILLE, AR

SHEET TITLE:

GRADING PLAN

SHEET NUMBER:	OF
4.0	4.0

Fayetteville
ARKANSAS

PC Meeting of November 08, 2004

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
Brent O'Neal, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: November 03, 2004

R-PZD 04-1154: Planned Zoning District (CLIFFSIDE, 526): Submitted by PROJECT DESIGN CONSULTANTS, INC for property located at THE EAST SIDE OF HAPPY HOLLOW ROAD, SOUTH OF THE CLIFFS APARTMENTS. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 26.114 acres. The request is to approve a Residential Planned Zoning District on the subject property with approximately 48 two-family and 15 single-family lots proposed.

Property Owner: SCB INVESTMENTS, LLC Planner: SUZANNE MORGAN

Findings:

Proposal: The applicant requests a rezoning and preliminary plat approval for a residential subdivision within a unique R-PZD zoning district. The proposed use of the site is for a residential development consisting of 111 single-family residential dwelling units, of which 15 are single family detached and 48 are two-family attached townhouses.

Existing Development: The site is currently vacant and zoned RSF-4. Floodway crosses the subject property from north to south. In addition, a 50' electric easement and 50' water easement overlap creating a 75' easement which runs east-west across the northern portion of the property.

Proposed Development: *R-PZD, Residential Planned Zoning District*

Lot Numbers	Proposed Land Use
Lots 1-3, 34-38, 67, 106-111	Single Family Residential Use Unit 8
Lots 4-33, 39-66, 68-105	Two-family Dwellings Use Unit 9
(112-118)	Common/Tree Preservation Areas Maintained by POA

Total proposed dwelling units on the 26.114-acre site is 111, therefore the proposed density for the R-PZD is **4.25 DU/acre.** The project site is currently zoned RSF-4, allowing for single dwelling units. The developer proposes an unconventional subdivision, with both single family detached dwellings and two-family attached townhouses. Lot sizes and setbacks are proposed to be slightly smaller than those allowed in typical zoning districts, thus the need for processing a Planned Zoning District.

The vacant site is located in east Fayetteville south of Cliffs Apartments and north of Happy Hollow Elementary School. With the exception of Cliffs Apartments and the school, the surrounding property is currently developed for single family. Property to the east extending to Crossover Rd is developed for only one single family dwelling and may be further developed in the future.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Cliffs Apartments PUD	RSF-4, Res. Single Family – 4 units/acre
South	Single family & Happy Hollow Elementary School	P-1, Institutional
East	Single Family Residential	RSF-4, Res. Single Family – 4 units/acre
West	Single Family Residential	RSF-4, Res. Single Family – 4 units/acre

Water & Sewer: Water and sewer is to be extended to serve the development.

Access: Access is proposed to the east and south:

North: None (existing tree preservation area)
South: One (1) connection to be constructed extending to the existing Ray Avenue
East: One (1) stub-out is proposed for future connection to the east
West: One (1) connection to Happy Hollow Rd, a Collector

No connectivity is proposed north to Cliffs Apartments due to a tree preservation easement adjacent to the length of the northern property line, and no stub-out from Cliffs Apartments was provided for connectivity.

Happy Hollow Rd. is a newly constructed street west of the subject property. The developer of Cliffside is dedicating Happy Hollow Rd. 35' from centerline to Collector St. standards for the length of the property boundary. The northern portion of Happy Hollow Rd. right-of-way constructed with Cliffs Apartments is 40' from centerline, and greater than that required by the Master Street Plan. A transition between these two rights-of-way width will be made with the development of this project.

Due to tree preservation to the north, undeveloped property to the east, and no access south to Ray Street, the only available on-site street connection from this proposed development is west to Happy Hollow Rd. Only one access for a development of 111 lots could create a dangerous traffic situation. Therefore, at the request of staff, the applicant has coordinated with the Fayetteville School District to the south for a dedication of 50' right-of-way west of the School property to create a street connection with the existing Ray Avenue. The developer proposes construction of a street from the subject property south to the existing drive with parallel parking spaces designated to the east of the street for public parking.

Street Improvements Proposed: 14' from centerline with curb, gutter, and storm sewer with six-foot sidewalks constructed at the right-of-way line of Happy Hollow Rd. Construction of a standard local street section south of the subject property to connect to the existing street is also recommended, as coordinated with the Fayetteville School District. Staff recommends

improvements of existing Ray Avenue from 4th St. north along the existing paved access to be coordinated with the Engineering Division. Interior streets are proposed to be 28 feet wide, with sidewalks located at the right-of-way on both sides of the street. Through streets are proposed to have a 50' right-of-way with cul-de-sac streets with a 40' right-of-way.

Adjacent Master Street Plan Streets: Happy Hollow Rd., Collector. The AHTD's Capital Improvement Plan identifies future signalization at the intersection of Happy Hollow Rd. and Huntsville Road.

Tree Preservation:	Existing canopy:	88 %
	Preserved canopy:	38.7 %
	Required canopy:	25 %
	Mitigation:	None

Parks: The Parks and Recreation Board recommended money in lieu of land in the amount of $61,605 for 111 single family lots on July 12, 2004, along with pedestrian trail connections through the subject property both to the school and the Cliffs trail to the north.

Pedestrian Access: The developer proposes a pedestrian trail along and within identified tree preservation areas. The Parks and Recreation Board recommended pedestrian connections be made from the Cliffside development to its southern neighbor, Happy Hollow Elementary School. Pedestrian connections should join existing trails located on the school property and a connection north to Cliffs Apartments as well.

Public Comment: Public comment was received at the August 12, 2004 Subdivision Committee meeting at which the project was tabled to allow staff and the applicant additional time to address aspects of the proposed R-PZD (see attached minutes). Those comments from notified property owners with objections have been included in the staff report. The item was also heard at the Subdivision Committee meeting of October 15, at which it was forwarded with a recommendation for approval to the full Planning Commission.

A draft of protective covenants, as well as the applicant's response to the Planned Zoning District requirements and description of the project have been submitted and are included in the staff report.

Recommendation: Staff recommends approval of **R-PZD 04-1154**, with the following conditions of approval:

Conditions of Approval:

1. Allowed uses in this R-PZD shall be restricted to Use Unit 1, City-wide uses by right, Use Unit 8, Single family dwellings and Use Unit 9, Two-family dwellings.

2. Planning Commission determination of residential lot access management. *Staff recommends a combination of shared driveways and reduced driveway widths for these lots due to their smaller width. For those lots not utilizing shared driveways, the maximum driveway width shall be 12 feet, constructed per city codes. For shared*

driveways, a maximum 24-foot driveway may be constructed, with location to be coordinated with city staff. A note to this effect has been included on the plans. PLANNING COMMISSION DETERMINED IN FAVOR OF STAFF'S RECOMMENDATION FOR A COMBINATION SHARED/REDUCED WIDTH DRIVEWAY PLAN.

3. Frontage Access notes on sheet 2 of 4 shall be revised to reflect current lot numbers.

4. Planning Commission determination of off-site street improvements. *Staff recommends construction of a 28' street, curb and gutter, and storm sewer south of the subject property to the existing paved Ray Avenue. Staff also recommends improvements to the existing paved portion of Ray Avenue north of 4th Street to be coordinated with the Engineering Division to ensure a safe means of access. Happy Hollow Rd. shall be improved a minimum of 14' from centerline, including pavement, curb and gutter, storm sewer, and six-foot sidewalk located at the right-of-way line.* PLANNING COMMISSION DETERMINED IN FAVOR OF STAFF'S RECOMMENDATION OF OFF-SITE STREET IMPROVEMENTS.

5. Planning Commission determination of the required recommendation to the City Council regarding the rezoning of the subject property to the unique district R-PZD 04-1154 with all conditions of approval as determined by the Planning Commission. PLANNING COMMISSION DETERMINED IN FAVOR OF THE REZONING REQUEST.

6. An ordinance creating this R-PZD shall be approved by City Council.

7. All setbacks, protective easements, density, and designated uses are binding with the approval of the R-PZD. Submitted covenants are likewise binding to the project.

8. The developer shall coordinate dedication of 50' right-of-way for Ray Avenue extending south of the subject property to the existing dedicated right-of-way prior to Final Plat approval.

9. Parks fees in the amount of **$61,605** for 111 single family dwellings are due prior to Final Plat approval.

10. The proposed pedestrian trail shall be six-feet in width and connect to the existing trail north of the subject property. Approval/coordination of said connection shall be confirmed prior to the approval of construction plans.

11. The applicant shall provide pedestrian connections from the Cliffside development south to Happy Hollow Elementary School. Pedestrian connections shall join existing trails located on the school property.

12. The developer shall coordinate construction of the proposed trail along the riparian area with the Landscape Administrator to facilitate the best placement for tree preservation.

13. All tree preservation lots shown on the plans shall be filed and recorded by way of Final Plat, to ensure perpetual preservation. Language identifying said easements shall be

clearly included in the covenants, and potential homeowners made aware of the protected areas within their neighborhood.

14. Include a note on the plat stating that the Tree Preservation/Common Area lots, maintained by the POA, are non-buildable lots.

15. Final Covenants at the time of Final Plat shall address ownership, maintenance and use of Tree Preservation/Common Areas. These lots are subject to the restrictions of standard Tree Preservation easements, per the City of Fayetteville Tree Preservation ordinance.

16. The applicant shall coordinate with the Landscape Administrator at the time of construction plan review to locate more precisely Tree Protection fencing. All areas not disturbed by the construction of necessary infrastructure, utilities or other grading shall be protected, under the purview of the Landscape Administrator.

17. The developer shall coordinate construction of the proposed trail along the riparian area with the Landscape Administrator, to facilitate the best placement, with regard to tree preservation.

18. Prior to City Council review, the applicant shall coordinate with the Landscape Administrator to revise the TP plans for clarification and correction of various numbers that are not consistent with one another.

Standard Conditions of Approval:

19. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

20. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

21. Sidewalk construction shall be in accordance with current standards to include six foot sidewalks along Happy Hollow Rd, at the right-of-way line.

22. Street lights shall be installed or guaranteed every 300 feet along all public streets prior to final plat.

23. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

PLANNING COMMISSION ACTION: **__yes__ Required**

__X__ Approved **_____ Denied**

8-0-0

Date: November 08, 2004

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

_____

By

_____

Title

_____

Date

Findings associated with R-PZD 04-1154

Sec. 166.06. Planned Zoning Districts (PZD).

(B) *Development standards, conditions and review guidelines*

(1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. Emphasis on tree preservation has been placed with the development proposal, and appropriate routing of utilities, streets, and protective easements has been achieved. Natural site amenities, including a riparian area, which is being retained as greenspace and concentrated Tree Preservation area, have been maximized, with protection of the watercourse from erosion and siltation a requirement of the development. The proposed density, while slightly higher than current underlying density, creates a compatible transition from higher density to the north to the single family homes to the south. This transition is also achieved with the proposed mixed housing types within the development; two-family homes to the north and single family homes on lots to the south. A trail proposed through the tree preservation/common areas will connect north to the existing trail within the Cliffs Apartments and south to Happy Hollow Elementary School. To provide adequate vehicular circulation, the developer has coordinated with the Fayetteville School District to obtain approval to construct an off-site portion of Ray Avenue to provide a second connection to the surrounding streets. In addition, parking spaces parallel to the proposed construction of Ray Avenue will be provided to allow for designated parking for school events. The proposed subdivision tree preservation and overall public amenities required of the developer, along with the variety of housing types furthers the health, safety, amenity and welfare of the community as a whole.

(2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to

the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required as a part of this development.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Internal streets are comprised of public streets within 50 feet and 40 feet rights-of-way, with no dead-ends. A north-south Collector Street is indicated adjacent to the west property line, within a minimum of 35 feet of right-of-way from centerline. A street connection is proposed off-site to connect the existing Ray Avenue with the proposed development. Additionally, a street stub-out is proposed to the east. Currently, connectivity provided allows for future residents to travel west to Crossover Rd. and south to Huntsville Rd. Sidewalks are required on all sides of public streets within the development. Due to their narrow width of the proposed two-family lots, staff recommends a combination of shared 24-foot driveways and separate 12-foot wide driveways to facilitate a safe, attractive and functional internal street. Pedestrian traffic will thereby be protected from an impractical continuous curb cut, and the overall proportion of lot width to driveway width/paved surface will be more in keeping with typical residential ratios.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Standard parking ratios for single family and two-family units is enforced.

(5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The development exceeds all open space requirements.

(6) *Sidewalks.* As required by §166.03.

FINDING: Four-foot sidewalks are to be constructed on both sides of all interior streets; six-foot sidewalks are required on the side of the Collector Street adjacent to the subject property.

(7) *Street Lights.* As required by §166.03.

FINDING: All street lights installed shall be pursuant to the above-referenced code section, with a maximum of 300 feet spacing on all streets, including Happy Hollow Road (Collector).

(8) *Water.* As required by §166.03.

FINDING: Public water is being provided to the project site, pursuant to city code.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer is being provided to the project site, pursuant to city code.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii)All grading and drainage within a Planned Zoning District including site drainage

and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

(viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

(ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.

(x) There shall be no minimum building setback requirement from a private street.

(xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public streets for the proposed development are indicated to be constructed according to the adopted standards of the City.

(11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: N/A

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant proposes to preserve canopy along the riparian corridor and within other concentrated areas on the site, in perpetuity. See the Tree Preservation Report for more detailed findings. Staff recommends approval of the Tree Preservation Plan, with a total of 38.7% tree canopy preserved.

(13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: N/A

(14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

(1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that_the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or

other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.
(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

(1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) Compatibility. Providing for compatibility with the surrounding land uses.

(3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) No negative impact. Does not have a negative effect upon the future development of the area;

(6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposal best fits the flexibility and variety goals of the intent of the Planned Zoning District, offering attached and detached single family housing types, lot arrangements (front loading, shared drive, intermittent tree preservation lots, mixing of single and two-family homes) and amenities for the community to enjoy. Open space is proposed with pedestrian trails, allowing residents to utilize the common open space and connect to other open space north (Cliffs Apartments) and south (Happy Hollow Elementary School). Many of the natural features of the site have been incorporated into the design, including the placement of the pedestrian trail along the riparian corridor and lot location and configuration. The proposed development also provides a residential development designed around not only natural features but also a 75' utility easement that bisects the northern portion of this property from. The proposal is consistent with many of the guiding policies of the General Plan 2020 including:

Residential Areas:

9.8.a Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.

9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and

services.

Environmental Resources:

9.16.a Identify areas of environmental concern and protect and preserve environmental resources.

9.16.b Define and protect areas of significant floodplains, hillsides, trees and other environmental resources through cluster development provisions, density controls, protective easements and other new and existing development standards and regulations.

Community Character:

9.19.g Encourage new residential development to incorporate varying lot sizes, home prices and types of dwelling units.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 04-1154. The development standards and plan approved shall be adopted with the rezoning.

(C) R - PZD, Residential Planned Zoning District.

(1) Purpose and intent. The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed Residential Planned Zoning District allows single-family and two-family residential uses in a clustered pattern, allowing for more usable common open space and greater preservation of natural amenities. A general rezoning would not allow the type of development the applicant is pursuing, based on the bulk and area requirements of typical zoning districts, therefore a Planned Zoning District is more appropriate for the proposed development. The proposed subdivision allows for a density and land use that is compatible with adjacent properties, yet also allows for a flexible site plan and layout. A harmonious relationship with surrounding developments is achieved, while allowing for a very unique style and type of development. Public improvements provided with the development will ensure future street connectivity in the area.

(2) Permitted uses.

Unit 1 City-wide uses by right
~~Unit 2 City-wide uses by conditional use permit~~
~~Unit 3 Public protection and utility facilities~~
~~Unit 4 Cultural and recreational facilities~~
~~Unit 5 Government facilities~~
Unit 8 Single-family dwellings
Unit 9 Two-family dwellings
~~Unit 10 Three family dwellings~~
~~Unit 12 Offices, studios and related services~~
~~Unit 13 Eating places~~
~~Unit 15 Neighborhood shopping~~
~~Unit 19 Commercial recreation, small sites~~
~~Unit 24 Home occupations~~
~~Unit 25 Professional offices~~
~~Unit 26 Multi-family dwellings~~

FINDING: The proposed single-family and two-family units are permitted uses within a Residential Planned Zoning District. All other ancillary uses (tree preservation/open areas, trails, etc.) are allowed by right.

(3) Condition. In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The proposed PZD proposed is entirely residential in use.

<u>*Required Findings for Rezoning Request.</u>

RECOMMENDATION: Staff recommends approval of the rezoning request from RSF-4, Residential Single Family – 4 units per acre, to R-PZD 04-1154, with the adoption of the

associated preliminary plat.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Residential Area. Rezoning this property to R-PZD 04-1154, with associated Preliminary Plat, is consistent with the land use plan and compatible with surrounding land uses in the general vicinity.

FINDINGS OF THE STAFF

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

Finding: **The proposed rezoning of the existing RSF-4 property to the proposed R-PZD development with single and two-family residential use at a density of 4.25 units per acre is consistent with the General Plan 2020 that identifies this area for residential use. The proposed land use is unique to the area with regard to site layout and organization, meeting many of the objectives and principles of the land use plan that promotes unique forms of development.**

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

Finding: **The proposed zoning is needed in order to develop a subdivision in the manner proposed with the R-PZD site plan.**

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

Finding: **The proposed zoning will not create or appreciably increase traffic danger or congestion surrounding streets. Approximately 707 average two-way vehicle trips per day from this development would be created; a Collector Street, the primary means of access to the site currently, can accommodate 6,000 vehicles per day at full build-out. AHTD currently has plans to signalize the intersection of Happy Hollow Rd (Collector) and Huntsville Rd/Hwy 16 (Principal Arterial) in the near future.**

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 development proposed would create, on average, 245 future residents in this area, thereby altering the population density in the immediate vicinity. Based on findings from public service providers, as outlined below, an undesirable increase in load on public services would not be created.**

Fire **- Water supply with fire hydrants is needed to serve development on this site. Fire station #5, approximately 1.45 miles away, will serve this site once it is constructed. Fire response time to the site is approximately 4-5 minutes, with an anticipated 15 calls for service at maximum build-out, based on the Service Delivery Impact included as a part of the staff report.**

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 surrounding development. It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.**

Engineering **– The proposed subdivision has been reviewed for access to public utilities, including water and sewer, and will not undesirably increase the load on public services.**

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**

Fayetteville
ARKANSAS

SC Meeting of October 15, 2004

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

THE CITY OF FAYETTEVILLE, ARKANSAS

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Subdivision Committee

From: Jeremy Pate, Landscape Administrator

Date: October 14, 2004

ITEM #: R-PZD 04-1154 (Cliffside PZD)

Requirements Submitted:

✓	Initial Review with the Landscape Administrator
✓	Site Analysis Map Submitted
✓	Site Analysis Written Report Submitted
✓	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	25.9
square feet	1,127,078
Existing Tree Canopy	
acres	22.8
square feet	994,007
percent of site area	88%
Existing Tree Canopy Preserved	
acres	6.57
square feet	286,064
percent of total site area	25.4%
Percent Minimum Canopy Required	**25%**

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.
The site is dominated by tree canopy, with approximately 88% coverage. Additionally, the site being developed is located on a hillside, and includes a riparian corridor, all of which create ideal situation for preservation of trees. The dominant tree species on-site consist of Oaks, interspersed with Elm, Sycamore and other less predominant species along the riparian corridor.

Whether the design incorporates the required Tree Preservation Priorities.
The design of the subdivision does incorporate the required Tree Preservation Priorities. The

applicant has worked with staff to balance the development of the subject property with maximum tree preservation, as identified within the Planned Zoning District ordinance. Large pockets of preservation have been achieved, as well as a desirable corridor along the riparian area, through which a trail is to be constructed, thereby increasing the visibility and value of the preservation area to the general public.

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.
Removing those trees shown as preserved could potentially degrade the riparian habitat; staff has recommended the preservation of trees along the natural drainageway consistently.

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.
Removal of canopy on this property will have impact on adjacent properties, due to high canopy percentage currently in place. Happy Hollow Elementary School is located to the south, and a tree preservation area for the Cliffs Apartment development to the north. Many of the tree protection areas proposed fall along the property boundaries, in an effort to reduce the impact on adjacent property owners.

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.
No alternative construction methods are proposed.

Whether the size or shape of the lot reduces the flexibility of the design.
The size and shape of the lot does little to reduce the flexibility of the design. Natural drainage patterns and the existing creek riparian corridor do have an effect on the design development. Additionally, the existing development surrounding the property have an effect on the design.

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.
The general health of all groups of trees on this site is good.

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.
Most trees shown to be preserved are sited in good relationship to the proposed streets and utilities, to ensure prolonged preservation. The developer has worked with utility companies to site easements sensitive to tree preservation, and has created lot lines that preserved the integrity of the natural canopy corridor. Users of the lots should have ample space in which to build and preserve existing trees, should they choose to do so. The developer has further ensured the long-term protection of certain trees by placing them within distinct lots, set aside for ownership by the POA, as Tree Preservation Areas, subject to those ordinance requirements.

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.
Some trees will need to be removed for the purposes of installing necessary utilities. Where possible, utilities have been routed in a manner so as to avoid unnecessary tree removal. The applicant has worked with utility companies and staff to site utilities along property lines that will necessitate minimal removal of tree canopy. Additionally, the developer is utilizing the proposed trail corridor along the drainageway to also install essential utilities, thereby reducing the amount of canopy removed.

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.
The streets and utilities have been aligned to minimize removal and damage of tree canopy.

Construction requirements for On-Site and Off-Site Alternatives.
N/A

The effects of proposed On-Site Mitigation or Off-Site Alternatives.
No mitigation is required.

The effect other chapters of the UDC, and departmental regulations have on the development design.
N/A

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:
N/A

The impact a substantial modification or rejection of the application would have on the Applicant:
Staff is recommending approval of the submitted Tree Preservation Plan.

Recommendation: Staff recommends approval of the submitted Tree Preservation Plan, with the following conditions:

1. The applicant shall work with the Landscape Administrator at the time of construction plan review to locate more precisely Tree Protection fencing. All areas not disturbed by the construction of necessary infrastructure, utilities or other grading shall be protected, under the purview of the Landscape Administrator. Include a note to this effect on the plan.
2. Include the standard specification drawings and Tree Preservation and Protection notes on the Tree Preservation Plan.
3. The applicant shall coordinate the lot layout to incorporate appropriate lots for specific Tree Preservation areas. Covenants shall address ownership and maintenance of said areas.
4. Root Pruning will need to occur on the subject property, with the coordination of the Landscape Administrator. Include a note to this effect on the plat.
5. The developer shall coordinate construction of the proposed trail along the riparian area with the Landscape Administrator, to facilitate the best placement, with regard to tree preservation.

Fayetteville Fire Department Service Delivery Impact: Zoning Review August 9,2004

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out	Projected Fire/Other Calls for Service at Maximum Build Out	Projected EMS Calls for Service at Maximum Build Out
R-PZD 04-1154	Cliffside R-PZD		26.3	FS 5	1.45miles	4 min.	4-5 min.	15	6	9
				Proposed FS 3	0.717 miles	2 min.	2-3 min.	15	6	9
R-PZD 04-1159	Beacon Flats		0.69	FS 1	1.15 miles	3-4 min.	3-4 min.	2	1.23	0.77

FAYETTEVILLE

RECEIVED
AUG 13 2004
PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

August 9, 2004

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 **R-PZD 04-1154: Planned Zoning District (Cliffside R-PZD, 526):** Submitted by PROJECT DESIGN CONSULTANTS, INC for property located a THE EAST SIDE OF HAPPY HOLLOW ROAD, SOUTH OF THE CLIFFS APARTMENTS, would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

PARKS AND RECREATION
THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469

TO: Suzanne Morgan, Associate Planner

FROM: Alison Jumper, Park Planner

DATE: October 13, 2004

SUBJECT: Parks & Recreation Subdivision Committee Comments

****

Meeting Date: October 15, 2004
Item: PZD 04-1154 Cliffside, 526
Park District: SE
Zoned: RSF-4
Billing Name & Address: SCB Investments, LLC

	Land Dedication Requirement	***Money in Lieu***
Single Family	_____@ .024 acre per unit = _____ acres	*111* @ $555 per unit = $ 61,605
Multi Family	_____@ .017 acre per unit = _____ acres	_____@ $393 per unit = $_____
Mobile Home	_____@ .024 acre per unit = _____ acres	_____@ $555 per unit = $_____
Lot Split		_____@ $555 per unit = $_____

COMMENTS:

- PRAB recommended money in lieu of land on July 12, 2004.
- PRAB also recommended pedestrian connections be made from the Cliffside development to its southern neighbor, Happy Hollow Elementary School. Pedestrian connections should join existing trails located on the school property.

PROJECT DESIGN CONSULTANTS, INC.

July 15, 2004

City of Fayetteville
Planning Department
125 West Mountain
Fayetteville, AR 72701

Attn: Mr. Jeremy Pate
RE: Cliffside PZD
Dear Mr. Pate:

Please recall our previous discussions on this project. It is a 26.3 +/- acre property just south of The Cliffs apartments. The property is heavily wooded and we are proposing to develop a PZD with mixed duplex and single family housing. Our intention is to have the duplexes on the north border as a typical transition from the multifamily apartment complex and the single family homes on the south as a typical transition between the multifamily/duplex on the north to the single family homes and school property to the south. We are proposing approximately 46 duplexes and 20 single family homes. There will be large corridors of tree preservation and a trail along the drainage areas. The intent is to have a small neighborhood/natural look. If you have any questions, please call me at my office: 479-248-1161 or my cell phone: 479-366-0136.

Sincerely,

N. Arthur Scott, PE
President

RECEIVED
JUL 15 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

PROJECT DESIGN CONSULTANTS, INC.

August 26, 2004

City of Fayetteville
Planning Department
125 West Mountain
Fayetteville, AR 72701

Attn: Ms. Suzanne Morgan
RE: Cliffside Subdivision

Dear Ms. Morgan:

Regarding the Duplex Lots for this project we would like to change their designation to attached Single Family Homes with each side being a sellable home and lot. We had originally planned to have them as duplexes but through conversations with city staff and the owners we have decided to market these lots as individual homes.

We will designate the lots as A and B, i.e. Lot 34A and 34B and submit them as such for the Planning Commission submittal.

Sincerely,

N. Arthur Scott, PE
President

Fayetteville Public Schools

CELEBRATING THE PAST WHILE EMBRACING THE FUTURE
WWW.FAYAR.NET

TO: Seth Kaffka, The Barber Group
FROM: Michael Gray, Associate Superintendent
RE: Intent to Purchase Property
DATE: August 25, 2004

Dear Mr. Kaffka,

I am in receipt of your letter of August 23, 2004 indicating your firm's intention to offer $20,000 for property on the northwest corner of the Happy Hollow Elementary School site. This property would allow the extension of Ray Avenue into your development, which is proposed to be north of the Happy Hollow property.

I will present your letter of intent to the Fayetteville Board of Education at it's regular monthly meeting August 26, at 5:00 pm. I expect the Board will delay action on this proposal to allow input from Happy Hollow School staff and parents. We would hope for Board action on this proposal at the regular Board meeting, September 23, 2004.

Michael Gray

1000 WEST STONE STREET PO BOX 849 FAYETTEVILLE, ARKANSAS 72702 (501) 444-3000

ADJOINING PROPERTY OWNERS NOTIFICATION

OF UPCOMING PUBLIC HEARING

RECEIVED
OCT 12 2004
PLANNING DIV.

Today's Date: October 1, 2004

APPLICANT/REPRESENTATIVE CONTACT INFO:
SCB, LLC /Brandon Barber, C/O Project Design Consultants Contact: Art Scott
130 N. Main St, Cave Springs, AR 72718; Phone: 479-248-1161

Committee Meeting:	Friday, October 15, 2004 8:30am Fayetteville Administration Building 113 W. Mountain Street, Room 219
Planning Commission Meeting	Monday, October 25, 2004 5:30pm Fayetteville Administration Building 113 W. Mountain Street, Room 219

PROJECT DESCRIPTION;
PZD 04-1154: Planned Zoning District (CLIFFSIDE R-PZD 526) was submitted by Project Design Consultants, Inc. for property located at the East side of Happy Hollow Road, South of the Cliffs Apartments. The property is zoned RSF-4, Single Family – 4 Units/Acres and contains approximately 26.30 acres. The request is to approve a Residential Planned Zoning District on the subject property with approximately 46 two family and 20 single - family lots proposed.
Property Owner: SCB Investments, LLC; Planner: Suzanne Morgan, Associate Planner

Adjoining Property Address and Parcel Number(s): See Attached

---

ADJOINING PROPERTY OWNERS COMMENTS
(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

____I have been notified of the above meetings for the described project.
____I **do not** object to the project described above.
✓ I **do** object to the project described above because: We've Lived on Ray Ave. Since 1979. We will be Forced to sell our property because Ray Street will be much Too heavily Traveled.

Sharon Rogers
Name of Property Owner (Printed)

Sharon Rogers
Signature of Property Owner

ADJOINING PROPERTY OWNERS NOTIFICATION

OF UPCOMING PUBLIC HEARING

Today's Date: 08/03/2004

APPLICANT/REPRESENTATIVE CONTACT INFO:
SCB, LLC /Brandon Barber, C/O Project Design Consultants Contact: Art Scott
130 N. Main St, Cave Springs, AR 72718; Phone : 479-248-1161

Committee Meeting:	Thursday, August 13, 2004 8:30am Fayetteville Administration Building 113 W. Mountain Street, Room 219
Planning Commission Meeting	Monday, (August 23, 2004) 5:30pm Fayetteville Administration Building 113 W. Mountain Street, Room 219

PROJECT DESCRIPTION;
PZD 04-1154: Planned Zoning District ([redacted]R-PZD, 526) was submitted by Project Design Consultants, Inc. for property located at the East side of Happy Hollow Road, South of the Cliffs Apartments. The property is zoned RSF-4, Single Family – 4 Units/Acres and contains approximately 26.30 acres. The request is to approve a Residential Planned Zoning District on the subject property with approximately 46 two family and 20 single family lots proposed.
Property Owner: SCB Investments, LLC Planner: Suzanne Morgan, Associate Planner

Adjoining Property Address and Parcel Number(s): See Attached

---

ADJOINING PROPERTY OWNERS COMMENTS
(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

____I have been notified of the above meetings for the described project.
____I **do not** object to the project described above.
__C__I **do** object to the project described above because:

RECEIVED
AUG 10 2004
PLANNING DIV.

Chloe TAYlOR
Name of Property Owner (Printed)

Chloe Taylor
Signature of Property Owner

JOHN TAYlOR
MARVie CHANDlER
DAYMON TAYlOR
MARSHA PAYNE

REVISED COVENANTS

+

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

CLIFFSIDE SUBDIVISION

This Declaration of Covenants and Restrictions is made this ____ day of _____, 2003, by _____, (Developer or the Declarant).

W I T N E S S E T H:

WHEREAS, Developer is the owner of the real property described on Exhibit A attached to this Declaration, shown and described on the plat, hereinafter mentioned as Lots 1-118, Cliffside Subdivision, Fayetteville, Washington County, Arkansas (hereinafter the Property or Cliffside) and desires to create a residential subdivision community with open spaces, landscaped entrances and other Common Use Areas for the benefit of the community, which shall be known as Cliffside Subdivsion.

WHEREAS, Developer desires to provide for the preservation of the values and amenities in Cliffside and for the maintenance of the open spaces, landscaped entrances and other Common Use Areas; and to this end, desires to subject the Property to these covenants, restrictions, easements, charges and liens, each of which is for the benefit of the Property, each owner of any Lot in Cliffside, and the Cliffside Property Owners Association, Inc.; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in Cliffside, to create an association which shall be assigned the powers of maintaining, administering and enforcing these covenants and restrictions and doing all other things necessary to preserve the values and amenities of this community; and

WHEREAS, Developer has caused to be incorporated under the laws of the State of Arkansas, as a nonprofit corporation, Cliffside Property Owners Association, Inc., for the purpose of exercising these functions; and

WHEREAS, the Property is subjected to the covenants and restrictions to insure proper use and appropriate development and improvement of the Property and every part thereof; to guard against the erection thereon of buildings, structures or improvements built of improper or unsuitable materials; to insure adequate and reasonable development of the Property and the use and enjoyment of property ownership therein; to encourage the erection of attractive improvements thereon, with appropriate locations thereof; to prevent haphazard and inharmonious improvement; to secure and maintain proper setbacks from streets, and adequate free spaces between structures; and in general to provide adequately for a type and quality of improvement in Cliffside consistent with the covenants

and restrictions; and to insure desired standards of maintenance and operation of the Common Use Areas for the benefit of all owners of Lots in Cliffside. It is the intention and purpose of these covenants and restrictions to assure that all dwellings in Cliffside shall be of a quality of design, workmanship, and materials approved by the Architectural Control Committee. It is understood and agreed that the purpose of architectural control is to secure an attractive harmonious residential development having continuing appeal, and in an effort to assure the same, the quality of architectural design will be considered.

WHEREAS, the Property shown on the plat hereinafter mentioned, has been subdivided into building lots, tracts and streets as shown on the plat filed herewith, and it is deemed advisable that said Property be held, owned and conveyed subject to the protective covenants, restrictions, easements and charges herein contained, in order to enhance the value of Cliffside.

NOW THEREFORE, Declarant, for and in consideration of the benefits to accrue to it, its successors and assigns, which benefits it acknowledges to be of value, has caused to be made a plat, showing a survey made by _____, Registered Land Surveyor dated _____, and showing the boundaries and dimensions of the Property that has since been subdivided into lots, tracts and streets (the Plat).

There are shown on said Plat certain easements for drainage, access, landscape and construction which Declarant hereby reserves to and for the use of Declarant, its successors and assigns, and/or the Association which are more specifically defined in Article V hereof. There are shown on said Plat certain easements for utilities which Declarant hereby grants to and for the use of public utilities, the same being, without limiting the generality of the foregoing, electric power, gas, telephone, water, sewer and cable television with the right hereby granted to the persons, firms or corporations engaged in the supplying of such utilities to use and occupy such easements, and to have free ingress and egress there from for the installation, maintenance, repair and replacement of such utility services.

The areas designated on the Plat as Common Use Areas are hereby donated and dedicated by Declarant and an easement is hereby granted to the Owners of all lots within Cliffside with the right to use these areas for pedestrian and aesthetic purposes and the Cliffside Property Owners Association, Inc. shall maintain such areas and improvements at its sole cost. Additionally, Declarant hereby grants to the public utilities the right to use this area only for utility easements provided such improvements are maintained by said public utilities. No improvements shall be placed on the areas designated as Common Use Areas, other than improvements for those designated purposes, unless first approved by governmental agencies, if required, Cliffside Property Owners Association, Inc. and the Architectural Control Committee established pursuant to these Covenants and Restrictions and By-Laws of Cliffside Property Owners Association, Inc. (the Architectural Control Committee).

The filing of this Declaration of Covenants and Restrictions for record in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County shall be a valid and complete grant, delivery and dedication of the easements subject to the limitations herein set out.

The lands embraced in the Plat shall be forever known as Lots 1-118, Cliffside Subdivision, Washington County, Arkansas; and any and every deed of conveyance of any lot in Cliffside describing the same by the number shown on said Plat shall always be deemed a sufficient description thereof.

NOW, THEREFORE, the Developer declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements and charges and liens (sometimes referred to as Covenants and Restrictions) herein set forth:

ARTICLE I
DEFINITIONS

ASSOCIATION. The Cliffside Subdivision Phase I., described in Article XIII hereof.

ARCHITECTURAL CONTROL COMMITTEE. The committee so designated and described in Article IV hereof.

BOARD. Board shall mean the Board of Directors of the Association.

BUILDING. Any structure having a roof, supported by columns or by walls or other means, or other structure intended or used for the shelter, housing, or enclosure of any person, animal, or chattel.

BUILDING ACCESSORY. A subordinate building or portion of a principal Building, the use of which is incidental to that of the principal Building on a Lot.

BUILDING HEIGHT. The vertical distance measured from the established ground level to the highest point of the underside of the ceiling beams, in the case of a flat roof; to the deck line of a mansard roof; to the mean level of the underside of rafters between the eaves and the ridge of a gable, hop, or gambrel roof; or to the mean level of any other vertical parts of any other structure. Chimneys and ordinary and customary ornamental architectural projections shall not be included in calculating Building Height.

COMMON USE AREAS. The pedestrian paths and other real property within Cliffside reserved by Declarant for the common use of all residents and owners of Lots in Cliffside, and the fixtures thereon and appurtenances thereof. The Common Use Areas include those areas identified on the Plat as Common Use Areas. Any Improvements made on the Common Use Areas shall be owned by the Declarant but maintained by the Cliffside Property Owners Association.

DECLARANT OR DEVELOPER. SCB Investments, LLC., its successors and assigns.

DWELLING. A residential building which, as originally constructed, is integrated and designed for use exclusively as living quarters for one family.

FAMILY. One or more persons each related to the other by blood, marriage, or legal adoption, together with his or their domestic servants, maintaining a common household in a Dwelling.

MEMBER. Member shall mean and refer to any owner who by virtue of holding fee simple title to any Lot is a member of the Association. If any owner holds title to more than one (1) Lot he/it shall be entitled to an additional membership for each additional Lot he/it owns.

OWNER. Owner shall mean and refer to the record owner, whether one (1) or more persons or entities, of title to any Lot which is part of Cliffside, but excluding those having such interest merely as security for the performance of any obligation.

STORY. That portion of the interior of a Building included between the surface of the ground or any floor and the surface of existing or extended plane of the floor next above; or if there is no floor above, the space between the floor and the surface of existing or extended plane of the ceiling next above.

STORY, HALF. A space under a sloping roof which has the line of intersection of roof decking and exterior wall not more than three (3) feet above the top floor level, and in which space not more than sixty percent (60%) of the floor area is improved for principal or accessory use.

STRUCTURE. Any stationary object erected, constructed or placed on the Property or attached to something having a permanent location on or in the ground. A sign or other advertising device, detached or projecting, shall be construed to be a separate Structure. Structures shall include but shall not be limited to sheds, towers, antennas and satellite disks.

LOT OR HOMESITE. A Lot in Cliffside, which may be purchased by any person or owned by the Developer as reflected on the Plat. The words Lot or Homesite as used herein shall be synonymous and may be used interchangeably.

LOT AREA. The area of a horizontal plane, bounded by the vertical planes through Front, Side, and Rear Lot lines.

LOT LINE, FRONT. That boundary line of a Lot which is nearest to a private roadway (access easement). In some instances a Lot may have more than one (1) Front Lot Line.

LOT LINE, REAR. That linear boundary of a Lot which is most distant from the Front Lot line. The minimum Rear set back will be twenty (20) feet in length which is required by the City of Fayetteville.

LOT LINE, SIDE. Any boundary of a Lot which is not a Front or Rear Lot Line.

LOT WIDTH. The length of a line perpendicular to a Side Lot Line and lying entirely within a Lot, which either commences at the intersection of a Front Lot Line and a Side Lot Line, or if the

Front or Rear Lot Line is curved or irregular, which is the longest segment perpendicular to a line joining the mid-points (determined by measuring the length of the outermost edge of the Lot Line) of a Front Lot Line and a Rear Lot Line and lying wholly within the Lot, with one or more points coinciding with the Front Lot Line.

LOT DEPTH. The length of a line joining the mid-points of a Front Lot Line and a Rear Lot Line (determined by measuring the length of the outermost edge of the Lot Line).

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION

1. EXISTING PROPERTY. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County of Washington, State of Arkansas, and is more particularly described on Exhibit A, and shown on the Plat, described as Lots 1-118, Cliffside Subdivision, Washington County, Arkansas, all of which property shall be referred to as the Property or Cliffside.

2. ADDITIONS TO EXISTING PROPERTY.

A. Additional lands of the Developer may become subject to these Covenants and Restrictions in the following manner: The Developer shall be obligated to bring within the plan of this Declaration additional properties, regardless of whether or not said properties are presently owned by the Developer, in future stages of the development, and such additions shall be in accord with the general plan of development (the General Plan) which has been prepared prior to the date of these Covenants and Restrictions and prior to the sale of any Lot and is maintained in the office of the Declarant, and provided such proposed additions, if made, will become subject to assessments of the Association for their share of expenses. Nor shall Developer be precluded from conveying lands in the General Plan not subject to these Covenants and Restrictions or any supplement free and clear of these Covenants and Restrictions or any supplement.

B. The additions authorized shall be made by Declarant filing of record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property which shall extend the covenants and restrictions of this Declaration to the additional property, and the Owners, including the Developer of Lots in those additions shall immediately be entitled to all rights and privileges provided in this Declaration.

C. The Supplement Declaration may contain those complimentary additions and modifications of the Covenants and Restrictions contained in this Declaration necessary to reflect the different character, if any, of the added properties as are not inconsistent with this Declaration. In no event, however, shall such supplement revoke, modify and add to the covenants established by this Declaration within the Property.

3. ADDITIONS LIMITED TO DEVELOPER. No one other than the Developer shall have the right to subject additional lands to this Declaration of Covenants and Restrictions, unless

the Developer shall indicate and consent in writing to the Association that such additional lands may be included.

ARTICLE III
GENERAL RESTRICTIONS

1.- LAND USE. Except for those portions of Cliffside referred to herein as streets and Common Use Areas, each Lot shall be used as a residential site for one Dwelling only, and a private garage containing no fewer than two (2) parking spaces for the sole use of the Owners or occupants of the Dwelling.

ARTICLE IV
ARCHITECTURAL CONTROL COMMITTEE

1. DESIGNATION OF COMMITTEE. The Association shall have an Architectural Control Committee, consisting of at least three (3) and not more than five (5) members who shall be natural persons. Until ninety percent (90%) of all Lots now subject to these covenants and restrictions, plus Lots added pursuant to Article II hereof, are sold and have Dwellings constructed thereon, the members of the Architectural Control Committee, and all vacancies, shall be appointed by SCB Investments, LLC, an Arkansas limited liability company. When ninety percent (90%) of all Lots described in this paragraph are sold and have Dwellings constructed thereon, the members of the Architectural Control Committee, and all vacancies, shall be appointed by the Board of Directors of the Association.

2. FUNCTION OF ARCHITECTURAL CONTROL COMMITTEE. No Dwelling, Building, Structure or other Improvement shall be constructed or maintained upon any Lot and no alteration or repainting to the exterior of a Dwelling, Building, Improvement or Structure shall be made and no landscaping performed unless complete plans, specifications, and site plans showing the exterior design, height, building material and color scheme, the location of the structure plotted horizontally and vertically, the location and size of driveways, the general plan of landscaping, fencing walls and windbreaks, sewage systems and the grading plan shall have been submitted in writing to and approved in writing by the Architectural Control Committee prior to the commencement of construction. A copy of the plans, specifications, and Lot plans as finally approved shall be deposited with the Architectural Control Committee. The Architectural Control Committee shall have the power to employ professional consultants to assist it in discharging its duties. The decisions of the Architectural Control Committee shall be final, conclusive and binding upon the applicant.

3. CONTENT OF PLANS AND SPECIFICATIONS. The plans and specifications to be submitted and approved shall include the following:

Residential landscaping must be fully installed within ten (10) days of the occupancy of the residence. The residential landscaping must provide for a minimum of two (2) new trees, at least two (2") to three (3") inches in diameter shrubs [and solid sod where a lawn is installed].

4. DEFINITION OF IMPROVEMENT. Improvement shall mean and include all residences, buildings and roofed structures, parking areas, fences, walls, hedges, mass plantings, poles, towers, antennas, driveways, swimming pools, signs, changes in any exterior color or shape, glazing or reglazing of exterior windows with mirrored or reflective glass, and any other new exterior construction or exterior improvement which materially alters the appearance of any Lot and which may not be included in any of the foregoing. The definition does not include garden shrub or tree replacements or any other replacement or repair of any magnitude which does not materially change exterior colors or exterior appearances.

5. BUILDING HEIGHT. No Dwelling shall be erected, altered, or placed on a Lot which shall contain more than two (2) stories. Also, the minimum height of each roof must be at least a 6-12 pitch. Also, each home must have at least three sides of home in brick.

6. DWELLING COST, QUALITY AND SIZE. All Buildings, Dwellings, Structures and Improvements erected upon a Lot shall be constructed in accordance with the applicable governmental building and zoning codes and with such additional standards that may be required by the Covenants and Restrictions and the Architectural Control Committee; and no Dwelling shall be constructed or permitted to remain on any Lot in Cliffside unless the finished heated living area, exclusive of porches, patios, garages, breezeways, exterior stairways, storage areas and outbuildings, shall equal to or exceed that shown in the following schedule:

A. Townhome - not less than 1,300 ft per side

B. Single Family Homes- not less than 1,400 ft

7. LOCATION ON LOT. No Dwelling, Building, Structure or Improvement shall be located on a Lot nearer to the Front Lot Line, Side Lot Line or Rear Lot Line established for each Lot by the Architectural Control Committee. Swimming pools shall be screened from the street or streets by a wall, solid fence, evergreen hedge or other visual barrier as approved in writing by the Architectural Control Committee. No swimming pool shall be located on a Lot nearer to the Front Lot Line, or a Side Lot Line adjoining a street, than the minimum setback established for each Lot by the Architectural Control Committee. Subject to changes being made by the Architectural Control Committee for an individual Lot, the following setback lines shall be deemed applicable:

Minimum Front Setback	twenty (20) feet from the

	center line of a street as shown on the Plat; and
Minimum Side Setback	eight (8) feet; zero between designated town home lots
Minimum Rear Setback	twenty (20) feet;

provided that the Architectural Control Committee may authorize variations in its discretion. Where two (2) or more Lots are acquired as a single building site, the side building lines shall refer only to those bordering the adjoining property Owner.

8. COMMERCIAL STRUCTURES. No Building, Structure or Improvement of any type may ever be placed, erected or used for business, professional, trade or commercial purposes on any portion of any Lot. This prohibition shall not apply to any business or Structure that may be placed on any Lot or portion of a Lot that is used exclusively by a public utility company in connection with the furnishing of public utility services to Cliffside.

9. OUTBUILDINGS PROHIBITED. No outbuildings or other detached structure appurtenant to the residence may be erected on any of the Lots hereby restricted without the consent in writing of the Architectural Control Committee.

10. NOXIOUS ACTIVITY. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall any garbage, trash, rubbish, tree limbs, pine straw, leaves or cuttings, ashes or other refuse be thrown, placed or dumped upon any vacant Lot, street, road or Common Use Area, nor on any Lot unless placed in a container suitable for garbage pickup; nor shall anything ever be done which may be or become an annoyance or nuisance to the neighborhood.

11. OIL AND MINERAL OPERATIONS. No oil drilling, oil development operating, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

12. CONSTRUCTION DRIVEWAY. No Dwelling, Structure, Building, Improvement, grading or clearing shall be commenced on any Lot until a gravel driveway, four (4) inches in depth, at least twenty-five (25) feet long has been constructed and thereafter maintained to prevent mud from being brought onto the streets.

13. EXISTING STRUCTURE. No existing, erected building or structure of any sort may be moved onto or placed on any of the Lots.

14. TEMPORARY STRUCTURE. No trailer, basement, tent, shack, garage, barn or other outbuilding other than a permanent guest house and servants quarters erected on a Lot covered by these covenants and restrictions shall at any time be used for human habitation, temporarily or permanently, nor shall any structure of a temporary character be used for human habitation.15. THE BASIS OF APPROVAL. Approval of plans and specifications shall be based on, among other things, adequacy of site dimensions, structural design, conformity and harmony of external design and of location with neighboring structures and sites, relation of finished grades and elevations to neighboring sites, and conformity to both the specific and general intent of the protective covenants. The Architectural Control Committee shall establish certain architectural guidelines, which shall be approved by the Board of Directors (the Architectural Guidelines), and all plans and specifications must comply with Architectural Guidelines then in force and effect. However, the Architectural Control Committee may approve exceptions to the Architectural Guidelines by a three-fourths (3/4th) vote. The current Architectural Guidelines shall be available at the office of the Association or the office of the Declarant.

16. MAJORITY VOTE. A majority vote of the Architectural Control Committee is required for approval or disapproval of proposed improvements.

17. FAILURE OF COMMITTEE TO ACT. If the Architectural Control Committee fails to approve, disapprove, or reject as inadequate proposed plans and specifications within sixty (60) days after proper written submittal, they shall be deemed approved. If plans and specifications are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them entirely, partially or conditionally approve.

18. LIMITATION OF LIABILITY. Neither the Declarant, the Association, the Architectural Control Committee nor any of its members shall be liable, in damages or otherwise, to anyone submitting plans and specifications for approval or to any Owner of land affected by this Declaration by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans and specifications.

19. REASONABLE FEE. The Architectural Control Committee may charge any Owner a reasonable fee for its services in reviewing that Owner's proposed plans and specifications.

20. LOT AREA AND WIDTH. None of the Homesites shall at any time be subdivided into two (2) or more ownerships or Lots unless dictated by surveyed portions of lots located in the 100 year flood plain designated by FEMA.

21. DRIVEWAYS. Access driveways and other paved areas for vehicular use on a Lot shall have a base of compacted gravel, crushed stone or other approved base material and shall be surfaced with concrete. Plans and specifications for driveways, culverts, pavement edging or

markers shall be as approved in writing by the Architectural Control Committee, and comply with city regulations. Driveways may access the adjacent street at one location only, unless otherwise approved by the Architectural Control Committee.

22. Mailboxes. All mailboxes shall be constructed entirely of wrought iron (National Home Centers Durable Barcelona in Black) and must be approved by the ACC as to design and location, solely at the Owner's expense. Additionally, all mailboxes must be of a type approved by the United States Postal Service, and shall be kept in a good state of repair at all times.

ARTICLE V
EASEMENTS

1. EASEMENTS. Declarant hereby declares, grants and reserves the following easements in Cliffside for the benefit of each and all of the Lots, parcels, tracts and lands located in Cliffside, as well as for those entities hereinafter named.

A. Declarant hereby grants the easements described on the Plat hereto as utility easements to and for the use of public utilities, the same being without limiting the generality of the foregoing, electric power, gas, telephone, water and cable television with the right thereby granted to the persons, firms or corporations engaged in the supplying of such utilities to use and occupy such easements, and to have free ingress and egress there from for the installation, maintenance, repair and replacement of such utility services. No trees, shrubbery, incinerators, structures, buildings, fences or similar improvements shall be grown, built or maintained within the area of such utility easement. In the event any trees, shrubbery, incinerators, structures, buildings, fences or similar improvements shall be grown, built or maintained within the area of such easement, no person, firm or corporation engaged in supplying public utility services shall be liable for the destruction of same in the installation, maintenance, repair or replacement of any utility service located within the area of such easement.

B. Declarant hereby grants perpetual easements described on the Plat as Access, Landscape and Drainage Easements to the Cliffside Property Owners Association, Inc. to construct, maintain, install and replace landscaping, streets, fences, drainage facilities, and related improvements upon the property upon which the easement is granted. No trees, shrubbery, incinerators, structures, buildings, fences or similar improvements shall be built or maintained by the Owner of any Lot within the area of such easements without prior written consent of the Cliffside Property Owners Association, Inc.

The Owner of a Lot is solely responsible for the existing drainage course across his/its Lot. The Cliffside Property Owners Association, Inc. is only responsible for maintenance and replacement of drainage equipment and facilities existing within the easement granted herein and described on the Plat and has no responsibility for the maintenance and repair of any drainage course or equipment located upon those areas of the Lot outside the easement.

C. Declarant hereby reserves to itself, its successors and assigns, a perpetual Construction Easement on and over Lots 1-118 as described on the Plat for use by the Declarant in the future development of Property which may be added from time to time pursuant to Article II, Section 2. Future development by the Declarant within the Construction Easement may include, but is not limited to, the construction of streets for the use described in Article VI hereto, landscaping, installation of utilities, drainage facilities and other construction related to the development of Property for residential use.

D. Grants of Easements. To Be Provided by SCB Investments, LLC., as required by the City of Fayetteville.

Declarant reserves the right to: (a) execute and record documentation confirming and defining the rights of any third person maintaining facilities in easement areas, and (b) to assign its rights hereunder, all of which acts shall be binding upon each Lot in Cliffside.

ARTICLE VI
PROHIBITIONS

Except for (1) the development and sales activities of Developer and its contractors, employees and agents, and (2) construction activities authorized by the Architectural Control Committee, the following prohibitions shall be applicable to all Lots, Buildings, Structures and Improvements in Cliffside:

A. No gainful occupation or profession, or other non-residential use, shall be conducted, provided however that the use of a home office shall be permitted.

B. No noxious or offensive activity shall be carried on, in or upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood or any adjoining Lot or Common Use Area.

C. No livestock or poultry shall be kept or maintained. No swine, sheep, goats, cattle, or other objectionable animals shall be kept, and no animals may be raised for commercial purposes. All Buildings, Dwellings, Structures and Improvements will be serviced by underground utilities.

D. No burning of refuse or leaves shall be permitted.

E. Chain link or similar fences are in all events prohibited and shall not be used under any circumstances except as approved by the Architectural Control Committee.

F. No garage, carport, driveway, or parking area which may be in front or adjacent to or part of any Lot may be used as a habitual parking place for commercial vehicles. The parkway located between the pavement and the Front Lot Line of each Lot shall not be used for the parking of commercial vehicles, boats, mobile homes, trailers, nor any vehicle other than private passenger automobiles. (The habitual violation of the parking regulations set forth in this paragraph shall be deemed a nuisance and violation of Article IV, Section 10.)

G. No temporary buildings, huts, trailers, tents, shacks, or privies shall be constructed, erected or parked upon any Lot. It is understood that the word "trailer" shall refer to a house or camping trailer which could be temporarily occupied for living purposes, and this restriction shall refer also to truck-mounted campers and travel buses, unless such trailer, erected camper, truck-mounted camper or travel bus is enclosed in a garage. Temporary Buildings, Improvements or Structures used during the construction of a Dwelling shall be on the same Lot as the Dwelling, and such Buildings, Improvements and Structures shall be removed upon completion of construction of the Dwelling.

H. No garage, building, Structure or other outbuilding approved by the Architectural Control Committee shall be constructed or erected upon said premises prior to construction and occupancy of the Dwelling.

I. No undomesticated animal nor any other animal having unusually vicious propensities shall be kept or maintained either inside or outside any Building, Structure, Improvement or Dwelling. No commercial breeding of any animal is allowed within Cliffside. No more than one kennel, for occupancy by no more than three dogs may be allowed on any one Lot in Cliffside.

J. No plants, seeds, or other materials which harbor or are a source of breeding infectious plant diseases or noxious insects shall be introduced or maintained.

K. No advertising sign, or billboard, other than For Rent advertising signs, and no submerged, underground or visible oil or gas tank for fuel or other purpose, shall be erected or maintained on any Lot; except, however, a sign, not exceeding eight (8) square feet in area, may be erected during the construction of the house, displaying the name of the general contractor and/or architect, and For Sale signs not larger than twenty four (24) inches by thirty (30) inches may be erected at any time.

L. No firearm shall be discharged within Cliffside.

M. No hunting shall be allowed within Cliffside.

N. No fishing in any lake existing within Cliffside shall be allowed other than pursuant to rules established by the Association.

O. No clearing or harvesting of trees may occur within the Property comprising Cliffside without approval of the Architectural Control Committee.

P. No animal waste may be spread on any Lot, except for fertilization purposes.

Q. No garbage, refuse, rubbish, tree limbs, pine straw, leaves or cuttings shall be deposited on any street, road, or Common Use Area, nor on any Lot unless placed in a container suitable for garbage pickup or according to City requirements for disposal.

R. No building material of any kind or character shall be placed upon any Lot except in connection with construction approved by the Architectural Control Committee. Construction shall be promptly commenced and diligently prosecuted.

S. No clothes lines, drying yards, service yards, wood piles or storage areas shall be so located as to be visible from a street, road, adjacent Lot, or Common Use Area.

T. Any exterior lighting must be approved by the Architectural Control Committee and installed in a manner that shall either be indirect or of such controlled focus and intensity as not to disturb the residents of the adjacent Lot.

U. No immoral, improper, offensive or unlawful use shall be made of Cliffside or any part thereof, and all valid laws, zoning, by-laws and regulations of all governmental bodies having jurisdiction shall be observed.

V. No portion of a Lot (other than the entire Lot) may be rented, and no transient may be accommodated therein unless by consent of the Declarant.

W. No used or previously erected or temporary house, structure, house trailer or non-permanent outbuilding shall ever be placed, erected or allowed to remain on any Lot or Common Use Area.

ARTICLE VII
NAMEPLATES AND HOSPITALITY LIGHT STANDARDS, TELEVISION OR RADIO ANTENNAE AND TOWERS, LAUNDRY DRYING FACILITIES

There shall be not more than one nameplate on each lot. A nameplate shall not be more than ninety six (96) square inches in area, and contain the name of the occupant and/or address of the Dwelling. It may be located on the door of the Dwelling or the wall adjacent thereto, or upon the wall of an Accessory Building or Structure, or free-standing. Hospitality light standards, of a design approved by the Architectural Control Committee, may be located within the Lot. No laundry-drying equipment or facilities shall be erected or used outdoors, whether attached to a Building or Structure, or otherwise. No antenna or other high power electronic equipment shall be permitted without the prior written consent of the Architectural Control Committee. Satellite dishes pre-approved by the Architectural Control Committee may be permitted on a Lot at a location approved by the Architectural Control Committee.

ARTICLE VIII
COMMON USE AREAS AND PATHS

1. COMMON USE AREAS AND PATHS. Any Common Use Area within Cliffside may be used by all residents of Cliffside and their guests for recreational purposes. There are reserved for the use of all Homesite Owners within Cliffside, their guest and invitees, all private road easements. All Common Use Areas, streets, roads, easements, fences and street lights shall be maintained by the Association.

2. EXTENT OF EASEMENTS. The rights and easements created herein shall be subject to the following:

(a) The right of the Association to prescribe rules and regulations for the use, enjoyment and maintenance of the Common Use Areas;

(b) The right of the Association to borrow money for the purpose of improving all or any part of the Common Use Areas, and to mortgage all or any part of the Common Use Areas;

(c) The right of the association to take reasonably necessary steps to protect all or any part of the Common Use Areas against foreclosure; and

(d) The right of the association to suspend the easements of any Member of the Association during the time any assessment levied under Articles X or XIII remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations.

(e) All Structures, landscape plans and additions must first be approved by the ACC. No approval is necessary for the planting of flowers, and shrubs, or trees except where it may

affect easements or drainage onto adjacent Lots. The initial landscape plans and designs to be submitted to the ACC shall include a $1,000.00 minimum for plants and shrubs.

(f) All toys, newspapers, etc., must be picked up so as not to accumulate in an unsightly manner in view of any Street. Only porch furniture, flower pots, etc., are permissible in front yards. Front Yard grass is to be kept mowed so as to never be above four (4").

ARTICLE IX
GRASSING AND TREES

1. GRASSING. After Lots have been sold by the Developer, the Owners of Lots in Cliffside shall be responsible for the maintenance of the area located between their Lot Line and edges of street pavements which abut said Lots whether the streets are private or have been dedicated to the public. After construction of a Dwelling is completed on a Lot, the Owner of such Lot shall grade the land between the edge of the driving pavement and the undisturbed ground on his/its property; maintain the ditch-line, if any, along the edge of said driving pavement, and shall seed, fertilize and cause grass to grow from said edge into his/its Lot, cover all disturbed soil left bare by construction of roads, and thereafter keep said grass mowed to a height not exceeding four (4) inches. In the event an Owner is authorized by the Architectural Control Committee to clear a portion of his/its Homesite, he/it shall plant grass on the cleared area. Said Owner shall maintain and keep his/its Homesite in good appearance by cutting all weeds and under brush and by cutting and maintaining all lawns to a height of not more than four (4) inches. All Structures, landscape plans and additions must first be approved by the ACC. No approval is necessary for the planting of flowers, and shrubs, or trees except where it may affect easements or drainage onto adjacent Lots. The initial landscape plans and designs to be submitted to the ACC shall include a $1,000.00 minimum for plants and shrubs.

All toys, newspapers, etc., must be picked up so as not to accumulate in an unsightly manner in view of any Street. Only porch furniture, flower pots, etc., are permissible in front yards.

At any time and from time to time, the Association, or the Declarant may, at their option, enter the Homesite and plant grass or clear the weeds and underbrush and thereafter maintain the Homesite in good appearance. No such entry shall be deemed a trespass. If the Association or Declarant chooses to exercise this option, any planting, underbrush clearing or grass cutting by the Association or Declarant shall cause a lien to arise and be created in favor of the Association or Declarant against any such Homesite for the full amount expended or otherwise chargeable therefore, including the cost of supervision, contracting fees and office overhead. The full amount chargeable to such Homesite shall be due and payable within thirty (30) days after the Owner has been billed therefore, and the lien shall be enforceable in the same manner as liens created pursuant to Article XIV hereof.

2. TREES. A. The Property Owner's Association is entirely responsible to the City of Fayetteville for ensuring the planting, maintaining and protection of the Native American trees in the front yard of each lot within the subdivision. B. The Property Owner's Association shall provide each lot owner with the proper planting instructions and maintenance guidance during the establishment period to ensure the viability of each tree. C. Each lot within Cliffside Subdivision is

required to have and maintain a minimum of two (2) native American trees with a two (2) to three (3) inch diameter in the front yard before the structure is certified for occupancy. Each lot owner shall be responsible for the health of all trees planted on the lot and shall be bound for the maintenance, care and monitoring for each tree planted. If at any time any tree is damaged significantly or dies, it must be replaced within a two (2) month period. The Architectural Control Committee will provide a list of the types of trees permitted. Failure to replant or maintain the tree after notice by the Property Owners Association could result in an assessment and a lien upon the lot for the cost of planting and maintaining the tree. The lot owner agrees a lien which results from a failure to pay an assessment may be foreclosed in the same manner provided by Arkansas Law for the foreclosure of a real estate mortgage.

ARTICLE X
MAINTENANCE

1. DUTY OF MAINTENANCE. Owners and occupants (including lessees of any part of the Property) shall jointly and severally have the duty and responsibility, at their sole cost and expense to keep that part of the Property so owned or occupied, including Dwellings, Structures, Buildings, Improvements and grounds in a well-maintained, safe, clean and attractive condition at all times. Maintenance includes, but is not limited to, the following:

(a) Prompt removal of all litter, trash, refuse, and waste;

(b) lawn mowing;

(c) tree and shrub pruning;

(d) watering;

(e) keeping exterior lighting and mechanical facilities in working order;

(f) keeping lawn and garden areas alive, free of weeds, and attractive;

(g) keeping parking areas, driveways, and roads in good repair;

(h) complying with all governmental health and police requirements;

(i) repainting of improvements;

(j) repair of exterior damages to improvements;

(k) repair of all damage to fences; and

(l) Prompt disposal of all animal waste in a manner that complies with all local, state and federal regulations.

2. ENFORCEMENT. If, in the opinion of the Association any Owner or occupant has failed in any of the foregoing duties or responsibilities, then the Association may provide written notice of that failure, giving the Owner or occupant ten (10) days from receipt to perform the care and maintenance required. Should any person fail to fulfill this duty and responsibility within the ten (10) day period, then the Association through its authorized agent or agents shall have the right and power to enter onto the premises and perform needed care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The Owners and occupants (including lessees) of any part of the Property on which work is performed shall jointly and severally be liable for the cost of the work and shall promptly reimburse the Association for all costs. If the Association has not been reimbursed within thirty (30) days after invoicing, the indebtedness shall be a debt of all of the Owners and occupants jointly and severally, and shall constitute a lien against that portion of the Lot on which work was performed. This lien shall have the same attributes as the lien for assessments and special assessments set forth in Article XIII, and the Association shall have identical powers and rights in all respects, including but not limited to the right of foreclosure.

ARTICLE XI
THE ASSOCIATION

Every person, persons or entity who owns any Lot, including a builder or general contractor, shall be a Member of the Association, and shall abide by its Articles of Incorporation and Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The Association shall be governed by its Articles of Incorporation and Bylaws.

ARTICLE XII
COVENANT FOR MAINTENANCE ASSESSMENTS

1. CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS AND SPECIAL ASSESSMENTS. Each Owner, other than Declarant, of any Lot by acceptance of a deed shall be deemed to covenant and agree, to pay to the Association annual assessments or charges and special assessments, together with interest and costs of collection, if any, which amounts shall be a charge on the land and shall be a continuing lien upon the Lot. Each assessment, together with interest, cost of collection and reasonable attorneys' fees, if any, shall also be the personal obligation of the Owner, other than Declarant, of the Lot at the time when the assessment or special assessment fell due. The personal obligation for delinquent assessment or special assessment shall not pass to an Owner=s successors in title unless expressly assumed by them.

The lien for assessments and special assessments shall be subject to and subordinate to the lien of any recorded first mortgage or deed of trust.

Assessments shall be fixed by the Association in accordance with the Articles of Incorporation and Bylaws of the Association.

In lieu of assessments being imposed upon such Lots owned by the Declarant, the Declarant shall underwrite all reasonable costs for the operation of the Association not covered by assessments paid by Owners of Lots other than Declarant until ninety percent (90%) of all Lots are owned by persons or entities other than Declarant. Once ninety percent (90%) of all Lots are owned by persons or entities other than the Declarant, the remaining Lots owned by the Declarant shall be subject to the same assessments as Lots by Owners other than the Declarant.

2. EXEMPT PROPERTY. Common Use Areas as defined in Article I, all Common Use Areas subsequently added to the Property and any areas which are designated for the common use of a particular Lot, and all portions of the Property owned or otherwise dedicated to any political subdivision shall be exempt from the assessments and liens of the Association.

ARTICLE XIII
GENERAL PROVISIONS

1. DURATION. The Covenants and Restrictions of this Declaration shall run with and bind the land, shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time the Covenants and Restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument terminating these Covenants and Restrictions signed by the then Owners of sixty five percent (65%) of the Property has been recorded prior to the commencement of any ten-year period.

2. AMENDMENTS. The Declarant shall be entitled to three (3) votes for each Lot, whether built upon or not, in which Declarant holds title, for the purpose of amending these covenants and restrictions. All other Owners of a lot shall be entitled to one (1) vote for each Lot in which he/it holds an ownership interest. Lot Owner, other than the Declarant, as herein defined, may be one (1) or more and all such persons or entities constituting one (1) person or member shall vote as they, among themselves, determine but in no event shall more than one (1) vote per Lot owned by others than the Declarant be voted.

These Covenants and Restrictions may be amended during the first twenty (20) years from the date of recording of the Declaration, by an affirmative vote of seventy five percent (75%) of eligible votes, and thereafter by an affirmative vote of seventy percent (70%) of the eligible votes. Any amendment must be properly recorded and signed by not less than Owners holding seventy five percent (75%) of the eligible Votes within the first twenty (20) years and seventy percent (70%) of the eligible votes thereafter.

3. NOTICES. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to

the last known address of the person who appears as Member or Owner on the records of the association at the time of mailing. Each purchaser of a Lot shall forward a copy of his/its recorded warranty deed to the Association or its officers.

4. ENFORCEMENT. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity against any person or person violating or attempting to violate any Covenant or Restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these Covenants and Restrictions. Failure by the Association or any Owner to enforce any Covenant or Restriction shall in no event be deemed a waiver of the right to do so thereafter.

5. SEVERABILITY. Invalidation of any one of these Covenants or Restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

6. ATTORNEY FEE. In any legal or equitable proceeding for the enforcement or to restrain the violation of this instrument or any provision thereof, by reference or otherwise, the prevailing party or parties shall be entitled to attorney fees in such amount as the court finds reasonable. All remedies provided for herein, or at law or equity, shall be cumulative and not exclusive.

7. DISSOLUTION. The Association may be dissolved with consent given in writing and signed by not less than three-fourths of each class of Members as defined in the Bylaws of the Association. Upon dissolution of the Association other than incident to a merger or consolidation, the assets of the Association shall be conveyed and granted and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to same or similar purposes.

[Remainder of Page Intentionally Blank; Signature Pages Follow]

By:
Print Name:
Title:

Attest:

Print Name:
Title:

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss:

On this day before me, a Notary Public, duly commissioned, qualified and acting within and for said county and state, appeared the within named _____ and _____ being the _____ and _____, respectively, of _____ and who had been designated by said _____ to execute the above instrument, who stated they were the _____ and _____ of said _____ and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said _____ and further stated and acknowledged that they had so signed, executed, and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this ____ day of _____, 2003.

Notary Public

My Commission Expires:

R-PZD 04-1154: Planned Zoning District (CLIFFSIDE, 526): Submitted by PROJECT DESIGN CONSULTANTS, INC for property located at THE EAST SIDE OF HAPPY HOLLOW ROAD, SOUTH OF THE CLIFFS APARTMENTS. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 26.30 acres. The request is to approve a Residential Planned Zoning District on the subject property with approximately 48 two-family and 15 single-family lots proposed.

Ostner: Our next item is R-PZD 04-1154 for Cliffside.

Warrick: This property is located on the east side of Happy Hollow Road south of the Cliffs Apartments P.U.D. and north of Happy Hollow school. The property is currently zoned RSF-4 and contains approximately 26 acres. The applicant is requesting a rezoning and Preliminary Plat approval for a residential subdivision zoned a unique R-PZD zoning district. The proposed use of the site is for a residential development consisting of 111 residential dwelling units, 15 of which are single family detached and 48 two family attached town homes. The site is currently vacant. The floodway crosses the subject property from the north to the south. In addition, a rather large 75' easement runs east and west along the north portion of this property as you can see from Crossover with the power lines that go through there. The total proposed dwelling units on this 26 acre site is 111. Therefore, the proposed density is 4.25 dwelling units per acre, which is slightly above what is allowed with the current density of four units per acre. Of course, that RSF-4 zoning district requires 70' lots of 8,000 sq.ft. in area and this proposal is a drastic change from that. They are using quite a unique mixing of attached town home style lots and single family homes as well. As I mentioned, this site is located in east Fayetteville south of the Cliffs apartments, north of Happy Hollow elementary school. As part of the parks review and staff's review of this project we are recommending, and the applicant is showing on the plat, a trail connection through the proposed tree preservation area along the creek both from the school up to the Cliffs apartments, which will provide a needed pedestrian connection between those two. Access is proposed to the east and south. To the north there is none. The initial submittal had two stub outs to the north but it was discovered that those are tree preservation easements for the Cliffs apartments. Therefore, these tree preservation easements that run along the creek will actually be extending that riparian corridor. There is one connection to be constructed extending through the existing Ray Avenue. This took quite a bit of coordination between the school and the developer. As I mentioned, the initial submittal came in there was no stub out to the south because of the school property there and no real intent to be developed. Staff recommended that the applicant go back and talk to the school district and see if potentially some of the traffic could be alleviated from going south and potentially finding a better way for a better disbursement of traffic. They did meet with the school district and I believe the school district voted on allowing

this connection and dedication of right of way so a street connection will be provided to the south. We are happy that those two property owners could work that out which provides the city with connectivity and both of these property owners with a mutual benefit. As I mentioned, to the east there is a stub out proposed for future connectivity and there is one existing connection to Happy Hollow Road to the west, which is a collector street. Happy Hollow Road is a newly constructed street west of the subject property. The developer of Cliffside is dedicating 35' from centerline as required. I have already mentioned coordination and there is quite a bit of coordination on this project. Both with the staff and adjacent property owners. The site is heavily canopied. It has 88% existing canopy on this property. We had to work quite a bit to try to find the best way to preserve as much canopy as possible and identifying those areas most important and most significant based on our tree preservation ordinance. As Landscape Administrator, I am recommending approval of the tree preservation plan and I believe that we have worked out a great solution. 25% is the minimum requirement and the developer is showing 38%, which is commendable. As I mentioned, the Parks and Recreation Board did review this project and is recommending money in lieu in the amount of $61,605 as well as the recommendation for that trail connection. This project has been before the Subdivision Committee at least twice. I am sure you have minutes from those meetings as well as some of the public comment that has been received on this project which has not been much. We have received a few items of public comment. A draft of protective covenants are within your staff report as well as those findings associated with all PZDs. As I mentioned, emphasis on tree preservation has been placed with the development proposal and the density which is proposed, while slightly higher than the current underlying density does create a transition from the higher density multi-family residential development to the north. That is where they are placing a lot of their two family homes. The school to the south and there are surrounding single family dwelling units. The tree preservation areas as shown will also act as common areas for this neighborhood and for those traveling along this trail. Staff is recommending that this item be forwarded to the City Council with a recommendation for approval of R-PZD 04-1154 with 23 conditions. I will go over a couple of those. Planning Commission determination of residential lot access management. Having seen recently in another PZD with smaller lots, staff feels that it is appropriate to establish an access management policy on these streets. You have 30' wide lots, if you have a standard 24' wide driveway you would pretty much have driveways the entire street which is not sound practice. We recommended, as we have in the past, if you have a shared driveway it be allowed at 24' and if you have individual driveways those be allowed at a maximum of 12' at the right of way. Planning Commission determination of offsite street improvements. I believe we have worked most of these out in this case. The developer will be

improving Happy Hollow Road from centerline as well as extending Ray Avenue to the south and some additional improvements along Ray Avenue. Additionally, parallel on street parking will be allowed on that street to allow for program types of parking for the school when they have after school programs and things of that nature to allow for excess parking in that area. As mentioned, $61,605 for parks fees. Other conditions address the pedestrian connections both to the north and to the south which details are still being worked out. We feel comfortable at this level to recommend that this go forward to the City Council. Final covenants of course, always have to come through with a R-PZD, which is a Preliminary Plat/Final Plat type of development. We will see those final covenants at the time of Final Plat.

Ostner: Thank you Mr. Pate. Is the applicant present? If you could introduce yourself and give us your presentation.

Scott: Good evening. My name is Art Scott, I am with Project Design Consultants, we are the engineers on the project. This is Seth Cathca with SBC Investments, the developer. We are asking for your approval on this zoning change tonight to R-PZD and if you have any questions we will answer them for you.

Ostner: Thank you. At this point I will open it up to the public. Would anyone like to speak about this PZD? Please introduce yourself and give us your comments.

Erf: Good evening, my name is Jeff Erf. I live at 2711 Woodcliff Road. A couple of concerns, first of all, do you realize that Cliffside is also the name of a street in the Hyland Park subdivision? I just throw that out to you because it could potentially cause some confusion for people. The main reason I'm here, I have got some concerns about the connection of Ray Street from Happy Hollow school up north into this development. I am not sure how well this has been thought out. My son went to Happy Hollow for six years and I'm quite familiar with the traffic flow that goes back through there and in the mornings it is backed up and in the afternoons it is backed up with people getting there early and waiting. I am concerned that creating an extra point of access to that road is going to create some confusion and chaos and I guess one of my questions is will they be putting in sidewalks on the old part of Ray Street that runs adjacent to the school? As I recall, there are no sidewalks there now.

Ostner: Those would be offsite sidewalks.

Erf: If there aren't sidewalks there should be sidewalks so that once they reach Ray Street they can stay on sidewalks. That is my main concern. I hope somebody has looked at this in detail and really given it some thought.

Also, there is a city park that is right next to the gymnasium. I was wondering what was happening with that. It almost looks to me like Ray Street extension goes right through there. That is an issue because if they are removing a city park then don't they need to replace the city park, not just money in lieu of. They are potentially going through an existing city park and so that ought to be part of the discussion of money in lieu. Thank you very much.

Ostner: Thank you Mr. Erf. Would anyone else from the public like to speak to this issue of Cliffside PZD? Seeing none, I will close it to the public and bring it back to the Commission.

Warrick: I can address some of the questions that Mr. Erf brought up. With regard to the name of the subdivision, our 911 Coordinator has reviewed that and will continue to review that. If there are any conflicts we will be made aware of it and we will also make the developer aware of it so that they can choose a different name. Typically, if there are two streets that are named the same we can absolutely not allow for that for 911 purposes but I don't believe that there is conflict in a subdivision name and a street in another part of town having that name. The connection to Ray Avenue, this project was originally submitted back in July and staff has been working with the developer and the school district representatives since that time to understand the implications of making that connection and how it would affect the traffic flow for the city as well as for the students and the parents and the employees at Happy Hollow school. We had meetings with the school principal, with representatives from the superintendents office, with staff, with the developer in the very beginning to try to get our minds around how this would affect all of the concerned parties. The school principal presented the proposal to her staff as well as to her parent groups and it was also presented by the developer at the very first open house of the school semester. The school board voted on this, I believe that they heard it at least one of their school board meetings. They did vote in favor of selling the necessary property to the developers to make this street connection. Ultimately, they decided that it was in the best interest of the school as well as the city to make the connection. We appreciate that fact because we do feel that this is an appropriate connection. The connection is not going through city parkland. That property is owned by the school district and there used to be a more developed trail system through the woods at the north end of the school. It is not quite as developed as it used to be but the walking trail that this developer will be building will be able to connect to the trail system that is left on the north side of Happy Hollow school. I hope that addresses those concerns. With regard to sidewalks on Ray Avenue, the amount of property that is being dedicated for right of way is sufficient to provide sidewalks. I would need the applicant to confirm that they are making the improvements to include sidewalks. Their improvement will go south to

about 4th Street, which is the intersecting street just south of the main entrance drive to Happy Hollow school.

Ostner: Thank you.

Clark: Along that same line, isn't a traffic light scheduled for Happy Hollow?

Warrick: The intersection of Happy Hollow and Huntsville is definitely being reconfigured and improved. That is a CIP Project that I want to say is projected for very soon. I think it is under design at this point.

Clark: That is a horribly congested area during school days and I would think that if you had a light coming out of this subdivision you would go to the light instead of Ray Avenue during pick up and drop off times for school kids. Dawn, didn't you indicate to us earlier that that is eminent. It is not years away, it is soon.

Warrick: Our Engineering Design Services Division is designing that intersection right now. I can't promise that that will be signalized but it will be an improved intersection and the flow of traffic will be changed.

Ostner: How exactly will it be?

Warrick: I can invite the Engineering Design Services Division to come and talk to you. I know that the main flow of traffic will be redirected onto Happy Hollow south as opposed to Huntsville being the primary. That is my understanding but it is being designed and it has to go through several approval processes as well as the Street Committee. I don't want to promise any specific type of configuration.

Shackelford: Mr. Scott, would you enlighten us on your plans for sidewalks along Ray Avenue?

Scott: We intend to extend sidewalks down Ray Avenue, we are hoping on one side, the side where we have parallel parking, on the east side, from the south edge of our property to where it intersects the existing pavement so that all of the children from this subdivision can walk down that sidewalk and access the school so they can walk back and forth to school.

Shackelford: Will that be a 4' or a 6' wide sidewalk?

Scott: I believe we intended 4'. It is a 50' right of way.

Vaught: The proposed walking trail, is this going to be dedicated to the city for parkland or is it going to be maintained by the P.O.A.?

Pate: It will be maintained by the P.O.A. within a tree preservation common area easement.

Ostner: I have a few questions for staff on the same notes. On page 7.44, Article VI in their covenants, they have offered all roadways within Cliffside are private access easements for vehicular traffic only for the use of owners of lots in Cliffside.

Warrick: We are going to ask the developer to address that.

Ostner: If you could please address that, that doesn't seem to be appropriate.

Cathca: That was a mistake. That was off of our template covenants that we have used in our other subdivisions. I apologize.

Ostner: I'm also hoping on 7.47, Common Use Areas, any common areas may be used by all residents of Cliffside and their guests. I'm hoping that is also an error.

Cathca: Once again, an error. I apologize.

Ostner: Terrific. Those were concerns of mine. The third issue I have is this trail that is connecting to the north that is intended for pedestrian flow, we have had instances of those trails getting fenced. Unintentionally, but a property owner here, a property owner there and two board fences 10' apart with a trail in between doesn't make a good system. Can the developer address that?

Warrick: I don't think that that would even be an option for this development. There is only one location that this trail goes between two lots. In other areas it runs adjacent to lots and greenspace or preservation area or completely through preserved areas.

Ostner: Ok. There is a note on the plat that talks about frontage access. It says lots 12 and 15 will have access for Happy Hollow. That didn't add up because those lots are somewhere else. It also says Lots 13 and 14 will face street one and they are nowhere near street one. I'm hoping this was a typo again.

Scott: Yes, they got renumbered. The intention is that the access on Happy Hollow, that we have some of those homes appear to access and maybe have a driveway in the back, but face Happy Hollow so that it gives more of a neighborhood look and not a walled community through there so we agreed to do that on some of those lots there.

Ostner: You are looking at lots 20 through 26 and you are saying that a few of those will face Happy Hollow?

Scott: Yes Sir. Particularly the ones along the entrance street there. Lots 23 and 24.

Ostner: That's good. That was going to be my next complaint that there were no eyes on the street. That is ok.

Pate: Condition number three also addresses that discrepancy on the plat, that those notes be revised to reflect those comments that you just made.

Ostner: I believe those are all of my comments.

Clark: On the plat we have got tree preservation and tree preservation/common area. What percentage is strictly tree preservation and what percentage is common area?

Pate: As of this moment I can't answer that. There are specific lots designated on your plats and shown as preserved for tree preservation and common space. When this project, should it be approved by the Planning Commission and the City Council, comes back through for a Final Plat those lots will be restricted from certain development rights and we will be required to sign off on that Final Plat limiting certain activities on those specific lots. A developer or a home owner, as with any residential subdivision, always has the right to move into the lot and position their home so that they can actually build a home on that site. The developer is meeting that requirement by stating the required tree preservation amount along with the exclusion of a building envelope within that lot. Basically, the lots that are preserved, lots 112, 113, 114, 115, 116, 117 and 118 are all tree preservation lots and will remain as such permanently.

Clark: Maybe I should ask the developer, what are you planning to do different in the /common area lots?

Scott: The common area there runs along natural drainage courses and we wanted to leave those as a natural corridor. As Jeremy said, those will be an area where no development will take place. We did cut the trail out of that. The trail is not counted as tree preservation area, that has been removed. We took approximately 50% out of the lots for buildings.

Clark: I've looked at the tree list that Jeremy provided us and you are saving some very large, significant trees and a whole bunch of them, and you are to be commended for that. I was just wondering because the common areas is a different designation within a PZD, what uniqueness for the

residents was going to be to set it apart from a tree preservation area and make it a common area. Maybe I'm just playing a semantical game.

Pate: I believe on the ground as this is developed all of the tree preservation areas that you see permanently will be common areas. It will be more of a woodland type environment.

Clark: I've got one on 112 that is just a tree preservation area but then I've got others that have /common area so I was wondering if you had planned on something remarkably special. I'm glad you are saving it. It is a great idea and there are some large trees there.

Scott: Lot 112 is a lot smaller of an area than 114 or 115. It wouldn't really function well as a common area for activities or anything like those other areas would for hiking and so forth.

Clark: Thank you.

MOTION:

Shackelford: As staff made comments earlier, we have seen this a couple of times at Subdivision Committee. This is a project that has a lot of eyes on it, in particular, with regard to the extension of Ray Avenue. I personally think that that extension has been well thought through by both the school board and city staff along with all sorts of people who were involved with this project. I think it adds a lot to this project and I am in favor of that as well. Overall, this is a great development in my mind. We have talked about in the City of Fayetteville we need a supply of more affordable housing. I think this serves that need and I like it's close proximity to an elementary school. I will make a motion that we forward with a recommendation for approval R-PZD 04-1154 to the City Council with the conditions of approval as stated with specific determinations on number two, that due to the smaller width, that these lots be allowed to have shared driveways, specific finding on number four, a determination of off street improvements to concur with staff's recommendation of a 28' street with curb, gutter, storm sewer for the Ray Avenue extension. The improvements to dissipate a portion of Ray Avenue north of 4th Street to be coordinated with the Engineering Division as stated. Basically, subject to all conditions of approval and staff's comments.

Trumbo: Second.

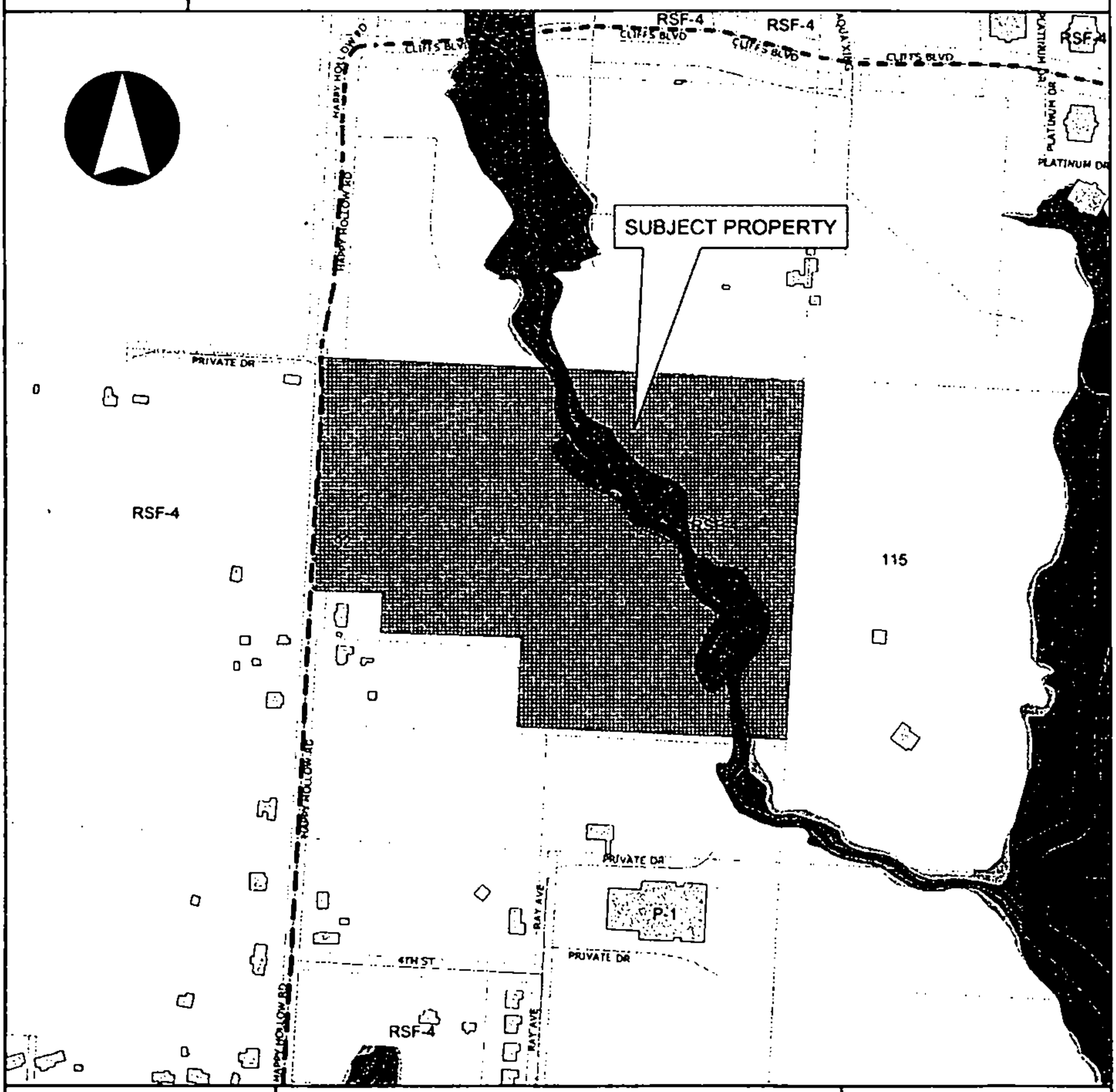
Ostner: Is there further comment? Could you call the roll Renee?

Roll Call: Upon the completion of roll call the motion to recommend approval of R-PZD 04-1154 to the City Council was approved by a vote of 8-0-0.

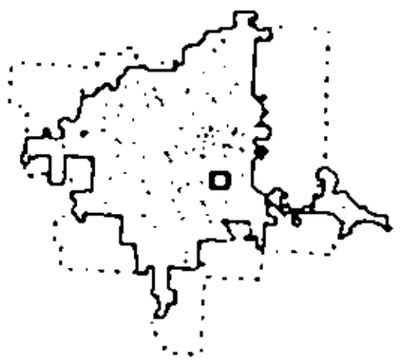
R-PZD04-1154

Close Up View

CLIFFSIDE



Overview



Legend

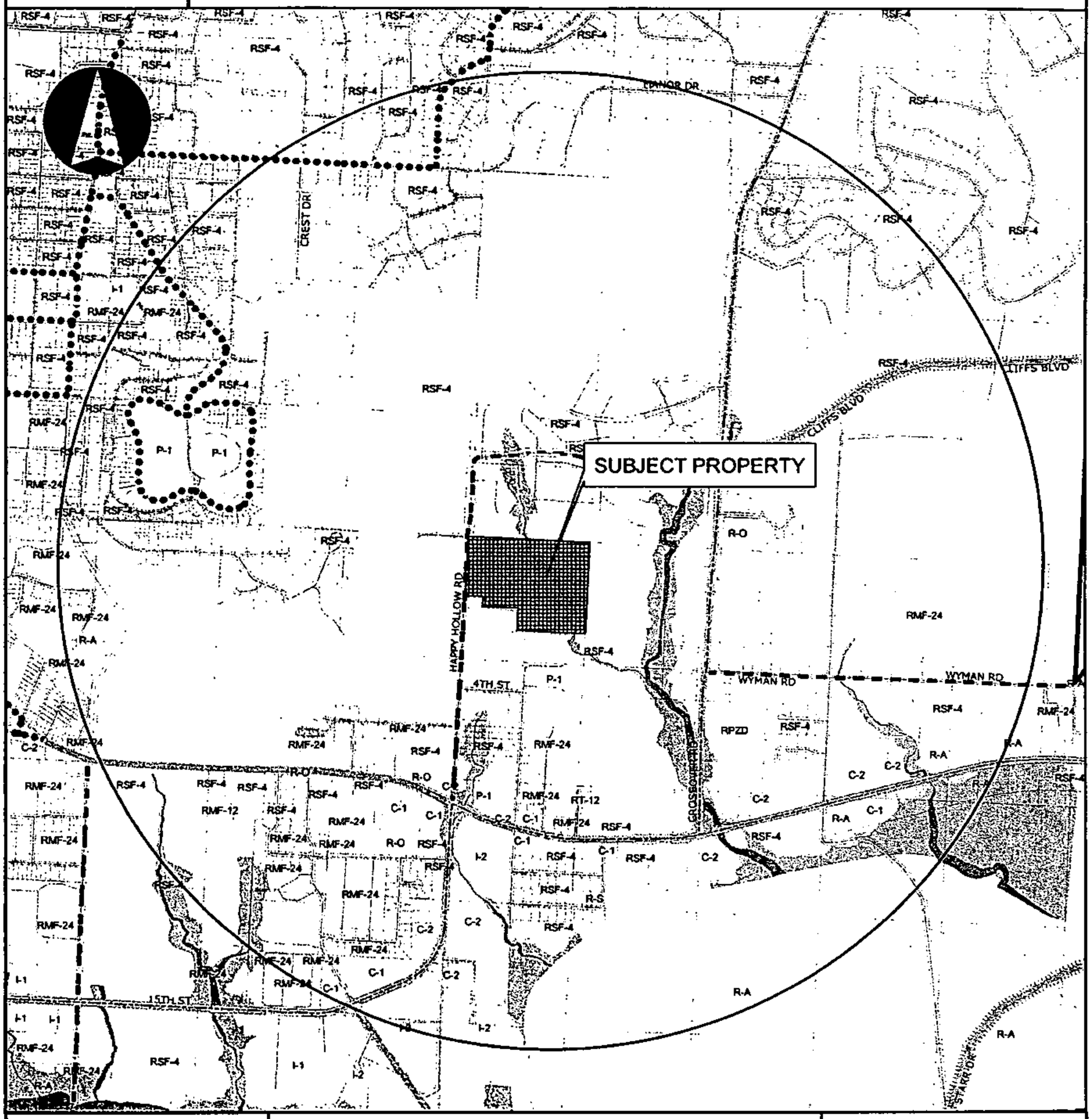
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
R-PZD04-1154
Fayetteville
Outside City

0 150 300 600 900 1,200
Feet

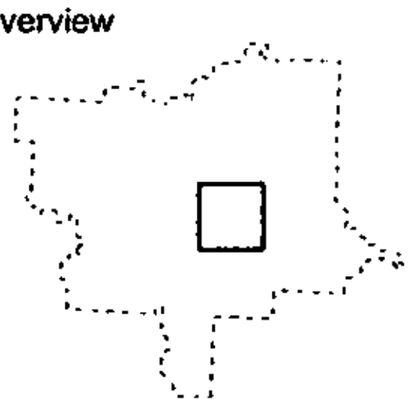
R-PZD04-1154

One Mile View

CLIFFSIDE



Overview



Legend

Subject Property

R-PZD04-1154

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

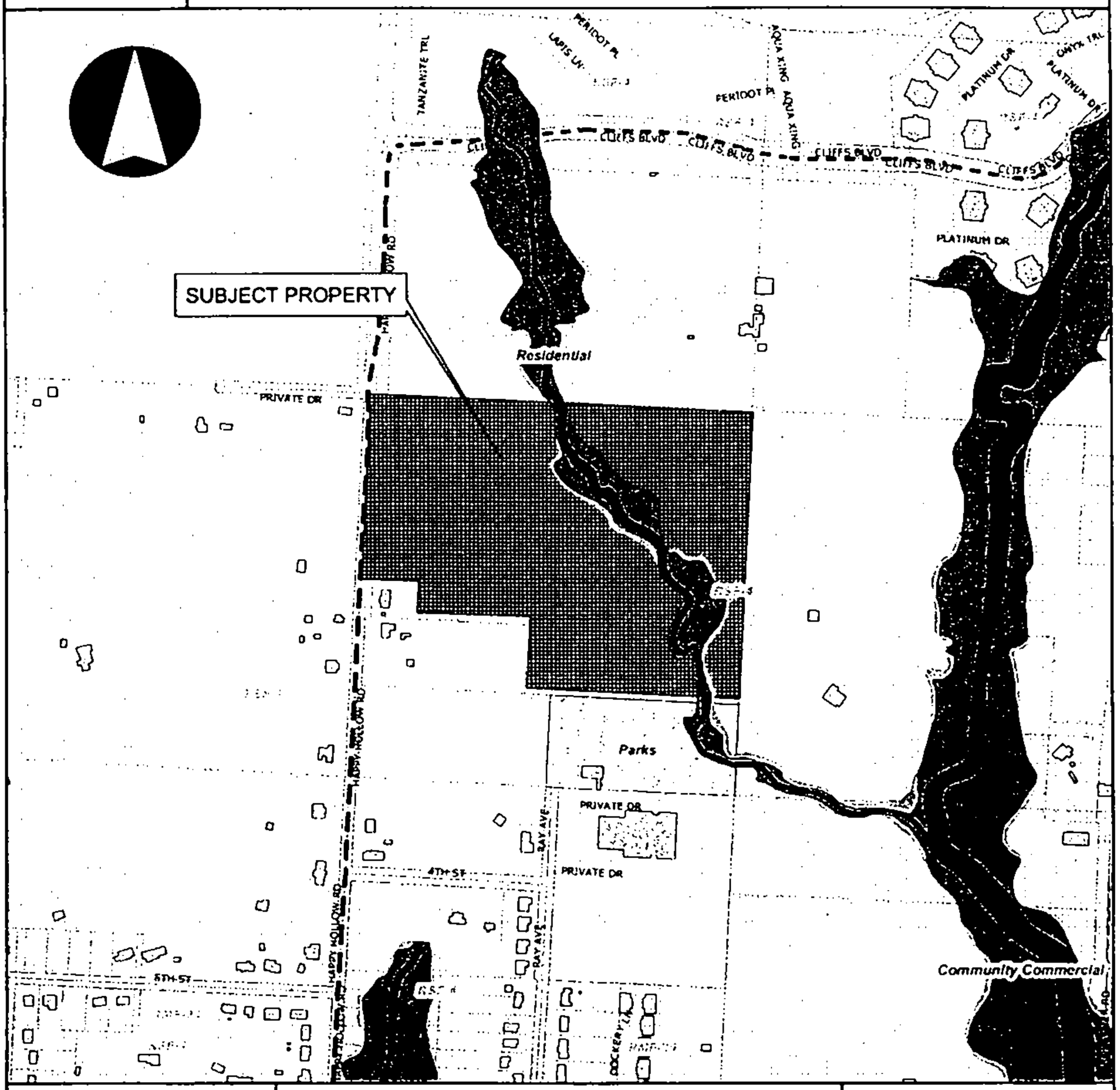
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

R-PZD04-1154

Future Land Use

CLIFFSIDE



Overview

Legend

Subject Property
R-PZD04-1154

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
Outside City

Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 150 300 600 900 1,200
Feet

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Dec-04
City Council Meeting Date

Dawn T. Warrick	Planning	Operations
Submitted By	Division	Department

Action Required:

Approval of an ordinance for a Residential Planned Zoning District consisting of 111 residential dwelling units, of which, 15 are single family detached homes and 48 are two family attached townhomes

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director — 11-19-04 Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney — 11-19-04 Date

Received in City Clerk's Office

Mayor — 11/18/04 Date

Received in Mayor's Office 11/18/04 S.H.

Comments:

ENTERED 11-19-04 TA

City Council Meeting of November 16, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Gary Coover, City Engineer

Date: November 19, 2004

Subject: Approval of a contract and bid waiver in the amount not to exceed $129,989 with the Ecological Engineering Group of the University of Arkansas Department of Biologicial and Agricultural Engineering for a four year Physical and Biological Stream Assessment and Monitoring Program for the City of Fayetteville.

RECOMMENDATION

Staff recommends approval of the contract and bid waiver.

BACKGROUND

Mandated by Congress under the Clean Water Act, the NPDES Phase II Stormwater Program is a comprehensive national program for addressing the non-agricultural sources of stormwater discharges which adversely affect the quality of our nation's waters. The Program uses the National Pollutant Discharge Elimination System (NPDES) permitting mechanism to require the implementation of controls designed to prevent harmful pollutants from being washed by stormwater runoff into local water bodies.

The EPA Storm Water Phase II Final Rule (December 8, 1999) requires operators of regulated small municipal separate storm sewer systems (MS4s) to obtain a NPDES permit and develop a storm water management program.

As the statewide permitting authority, ADEQ has issued a general permit to cover storm water discharges from Regulated Small MS4s in the state. The permit effective date is February 1, 2004. All regulated small MS4s in the state are required to apply for permit coverage using the Notice of Intent (NOI) on or before April 30, 2004.

All regulated Small MS4s permitted under the general permit are required to develop and implement a Storm Water Management Program (SWMP) to address each of the Six Minimum Control Measures that are contained the federal regulation and the ADEQ general permit. These SWMPs must be developed and fully implemented no more than five (5) years from the effective date of the permit. The SWMP must include Best

Management Practices (BMPs) for each of the six Minimum Control Measures along with Measurable Goals and interim milestones:

1. Public Education and Outreach
2. Public Participation/Involvement
3. Illicit Discharge Detection and Elimination
4. Construction Site Runoff Control
5. Post-Construction Runoff Control
6. Pollution Prevention/Good Housekeeping

DISCUSSION

The health of our streams is a vitally important objective of city staff, City Council, the Arkansas Department of Environmental Quality and the US Environmental Protection Agency. This project, performed in conjunction with the University of Arkansas, will assist city staff in establishing baseline and temporal impact data for streams within the City of Fayetteville.

Staff requests to waive competitive bidding requirements to take advantage of the unique expertise and resources of the Ecological Engineering Group from the UA Department of Biological and Agricultural Engineering. Approximately forty sampling sites will be analyzed and monitored for conditions and changes to stream geomorphology, habitat quality, quality of floodplain/riparian zone and quality of benthic macroinvertebrate community. This study will characterize the current physical and biological condition of streams within the City and benchmark these conditions over a four year time frame.

The Ecological Engineering Group will provide all manpower and laboratory work to perform this study, and will provide the City with annual reports summarizing the state of the streams in Fayetteville and any changes in stream status.

This project will satisfy portions of the requirements of the EPA Phase II NPDES permit, will assist in monitoring the effectiveness of BMP's in the watersheds, will provide an excellent educational and research opportunity and strong partnership with the University of Arkansas, and will provide a cost-effective means to measure the physical and biological health of our streams.

BUDGET IMPACT

This $129,989 expenditure is for the entire four-year project and is included in the Fiscal Year 2004 Budget in the *Drainage Study/Phase II Stormwater Management Account* (Project #02097) in which various drainage studies and Phase II stormwater projects are presented for authorization as they are identified by Staff. Approval of this Physical and Biological Stream Assessment and Monitoring Program request will result in a remaining balance of $48,218.71 in this account.

# # #

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE THE REQUIREMENTS OF COMPETITIVE BIDDING AND TO APPROVE A PROPOSED CONTRACT WITH THE ECOLOGICAL ENGINEERING GROUP IN THE AMOUNT OF $129,989.00 FOR A FOUR YEAR PHYSICAL AND BIOLOGICAL STREAM ASSESSMENT AND MONITORING PROGRAM

WHEREAS, the Ecological Engineering Group of the University of Arkansas Department of Biological and Agricultural Engineering has unique expertise and resources relevant for biological stream assessment and monitoring programs; and

WHEREAS, the Ecological Engineering Group is uniquely qualified to provide the monitoring required of the City by the Clean Water Act and the Phase II Stormwater Program.

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 an exceptional situation exists in which competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and approves a contract (marked as Exhibit "A" and attached hereto) between the City of Fayetteville, Arkansas and the Ecological Engineering Group of the University of Arkansas in the amount of One Hundred Twenty-Nine Thousand, Nine Hundred Eighty-Nine Dollars ($129,989.00) for a four year physical and biological stream assessment and monitoring program, and authorizes Mayor Coody to execute this agreement.

PASSED and **APPROVED** this 7th day of December, 2004.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

PROPOSAL

4-Year Physical and Biological Stream Assessment and Monitoring Program for the City of Fayetteville

September 22, 2004

Submitted by Dr. Marty Matlock and Ms. Dawn Farver
The Ecological Engineering Group
Department of Biological and Agricultural Engineering
University of Arkansas

A. Introduction

The City of Fayetteville is in a state of rapid growth that is likely to continue over the next decade or longer. The rapid rate of growth has resulted in changes in land use at the watershed level. The City of Fayetteville, Arkansas (City) has expressed concern for the impacts of land use change on stream ecological services. The Ecological Engineering Group met with the City to develop a conceptual strategy for monitoring and assessing the impact of land use change on urban stream ecological services.

To understand how stream ecological services in the City are being impacted, it is necessary to characterize the current condition of the streams and benchmark this condition over time – at least 4 years. The characteristics critical for this assessment are geomorphology, habitat quality, quality of floodplain/riparian zone and quality of benthic macroinvertebrate community. These characteristics need to be measured at multiple locations over time. Once baseline data are collected at critical locations, subsequent data can be compared to the baseline to determine if and where changes in stream ecological services are taking place. These changes can include increased erosion, decreased riparian vegetation, decreased benthic macroinvertebrate community diversity, and increased algal production.

B. Tasks and Objectives

B.1 Site Selection

Thirty-six sites have been identified as sites of interest; these data should provide a reasonable representation of the stream ecological services in the City. They were chosen based on current landuse in the watershed, stream flow patterns, and the potential for future development in the watershed. These streams ultimately flow into either the Illinois or White Rivers and include sites on Clear Creek, Mud Creek, Cato Springs Creek, Town Branch, Hamestring Creek, Scull Creek, Clabber Creek and the West Fork of the White River.

Three of the 36 sites were selected because of the presence of USGS Gaging stations. Sampling at these sites allows data that have been collected at the gaging stations to be assimilated with data collected in the field. The finalized site selection will be

determined through the sampling season. Additional sites may also be included in the study at the discretion of the city engineers and the Biological and Agricultural Engineering Department to ensure that the stream systems in the City are effectively characterized.

As of the time of proposal submittal approximately 30 of the 36 sites chosen have been assessed by the University of Arkansas Department of Biological and Agricultural Engineering Department using the Wadeable Streams Assessment (WSA) methodology developed by the Environmental Protection Agency.

B.2 Protocol.Development

B.2.1 Sampling Methods

The following stream characteristics will be assessed and data will be collected at each site of interest:

- Benthic macroinvertebrate sampling
- Bed material characterization
- Comprehensive geomorphology
- Habitat assessment
- Field water quality measurements

B.2.1.1 Benthic macroinvertebrate sampling

Benthic macroinvertebrates will be collected and preserved from each site to determine the quality of the macroinvertebrate community. Macroinvertebrates are a good indicator of the overall quality of a stream system as they are impacted by many different environmental factors in the watershed and the stream itself. The presence/absence of certain groups of macroinvertebrates can provide information on how impacted stream systems are and how well they function ecologically. Macroinvertebrates will be sampled along five different points along a riffle at each site. The macroinvertebrates collected will then be preserved and identified in a laboratory setting where magnification equipment is available for more accurate identification.

B.2.1.2 Bed material characterization

Bed material characterization will be performed using a modified Wolman Pebble Count technique where samples are collected along a reach using a zig-zag pattern. Every two or three steps (to be determined by the length of the reach), the person sampling leans forward and reaches down without looking and picks up the piece of bed material closest to the tip of her/his toe. The intermediate axis of the pebble is measured and recorded. A minimum of 100 "pebbles" are measured along each reach. The zig-zag pattern extends from one side of the channel to the other including all material that would be wetted during a bankfull flow event. This characterization of bed material can

help to determine how functional the stream is at moving sediment as well as the quality of the habitat that the bed material provides for macroinvertebrates.

B.2.1.3 Comprehensive geomorphology

A comprehensive geomorphology survey will be conducted at each stream site of interest including longitudinal profile as well as two to three marked cross-sections that will be resurveyed annually for observable changes in cross-sectional area, because of erosion/deposition, and in entrenchment ratio. The longitudinal profile will be reassessed for changes in sinuosity, bed feature slopes, and overall channel slope. The data collected will be entered into the Reference Reach Spreadsheet 4.0. This spreadsheet graphs the plan view as well as the profile view of the reach so sinuosity as well as bed and water surface slope can be visualized and quantified. The spreadsheet also graphs each cross-section measured and calculates various values specific to the site from the data collected and entered. The RRSS also provides a means to visually compare each site and how the overall dimensions change from year to year.

B.2.1.4 Habitat assessment

A habitat assessment will be performed at each site according to the Rapid Bioassessment Protocol (RBP). The habitat assessment characterizes each site according to the quality of habitat the stream provides for the organisms that live in and around the stream. This involves characterizing in-stream habitat as well as floodplain/riparian quality and canopy cover.

B.2.1.5 Field water quality measurements

In-field water quality measurements will be taken in conjunction with benthic macroinvertebrate sampling. Measurements will include water temperature, dissolved oxygen, conductivity and pH.

B.2.1.6 Quality Assurance Project Plan (QAPP)

As a part of this project, a quality assurance plan will be submitted to the City of Fayetteville to be integrated into the City's overall QA plan.

B.2.2 Data Collection Schedule

B.2.2.1 Year one schedule

- Benthic macroinvertebrate community assessment (July – August)
- Habitat assessment (July – August)
  - In-stream habitat
  - Canopy cover
  - Riparian quality

- Field water quality measurements (July – August)
- Comprehensive geomorphology (September – October)
  - 3 – 4 cross-sections
  - Longitudinal profile
  - Bed material characterization
- Bed material characterization (September – October)

B.2.2.2 Year two – four schedule

- Benthic macroinvertebrate community assessment (Two times per year)
- Habitat assessment (One time per year concurrent with summer benthic sampling)
- Field water quality measurements (Two times per year concurrent with benthic sampling)
- Comprehensive geomorphology (One time per year)

C. Evaluation and Reporting

Following data collection, data on each site will be analyzed to determine the following:

- Current condition of benthic macroinvertebrate communities
- Existing impacts on each stream sampled
- Characteristics of each individual watershed
- Temporal changes in geomorphology

The benthic macroinvertebrate samples that are collected will be identified in the laboratory to the lowest practical level (frequently genus or family). These results and the characteristics of the macroinvertebrate communities will be used to assess their current condition, and the condition of each sampling site.

Geomorphology and bed material data will be entered into the RRSS. The remainder of the data collected will be entered into a database to allow for comparison between data collection dates. The effects of landuse change from year to year will be examined utilizing data available from the city. Annually, the change in status of the streams will be examined.

Annual reports will be presented to the City summarizing the state of the streams in Fayetteville and the changes in stream status from sampling round to sampling round. The first report will be submitted to the City in December of 2004.

Following project completion, a final report will be presented to the City summarizing the results from sampling over the four year period to get a comprehensive baseline of information on the status of streams in the City. Streams throughout the City will be categorized according to the results from the 4-year monitoring program to determine different levels of health, stability and impairment. From this information, suggestions for protecting, managing and improving these systems will be provided in the report to the City.

D. Budget Summary

Budget summary information is presented in Table 1 below.

Table 1: Summary of annual cost of City of Fayetteville Stream Assessment and Monitoring Project

Project Year	Annual Cost
1	10,512
2	39,928
3	39,448
4	40,101
Total Project Cost	**$129,989**

This proposal accepted by the City of Fayetteville on _____.

_____
Dan Coody, Mayor

_____
Sondra Smith, City Clerk

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 7, 2004 ~~November 16,~~ 2004

FROM:

Gary Coover	Engineering	Community Planning & Engineering
Name	Division	Department

ACTION REQUIRED: ~~Resolution~~ to approve a proposal from the Ecological Engineering Group of the University of Arkansas Department of Biological and Agricultural Engineering in the amount not to exceed $129,989 for a 4-year Physical and Biological Stream Assessment and Monitoring Program for 40 sites throughout the City of Fayetteville.

An ordinance to waive competitive bidding and

COST TO CITY:

$129,989.00	$ 399,205.00	Drainage Study/Phase II Stormwater
Cost of this request	Category/Project Budget	Program Category / Project Name
4470-9470-5817.00	$ 220,997.29	Bridge/Drainage
Account Number	Funds Used to Date	Program / Project Category Name
02097	$ 178,207.71	Sales Tax
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

11-19-04 (w/memo)

See Note Initial — 11-1-04

City Attorney — Date — Purchasing Manager — Date

STAFF RECOMMENDATION:

Division Head — 10-26-04 Date

Received in Mayor's Office — Date

Hugh Earnett for Tom Conklin 10-29-04

Department Director — Date

Cross Reference:

Previous Ord/Res#:

Finance & Internal Services Dir. — Date

Orig. Contract Date:

Hugh Earnett — 10-29-04

Chief Administrative Officer — Date

Orig. Contract Number:

Tom Conklin — 10/29/04

Mayor — Date

New Item: **Yes** **No**

ENTERED 11-1-04

City Council Meeting of December 7, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Director of Parks and Recreation

From: David Wright, Recreation Superintendent

Date: November 17, 2004

Subject: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville and the Fayetteville Youth Center, Inc., in the amount of $250,000 to provide public recreation services for the youth and citizens of Fayetteville for 2005.

RECOMMENDATION

Fayetteville Parks and Recreation Staff recommends to approve the contract with Fayetteville Youth Center to provide public recreation services for and waive competitive bid for services.

BACKGROUND

The City of Fayetteville has provided financial support for the Fayetteville Youth Center since 1967. In 1999, the Parks and Recreation Staff and the Youth Center Staff re-evaluated their operations to determine if each were meeting the needs of the Citizens of Fayetteville in the most efficient possible manner. The results of the meetings were the attached "Working Agreement" between Parks and Recreation and the Fayetteville Youth Center. It is the intent of both agencies to work together for the common good of the citizens by not providing public funding for multiple competing program offerings. If the Youth Center were not providing recreational services for our youth as well as citizens, the City of Fayetteville would need to assume the responsibility.

DISCUSSION

The 2005 budget includes a total of $250,000 to be transferred to the Fayetteville Youth Center. Of this transfer, $187,500 comes from the Parks and Recreation Division, Parks Development Program and $62,500 comes from the General Government Department, Miscellaneous Division. A resolution of contractual services, as well as an ordinance to waive competitive bidding is required. The contract outlines the services the Fayetteville Youth Center is providing to the City and the citizens of Fayetteville. We are requesting a waiver of competitive bids to secure the continuity of services provided and because the Fayetteville Youth Center has adequately served our citizens since it was created.

The agreement for 2005 is similar to the 2004 agreement. However, there is one change. In the working agreement, the City of Fayetteville is requesting the Fayetteville Youth Center name the City as a major contributor to their programs and facilities. This is being addressed by a Major Sponsors wall located at the facility.

If you have any questions regarding the Agenda Request or the Working Agreement, please call me at 444-3481, or email dwright@ci.fayetteville.ar.us.

ORDINANCE NO._____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE FAYETTEVILLE YOUTH CENTER INC. IN THE AMOUNT OF $250,000.00 TO PROVIDE PUBLIC RECREATION SERVICES FOR THE YOUTH AND CITIZENS OF FAYETTEVILLE FOR 2005.

WHEREAS, providing quality recreational opportunities to the youth and other citizens of our community is of mutual interest to the City of Fayetteville and the Fayetteville Youth Center, and;

WHEREAS, the Fayetteville Youth Center and the City of Fayetteville have had a close working relationship for many years, and;

WHEREAS, this relationship allows for a continuity of services vital to the efficient provision of recreational opportunities, and;

WHEREAS, were it not for the services offered by the Fayetteville Youth Center, the City of Fayetteville would be required to assume the duty of providing staff, programming, promotion, and development for youth recreational services.

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

Section 1. That the City Council for the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding and approves a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of $250,000.00 to provide public recreation services for the youth of Fayetteville for 2005. A copy of said contract marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 7th day of December 2004.

APPROVED:

By:_____
DAN COODY, Mayor

ATTEST:

By:_____
SONDRA SMITH, City Clerk

DRAFT

CONTRACT

Between The City of Fayetteville
And
Fayetteville Youth Center, Inc.

WHEREAS, the City of Fayetteville has long been associated with and worked with the Fayetteville Youth Center, Inc. to provide public recreation to the citizens of Fayetteville; and

WHEREAS, the Fayetteville Youth Center, Inc. has long provided public recreation to the youth and citizens of Fayetteville; and

WHEREAS, it remains in the best interest of the City of Fayetteville and its citizens to provide operating, promotion and development revenues to the Fayetteville Youth Center, Inc. in consideration for the substantial recreational programs provided by the Fayetteville Youth Center, Inc. to the youth and citizens of Fayetteville.

NOW, THEREFORE, IT IS AGREED:

The City of Fayetteville shall provide the sum of $20,833.33 monthly to the Fayetteville Youth Center, Inc. throughout the year of 2005 in consideration of the following duties and obligations to be performed by the Fayetteville Youth Center, Inc.:

A. The Fayetteville Youth Center, Inc. shall be jointly responsible with the Fayetteville School System to provide staffing, programming, maintenance, promotion and development for the following facilities: Asbell Gymnasium, Holcomb Gymnasium, Vandergriff Gymnasium and the main facility of the Boys and Girls Club on Rupple Road. The Fayetteville Youth Center, Inc. agrees to use funding from the City to pay for gymnasium supervisors and custodians at these sites.

B. The Fayetteville Youth Center, Inc. shall make a substantial portion of its programs or facilities available to Fayetteville citizens (the public) at little or no cost for needy youth. Although basic membership fees may be required for many Fayetteville residents, no needy youth wishing to participate at the Fayetteville Youth Center, Inc. facility shall be denied access solely because he or she does not have sufficient funds to pay for a regular membership. The Fayetteville Youth Center, Inc. shall report on a quarterly basis the approximate number of Fayetteville Citizens served by its programs and shall include the number of "scholarships" or free memberships provided to Fayetteville citizens.

C. The Fayetteville Youth Center, Inc. shall continue to follow the general Working Procedures and Responsibilities for the City of Fayetteville Parks and Recreation Division and The Fayetteville Youth Center, Inc. which is attached as Exhibit A, and made a part hereof.

CITY OF FAYETTEVILLE

BY: _____
DAN COODY, Mayor

FAYETTEVILLE YOUTH CENTER, INC.

BY: _____

_____
Title

ATTEST:

BY: _____
Sondra Smith, City Clerk

EXHIBIT A

RECREATION IN FAYETTEVILLE

WORKING PROCEDURES AND RESPONSIBILITIES FOR THE CITY OF FAYETTEVILLE PARKS AND RECREATION DIVISION AND THE FAYETTEVILLE YOUTH CENTER, INC.

This agreement is made and entered into between the City of Fayetteville Parks and Recreation Division (Parks and Recreation) and the Fayetteville Youth Center, Inc., d/b/a Fayetteville Boys and Girls Club (hereinafter FYC).

WHEREAS, the parties are two of the providers of recreational programs for the citizens of Fayetteville and wish to define a working agreement which may be revised and modified each year upon mutual agreement between the Director of Parks and Recreation and the Executive Director of the Fayetteville Boys and Girls Club; and,

WHEREAS, it is the goal of both parties to work in cooperation to enhance the recreation facilities and programs offered by the parties and to act together in meeting the needs of the citizens of Fayetteville; and,

WHERAS, increase communications and a new set of operating procedures will assist with the working relationship and will benefit both agencies and their operations; and,

WHEREAS, Parks and Recreation believes the goals of Parks and Recreation and FYC would best be accomplished by defining and streamlining responsibilities and procedures; and, is therefore recommending the merging of facility and program management for all recreation offerings, thereby providing administrative accountability for all services provided to the citizens.

NOW, THEREFORE, in order to define and improve the current working relationship between Parks and Recreation and FYC, the following set of detailed operating procedures and responsibilities are hereby established.

1. FYC shall be responsible for working with the Fayetteville School System to provide staffing, programming, maintenance, promotion and development for the following facilities: Asbell Gymnasium, Holcomb Gymnasium, Vandergriff Gymnasium and the Boys and Girls Club. FYC will be responsible for the hiring, evaluating, and supervising of gymnasium supervisors and custodians at Holcomb, Asbell, and Vandergriff Gymnasiums.

2. Parks and Recreation shall be responsible for providing or approving the staffing, programming, maintenance, promotion and development for the city and school parks, including the following facilities which are utilized for sport programming; Asbell Soccer/Softball Complex, Lake Fayetteville Softball Complex, Gary Hampton Softball Complex, Lewis Street Soccer Complex, Walker Baseball/Soccer Complex, White River Baseball Complex, and the Wilson Park Softball Field. Parks and Recreation shall be responsible for outdoor facilities owned or leased by the City of Fayetteville, excluding the property leased to FYC pursuant to written agreements.

3. FYC shall be responsible for providing or approving the management, staffing and promotions and development of the following programs and activities. FYC shall coordinate with the Fayetteville School System for use of their facilities. FYC shall be responsible for the majority of sports and activities held at indoor recreation facilities, including but not limited to the following:

- Basketball
- Baton
- Camps (Environment Study, Spring Break, Christmas Break, Summer)
- Cheerleading
- Dance
- Fishing Rodeo
- Flag Football (Youth)
- Golf
- Gymnastics
- Karate
- Ping Pong
- School Kids Connection
- Swim Lessons
- Volleyball
- Tackle Football
- Track
- Special Events
- FYC shall not compete/duplicate with those services listed in paragraph 4.

4. Parks and Recreation shall be responsible for providing or approving the management, staffing and promotion and development of the following programs and activities. Parks and Recreation shall be responsible for the majority of sports and activities held at outdoor recreation facilities, including but not limited to the following:

- Baseball
- Softball
- Flag Football (Adult)
- Hobby Use Groups
- Sand Volleyball
- Soccer
- Special Events
- Swim Lessons
- Tennis Lessons

5. FYC agrees not to establish a program that competes/duplicates with an established program provided by Parks and Recreation. Moreover, FYC agrees to provide Parks and Recreation with information relating to any of its program including roster of players, coaches, rules of the league and similar relevant data upon request by Parks and Recreation. It is the intent of both parties to work together for the common good of the citizens of Fayetteville by not providing public funding for duplicate program offerings. It is understood that FYC and Parks and Recreation both currently provide swim lessons and aquatic programs and that both parties agree to work together for the common good for both parties.

6. In the event the FYC wishes to allow program which fall in the general description of paragraph 5 above, which does not believe competes with current Parks and Recreation program, FYC shall provide advance notice of intent to start the program to Parks and Recreation with time to determine whether it is a competing program or not. In the event that FYC offers a program that the Parks and Recreation believes is a duplicate program within the meaning of this document, Parks and Recreation Staff shall give FYC written notices of its assessment. FYC shall either cease operating such program within 30 days of such notice or shall provide a written response to Parks and Recreation that disputes whether such program is in fact a competing program. If FYC fails to cease such program or respond to the assessment from Parks and Recreation, the City may discontinue funding for FYC on the 31st day after such notice. If FYC files a dispute, the issue shall be resolved by City Council and finding of City Council shall be final and not subject to appeal. If FYC fails to cease operation of such a program within 30 days of a decision requiring such cessation by City Council, then the City may stop annual funding to FYC.

7. The FYC Executive Director and Parks and Recreation Director shall have periodic meetings to ensure communication between the two entities.

8. It is understood and agreed that the City's annual purchase of services shall be negotiated on a yearly basis.

9. The FYC Board of Directors is responsible for the management and operation of the annual funding allocation to FYC from the City of Fayetteville and shall have the responsibility for prioritizing the use of such funds. However, 75 percent of the funding shall be expended for promotion and development of recreation.

10. As part of the annual funding, FYC agrees to make its facilities available to residents of the City of Fayetteville for a nominal daily fee without the need to purchase a membership to the club.

11. FYC shall schedule a meeting and submit an annual financial report to the Parks and Recreation Director on or before July of each year. Such report shall detail FYC's use of the City of Fayetteville's funding allocation and accomplishment of performance measures as stated below in number 13.

12. FYC shall comply with schedules and procedures established by the Budget and Research Division of the City of Fayetteville for annual funding requests.

13. Quarterly reports shall be submitted to the Parks and Recreation Director on the following dates: April 10, July 10, October 10, and January 10 (2005). These reports will detail the following performance measures:

    A. Provide a minimum of 30 open recreation hours per week at the Donald W. Reynolds Boys and Girls club facilities.
    B. Provide a minimum of 10 youth instructional/educational programs.
    C. Provide a minimum of three youth sports programs.
    D. Provide a minimum of two free community-wide events at the Donald W. Reynolds Boys and Girls club facilities.
    E. Provide marketing materials to Fayetteville school children for major sport programs.
    F. Implement three customer service surveys for Boys and Girls Club programs.
    G. Apply for 10 grants/major corporate sponsorships to provide additional funding to operate the Fayetteville Boys and Girls Club facilities and programs.
    H. Add Parks and Recreation logo to organizational web site and acknowledge the City of Fayetteville on sponsor wall located in the Donald W. Reynolds Boys and Girls Club.

14. The working procedures and responsibilities contained herein shall become effective January 1, 2005.

CITY OF FAYETTEVILLE

BY: _____
Dan Coody, Mayor

Attest:

BY: _____
Sondra Smith, City Clerk

FAYETTEVILLE YOUTH CENTER, INC.

BY: _____

Attest:

BY: _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Dec-04
City Council Meeting Date

Connie Edmonston	Parks and Recreation	Operations
Submitted By	Division	Department

Action Required:

An ordinance waiving formal the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of $250,000 to provide public recreation services and facilities for the youth and citizens of Fayetteville for 2005.

$ -	$ 62,500	
$ 250,000	$ 187,500	Transfer to Boys & Girls Club
Cost of this request	Category/Project Budget	Program Category / Project Name
1010.6600.5718.00-25%	$ -	
2250.9250.5718.00-75%	$ -	Parks Development Program
Account Number	Funds Used to Date	Program / Project Category Name
	$ 62,500.00	
	$ 187,500.00	Parks Development Program
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Department Director — 11-19-04 Date

Previous Ordinance or Resolution # 4532

Original Contract Date:

Original Contract Number:

City Attorney — 11/18/2004 Date

Received in City Clerk's Office

Mayor — 11/19/04 Date

Received in Mayor's Office
11/17/04 PM

Comments:

11-19-04

City Council Meeting of December 7, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Director of Parks and Recreation

From: David Wright, Recreation Superintendent

Date: November 17, 2004

Subject: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville and the Council on Aging in the amount of $50,000 to provide public recreation services for senior citizens of Fayetteville for 2005.

RECOMMENDATION

Fayetteville Parks and Recreation Staff recommends to approve the contract with Council on Aging, Inc., to provide public recreation services for and waive competitive bid for services.

BACKGROUND

The City of Fayetteville has provided financial support for the Council on Aging, Inc., since the Hillcrest Towers were built in 1972. This cooperative agreement between the City of Fayetteville and the Council on Aging has been very successful. The Council on Aging provides recreational programs that meet the needs of our senior citizen residents at the Hillcrest Towers and the Fayetteville Senior Center. It is the intent of both parties to work in cooperation to enhance the recreation facilities and programs in our City, while not duplicating services in efforts to spend tax payer's money as effectively as possible. If the Council on Aging were not serving our senior citizen population, the City would need to assume responsibility.

DISCUSSION

The 2004 budget includes a total of $50,000 to be transferred to the Council on Aging, Inc. Of this transfer, $37,500 comes from the Parks and Recreation Division, Parks Development Program and $12,500 comes from the General Government Department, Miscellaneous Division. A resolution of contractual services, as well as an ordinance to waive competitive bidding is required. The contract outlines the services the Council on Aging is providing to the City and the citizens of Fayetteville. We are requesting a waiver of competitive bids to secure the continuity of services provided and because the Council on Aging, Inc., has adequately served our citizens since it was created.

The agreement for 2005 is similar to the 2004 agreement. However, there is one change. The Council on Aging is recognizing the City of Fayetteville as a major contributor of their programs and facilities.

If you have any questions regarding the Agenda Request or the Working Agreement, please call me at 444-3481, or email dwright@ci.fayetteville.ar.us.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE COUNCIL ON AGING IN THE AMOUNT OF $50,000.00 TO PROVIDE PUBLIC RECREATION SERVICES FOR THE SENIOR CITIZENS OF FAYETTEVILLE FOR 2005.

WHEREAS, providing quality recreational opportunities to the senior citizens of our community is of mutual interest to the City of Fayetteville and the Council on Aging, and;

WHEREAS, the Council on Aging and the City of Fayetteville have had a close working relationship for more than thirty years, and;

WHEREAS, this relationship allows for a continuity of services vital to the efficient provision of recreational opportunities, and;

WHEREAS, were it not for the services offered by the Council on Aging, the City of Fayetteville would be required to assume the duty of providing staff, programming, promotion, and development for senior citizen recreational services.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding and approves a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $50,000.00 to provide public recreation services for the senior citizens of Fayetteville for 2005. A copy of said contract marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By:_____
DAN COODY, Mayor

ATTEST:

By:_____
SONDRA SMITH, City Clerk

DRAFT

EXHIBIT A

RECREATION IN FAYETTEVILLE

WORKING PROCEDURES AND RESPONSIBILITIES FOR THE CITY OF FAYETTEVILLE PARKS AND RECREATION DIVISION AND THE COUNCIL ON AGING, INC.

This agreement is made and entered into between the City of Fayetteville Parks and Recreation Division (Parks and Recreation) and the Council On Aging (hereinafter COA).

WHEREAS, the parties are two of the providers of recreational programs for the citizens of Fayetteville and wish to define a working agreement which may be revised and modified each year upon mutual agreement between the Superintendent of the Parks and Recreation and the Executive Director of the COA; and,

WHEREAS, it is the goal of both parties to work in cooperation to enhance the recreation facilities and programs offered by the parties and to act together in meeting the needs of the citizens of Fayetteville; and,

WHEREAS, increased communications and a new set of operating procedures will assist with the working relationship and will benefit both agencies and their operations; and,

WHEREAS, Parks and Recreation believes the goals of Parks and Recreation and COA would best be accomplished by defining and streamlining responsibilities and procedures; and, is therefore recommending the merging of facility and program management for all recreation offerings, thereby providing administrative accountability for all services provided to the citizens.

NOW, THEREFORE, in the order to define and improve the current working relationship between Parks and Recreation and COA, the following set of detailed operating procedures and responsibilities are hereby established.

1. COA shall be responsible for providing staffing, programming, promotion and development of recreational programs for senior citizens which includes, but not limited to, recreational trips, arts and crafts, music and games.

2. Parks and Recreation shall be responsible for providing or approving the staffing, programming, maintenance, promotion and development of the parks systems within the city and the recreational events occurring within the city for all ages.

3. The COA Executive Director and Parks and Recreation Director shall have periodic meetings to ensure communication between the two entities.

4. It is understood and agreed that the City's annual purchase of services will be negotiated on a yearly basis.

5. The COA Board of Directors is responsible for the management and operation of annual funding allocation to COA from the City of Fayetteville and shall have the responsibility for prioritizing the use of such funds. However, 75 percent of the funding shall be expended for promotion and development of recreation.

6. COA shall schedule a meeting and submit an annual financial report to the Parks and Recreation Director no more than thirty (30) days after the end of the COA fiscal year, which ends on June 30, 2005. Such report shall detail COA's use of the City of Fayetteville's funding allocation and accomplishment of performance measures as stated in number eight (8).

7. COA shall comply with the schedules and procedures established by the Budget & Research Division of the City of Fayetteville for annual funding requests.

8. Quarterly reports shall be submitted to the Parks and Recreation Director on, or before, the following dates: April 10, July 10, October 10, and January 10 (2005). These reports shall detail the following performance measures:

A. Increase the amount of adult citizens served yearly by five percent.
B. Provide 10 educational/recreational programs at the Community Adult Center and Fayetteville Senior Center.
C. Serve more than 1,000 citizens/participants at the Fayetteville Senior Center and the Community Adult Center at Hillcrest Towers.
D. Provide community education through public relations and marketing by producing a marketing flyer for senior citizens and the general public.

9. The working procedures and responsibilities contained herein shall become effective January 1, 2005.

10. COA shall acknowledge the City of Fayetteville's contribution on general marketing flyers, brochures and other general marketing materials.

City of Fayetteville

By: _____
DAN COODY, Mayor

Council On Aging, Inc.

By: _____

_____
Title

ATTEST:

By: _____
Sondra Smith, City Clerk

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

12/7/2004
City Council Meeting Date

Connie Edmonston	Parks and Recreation	Operations
Submitted By	Division	Department

Action Required:

An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging, Inc. in the amount of $50,000 to provide public recreation services for the senior citizens of Fayetteville for 2005.

$ - / $50,000.00	$12,500 / $37,500	Transfer to Council on Aging
Cost of this request	Category/Project Budget	Program Category / Project Name
1010.6600.5718.01 / 2250.9250.5718.00	$ - / $ -	Parks Development Program
Account Number	Funds Used to Date	Program / Project Category Name
/	$ 12,500.00 / $ 37,500.00	Parks Development
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Previous Ordinance or Resolution # 4533
Original Contract Date:
Original Contract Number:

Department Director — 11-19-04 Date

City Attorney — 11/19/2004 Date

Mayor — 11/19/04 Date

Received in City Clerk's Office

Received in Mayor's Office
11/19/04 9AM

Comments:

ENTERED
11-14-04

Fayetteville
ARKANSAS

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: November 16, 2004

Subject: Purchase of 3 Commercial front load collections vehicles for the Solid Waste Division

RECOMMENDATION: That City Council approve the purchase from Downing Sales and Service of three replacement front load refuse collection trucks for Solid Waste Division for the bid price of $175,569.87 each, total of $526,709.61.

BACKGROUND: These trucks are replacements for unit #441, #442 and #444. #441 and #442 are 1995 Mack trucks with Leach bodies with over 120,000 miles and are one year past the scheduled replacement. Unit #444 is a 1996 Mack with Leach body that has 115,000 miles and is due for replacement in 2004. All of these units are exhibiting increased maintenance and downtime primarily due to packer body wear and structural failure. Bids were opened on October 8, 2004 - four bids were received. A bid detail sheet is attached.

Ronnie Caudle, SW Operations Supervisor; Darrel Lackey, SW operator; and David Bragg, Fleet Operations Superintendent traveled to Scranton, IA to inspect the New Way Mammoth units in operation, tour the factory and meet with the manufacturer management and engineers. Two previously identified deficiencies were determined acceptable upon inspection. With agreed production modifications along with 5 year warranty on specific structural areas of concern, we recommend acceptance of the bid from Downing Sales and service of Phillipsburg, MO for three New Way Mammoth bodies and Autocar chassis in the amount of $526,709.61

Funds are available for this purchase in 9700.1920.5802.00, Project #02082, Sanitation Vehicles and Equipment

The purchase of these units was approved by the Equipment Committee at the meeting of November 9, 2004.

Bids were also opened on October 8 for three replacement commercial front load collection vehicles for Solid Waste Division. A bid detail sheet is attached. Ronnie Caudle, SW Operations Supervisor; Darrel Lackey, SW operator, and I traveled to Scranton, IA last week to inspect New Way Mammoth units in operation, tour the factory, and meet with manufacturer management and engineers. Two previously identified deficiencies were determined acceptable upon inspection. With agreed production modifications along with 5 year written warranty on specific structural areas of concern, we recommend acceptance of the bid from Downing Sales and Service of Phillipsburg, MO for three New Way Mammoth bodies and Autocar chassis in the amount of $526,709.61.

APPROVED 11/7/04

These are replacements for unit #441 and #442, 1995 Macks with Leach bodies with over 120,000 miles and one year past scheduled replacement; and unit #444, a 1996 Mack with Leach body, 115,000 miles and due for replacement. All of these units are exhibiting increased maintenance and downtime primarily due to packer body wear and structural failure.

Funds for all of these purchases are budgeted from the Fleet Replacement Fund.

Cc:
Gary Dumas

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF THREE (3) FRONT-LOAD COMMERCIAL COLLECTION VEHICLES FOR THE SOLID WASTE AND RECYCLING DIVISION FROM DOWNING SALES AND SERVICE IN THE AMOUNT OF $526,709.61.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of three (3) front-load commercial collection vehicles for the Solid Waste and Recycling Division from Downing Sales and Service in the amount of $526,709.61.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

REFUSE FRONT LOADER BIDS

BID NO. 04-75

			Amt. > next lower bid	Unit Price	Total unit Price
RIVER CITY HYDRAULICS					
Autocar	WX6X4			$ 107,848.00	
KANN				$ 61,417.00	$ 169,265.00
	No delivery date specified				
	Page 2 - Bid signature page omitted			DISQUALIFIED	
	Chassis OK				
4.8	No Body Service Lift				
4.11,b	No Auto Dump				
5.5	No Extended Cylinder Warranty				
DOWNING SALES AND SERVICE					
Mack				$ 104,121.00	
Neway Mammoth		$	2,577.87	$ 67,721.87	$ 171,842.87
	225 Days delivery	120 days specified			
3.1,a	Mack engine in lieu of Cummins			UNACCEPTABLE	
3.1,d	Engine torque deficient				
	See Body details below				
Freightliner Condor				$ 106,903.00	
Neway Mammoth		$	2,782.00	$ 67,721.87	$ 174,624.87
	225 Days delivery	120 days specified			
3.1,a	Cummins ISL engine in lieu of Cummins ISM (smaller displacement)				
3.1,d	Engine torque deficient			UNACCEPTABLE	
	See Body details below				
Autocar	WX6X4			$ 107,848.00	
Neway Mammoth		$	945.00	$ 67,721.87	$ 175,569.87
	120 Days delivery	120 days specified			
	Chassis complies				
4.2,c	Body long sills deficient 3"x6"x1/4" tube vs. 12"x2.25"x5/16" C channel			ACCEPTABLE	
4.2,n	Body side braces deficient			ACCEPTABLE - Added bracing & 5 year mfr. warranty	
4.3,d	Tailgate frame deficient			ACCEPTABLE	
4.7,e	Hydraulic reservoir 70 gal. vs. 85 gal.			ACCEPTABLE	
4.10,a	Lift arm dimensions deficient			ACCEPTABLE	
McNEILUS					
Autocar	WX6X4			$ 107,848.00	
McNeilus	Atlantic 4029	$	3,278.13	$ 71,000.00	$ 178,848.00
	120 Days delivery	120 days specified			
	Chassis complies				
4.2,c	Body long sills deficient 2"x6"x1/4" tube vs. 12"x2.25"x5/16" C channel				
4.2,d	Hopper sump 10 gal. vs. 18 gal.				
4.7,e	Hydraulic reservoir 50 gal. vs. 85 gal.				
4.11,b	Auto dump function questionable				
DIAMOND INTERNATIONAL					
Autocar	WX6X4			$ 107,848.00	
LaBrie	Optimizer	$	15,452.00	$ 86,452.00	$ 194,300.00
	120 Days delivery	120 days specified			
	Chassis complies				
	Body complies				

10-2-4
TO BUDGET

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Solid Waste Program: Commercial Date of Request: 10/7/2004

Acct.# Currently Charged: 5500-5010 Acct. # to be Charged: 5500-5010

Expansion ___ or Replacement X Date Required: January,2005

Unit # for Vehicle being Replaced: 441 Unit # for Expansion/Replacement: 476

Purchase Price of Exp./Replace Vehicle: 165,000.00 CIP Budget / Project # 9700.1920.5802 02082

Monthly Motor Pool Charges for Current Vehicle/Equipment:

Replacement: 0.00 Maintenance: 1,427.00 Overhead: 497.00

# of Months Budgeted: 12.00 Total Budgeted: 23,088.00

Monthly Motor Pool Charges for New Exp/Repl. Vehicle/Equipment:

Replacement: 2,180.00 Maintenance: 1,200.00 Overhead: 165.00

# of Months to be in Service for 2005 Year: 12.00 2005 Year Expense, New: 42,540.00

Current Year Expense, Old: 23,088.00

Total Current Year Expense: 23,088.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

Refuse truck, Front Loader

8 yr life

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

This unit is due for replacement. It is no longer dependable or economical for regular daily use.

Approval Signatures:

Division Head — 10/13/04 Date

Finance & Internal Services Dir. — 10-20-04 Date

Fleet Operations Superintendent — 10/8/04 Date

Chief Administrative Officer — 10-24-04 Date

Budget Manager — 13 Oct 04 Date

Mayor — 10/27/04 Date

Department Director — 10/22/04 Date

Please return original form to Fleet when signed by all.

B. Fell 10-28-4

10-12-4
TO BUDGET

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Solid Waste Program: Commercial Date of Request: 10/7/2004

Acct.# Currently Charged: 5500-5010 Acct. # to be Charged: 5500-5010

Expansion ___ or Replacement X Date Required: January,2005

Unit # for Vehicle being Replaced: 442 Unit # for Expansion/Replacement: 477

Purchase Price of Exp./Replace Vehicle: 165,000.00 CIP Budget / Project # 9700.1920.5802 02082

Monthly Motor Pool Charges for Current Vehicle/Equipment:

Replacement: 0.00 Maintenance: 1,242.00 Overhead: 497.00

# of Months Budgeted: 12.00 Total Budgeted: 20,868.00

Monthly Motor Pool Charges for New Exp/Repl. Vehicle/Equipment:

Replacement: 2,180.00 Maintenance: 1,200.00 Overhead: 165.00

# of Months to be in Service for 2005 Year: 12.00 2005 Year Expense, New: 42,540.00

Current Year Expense, Old: 20,868.00

Total Current Year Expense: 20,868.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

Refuse truck, Front Loader

8 yr life

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

This unit is due for replacement. It is no longer dependable or economical for regular daily use.

Approval Signatures:

Division Head — 10/12/04 Date

Finance & Internal Services Dir. — 10-20-04 Date

Fleet Operations Superintendent — 10/8/04 Date

Chief Administrative Officer — 10-27-04 Date

Budget Manager — 10/20/04 Date

Mayor — 10/27/04 Date

Department Director — 10/22/04 Date

Please return original form to Fleet when signed by all.

R. Fell 10-28-4

10-12-4
Pr 3426ET

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Solid Waste Program: Commercial Date of Request: 10/7/2004

Acct.# Currently Charged: 5500-5010 Acct. # to be Charged: 5500-5010

Expansion ___ or Replacement X Date Required: January,2005

Unit # for Vehicle being Replaced: 444 Unit # for Expansion/Replacement: 478

Purchase Price of Exp./Replace Vehicle: 165,000.00 CIP Budget / Project # 9700.1920.5802 02082

Monthly Motor Pool Charges for Current Vehicle/Equipment:

Replacement: 0.00 Maintenance: 1,558.00 Overhead: 497.00

# of Months Budgeted: 12.00 Total Budgeted: 24,660.00

Monthly Motor Pool Charges for New Exp/Repl. Vehicle/Equipment:

Replacement: 2,180.00 Maintenance: 1,200.00 Overhead: 165.00

# of Months to be in Service for 2005 Year: 12.00

2005 Year Expense, New: 42,540.00

Current Year Expense, Old: 24,660.00

Total Current Year Expense: 24,660.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

Refuse truck, Front Loader

8 yd Lift

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

This unit due for replacement. It is no longer dependable or economical for regular daily use.

Approval Signatures:

Division Head	10/28/04 Date	Finance & Internal Services Dir.	10-20-04 Date
Fleet Operations Superintendent	10/8/04 Date	Chief Administrative Officer	10-27-04 Date
Budget Manager	10/20/04 Date	Mayor	10/27/04 Date
Department Director	10/22/04 Date		

Please return original form to Fleet when signed by all.

B Ful 10-27-4

City Of Fayetteville

(Not a Purchase Order)

				Requisition No.	Date: 11/17/2004
				P.O Number	Expected Delivery Date:
Vendor # 3842	Vendor Name: DOWNING SALES AND SERVICE			Mail Yes:__ No:_XX_	
Address:		Fob Point:		Taxable Yes:_XX_ No:____	
City:	State:	Zip Code	Ship to code: 050	Divison Head Approval	Quotes Attached Yes:____ No:____
Requester BARBARA OLSEN BO.		Requester's Employee # 1940		Extension: 495	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	AUTOCAR WX6X4 WITH NEW WAY	3	EA	$175,569.87	$526,709.61	9700.1920.5802.00	02082.1		
2	MAMMOTH BODIES, FRONT LOAD		EA		$0.00				
3	REFUSE COLLECTION TRUCKS		EA		$0.00				
4			EA		$0.00				
5			EA		$0.00				
6			EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

_____

Subtotal: _____ 526,709.61

Tax: _____

Total:_____ 526,709.61

Approvals:

Mayor: _____

Department Director:_____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager:_____

Dispatch Manager:_____

Utilities Manager:_____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 7, 2004

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Approval of purchase of three front load commercial collection vehicles for Solid Waste Division from Downing Sales and Service of Phillipsburg, MO.

COST TO CITY:

$526,709.61	$ 540,000.00	Sanitation Vehicles & Equuipment
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ (30.00)	Vehicles & Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02082	$ 540,030.00	Shop
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 — 11/19/04 Date

Purchasing Manager — Date

STAFF RECOMMENDATION:

Division Head — 11/17/04 Date

Department Director — 11/18/04 Date

Received in Mayor's Office 11/19/04 Date PH

Cross Reference:

Previous Ord/Res#:

Finance & Internal Services Dir. — Date

Orig. Contract Date:

Chief Administrative Officer — Date

Orig. Contract Number:

Mayor — 11/18/04 Date

New Item: **Yes** **No**

ENTERED 11-18-04 JK

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF DECEMBER 7, 2004

FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Recommend Approval Of The Legislative Packet Of The City Of Fayetteville

APPROVED FOR AGENDA:

11-22-04

City Attorney Date

11/22/04

Mayor Date

RESOLUTION NO. _____

A RESOLUTION TO RECOMMEND THE APPROVAL OF THE LEGISLATIVE PACKET OF THE CITY OF FAYETTEVILLE

WHEREAS, the City of Fayetteville, Arkansas would like to work with and have the support of our local state delegation: State Senator Sue Madison and Representatives Marilyn Edwards, Lindsley Smith and Bill Pritchard; for passage of the six items in the City's Legislative Packet; and

WHEREAS, the City Council concurs that these proposed amendments and changes to state law would be beneficial to Fayetteville and the State of Arkansas as a whole.

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 endorses and recommends the passage of the Legislative Packet (attached as Exhibit A) and requests the cooperation, support and advice of our state legislative delegation in sponsoring and promoting these changes.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby invites our local state legislative delegation including: Senator Sue Madison, Representative Marilyn Edwards, Representative Bill Pritchard and Representative Lindsley Smithy to meet with the City Council and Mayor at a convenient time before the start of the legislative session to discuss these proposed changes to state law and others that might be proposed.

PASSED and **APPROVED** this 7th day of December, 2004.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
City Council
Hugh Earnest, Chief Administrative Officer
Steve Davis, Finance & Internal Services Director
Peggy Vice, Purchasing Manager

FROM: **Kit Williams**, City Attorney

DATE: **November 4, 2004**

RE: **Proposed Legislative Packet**

Mayor Coody, Chief Administrative Office Hugh Earnest and others have discussed the idea of our City presenting to our local state representatives and senator a short Legislative Packet for proposed amendments to state law. I have prepared a proposed Legislative Packet in consultation with Purchasing Officer Peggy Vice, CAO Hugh Earnest and Finance Director Steve Davis. This packet is attached.

If passed by the Arkansas Legislature, these proposed amendments to existing law would:

(1) protect cities from illegal exaction lawsuits by using the same uniform publication requirement for ordinances as found elsewhere throughout the Arkansas Code;

(2) Allow cities to cooperate, coordinate and contract with universities and other governmental agencies more efficiently;

(3) Create uniform statutory bidding requirements for all cities and towns above a more realistic monetary level;

(4) remove contradictory statutory language to ensure cities may legally assist state colleges and universities within their community; and

(5) ensure cities can legally regulate the fees charged by local towing companies for nonconsensual tows to eliminate arbitrary and unreasonable fees charged to some citizens;

(6) remove an inconsistency within the sales tax statutes so that newly taxable "collection and disposal of solid wastes" A.C.A. §26-52-316 (a)(2) is not exempted by old language in A.C.A. §26-52-301 (2).

There are obviously many more concerns or proposals for possible amendments or new laws that could be presented. * However, the City should keep its requests down to a management number of fairly clear and needed proposed changes. If any of these possible proposals are objectionable, unclear or undesirable, please let me know so changes, substitutions, additions, or deletions to the Legislative Packet can be made.

Once the Mayor and City Council are in substantial agreement about he Legislative Packet, I believe we should pass it by Resolution and then schedule a meeting with our local delegation to present it to them, express any concerns about the other proposed legislation and generally attempt to increase the cooperation and coordination between the City and our local state representatives.

* Mayor Coody may in coordination with the Municipal League propose an extensive new anti-litter law. Such a major and detailed bill should be the focus of a separate discussion apart from this Legislative "Clean-up" Packet.

LEGISLATIVE PACKAGE
of the City of Fayetteville

The City of Fayetteville requests its local state representatives and senators to sponsor the following bills or changes to state statutes:

(1) A.C.A. §14-55-206 Publishing or posting requirements.

The publication requirements for county ordinances and virtually every other statutory municipal publication requirement to provide public notice to citizens is that notice "be published in a newspaper of general circulation in the city." Unfortunately in 1993, this language was changed in §14-55-206 **Publishing or posting requirements** for publication of city ordinance to a "newspaper published in the municipality."

This change can create substantial dangers for cities which might mistakenly believe a newspaper of general circulation is published in their community. If a tax ordinance, bond ordinance, or water or sewer rate ordinance is inadvertently published in a non-qualifying newspaper (because it technically is not "published" in the town), the ordinance would be **invalid**. If no paper is published in a small city or town, the city cannot use a newspaper of general distribution in the city, but must post the ordinance in five previously designated areas. A "publication" mistake invalidates an ordinance and could cost cities millions of dollars. {Fort Smith had to repay

two companies $800,000.00 for failing to publish a sewer rate ordinance properly. City of Fort Smith v. O.K. Foods, Inc., 293 Ark. 379, 738 S.W. 2d 96 (1987).}

This statutory publication requirement is designed to notify the citizens, not reserve business for a locally published newspaper. Requiring publication in a newspaper of general circulation in the community ensures such public notice and would be much easier to defend in Court than the stricter (and tricky) term "published".

Does "published" mean it must be **printed** in town? Is it enough that the newspaper is **fully composed** in town even if printed elsewhere? Must a newspaper have **most of its reporters, sales personnel, departments, editors,** etc. in town, or just some? What if the newspaper is just a **local edition** of a larger paper? Cities should not have to risk landing in Court and facing an unanticipated answer to those questions which could invalidate a water or sewer rate ordinance or a sales tax or bond ordinance. Annexations and rezonings might not be lucrative targets, but all ordinances would be invalidated by a successful court challenge to an ordinance generating enough revenue to put a few hundred thousand dollars in class action attorney's pocket.

The current requirement to put a notice in a "newspaper published in the municipality" might often mean no newspaper publication at all since many smaller cities have no newspaper actually published in town even though they are served by a newspaper published close by and in general circulation in their community. Technically, all those towns should post all ordinances rather than publish them in the local paper. Publishing them in a newspaper in general circulation in the city would provide better notice to the citizens than posting them in five locations, but would not be statutorily authorized and would render such ordinances invalid.

A.C.A. §14-55-206 (a)(1)(A) should **delete "published" and replace it with "of general circulation"** in the municipality. This will provide better notice to citizens and prevent illegal exaction cases for mistakenly published ordinances.

(2) §19-11-251 Intergovernmental use of commodities or services now reads:

> "Any public procurement unit may enter into an agreement, independent of the requirements of §§ 19-11-204, 19-11-228 – 19-11-240, and 19-11-263 which refer to source selection and contract formation, and §§ 19-11-205, 19-11-242, and 19-11-243, which refer to commodity management, with any other public procurement unit …."

This language is contradictory to A.C.A. §14-58-303 which requires bidding for any contract over $10,000.00 unless waived by ordinance for

"exceptional circumstances where this procedure is deemed not feasible or practical."

Fayetteville would like to make this exemption for bidding requirements of government to government procurement contracts refer specifically to A.C.A. §14-58-303 and §19-11-801 – 806. Please insert after "**source selection and contract formation,**" the following:

> **"§14-58-303 which refers to purchases and contracts generally, §19-11-801 – 806 which refer to procurement of professional services,"**

This change would clearly allow Fayetteville to contract for services from the University of Arkansas without the public, sealed bidding requirements of §14-58-303 and without possible problems with §19-11-801 – 806 if any of the services might be deemed legal, engineering, architectural, or other "professional" type of service.

(3) §14-58-303 Purchases and contracts generally now reads:

> "In a city of the first class, where the amount of expenditure for any purpose or contract exceeds the sum of ten thousand dollars ($10,000.00), the mayor or the mayor's duly authorized representative shall invite competitive bidding thereon by legal advertisement in any local newspaper."

The statutory requirement for public bidding on contracts for first class cities should be raised from $10,000.00 to $25,000.00. This statute

now allows second class cities and towns to provide by their own ordinance their own "procedure for making **all** purchases," (emphasis added) regardless of amount. So second class cities and towns do not have to follow formal statutory bidding procedures (advertising, sealed bids, etc.) even for a $150,000.00 contract while first class cities must formally bid contracts in excess of $10,000.00. It seems unifying the statutory requirements for all towns and cities and raising the amount to $25,000.00 for required statutory bidding procedures would be reasonable.

(4) §14-58-504 Financial Aid to state colleges and universities.

This statutory provision is in conflict with A.C.A. §14-58-505 **Financial Aid** because subsection (c) of §14-58-504 requires financial support to "be paid out of donation or gifts received by the city ...." No such limitation is found in §14-58-505. Since cities rarely receive generalized gifts, subsection (c) thwarts the legislature's intent to allow cities to aid local colleges.

In order to harmonize these two statutes, the first line of (c) should be deleted.

> "The financial aid granted and paid to the state-supported college or university shall be paid out of donations or gifts received by the city or town for general purposes."

This change will harmonize this statute with the following statute that contains no limitation on where the revenues to assist colleges and universities must come from. Without this change, a city wishing to aid a state college pursuant to A.C.A. §14-58-505 could be legally challenged if the city did not comply with Section 504 (c) also (since all statutes are supposed to be read together and harmonized, if possible).

(5) A.C.A. §14-43-609 Public Utilities and carriers.

Although nonconsensual towing of parked cars from private property can probably be regulated pursuant to A.C.A. §14-57-201, specific inclusion of "Vehicle towing companies for nonconsensual tows and storage fees," as number (6) in §14-43-609 would clear up any ambiguity that might now exist. Many citizens and visitors have complained about the inconsistent, arbitrary and exorbitant towing and storage fees charged by towing companies for nonconsensual tows from private parking lots. Cities need the right to set reasonable, maximum fees for nonconsensual tows and storage charges which would not only fairly compensate tow companies, but protect citizens whose car or truck was properly towed, but who should not have to pay arbitrary and unreasonable tow and storage fees. We ask that the legislature add a new subsection (6) as follows:

"(6) Vehicle towing companies for nonconsensual tows and storage fees."

This regulation would have no effect on fees agreed upon by a person desiring or requesting his or her vehicle be towed. Citizens and towing companies would retain the full legal right to agree to whatever fee they desire for a consensual or requested tow.

(6) A.C.A. §26-52-301 (2) Tax levied.

The legislature amended A.C.A. §26-52-316 **Services subject to tax** by adding "Collection and disposal of solid wastes." However, the Arkansas Legislature did not remove the **exception** from sales tax granted to "sanitation or garbage collection services" found in A.C.A. §26-52-301 (2). In order to remove this inconsistency and any argument that the sales tax on collection and disposal of solid wastes could be invalid, subsection (2) should delete "sanitation or garbage collection services" so the new (2) would be as follows:

"(2) Natural or artificial gas, electricity, water, ice, steam, or any other utility or public service, except transportation services and sewer services."

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF DECEMBER 7, 2004

FROM:
KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §34.27 Sale Of Municipally Owned Real Estate To Add An Exemption For Lands Acquired Pursuant To Approved Redevelopment Project Plans

APPROVED FOR AGENDA:

City Attorney	Date: 11-18-04
Chief Administrative Officer	Date
Mayor	Date: 11/18/04

ENTERED
11-19-04

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
City Council
Hugh Earnest, Chief Administrative Officer
Tim Conklin, Community Planning & Engineering Svs. Director

FROM: **Kit Williams**, City Attorney

DATE: **November 18, 2004**

RE: **Sale of property acquired by Redevelopment District through TIF bonds: Exemption from requirements of §34.27**

In order to establish a Redevelopment District, the City Council must hold a public hearing and pass an ordinance – A.C.A. §14-168-305. Then the City Council must hold another public hearing and pass an ordinance (after three readings) to approve the Project Plan. A.C.A. §14-168-306. The Redevelopment District or Project Plan can only be amended by City Council Ordinance. A.C.A. §14-168-307. Therefore, any proposed acquisition and sale of land as a part of the Redevelopment District's Project Plan must go through extensive public hearings before a land sale contract could be presented to the City Council to sell TIF acquired property.

Because the Project Plan for the Highway 71 East Square Redevelopment District requires that the land and buildings acquired (some or all to be demolished) be sold to the developers for construction of the twelve story hotel complex, the normal procedures required by §34.27 for the sale of municipally owned real estate are not needed, nor workable. The City needs to agree on the front end to sell the property it shall acquire to the developers who will turn a blighted firetrap and three other vacant buildings into a national flagship hotel with condominiums, convention facilities, parking, retail space and rooftop garden.

Because the federal tax credits helping to finance this redevelopment will expire if not used quickly, **the months and months required to sell municipal property as required by §34.27 would doom this project unless the proposed exemption I drafted is rapidly passed.** The public will have had extensive notice and opportunity to express their opinions about this proposed land sale because of the TIF statutory safeguards. Another round of public notification and hearings required by §34.27 are not needed nor practical.

If the City Council favors the City using TIF proceeds to acquire the designated real estate and prepare it for construction, and then selling it to the developers so they can build their flagship hotel, you should pass this exemption to §34.27 on December 7, 2004.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §34.27 SALE OF MUNICIPALLY OWNED REAL ESTATE TO ADD AN EXEMPTION FOR LANDS ACQUIRED PURSUANT TO APPROVED REDEVELOPMENT PROJECT PLANS

WHEREAS, if the City Council approves by ordinance, the Project Plan for a Redevelopment District that includes the acquisition of real property or buildings with the intent to resell this property to a private developer, this property should be exempt from the further requirements of §34.27.

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 §34.27 **Sale of Municipally Owned Real Property**, Subsection (H) Exemptions by adding subsection (H) (3) as follows:

"(3) If the City Council has approved by ordinance the Project Plan for a Redevelopment District that includes the acquisition of real property or buildings with the intent to resell this property to a private developer, this acquired property shall be exempt from the requirements of this section and can be sold by City Council Resolution."

PASSED and **APPROVED** this 7th day of December, 2004.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: City Council, Mayor Coody
FROM: David J. Whitaker, Assistant City Attorney
DATE: November 8, 2004
RE: Streamlining Appeals of Sign Permit Denials

On July 1, 2003, you approved a comprehensive revision of the Fayetteville Sign Ordinance (Chapter 174, UDC), based upon the findings and Order of the Federal District Court in La Tour v. City of Fayetteville. During that process, we assured you that this office would work with the Planning staff to identify other sections of the ordinance needing revision. We are recommending amendments to the appeal/variance process.

The attached amendments would eliminate the Board of Sign Appeals, and transfer its core duties to the Zoning and Development Administrator, but with stricter limits on discretion. The amendments also provide applicants prompt judicial review of sign permit denials by removing two tiers of administrative hurdles from the process.

Unlike other zoning laws, the regulation of signs often involves complex First Amendment questions. This is a field of federal jurisprudence that continues to evolve, often rapidly. I have witnessed the very real frustration of our Planning staff and the citizen members of the Board of Sign Appeals, as both struggled with the appeal/variance process required by the current ordinance.

The elimination of the Board of Sign Appeals will not, however, deprive our members of the opportunity for public service. Each of them is concurrently a member of our Board of Adjustment, which is unaffected by these changes.

ORDINANCE NO. _____

AN ORDINANCE CLARIFYING AND STREAMLINING THE PROCESS OF APPEALING ADMINISTRATIVE DECISIONS OR INTERPRETATIONS REGARDING SIGNS AND THE GRANTING OF VARIANCES FROM THE REQUIREMENTS OF CHAPTER 174, SIGNS, UNIFIED DEVELOPMENT CODE.

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

Section 1. That §§ 33.290-33.292, City of Fayetteville Code of Ordinances are hereby repealed.

Section 2. That Section §155.01, Unified Development Code, City of Fayetteville Code of Ordinances, is hereby repealed, and the following is inserted in its stead:

§155.01 Circuit Court

Unless set forth otherwise below, all appeals from final actions taken by the City Council, Planning Commission, Board of Adjustment, and the Zoning and Development Administrator shall be taken to the Circuit Court of Washington County.

DRAFT

Section 3. That Section §155.02(C)(2), Unified Development Code, City of Fayetteville Code of Ordinances, is hereby repealed, and the following is inserted in its stead:

(2) *Zoning and Development Administrator.* Appeals made to the Planning Commission or Board of Adjustment shall be filed with the Zoning and Development Administrator.

Section 4. That Section §155.06(C)(1), Unified Development Code, City of Fayetteville Code of Ordinances, is hereby repealed, and subsections (D) and (E) are to be (C) and (D) respectively. .

Section 5. That §155.07, Unified Development Code, City of Fayetteville Code of Ordinances, is hereby repealed, and §155.08 is renumbered to be §155.07, with §§155.08-§155.99 reserved.

Section 6. That subsection (C) of §174.02, Unified Development Code, City of Fayetteville Code of Ordinances, is hereby enacted as follows:

> (C) *Appeals of Sign Permit Denials.* All decisions and interpretations of the Zoning and Development Administrator under this Chapter shall be considered final administrative actions for the purpose of the appeals set forth at §155.01.

Section 7. That §156.05, Unified Development Code, City of Fayetteville Code of Ordinances, is hereby repealed, and the following is inserted in its stead:

156.05 Sign Regulations

Consideration by the Zoning and Development Administrator. The Zoning and Development Administrator shall not grant any variance of Chapter 174, Signs, unless and until an applicant demonstrates:

(A) Special conditions. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or building in the same district.

(B) *Deprivation of rights.* That literal interpretation of the provisions of the sign regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the sign regulations.

(C) *Resulting actions.* That the special conditions and circumstances do not result from the actions of the applicant.

(D) *No special privileges.* That granting the variance requested will not confer on the applicant any special privilege that is denied by Chapter 174, Signs, to other lands, structures, or building in the same district.

(E) *Nonconforming uses.* No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

DRAFT

(F) *Time Limitation.* Any variance granted shall automatically be revoked if the applicant does not comply with the terms of the variance within 90 days from the granting thereof; and, the applicant shall be required to comply with the literal provisions of Chapter 174, Signs.

(G) *Prohibited.* The Zoning and Development Administrator shall not permit as a variance any sign the erection of which or the continuance of which is prohibited by Chapter 174, nor shall any variance be granted to allow a greater number of signs than specifically set forth therein.

(H) *Content Neutrality; Restrictions.* The Zoning and Development Administrator shall not take into account the content of any message sought to be displayed on the sign when determining whether to grant a variance. Variances can only be granted for setbacks, area, height, the proposed on-site location of the sign, or other technical requirements, and shall not exceed 15% of the Code requirement.

PASSED and **APPROVED** this _____ day of _____ 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

December 7, 2004
City Council Meeting Date

KIT WILLIAMS	CITY ATTORNEY	LEGAL
Submitted By	Division	Department

Action Required:

Adopt an ordinance to clarify and streamlinerthe process of appealing administrative decisions and granting of variances from the requirements of Chapter 174, Signs, UDC

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

Budgeted Item N/A Budget Adjustment Attached

Department Director — 11/9/04 Date

Previous Ordinance or Resolution # Ord. 4500 07/~~01/2003~~

Original Contract Date: _____

Original Contract Number: _____

City Attorney — Nov 9, 04 Date

Chief Administrative Officer — 11-09-04 Date

Mayor — 11/09/04 Date

Received in Mayor's Office
11/9/04 P.M.

Received in City Clerk's Office
11-10-04
ENTERED TLW

Comments:

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF DECEMBER 7, 2004

FROM: ALDERMAN KYLE COOK

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Consider Spending As Much As $1,000,000.00 Of The Proceeds From The Sale Of The Wilson Springs Property In The Development Of The Scull Creek Trail Corridor

APPROVED FOR AGENDA:

11/23/04

KYLE COOK, Alderman Date

11-23-04

City Attorney (as to form) Date

RESOLUTION NO. _____

A RESOLUTION TO C ONSIDER SPENDING AS MUCH AS $1,000,000.00 OF THE PROCEEDS FROM THE SALE OF THE WILSON SPRINGS PROPERTY IN THE DEVELOPMENT OF THE SCULL CREEK TRAIL CORRIDOR

WHEREAS, the Scull Creek Trail is ranked in the top five of trail corridors in the Fayetteville Alternative Transportation and Trails (FATT) Plan; and

WHEREAS, the citizens have consistently rated sidewalks and trails as a high priority for the City of Fayetteville; and

WHEREAS, the Scull Creek Trail will connect numerous people to destination spots within the City of Fayetteville, and begin to connect north and south Fayetteville with one continuous corridor.

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 intent to consider spending as much as $1,000,000.00 of the proceeds from the sale of the Wilson Springs property in the development of the Scull Creek Trail corridor.

PASSED and **APPROVED** this 7th day of December, 2004.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Fayetteville
ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Fayetteville City Council

THRU: Steve Davis, Finance & Internal Services Director

FROM: Kevin Springer, Budget Manager

DATE: November 23, 2004

SUBJECT: **2004 Millage Levy**

Recommendation:

City staff recommends that City Council approve the millage levy ordinance approving the 0.4 mils for the Policemen's Pension and Relief Fund, 0.4 mils for the Firemen's Pension and Relief Fund, and 1.0 mils for the Fayetteville Public Library.

In addition, City staff recommends that City Council consider reviewing the need for the additional 2.20 mils needed for 2005 General Fund operations. The additional 1.80 mil may not be needed during 2006/2007 due to Fayetteville Public Library going for citizen approval for additional millage in 2005.

Background:

Each year the City must approve an ordinance to renew the levy of ad valorem taxes on real and personal property within the City. This request will provide for such levy on property assessed during 2004.

The total assessed value of real and personal property located within the city limits of Fayetteville, as of October 6, 2004, is approximately $852 million. The assessed valuation is before the Washington County Board of Equalization has made all the changes to the County Assessors Abstract. Based on the preliminary assessments, the growth in real estate assessments is approximately 12.12%. The change in assessed real estate value is due to newly discovered, newly constructed property 7.71%.

Based on information received as of November 23, 2004 from the Washington County Assessor's Office, the City of Fayetteville will not be subject to a millage rollback under Amendment 59. The growth in real estate assessments of 12.12% is offset by newly constructed property and does not trigger a rollback situation.

Discussion:

A millage levy ordinance must be approved by City Council in order for the City to continue to collect property taxes for the Policemen's Pension and Relief Fund and the Firemen's Pension and Relief Fund. The millage levy for the Policemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils on personal property. The millage levy for the Firemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils on personal property.

In addition, a millage levy must be approved for the operation of the Fayetteville Public Library that was approved by the voters on October 1, 2002. The millage levy for the Fayetteville Public Library is 1.0 mils for real property and 1.0 mils on personal property.

City Council has the option of approving the assessment of up to 5 mils on real and personal property. City Council may choose to exercise its option to levy some or all these discretionary 5 mils to provide a financial cushion to General Fund to offset the budget shortfalls as a result of lower than projected sales tax collections.

The estimated impact on the City in General Fund, for 2005 as a result of current sales tax projections and other expense increases is a budget shortfall of around $1.7 million. Approximately 2.10 mils would be needed to offset this loss for 2005.

Funding Item	Amount	Millage Needed
New Library Building – Operations	1,384,398	1.70
Identified funding needs to maintain operations at existing service levels.	287,996	0.40
Total	1,672,394	2.10

Budget Impact:

Based on current adjustments and estimates, the 2005 Proposed Budget for General Fund has a shortfall of $1,672,394. If the additional 2.10 mils are not approved, then the funding will come from General Fund reserves. In addition to the 2005 Proposed Budget for General Fund, projected 2006 will have a shortfall of $1,246,866 and projected 2007 will have a surplus of $521,497. The 2006 and 2007 projections do not contain any additional personnel and any payrange adjustments that could be made in 2006.

Conclusion:

The millage levy must be at Washington County, in December to be included in their consolidated levy ordinance. The City approved Resolution 158-04 which approves the Washington County Quorum Court to file an extension of up to sixty (60) days with the State of Arkansas' Assessment Coordination Division for the levy of millage taxes. The extension is needed due to the possible rollback of taxes due to reappraisals.

If you have any questions concerning this agenda request please contact either myself at 575-8226 or Stephen Davis at 575-8330.

ORDINANCE NO. _____

AN ORDINANCE LEVYING A TAX ON THE REAL AND PERSONAL PROPERTY WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE YEAR 2004 FIXING THE RATE THEREOF AT 0.4 MILS FOR THE FIREMEN'S PENSION AND RELIEF FUND, 0.4 MILS FOR THE POLICEMEN'S PENSION AND RELIEF FUND AND 1.0 MIL FOR THE FAYETTEVILLE CITY LIBRARY; AND CERTIFYING THE SAME TO THE COUNTY CLERK OF WASHINGTON COUNTY, ARKANSAS

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

Section 1. That a tax is hereby levied on the real and personal property within the City of Fayetteville, Arkansas, for the year 2004, to be collected in 2005, for the following purposes at the following rates:

REAL AND PERSONAL PROPERTY

Purpose	Levy
Fayetteville City Library	1.0 mils
Policemen's Pension Fund	0.4 mils
Firemen's Pension Fund	0.4 mils
TOTAL	1.8 mils

Section 2. That the real and personal property tax so levied and the rates provided therefore are hereby certified to the Clerk of Washington County, Arkansas, to be placed in the tax book by the County Clerk and collected in the same manner that the county and school district taxes are collected.

Section 3. The City Clerk is hereby authorized and directed to file certified copies of this ordinance in the office of the County Recorder, County Clerk, County Assessor, and the County Tax Collector for Washington County, Arkansas.

PASSED and **APPROVED** this 7th day of December, 2004.

APPROVED

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk p

City of Fayetteville, Arkansas

General Fund Mid Term Budget Forecast (2005-2007)

Version 2.0

11/22/2004

	2005 Budget Amount	2006 Budget % Chg	2006 Budget Amount	2007 Budget % Chg	2007 Budget Amount
Sales Tax	$ 18,086,700	6%	$ 19,171,902	6%	$ 20,322,216
- Increased Projections	341,300	6%	361,778	6%	383,485
Franchise Tax	3,816,600	3%	3,931,098	3%	4,049,031
Charges For Services	1,265,917	3%	1,303,895	3%	1,343,011
Investments	442,700	0%	442,700	0%	442,700
Transfer In	46,000	3%	47,380	3%	48,801
Intergovernmental	1,564,700	0%	1,564,700	0%	1,564,700
Other	1,327,620	0%	1,327,620	0%	1,327,620
Fines Forfeitures	1,415,200	3%	1,457,656	3%	1,501,386
Property Tax	-		-		-
	$ 28,306,737		$ 29,608,729		$ 30,982,950
Personnel	$ 24,329,803	5%	$ 25,546,293	5%	$ 26,823,608
- Salary Contengency	(175,000)		(175,000)		(175,000)
Materials Supplies	875,605	2%	893,117	2%	910,979
Service Charges	545,807	2%	556,723	2%	567,858
Fayetteville Library	1,384,398		1,384,398		-
CEMS	300,000		300,000		-
Not-For-Profit	612,792		562,792		512,792
Maintenance	956,805	2%	975,941	2%	995,460
Internal Charges	707,186	2%	721,330	2%	735,756
Transfers Out	408,485		90,000		90,000
Capital Governmental	33,250		-		-
	$ 29,979,131		$ 30,855,594		$ 30,461,453
General Fund Net Sources	$ (1,672,394)		$ (1,246,866)		$ 521,497

What Is Included in Forecast:

2006:	Expense: Fayetteville Downtown Partners Decreases $50,000 from 2005;	$ (50,000)
	Expense: Arts Bond Fund Transfer Eliminated and Decreases $303,485 from 2005;	(303,485)
	Expense: Shop Fund Transfer Eliminated and Decreases $15,000 from 2005;	(15,000)
	Cost Increase/(Decrease)	$ (368,485)
2007:	Expense: Fayetteville Downtown Partners Decreases $50,000 from 2006;	$ (50,000)
	Expense: Fayetteville Library Decreases $1,384,398;	(1,384,398)
	Expense: CEMS moves to PUM model and Decreases $300,000;	(300,000)
	Cost Increase/(Decrease)	$ (1,734,398)

What Is Not Included in Forecast:

2006:	Revenue: Fayetteville School District School Resource Officer 50% Cost Sharing;	$ (135,000)
	Revenue: University of Arkansas - Athletic Event Overtime Cost Sharing;	(40,000)
	Expense: Pay range Survey and Adjustment;	500,000
	Expense: 12 Firefighters Station #3;	545,000
	Expense: Four (4) Additional Police Officers;	304,000
	Expense: Two (2) Additional Fire Command Staff;	110,000
	Expense: Public Safety Complex Utilities;	175,000
	Expense: Public Safety Complex MW III and Janitor;	61,000
	Expense: Parks Maintenance Worker;	29,000
	Expense: Database Administrator;	60,000
	Cost Increase/(Decrease)	$ 1,609,000
2007:	Expense: Four (4) Additional Police Officers;	$ 319,000
	Expense: Parks Maintenance Worker;	30,000
	Cost Increase/(Decrease)	$ 349,000

City of Fayetteville
Property Tax Revenue per Mil
October 6, 2004

Millage	Approximate Revenue
0.10	$ 81,000
0.20	$ 162,000
0.30	$ 243,000
0.40	$ 324,000
0.50	$ 405,000
0.60	$ 486,000
0.70	$ 567,000
0.80	$ 648,000
0.90	$ 729,000
1.00	$ 810,000
1.50	$ 1,215,000
2.00	$ 1,620,000
2.50	$ 2,024,000
3.00	$ 2,429,000
3.50	$ 2,834,000
4.00	$ 3,239,000
4.50	$ 3,644,000
5.00	$ 4,049,000

The millage revenue reflected above is based on the Washington County Preliminary Summary Report of County Assessments for the Year 2004 dated October 6, 2004 and excludes real and personal property for Utilities. The City Council can approve up to 5.0 mils for operations. The table assumes a 95% collection rate. Total real and personal property assessments for 2004 amount to approximately $825 million excluding real estate and personal property for utilities.

Property Tax Impact Illustration

	Appraised Value	Assessed Value	1 Mil Tax / Year
Single Family Home	$ 75,000.00	$ 15,000.00	$ 15.00
Single Family Home	$ 100,000.00	$ 20,000.00	$ 20.00
Single Family Home	$ 150,000.00	$ 30,000.00	$ 30.00

Washington County
Summary Report of County Assessments for the Year 2004

School District Totals

	2003	2004	NDP	% Change	% NDP
Benton County	7,970,309	9,323,064	1,120,084	16.97	15.99
Elkins	32,887,466	37,385,147	3,357,514	13.68	12.34
Farmington	79,127,937	91,460,268	8,645,583	15.59	11.60
Fayetteville	773,482,942	868,356,819	54,337,568	12.27	8.10
Greenland	39,161,704	43,846,644	2,626,048	11.96	9.78
Lincoln	47,198,015	51,359,513	3,879,140	8.82	10.32
Prairie Grove	59,020,837	66,956,249	5,798,928	13.45	11.41
Springdale	782,690,983	880,552,087	55,227,432	12.50	8.57
West Fork	35,366,828	38,715,550	2,450,025	9.47	8.77
Winslow	10,957,754	11,561,628	460,841	5.51	6.35
Grand Total	**1,867,864,775**	**2,099,516,969**	**137,903,163**	**12.40**	**8.76**

City Totals

	2003	2004	NDP	% Change	% NDP
Elkins	12,914,370	15,550,368	1,919,104	20.41	15.23
Elm Springs	10,582,016	12,789,682	2,458,267	20.86	22.74
Farmington	33,580,993	37,045,674	2,140,519	10.32	7.02
Fayetteville	760,209,163	852,380,967	50,157,290	12.12	7.71
Goshen	11,316,961	13,105,395	1,436,365	15.80	12.43
Greenland	7,605,587	8,818,546	470,012	15.95	6.89
Johnson	31,277,985	37,334,043	5,068,458	19.36	16.97
Lincoln	14,192,408	15,385,018	532,871	8.40	4.44
Prairie Grove	24,894,786	27,627,249	1,462,413	10.98	6.63
Springdale	567,440,056	636,132,113	37,618,598	12.11	8.20
Tontitown	22,303,122	25,119,382	1,044,517	12.63	5.76
West Fork	15,567,889	16,862,855	773,430	8.32	5.79
Winslow	2,599,595	2,555,910	45,718	(1.68)	2.32

Millage Tax Levy Extension: A resolution to request that the Washington County Judge and the Washington County Clerk apply to the Director of the Assessment Coordination Division of the PSC for a sixty day extension of the date to levy millage.

Steve Davis: Under Arkansas Amendment 59 a rollback situation is triggered when your total assessments exceed 10% year over year. Our real estate assessments based on the preliminary report received from the County Assessors office reflects a 14.75% increase in real estate values. In the same letter where the County Assessor transmitted that information to us the Assessors office indicated that personal property would likely approach the 2003 levels and we have a potential for a rollback situation but we will not know that for sure until November. We are requesting under the provisions of the apable statues that we get a waiver to levy our millage ordinance until November until the County Assessors office has the time to determine whether we have a roll back situation or not.

Alderman Jordan moved to approve the resolution. Alderman Cook seconded the motion. Upon roll call the resolution passed 6-0. Alderman Rhoads and Lucas were absent.

Resolution 158-04 as Recorded in the Office of the City Clerk.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

December 7, 2004
City Council Meeting Date

Kevin Springer	Budget & Research	Finance & Internal Services
Submitted By	Division	Department

Action Required:

City Council is requested to adopt real and personal property tax rates for 2004 for the Policemen's Pension & Relief, the Firemen's Pension & Relief Funds, and the Fayetteville Public Library. The rate to be adopted for the Policemen's Pension & Relief Fund and the Firemen's Pension & Relief Fund is 0.4 mils for real property and 0.4 mils for personal property, the millage for the Fayetteville Public Library is 1.0 mil for real property and 1.0 mil for personal property.

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

Budgeted Item [X] Budget Adjustment Attached [ ]

Department Director — 11.23.04 Date

City Attorney — 11/23/2004 Date

Mayor — 11/23/04 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office

Received in Mayor's Office
11-23-04 JM

Comments:

KAREN COMBS PRITCHARD
COUNTY AND PROBATE CLERK

WASHINGTON COUNTY
STATE OF ARKANSAS
Washington County Courthouse
280 North College Avenue, Suite 300
Fayetteville, Arkansas 72701
Telephone: (479) 444-1711
Fax: (479) 444-1894

RECEIVED
SEP 27 2004
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

City Clerk
Fayetteville

Dear Clerk: Sondra ,

Please submit the tax levy figures for your City for the year 2004. The Quorum Court meets on November 11th. I need this information as soon as possible. Please give us the total levy figure and complete breakdown of tax in the space provided below. This information must be provided on this form.

Sincerely yours,

Karen Combs Pritchard

Karen Combs Pritchard
Washington County Clerk

TOTAL_____MILLS

BREAKDOWN_____

_____

_____

_____

_____
SIGNATURE AND TITLE OF PERSON AUTHORIZED TO SUBMIT TAX

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
City Clerk Division

113 West Mountain
Fayetteville, AR 72701
Telephone: (479) 575-8323
Fax: (479) 718-4695
city_clerk@ci.fayetteville.ar.us

October 8, 2004

Karen Combs Pritchard
Washington County Clerk
Washington County Courthouse
280 North College Avenue, Suite 300
Fayetteville, Arkansas 72701

RE: City of Fayetteville
Tax Levy Figures 2004

Dear Ms. Pritchard,

The City of Fayetteville City Council approved Resolution Number 158-04 at the City Council meeting on October 5, 2004. The City Council is requesting that the Washington County Judge and the Washington County Clerk apply to the Director of the Assessment Coordination Division of the PSC for a sixty-day extension of the date to levy millage. This request by the City Council is due to the possible rollback of the millage rates this year. I have attached a copy of Resolution Number 158-04.

I would like to thank you in advance for your immediate attention to this matter.

Sincerely,

Sondra Smith

Sondra Smith
City Clerk/Treasurer
City of Fayetteville, Arkansas

cc: Mayor Dan Coody
Steve Davis

RESOLUTION NO. 158-04

A RESOLUTION TO REQUEST THAT THE WASHINGTON COUNTY JUDGE AND THE WASHINGTON COUNTY CLERK APPLY TO THE DIRECTOR OF THE ASSESSMENT COORDINATION DIVISION OF THE PSC FOR A SIXTY DAY EXTENSION OF THE DATE TO LEVY MILLAGE

WHEREAS, the Countywide reappraisal may require a rollback of millage rates this year; and

WHEREAS, the City of Fayetteville is still waiting for the final decision as to whether and how much municipal millage for the city library and police and fire pension boards may have to be rolled back pursuant to Amendment 59 of the Arkansas Constitution.

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 requests that the Washington County Judge and the Washington County Clerk apply to the Director of the Assessment Coordination Division of the PSC for a sixty-day extension of the date to levy millage

PASSED and **APPROVED** this 5th day of October, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

ATTEST:

By: _____
SONDRA SMITH, City Clerk

City Council Meeting of: December 7, 2004
Agenda Item Number:

CITY COUNCIL AGENDA MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

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

DATE: November 18, 2004

SUBJECT: Approval of Fuel Service Contract with AvFuel Corporation

---

RECOMMENDATION: Approve the contract with AvFuel Corporation and forward for signature by the Mayor.

BACKGROUND: The first FBO Fuel Service Contract since the airlines relocated to XNA was with AvFuel Corporation. Their contract expired at the end of October 2004. An RFP was issued and five providers responded. A selection committee was formed and after a thorough review and analysis it was determined that AvFuel would continue as the fuel provider.

DISCUSSION: The City currently operates the fuel and line service fixed base operation (FBO). The contractor provides service, advertising credit, service trucks, credit card processing, fuel, training and other considerations to help FBO's increase sales and provide customer service. Local customers are also customers of the fuel service provider. AvFuel remains our provider by providing good fuel pricing, good service, new computer software and interface, training, fuel farm upgrades and no cost lease trucks for the first 18 months of the contract. Should the airport staff and Airport Board recommend to the City Council and Mayor to contract out the fuel and line service FBO, it would not affect this contract.

BUDGET IMPACT: The budget impact remains the same. The Airport purchases fuel from AvFuel for resale to aircraft customers. Other services provided by the company are incidental and necessary to the sale of fuel.

Attachments: Staff Review Form
Contract

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

Entered
11-11-04
TL

RESOLUTION NO. _____

A RESOLUTION APPROVING A FUEL SERVICES CONTRACT WITH AVFUEL CORPORATION TO PROVIDE AVIATION FUEL, REFUELER TRUCKS, AND OTHER SERVICES TO THE FAYETTEVILLE MUNICIPAL AIRPORT.

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

Section 1. That the City Council hereby approves a Fuel Services Contract with AvFuel Corporation to provide aviation fuel, refueler trucks, and other services to the Fayetteville Municipal Airport. A copy of the Fuel Services Contract is attached hereto marked Exhibit "A" and made a part hereof.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

FIXED BASE OPERATOR
AVIATION FUEL SUPPLY AGREEMENT

SPECIAL TERMS AND CONDITIONS

AVFUEL CORPORATION
FIXED BASE OPERATOR
AVIATION FUEL SUPPLY AGREEMENT

Reference Date: November 1, 2004 **Effective Date:** November 1, 2004

SUMMARY

This Agreement is between Avfuel Corporation and its affiliates and subsidiaries all of which have principal offices at 47 West Ellsworth Road, Ann Arbor, MI 48108 USA, hereinafter referred to, individually or collectively as "Avfuel", and City of Fayetteville having its principal office at (Street address only) 113 West Mountain Street , hereinafter called "Customer", collectively called "the Parties", and is effective on the Effective Date or, if no Effective Date is specified then on the Reference Date noted above.

THIS IS AN INTEGRATED AGREEMENT CONSISTING OF SEVERAL PARTS, ALL OF WHICH SHALL BE READ TOGETHER AND INTERPRETED AS ONE AGREEMENT. The parts shall include this Summary, the Special Terms and Conditions, and the General Terms and Conditions. In the event of any inconsistencies between the Special Terms and Conditions and the General Terms and Conditions, the Special Terms and Conditions shall govern. Avfuel offers other programs that it believes are of benefit to Customer. Customer chooses to participate in those programs that are checked below and agrees that the applicable provisions of the Special and General Terms and Conditions govern those programs. Additions or deletions to this agreement are governed by the Changes Provision set forth in Section 17 of the General Terms and Conditions.

Applicable Certificates of Insurance are attached hereto, Insurance Company Name_____

X Customer Credit Program
X Brand Program
X AVTRIP Program
X Credit and Charge Cards Acceptance Program
X Contract Fuel Dealer Program
Avsurance Primary Commercial Insurance Program

X Equipment Lease Agreement
X Pricing Addendum
X Attachment C
X Promissory Note & Financing Agreement
_____

CUSTOMER FEIN:

TYPE OF BUSINESS: _____
(i.e. C-corp, S-corp, Partnership, LLC, Sole Prop, or other)

STATE ID NUMBER:

STATE OF INCORPORATION: _____

FOR AVFUEL CORPORATION:

FOR:

By: Mark Haynes

Mark Haynes
Print Name

Title: **Vice President, Sales**

By: _____
(Signature)

_____
(Print Name)

Title: _____
(Print Title)

~~The undersigned hereby guarantee(s) payment and performance of this Agreement by Customer.~~

By: _____ _____ _____
Signature Name Printed Social Security Number

By: _____ _____ _____

FIXED BASE OPERATOR
AVIATION FUEL SUPPLY AGREEMENT

SPECIAL TERMS AND CONDITIONS

Signature Name Printed Social Security Number

CUSTOMER NAME: City of Fayetteville

BILLING ADDRESS:
(if different than street address)

CITY **STATE** **ZIPCODE**

DELIVERY ADDRESS: 4500 South School Street
(if different than street address)

CITY Fayetteville **STATE:** AR **ZIPCODE** 72701

AIRPORT ID (IATA CODE):

PRODUCT (s): ¡Jet-A x Jet-A with Anti-ice xAvgas/100LL ¡Other

PAYMENT TERMS: Net 30 Days

EQUIPMENT LEASED:

Description	SN or VIN	Lease Rate
1991 3000 Gallon Ford	A07138	$1,050.00
2000 750 Gallon Isuzu	006822	$ 750.00

CONTRACT FUEL DEALER:

		Rate
Airport Flowage Fee:	YES X NO	$/g (i.e. $0.03)
Storage Fee:	YES X NO	c/g

Into wing Fee: **Established Prices On File**

Fuel Type	Gallons from/to	Rate

OTHER SPECIAL TERMS AND CONDITIONS: If the City of Fayetteville should cease operation or sell the FBO, then the City must give Avfuel 60 days written notice of termination of the contract.

AVIATION FUEL SUPPLY AGREEMENT

GENERAL TERMS AND CONDITIONS

1. **PURCHASE AND SALE:** Subject to the terms and conditions contained herein, throughout the entire term of this Agreement, Avfuel agrees to sell and deliver, and City of Fayetteville agrees to purchase and pay for, the City of Fayetteville's entire requirements for Products and all products to be handled, stored, used, distributed or sold by City of Fayetteville or its affiliates at each airport represented by the Delivery Addresses listed in the Special Terms and Conditions.. If, at any time during the term of the AFSA City of Fayetteville, or any entity controlled by or in common control with City of Fayetteville, operates any other facility at the Airport that sells aviation fuels (a "Supplemental FBO"), then City of Fayetteville will, or will cause such other entity to, enter into a new AVIATION FUEL SUPPLY AGREEMENT with Avfuel (on the same terms and for the same duration as the AFSA) for the supply of 100% of the requirements of the Supplemental FBO for aviation fuel. CITY OF FAYETTEVILLE represents and warrants that all products and services purchased hereunder will be for the purpose of conducting its business. Avfuel has relied on this representation in entering into this Agreement.

2. **TERM:** The initial term of this Agreement is five (5) years, beginning on the Effective Date specified in the Summary. The term shall be automatically renewed for successive three (3) year terms until one Party delivers a Notice to the other Party of its intent to terminate at the end of the then current term. Such notice shall be delivered at least ninety (90) but not more than one hundred twenty (120) days prior to the expiration of the current term.

3. **PRICE AND PAYMENT:**

3.1. Unless otherwise agreed in writing the price per gallon for Products delivered to City of Fayetteville shall be as established by Avfuel from time to time in its discretion based upon market and other conditions that it deems pertinent based on the date and time that Avfuel loads the Products into delivery trucks. Prices shall be F.O.B. the Delivery Address(es) and shall be exclusive of all taxes, fees, surcharges and other charges.

3.2. Unless otherwise agreed in writing or otherwise required by the state law where the Product is delivered, the standard unit of measurement of quantities of Products purchased and delivered shall be the Net Gallon. The term "Net Gallon" shall mean the volumetric measurement, in U.S. gallons, of a Product actually loaded and measured at the point of shipment, adjusted to the number of U.S. gallons that would have been loaded at a temperature of sixty degrees Fahrenheit (60°F). The conversion ratio shall be from the current American Society for Testing and Materials ("ASTM") IP Petroleum Measurement Tables.

3.3. Unless otherwise agreed in writing by the Parties, City of Fayetteville agrees to pay in advance by bank wire transfer for all Products purchased hereunder. Failure to pay in advance shall be construed as a credit transaction and shall be subject to the Terms and Conditions of the Customer Credit Program set forth below.

4. **TAXES AND OTHER CHARGES:**

4.1. City of Fayetteville shall pay all taxes, assessments, fees and other charges (the "Taxes") which are imposed by any federal, state or local governmental agency or by any airport authority (collectively, the "Taxing Authorities") based upon the delivery, sale, importation, inspection, storage or use of the Products purchased by or leased to City of Fayetteville, excepting Taxes which are imposed upon Avfuel based upon its net income or revenues.

4.2. If the Taxing Authorities collect the Taxes directly from City of Fayetteville, then City of Fayetteville shall pay all such Taxes on or before their due dates. If the Taxing Authorities require that Avfuel collect the Taxes from City of Fayetteville at the time of sale, Avfuel will use its best efforts to include all such Taxes in its invoices to City of Fayetteville and City of Fayetteville shall pay all such invoices on or before their due dates. (In its invoices, Avfuel will identify those Taxes as separate items.) If City of Fayetteville is entitled to an exemption from any Taxes which the Taxing Authorities require be collected by Avfuel, then, in order to permit Avfuel not to collect those Taxes, City of Fayetteville shall obtain and provide to Avfuel current and valid exemption certificates relating to those Taxes. If, subsequent to the issuance of any invoice, the Taxing Authorities or Avfuel advise City of Fayetteville of additional Taxes payable with respect to the Products covered by that invoice, then City of Fayetteville shall promptly pay such additional Taxes.

4.3. City of Fayetteville acknowledges that it remains solely responsible for all such Taxes, and will indemnify Avfuel against any liability for such Taxes even if Avfuel fails for any reason to include any such Taxes in its invoices to City of Fayetteville. However, Avfuel will indemnify City of Fayetteville against any late charges, penalties or

other charges that City of Fayetteville incurs if Avfuel's failure to include any Taxes in its invoice is due to gross negligence or willful misconduct.

4.4. City of Fayetteville's obligation to indemnify Avfuel shall extend to any Taxes which are assessable against City of Fayetteville as a result of any subsequent change or reinterpretation of the laws relating to those Taxes or any exemptions from those Taxes and to any Taxes for which an exemption had been claimed but which are subsequently assessed by Taxing Authorities based upon its rejection of the claimed exemption for the Products or City of Fayetteville.

5. **DELIVERY:**

5.1. Deliveries shall be made to the Delivery Address(es) listed in the Special Terms and Conditions. Avfuel or its authorized shipping agent ("Shipping Agent") shall be provided access to City of Fayetteville's storage facilities during normal business hours, or at such other times as may be approved by City of Fayetteville's authorized representative, for the purpose of unloading the Products. Unless otherwise agreed in writing, the minimum delivery of Jet A fuel will be a full standard transport tanker load which is equivalent to 7,500 Gross Gallons, and the minimum delivery for Avgas fuel will be a full standard transport tanker load which is equivalent to 8,500 Gross Gallons. Avfuel reserves the right to impose a surcharge for deliveries of less than a full tanker load.

5.2. Delivery shall be into tanks designated by City of Fayetteville. Such designation shall be construed as a warranty that the designated tanks and containment areas have been inspected and approved by the appropriate regulatory agencies. City of Fayetteville shall be responsible for all unloading operations including the placement of hoses into the proper storage tanks. City of Fayetteville shall specifically designate and gauge the available capacity of the tanks into which the Product shall be unloaded, and shall bear all responsibility of spillage or contamination of the Product after it leaves the end of any properly operating hose provided by Avfuel or its Shipping Agent Access to City of Fayetteville's tanks shall be furnished in such a manner that Avfuel or its Shipping Agent can safely and conveniently reach City of Fayetteville's storage facility with the hoses available, and Avfuel or its Shipping Agent may refuse to complete any delivery which Avfuel or the Shipping Agent determines, in it sole discretion, cannot be made safely.

5.3. Any claim by City of Fayetteville of any discrepancy in the quantity of the Product delivered shall be effective only if made by written notice delivered to Avfuel within twenty-four (24) hours after the Product is delivered to City of Fayetteville. **GIVEN THE NATURE OF THE PRODUCTS, TIME IS OF THE ESSENCE WITH RESPECT TO SUCH CLAIMS AND NO CLAIM SHALL BE PERMITTED OR EFFECTIVE UNLESS DELIVERED WITHIN THE SPECIFIED PERIOD.**

6. **FORCE MAJEURE:** Except as provided below, neither Party shall be responsible for any failure to comply with the terms of this Agreement due to causes beyond its reasonable control for the period the effects of such causes continue. These causes shall include but shall not be restricted to: fire, storm, flood, earthquake, explosion, accident, acts of any local, state or federal authority or agency or of a public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restrictions, labor disputes, transportation embargoes or delays, acts of God and unavailability of the Product. For purposes of this Agreement, the term "unavailable" shall mean that Avfuel, for any reason whatsoever, including but not limited to government action, reduced or allocated fuel supplies, lack of transportation or the like, is unable to procure and deliver a specific Product on a commercially reasonable basis within two (2) days of the specific time requested by City of Fayetteville. In that event, and only to the extent of such unavailability, the Parties hereto shall be relieved of their obligations under the applicable provisions of this Agreement. If and as applicable, Avfuel will comply with any governmental statute or regulation mandating the allocation of available supplies of Products. The provisions of this Section shall not apply to the failure of a Party to pay any monetary amounts when due under this Agreement.

7. **LIMITED WARRANTY:**

7.1. Avfuel warrants that all products delivered pursuant to this agreement, regardless of whether title transfers at that time, will, at the time of delivery, conform to the then latest revision of following specifications: Aviation Gasoline will conform to the ASTM Specification D910; and Jet Fuel will conform to the ASTM Specification D1655. Avfuel retains the right to revise the applicable specifications upon written notice to City of Fayetteville.

7.2. **THE LIMITED WARRANTY STATED ABOVE IS THE ONLY WARRANTY GIVEN BY AVFUEL REGARDING THE PRODUCTS. AVFUEL DISCLAIMS ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.**

7.3. City of Fayetteville shall sample and test each shipment of Product prior to delivery using industry standard test procedures. If City of Fayetteville determines or suspects non-conformity then Avfuel must be immediately notified, while the Shipping Agent is still present, and the delivery shall not be completed until either City of Fayetteville accepts the Product, acknowledging conformity, or Avfuel replaces the Product. City of Fayetteville will permit Avfuel access to City of Fayetteville's premises and records during normal business hours and upon four (4) hours' telephonic or written notice to City of Fayetteville for purposes of investigating any claim of non-conformity. If it is determined that the Product is non-conforming, Avfuel's sole obligation shall be either (1) replacement of the non-conforming Product with conforming Product, or (2) removal of the non-conforming Product and cancellation of the invoice for that Product or refund of the amount paid for that Product, as determined by Avfuel. Avfuel will be reasonably prompt in its actions hereunder. **TIME IS OF THE ESSENCE AND ANY FAILURE TO FOLLOW THE ABOVE PROCEDURE SHALL VOID THE LIMITED WARRANTY.**

8. COMPLIANCE WITH LAWS:

8.1. Each Party shall, at all times and in all respects, comply with all federal, state, county or municipal laws, ordinances, rules and regulations governing its actions in the purchase, storage, handling and sale of the Products and all industry standards pertaining thereto, including those that may contain tetraethyl lead or lead alkyl. Further, each of the Parties agree to use its reasonable best efforts to assist the other Party in complying with such laws, ordinances, rules and regulations which the other Party may be required to observe in the performance of its obligations under this Agreement. Each Party reserves the right to terminate those portions of this Agreement governing the purchase of a Product if the other Party violates the provisions of this subsection with respect to that Product. In such event, the remaining provisions of this Agreement shall continue in full force and effect.

8.2. Each Party shall properly instruct its employees, agents and contractors with regard to compliance with all applicable laws, ordinance, rules, regulations and standards governing the sale and distribution of the Products that are the subject of this Agreement.

9. INDEPENDENT STATUS: Each Party shall at all times function as an independent contractor and not as a subcontractor, employee or other agent of the other Party. Neither Party shall have the authority to and shall not purport to make any commitments or representations on behalf of the other Party or otherwise to take any actions on behalf of the other Party.

10. RECPROCAL INDEMNIFICATION: Except as otherwise provided in this Agreement, each Party (the "Indemnifying Party") agrees to indemnify and to hold harmless the other party and the officers, directors, employees and agents of the other party (the "Indemnified Parties") from and against any and all claims, demands, losses, liabilities, causes of action, costs or expenses (including attorney's fees) of whatsoever nature which are asserted against or incurred by any Indemnified Party as a result of the breach by the Indemnifying Party of its obligations under this Agreement or as a result of any wrongful act or omission of the Indemnifying Party or of any officers, directors, employees or agents of the Indemnifying Party. Any amount payable by the Indemnifying Party under this Section 10 shall be due within ten (10) days after written demand and any such amount which is not paid when due shall bear interest from the due date to the date of payment at the rate of 16% per annum (or, if less, at the maximum rate of interest permitted under the laws of the State in which the Indemnifying Party has its principal place of business). Without limiting the above provisions, the obligation of the Indemnifying Party under this Section 10 shall include any reasonable attorney's fees or other costs incurred by the Indemnified Parties in enforcing the obligation of indemnity under this Section. Each party's obligation to indemnify shall survive the termination of this Agreement and shall remain in full force and effect until the lapse of all applicable statutes of limitations or similar time periods within which an action for indemnity or contribution must be brought.

11. BREACH AND TERMINATION:

11.1. Failure of a Party to comply with the provisions of this Agreement shall constitute a breach of the Agreement by the non-complying Party. Except as otherwise permitted under this Agreement, the non-breaching Party shall provide Notice of that breach to the other Party in the manner set forth in Section 14. The Notice shall specify the alleged breach and the period within which the breach must be cured which, except as provided in Section 11.2, shall be at least ten (10) business days. The Party receiving such Notice shall respond thereto in writing within three (3) business days. If the breach is not cured or the dispute resolved within the period specified in the Notice, the Party claiming breach, by further written Notice, at its election, may affirm this Agreement and initiate appropriate legal actions to require the other Party to remedy that breach or may immediately terminate this Agreement. In either instance, the Party claiming the breach may by appropriate legal proceedings seek and secure recovery of any damages resulting from that breach.

11.2. The provisions of Section 11.1 to the contrary notwithstanding, if the breach is of the City of Fayetteville's obligation to make a payment to Avfuel when due, then Avfuel may declare all amounts owed to it immediately due and payable, and Avfuel, in addition to all other rights hereunder, may suspend its performance or terminate this Agreement forthwith and without giving City of Fayetteville Notice or the opportunity to cure. Avfuel shall also have the right to offset any amount that Avfuel then or thereafter owes to City of Fayetteville, to any guarantor of the City of Fayetteville's obligations under this Agreement or to any affiliate entity that owns, is owned by or is under common ownership with the City of Fayetteville against any amounts owed by City of Fayetteville to Avfuel. City of Fayetteville warrants that it is authorized to make this commitment with respect to amounts owed by Avfuel to such guarantors and affiliate entities. In addition, Avfuel or its agents or employees may, without further notice and without legal process enter onto any facility of City of Fayetteville for the purpose of repossessing any item of Equipment or any personal property of any description owned by Avfuel, and City of Fayetteville shall use its best efforts to assist Avfuel in such repossession. Pursuit of the foregoing shall not preclude pursuit of any other remedies provided by law, nor constitute a waiver of any amount due by City of Fayetteville hereunder or of any damages accruing by reason of the breach of any of the terms or conditions contained herein. Aviation fuels on board repossessed Equipment will become the property of Avfuel, and credited against any amount owed Avfuel by City of Fayetteville at that day's market price.

11.3. The Party claiming a breach may waive that breach by giving Notice to the other party in the manner set forth in Section 14 below. The waiver of any breach shall not constitute a waiver of any subsequent breach of the same or any other term or condition. Any failure of either Party to enforce rights or seek remedies arising out of any breach by the other Party shall not prejudice or affect the rights and remedies of that Party in the event of any subsequent breach by the other Party.

11.4. Except as set forth in Section 11.2 above, any dispute that arises under this Agreement, pursuant to Section 11.1 above or otherwise, shall be submitted to a senior officer or other person having the authority to negotiate the resolution of such disputes for each Party. Those persons shall attempt, in good faith, to resolve the dispute, and no action in law or equity shall lie until the process set forth herein shall have run its course. If the dispute involves the payment of money, all undisputed amounts shall be paid when due regardless of whether the undisputed amount is only part of an invoice.

11.5. The exercise of a Party's right to terminate the Agreement as aforesaid or to seek any other remedy shall not be deemed an election of remedies and shall be without prejudice to the Terminating Party's rights to seek any other remedy afforded to it by this Agreement or by law or equity. In any action related to the enforcement or breach of this Agreement, the prevailing Party shall have the right to recover its reasonable attorney's fees and costs actually incurred.

12. INSURANCE:

12.1. Prior to the Effective Date stated in the Summary, City of Fayetteville shall submit proof that it holds, or, if it does not so hold, shall secure, at its cost, the following insurance and furnish Avfuel a Certificate of Insurance evidencing: (1) aviation general liability insurance, including products and completed operations liability, with limits not less than one million dollars ($1,000,000.00) combined single limit for bodily injury and property damage; and (2) automobile liability insurance with limits not less than one million dollars ($1,000,000.00) combined single limit for bodily injury and property damage; (3) workers

compensation covering all employees of City of Fayetteville and (4) physical damage coverage covering the value of any leased Equipment. Insurance policies shall be issued by insurance companies acceptable to Avfuel (whose acceptance may not be unreasonably withheld), shall name Avfuel, or its subsidiary, as applicable, as an additional insured and/or loss payee, and shall provide for at least thirty (30) days' written notice to Avfuel prior to cancellation or modification. City of Fayetteville shall maintain such policies in full force and effect throughout the term of this Agreement. City of Fayetteville may, if it chooses, apply for this insurance through Avfuel's subsidiary, Avsurance Corporation.

12.2. Avfuel currently maintains an excess aviation products liability policy under which its qualified customers may be named as additional insureds. For so long as Avfuel elects to continue to maintain that insurance and permit City of Fayetteville to be additional insureds, upon the written request of City of Fayetteville and to the extent that City of Fayetteville qualifies for such coverage, City of Fayetteville shall be added as an additional insured under that policy upon payment by City of Fayetteville of any additional premium required by Avfuel's insurer for such coverage. If Avfuel no longer offers this product liability insurance program, or the product liability insurance is no longer free to City of Fayetteville, Avfuel will notify City of Fayetteville with thirty (30) days' written notice of this change or Avfuel's intent to terminate the product liability insurance program.

13. ASSIGNMENT: City of Fayetteville shall not assign its rights or delegate its obligations under this Agreement, in whole or in part, unless with the prior written consent of Avfuel, which consent will not be unreasonably withheld. Any transfer of a controlling interest in City of Fayetteville shall be deemed an assignment requiring the consent of Avfuel.

14. NOTICES: All notices permitted or required under this Agreement shall be in writing. Notices by facsimile shall be deemed "delivered" on the date of confirmed transmission, without error, to the fax number designated in the Summary. Notices by mail shall be deemed delivered three (3) business days following the date deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed to the Party at the address of the principal office. Notices sent by overnight courier shall be effective on the next business day following deposit with the overnight courier for overnight delivery with the delivery fee prepaid, addressed to the Party at the address of the principal office, and with instructions to obtain the signature of the addressee.

15. GOVERNING LAW: This Agreement shall be construed as having been made in the State of Michigan, and all rights and obligations under it shall be governed by the laws of the State of Michigan without regard to its Conflict of Laws provisions. All litigation arising hereunder shall be brought in the State of Michigan, and exclusive jurisdiction shall lie with the courts located in Washtenaw County, Michigan and each Party hereby submits to the exclusive jurisdiction of those courts.

16. SEVERABILITY: In the event that any court of competent jurisdiction shall determine that any provision of this Agreement shall be unenforceable, then that provision shall be deemed to be null and void and the remaining provisions hereof shall remain in full force and effect.

17. ENTIRE AGREEMENT TERMS: This Agreement, including all of its parts, sets forth the entire agreement between Avfuel and City of Fayetteville with respect to the subject matter hereof and there are no other terms or conditions, oral or written, express or implied, relating to or otherwise affecting such subject matter. No term or condition of this Agreement shall be changed, supplemented, cancelled or waived unless in writing and signed by both Avfuel and City of Fayetteville. If Avfuel and City of Fayetteville have, prior to the effective date, been parties to any other agreement relating directly to the sale of Products to City of Fayetteville (a "Prior Agreement"), such Prior Agreement, except for guarantees, shall be superseded as of the effective date and all rights and obligations between Avfuel and City of Fayetteville with respect to the supply of Products from and after the effective date shall be governed by the terms of this Agreement. The terms and conditions of such Prior Agreement shall, however, remain in full force and effect with respect to rights and obligations relating to the supply of Products prior to the effective date and nothing contained in this Agreement shall be construed as terminating or otherwise affecting any such rights or obligations.

CUSTOMER CREDIT PROGRAM:

IN THE EVENT THAT AVFUEL CHOOSES TO DELIVER GOODS OR SERVICES THAT HAVE NOT BEEN PAID FOR IN FULL BY WIRE TRANSFER PRIOR TO THE TIME OF THAT DELIVERY, AVFUEL SHALL BE CONSTRUED AS HAVING EXTENDED CREDIT TO CITY OF FAYETTEVILLE AND THE FOLLOWING TERMS AND CONDITIONS SHALL APPLY.

1. Credit terms may not be used during any period in which the City of Fayetteville is in default of this Agreement. In addition to the provisions of Section 11 of the General Terms and Conditions, for the specific purposes of this City of Fayetteville Credit Program, the City of Fayetteville will be in default if (1) any amount charged to the City of Fayetteville's account is not paid in accordance with the agreed upon payment terms; (2) if and for so long as the City of Fayetteville is in breach of any of its obligations under any Agreement with Avfuel or any of its subsidiaries; or (3) if Avfuel determines that there is any misrepresentation or breach of a warranty by the City of Fayetteville under or with respect to any Agreement with Avfuel. Use of credit is limited to the amount specified in the Special Terms and Conditions of this Agreement. No purchase may be made which would cause the total amount owed under this Agreement to exceed that credit limit.

2. Upon termination of this Agreement, City of Fayetteville shall have no right to credit terms for new purchases, but all obligations incurred prior to the termination, as well as all remedies provided for default or breach, shall survive. If Avfuel, intentionally or unintentionally, permits any purchases on credit after termination, then the terms of this Agreement shall pertain to those charges.

3. Subject to the approval by Avfuel at its offices in Michigan, all purchases by City of Fayetteville for which Avfuel does not receive payment at or prior to the time of delivery to City of Fayetteville shall be charged as principal to City of Fayetteville's account. Avfuel may require City of Fayetteville or City of Fayetteville's authorized representative, as a condition of delivery or at any time thereafter, to give receipt for all deliveries in writing and to sign sales slips and other documents in Avfuel's opinion necessary to record or substantiate any or all transactions resulting in a charge to City of Fayetteville's account.

4. Avfuel shall invoice City of Fayetteville for all Fuel products delivered to City of Fayetteville or to City of Fayetteville's designees. Invoices shall include the selling price of the product delivered, taxes, duties, and any other charges as separate line items. Invoices are payable on or before that due date specified in the invoice. Unless otherwise determined by Avfuel in its discretion, all payments received will be applied by Avfuel (subject to collection of remittance if other than cash) first to interest, if any, accrued on City of Fayetteville's account, then to the unpaid principal balance owed upon such account in direct calendar order of due date. City of Fayetteville agrees to pay to Avfuel upon demand a fee of $50.00 for each check, draft or other form of remittance that is not honored by the drawee upon due presentment by Avfuel or its agents. From time to time, Avfuel may send City of Fayetteville a statement of City of Fayetteville's account for City of Fayetteville's information showing in summary, or in such detail as Avfuel may deem appropriate, current transactions Avfuel posted to City of Fayetteville's account to date thereof, the amount of interest (if any) which has accrued, and the balance owing thereon; however, the failure of Avfuel to furnish any such statement shall not relieve City of Fayetteville of the obligation to make payment against invoices when due in accordance with the other terms of this Agreement. City of Fayetteville agrees to review all statements promptly after receipt, and shall have fifteen (15) days from date of receipt to notify Avfuel in writing of any discrepancies. If no such notice is given, such statement shall be conclusively presumed correct.

5. In the event that any invoice is not paid in full by the due date stated therein, the unpaid amount of the invoice shall bear interest until paid at the lower of 18% per annum or the highest rate which may lawfully be contracted for, charged and received according to applicable law for business purchases at the time of delivery. Notwithstanding anything in this Agreement to the contrary, City of Fayetteville shall never be obligated to pay and Avfuel shall never be entitled to receive any interest upon any indebtedness incurred by City of Fayetteville pursuant hereto in excess of the maximum contract rate of interest authorized by applicable law for business purposes, and it is expressly understood and agreed that if Avfuel shall render any charge for the payment of usurious interest, such charge shall be automatically and unconditionally reduced to the maximum non-usurious amount, and the excess, if paid, shall be applied as credit to City of Fayetteville's account. If such application results in a credit balance in City of Fayetteville's said account, such balance shall be refunded to City of Fayetteville or applied to the next due amount in such account as City of Fayetteville shall direct.

6. If, at any time during the term of this Agreement, the financial responsibility of City of Fayetteville becomes impaired or unsatisfactory to Avfuel, in the sole judgment of Avfuel, Avfuel, effective immediately upon delivery of Notice to City of Fayetteville, may require the advance cash payment or other security satisfactory to Avfuel for any shipment of fuel and shipment may be withheld until such payment or security is received.

7. For the purpose of securing a payment of all indebtedness of City of Fayetteville to Avfuel from time to time outstanding (including, without limitation, any amounts due under this Agreement or any other agreement or instrument between Avfuel and the City of Fayetteville) grants to Avfuel a purchase money security interest in and to all of City of Fayetteville's inventory of aviation fuels and other products of similar type or description as are purchased from Avfuel, and all accounts, contract rights and other proceeds from such inventory, whether now owned or hereafter acquired. City of Fayetteville warrants that the purchase money security interest granted herein is and shall remain superior to any other security interests granted by City of Fayetteville to any other entity. For so long as this Agreement is in effect, all of City of Fayetteville's inventory of aviation fuels will be presumed to be merchandise purchased pursuant to the Agreement and subject to the purchase money security interest granted by this Agreement. City of Fayetteville hereby authorizes Avfuel to sign and record all financing statements and other instruments which Avfuel may reasonably require in order to create, perfect and continue in force said security interest and first priority lien. City of Fayetteville authorizes Avfuel to file a true copy of this Agreement in lieu of any financial statement. The rights and obligations of Avfuel and the City of Fayetteville under and with respect to the security interest and first priority lien created by this Section shall be interpreted in accordance with the Uniform Commercial Code in effect in the state of the Billing Address of the City of Fayetteville as stated in the Summary.

8. THIS PARAGRAPH APPLIES ONLY TO THOSE PERSONS WHO'S SIGNATURES APPEAR AS GUARANTORS ON THE SIGNATURE PAGE OF THIS AGREEMENT. PERSONS SIGNING AS GUARANTORS SHALL BE CONSTRUED AS PERSONAL GUARANTORS REGARDLESS OF ANY OTHER DESIGNATION. In consideration of the extension of credit by Avfuel to City of Fayetteville, each of the parties signing as Guarantors on the signature page of this Agreement agrees to guarantee the prompt payment of all amounts owed to Avfuel by City of Fayetteville whether such amounts are existing at the time that this Guarantee is signed or are incurred at any time during the life of this Guarantee. Avfuel may demand payment from a Guarantor under this Guarantee at any time that it deems itself insecure with respect to any amount owed by City of Fayetteville. Each Guarantor hereby waives notice of acceptance of this Guarantee by Avfuel, notice of default by City of Fayetteville, and all other notices that the Guarantor may otherwise be entitled to receive. Failure on the part of Avfuel to give any such notice shall not discharge any obligation of any Guarantor under this Guarantee. Each Guarantor also hereby waives any requirement that Avfuel proceed against City of Fayetteville before making a demand for payment hereunder, and agrees to pay all attorney's fees and court costs incurred by Avfuel in the enforcement of its rights hereunder. This is a continuing Guarantee and shall not be revoked by the death of any individual party or by the dissolution of any corporate party or any other entity that is a party hereto, and shall remain in force until Avfuel receives written notice to extend no further credit to City of Fayetteville on the security of this Guarantee. Such notice shall not discharge any obligation of any Guarantor as to any then existing indebtedness or obligation of City of Fayetteville arising out of a transaction that took place prior to the receipt of such notice, regardless of the time for determination, maturity, or performance thereof. Each Guarantor agrees to provide periodic statements of financial condition to Avfuel upon request. This Guarantee shall survive the termination of this Agreement until all amounts due Avfuel under this Agreement have been paid in full.

BRAND PROGRAM:

IF CITY OF FAYETTEVILLE HAS ELECTED TO PARTICIPATE IN AVFUEL'S BRAND PROGRAM, THE FOLLOWING WILL APPLY.

1. City of Fayetteville has been invited and has elected to participate in Avfuel's Brand Program. Accordingly, Avfuel hereby licenses City of Fayetteville as a dealer ("Branded Dealer") to use Avfuel's Brand Names and Trademarks subject to the provisions set forth herein. All trade names, trademarks, service marks, logos and other commercial symbols that Avfuel either owns or has the right to sub-license (the "Intellectual Property") shall be and remain the property of Avfuel. Further all signs, decals, graphic materials and other tangible property supplied by Avfuel which bear or are imprinted with any of the Intellectual Property or are used to imprint or display the same (the "Branded Property") and all replacements thereof shall be and remain the property of Avfuel. Any use of the Intellectual Property or the Branded Property by the City of Fayetteville otherwise than as expressly authorized by this Agreement is hereby expressly prohibited. Upon termination of City of Fayetteville's participation in the Brand Program City of Fayetteville shall, at its expense, de-install and return to Avfuel all salvageable signage and return or destroy all other items that identify City of Fayetteville as a branded Avfuel dealer.

2. Avfuel agrees to supply to City of Fayetteville, for City of Fayetteville's use and possession during the term of this Agreement such signs, decals, credit card imprinters and other graphic materials as Avfuel deems necessary in order to identify City of Fayetteville as an Avfuel Branded Dealer. Unless otherwise agreed in writing, Avfuel will bear all costs of such materials. City of Fayetteville agrees to honor all Avfuel charge cards, subject to the provisions of the Credit and Charge Card Acceptance Program set forth below, during City of Fayetteville's participation in Avfuel's Brand Program.

3. City of Fayetteville shall be responsible for obtaining all necessary permits and for installation of all Branded Property including (without limitation) all electrical and other connections, and shall make sure that all installations shall comply with all brand specifications and with all applicable state and local codes, ordinances and governmental regulations (if any). Unless otherwise agreed in writing, the City of Fayetteville will bear all costs of installation. No signage shall be installed so as to become a fixture upon real property. The use of color schemes and Intellectual Property painted on facilities and equipment owned by City of Fayetteville or others and used in the conduct of City of Fayetteville's business, shall comply with particular and displayed specifications. City of Fayetteville shall be responsible for maintenance and upkeep of Branded Property and Paint-ons, and agrees to keep and maintain the same at all times in a good, clean, safe, operative and first class condition, neatly painted and displayed. If any of such installation or maintenance is performed by Avfuel, City of Fayetteville agrees to remit upon demand all costs thereof, including (without limitation) all expenditures for labor, materials and the like. If any Branded Property is damaged, lost or destroyed while in City of Fayetteville's use, possession or control, or if City of Fayetteville shall deliver any of such property to anyone not herein expressly authorized to use or possess it, City of Fayetteville agrees to repair, recover or replace such property forthwith, at City of Fayetteville's expense.

4. City of Fayetteville shall keep all Branded Property insured at all times against loss, theft, fire or physical damage, up to the full replacement cost thereof, designating Avfuel as the loss payee. The City of Fayetteville shall pay when due all personal property taxes and assessments assessed against the Branded Property and shall neither suffer nor permit any lien or encumbrance or any attachment against any of such Branded Property.

5. City of Fayetteville agrees that it will not use or display any Branded Property or Intellectual Property: (1) in a manner which causes or is calculated to cause confusion among patrons of City of Fayetteville or the general public as to the type, characteristics, quality, manufacture or sponsorship of any fuel or other product which City of Fayetteville offers for sale; (2) for the purpose of selling or promoting the sale of aviation fuel other than fuels supplied by Avfuel; or (3) for the purpose of selling or offering for sale any product which has been diluted or adulterated, whether intentionally or not. City of Fayetteville further agrees that it will at all times maintain its facilities and conduct its operations in compliance with those standards and procedures established from time to time by Avfuel and applicable to aviation fixed base operators displaying any of the Intellectual Property. Such standards and procedures may include (without limitation) image quality standards for the brand displayed, quality control and refueling procedures for products bearing such brand, and standards for services offered and facilities utilized by City of Fayetteville in conjunction with such products. Avfuel may, but shall be under no obligation to conduct periodic tests and inspections as it may deem appropriate to evaluate compliance with this Agreement. Copies of all test and inspection reports shall be given to City of Fayetteville. It is expressly understood that the purpose of any such tests or inspections is to assist City of Fayetteville in complying with the standards set for a Branded Dealer. By performing such tests or inspections Avfuel assumes no responsibility for City of Fayetteville's failure to comply with the Standards or for safety hazards, latent or patent, created or maintained by City of Fayetteville. If Avfuel determines, in its sole discretion, that City of Fayetteville is or has violated this provision, then Avfuel may suspend or terminate City of Fayetteville's right to use Avfuel's Brands and or Trademarks.

Avfuel reserves the right to amend, suspend, or terminate the program at any time. City of Fayetteville may withdraw from this Program upon 60 days Notice to Avfuel. See Section 14 of the General Terms and Conditions regarding Notices. Termination of City of Fayetteville's participation in this Program shall not be construed as terminating the Agreement or City of Fayetteville's participation in another Program.

AVTRIP PROGRAM:

IF CITY OF FAYETTEVILLE HAS ELECTED TO PARTICIPATE IN AVFUEL'S AVTRIP PROGRAM, THE FOLLOWING WILL APPLY.

1. City of Fayetteville has been invited and has elected to participate in Avfuel's AVTRIP Program a marketing incentive program intended to reward pilots who choose to purchase fuel and services from participating Avfuel dealers.

2. City of Fayetteville will:

2.1. Use its best efforts to enroll pilots in the AVTRIP Program;

2.2. Award all participating pilots two AVTRIP Points for each U.S. gallon of fuel purchased from City of Fayetteville and, at City of Fayetteville's discretion, a minimum of one point for each U.S. dollar, or part thereof, spent by a participating pilot for parts and services at City of Fayetteville's facilities;

2.3. Pay to Avfuel, by deduction from amounts due to City of Fayetteville or in cash if no amounts are due City of Fayetteville, $.01 for each AVTRIP point awarded;

2.4. Maintain complete records of all points earned by participating pilots;

2.5. Train its personnel in the operation of the AVTRIP Program, and prominently post written materials relating to AVTRIP in and around its facilities in order to encourage pilot participation in the program; and

2.6. Promptly send all enrollments to Avfuel so that the enrollee can be added to the list of AVTRIP participants. Not less frequently than every two weeks, City of Fayetteville will send Avfuel copies of all records pertaining to points earned by pilots that have not been previously reported via POS transmission, and remit to Avfuel all sums due hereunder.

3. Avfuel will:

3.1. Act as the administrator of the AVTRIP Program; and

3.2. Include the AVTRIP Program in its local, national and international marketing and advertising efforts as it deems appropriate to encourage pilot participation in the AVTRIP Program.

4. The price charged to any pilot for fuel, parts or service shall not be based on whether a pilot participates in the AVTRIP Program.

5. Avfuel reserves the right to amend, suspend, or terminate the AVTRIP Program at any time. Avfuel also reserves the right to terminate any individual's participation at any time for misuse of the AVTRIP card, violation of the rules of the program, or inactivity for a period of 12 consecutive months. City of Fayetteville may withdraw from this Program upon 90 days Notice to Avfuel. See Section 14 of the General Terms and Conditions regarding Notices. Termination of City of Fayetteville's participation in this Program shall not be construed as terminating the Agreement or City of Fayetteville's participation in any other program.

CREDIT AND CHARGE CARD ACCEPTANCE PROGRAM:

IF CITY OF FAYETTEVILLE HAS ELECTED TO PARTICIPATE IN AVFUEL'S CREDIT CARD ACCEPTANCE PROGRAM, THE FOLLOWING WILL APPLY.

1. City of Fayetteville has been invited and has elected to participate in Avfuel's Credit and Charge Card Acceptance Program. Accordingly, City of Fayetteville may honor any valid credit or charge card listed in the most current Accounts Receivable Discounts Schedule ("ARDS") issued by Avfuel ("Acceptable Cards") for the purchase of products and services if the purchase has been specifically approved by Avfuel. Avfuel's ARDS is subject to change upon five (5) days prior written notice.

2. City of Fayetteville may also choose to participate in the Avfuel Honor All Program. The Honor All Program permits City of Fayetteville to extend credit to any customer that has a billing address within the United States or its Territories or Canada and that presents a valid credit card from any nationally recognized oil company on Avfuel's approved Honor All list if: (1) City of Fayetteville does not have a merchant agreement with the issuer of the card or any processor of such accounts other than Avfuel; and (2) the purchase has been specifically approved by Avfuel. The discount schedule for Honor All transactions will generally be higher than the discounts applied under the ARDS. If City of Fayetteville chooses to participate in the Honor All program, then all Honor All invoices must contain the current telephone number and current billing address of both the cardholder and the Authorized User, and City of Fayetteville shall inform the presenter that cardholder will be billed directly by Avfuel and not by the card issuer. Honor All transactions are limited to a total of $250 for miscellaneous services such as tie downs, catering, aircraft storage, pilot supplies, charts, repairs and other services, and to an aggregate total of $2,000.00 for a single transaction.

3. City of Fayetteville shall prepare a voucher for each credit card, charge card or Honor All transaction and shall promptly submit those vouchers to Avfuel. The term "voucher" means a machine imprinted credit card slip or other written record of a credit sale in form acceptable to Avfuel that has been fully completed by City of Fayetteville manually or electronically by a Point of Sale (POS) machine in accordance with the instructions contained in the then current edition of Avfuel's manual and signed by the Authorized User. If the voucher is prepared manually, the City of Fayetteville is responsible to make sure that the voucher is complete and legible. The City of Fayetteville is also responsible for making sure that the card presented is not expired and that the person signing the voucher is an Authorized User. If imprinted and hand written amounts on invoices do not agree the lesser amount shall be presumed to be correct. City of Fayetteville shall make a manual imprint of all cards electronically processed but requiring that the card number be entered manually, in order to prove that the card was present at the time of sale. "Promptly" means, in the case of POS transmissions, batches should be submitted at least once per day and by 11:00 PM Central Time but in no case any less frequently than once every 72 hours, and in the case of manually prepared vouchers, weekly, but not later than ten days after transaction date. City of Fayetteville must keep copies of vouchers and summaries for a period of seven (7) years and supply Avfuel with duplicates if requested.

4. Upon receipt from City of Fayetteville of a properly prepared voucher together with any necessary summaries thereof on forms prescribed by Avfuel, Avfuel shall remit to City of Fayetteville or, as Avfuel may elect, credit City of Fayetteville's fuel purchase account with Avfuel, in an amount equal to the total face amount of all such vouchers less such discounts as applicable according to Avfuel's then current ARDS or the Honor All discount schedule, and any fees for AVTRIP point awards.

5. City of Fayetteville acknowledges receipt of, and agrees to observe, Avfuel's current instructions for recording and processing credit transactions. Avfuel reserves the right to amend any and all instructions and to add new instructions from time to time, and City of Fayetteville agrees to be bound by all such amendments and new instructions. Avfuel also reserves the right to issue new or revised forms, POS equipment, software and imprinters from time to time, and to issue instructions regarding their use to be effective upon five (5) days prior written notice.

6. City of Fayetteville shall be solely liable and responsible for remittance of all taxes to the proper authorities regardless of whether charged to purchaser. Avfuel does not assume responsibility for the payment of any tax applicable to sales or other transactions resulting in credit card accounts receivable and City of Fayetteville shall defend, indemnify and hold harmless Avfuel from any such claims.

7. Without limiting the generality of other provisions of this Agreement pertaining to charge backs, it is specifically understood and agreed that Avfuel may decline to accept or, if accepted, may subsequently charge back to City of Fayetteville any voucher:

7.1. Where any of the required information is omitted or illegible;

7.2. That is imprinted or processed with an expired credit card;

7.3. Covering a purchase not authorized by the cardholder or involving fraud or any misuse of a credit card by the purchaser with or without City of Fayetteville's knowledge;

7.4. Covering a transaction that has not been authorized by Avfuel or does not carry a valid authorization code;

7.5. Covering a transaction or series of related transactions (constituting in the reasonable opinion of Avfuel a single sale transaction) the aggregate face amount of that exceeds any of the single sale limitations to which the parties hereto may agree;

7.6. That becomes the subject of a dispute between City of Fayetteville and purchaser;

7.7. Where the Authorized User has not received his copy of the voucher;

7.8. For which City of Fayetteville has received or will receive any payment or reimbursement from any person other than Avfuel;

7.9. Where City of Fayetteville has granted any right of ownership or security interest to any person other than Avfuel unless the invoice is accompanied by a written waiver of such interest;

7.10. Presented by City of Fayetteville to Avfuel more than ten (10) days after the transaction date;

7.11. If the transaction occurred after the date of expiration or termination of this Agreement;

7.12. Created by any person other than City of Fayetteville, or in any transaction other than a transaction in which City of Fayetteville has sold merchandise or services to a purchaser presenting his credit card for use in payment therefor;

7.13. For Honor All transactions, bearing a billing address for the cardholder or Authorized User that is outside the territorial limits of the United States or the Dominion of Canada;

7.14. Representing Honor All transactions not paid by the cardholder within ninety (90) days after assignment to Avfuel;

7.15. That are charged back to Avfuel by a card issuer for any reason at all; or

7.16. That in any other manner does not conform to this Agreement or with Avfuel's instructions for recording and processing credit card transactions.

8. In the event that a charge back exceeds the credit balance in City of Fayetteville's fuel purchase account then carried by Avfuel, City of Fayetteville agrees to pay such amounts within three (3) days after notice that such amounts are due. Upon reimbursement, title to the subject voucher and all indebtedness represented thereby shall pass to City of Fayetteville. If any funds come into Avfuel's possession for any voucher that has previously been charged back to City of Fayetteville, Avfuel will promptly credit the full amount thereof to City of Fayetteville's account. Avfuel's charge back rights and rights of recourse against City of Fayetteville shall survive the termination of this Agreement.

9. Cash advances may not be charged on any card. Lessons, aircraft rental, charters, and aircraft parts and accessories not incorporated in repairs or mounted upon the aircraft may not be charged under the Honor All program. A single sale to any one purchaser resulting in one or more than one credit card voucher shall be specifically limited to quantities of fuel and lubricants not greater than the useful capacity of the aircraft, and shall only include fuels from stocks delivered by and purchased from Avfuel.

10. From time to time, Avfuel will send City of Fayetteville a Credit Card Remittance Summary for City of Fayetteville's information showing in such detail as Avfuel may deem appropriate the transactions and amounts that have been credited to City of Fayetteville's account or paid to City of Fayetteville during the period since the last report. The failure of Avfuel to furnish any such Report shall not relieve City of Fayetteville of any obligations hereunder. City of Fayetteville agrees to review all such Reports promptly after receipt. In any event, City of Fayetteville shall be solely responsible for making sure that it has received proper payment for each transaction submitted. City of Fayetteville shall have forty-five days (45) days from the date of a transaction to provide Avfuel Notice that the transaction has not been properly accounted for or that payment has not been received. If no such notice is given, such transaction shall be conclusively presumed to have been settled and closed.

11. Avfuel reserves the right to amend, suspend, or terminate the program at any time. City of Fayetteville may withdraw from this Program upon 60 days Notice to Avfuel. See Section 14 of the General Terms and Conditions regarding Notices. Termination of City of Fayetteville's participation in this Program shall not be construed as terminating the Agreement or City of Fayetteville's participation in any other Program.

CONTRACT FUEL DEALER PROGRAM:

IF CITY OF FAYETTEVILLE HAS ELECTED TO PARTICIPATE IN AVFUEL'S CONTRACT FUEL DEALER PROGRAM, THE FOLLOWING WILL APPLY.

1. City of Fayetteville has been invited and has elected to participate in Avfuel's Contract Fuel Dealer Program (the "CFD Program"). Accordingly, City of Fayetteville agrees to sell and deliver to clients who participate in Avfuel's Contract Fuel Program (the "CFCs" or a CFC" as the context may require) aviation fuel supplied by Avfuel and other products and services supplied by the City of Fayetteville. A CFC is a person or entity that has executed a Contract Fuel User's Agreement with Avfuel or that is specifically authorized in writing, in accordance with authorization procedures established from time to time by Avfuel, to purchase aviation fuel and other products and services. The City of Fayetteville will secure authorization from Avfuel before completing a sale to a CFC and the failure to obtain such authorization may result in Avfuel's dishonor of the invoice for that sale.

2. Subject to agreement between City of Fayetteville and Avfuel, Products supplied hereunder shall be supplied from either Avfuel inventory on site or from City of Fayetteville inventory. If, as a convenience to City of Fayetteville, Avfuel maintains inventory at City of Fayetteville's facility then City of Fayetteville agrees to the following: a) City of Fayetteville shall measure Avfuel's inventory and reconcile that inventory at least monthly. Reconciliation reports, in a form satisfactory to Avfuel, shall be delivered to Avfuel no later than the 5th day following the end of each month. b) Gains and losses shall be allocated proportionally to the parties sharing the storage facility based on receipts of fuel during the month and losses shall be limited to no more than ¼% of total receipts for per annum. Book inventory shall be adjusted to coincide with actual inventory each month. c) Unless the Products are contaminated by an act or omission of Dealer, Avfuel will be liable if the Products do not conform to specifications. If the Products are supplied from the City of Fayetteville's inventory, the City of Fayetteville will be liable if the Products do not conform to specifications. d) City of Fayetteville shall maintain Avfuel's inventory level in accordance with Avfuel's guidelines and shall specify when ordering fuel whether that fuel is for City of Fayetteville's or Avfuel's inventory (which is subject to approval by Avfuel).

3. Under the CFD Program, all aviation fuel delivered by the City of Fayetteville to a CFC will be deemed sold by Avfuel and will be at the prices and terms independently established between Avfuel and the CFC If Avfuel maintains an inventory of aviation fuel at the City of Fayetteville's facilities, then aviation fuel supplied by the City of Fayetteville to CFCs will be drawn from Avfuel's inventory. If Avfuel does not maintain an inventory of aviation fuel at the City of Fayetteville's facilities, then aviation fuel supplied to a CFC is drawn from the City of Fayetteville's inventory and Avfuel will account for that aviation fuel by issuing a credit to the City of Fayetteville equal to the City of Fayetteville's cost for that aviation fuel, including applicable taxes, based upon the City of Fayetteville's cost for the last load of aviation fuel purchased from Avfuel prior to the date of supply to the CFC.

4. The charges for all aviation fuel supplied to the CFC will be payable solely to Avfuel. Avfuel will be responsible for collecting and remitting any taxes imposed thereon by any local, state or federal taxing authority. Avfuel will invoice and collect those charges and taxes from the CFC.

5. In all sales of aviation fuel drawn from Avfuel's inventory, title to that aviation fuel will be retained by Avfuel until the point in time that the aviation fuel enters into the aircraft of the CFC, at which point in time title will pass to the CFC. In all sales of aviation fuel drawn from City of Fayetteville's inventory, title to that aviation fuel will be retained by the City of Fayetteville until the point in time that the aviation fuel enters into the aircraft of the CFC, at which point in time title will pass instantaneously first to Avfuel and then to the CFC. The risk of loss or contamination of aviation fuel will be borne at each point in time by the party who or which holds title to that aviation fuel at that point in time. If, while Avfuel holds title, any aviation fuel is lost or contaminated as a result of the acts or omissions of the City of Fayetteville, then the City of Fayetteville will be liable to Avfuel for that loss or contamination.

6. If the City of Fayetteville provides any services or products other than aviation fuel to the CFC for which a fee is charged, such other products and services will be deemed sold by the City of Fayetteville and will be at the City of Fayetteville's normally established rates. Such other products may include, without limitation, lubricants, spare parts, food and other amenities. Such other services may include, without limitation, flowage fees, tie-down services, into-wing services, catering services and similar services that expedite deliveries and facilitate arrangements for the CFC. No cash advances will be permitted as "other products or services". The City of Fayetteville will supply all such other products or services as an independent contractor to the CFC and not as an agent or a subcontractor of Avfuel.

7. All other products and services that are supplied by City of Fayetteville to CFCs will be provided in accordance with procedures and quality standards that are commercially reasonable and that comply with all legal requirements in the jurisdiction where the City of Fayetteville's facilities are located. City of Fayetteville will be solely liable if such other products and services do not conform to such standards, procedures or requirements.

8. The charges for all other products and services supplied by the City of Fayetteville to the CFC will be payable solely to the City of Fayetteville. The City of Fayetteville will be responsible for collecting and remitting any taxes imposed thereon by any local, state or federal taxing authority. City of Fayetteville may directly invoice and collect such charges from the CFC.

Alternatively, at the City of Fayetteville's option, City of Fayetteville may assign to Avfuel for collection the account receivable from the CFC for other products and services supplied by the City of Fayetteville (a "CFC Receivable"). If the City of Fayetteville assigns a CFC Receivable to Avfuel, then Avfuel will issue a credit to the City of Fayetteville's account for the amount of that CFC Receivable and Avfuel will thereafter invoice, collect and retain those charges from the CFC.

9. Any fees for any services supplied by the City of Fayetteville in the delivery of aviation fuel to a CFC, including, without limitation any flowage fees or into-wing fees, will be earned by the City of Fayetteville only after it has completed delivery of the entire load of aviation fuel into the aircraft of the CFC and title to that aviation fuel has passed to the CFC. Initial into-wing fees are established in the Special Terms and Conditions and City of Fayetteville may change those fees upon seven (7) days written notice to Avfuel.

10. City of Fayetteville will generate a written record (a "Ticket") of all aviation fuel supplied to a CFC at the City of Fayetteville's facility. Each Ticket will include the following information: the CFC's name; the authorization number; pilot's name; aircraft registration number; flight or ID number provided by the CFC if applicable, transaction date(s); and type and quantity of fuel products provided, as measured in U.S. gallons. In addition, if the City of Fayetteville assigns to Avfuel the CFC Receivable for other products and services supplied by the City of Fayetteville to the CFC, the City of Fayetteville will include in the Ticket the type and quantity of such other products or services and the charges payable by the CFC for such other products or services. Any charges for such other products or services must be separately stated and clearly identified as fees charged by the City of Fayetteville that are separate from and independent of the amounts charged by Avfuel for aviation fuel. The pilot or other responsible representative of the CFC shall sign and be given a copy of the completed Ticket.

11. The Ticket (or all information required to be shown on the Ticket) for each sale to a CFC shall be delivered to Avfuel by POS Transmission or facsimile within twenty-four (24) hours following the completion of that sale. The original Tickets shall be kept on file by City of Fayetteville for a period of five (5) years from the invoice date and will be sent to Avfuel upon request. Avfuel will from time to time provide City of Fayetteville with instructions for processing these transactions and may provide the forms for doing so. Avfuel reserves the right to change these procedures upon seven (7) days written notice to City of Fayetteville.

12. The total amount due with respect to each Ticket shall be paid or credited to City of Fayetteville's by Avfuel within 10 days following Avfuel's receipt of the Ticket.

13. Except as provided herein, all Tickets will be accepted by Avfuel without recourse. The exceptions are: a) City of Fayetteville warrants the validity of all charges, and any charge that is disputed by the CFC, correctly or incorrectly, on grounds that the charge is invalid or inaccurate or that the aviation fuel, products or services supplied were unsatisfactory may be charged back to City of Fayetteville at Avfuel's option; b) charges not previously authorized by Avfuel may be charged back to City of Fayetteville at Avfuel's option; and c) any Ticket that is incomplete, illegible, or is otherwise not prepared in accordance with Avfuel's processing instructions may be charged back to City of Fayetteville at Avfuel's option.

14. Avfuel reserves the right to amend, suspend, or terminate the CFD Program at any time. City of Fayetteville may withdraw from the CFD Program at any time upon 60 days Notice to Avfuel. See Section 14 of the General Terms and Conditions regarding Notices. Termination of City of Fayetteville's participation in this Program shall not be construed as terminating the Agreement or City of Fayetteville's participation in any other Program.

AVSURANCE PRIMARY COMMERCIAL INSURANCE PROGRAM:

IF CITY OF FAYETTEVILLE HAS ELECTED TO PARTICIPATE IN THE AVSURANCE PRIMARY COMMERCIAL INSURANCE PROGRAM, THE FOLLOWING WILL APPLY.

1. City of Fayetteville has been invited to, and has elected to, participate in the Avsurance Primary Commercial Insurance Program.

2. City of Fayetteville agrees to file an application and request for a quote for all insurance policies related to its aviation business. All price quotes from Avsurance contain Avsurance proprietary information, are confidential, and may not be disclosed to any person other than employees and agents of City of Fayetteville with a bona fide need to have such information and that have signed a non-disclosure agreement that is satisfactory to Avsurance.

3. City of Fayetteville may accept or reject any quote for an individual policy, and the acceptance of any specific quote shall not be conditioned on the acceptance of any other quote.

4. Upon City of Fayetteville's acceptance, Avsurance will bind the coverage and have the policy issued in due course.

5. Avfuel reserves the right to amend, suspend, or terminate the program at any time. Termination of this Program shall not be construed as terminating the Agreement or City of Fayetteville's participation in any other Program.

EQUIPMENT LEASE:

IF CITY OF FAYETTEVILLE HAS ELECTED TO PARTICIPATE IN AVFUEL'S EQUIPMENT LEASING PROGRAM, THE FOLLOWING WILL APPLY.

1. City of Fayetteville has elected to participate in Avfuel's Equipment Lease Program. Accordingly, Avfuel, either for its own account or through one of its subsidiaries, agrees to deliver and lease the equipment identified in the Special Terms and Conditions (the "Equipment") at the lease rates shown in the Special Terms and Conditions to City of Fayetteville for its sole use. All additional equipment or replacement equipment delivered to City of Fayetteville but not listed in the Special Terms and Conditions shall also constitute Equipment subject to the provisions of this section. For example, City of Fayetteville may lease POS equipment from Avfuel at the then current lease price. City of Fayetteville hereby agrees to pay Avfuel in advance the monthly lease payments prorated for any partial month. Avfuel may increase the rent during the term of the Lease upon 30 days written notice. City of Fayetteville shall be permitted to notify Avfuel within the first 15 days of that notice period of its intention to terminate the lease effective on the date that the increase goes into effect. If Avfuel rescinds the rate increase, the lease shall continue in effect at the then current rates. If it does not rescind the increase, the lease shall expire on the date the increase goes into effect. Unless otherwise agreed, the term of the lease of each item of Equipment (a "Lease") shall correspond to the term of this Agreement.

2. City of Fayetteville shall inspect the Equipment and shall make a written note as to any defects that are observed. A copy of all such notes shall be faxed to Avfuel within forty eight (48) hours of delivery. Upon termination of a Lease, City of Fayetteville shall return the Equipment, freight prepaid to Avfuel's place of business in Ann Arbor, Michigan in as good condition as when City of Fayetteville received it, normal wear and tear accepted. Failure to return the Equipment shall be deemed a breach of this Agreement and City of Fayetteville will be billed for necessary repairs and the replacement of missing equipment.

3. Avfuel warrants that it has all necessary rights to lease said Equipment to City of Fayetteville. Further, the parties agree that as between themselves, Avfuel has title to the Equipment and City of Fayetteville shall keep the Equipment free of liens and shall not do or permit anything to be done that will prejudice the title of Avfuel, or it's rights in the Equipment. Each item of Equipment shall bear a legend denoting it as the property of Avfuel and City of Fayetteville shall not remove or deface that legend under any circumstances. City of Fayetteville also agrees and understands that Avfuel may file such evidence of its ownership of the equipment as may be necessary in the state where the equipment is located. **AVFUEL MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, REGARDING DEFECTS IN MATERIAL, WORKMANSHIP, DESIGN, CAPACITY, MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR ANY PURPOSE, OR WHICH EXTEND BEYOND THE DESCRIPTION OF THE EQUIPMENT THAT APPEARS IN THE SPECIAL TERMS AND CONDITIONS.**

4. Any of the Equipment that is used to store or transport Products shall be used solely for storing or transporting Products supplied to City of Fayetteville under this Agreement. The Equipment shall not be moved from the facility to which it was delivered nor operated on any public road without the prior written consent of Avfuel. City of Fayetteville will comply with all laws, ordinances and regulations applicable to the possession, operation or use of the Equipment and will demonstrate compliance upon request.

5. The maintenance obligations with regard to the Equipment are as follows.

5.1. Except as set forth in Section 5.2 below, City of Fayetteville will maintain the Equipment in as good a condition as it was on the day of delivery, normal

wear and tear excepted. City of Fayetteville shall, at its sole expense, provide all preventative maintenance (including but not limited to lubrication, oil and filter changes, etc.), repairs, and replacement parts as are necessary to preserve the Equipment in good operating condition and in compliance and in conformity with all laws, rules, regulation, and industry standards which are applicable to the operation of the Equipment. City of Fayetteville shall also be responsible for all tire maintenance, repair, and replacement. **CHANGING A TIRE ON A REFUELER TRUCK IS VERY DANGEROUS AND MUST NOT BE ATTEMPTED BY UNTRAINED PERSONNEL. CITY OF FAYETTEVILLE AGREES THAT IT WILL PERMIT TIRES TO BE CHANGED ONLY BY AN OUTSIDE CONTRACTOR WHO IS PROFESSIONALLY TRAINED TO DO SUCH WORK.** City of Fayetteville shall keep complete and accurate maintenance records and Avfuel is entitled to inspect the Equipment and the maintenance records at any time during regular business hours. At Avfuel's option, any item of repair or maintenance that would be the responsibility of City of Fayetteville may be performed by Avfuel and billed back to City of Fayetteville as additional rent. City of Fayetteville shall not make any alterations or modifications to the Equipment of any kind including but not limited to painting, mounting of radios or antennas, applying decals or lettering without the prior express written consent of Avfuel.

5.2 Avfuel shall be responsible for the following refueler truck repairs when, in its opinion, repair is necessary: overhauls or replacement of the engine, transmission, differential, or belly valve. Avfuel shall be permitted access to the Equipment at any reasonable time in order to perform the repairs and modifications, which are its obligation hereunder. Repairs and maintenance to be performed by Avfuel shall be completed within a reasonable time after it learns of the need for such repairs. Avfuel assumes no responsibility for loss of use or any other items of ancillary damage, which may be caused by, or result to City of Fayetteville by reason of the fact that the Equipment becomes inoperable. If any such repair or maintenance is required as the result of intentional conduct, negligence, or failure to perform repair or maintenance on the part of City of Fayetteville or any of City of Fayetteville's agents or employees, City of Fayetteville shall be liable for all costs associated with performing such repairs and/or maintenance.

6. City of Fayetteville shall be responsible for all Federal, State, and Local taxes, fees, etc. that are assessed on the use or value of the Leased Equipment, including but not limited to, personal property, sales, and use taxes.

7. City of Fayetteville agrees to indemnify and hold Avfuel and/or the owner of the Equipment harmless from and against any and all claims, liabilities, losses, expenses (including attorney's fees), obligations and causes of action for injury to or death of any and all persons, or for damage to or destruction of any or all property arising out of or resulting from the condition, existence, use or maintenance of the Equipment.

ADDENDUM
to the
AVIATION FUEL SUPPLY AGREEMENT
between
AVFUEL CORPORATION
And
CITY OF FAYETTEVILLE, AR

The following is incorporated and made part of the above named agreement with a reference date of November 1, 2004

Product: Jet-A Fuel with Additive

Delivered Price: Previous weeks average of Group 3 Jet Mean as reported by Platt's Oilgram, plus a differential of $0.1360 per gallon. The Platt's average price will be calculated each Monday (or Tuesday when Monday is a holiday) for the previous week (Monday-Friday-published trading days only) and will be effective for the following Tuesday through Monday period. Price excludes all taxes, fees, into-plane charges and other fees.

In the event that there is a change in Avfuel's costs for the above products, Avfuel reserves the right to amend the price differential stated above. In such case, Avfuel will notify City of Fayetteville in writing of the change in its cost and the new differentials will take effect as of the date in the notification. Change in Avfuel's costs may be due to, but not limited to, changes in freight rates or changes in Avfuel's current cost differential from refineries or changes in the terminal used to supply Customer. If any surcharges are imposed upon Avfuel, Avfuel reserves the right to assess surcharges to customer.

Section 15 Governing Law:

Delete this section and replace with the following words: "This agreement shall be construed as having been made in the State of Arkansas, and all right and obligations under it shall be governed by the laws of the State of Arkansas without regard to its Conflict of Laws provisions. All litigation arising hereunder shall be brought in the State of Arkansas, and exclusive jurisdiction shall lie with the courts located in Washington County, Arkansas and each Part hereby submits to the exclusive jurisdiction of those courts."

REFUELER REQUIREMENTS

Avfuel will provide the city with the refueler trucks currently being leased by the city for a period of Eighteen (18) months at NO CHARGE effective with the implementation of a new 5-year

contract. Commencing on the 7th month of the 2nd year of the contract the lease rates for these refuelers will be based on the city's selection of either Proposal #1 or Proposal #2 of this RFP. The city will have the option to lease trucks on a short-term basis for special events or circumstances. Avfuel will provide the city with the option to lease-to-purchase refueler(s) if that becomes necessary.

Leased truck maintenance: The city shall be responsible for securing a local maintenance provider for the Avfuel leased refuelers. The city shall notify Avfuel prior to conducting maintenance on the leased refuelers. The leased truck agreement excludes: gasoline, oil, tires and batteries.

Proposal #2 - Avfuel will be responsible for the maintenance of the leased refuelers through the city's selection of a maintenance provider to exclude gasoline, oil, tires and batteries.

Avfuel will not maintain the city's fuel farm.

Avfuel will be available, upon request, to inspect the city's leased trucks and fuel farm. See attachment C for maintenance coverage.

Avfuel Corporation	**City of Fayetteville, AR**
By: Mark Haynes	By:_____
Its: Mark Haynes V.P.	Its:_____
Date: 11/19/04	Date:_____

ATTACHMENT C

STANDARD MAINTENANCE

MAINTENANCE:

Except as noted in 7.3 below, the City of Fayetteville will maintain the Equipment in a condition equivalent to that as of the day of this Lease Agreement, normal wear and tear excepted, and, to that end, will, at the City of Fayetteville's sole expense, provide all preventative maintenance (including but not limited to lubrication, oil and filter changes, etc.), repairs, and replacement parts as are necessary to preserve the Equipment in good operating condition and in compliance and in conformity with all laws, rules, regulation, and industry standards which are applicable to the operation of refuelers. Complete and accurate maintenance records shall be kept by City of Fayetteville and AVFUEL shall be entitled to inspect the Equipment and the maintenance records at any time during regular business hours. At AVFUEL'S option, any item of repair or maintenance which would be the responsibility of City of Fayetteville may be performed by AVFUEL and billed back to City of Fayetteville as additional rent.

City of Fayetteville shall be responsible for all tire maintenance, repair, and replacement. CHANGING A TIRE ON A REFUELER IS VERY DANGEROUS AND MUST NOT BE ATTEMPTED BY UNTRAINED PERSONNEL. CITY OF FAYETTEVILLE AGREES THAT IT WILL PERMIT TIRES TO BE CHANGED ONLY BY AN OUTSIDE CONTRACTOR WHO IS PROFESSIONALLY TRAINED TO DO SUCH WORK.

7.3 Except as noted in 7.5 below, Avfuel shall be responsible for the following repairs when, in its opinion, repair is necessary: overhauls or replacement of the engine, transmission, differential, or belly valve. Avfuel shall be permitted access to the Equipment at any reasonable time in order to perform the repairs and modifications which are its obligation hereunder. Repairs and maintenance to be performed by Avfuel shall be completed within a reasonable time after notice. Avfuel assumes no responsibility for loss of use or any other items of ancillary damage which may be caused by or result to City of Fayetteville by reason of the fact that the equipment becomes inoperable.

City of Fayetteville shall not make any alterations or modifications to the Equipment of any kind including but not limited to painting, mounting of radios or antennas, applying decals or lettering without the express written consent of Avfuel.

7.5 City of Fayetteville shall promptly notify of the need for any repair or maintenance which is required and which is not the City of Fayetteville's responsibility. If such repair or maintenance is required as the result of intentional conduct, negligence, or failure to perform repair or maintenance on the part of City of Fayetteville or any of City of Fayetteville's agents or employees, City of Fayetteville shall be liable for all costs associated with performing such repairs and/or maintenance.

FULL MAINTENANCE

Full maintenance provided at AVFUEL'S cost will be that as stated in AVFUEL'S proposal under Refueler Requirements (pg. 10), and described as "Proposal #2" (pg. 12), and will include a Preventive Maintenance (PM) program of monthly inspection and minor maintenance, and on-call unscheduled repairs when required. Maintenance to be contracted with a local vendor subject to change, currently Aviation Maintenance Professionals (AMP), c/o Mike Sergeant, 4158 S. School St., Fayetteville, AR, 72701, phone: 479-527-9661 fax: 479-582-0830, email: aviationmaintpro@aol.com. See attached schedule of cost (Attachment D). It will not cover tires, oil changes, or light bulbs. Cost of the PM and repairs to the City of Fayetteville, with the exception of the excluded items, will be reimbursed to the City of Fayetteville by AVFUEL upon presentation of approved invoices.

Avfuel Corporation

By: Mark Haynes
Its: Mark Haynes V.P.
Date: 11/19/04

City of Fayetteville, AR

By: _____
Its: _____
Date: _____

FINANCING AGREEMENT

THIS FINANCING AGREEMENT, dated November 1, 2004 is between City of Fayetteville 4500 South School Street, Fayetteville, AR 72701 ("City of Fayetteville") and AVFUEL CORPORATION, 47 West Ellsworth Road, Ann Arbor, Michigan 48107 ("Avfuel") and confirms the terms and conditions upon which Avfuel has agreed to loan City of Fayetteville $12,000.00 (the "Loan") to fund capital and/or operating expenses for City of Fayetteville's business.

1. **Loan**.

Avfuel agrees to loan City of Fayetteville the sum of $12,000 upon the terms and conditions set forth herein. City of Fayetteville's obligation to repay the loan will be evidenced by a Promissory Note in the form attached hereto as Exhibit A (the "Note").

2. **Repayment**.

Unless earlier prepaid pursuant to Section 3, the Loan will be repaid by means of rebates, at the rate of $243.32 per month (the "Rebate") for each month in which all of City of Fayetteville's aviation fuel, as described in Section 2, is purchased and paid for by City of Fayetteville under the AVIATION FUEL SUPPLY AGREEMENT dated as of November 1, 2004 between City of Fayetteville and Avfuel (the "AFSA"). The Rebate will begin with the month of November 2004 and continuing thereafter until the last day of the calendar month immediately preceding the calendar month in which the Loan is repaid in full. The Rebate for aviation fuel for which City of Fayetteville makes payment in each calendar month will be credited to City of Fayetteville as of the 15th day of the next calendar month and will be applied against a monthly installment due under the Note as of such date.

3. **Mandatory Prepayment/Repayment**.

City of Fayetteville acknowledges that Avfuel has agreed to fund the Loan in reliance upon City of Fayetteville's representation that it will continue to control and operate the FBO through October 31, 2009 and that, for the period beginning November 1, 2004 and ending on October 31, 2009, all aviation fuel which is stored and distributed at the FBO will be supplied by Avfuel, including both aviation fuel which is purchased and used or resold by City of Fayetteville and aviation fuel which is purchased and used by third parties which utilize tank capacity at the FBO. As a consequence, City of Fayetteville agrees that if, at any time prior to [Date of last payment], for any reason, whether voluntarily or involuntarily on the part of City of Fayetteville, City of Fayetteville either ceases to control and operate the FBO or City of Fayetteville causes or permits aviation fuel supplied by any party other than Avfuel to be stored or distributed at the FBO, or this Agreement is terminated pursuant to section 3, then City of Fayetteville, within ten (10) days after delivery of written demand by Avfuel, shall be required to prepay in full the entire unpaid balance of principal and interest under the Loan. City of Fayetteville acknowledges that the prepayment and repayment provisions in this Section 3 are in addition to, and not in substitution of, any claims that Avfuel might otherwise assert under contract law if the cessation is the result of a breach by City of Fayetteville of its obligations under the AFSA or any other Document.

2. **CONDITIONS OF FUNDING**

The obligation of Avfuel to fund the Loan shall be subject to satisfaction of the following conditions, unless waived in writing by Avfuel:

a) All legal matters and Documents incident to the transactions contemplated hereby shall be satisfactory, in form and substance, to Avfuel's counsel;

b) Avfuel shall have received (i) a certificate signed by City of Fayetteville certifying that all requisite action has been taken in connection with the transactions contemplated hereby, and (ii) such other documents as Avfuel may reasonably require to be executed by, or delivered on behalf of, City of Fayetteville; and

c) Avfuel shall have received the Documents signed by an authorized officer of City of Fayetteville.

3. **TERMINATION.**

Avfuel may terminate this Agreement forthwith upon the occurrence of any of the following events:

a) If any representation or warranty made by City of Fayetteville in any oral written statement, certificate, report, or financial statement at any time furnished by City of Fayetteville in connection herewith, is or becomes incorrect or misleading in any material respect; or

b) If City of Fayetteville discontinues its business; is adjudicated a bankrupt or insolvent under any law of any jurisdiction; ceases, is unable, or admits in writing its inability, to pay its debts generally as they mature; makes a general assignment for the benefit of creditors; applies for, or consents to, the appointment of any receiver, trustee, or similar officer for it or for any substantial part of its property, or any such receiver, trustee, or similar officer is appointed without the application or consent of City of Fayetteville and such appointment continues thereafter un-discharged for a period of thirty (30) days; institutes, or consents to the institution of any bankruptcy, insolvency, reorganization, arrangement, readjustment or debt, dissolution, liquidation, or similar proceeding relating to it under the laws of any jurisdiction or any such proceeding is instituted against City of Fayetteville and remains thereafter un-dismissed for a period of thirty (30) days; or any judgment, writ, warrant of attachment or execution, or similar process is issued or levied against a substantial part of the property of City of Fayetteville and such judgment, writ, or similar process is not effectively stayed within thirty (30) days after its issue or levy; or

c) If, in Avfuel's sole discretion, for any reason or for no reason at all, it appears to Avfuel that City of Fayetteville may not be able to meet its repayment obligations under the loan, or

d) If City of Fayetteville fails to pay any amount owing by City of Fayetteville to Avfuel or any of it's affiliates under any AFSA Document or any other document within fifteen (15) days after its due date, whether at maturity, by acceleration, or otherwise or is otherwise in default under any AFSA Document or any other document.

4. **MISCELLANEOUS.**

a) No waiver of any provision of this Agreement or any Document, or consent to departure therefrom, is effective unless in writing and signed by Avfuel. No such consent or waiver extends beyond the particular case and purpose involved. No amendment to this Agreement is effective unless in writing and signed by City of Fayetteville and Avfuel.

b) City of Fayetteville shall indemnify and hold Avfuel harmless against any and all liabilities, losses, damages, costs, and expenses of any kind (including, without limitation, the reasonable fees and disbursements of counsel) suffered or incurred in connection with any investigative, administrative or judicial proceeding relating to City of Fayetteville (provided, however, that Avfuel shall have no right to be indemnified hereunder for its own bad faith or willful misconduct as determined by a court of competent jurisdiction).

c) This Agreement and each of the Documents will be governed by and construed in accordance with the laws of the State of Arkansas, without regard to principles of conflict of laws. Any dispute arising hereunder shall be subject to the jurisdiction of the Washington County, Arkansas Circuit Court and/or the Federal District Court for the District of Arkansas. The several captions to different Sections of this Agreement are inserted for convenience only and shall be ignored in interpreting the provisions hereof.

d) Any notice permitted or required under this Agreement shall be in writing and shall be deemed "delivered" as follows: (i) if by hand delivery, on the date of actual delivery; (ii) if by facsimile transmission, on the next business day following the date of transmission; (iii) if by mail, on the third business day following the date that the notice is deposited with the United States Postal Services, postage prepaid, the address of the party to whom notice is being given.

e) All agreements, representations, and warranties made in this Agreement will survive the signing of this Agreement and the funding of the Loan, and will bind and inure to the benefit of City of Fayetteville and Avfuel and their respective successors and assigns.

f) If any provision of this Agreement or any other Document, or any action taken hereunder or thereunder, or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement or any Document, each of which shall be construed and enforced without reference to such illegal or invalid portion and shall be deemed to be effective or taken in the manner and to the full extent permitted by law.

g) This Agreement and the other Documents integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral representations and negotiations and prior writings with respect to the subject matter hereof.

5. INDEMNIFICATION.

City of Fayetteville shall indemnify and hold Avfuel harmless against any and all liabilities, losses, damages, costs, and expenses of any kind (including, without limitation, the reasonable fees and disbursements of counsel) suffered or incurred in connection with any investigative, administrative or judicial proceeding relating to City of Fayetteville (provided, that Avfuel shall have no right to be indemnified hereunder for its own bad faith or willful misconduct as determined by a court of competent jurisdiction). City of Fayetteville further agrees to indemnify Avfuel against any loss or expense which Avfuel may sustain or incur as a consequence of any default by City of Fayetteville in payment when due of any amount due hereunder in respect of the Loan or Rebate.

IN WITNESS WHEREOF, City of Fayetteville and Avfuel have each caused this Agreement to be executed by their duly authorized officers effective this as of the date first above written.

City of Fayetteville:

City of Fayetteville	AVFUEL CORPORATION
By: _____	By: Mark Haynes
Name: _____	Name: Mark Haynes
Title: _____	Title: Vice President

EXHIBIT "A"

PROMISSORY NOTE

$12,000.00 November 1, 2004

FOR VALUE RECEIVED, City of Fayetteville (the "City of Fayetteville"), promises to pay to the order of AVFUEL CORPORATION, a Michigan corporation ("Avfuel"), the principal sum of $12,000.00 thereon at the rate of 8% per annum, payable in 60 equal monthly installments of $243.32 each, beginning on November 1, 2004 and continuing on the first day of each month thereafter.

All payments against this Promissory Note shall be applied first to any accrued interest and then to principal. The acceptance by Avfuel of any payment in an amount less than the amount then due shall be deemed an acceptance on account only, and the failure of the City of Fayetteville to pay the entire amount due shall be and continue to be an event of default, and at any time thereafter and until the entire amount due has been paid, Avfuel shall be entitled to exercise all rights conferred upon it in the event of default.

This Promissory Note may be prepaid in full or in part without charge. However, no payment may be designated as a "prepayment" unless all monthly payments then due under the note have been paid. Prepayments shall be applied first to any accrued but unpaid interest on the prepayment amount and then to principal. Prepayments will not result in any change in the monthly payment amount or the due date for monthly payments.

This Promissory Note is issued pursuant to a Financing Agreement of even date herewith between Avfuel and City of Fayetteville, and is secured by the security interest granted by City of Fayetteville to Avfuel pursuant to the Security Agreement also of even date herewith (collectively, the "Loan Documents"). Reference is made to those Loan Documents regarding occurrences constituting events of default thereunder.

Any failure of the City of Fayetteville to pay any installment under this Promissory Note within thirty (30) days after its due date shall constitute an event of default under this Promissory Note. Any occurrence constituting an event of default under any Loan Document or any other Agreement between Avfuel and City of Fayetteville shall constitute an event of default under this Promissory Note. Upon the occurrence of an event of default under this Promissory Note, Avfuel, in addition to all other rights and remedies as may be permitted under any Loan Document or under applicable law, may declare the entire balance of principal and interest under this Promissory Note immediately due and payable and, upon such declaration, take such actions and exercise such remedies as may be prescribed or permitted under applicable law to obtain collection from the City of Fayetteville.

Presentment for payment, notice of dishonor, protest, notice of protest, and diligence in collection are waived, and the time of payments or any part thereof may be deferred by the holder hereof, without in any way limited liability hereunder.

In the event that this Promissory Note is placed in the hands of an attorney for collection, or suit is brought thereon, the City of Fayetteville shall be liable for reasonable attorney's fees and costs incurred thereby.

This Promissory Note, and the rights and duties of Avfuel and the City of Fayetteville hereunder, shall be interpreted in accordance with the laws of the State of Arkansas.

City of Fayetteville

By: _____
Name: _____
Its: _____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
X CONTRACT REVIEW
____ GRANT REVIEW

Fuel supply contract
AVFUEL Corp.

For the Fayetteville City Council Meeting of: December 7, 2004

FROM:

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

ACTION REQUIRED: Approve contracts with AVFUEL Corporation, 47 West Ellsworth Rd, Ann Arbor, MI, 48108, Represented by Steve Falon, Office: 605-332-3932 X623, Fax: 605-332-4296, Cell: 734-645-7310, email: sfalon@avfuel.com, to provide aviation fuel, refueler trucks, and other services.

COST TO CITY:

$63,079.00	$ 681,140.00	Mat/Supp, Serv/Chgs
Cost of this request	Category/Project Budget	Program Category / Project Name
Various	$ 588,613.00	Airport Operations
Account Number	Funds Used to Date	Program / Project Category Name
	$ 92,527.00	Airport
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

D. F. White 11/19/2004
City Attorney Date

Purchasing Manager ____ Date

STAFF RECOMMENDATION:

Division Head ____ Date

Department Director 11/18/04 Date

Received in Mayor's Office 11-22-04 Date JM

Cross Reference:

Previous Ord/Res#: 147-01

Orig. Contract Date: 10/16/2001

Orig. Contract Number: ____

New Item: **Yes** **No X**

Finance & Internal Services Dir. ____ Date

Chief Administrative Officer 11-22-04 Date

Mayor 11/23/04 Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Frank Johnson, Chief of Police

DATE: November 18, 2004

RE: Request for Public Hearing on a Certificate of Public Convenience and Necessity for Cardinal Cab Company

Recommendation:

The council should schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Cardinal Cab Company.

Background:

The council recently passed a new ordinance governing taxi and limousine companies in Fayetteville. There have been meetings with city staff, the police department and the fleet division to determine the procedure that will be used to implement the new ordinance. All current Certificates of Public Convenience and Necessity will expire on December 31, 2004.

Discussion:

Attached is a copy of Mr. Prim's application. Mr. Prim has yet to furnish the Fayetteville Police Department with a copy of his insurance policy.

RESOLUTION NO. _____

A RESOLUTION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CARDINAL CAB COMPANY FOR THE OPERATION OF A TAXICAB SERVICE WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby grants a Certificate of Public Convenience and Necessity to Cardinal Cab Company for the operation of a taxicab service within the City of Fayetteville, Arkansas, in accordance with Chapter 117, Fayetteville Code of Ordinances.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

Certificate of Public Convenience & Necessity Application/Renewal

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

Rolland + Effie Prim — 500-F Blackoak — 479-872-9850
Applicant Name — Address Springdale, AR — Phone Number

Cardinal Cab Company — 479-872-9484
Name of Business — Phone Number

800 N. Jefferson, Suite 3, Springdale, AR 72764
Business Location

same as above
Mailing Address

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

Name and address of all owners, officers and stockholders:

Rolland + Effie Prim
500 - F Black Oak Ave.
Springdale, Arkansas 72764

Name of person to whom complaints should be directed:

Effie Prim or Harry Robinson

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

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

None

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

Owner drove and worked for another company for 5 or 6 yrs and has been operating now for almost 8 yrs.

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

There is a big demand for transportation in this area.

List the number of vehicles that will be under your operation or control: 2 or 3

Minimum and Maximum number of vehicles to be permitted: 2 (Minimum) 3 (Maximum)

List the location of proposed depots and terminals:

300 N. Jefferson Dr. Suite 3
Springdale, Arkansas 72764

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

white car w/ red lettering

List your days and hours of operation:

7 days a week, 24 hours a day; except for Christmas - we close @ 6pm Christmas eve + reopen 6pm Christmas day.

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

from 6pm Christmas Eve to 6pm Christmas day

List your proposed passenger rate schedule:

$2.00 pick-up; $1.40 per mile
$1.00 each add. person or stop

Police Department Representative

11-18-14
Date

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

CHAPTER 117: VEHICLE-RELATED BUSINESSES

ARTICLE I
REPAIR SHOPS AND WRECKER SERVICES

117.01 Definitions

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Motor vehicle. Every self-propelled device in, upon or by which any person or property is or may be transported or drawn over public streets and highways, except devices used exclusively upon stationary rails or tracks. "Motor vehicle" shall include, but shall not be limited to, automobiles, trucks, tractors, motorcycles, implements of husbandry, or buses.

Motor vehicle repair shop. Any business where motor vehicles are repaired for a charge and any place where the work of repairing motor vehicles is carried on as an incident to the business of selling new or used motor vehicles, or new or used motor vehicle parts, or as an incident to any other traffic in motor vehicles or their parts or equipment.

Motor vehicle wrecker service. Any business which, as a part of its operation, tows disabled motor vehicles for a charge.

Repair work on motor vehicles. Any work on the premises of a motor vehicle repair shop which requires direct or indirect physical contact with a motor vehicle or part thereof.

(Code 1965, §13C-1; Ord. No. 2190, 1-20-76; Code 1991, §117.01)

117.02 Storage Of Wrecked Vehicle

(A) No person in charge of or in control of a motor vehicle repair shop, or a motor vehicle wrecker service, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, nonoperable or wrecked motor vehicle to be stored on the premises longer than 10 days, unless said motor vehicle is stored in an enclosed building or is stored behind a six-foot fence constructed of such material that the motor vehicle is not readily visible by motorists or pedestrians. A six-foot view-obscuring fence may be constructed in accordance with this section, notwithstanding any provision of the city's zoning code (Chapter 160).

(B) No person in charge of, or in control of, a motor vehicle repair shop, or a motor vehicle wrecker service, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, nonoperable or wrecked motor vehicle to be stored within 50 feet of a public street right-of-way; provided, if a building structure is lawfully located closer than 50 feet from the street right-of-way, no partially dismantled, nonoperable or wrecked motor vehicle shall be stored closer to the street right-of-way than the wall of the building.

(Code 1965, §§13C-2, 13C-3; Ord. No. 2190, 1-2-76; Ord. No. 2196, 2-17-76; Code 1991, §117.02)

117.03-117.09 Reserved

ARTICLE II
USED CAR SALES

117.10 Report To Police Department Required

All automobile dealers in the city are required to furnish to the police department a list of all used cars sold by the dealer, setting forth such information as is prescribed by the police department.

(Code 1965, §19-8; Ord. No. 1447, 6-7-65; Code 1991, §117.10)

117.11-117.19 Reserved

ARTICLE III
REPEALED

117.20-117.29 Reserved

ARTICLE IV
TAXICABS

117.30 Definitions

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Certificate. A Certificate of Public Convenience and Necessity issued by the City Council, authorizing the holder thereof to conduct a taxicab business in the city.

Driver's permit. The permission granted by the Chief of Police, or his duly-appointed representative, to a person to drive a taxicab upon the streets of the city.

Holder. A person to whom a Certificate of Public Convenience and Necessity has been issued.

Manifest. A daily record prepared by a taxicab driver and/or taxicab company of all trips made by company vehicles showing time and place of origin, destination, number of passengers, and the amount of fare of each trip.

Person. Includes an individual, a corporation, or other legal entity, a partnership, and any unincorporated association.

Rate card. A card issued by the city for conspicuous display in each taxicab which contains the rates of fare then in force.

Taxicab. A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of not more than seven passengers and not operated on a fixed route. This definition expressly excludes limousines.

Waiting time. The time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act, or fault of a passenger or passengers.
(Code 1965, Sec. 20-16; Ord. No. 1910, 4-3-73; Code 1991, §117.30; Ord. No. 4623, 10-05-04)

117.31 Rates

(A) All taxicabs shall utilize a meter for calculation of rates and such apparatus shall be clearly visible to the occupant of the vehicle.

(B) The City Council shall set the maximum allowable rates for all taxicabs, consistent with the provisions of Arkansas Code Annotated § 14-57-303. The City Council shall annually review maximum allowable rates to determine if a change is needed.

(Ord. No. 4623, 10-05-04)
Cross reference(s)--Public Transit Board, §33.320.

117.32 Certificate Of Public Convenience And Necessity Required; Issuance Procedure

(A) No person shall operate or permit a taxicab owned, leased or controlled by him to be operated as a vehicle for hire upon the streets of the city without having first obtained a Certificate of Public Convenience and Necessity from the Fayetteville City Council.

(B) An application for a certificate shall be filed with the Police Department upon forms provided by the city, and said application shall be verified under oath and shall furnish the following information:

(1) The name and address of the applicant, including the name and address of all officers and stockholders of the company, if incorporated, and the name of the person to whom complaints should be directed;

(2) The financial status of the applicant, including the financial status of the officers and stockholders of the company, if incorporated, including the amount of all unpaid judgments against the applicant (officers and stockholders of the company, if incorporated), and the nature of the transaction or acts giving rise to said judgments;

(3) The experience of the applicant including all officers and stockholders of the company, if incorporated, in the transportation of passengers;

(4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate;

(5) The number of vehicles to be available for operation or controlled by the applicant and the location of proposed depots and terminals. The applicant shall furnish a minimum and maximum number of vehicles to be permitted;

(6) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;

(7) The hours between which the applicant proposes toprovide taxicab service to the general public, and the days, if any, on which the applicant does not propose to provide taxicab service to the general public, and;

(8) The rate schedule which the applicant proposes to use to charge passengers.

(C) Upon the filing of an application, the City Clerk shall fix a time and place for a public hearing thereon. Written notice of such hearing shall be given to the applicant and to all persons possessing current and valid Certificates of Public Convenience and Necessity. Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.

(D) *Findings of the City Council.*

(1) If the City Council finds that further taxicab service in the city is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this subchapter, then the city clerk shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied.

(2) The City Council shall deny any application in which the proposed hours of service or the proposed rate schedule are found to be unreasonable to meet the public need.

(3) In making the above findings, the City Council shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant.

(Code 1965, §§20-17–20-20; Ord. No. 1910, 4-3-73; Ord. No. 2716, 4-21-81; Code 1991, §117.32; Ord 4623, 10-05-04)

117.33 Liability Insurance

No Certificate of Public Convenience and Necessity shall be issued or continued in operation unless there is in full force and effect automobile liability insurance for each vehicle. The insurance shall have limits of not less than $25,000for personal injury to, or death of, any one person in any one accident, and liability limits of $50,000 for personal injury to, or death of, two or more persons in any one accident, and $25,000.00 for injury to or destruction of property or others in any one accident. The insurance shall be maintained with an insurance company authorized to do business in the state. A certificate evidencing such insurance shall be filed with the finance director.

(Code 1965, §20-21; Ord. No. 1910, 4-3-73; Ord. No. 3038, 10-2-84; Code 1991, §117.33)

117.34 Licensing Requirements

(A) Decal required.
No certificate shall be issued or continued in operation unless the holder thereof has secured an annual permit decal for each vehicle granting the right to engage in the taxicab business. The licensing shall be for the calendar year, with holders required to file annual renewal applications and fees at least thirty (30) days prior to the end of each year; and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicle or vehicles under his operation and control. All vehicles so licensed shall be required to show proof of the purchase of for hire tags from the State of Arkansas.

(B) Surety Bond required.
No certificate shall be issued unless and until the applicant shall file with the City Clerk a surety bond in the amount of $100.00, conditioned upon the applicant establishing, maintaining, and continuing the proposed service until such time as the certificate issued to the applicant is cancelled, withdrawn, or has expired.

(C) Radio dispatch required.
Every certificate holder shall maintain a radio dispatch system in operation during the hours of operation set forth in the application for the Certificate of Public Convenience and Necessity, capable of providing reasonably prompt service in response to requests received by telephone. Two-way radios are the preferred system. Citizens Band (CB) radios shall not be used. Any holder of a Certificate of Public Convenience and Necessity at the time of passage of this ordinance shall have six (6) months from the effective date thereof to comply with this provision.

(D) Scanners prohibited.
The use of scanners or other similar devices to monitor other taxicab operator's calls is hereby prohibited.

(Code 1965, §20-22; Ord. No. 1910, 4-3-73; Code 1991, §117.34; Ord. 4623, 10-05-04)

117.35 Transfer Of Certificate

No Certificate of Public Convenience and Necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the City Council.

(Code 1965, §20-23; Ord. No. 1910, 4-3-73; Code 1991, §117.35; Ord. 4623, 10-05-04)

117.36 Suspension, Revocation Of Certificate

(A) A certificate issued under the provisions of this article may be suspended by the Chief of Police, or his duly-appointed representative, if the holder thereof has (1) violated any of the provisions of this article, (2) discontinued operations for more than 20 days, (3) violated any ordinances of the city, or the laws, federal or state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

(B) The Chief of Police, or his duly-appointed representative, shall inform the City Council of all such suspensions, and may also recommend the revocation of a certificate. Upon such recommendation, the City Council shall set a time and place for a revocation hearing. The holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

(Code 1965, §20-24; Ord. No. 1910, 4-3-73; Ord. No. 2716, 4-21-81; Code 1991, §117.36; Ord. No. 4623, 10-05-04)

117.37 Taxicab Driver's Permit Required; Issuance Procedure

(A) No person shall operate a taxicab for hire upon the streets of the city and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab licensed by the city shall be so driven at any time for hire, unless the driver of said taxicab shall have first obtained and shall have then in force a taxicab driver's permit issued under the provisions of this subchapter.

(B) *Application required.*

(1) An application for a taxicab driver's permit shall be filed with the Chief of Police, or his duly-appointed representative, on forms provided by the city, and such application shall be verified under oath and shall contain the following information:

(a) The names and addresses of four residents of county, who have known the applicant for a period of one year and who will vouch for the sobriety, honesty, and general good character of the applicant.

(b) A concise history of his employment; and,

(c) satisfactory proof that the applicant is twenty one (21) years of age or over, as required by Arkansas Code Annotated § 14-57-404.

(C) Before any application is finally passed upon by the Chief of Police, or his duly-appointed representative, the applicant shall be required to show that he has a current motor vehicle's chauffeur's for hire permit issued by the state.

(D) The police department shall conduct a local background check of each applicant for a taxicab driver's permit, and a report of such background check and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the Chief of Police, or his duly-appointed representative.

(E) The Chief of Police, or his duly-appointed representative, shall, upon consideration of the application and the reports and certificate required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the City Council to offer evidence why his application should be reconsidered.

(F) *Form and term of permit.*

(1) Upon approval of an application for a taxicab driver's permit, the Chief of Police, or his duly-appointed representative, shall issue a permit to the applicant which shall bear the name, address, age, signature and photograph of the applicant.

(2) Such permit shall be in effect for the remainder of the calendar year. A renewal permit for each calendar year thereafter shall be issued, unless the permit for the preceding year has been revoked.

(G) Each certificate holder shall maintain copies of the drivers permit application and other supporting information so long as the driver is employed by the certificate holder. Each certificate holder shall promptly inform the Chief of Police, or his duly-appointed representative, upon the termination or resignation of a driver.

(Code 1965, §§20-25--20-31; Ord. No. 1910, 4-3-73; Code 1991, §117.37; Ord. 4632, 10-05-04)

117.38 Display Of Permit

Every permittee under this article shall post his driver's permit in such a place as to be in full view of all passengers while the driver is operating a taxicab, and the permit shall be illuminated when necessary for viewing.

(Code 1965, §20-32; Ord. No. 1910, 4-3-73; Code 1991, §117.38; Ord. 4623, 10-05-04)

117.39 Suspension, Revocation Of Permit

The Chief of Police, or his duly-appointed representative, is hereby given the authority to suspend any driver's permit issued under this article for a driver's failure or refusal to comply with the provisions of this article, such suspension to last for a period of not more than ten days. The Chief of Police, or his duly-appointed representative, is also given authority to revoke any driver's permit for failure to comply with the provisions of this article. However, a permit may not be suspended or revoked unless the driver has received notice and has had an opportunity to present evidence in his behalf.

(Code 1965, §20-33; Ord. No. 1910, 4-3-73; Code 1991, §117.39; Ord. 4623, 10-05-04)

117.40 Failure To Comply With Applicable Law

Every driver licensed under this article shall comply with all city, state, and federal laws. Failure to do so will justify the Chief of Police, or his duly-appointed representative, in instituting proceedings for revocation of the permit.

(Code 1965, §20-33.1; Ord. No. 1910, 4-3-73; Code 1991, §117.40; Ord. 4623, 10-05-04)

117.41 Vehicles To Be Kept Safe And Sanitary

Every vehicle operating under this article shall be subject to a thorough examination and inspection by the Fleet Division of the City, to include verification of the accuracy of each fare meter. The cost of said inspection shall be at a rate set by the Fleet Superintendent and shall be calculated at the hourly charge schedule utilized by the division. In addition, certificate holders shall pay an annual one hundred (100) dollar fee per vehicle, to defray the City's administrative costs. The vehicle must comply with such reasonable rules and regulations as may be prescribed by the Chief of Police, or his duly-appointed representative. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the Chief of Police, or his duly-appointed representative, shall determine necessary. The vehicle, upon passage of an inspection shall be affixed with a decal that certifies the vehicle as safe to operate in the city of Fayetteville.

(Code 1965, §20-33.2; Ord. No. 1910, 4-3-73; Ord. No. 1916, 4-17-73; Code 1991, §117.41; Ord. 4623, 10-05-04)

117.42 Designation Of Vehicle As Taxicab By Insignia Or The Like

No vehicle covered by the terms of this article shall be licensed whose color scheme, identifying design, monogram, or insignia to be used thereon shall, in the opinion of the Chief of Police, or his duly-appointed representative, conflict with or imitate any color scheme, identifying design, monogram or insignia used on a vehicle or vehicles already operating under this article, in such a manner as to be misleading or tend to deceive or defraud the public; and provided further, that if, after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram or insignia is used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering such taxicab or taxicabs shall be suspended or revoked. The vehicle operator shall also be required to display the decal affirming the safe condition of the vehicle. In addition, every taxicab shall have affixed to its roof an illuminated sign bearing either the word "taxicab" or "taxi.

(Code 1965, §20-33.3; Ord. No. 1910, 4-3-73; Ord. No. 2527, 5-1-79; Code 1991, §117.42; Ord. 4623, 10-05-04)

117.43 Acceptance, Discharge Of Passengers

(A) Duties of Drivers.

(1) *Restriction on number of passengers.* No drivers shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of the taxicab as defined by the vehicle manufacturer. Every taxicab, as required by state law, shall carry a child safety seat and the driver shall know how to properly install and safely use such device. A child under six years of age, properly restrained by a child safety seat shall not be counted as an extra passenger when accompanied by an adult.

(2) *Refusal to carry orderly passengers prohibited.* No driver shall refuse or neglect to convey any orderly person or persons, or any person or persons accompanied by a seeing eye dog, or a seeing eye dog upon request, unless unable or forbidden by the provisions of this article to do so; provided, it shall not be unlawful for a driver to refuse or neglect to convey any passenger who has previously refused or failed to pay a legal fare as provided in this article.

(3) *Prohibitions of drivers.* It shall be a violation of this article for any driver of a taxicab to solicit business for any hotel or motel, or to attempt to divert patronage from one hotel or motel to another. Neither shall such driver engage in selling intoxicating liquors or use his vehicle for any illegal purpose.

(4) *Passengers without fare prohibited.* No driver shall permit any person to be carried in a taxicab as a passenger without payment of the legal fare mentioned in this article while a fare-paying passenger is also being carried in the cab.

(B) *"Shared Ride" vs. "Exclusive Ride."* All persons engaged in the taxicab business in the city, operating under the provisions of this article, shall render an overall service to the public desiring to use taxicabs. Such service may be a "shared ride" taxicab system where the consent of passengers is

not needed to pick up or discharge additional passengers, nor to choose the route taken by the vehicle; or, such service may be an "exclusive ride" taxicab system providing door-to-door service in which the party hiring the vehicle has exclusive use of the vehicle and may direct the vehicle's route and destination. Under the shared ride system, a maximum of three pickups at different locations shall be permitted; after which all parties must reach their destination before additional pickups can be made.

Response to calls. Holders of Certificates of Public Convenience and Necessity shall answer all calls received by them during the hours of operation specified on the holder's application for services inside the corporate limits of the city as soon as they can do so; and, if said services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason for the delay. Any holder who shall refuse to accept a call anywhere in the corporate limits of the city at any time when such holder has available cabs shall be deemed in violation of this article, except on those occasions when the Chief of Police, or his duly-appointed representative, declares the streets of the City to be unsafe due to inclement weather. Any vehicle operated under the provisions of this article shall be equipped with snow tires or chains when required by weather conditions.

(Code 1965, §§20-33.7, 20-33.8; Ord. No. 1910, 4-3-73; Ord. No. 2302, 1-4-77; Ord. No. 2601, 2-19-80; Ord. No. 2716, 4-21-81; Code 1991, §117.43; Ord. No. 4623, 10-05-04)

117.44 Signed Receipt To Passenger Upon Request

The driver of any taxicab shall, upon demand by the passenger, render to such passenger a signed receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the taxicab company, the number of the taxicab, amount of charges, and date and time of transaction.

(Code 1965, §20-33.5; Ord. No. 1910, 4-3-73; Code 1991, §117.44; Ord. No. 4623, 10-05-04)

117.45 Refusal Of Passenger To Pay Fare

It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this article after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service.

(Code 1965, §20-33.6; Ord. No. 1910, 4-3-73; Code 1991, §117.45; Ord. No. 4623, 10-05-04)

117.46 Daily Manifest To Be Kept

Every company shall maintain a daily manifest upon which are recorded all trips made each day, showing the time and place of origin and destination of each trip and amount of fare. The forms for each manifest shall be of a character approved by the chief of police.

(Code 1965, §20-33.9; Ord. No. 1910, 4-3-73; Ord. No. 2527, 5-1-79; Code 1991, §117.46; Ord. 4623; 10-05-04)

117.47 Advertising

(A) Subject to the restrictions provided herein, it shall be lawful for any person owning or operating a taxicab, bus, van, or motor vehicle for hire to permit advertising matter to be affixed or installed in or on such taxicab, bus, van, or motor vehicle for hire. The advertising shall not in any way obstruct the vision of the driver of the vehicle. Advertising on a taxicab shall be limited to one sign located on the rear of the vehicle which sign shall not exceed nine square feet in area. Advertising on a bus or van shall be limited to one sign on each side of the vehicle and one sign on the rear of the vehicle, none of which signs shall exceed 12 square feet in area.

(B) It shall be unlawful for any person to display on any taxicab, bus, van, or motor vehicle for hire any advertisement of tobacco products, alcoholic beverages, x-rated motion pictures, or any advertisement that is false, misleading, or deceptive.

(Code 1965, §20-33.10; Ord. No. 1910, 4-3-73; Ord. No. 2750, 8-18-81; Code 1991, §117.47; Ord. 4623, 10-05-04)

117.48 Enforcement

The police department possesses the authority under existing law to issue citations as appropriate.

(Code 1965, §20-33.11; Ord. No. 1910, 4-3-73; Code 1991, §117.48; Ord. 4623, 10-05-04)

117.49 Meter Rates Established

(A) It shall be unlawful for any person, owning, operating, driving, or in charge of any taxicab for hire in the city to drive or operate such taxicab, or to use or advertise in connection therewith the word "taxi," "taxicab," or "cab" or in soliciting trade from the public to represent or exhibit such vehicle as a "taxi," "taxicab," or "cab" unless such vehicle is equipped with an approved fare meter according to the provisions of this chapter. An approved fare meter is a meter that registers accumulating fare charge with each amount being visible to passenger(s).

(B) Meter rates shall be used exclusively by all taxicabs excluding waiting time except as provided

in subsection (D) below. The ceiling rates shall apply to all taxicabs operating in the city.

The initial rates are set out as follows:

(1) Exclusive ride. Ceiling rate, no more than a rate of:

(a) Initial meter charge: $2.00

(b) Charge per mile: $1.50

(2) No more than $1.00 per additional person shall be charged.

(3) Waiting time ceiling rate, not to exceed $18.00 per hour.

(C) Passengers shall pay only the fare which appears on the meter. If no fare appears on the meter, the passenger's ride shall be free, except as provided in subsection (D) below, and excluding waiting time.

(D) A taxicab operator may make special contractual arrangements in advance with persons at fares either higher or lower than those set forth by this article, but such contract must be in writing and a copy thereof filed with the City Clerk.

117.50-117.59 Reserved

ARTICLE V
LIMOUSINE SERVICE

117.60 Definition

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Limousine service. Transportation service over the streets of the city, in a type of automobile commonly referred to as a limousine and having a manufacturer's seating capacity of at least eight persons, including the driver. This definition expressly excludes taxicabs.

(Code 1965, §20-34; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.60; Ord. No 4623, 10-05-04)

117.61 License Required; Fee

It is hereby declared to be a privilege for any person to furnish limousine service, and no person shall engage in such undertaking without first paying to the city an annual license fee of $100.00 for each limousine used on the streets of the city, for the privilege of engaging in such business. The fee shall be paid on or before January 1st of each year.

(Code 1965, §20-35; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.61; Ord. No. 4623, 10-05-04)

117.62 Vehicles To Be Kept Safe And Sanitary

Every vehicle operating under this article shall be subject to a thorough examination and inspection by the Fleet Division of the City. The cost of said inspection shall be at a rate set by the Fleet Superintendent and shall be calculated at the hourly charge schedule utilized by the division. The vehicle must comply with such reasonable rules and regulations as may be prescribed by the Chief of Police, or his duly-appointed representative. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the Chief of Police, or his duly-appointed representative, shall determine necessary. The vehicle, upon passage of an inspection shall be affixed with a decal that certifies the vehicle as safe to operate in the city of Fayetteville.

(Code 1965, §20-36; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Ord. No. 2660, 9-18-80; Ord. No. 3037, 10-2-84; Ord. No. 3234, 12-16-86; Ord. No. 4003, §1, 10-1-96; Code 1991, §117.62; Ord. No. 4623, 10-05-04)

117.63 Liability Insurance

No person shall furnish limousine service unless and until such person has filed with the finance director a copy of a motor vehicle liability insurance policy issued by an insurance company authorized to do business in the state, providing limits of not less than $25,000.00 for personal injury to, or death of, any one person in any one accident, liability limits of $50,000.00 for personal injury to, or death of, two or more persons in any one accident, and $25,000.00 for injury to or destruction of property of others in any one accident.

(Code 1965, §20-38; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Ord. No. 3037, 10-2-84; Ord. No. 4623, 10-05-04)

117.64-117.74 Reserved

ARTICLE VI
RENT-A-CAR SERVICE

117.75 Definition

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Rent-a-car service. The furnishing of rent-a-car service in the city whereby an automobile is rented for the exclusive use of a person for an indefinite period of time at a rate established by both the mileage traveled and length of time the automobile is so rented.

(Code 1965, §20-50; Ord. No. 1261, 4-10-61; Code 1991, §117.75)

ACORD CERTIFICATE OF LIABILITY INSURANCE

CBR EB CARDI-1 | DATE (MM/DD/YYYY) 11/18/04

PRODUCER

Farris Insurance Agency, Inc.
P.O. Box 345
Springdale AR 72765
Phone: 479-756-6330 Fax: 479-756-9262

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

Cardinal Cab Co.
Attn: Barry Robinson
800 W. Jefferson, Suite 3
Springdale AR 72764

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: A/R (Liberty Mutual Insurance	
INSURER B:	
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	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
		GENERAL LIABILITY					
		☐ COMMERCIAL GENERAL LIABILITY				EACH OCCURRENCE	$
		☐ ☐ CLAIMS MADE ☐ OCCUR				DAMAGE TO RENTED PREMISES (Ea occurrence)	$
						MED EXP (Any one person)	$
		GEN'L AGGREGATE LIMIT APPLIES PER:				PERSONAL & ADV INJURY	$
		☐ POLICY ☐ PRO-JECT ☐ LOC				GENERAL AGGREGATE	$
						PRODUCTS - COMP/OP AGG	$
A		AUTOMOBILE LIABILITY	AS1391434856014	06/30/04	06/30/05	COMBINED SINGLE LIMIT (Ea accident)	$ 75,000
		☐ 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 AUTO ONLY: EA ACC	$
		☐				AGG	$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	$
		☐ OCCUR ☐ CLAIMS MADE				AGGREGATE	$
		☐ DEDUCTIBLE					$
		☐ RETENTION $					$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU-TORY LIMITS ☐ OTH-ER	$
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	$
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	$
						E.L. DISEASE - POLICY LIMIT	$
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER

CITYFAY

City of Fayetteville
Fax #479-587-3522
Attn: Tad Scott
113 West 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 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

Steve M. Batchelor

ACORD 25 (2001/08)

© ACORD CORPORATION 1988

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Dec-04
City Council Meeting Date

Frank Johnson		Police
Submitted By	Division	Department

Action Required:

Schedule a public hearing to determine if a Certificate Of Public Convenience and Necessity should be issued to Cardinal Cab Company.

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

Budgeted Item [ ] Budget Adjustment Attached [ ]

Frank Johnson — 11/18/04
Department Director — Date

Previous Ordinance or Resolution # _____
Original Contract Date: _____
Original Contract Number: _____

D. Hutchison — 11/18/2004
City Attorney — Date

Received in City Clerk's Office

Ken Coody — 11/19/04
Mayor — Date

Received in Mayor's Office
11/18/04 P.H

Comments:

ENTERED
11-19-04

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Frank Johnson, Chief of Police

DATE: November 18, 2004

RE: Request for Public Hearing on a Certificate of Public Convenience and Necessity for CTS Airport Shuttle and Limousine Service

Recommendation:

The council should schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to CTS Airport Shuttle and Limousine Service.

Background:

The council recently passed a new ordinance governing taxi and limousine companies in Fayetteville. There have been meetings with city staff, the police department and the fleet division to determine the procedure that will be used to implement the new ordinance. All current Certificates of Public Convenience and Necessity will expire on December 31, 2004.

Discussion:

Attached are copies of Mr. Huddleston's application for his certificate and insurance policy. It will have to be determined if Mr. Huddleston meets the requirements for a limousine service or if he is operating as a taxicab company.

Facially, at least that is what his application describes. The Council should pursure this Q as part of his hearing.

DJH

RESOLUTION NO. _____

A RESOLUTION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CTS AIRPORT SHUTTLE AND LIMOUSINE SERVICE FOR THE OPERATION OF A LIMOUSINE SERVICE WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby grants a Certificate of Public Convenience and Necessity to CTS Airport Shuttle and Limousine Service for the operation of a limousine service within the City of Fayetteville, Arkansas, in accordance with Chapter 117, Fayetteville Code of Ordinances.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY APPLICATION/RENEWAL

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

********** APPLICANT **********

Geoffrey Huddleston 2943 Coachlite Cv. 479-841-9813
Name Address Phone Number

Describe your experience in the transportation of passengers.

Own and operate Airport Shuttle Service since 2001
own and operate Corp TRANS. Service since 1999

List your financial status, including the amount of all unpaid judgments against you and the nature of the transaction or acts giving rise to said judgments.

Medical Bills Negotiating Settlement with
Insurance Company - 6500.00

********** BUSINESS **********

CTS Airport Shuttle and Limousine Service - 479-841-9813
Names of Business Phone Number

2409 1/2 W. Shady Grove Rd. Springdale AR. 72764
Business Location

P.O. Box 444 Johnson AR. 72745
Business Mailing Address

How many vehicles will be available for your operation or control? 7.

List below the location of proposed depots and terminals.

Limousine Service - Does not Apply

Describe the color scheme or insignia to be used to designate your vehicles.

Does not Apply

What is your proposed rate schedule?

50.00 Per hr - VANS 60.00 per hr Suvs 75.00 Per hr Bus
1/2 hour minimum

List the hours between which you propose to provide taxicab service to the general public, and the days, if any, on which you do no propose to provide taxicab service to the general public.

Limousine Service ON CALL 24 hrs

List the names and addresses of all officers and stockholders of the company if incorporated.

N/A

Describe the experience of all officers and stockholders in the transportation of passengers.

N/A

List the financial status of the officers and stockholders of the company, if incorporated, including the amount of all unpaid judgments against any of them and the nature of the transactions of acts giving rise to said judgments.

N/A

To whom should complaints be directed?

Geoffrey Huddleston

Please give any facts which you believe tend to prove that public convenience and necessity require the granting of a certificate.

Citizens of Fayetteville have Asked me to open Limousine Service because of our Excellent Service with The Airport - Hotels have Also Asked us to do this

Accounting	**Date**	**Chief Admin. Officer**	**Date**
Police Department	**Date**	**Mayor**	**Date**
City Attorney	**Date**	**City Clerk**	**Date**

Return completed form to the
City Clerk's Office, 113 West Mountain Street, Fayetteville, AR. 72701

CTS Airport Shuttle and Limousine Service; Cert. of Public Conv.

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID KE
CTSLL-1

DATE (MM/DD/YY)
10/15/04

PRODUCER

Farris Insurance Agency, Inc.
P.O. Box 345
Springdale AR 72765
Phone: 479-756-6330 Fax: 479-756-9262

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

CTS, LLC
attn: Geoff Huddleston
PO Box 444
Johnson AR 72741

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Cypress Insurance Company	
INSURER B:	
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	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
		GENERAL LIABILITY				EACH OCCURRENCE	$
		[ ] COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurence)	$
		[ ] CLAIMS MADE [ ] OCCUR				MED EXP (Any one person)	$
						PERSONAL & ADV INJURY	$
		GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	$
		[ ] POLICY [ ] PRO-JECT [ ] LOC				PRODUCTS - COMP/OP AGG	$
A		AUTOMOBILE LIABILITY	ARA000254	01/06/04	01/06/05	COMBINED SINGLE LIMIT (Ea accident)	$ 300000
		[ ] ANY AUTO				BODILY INJURY (Per person)	$
		[ ] ALL OWNED AUTOS					
		[X] SCHEDULED AUTOS				BODILY INJURY (Per accident)	$
		[ ] HIRED AUTOS					
		[ ] NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident)	$
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
		[ ] ANY AUTO				OTHER THAN AUTO ONLY: EA ACC	$
						AGG	$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	$
		[ ] OCCUR [ ] CLAIMS MADE				AGGREGATE	$
							$
		[ ] DEDUCTIBLE					$
		[ ] RETENTION $					$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				[ ] WC STATU-TORY LIMITS [ ] OTH-ER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	$
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	$
						E.L. DISEASE - POLICY LIMIT	$
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER

CITYFAY

City of Fayetteville
113 West 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 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

Jason S. Keeling

© ACORD CORPORATION 1988

CTS Airport Shuttle and Limousine Service; Cert. of Public Conv.

ACORD. CERTIFICATE OF LIABILITY INSURANCE

OP ID KB
CTSLL-1

DATE (MM/DD/YY)
10/15/04

PRODUCER

Farris Insurance Agency, Inc.
P.O. Box 345
Springdale AR 72765
Phone: 479-756-6330 Fax: 479-756-9262

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

CTS, LLC
attn: Geoff Huddleston
PO Box 444
Johnson AR 72741

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Cypress Insurance Company	
INSURER B:	
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	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
		GENERAL LIABILITY				EACH OCCURRENCE	$
		☐ COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurence)	$
		☐ CLAIMS MADE ☐ OCCUR				MED EXP (Any one person)	$
						PERSONAL & ADV INJURY	$
		GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	$
		☐ POLICY ☐ PRO-JECT ☐ LOC				PRODUCTS - COMP/OP AGG	$
A		AUTOMOBILE LIABILITY	ARA000254	01/06/04	01/06/05	COMBINED SINGLE LIMIT (Ea accident)	$ 300000
		☐ ANY AUTO				BODILY INJURY (Per person)	$
		☐ ALL OWNED AUTOS					
		☒ SCHEDULED AUTOS				BODILY INJURY (Per accident)	$
		☐ HIRED AUTOS					
		☐ NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident)	$
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
		☐ ANY AUTO				OTHER THAN AUTO ONLY: EA ACC	$
						AGG	$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	$
		☐ OCCUR ☐ CLAIMS MADE				AGGREGATE	$
							$
		☐ DEDUCTIBLE					$
		☐ RETENTION $					$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				☐ WC STATU-TORY LIMITS ☐ OTH-ER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	$
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	$
						E.L. DISEASE - POLICY LIMIT	$
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER

CITYFAY

City of Fayetteville
113 West 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 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

Jason S. Keeling

© ACORD CORPORATION 1988

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

CHAPTER 117: VEHICLE-RELATED BUSINESSES

ARTICLE I
REPAIR SHOPS AND WRECKER SERVICES

117.01 Definitions
For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Motor vehicle. Every self-propelled device in, upon or by which any person or property is or may be transported or drawn over public streets and highways, except devices used exclusively upon stationary rails or tracks. "Motor vehicle" shall include, but shall not be limited to, automobiles, trucks, tractors, motorcycles, implements of husbandry, or buses.

Motor vehicle repair shop. Any business where motor vehicles are repaired for a charge and any place where the work of repairing motor vehicles is carried on as an incident to the business of selling new or used motor vehicles, or new or used motor vehicle parts, or as an incident to any other traffic in motor vehicles or their parts or equipment.

Motor vehicle wrecker service. Any business which, as a part of its operation, tows disabled motor vehicles for a charge.

Repair work on motor vehicles. Any work on the premises of a motor vehicle repair shop which requires direct or indirect physical contact with a motor vehicle or part thereof.

(Code 1965, §13C-1; Ord. No. 2190, 1-20-76; Code 1991, §117.01)

117.02 Storage Of Wrecked Vehicle

(A) No person in charge of or in control of a motor vehicle repair shop, or a motor vehicle wrecker service, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, nonoperable or wrecked motor vehicle to be stored on the premises longer than 10 days, unless said motor vehicle is stored in an enclosed building or is stored behind a six-foot fence constructed of such material that the motor vehicle is not readily visible by motorists or pedestrians. A six-foot view-obscuring fence may be constructed in accordance with this section, notwithstanding any provision of the city's zoning code (Chapter 160).

(B) No person in charge of, or in control of, a motor vehicle repair shop, or a motor vehicle wrecker service, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, nonoperable or wrecked motor vehicle to be stored within 50 feet of a public street right-of-way; provided, if a building structure is lawfully located closer than 50 feet from the street right-of-way, no partially dismantled, nonoperable or wrecked motor vehicle shall be stored closer to the street right-of-way than the wall of the building.

(Code 1965, §§13C-2, 13C-3; Ord. No. 2190, 1-2-76; Ord. No. 2196, 2-17-76; Code 1991, §117.02)

117.03-117.09 Reserved

ARTICLE II
USED CAR SALES

117.10 Report To Police Department Required
All automobile dealers in the city are required to furnish to the police department a list of all used cars sold by the dealer, setting forth such information as is prescribed by the police department.

(Code 1965, §19-8; Ord. No. 1447, 6-7-65; Code 1991, §117.10)

117.11-117.19 Reserved

ARTICLE III
REPEALED

117.20-117.29 Reserved

ARTICLE IV
TAXICABS

117.30 Definitions
For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Certificate. A Certificate of Public Convenience and Necessity issued by the City Council, authorizing the holder thereof to conduct a taxicab business in the city.

Driver's permit. The permission granted by the Chief of Police, or his duly-appointed representative, to a person to drive a taxicab upon the streets of the city.

Holder. A person to whom a Certificate of Public Convenience and Necessity has been issued.

Manifest. A daily record prepared by a taxicab driver and/or taxicab company of all trips made by company vehicles showing time and place of origin, destination, number of passengers, and the amount of fare of each trip.

Person. Includes an individual, a corporation, or other legal entity, a partnership, and any unincorporated association.

Rate card. A card issued by the city for conspicuous display in each taxicab which contains the rates of fare then in force.

Taxicab. A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of not more than seven passengers and not operated on a fixed route. This definition expressly excludes limousines.

Waiting time. The time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act, or fault of a passenger or passengers.
(Code 1965, Sec. 20-16; Ord. No. 1910, 4-3-73; Code 1991, §117.30; Ord. No. 4623, 10-05-04)

117.31 Rates

(A) All taxicabs shall utilize a meter for calculation of rates and such apparatus shall be clearly visible to the occupant of the vehicle.

(B) The City Council shall set the maximum allowable rates for all taxicabs, consistent with the provisions of Arkansas Code Annotated § 14-57-303. The City Council shall annually review maximum allowable rates to determine if a change is needed.

(Ord. No. 4623, 10-05-04)
Cross reference(s)--Public Transit Board, §33.320.

117.32 Certificate Of Public Convenience And Necessity Required; Issuance Procedure

(A) No person shall operate or permit a taxicab owned, leased or controlled by him to be operated as a vehicle for hire upon the streets of the city without having first obtained a Certificate of Public Convenience and Necessity from the Fayetteville City Council.

(B) An application for a certificate shall be filed with the Police Department upon forms provided by the city, and said application shall be verified under oath and shall furnish the following information:

(1) The name and address of the applicant, including the name and address of all officers and stockholders of the company, if incorporated, and the name of the person to whom complaints should be directed;

(2) The financial status of the applicant, including the financial status of the officers and stockholders of the company, if incorporated, including the amount of all unpaid judgments against the applicant (officers and stockholders of the company, if incorporated), and the nature of the transaction or acts giving rise to said judgments;

(3) The experience of the applicant including all officers and stockholders of the company, if incorporated, in the transportation of passengers;

(4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate;

(5) The number of vehicles to be available for operation or controlled by the applicant and the location of proposed depots and terminals, The applicant shall furnish a minimum and maximum number of vehicles to be permitted;

(6) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;

(7) The hours between which the applicant proposes toprovide taxicab service to the general public, and the days, if any, on which the applicant does not propose to provide taxicab service to the general public, and;

(8) The rate schedule which the applicant proposes to use to charge passengers.

(C) Upon the filing of an application, the City Clerk shall fix a time and place for a public hearing thereon. Written notice of such hearing shall be given to the applicant and to all persons possessing current and valid Certificates of Public Convenience and Necessity. Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.

(D) *Findings of the City Council.*

(1) If the City Council finds that further taxicab service in the city is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this subchapter, then the city clerk shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied.

(2) The City Council shall deny any application in which the proposed hours of service or the proposed rate schedule are found to be unreasonable to meet the public need.

(3) In making the above findings, the City Council shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant.

(Code 1965, §§20-17--20-20; Ord. No. 1910, 4-3-73; Ord. No. 2716, 4-21-81; Code 1991, §117.32; Ord 4623, 10-05-04)

117.33 Liability Insurance

No Certificate of Public Convenience and Necessity shall be issued or continued in operation unless there is in full force and effect automobile liability insurance for each vehicle. The insurance shall have limits of not less than $25,000for personal injury to, or death of, any one person in any one accident, and liability limits of $50,000 for personal injury to, or death of, two or more persons in any one accident, and $25,000.00 for injury to or destruction of property or others in any one accident. The insurance shall be maintained with an insurance company authorized to do business in the state. A certificate evidencing such insurance shall be filed with the finance director.

(Code 1965, §20-21; Ord. No. 1910, 4-3-73; Ord. No. 3038, 10-2-84; Code 1991, §117.33)

117.34 Licensing Requirements

(A) Decal required.

No certificate shall be issued or continued in operation unless the holder thereof has secured an annual permit decal for each vehicle granting the right to engage in the taxicab business. The licensing shall be for the calendar year, with holders required to file annual renewal applications and fees at least thirty (30) days prior to the end of each year; and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicle or vehicles under his operation and control. All vehicles so licensed shall be required to show proof of the purchase of for hire tags from the State of Arkansas.

(B) Surety Bond required.

No certificate shall be issued unless and until the applicant shall file with the City Clerk a surety bond in the amount of $100.00, conditioned upon the applicant establishing, maintaining, and continuing the proposed service until such time as the certificate issued to the applicant is cancelled, withdrawn, or has expired.

(C) Radio dispatch required.

Every certificate holder shall maintain a radio dispatch system in operation during the hours of operation set forth in the application for the Certificate of Public Convenience and Necessity, capable of providing reasonably prompt service in response to requests received by telephone. Two-way radios are the preferred system. Citizens Band (CB) radios shall not be used. Any holder of a Certificate of Public Convenience and Necessity at the time of passage of this ordinance shall have six (6) months from the effective date thereof to comply with this provision.

(D) Scanners prohibited.

The use of scanners or other similar devices to monitor other taxicab operator's calls is hereby prohibited.

(Code 1965, §20-22; Ord. No. 1910, 4-3-73; Code 1991, §117.34; Ord. 4623, 10-05-04)

117.35 Transfer Of Certificate

No Certificate of Public Convenience and Necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the City Council.

(Code 1965, §20-23; Ord. No. 1910, 4-3-73; Code 1991, §117.35; Ord. 4623, 10-05-04)

117.36 Suspension, Revocation Of Certificate

(A) A certificate issued under the provisions of this article may be suspended by the Chief of Police, or his duly-appointed representative, if the holder thereof has (1) violated any of the provisions of this article, (2) discontinued operations for more than 20 days, (3) violated any ordinances of the city, or the laws, federal or state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

(B) The Chief of Police, or his duly-appointed representative, shall inform the City Council of all such suspensions, and may also recommend the revocation of a certificate. Upon such recommendation, the City Council shall set a time and place for a revocation hearing. The holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

(Code 1965, §20-24; Ord. No. 1910, 4-3-73; Ord. No. 2716, 4-21-81; Code 1991, §117.36; Ord. No. 4623, 10-05-04)

117.37 Taxicab Driver's Permit Required; Issuance Procedure

(A) No person shall operate a taxicab for hire upon the streets of the city and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab licensed by the city shall be so driven at any time for hire, unless the driver of said taxicab shall have first obtained and shall have then in force a taxicab driver's permit issued under the provisions of this subchapter.

(B) *Application required.*

(1) An application for a taxicab driver's permit shall be filed with the Chief of Police, or his duly-appointed representative, on forms provided by the city, and such application shall be verified under oath and shall contain the following information:

(a) The names and addresses of four residents of county, who have known the applicant for a period of one year and who will vouch for the sobriety, honesty, and general good character of the applicant.

(b) A concise history of his employment; and,

(c) satisfactory proof that the applicant is twenty one (21) years of age or over, as required by Arkansas Code Annotated § 14-57-404.

(C) Before any application is finally passed upon by the Chief of Police, or his duly-appointed representative, the applicant shall be required to show that he has a current motor vehicle's chauffeur's for hire permit issued by the state.

(D) The police department shall conduct a local background check of each applicant for a taxicab driver's permit, and a report of such background check and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the Chief of Police, or his duly-appointed representative.

(E) The Chief of Police, or his duly-appointed representative, shall, upon consideration of the application and the reports and certificate required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the City Council to offer evidence why his application should be reconsidered.

(F) *Form and term of permit.*

(1) Upon approval of an application for a taxicab driver's permit, the Chief of Police, or his duly-appointed representative, shall issue a permit to the applicant which shall bear the name, address, age, signature and photograph of the applicant.

(2) Such permit shall be in effect for the remainder of the calendar year. A renewal permit for each calendar year thereafter shall be issued, unless the permit for the preceding year has been revoked.

(G) Each certificate holder shall maintain copies of the drivers permit application and other supporting information so long as the driver is employed by the certificate holder. Each certificate holder shall promptly inform the Chief of Police, or his duly-appointed representative, upon the termination or resignation of a driver.

(Code 1965, §§20-25--20-31; Ord. No. 1910, 4-3-73; Code 1991, §117.37; Ord. 4632, 10-05-04)

117.38 Display Of Permit

Every permittee under this article shall post his driver's permit in such a place as to be in full view of all passengers while the driver is operating a taxicab, and the permit shall be illuminated when necessary for viewing.

(Code 1965, §20-32; Ord. No. 1910, 4-3-73; Code 1991, §117.38; Ord. 4623, 10-05-04)

117.39 Suspension, Revocation Of Permit

The Chief of Police, or his duly-appointed representative, is hereby given the authority to suspend any driver's permit issued under this article for a driver's failure or refusal to comply with the provisions of this article, such suspension to last for a period of not more than ten days. The Chief of Police, or his duly-appointed representative, is also given authority to revoke any driver's permit for failure to comply with the provisions of this article. However, a permit may not be suspended or revoked unless the driver has received notice and has had an opportunity to present evidence in his behalf.

(Code 1965, §20-33; Ord. No. 1910, 4-3-73; Code 1991, §117.39; Ord. 4623, 10-05-04)

117.40 Failure To Comply With Applicable Law

Every driver licensed under this article shall comply with all city, state, and federal laws. Failure to do so will justify the Chief of Police, or his duly-appointed representative, in instituting proceedings for revocation of the permit.

(Code 1965, §20-33.1; Ord. No. 1910, 4-3-73; Code 1991, §117.40; Ord. 4623, 10-05-04)

117.41 Vehicles To Be Kept Safe And Sanitary

Every vehicle operating under this article shall be subject to a thorough examination and inspection by the Fleet Division of the City, to include verification of the accuracy of each fare meter. The cost of said inspection shall be at a rate set by the Fleet Superintendent and shall be calculated at the hourly charge schedule utilized by the division. In addition, certificate holders shall pay an annual one hundred (100) dollar fee per vehicle, to defray the City's administrative costs. The vehicle must comply with such reasonable rules and regulations as may be prescribed by the Chief of Police, or his duly-appointed representative. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the Chief of Police, or his duly-appointed representative, shall determine necessary. The vehicle, upon passage of an inspection shall be affixed with a decal that certifies the vehicle as safe to operate in the city of Fayetteville.

(Code 1965, §20-33.2; Ord. No. 1910, 4-3-73; Ord. No. 1916, 4-17-73; Code 1991, §117.41; Ord. 4623, 10-05-04)

117.42 Designation Of Vehicle As Taxicab By Insignia Or The Like

No vehicle covered by the terms of this article shall be licensed whose color scheme, identifying design, monogram, or insignia to be used thereon shall, in the opinion of the Chief of Police, or his duly-appointed representative, conflict with or imitate any color scheme, identifying design, monogram or insignia used on a vehicle or vehicles already operating under this article, in such a manner as to be misleading or tend to deceive or defraud the public; and provided further, that if, after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram or insignia is used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering such taxicab or taxicabs shall be suspended or revoked. The vehicle operator shall also be required to display the decal affirming the safe condition of the vehicle. In addition, every taxicab shall have affixed to its roof an illuminated sign bearing either the word "taxicab" or "taxi.

(Code 1965, §20-33.3; Ord. No. 1910, 4-3-73; Ord. No. 2527, 5-1-79; Code 1991, §117.42; Ord. 4623, 10-05-04)

117.43 Acceptance, Discharge Of Passengers

(A) Duties of Drivers.

(1) *Restriction on number of passengers.* No drivers shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of the taxicab as defined by the vehicle manufacturer. Every taxicab, as required by state law, shall carry a child safety seat and the driver shall know how to properly install and safely use such device. A child under six years of age, properly restrained by a child safety seat shall not be counted as an extra passenger when accompanied by an adult.

(2) *Refusal to carry orderly passengers prohibited.* No driver shall refuse or neglect to convey any orderly person or persons, or any person or persons accompanied by a seeing eye dog, or a seeing eye dog upon request, unless unable or forbidden by the provisions of this article to do so; provided, it shall not be unlawful for a driver to refuse or neglect to convey any passenger who has previously refused or failed to pay a legal fare as provided in this article.

(3) *Prohibitions of drivers.* It shall be a violation of this article for any driver of a taxicab to solicit business for any hotel or motel, or to attempt to divert patronage from one hotel or motel to another. Neither shall such driver engage in selling intoxicating liquors or use his vehicle for any illegal purpose.

(4) *Passengers without fare prohibited.* No driver shall permit any person to be carried in a taxicab as a passenger without payment of the legal fare mentioned in this article while a fare-paying passenger is also being carried in the cab.

(B) *"Shared Ride" vs. "Exclusive Ride."* All persons engaged in the taxicab business in the city, operating under the provisions of this article, shall render an overall service to the public desiring to use taxicabs. Such service may be a "shared ride" taxicab system where the consent of passengers is

not needed to pick up or discharge additional passengers, nor to choose the route taken by the vehicle; or, such service may be an "exclusive ride" taxicab system providing door-to-door service in which the party hiring the vehicle has exclusive use of the vehicle and may direct the vehicle's route and destination. Under the shared ride system, a maximum of three pickups at different locations shall be permitted; after which all parties must reach their destination before additional pickups can be made.

Response to calls. Holders of Certificates of Public Convenience and Necessity shall answer all calls received by them during the hours of operation specified on the holder's application for services inside the corporate limits of the city as soon as they can do so; and, if said services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason for the delay. Any holder who shall refuse to accept a call anywhere in the corporate limits of the city at any time when such holder has available cabs shall be deemed in violation of this article, except on those occasions when the Chief of Police, or his duly-appointed representative, declares the streets of the City to be unsafe due to inclement weather. Any vehicle operated under the provisions of this article shall be equipped with snow tires or chains when required by weather conditions.

(Code 1965, §§20-33.7, 20-33.8; Ord. No. 1910, 4-3-73; Ord. No. 2302, 1-4-77; Ord. No. 2601, 2-19-80; Ord. No. 2716, 4-21-81; Code 1991, §117.43; Ord. No. 4623, 10-05-04)

117.44 Signed Receipt To Passenger Upon Request

The driver of any taxicab shall, upon demand by the passenger, render to such passenger a signed receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the taxicab company, the number of the taxicab, amount of charges, and date and time of transaction.

(Code 1965, §20-33.5; Ord. No. 1910, 4-3-73; Code 1991, §117.44; Ord. No. 4623, 10-05-04)

117.45 Refusal Of Passenger To Pay Fare

It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this article after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service.

(Code 1965, §20-33.6; Ord. No. 1910, 4-3-73; Code 1991, §117.45; Ord. No. 4623, 10-05-04)

117.46 Daily Manifest To Be Kept

Every company shall maintain a daily manifest upon which are recorded all trips made each day, showing the time and place of origin and destination of each trip and amount of fare. The forms for each manifest shall be of a character approved by the chief of police.

(Code 1965, §20-33.9; Ord. No. 1910, 4-3-73; Ord. No. 2527, 5-1-79; Code 1991, §117.46; Ord. 4623; 10-05-04)

117.47 Advertising

(A) Subject to the restrictions provided herein, it shall be lawful for any person owning or operating a taxicab, bus, van, or motor vehicle for hire to permit advertising matter to be affixed or installed in or on such taxicab, bus, van, or motor vehicle for hire. The advertising shall not in any way obstruct the vision of the driver of the vehicle. Advertising on a taxicab shall be limited to one sign located on the rear of the vehicle which sign shall not exceed nine square feet in area. Advertising on a bus or van shall be limited to one sign on each side of the vehicle and one sign on the rear of the vehicle, none of which signs shall exceed 12 square feet in area.

(B) It shall be unlawful for any person to display on any taxicab, bus, van, or motor vehicle for hire any advertisement of tobacco products, alcoholic beverages, x-rated motion pictures, or any advertisement that is false, misleading, or deceptive.

(Code 1965, §20-33.10; Ord. No. 1910, 4-3-73; Ord. No. 2750, 8-18-81; Code 1991, §117.47; Ord. 4623, 10-05-04)

117.48 Enforcement

The police department possesses the authority under existing law to issue citations as appropriate.

(Code 1965, §20-33.11; Ord. No. 1910, 4-3-73; Code 1991, §117.48; Ord. 4623, 10-05-04)

117.49 Meter Rates Established

(A) It shall be unlawful for any person, owning, operating, driving, or in charge of any taxicab for hire in the city to drive or operate such taxicab, or to use or advertise in connection therewith the word "taxi," "taxicab," or "cab" or in soliciting trade from the public to represent or exhibit such vehicle as a "taxi," "taxicab," or "cab" unless such vehicle is equipped with an approved fare meter according to the provisions of this chapter. An approved fare meter is a meter that registers accumulating fare charge with each amount being visible to passenger(s).

(B) Meter rates shall be used exclusively by all taxicabs excluding waiting time except as provided

in subsection (D) below. The ceiling rates shall apply to all taxicabs operating in the city.

The initial rates are set out as follows:

(1) Exclusive ride. Ceiling rate, no more than a rate of:

(a) Initial meter charge: $2.00

(b) Charge per mile: $1.50

(2) No more than $1.00 per additional person shall be charged.

(3) Waiting time ceiling rate, not to exceed $18.00 per hour.

(C) Passengers shall pay only the fare which appears on the meter. If no fare appears on the meter, the passenger's ride shall be free, except as provided in subsection (D) below, and excluding waiting time.

(D) A taxicab operator may make special contractual arrangements in advance with persons at fares either higher or lower than those set forth by this article, but such contract must be in writing and a copy thereof filed with the City Clerk.

117.50-117.59 Reserved

ARTICLE V
LIMOUSINE SERVICE

117.60 Definition

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Limousine service. Transportation service over the streets of the city, in a type of automobile commonly referred to as a limousine and having a manufacturer's seating capacity of at least eight persons, including the driver. This definition expressly excludes taxicabs.

(Code 1965, §20-34; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.60; Ord. No 4623, 10-05-04)

117.61 License Required; Fee

It is hereby declared to be a privilege for any person to furnish limousine service, and no person shall engage in such undertaking without first paying to the city an annual license fee of $100.00 for each limousine used on the streets of the city, for the privilege of engaging in such business. The fee shall be paid on or before January 1st of each year.

(Code 1965, §20-35; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.61; Ord. No. 4623, 10-05-04)

117.62 Vehicles To Be Kept Safe And Sanitary

Every vehicle operating under this article shall be subject to a thorough examination and inspection by the Fleet Division of the City. The cost of said inspection shall be at a rate set by the Fleet Superintendent and shall be calculated at the hourly charge schedule utilized by the division. The vehicle must comply with such reasonable rules and regulations as may be prescribed by the Chief of Police, or his duly-appointed representative. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the Chief of Police, or his duly-appointed representative, shall determine necessary. The vehicle, upon passage of an inspection shall be affixed with a decal that certifies the vehicle as safe to operate in the city of Fayetteville.

(Code 1965, §20-36; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Ord. No. 2660, 9-18-80; Ord. No. 3037, 10-2-84; Ord. No. 3234, 12-16-86; Ord. No. 4003, §1, 10-1-96; Code 1991, §117.62; Ord. No. 4623, 10-05-04)

117.63 Liability Insurance

No person shall furnish limousine service unless and until such person has filed with the finance director a copy of a motor vehicle liability insurance policy issued by an insurance company authorized to do business in the state, providing limits of not less than $25,000.00 for personal injury to, or death of, any one person in any one accident, liability limits of $50,000.00 for personal injury to, or death of, two or more persons in any one accident, and $25,000.00 for injury to or destruction of property of others in any one accident.

(Code 1965, §20-38; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Ord. No. 3037, 10-2-84; Ord. No. 4623, 10-05-04)

117.64-117.74 Reserved

ARTICLE VI
RENT-A-CAR SERVICE

117.75 Definition

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Rent-a-car service. The furnishing of rent-a-car service in the city whereby an automobile is rented for the exclusive use of a person for an indefinite period of time at a rate established by both the mileage traveled and length of time the automobile is so rented.

(Code 1965, §20-50; Ord. No. 1261, 4-10-61; Code 1991, §117.75)

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Dec-04
City Council Meeting Date

Frank Johnson		Police
Submitted By	Division	Department

Action Required:

Schedule a public hearing to determine if a Certificate Of Public Convenience and Necessity should be issued to CTS Airport Shuttle and Limousine Service.

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

Budgeted Item ☐ Budget Adjustment Attached ☐

Frank Johnson — 11/18/04
Department Director — Date

Previous Ordinance or Resolution # _____
Original Contract Date: _____
Original Contract Number: _____

D.J. White — 11/18/2004
City Attorney — Date

Received in City Clerk's Office

Dan Coody — 11/19/04
Mayor — Date

Received in Mayor's Office
11/18/04 P.H.

Comments:

ENTERED 11-18-04

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Frank Johnson, Chief of Police

DATE: November 18, 2004

RE: Request for Public Hearing on a Certificate of Public Convenience and Necessity for Tony-C Taxi and Limo Company

Recommendation:

The council should schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Tony-C Taxi and Limo Company.

Background:

The council recently passed a new ordinance governing taxi and limousine companies in Fayetteville. There have been meetings with city staff, the police department and the fleet division to determine the procedure that will be used to implement the new ordinance. All current Certificates of Public Convenience and Necessity will expire on December 31, 2004.

Discussion:

Attached is a copy of Mr. Catroppa's application for his certificate, a letter from the Department of Finance and Administration stating Mr. Catroppa is self-insured and copy of the law quoted in the letter from DFA. The city attorney should determine if Mr. Catroppa does in fact meet the insurance requirement in the ordinance.

OK'D

RESOLUTION NO. _____

A RESOLUTION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO TONY-C TAXI & LIMO CO., LLC FOR THE OPERATION OF A TAXICAB AND LIMOUSINE SERVICE WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby grants a Certificate of Public Convenience and Necessity to Tony-C Taxi & Limo Co., LLC for the operation of a taxicab and limousine service within the City of Fayetteville, Arkansas, in accordance with Chapter 117, Fayetteville Code of Ordinances.

PASSED and **APPROVED** this 7th day of December 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

Certificate of Public Convenience & Necessity Application/Renewal

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

TONY Catroppa — 8391 S. Lakeshore drive Rogers AR. — 236-3401
Applicant Name — Address — Phone Number

TONY-C TAXI & Limo CO. — 872-6600 / 6366600
Name of Business — Phone Number

726 W. WALNUT Rogers AR.
Business Location

8391 S. Lakeshore drive Rogers AR. 72756
Mailing Address

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

Name and address of all owners, officers and stockholders:

Tony Catroppa - 8391 S. Lakeshore drive - Rogers AR 72756

Name of person to whom complaints should be directed:

Tony Catroppa

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

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

NONE

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

Tony has been in TAXi / Limo operations in Washington and Benton County since 1995 -

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

We have been in business for 10 years in the Area -

List the number of vehicles that will be under your operation or control: 20

Minimum and Maximum number of vehicles to be permitted: 6 (Minimum) 12 (Maximum)

List the location of proposed depots and terminals:

3570 W. 6th St. Flyer Hwy 12

726 W. Walnut, Rogers

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

ON the SIDE OF Vehicle - TONY C Cab CO.

ON Top OF Cabs Lighted SIGN- TONY C Cab CO.

List your days and hours of operation:

7 days - 7:00 am until - 4:00 pm -

Sunday - 10: am until - 2:00 pms

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

ice storms only -

List your proposed passenger rate schedule:

2.00 PICK up 1.50 per mile

Police Department Representative

11-18-04
Date

STATE OF ARKANSAS
Department of Finance
And Administration

DRIVER SERVICES
Safety Responsibility
Revenue Building, Room 1120
Little Rock, Arkansas 72201-1372
Phone: (501) 682-7098
FAX: (501) 682-2100
http://www.state.ar.us/dfa

June 9, 2004

Tony Catroppa
dba Tony Catroppa Enterprise
8391 S Lakeshore Dr
Rogers AR 72756

Re Self-Insurance
NAIC Number: 90032
Policy Number: 90032-32

Dear Sir or Madam:

Please be advised that in accordance with Act 189 of 1989 and as a member of **Tony Catroppa Enterprise**, any vehicle registered to you in the State of Arkansas is granted a Self-Insured status. Your company has complied with the specifications set out as a self-insured according to Arkansas State Statute 27-19-107 and this statute number may be used as the insurance identification number for reference.

You may present this letter as verification of compliance with the Arkansas mandatory liability insurance requirement for registration of vehicles. You should keep a copy of this letter in your vehicles at all times in order for your drivers, local law enforcement or court authority to have a contact reference should a question arise.

If you have any question concerning this matter, please call for further assistance.

Sincerely,

Coy R. Fulfer, Manager
Safety Responsibility Section
Telephone: (501) 682-7100

27-19-107. Self-insurers.

(a) Any religious denomination which has more than twenty-five (25) members who own motor vehicles registered in this state and which prohibits its members from purchasing insurance of any form as being contrary to its religious tenets, or any person in whose name more than twenty-five (25) vehicles are registered in this state or any political subdivision or municipality of this state, individually or collectively, may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the office as provided in subsection (b) of this section.

(b) The office may, in its discretion, upon the application of the religious denomination, person, political subdivision, or municipality, individually or collectively, issue a certificate of self-insurance when it is satisfied that the religious denomination, person, political subdivision, or municipality is possessed and will continue to be possessed of ability to pay judgments against them. The certificate may be issued authorizing a religious denomination, person, political subdivision, or municipality, individually or collectively, to act as a self-insurer for either property damage or bodily injury, or both.

(c)(1) Upon not less than five (5) days' notice and a hearing pursuant to such notice, the office may, upon reasonable grounds, cancel a certificate of self-insurance.

(2) Failure to pay any judgment within thirty (30) days after the judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

History. Acts 1953, No. 347, § 88; A.S.A. 1947, § 75-1488; Acts 1987, No. 590, § 4; 1989, No. 189, § 1.

RESEARCH REFERENCES

Ark. L. Rev. Oliver, None for the Road: Addressing the Problem of Uninsured Vehicles and Drivers in Arkansas, 21 UALR L.R. 167.

UALR L.J. Survey — Insurance, 10 UALR L.J. 587.

CASE NOTES

Cited: Yarbrough v. Checker Cab Co., 256 Ark. 314, 507 S.W.2d 105 (1974).

Subchapter 2 — Definitions

SECTION.
27-19-201. Definitions generally.
27-19-202. Commissioner.
27-19-203. Chauffeur.
27-19-204. Driver.
27-19-205. License.
27-19-206. Motor vehicle.
27-19-207. Nonresident.
27-19-208. Nonresident's operating privilege.
27-19-209. Office.
27-19-210. Operator.
27-19-211. Owner.

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

CHAPTER 117: VEHICLE-RELATED BUSINESSES

ARTICLE I
REPAIR SHOPS AND WRECKER SERVICES

117.01 Definitions
For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Motor vehicle. Every self-propelled device in, upon or by which any person or property is or may be transported or drawn over public streets and highways, except devices used exclusively upon stationary rails or tracks. "Motor vehicle" shall include, but shall not be limited to, automobiles, trucks, tractors, motorcycles, implements of husbandry, or buses.

Motor vehicle repair shop. Any business where motor vehicles are repaired for a charge and any place where the work of repairing motor vehicles is carried on as an incident to the business of selling new or used motor vehicles, or new or used motor vehicle parts, or as an incident to any other traffic in motor vehicles or their parts or equipment.

Motor vehicle wrecker service. Any business which, as a part of its operation, tows disabled motor vehicles for a charge.

Repair work on motor vehicles. Any work on the premises of a motor vehicle repair shop which requires direct or indirect physical contact with a motor vehicle or part thereof.

(Code 1965, §13C-1; Ord. No. 2190, 1-20-76; Code 1991, §117.01)

117.02 Storage Of Wrecked Vehicle

(A) No person in charge of or in control of a motor vehicle repair shop, or a motor vehicle wrecker service, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, nonoperable or wrecked motor vehicle to be stored on the premises longer than 10 days, unless said motor vehicle is stored in an enclosed building or is stored behind a six-foot fence constructed of such material that the motor vehicle is not readily visible by motorists or pedestrians. A six-foot view-obscuring fence may be constructed in accordance with this section, notwithstanding any provision of the city's zoning code (Chapter 160).

(B) No person in charge of, or in control of, a motor vehicle repair shop, or a motor vehicle wrecker service, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, nonoperable or wrecked motor vehicle to be stored within 50 feet of a public street right-of-way; provided, if a building structure is lawfully located closer than 50 feet from the street right-of-way, no partially dismantled, nonoperable or wrecked motor vehicle shall be stored closer to the street right-of-way than the wall of the building.

(Code 1965, §§13C-2, 13C-3; Ord. No. 2190, 1-2-76; Ord. No. 2196, 2-17-76; Code 1991, §117.02)

117.03-117.09 Reserved

ARTICLE II
USED CAR SALES

117.10 Report To Police Department Required
All automobile dealers in the city are required to furnish to the police department a list of all used cars sold by the dealer, setting forth such information as is prescribed by the police department.

(Code 1965, §19-8; Ord. No. 1447, 6-7-65; Code 1991, §117.10)

117.11-117.19 Reserved

ARTICLE III
REPEALED

117.20-117.29 Reserved

ARTICLE IV
TAXICABS

117.30 Definitions
For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Certificate. A Certificate of Public Convenience and Necessity issued by the City Council, authorizing the holder thereof to conduct a taxicab business in the city.

Driver's permit. The permission granted by the Chief of Police, or his duly-appointed representative, to a person to drive a taxicab upon the streets of the city.

Holder. A person to whom a Certificate of Public Convenience and Necessity has been issued.

Manifest. A daily record prepared by a taxicab driver and/or taxicab company of all trips made by company vehicles showing time and place of origin, destination, number of passengers, and the amount of fare of each trip.

Person. Includes an individual, a corporation, or other legal entity, a partnership, and any unincorporated association.

Rate card. A card issued by the city for conspicuous display in each taxicab which contains the rates of fare then in force.

Taxicab. A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of not more than seven passengers and not operated on a fixed route. This definition expressly excludes limousines.

Waiting time. The time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act, or fault of a passenger or passengers.
(Code 1965, Sec. 20-16; Ord. No. 1910, 4-3-73; Code 1991, §117.30; Ord. No. 4623, 10-05-04)

117.31 Rates

(A) All taxicabs shall utilize a meter for calculation of rates and such apparatus shall be clearly visible to the occupant of the vehicle.

(B) The City Council shall set the maximum allowable rates for all taxicabs, consistent with the provisions of Arkansas Code Annotated § 14-57-303. The City Council shall annually review maximum allowable rates to determine if a change is needed.

(Ord. No. 4623, 10-05-04)
Cross reference(s)—Public Transit Board, §33.320.

117.32 Certificate Of Public Convenience And Necessity Required; Issuance Procedure

(A) No person shall operate or permit a taxicab owned, leased or controlled by him to be operated as a vehicle for hire upon the streets of the city without having first obtained a Certificate of Public Convenience and Necessity from the Fayetteville City Council.

(B) An application for a certificate shall be filed with the Police Department upon forms provided by the city, and said application shall be verified under oath and shall furnish the following information:

(1) The name and address of the applicant, including the name and address of all officers and stockholders of the company, if incorporated, and the name of the person to whom complaints should be directed;

(2) The financial status of the applicant, including the financial status of the officers and stockholders of the company, if incorporated, including the amount of all unpaid judgments against the applicant (officers and stockholders of the company, if incorporated), and the nature of the transaction or acts giving rise to said judgments;

(3) The experience of the applicant including all officers and stockholders of the company, if incorporated, in the transportation of passengers;

(4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate;

(5) The number of vehicles to be available for operation or controlled by the applicant and the location of proposed depots and terminals, The applicant shall furnish a minimum and maximum number of vehicles to be permitted;

(6) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;

(7) The hours between which the applicant proposes toprovide taxicab service to the general public, and the days, if any, on which the applicant does not propose to provide taxicab service to the general public, and;

(8) The rate schedule which the applicant proposes to use to charge passengers.

(C) Upon the filing of an application, the City Clerk shall fix a time and place for a public hearing thereon. Written notice of such hearing shall be given to the applicant and to all persons possessing current and valid Certificates of Public Convenience and Necessity. Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.

(D) *Findings of the City Council.*

(1) If the City Council finds that further taxicab service in the city is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this subchapter, then the city clerk shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied.

(2) The City Council shall deny any application in which the proposed hours of service or the proposed rate schedule are found to be unreasonable to meet the public need.

(3) In making the above findings, the City Council shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant.

(Code 1965, §§20-17--20-20; Ord. No. 1910, 4-3-73; Ord. No. 2716, 4-21-81; Code 1991, §117.32; Ord 4623, 10-05-04)

117.33 Liability Insurance

No Certificate of Public Convenience and Necessity shall be issued or continued in operation unless there is in full force and effect automobile liability insurance for each vehicle. The insurance shall have limits of not less than $25,000for personal injury to, or death of, any one person in any one accident, and liability limits of $50,000 for personal injury to, or death of, two or more persons in any one accident, and $25,000.00 for injury to or destruction of property or others in any one accident. The insurance shall be maintained with an insurance company authorized to do business in the state. A certificate evidencing such insurance shall be filed with the finance director.

(Code 1965, §20-21; Ord. No. 1910, 4-3-73; Ord. No. 3038, 10-2-84; Code 1991, §117.33)

117.34 Licensing Requirements

(A) Decal required.

No certificate shall be issued or continued in operation unless the holder thereof has secured an annual permit decal for each vehicle granting the right to engage in the taxicab business. The licensing shall be for the calendar year, with holders required to file annual renewal applications and fees at least thirty (30) days prior to the end of each year; and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicle or vehicles under his operation and control. All vehicles so licensed shall be required to show proof of the purchase of for hire tags from the State of Arkansas.

(B) Surety Bond required.

No certificate shall be issued unless and until the applicant shall file with the City Clerk a surety bond in the amount of $100.00, conditioned upon the applicant establishing, maintaining, and continuing the proposed service until such time as the certificate issued to the applicant is cancelled, withdrawn, or has expired.

(C) Radio dispatch required.

Every certificate holder shall maintain a radio dispatch system in operation during the hours of operation set forth in the application for the Certificate of Public Convenience and Necessity, capable of providing reasonably prompt service in response to requests received by telephone. Two-way radios are the preferred system. Citizens Band (CB) radios shall not be used. Any holder of a Certificate of Public Convenience and Necessity at the time of passage of this ordinance shall have six (6) months from the effective date thereof to comply with this provision.

(D) Scanners prohibited.

The use of scanners or other similar devices to monitor other taxicab operator's calls is hereby prohibited.

(Code 1965, §20-22; Ord. No. 1910, 4-3-73; Code 1991, §117.34; Ord. 4623, 10-05-04)

117.35 Transfer Of Certificate

No Certificate of Public Convenience and Necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the City Council.

(Code 1965, §20-23; Ord. No. 1910, 4-3-73; Code 1991, §117.35; Ord. 4623, 10-05-04)

117.36 Suspension, Revocation Of Certificate

(A) A certificate issued under the provisions of this article may be suspended by the Chief of Police, or his duly-appointed representative, if the holder thereof has (1) violated any of the provisions of this article, (2) discontinued operations for more than 20 days, (3) violated any ordinances of the city, or the laws, federal or state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

(B) The Chief of Police, or his duly-appointed representative, shall inform the City Council of all such suspensions, and may also recommend the revocation of a certificate. Upon such recommendation, the City Council shall set a time and place for a revocation hearing. The holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

(Code 1965, §20-24; Ord. No. 1910, 4-3-73; Ord. No. 2716, 4-21-81; Code 1991, §117.36; Ord. No. 4623, 10-05-04)

117.37 Taxicab Driver's Permit Required; Issuance Procedure

(A) No person shall operate a taxicab for hire upon the streets of the city and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab licensed by the city shall be so driven at any time for hire, unless the driver of said taxicab shall have first obtained and shall have then in force a taxicab driver's permit issued under the provisions of this subchapter.

(B) *Application required.*

(1) An application for a taxicab driver's permit shall be filed with the Chief of Police, or his duly-appointed representative, on forms provided by the city, and such application shall be verified under oath and shall contain the following information:

(a) The names and addresses of four residents of county, who have known the applicant for a period of one year and who will vouch for the sobriety, honesty, and general good character of the applicant.

(b) A concise history of his employment; and,

(c) satisfactory proof that the applicant is twenty one (21) years of age or over, as required by Arkansas Code Annotated § 14-57-404.

(C) Before any application is finally passed upon by the Chief of Police, or his duly-appointed representative, the applicant shall be required to show that he has a current motor vehicle's chauffeur's for hire permit issued by the state.

(D) The police department shall conduct a local background check of each applicant for a taxicab driver's permit, and a report of such background check and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the Chief of Police, or his duly-appointed representative.

(E) The Chief of Police, or his duly-appointed representative, shall, upon consideration of the application and the reports and certificate required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the City Council to offer evidence why his application should be reconsidered.

(F) *Form and term of permit.*

(1) Upon approval of an application for a taxicab driver's permit, the Chief of Police, or his duly-appointed representative, shall issue a permit to the applicant which shall bear the name, address, age, signature and photograph of the applicant.

(2) Such permit shall be in effect for the remainder of the calendar year. A renewal permit for each calendar year thereafter shall be issued, unless the permit for the preceding year has been revoked.

(G) Each certificate holder shall maintain copies of the drivers permit application and other supporting information so long as the driver is employed by the certificate holder. Each certificate holder shall promptly inform the Chief of Police, or his duly-appointed representative, upon the termination or resignation of a driver.

(Code 1965, §§20-25--20-31; Ord. No. 1910, 4-3-73; Code 1991, §117.37; Ord. 4632, 10-05-04)

117.38 Display Of Permit

Every permittee under this article shall post his driver's permit in such a place as to be in full view of all passengers while the driver is operating a taxicab, and the permit shall be illuminated when necessary for viewing.

(Code 1965, §20-32; Ord. No. 1910, 4-3-73; Code 1991, §117.38; Ord. 4623, 10-05-04)

117.39 Suspension, Revocation Of Permit

The Chief of Police, or his duly-appointed representative, is hereby given the authority to suspend any driver's permit issued under this article for a driver's failure or refusal to comply with the provisions of this article, such suspension to last for a period of not more than ten days. The Chief of Police, or his duly-appointed representative, is also given authority to revoke any driver's permit for failure to comply with the provisions of this article. However, a permit may not be suspended or revoked unless the driver has received notice and has had an opportunity to present evidence in his behalf.

(Code 1965, §20-33; Ord. No. 1910, 4-3-73; Code 1991, §117.39; Ord. 4623, 10-05-04)

117.40 Failure To Comply With Applicable Law

Every driver licensed under this article shall comply with all city, state, and federal laws. Failure to do so will justify the Chief of Police, or his duly-appointed representative, in instituting proceedings for revocation of the permit.

(Code 1965, §20-33.1; Ord. No. 1910, 4-3-73; Code 1991, §117.40; Ord. 4623, 10-05-04)

117.41 Vehicles To Be Kept Safe And Sanitary

Every vehicle operating under this article shall be subject to a thorough examination and inspection by the Fleet Division of the City, to include verification of the accuracy of each fare meter. The cost of said inspection shall be at a rate set by the Fleet Superintendent and shall be calculated at the hourly charge schedule utilized by the division. In addition, certificate holders shall pay an annual one hundred (100) dollar fee per vehicle, to defray the City's administrative costs. The vehicle must comply with such reasonable rules and regulations as may be prescribed by the Chief of Police, or his duly-appointed representative. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the Chief of Police, or his duly-appointed representative, shall determine necessary. The vehicle, upon passage of an inspection shall be affixed with a decal that certifies the vehicle as safe to operate in the city of Fayetteville.

(Code 1965, §20-33.2; Ord. No. 1910, 4-3-73; Ord. No. 1916, 4-17-73; Code 1991, §117.41; Ord. 4623, 10-05-04)

117.42 Designation Of Vehicle As Taxicab By Insignia Or The Like

No vehicle covered by the terms of this article shall be licensed whose color scheme, identifying design, monogram, or insignia to be used thereon shall, in the opinion of the Chief of Police, or his duly-appointed representative, conflict with or imitate any color scheme, identifying design, monogram or insignia used on a vehicle or vehicles already operating under this article, in such a manner as to be misleading or tend to deceive or defraud the public; and provided further, that if, after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram or insignia is used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering such taxicab or taxicabs shall be suspended or revoked. The vehicle operator shall also be required to display the decal affirming the safe condition of the vehicle. In addition, every taxicab shall have affixed to its roof an illuminated sign bearing either the word "taxicab" or "taxi.

(Code 1965, §20-33.3; Ord. No. 1910, 4-3-73; Ord. No. 2527, 5-1-79; Code 1991, §117.42; Ord. 4623, 10-05-04)

117.43 Acceptance, Discharge Of Passengers

(A) Duties of Drivers.

(1) *Restriction on number of passengers.* No drivers shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of the taxicab as defined by the vehicle manufacturer. Every taxicab, as required by state law, shall carry a child safety seat and the driver shall know how to properly install and safely use such device. A child under six years of age, properly restrained by a child safety seat shall not be counted as an extra passenger when accompanied by an adult.

(2) *Refusal to carry orderly passengers prohibited.* No driver shall refuse or neglect to convey any orderly person or persons, or any person or persons accompanied by a seeing eye dog, or a seeing eye dog upon request, unless unable or forbidden by the provisions of this article to do so; provided, it shall not be unlawful for a driver to refuse or neglect to convey any passenger who has previously refused or failed to pay a legal fare as provided in this article.

(3) *Prohibitions of drivers.* It shall be a violation of this article for any driver of a taxicab to solicit business for any hotel or motel, or to attempt to divert patronage from one hotel or motel to another. Neither shall such driver engage in selling intoxicating liquors or use his vehicle for any illegal purpose.

(4) *Passengers without fare prohibited.* No driver shall permit any person to be carried in a taxicab as a passenger without payment of the legal fare mentioned in this article while a fare-paying passenger is also being carried in the cab.

(B) *"Shared Ride" vs. "Exclusive Ride."* All persons engaged in the taxicab business in the city, operating under the provisions of this article, shall render an overall service to the public desiring to use taxicabs. Such service may be a "shared ride" taxicab system where the consent of passengers is

not needed to pick up or discharge additional passengers, nor to choose the route taken by the vehicle; or, such service may be an "exclusive ride" taxicab system providing door-to-door service in which the party hiring the vehicle has exclusive use of the vehicle and may direct the vehicle's route and destination. Under the shared ride system, a maximum of three pickups at different locations shall be permitted; after which all parties must reach their destination before additional pickups can be made.

Response to calls. Holders of Certificates of Public Convenience and Necessity shall answer all calls received by them during the hours of operation specified on the holder's application for services inside the corporate limits of the city as soon as they can do so; and, if said services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason for the delay. Any holder who shall refuse to accept a call anywhere in the corporate limits of the city at any time when such holder has available cabs shall be deemed in violation of this article, except on those occasions when the Chief of Police, or his duly-appointed representative, declares the streets of the City to be unsafe due to inclement weather. Any vehicle operated under the provisions of this article shall be equipped with snow tires or chains when required by weather conditions.

(Code 1965, §§20-33.7, 20-33.8; Ord. No. 1910, 4-3-73; Ord. No. 2302, 1-4-77; Ord. No. 2601, 2-19-80; Ord. No. 2716, 4-21-81; Code 1991, §117.43; Ord. No. 4623, 10-05-04)

117.44 Signed Receipt To Passenger Upon Request

The driver of any taxicab shall, upon demand by the passenger, render to such passenger a signed receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the taxicab company, the number of the taxicab, amount of charges, and date and time of transaction.

(Code 1965, §20-33.5; Ord. No. 1910, 4-3-73; Code 1991, §117.44; Ord. No. 4623, 10-05-04)

117.45 Refusal Of Passenger To Pay Fare

It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this article after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service.

(Code 1965, §20-33.6; Ord. No. 1910, 4-3-73; Code 1991, §117.45; Ord. No. 4623, 10-05-04)

117.46 Daily Manifest To Be Kept

Every company shall maintain a daily manifest upon which are recorded all trips made each day, showing the time and place of origin and destination of each trip and amount of fare. The forms for each manifest shall be of a character approved by the chief of police.

(Code 1965, §20-33.9; Ord. No. 1910, 4-3-73; Ord. No. 2527, 5-1-79; Code 1991, §117.46; Ord. 4623; 10-05-04)

117.47 Advertising

(A) Subject to the restrictions provided herein, it shall be lawful for any person owning or operating a taxicab, bus, van, or motor vehicle for hire to permit advertising matter to be affixed or installed in or on such taxicab, bus, van, or motor vehicle for hire. The advertising shall not in any way obstruct the vision of the driver of the vehicle. Advertising on a taxicab shall be limited to one sign located on the rear of the vehicle which sign shall not exceed nine square feet in area. Advertising on a bus or van shall be limited to one sign on each side of the vehicle and one sign on the rear of the vehicle, none of which signs shall exceed 12 square feet in area.

(B) It shall be unlawful for any person to display on any taxicab, bus, van, or motor vehicle for hire any advertisement of tobacco products, alcoholic beverages, x-rated motion pictures, or any advertisement that is false, misleading, or deceptive.

(Code 1965, §20-33.10; Ord. No. 1910, 4-3-73; Ord. No. 2750, 8-18-81; Code 1991, §117.47; Ord. 4623, 10-05-04)

117.48 Enforcement

The police department possesses the authority under existing law to issue citations as appropriate.

(Code 1965, §20-33.11; Ord. No. 1910, 4-3-73; Code 1991, §117.48; Ord. 4623, 10-05-04)

117.49 Meter Rates Established

(A) It shall be unlawful for any person, owning, operating, driving, or in charge of any taxicab for hire in the city to drive or operate such taxicab, or to use or advertise in connection therewith the word "taxi," "taxicab," or "cab" or in soliciting trade from the public to represent or exhibit such vehicle as a "taxi," "taxicab," or "cab" unless such vehicle is equipped with an approved fare meter according to the provisions of this chapter. An approved fare meter is a meter that registers accumulating fare charge with each amount being visible to passenger(s).

(B) Meter rates shall be used exclusively by all taxicabs excluding waiting time except as provided

in subsection (D) below. The ceiling rates shall apply to all taxicabs operating in the city.

The initial rates are set out as follows:

(1) Exclusive ride. Ceiling rate, no more than a rate of:

(a) Initial meter charge: $2.00

(b) Charge per mile: $1.50

(2) No more than $1.00 per additional person shall be charged.

(3) Waiting time ceiling rate, not to exceed $18.00 per hour.

(C) Passengers shall pay only the fare which appears on the meter. If no fare appears on the meter, the passenger's ride shall be free, except as provided in subsection (D) below, and excluding waiting time.

(D) A taxicab operator may make special contractual arrangements in advance with persons at fares either higher or lower than those set forth by this article, but such contract must be in writing and a copy thereof filed with the City Clerk.

117.50-117.59 Reserved

ARTICLE V
LIMOUSINE SERVICE

117.60 Definition
For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Limousine service. Transportation service over the streets of the city, in a type of automobile commonly referred to as a limousine and having a manufacturer's seating capacity of at least eight persons, including the driver. This definition expressly excludes taxicabs.

(Code 1965, §20-34; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.60; Ord. No 4623, 10-05-04)

117.61 License Required; Fee
It is hereby declared to be a privilege for any person to furnish limousine service, and no person shall engage in such undertaking without first paying to the city an annual license fee of $100.00 for each limousine used on the streets of the city, for the privilege of engaging in such business. The fee shall be paid on or before January 1st of each year.

(Code 1965, §20-35; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.61; Ord. No. 4623, 10-05-04)

117.62 Vehicles To Be Kept Safe And Sanitary
Every vehicle operating under this article shall be subject to a thorough examination and inspection by the Fleet Division of the City. The cost of said inspection shall be at a rate set by the Fleet Superintendent and shall be calculated at the hourly charge schedule utilized by the division. The vehicle must comply with such reasonable rules and regulations as may be prescribed by the Chief of Police, or his duly-appointed representative. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the Chief of Police, or his duly-appointed representative, shall determine necessary. The vehicle, upon passage of an inspection shall be affixed with a decal that certifies the vehicle as safe to operate in the city of Fayetteville.

(Code 1965, §20-36; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Ord. No. 2660, 9-18-80; Ord. No. 3037, 10-2-84; Ord. No. 3234, 12-16-86; Ord. No. 4003, §1, 10-1-96; Code 1991, §117.62; Ord. No. 4623, 10-05-04)

117.63 Liability Insurance
No person shall furnish limousine service unless and until such person has filed with the finance director a copy of a motor vehicle liability insurance policy issued by an insurance company authorized to do business in the state, providing limits of not less than $25,000.00 for personal injury to, or death of, any one person in any one accident, liability limits of $50,000.00 for personal injury to, or death of, two or more persons in any one accident, and $25,000.00 for injury to or destruction of property of others in any one accident.

(Code 1965, §20-38; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Ord. No. 3037, 10-2-84; Ord. No. 4623, 10-05-04)

117.64-117.74 Reserved

ARTICLE VI
RENT-A-CAR SERVICE

117.75 Definition
For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Rent-a-car service. The furnishing of rent-a-car service in the city whereby an automobile is rented for the exclusive use of a person for an indefinite period of time at a rate established by both the mileage traveled and length of time the automobile is so rented.

(Code 1965, §20-50; Ord. No. 1261, 4-10-61; Code 1991, §117.75)

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Dec-04
City Council Meeting Date

Frank Johnson		Police
Submitted By	Division	Department

Action Required:

Schedule a public hearing to determine if a Certificate Of Public Convenience and Necessity should be issued to Tony-C Taxi and Limo Service.

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

Budgeted Item [ ] Budget Adjustment Attached [ ]

Frank Johnson — 11/18/04
Department Director — Date

Previous Ordinance or Resolution # _____
Original Contract Date: _____
Original Contract Number: _____

D.J. White — 11/18/04
City Attorney — Date

Received in City Clerk's Office

Dan Coody — 11/17/04
Mayor — Date

Received in Mayor's Office
11/18/04 AM.

Comments:

ENTERED 11-18-04 JT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **December 8, 2004**

RE: **Passed Resolutions and Ordinances from City Council meeting of December 7, 2004**

The following Resolutions and Ordinances were passed at last night's regular City Council meeting and are ready for the mayor's signature.

Enclosed are:

1. **Fire Safety House Purchase:** Resolution awarding Bid #04-79 to Surrey Fire Safety House in amount of $23,845.00 to provide a new fire safety house to Fayetteville Fire Dept. and approving budget adjustment in amount of $25,287.00 for same;

2. **OMI Contract Amendment No. 10:** Resolution approving Amendment No. 10 (A) to contract w/OMI in amount of $16,416.00 to fund out-of-scope flood emergency expenses incurred during Spring 2004; and approving budget adjustment in amount of $16.416.00;

3. **OMI Contract Amendment NO. 11:** Resolution approving Amendment No. 11 to contract w/OMI in amount of $4,484,325.00 for operation and management of Fayetteville Wastewater Treatment Plant for 2005;

4. **Garver Engineers Contract Amendment:** Resolution approving contract Amendment No. 4 w/Garver Engineers, LLC for additional design, bidding and construction phase services for Gregg Street waterline relocation in lump sum amount of $121,500.00;

5. **Aspen Ridge Development Park Land Dedication Requirement:** Resolution accepting Parks and Recreation Advisory Board's recommendation to accept approximately 1.24 acres of land and approximately $93,425.00 cash in lieu of required park land dedication (less Credit for Developer's cost to construct Indian Trail) for Aspen Ridge Development;

6. **Riggins-Stonebridge Development Park Land Dedication Requirement:** Resolution accepting Parks and Recreation Advisory Board's recommendation to accept $64,935.00 cash in lieu of required park land dedication for Riggins-Stonebridge Development;

7. **Dump Truck Purchase:** Resolution approving purchase of one 15-yard dump truck for Transportation Division from Diamond International in amount of $84,426.47;

8. **Van Purchase:** Resolution approving purchase of one Dodge Sprinter 3500 van for Animal Services Division from Breeden Dodge of Fort Smith in amount of $43,360.00;

9. **Police Pursuit Motorcycle Purchase:** Resolution approving purchase of two police pursuit motorcycles from Denny's Harley Davidson of Fort Smith in amount of $37,700.00;

10. **Mid-South Sales Contract:** Resolution approving contract w/Mid-South Sales of Fayetteville to provide engine oil and lubricants for Fleet Operations;

11. **New World Systems Contract:** Resolution approving contract w/New World Systems in amount of $67,700.00 to provide CAD Mapping and Automatic Vehicle Locator (AVL) Software and support to Fayetteville Police Department;

12. **Smith Communications, LLC Bid Award:** Resolution awarding Bid #04-85 to Smith Communication, LLC in amount of $164,361.00 to provide IP Mobilenet Equipment and Tower Site Upgrade to Fayetteville Police Dept. and approving budget adjustment in amount of $259,849.00;

13. **Sage House Replacement Lease:** Resolution to end current lease of City property to Sage House and approve replacement lease of City property to Sage House;

14. **Seven Hills Homeless Center, Inc. Lease:** Resolution approving lease of City property to Seven Hills Homeless Center, Inc.;

15. **Commercial Collection Vehicle Purchase:** Resolution approving purchase of three front-load commercial collection vehicles for Solid Waste & Recycling Division from Downing Sales and Service in amount of $526,709.61;

16. **Avfuel Corporation Contract:** Resolution approving fuel services contract w/Avfuel Corporation to provide aviation fuel, refueler trucks and other services to Fayetteville Municipal Airport;

17. **RZN 04-1243:** Ordinance rezoning property described in rezoning petition as submitted by Ronald Dean Medley for property located at 3507 W. 6th Street containing approximately 1.03 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial;

18. **Highway 71 East Square Redevelopment District Project Plan Adoption:** Ordinance adopting Project Plan for Highway 71 East Square Redevelopment District, finding Plan is economically feasible and authorizing issuance of Tax Increment Financing Bonds to fund improvements outlined in plan;

19. **R-PZD 04-1154:** Ordinance establishing Residential Planned Zoning District titled R-PZD 04-1154 Cliffside, located east of Happy Hollow Road, south of Cliffs Apartments, planned unit development, containing approximately 26.114 acres, more or less; amending Official Zoning Map of City of Fayetteville and adopting associated residential development plan as approved by Planning Commission;

20. **Ecological Engineering Group Contract:** Ordinance waiving requirements of competitive bidding and approving proposed contract w/Ecological Engineering Group in amount of $129,989.00 for a four-year Physical and Biological Stream Assessment and Monitoring program;

21. **Youth Center Inc. Contract:** Ordinance waiving requirements of formal competitive bidding and approving contract between City of Fayetteville and Fayetteville Youth Center, Inc. in amount of $250,000.00 to provide public recreation services for youth and citizens of Fayetteville for 2005;

22. **Council on Aging Contract:** Ordinance waiving requirements of formal competitive bidding and approving contract between City of Fayetteville and Council on Aging in amount of $50,000.00 to provide public recreation services for senior citizens of Fayetteville for 2005;

23. **Legislative Packet Approval:** Resolution recommending approval of Legislative Packet of City of Fayetteville;

24. **§34.27 Sale of Municipally Owned Real Estate Amendment:** Ordinance amending §34.27 **Sale of Municipally Owned Real Estate** to add exemption for lands acquired pursuant to approved redevelopment project plans;

25. **Sign Appeal Process Clarification:** Ordinance clarifying and streamlining process of appealing administrative decisions or interpretations regarding signs and granting variances from requirements of Chapter 174, Signs, Unified Development Code;

26. **Scull Creek Trail Corridor Development:** Resolution considering spending as much as $500,000.00 of proceeds from sale of Wilson Springs Property in development of Scull Creek Trail Corridor;

27. **2004 Millage Levy:** Ordinance levying tax on real and personal property within City of Fayetteville for year 2004 fixing rate thereof at 0.4 mils for Firemen's Pension and Relief Fund, 0.4 mils for Policemen's Pension and Relief Fund, 1.0 mil for Fayetteville City Library, and certifying same to County Clerk of Washington County;

28. **Cardinal Cab Company; Certificate of Public Convenience & Necessity:** Resolution granting Certificate of Public Convenience and Necessity to Cardinal Cab Company for operation of taxicab service within City of Fayetteville;

29. **CTS Airport Shuttle and Limousine Service; Certificate of Public Convenience and Necessity:** Resolution granting Certificate of Public Convenience and Necessity to CTS Airport Shuttle and Limousine Service for operation of limousine service within City of Fayetteville.

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

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

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
December 7, 2004

A meeting of the Fayetteville City Council will be held on December 7, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Pledge of Allegiance

Roll Call

Airport Board Annual Report

A. CONSENT:

1. **Approval of the Minutes:** Approval of the November 16, 2004 City Council meeting minutes.

2. **Shake's Property Offer:** A resolution to accept an Offer from Stephen L. Davis to purchase the remainder of the former Shake's property and building for $178,555.00.

3. **Fire Safety House Purchase:** A resolution awarding Bid #04-79 to Surrey Fire Safety House on the amount of $23,845.00 to provide a new fire safety house to the Fayetteville Fire Department; and approving a budget adjustment in the amount of $25,287.00 for same.

4. **OMI Contract Amendment No. 10:** A resolution approving amendment No. 10 (A) to the contract with Operations Management International (OMI) in the amount of $16,416.00 to fund out-of-scope flood emergency expenses incurred during Spring 2004; and approving a budget adjustment in the amount of $16,416.00.

5. **OMI Contract Amendment No. 11:** A resolution approving amendment No. 11 to the contract with Operations Management International (OMI) in the amount of $4,484,325.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2005.

6. **Garver Engineers Contract Amendment:** A resolution to approve contract amendment No. 4 with Garver Engineers, LLC for additional design, bidding and construction phase services for the Gregg Street waterline relocation in the lump sum amount of $121,500.00.

7. **Aspen Ridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept approximately 1.24 acres of land and approximately $93,425.00 Cash in Lieu of the Required Park Land Dedication (less Credit for the Developer's cost to construct Indian Trail) for Aspen Ridge Development.

8. **Riggins–Stonebridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $64,935.00 cash in lieu of the required Park Land Dedication for Riggins-Stonebridge Development.

9. **Transportation Division Dump Truck Purchase:** A resolution approving the purchase of one (1) 15 yard dump truck for the Transportation Division from the Diamond International in the amount of $84,426.47.

10. **Animal Services Van Purchase:** A resolution approving the purchase of one (1) Dodge Sprinter 3500 van for the Animal Services Division from the Breeden Dodge of Fort Smith in the amount of $43,360.00.

11. **Police Pursuit Motorcycle Purchase:** A resolution approving the purchase of two (2) police pursuit motorcycles from Denny's Harley Davidson of Fort Smith in the amount of $37,700.00.

12. **Mid-South Sales Contract:** A resolution approving a contract with Mid South Sales of Fayetteville to provide engine oil and lubricants for the Fleet Operations Division.

13. **New World Systems Contract:** A resolution approving a contract with New World Systems in the amount of $67,700.00 to provide CAD Mapping and Automatic Vehicle Locator (AVL) Software and support to the Fayetteville Police Department.

14. **Smith Communications, LLC Bid Award:** A resolution awarding Bid #04-85 to Smith Communications, LLC in the amount of $164,361.00 to provide IP Mobilenet Equipment and Tower Site Upgrade to the Fayetteville Police Department; and approving a budget adjustment in the amount of $159,849.00.

B. UNFINISHED BUSINESS

1. **RZN 04-1243 (Medley):** An ordinance rezoning that property described in rezoning petition RZN 04-1243 as submitted by Ronald Dean Medley for property located at 3507 W. 6th Street containing approximately 1.03 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial. ***This ordinance was left on the First Reading at the November 16, 2004 City Council meeting.***

2. **2005 Proposed Annual Budget and Work Program Adoption:** A resolution adopting the proposed 2005 Annual Budget and Work Program. ***This resolution was tabled at the November 16, 2004 City Council meeting until the December 7, 2004 City Council meeting.***

C. NEW BUSINESS:

1. **R-PZD 04-1154 (Cliffside):** An ordinance establishing a residential planned zoning district titles R-PZD 04-1154, Cliffside located east of Happy Hollow Road, South of the Cliffs Apartments, planned unit development, containing approximately 26.114 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the associated residential development plan as approved by the Planning Commission.

2. **Ecological Engineering Group Contract:** An ordinance to waive the requirements of competitive bidding and to approve a proposed contract with the Ecological Engineering Group in the amount of $129,989.00 for a four year Physical and Biological Stream Assessment and Monitoring Program.

3. **Youth Center Inc. Contract:** An ordinance waiving the requirements of formal and competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center Inc. in the amount of $250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2005.

4. **Council on Aging Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $50,000.00 to provide public recreation services for the senior citizens of Fayetteville for 2005.

5. **Solid Waste and Recycling Division Commercial Collection Vehicle Purchase:** A resolution approving the purchase of three (3) front-load commercial collection vehicles for the Solid Waste and Recycling Division from the Downing Sales and Service in the amount of $526,709.61.

6. **Legislative Packet Approval:** A resolution to recommend the approval of the Legislative Packet of the City of Fayetteville.

7. **§34.27 "Sale of Municipally Owned Real Estate" Amendment:** An ordinance to amend §34.27 Sale of Municipally Owned Real Estate to add an exemption for lands acquired pursuant to approved redevelopment project plans.

8. **Sign Appeal Process Clarification:** An ordinance clarifying and streamlining the process of appealing administrative decisions or interpretations regarding signs and granting of variances from the requirements of Chapter 174, Signs, Unified Development Code.

9. **Scull Creek Trail Corridor Development:** A resolution to consider spending as much as $1,000,000.00 of the proceeds from the sale of the Wilson Springs Property in the development of the Scull Creek Trail Corridor.

10. **2004 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2004 fixing the rate therof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City Library; ~~and 1.0 mill for General Purposes and operations of the City~~; and certifying the same to the County Clerk of Washington County, Arkansas.

Library

11. **AVFUEL Corporation Contract:** A resolution approving a fuel services contract with AVFUEL Corporation to provide aviation fuel, refueler trucks, and other services to the Fayetteville Municipal Airport.

D. PUBLIC HEARINGS:

1. **Cardinal Cab Company; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Cardinal Cab Company for the operation of a taxicab service within the City of Fayetteville, Arkansas.

2. **CTS Airport Shuttle and Limousine Service; Certificate of Public Convenience and Necessity:** A resolution granting a certificate of Public Convenience and necessity to CTS Airport Shuttle and Limousine Service for the operation of a limousine service within the City of Fayetteville, Arkansas.

3. **Tony-C Taxi & Limo Service; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Tony-C Taxi & Limo Co., LLC for the operation of a taxicab and limousine service within the City of Fayetteville, Arkansas.

E. INFORMATIONAL:

Council Tour: December 6, 2004 – 4:30 pm

Agenda Session 11-30-04

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

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

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
December 7, 2004

A meeting of the Fayetteville City Council will be held on December 7, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Pledge of Allegiance

Roll Call

Airport Board Annual Report

A. CONSENT:

1. **Approval of the Minutes:** Approval of the November 16, 2004 City Council meeting minutes.

Removed from agenda. Will be on the 1st Meeting in 2005.

2. **Shake's Property Offer:** A resolution to accept an Offer from Stephen L. Davis to purchase the remainder of the former Shake's property and building for $178,555.00.

3. **Fire Safety House Purchase:** A resolution awarding Bid #04-79 to Surrey Fire Safety House on the amount of $23,845.00 to provide a new fire safety house to the Fayetteville Fire Department; and approving a budget adjustment in the amount of $25,287.00 for same.

4. **OMI Contract Amendment No. 10:** A resolution approving amendment No. 10 (A) to the contract with Operations Management International (OMI) in the amount of $16,416.00 to fund out-of-scope flood emergency expenses incurred during Spring 2004; and approving a budget adjustment in the amount of $16,416.00.

5. **OMI Contract Amendment No. 11:** A resolution approving amendment No. 11 to the contract with Operations Management International (OMI) in the amount of $4,484,325.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2005.

6. **Garver Engineers Contract Amendment:** A resolution to approve contract amendment No. 4 with Garver Engineers, LLC for additional design, bidding and construction phase services for the Gregg Street waterline relocation in the lump sum amount of $121,500.00.

7. **Aspen Ridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept approximately 1.24 acres of land and approximately $93,425.00 Cash in Lieu of the Required Park Land Dedication (less Credit for the Developer's cost to construct Indian Trail) for Aspen Ridge Development.

8. **Riggins–Stonebridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $64,935.00 cash in lieu of the required Park Land Dedication for Riggins-Stonebridge Development.

9. **Transportation Division Dump Truck Purchase:** A resolution approving the purchase of one (1) 15 yard dump truck for the Transportation Division from the Diamond International in the amount of $84,426.47.

10. **Animal Services Van Purchase:** A resolution approving the purchase of one (1) Dodge Sprinter 3500 van for the Animal Services Division from the Breeden Dodge of Fort Smith in the amount of $43,360.00.

11. **Police Pursuit Motorcycle Purchase:** A resolution approving the purchase of two (2) police pursuit motorcycles from Denny's Harley Davidson of Fort Smith in the amount of $37,700.00.

12. **Mid-South Sales Contract:** A resolution approving a contract with Mid South Sales of Fayetteville to provide engine oil and lubricants for the Fleet Operations Division.

13. **New World Systems Contract:** A resolution approving a contract with New World Systems in the amount of $67,700.00 to provide CAD Mapping and Automatic Vehicle Locator (AVL) Software and support to the Fayetteville Police Department.

14. **Smith Communications, LLC Bid Award:** A resolution awarding Bid #04-85 to Smith Communications, LLC in the amount of $164,361.00 to provide IP Mobilenet Equipment and Tower Site Upgrade to the Fayetteville Police Department; and approving a budget adjustment in the amount of $159,849.00.

15. **Sage House Replacement Lease:** A resolution to end the current lease of City property to Sage House and approve a replacement lease of City property to Sage House.

16. **Seven Hills Homeless Center, Inc. Lease:** A resolution to approve a lease of City property to Seven Hills Homeless Center, Inc.

B. UNFINISHED BUSINESS

1. **RZN 04-1243 (Medley):** An ordinance rezoning that property described in rezoning petition RZN 04-1243 as submitted by Ronald Dean Medley for property located at 3507 W. 6th Street containing approximately 1.03 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial. ***This ordinance was left on the First Reading at the November 16, 2004 City Council meeting.***

2. **2005 Proposed Annual Budget and Work Program Adoption:** A resolution adopting the proposed 2005 Annual Budget and Work Program. ***This resolution was tabled at the November 16, 2004 City Council meeting until the December 7, 2004 City Council meeting.***

C. NEW BUSINESS:

1. **R-PZD 04-1154 (Cliffside):** An ordinance establishing a residential planned zoning district titles R-PZD 04-1154, Cliffside located east of Happy Hollow Road, South of the Cliffs Apartments, planned unit development, containing approximately 26.114 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the associated residential development plan as approved by the Planning Commission.

2. **Ecological Engineering Group Contract:** An ordinance to waive the requirements of competitive bidding and to approve a proposed contract with the Ecological Engineering Group in the amount of $129,989.00 for a four year Physical and Biological Stream Assessment and Monitoring Program.

3. **Youth Center Inc. Contract:** An ordinance waiving the requirements of formal and competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center Inc. in the amount of $250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2005.

4. **Council on Aging Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $50,000.00 to provide public recreation services for the senior citizens of Fayetteville for 2005.

5. **Solid Waste and Recycling Division Commercial Collection Vehicle Purchase:** A resolution approving the purchase of three (3) front-load commercial collection vehicles for the Solid Waste and Recycling Division from the Downing Sales and Service in the amount of $526,709.61.

6. **Legislative Packet Approval:** A resolution to recommend the approval of the Legislative Packet of the City of Fayetteville.

7. **§34.27 "Sale of Municipally Owned Real Estate" Amendment:** An ordinance to amend §34.27 Sale of Municipally Owned Real Estate to add an exemption for lands acquired pursuant to approved redevelopment project plans.

8. **Sign Appeal Process Clarification:** An ordinance clarifying and streamlining the process of appealing administrative decisions or interpretations regarding signs and granting of variances from the requirements of Chapter 174, Signs, Unified Development Code.

9. **Scull Creek Trail Corridor Development:** A resolution to consider spending as much as $1,000,000.00 of the proceeds from the sale of the Wilson Springs Property in the development of the Scull Creek Trail Corridor.

10. **2004 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2004 fixing the rate therof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City Library, and certifying the same to the County Clerk of Washington County, Arkansas.

11. **AVFUEL Corporation Contract:** A resolution approving a fuel services contract with AVFUEL Corporation to provide aviation fuel, refueler trucks, and other services to the Fayetteville Municipal Airport.

Consent

D. PUBLIC HEARINGS:

1. **Cardinal Cab Company; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Cardinal Cab Company for the operation of a taxicab service within the City of Fayetteville, Arkansas.

2. **CTS Airport Shuttle and Limousine Service; Certificate of Public Convenience and Necessity:** A resolution granting a certificate of Public Convenience and necessity to CTS Airport Shuttle and Limousine Service for the operation of a limousine service within the City of Fayetteville, Arkansas.

3. **Tony-C Taxi & Limo Service; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Tony-C Taxi & Limo Co., LLC for the operation of a taxicab and limousine service within the City of Fayetteville, Arkansas.

E. INFORMATIONAL:

Council Tour: December 6, 2004 – 4:30 pm

NORTHWEST ARKANSAS EDITION
Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Diane 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:

Final Agenda December 6, 2004 was inserted in the regular editions on

PO# 04-3089

** Publication Charge: $ 367.12

Subscribed and sworn to before me this

6th day of December, 2004.

Catherine Sall
Notary Public

My Commission Expires:

Catherine Sall
Notary Public, State of Arkansas
Washington County
My Commission Expires 02/27/05

** Please do not pay from Affidavit.
An invoice will be sent.

RECEIVED
DEC 08 2004
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **December 9, 2004**

RE: **Tony C's Taxi & Limo Co.**

Attached is the Resolution that passed at the December 7, 2004 Council meeting concerning Tony C's Taxi & Limo Co., LLC and granting his company a Certificate of Public Convenience and Necessity.

FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
COUNCIL MEETING
DECEMBER 7, 2004

A meeting of the Fayetteville City Council will be held on December 7, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Pledge of Allegiance
Roll Call
Airport Board Annual Report

A. CONSENT:

1. **Approval of the Minutes:** Approval of the November 16, 2004 City Council meeting minutes.
2. **Fire Safety House Purchase:** A resolution awarding Bid #04-79 to Sunrise Fire Safety House on the amount of $23,845.00 to provide a new fire safety house to the Fayetteville Fire Department; and approving a budget adjustment in the amount of $25,287.00 for same.
3. **OMI Contract Amendment No. 10:** A resolution approving amendment No. 10 (A) to the contract with Operations Management International (OMI) in the amount of $16,416.00 to fund out-of-scope flood emergency expenses incurred during Spring 2004; and approving a budget adjustment in the amount of $16,416.00.
4. **OMI Contract Amendment No. 11:** A resolution approving amendment No. 11 to the contract with Operations Management International (OMI) in the amount of $4,484,325.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2005.
5. **Garver Engineers Contract Amendment:** A resolution to approve contract amendment No. 4 with Garver Engineers, LLC for additional design, bidding and construction phase services for the Gregg Street waterline relocation in the lump sum amount of $121,500.00.
6. **Aspen Ridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept approximately 1.24 acres of land and approximately $93,425.00 Cash in Lieu of the Required Park Land Dedication (less Credit for the Developer's cost to construct Indian Trail) for Aspen Ridge Development.
7. **Riggins-Stonebridge Development Park Land Dedication Requirement:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $64,935.00 cash in lieu of the required Park Land Dedication for Riggins-Stonebridge Development.
8. **Transportation Division Dump Truck Purchase:** A resolution approving the purchase of one (1) 15 yard dump truck for the Transportation Division from Diamond International in the amount of $84,426.47.
9. **Animal Services Van Purchase:** A resolution approving the purchase of one (1) Dodge Sprinter 3500 van for the Animal Services Division from the Breeden Dodge of Fort Smith in the amount of $43,360.00.
10. **Police Pursuit Motorcycle Purchase:** A resolution approving the purchase of two (2) police pursuit motorcycles from Danny's Harley Davidson of Fort Smith in the amount of $37,700.00.
11. **Mid-South Sales Contract:** A resolution approving a contract with Mid South Sales of Fayetteville to provide engine oil and lubricants for the Fleet Operations Division.
12. **New World Systems Contract:** A resolution approving a contract with New World Systems in the amount of $67,700.00 to provide CAD Mapping and Automatic Vehicle Locator (AVL) Software and support to the Fayetteville Police Department.
13. **Smith Communications, LLC Bid Award:** A resolution awarding Bid #04-65 to Smith Communications, LLC in the amount of $184,381.00 to provide IP Mobilenet Equipment and Tower Site Upgrade to the Fayetteville Police Department; and approving a budget adjustment in the amount of $159,849.00.
14. **Sage House Replacement Lease:** A resolution to end the current lease of City property to Sage House and approve a replacement lease of City property to Sage House.
15. **Seven Hills Homeless Center, Inc. Lease:** A resolution to approve a lease of City property to Seven Hills Homeless Center, Inc.
16. **Solid Waste and Recycling Division Commercial Collection Vehicle Purchase:** A resolution approving the purchase of three (3) front-load commercial collection vehicles for the Solid Waste and Recycling Division from Downing Sales and Service in the amount of $526,709.61.
17. **AVFUEL Corporation Contract:** A resolution approving a fuel services contract with AVFUEL Corporation to provide aviation fuel, refueler trucks, and other services to the Fayetteville Municipal Airport.

B. UNFINISHED BUSINESS

1. **RZN 04-1243 (Medley):** An ordinance rezoning that property described in rezoning petition RZN 04-1243 as submitted by Ronald Dean Medley for property located at 3507 W. 6th Street containing approximately 1.03 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial. This ordinance was left on the First Reading at the November 16, 2004 City Council meeting.
2. **2005 Proposed Annual Budget and Work Program Adoption:** A resolution adopting the proposed 2005 Annual Budget and Work Program. This resolution was tabled at the November 16, 2004 City Council meeting until the December 7, 2004 City Council meeting.
3. **Highway 71 East Square Redevelopment District Project Plan Adoption:** An ordinance adopting the Project plan for the Highway 71 East Square Redevelopment District, finding the Plan is economically feasible and authorizing the issuance of Tax Increment Financing Bonds to fund the improvements outlined in the plan. This ordinance was left on the First Reading at the November 30, 2004 City Council meeting.

C. NEW BUSINESS:

1. **R-PZD 04-1154 (Cliffside):** An ordinance establishing a residential planned zoning district titled R-PZD 04-1154, Cliffside located east of Happy Hollow Road, South of the Cliffs Apartments, planned unit development, containing approximately 26.114 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the associated residential development plan as approved by the Planning Commission.
2. **Ecological Engineering Group Contract:** An ordinance to waive the requirements of competitive bidding and to approve a proposed contract with the Ecological Engineering Group in the amount of $129,969.00 for a four year Physical and Biological Stream Assessment and Monitoring Program.
3. **Youth Center Inc. Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center Inc. in the amount of $250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2005.
4. **Council on Aging Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $50,000.00 to provide public recreation services for the senior citizens of Fayetteville for 2005.
5. **Legislative Packet Approval:** A resolution to recommend the approval of the Legislative Packet of the City of Fayetteville.
6. **§34.27 "Sale of Municipally Owned Real Estate" Amendment:** An ordinance to amend §34.27 Sale of Municipally Owned Real Estate to add an exemption for lands acquired pursuant to approved redevelopment project plans
7. **Sign Appeal Process Clarification:** An ordinance clarifying and streamlining the process of appealing administrative decisions or interpretations regarding signs and granting of variances from the requirements of Chapter 174, Signs, Unified Development Code.
8. **Scull Creek Trail Corridor Development:** A resolution to consider spending as much as $1,000,000.00 of the proceeds from the sale of the Wilson Springs Property in the development of the Scull Creek Trail Corridor.
9. **2004 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2004 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City Library, and certifying the same to the County Clerk of Washington County, Arkansas.

D. PUBLIC HEARINGS:

1. **Cardinal Cab Company; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Cardinal Cab Company for the operation of a taxicab service within the City of Fayetteville, Arkansas.
2. **CTS Airport Shuttle and Limousine Service; Certificate of Public Convenience and Necessity:** A resolution granting a certificate of Public Convenience and necessity to CTS Airport Shuttle and Limousine Service for the operation of a limousine service within the City of Fayetteville, Arkansas.
3. **Tony-C Taxi & Limo Service; Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Tony-C Taxi & Limo Co., LLC for the operation of a taxicab and limousine service within the City of Fayetteville, Arkansas.

E. INFORMATIONAL:

Council Tour: No City Council Tour