#### City of Fayetteville Staff Review Form

2022-0459

Legistar File ID

6/7/2022

City Council Meeting Date - Agenda Item Only N/A for Non-Agenda Item

Jonathan Curth		5/20/2022	DEVELOPMENT RE	VIEW (630)
Submitted By		Submitted Date	Division / Depa	artment
	Actio	on Recommendation:		
VAC-2022-0011: Vacation (1148 & 1 properties located at 1148 & 1156 SINGLE-FAMILY, 4 UNITS PER ACRE portion of a utility easement.	N. THOREA	U LN. in WARD 3. The properties	s are zoned RSF-4,	RESIDENTIAL
		Budget Impact:		
Account Number	er		Fund	
Project Numbe	r	<u> </u>	Project Title	
Budgeted Item?	No	Current Budget	\$	-
•		Funds Obligated	\$	-
		Current Balance	\$	-
Does item have a cost?	No	Item Cost	\$	-
Budget Adjustment Attached?	No	Budget Adjustment	\$	-
		Remaining Budget	\$	-
Purchase Order Number:		Previous Ordinance	or Resolution #	V20210527
Change Order Number:		Approval Date:	_	

**Original Contract Number:** 

**Comments:** 



#### CITY COUNCIL MEMO

#### **MEETING OF JUNE 7, 2022**

**TO:** Mayor; Fayetteville City Council

**THRU:** Susan Norton, Chief of Staff

Jonathan Curth, Development Services Director Jessie Masters, Development Review Manager

**FROM:** Gretchen Harrison, Planner

**DATE:** May 20, 2022

SUBJECT: VAC-2022-0011: Vacation (1148 & 1156 N. THOREAU LN./HASH, 408):

Submitted by MILHOLLAND ENGINEERING for properties located at 1148 & 1156 N. THOREAU LN. in WARD 3. The properties are zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contain approximately 0.80 acres. The

request is to vacate a 0.11-acre portion of a utility easement.

#### **RECOMMENDATION:**

Staff recommends approval of VAC-2022-0011 as shown in the attached Exhibits 'A' and 'B' and with the following condition of approval:

1. Any damage or relocation of existing facilities will be at the applicant's expense.

#### **BACKGROUND:**

The subject property is in east Fayetteville roughly one-tenth of a mile east of the intersection of Mission Boulevard and Emerson Lane. The property is in the Mission Hills Subdivision and encompasses two undeveloped parcels totaling approximately 0.80 acres.

Request: The applicant proposes to vacate a portion of an existing access and utility easement as indicated in the attached exhibits and totaling approximately 0.11 acres.

#### **DISCUSSION:**

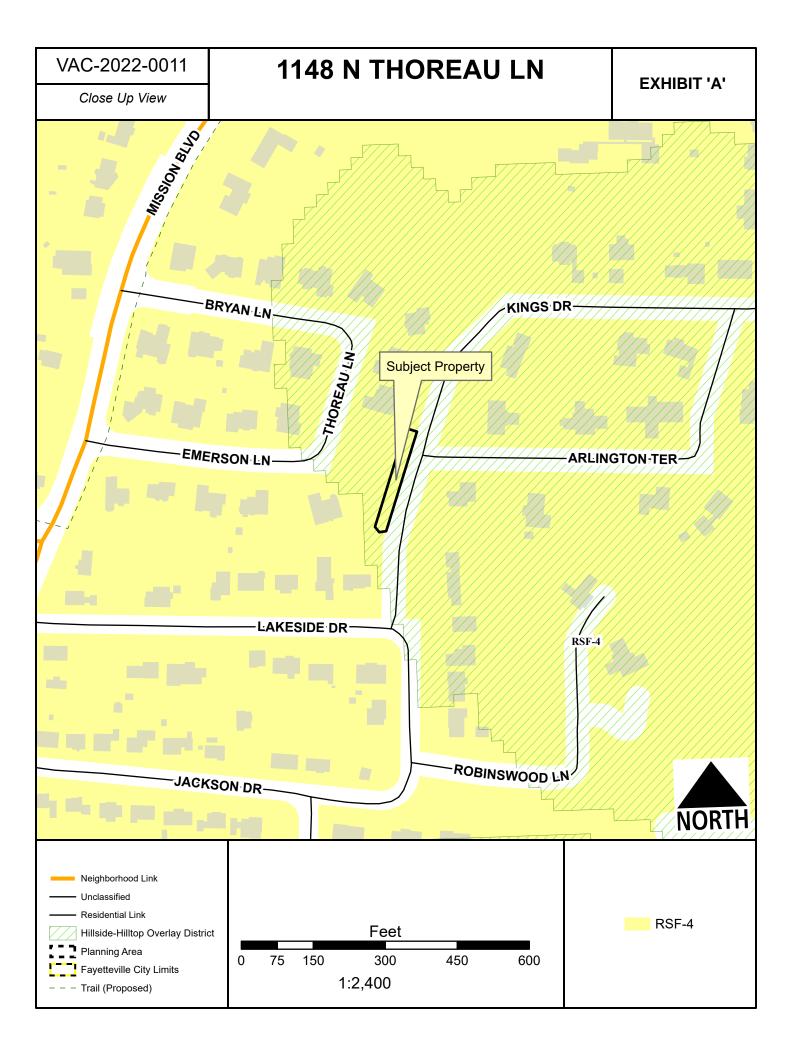
The applicant submitted the required approvals from the public and private utility and service providers with no objections. With submittal of the required vacation forms and utility consent, staff recommends approval.

#### **BUDGET/STAFF IMPACT:**

N/A

#### **Attachments:**

- Exhibit A
- Exhibit B
- Request Letter
- Petition to Vacate
- Survey



#### EXHIBIT 'B' VAC-2022-0011

#### MISSION HILLS, LOT 6: EASEMENT VACATION DESCRIPTION:

Deed: BOOK 2017 PAGE 22569; Parcel #765-18498-000:

A PART OF LOT 6 OF MISSION HILLS SUBDIVISION AS FILED IN WASHINGTON COUNTY LAND RECORDS PLAT BOOK 12 AT PAGE 90, BEING A PART OF THE SW 1/4 OF THE NE 1/4 OF SECTION 10, T-16-N, R-30-W, FAYETTEVILLE, ARKANSAS, DESCRIBED AS BEGINNING AT THE COMMON EAST CORNER OF SAID LOT 6 AND LOT 7, SAID POINT BEING AN IRON PIN; THENCE ALONG THE EAST BOUNDARY OF SAID LOT 6, S 18°43'32"W 131.82 FEET, TO A POINT APPROXIMATELY 10 FEET FROM AN EXISTING GAS MAIN; ON SAID EAST BOUNDARY OF A 25.00 FOOT "BUILDING SET BACK AND UTILITY EASEMENT"; THENCE CROSSING SAID BUILDING SET BACK AND UTILITY EASEMENT PARALLEL TO SAID GAS MAIN AS FOLLOWS S 83°10'43" W 14.68 FEET AND N 38°01'38" W 14.05 FEET TO A POINT ON THE WESTERN BOUNDARY OF SAID 25.00 "BUILDING SET BACK AND UTILITY EASEMENT" TO A POINT APPROXIMATELY 10 FEET FROM AN EXISTING GAS MAIN; THENCE N 18°43'32" E 130.47 FEET ALONG THE WESTERN BOUNDARY OF SAID "BUILDING SET BACK AND UTILITY EASEMENT" TO A POINT ON THE NORTHERN BOUNDARY OF SAID LOT 6; THENCE S 71°12'44" E 25.00 FEET ALONG SAID NORTHERN BOUNDARY OF LOT 6 TO THE POINT-OF-BEGINNING; CONTAINING 3,367.0 S.F. MORE OR LESS.

SUBJECT TO: Surveyor's Closure Ratio: 1:45,147

#### MISSION HILLS, LOT 7: EASEMENT VACATION DESCRIPTION:

Deed: BOOK 2020 PAGE 34478; Parcel #765-18499-000:

A PART OF LOT 7 OF MISSION HILLS SUBDIVISION AS FILED IN WASHINGTON COUNTY LAND RECORDS PLAT BOOK 12 AT PAGE 90, BEING A PART OF THE SW 1/4 OF THE NE 1/4 OF SECTION 10, T-16-N, R-30-W, FAYETTEVILLE, ARKANSAS, DESCRIBED AS BEGINNING AT THE COMMON EAST CORNER OF SAID LOT 6 AND 7, SAID POINT BEING AN IRON PIN; CONTINUING THENCE ALONG THE SOUTHERN BOUNDARY OF SAID LOT 7, N 71°12'44" W 25.00 FEET, TO A POINT ON THE WEST BOUNDARY OF A 25.00 FOOT "BUILDING SET BACK AND UTILITY EASEMENT"; THENCE N 18°43'32" E 85.08 FEET ALONG THE WEST BOUNDARY OF SAID 25.00 FOOT "BUILDING SET BACK AND UTILITY EASEMENT" TO A POINT ON THE COMMON BOUNDARY OF SAID LOT 7 AND LOT 8 OF SAID SUBDIVISION; THENCE ALONG SAID COMMON BOUNDARY S 71°14'51" E 25.00 FEET TO A POINT ON THE EASTERN BOUNDARY OF SAID LOT 7; THENCE S 18°43'32" W 85.09 FEET ALONG SAID EASTERN BOUNDARY OF LOT 7 TO THE POINT-OF-BEGINNING; CONTAINING 2127.2 S.F. MORE OR LESS.

SUBJECT TO: Surveyor's Closure Ratio: 1:44,035



Engineering & Surveying Melvin L. Milholland, PE, PLS

REGISTRATIONS: ARKANSAS: PE & PLS

The Fayetteville City Planning Commission & The Fayetteville City Council 113 West Mountain Street Fayetteville, AR 72701

MCO E-947 April 14. 2022

PROJECT: ..... "UTILITY EASEMENT VACATION REQUEST"

PROPERTY: ..... "Lot 6 & Lot 7, Mission Hills Subdivision":

ADDRESS: ..... "Lot 6 @ 1148 North Thoreau Ln, Lot 7 @ 1156 North Thoreau Ln;"

RECORDATION DATA:, "Oct 7, 1993", Plat Book #12 @ Page #90: LOCATION: . . . . . . . . "Adjacent to West ROW of North Kings Drive":

#### SUBJECT: "SCOPE", "NATURE" & "INTENT":

SCOPE: The land owners of Record of said Lots desire to utilize the property to construct "SINGLE FAMILY RESIDENTIAL" homes there-on. Said two Lots are the residual lots that are undeveloped within said 23 lot subdivision.

The subdivision lays between Mission Boulevard and North Kings Drive.

Each of the 21 developed lots have nice quality structures, with most structures greater than a single floor. The square-feet area of existing structures in said subdivision ranges between 2,500 SF to 4,000 SF. The present Lot Owners are requesting this "Easement Vacation" to construct new Single Family Residential structures *compatible to the existing residential homes*.

NATURE: The proposed development sites lay on a western sloped hill side, facing the potential sunsets, and the bordering Collector (Neighborhood Link) Street of "Mission Boulevard" "connecting Traffic" from the eastern side of Fayetteville with the Western and Southern Areas. The Terrain of the Subdivision has a slope from the "East to the West" for a nice single family neighborhood, with dual access onto said Mission Boulevard.

Said eastern boundaries of said two lots are adjacent to Kings Drive ROW, and lays on a fairly steep slope from Kings Drive Westerly across two 25' platted easements which have not been used for public utilities since the surrounding subdivisions in this area have been developed.

In this area of 'said 25' easement vacation request', there are some fairly large trees, and other hill side canopies, making the requested vacated easement locations 'desirable' for preservation of the natural beauty in the area.

**INTENT:** The purpose of the Request to Vacate the 25' Utility Easement adjacent to the easterly Boundary of said Lots 6 & 7, and abutting the Western ROW of Kings Drive, are as follows;

- [1] The areas are located within the "HILLSIDE OVERLAY DISTRICT" as defined by the City of Fayetteville Regulations.
- [2] The Utility Easement areas have not been used by any of the public utilities since said "MISSION HILLS SUBDIVISION" Development;
- [3] The bulk of the area requested to be vacated is within the "Canopy" area of some various size trees and other small Hillside Growth that will support and help stabilize top soil with grass growth during storm water run offs;
- [4] The surveyed areas of said easements requested to vacated, are too steep for construct of homes or utilities;
- [5] The objective is to "Preserve" the integrity of the "Natural Hillside Tree Canopy" beauty of the neighborhood along the western ROW of Kings Lane.
- [6] The City's Urban Forester, John Scott, was consulted as to his opinion relative to the City of Fayetteville's best interest regarding this UE Vacation, and he supports the request.

Respectfully Submitted!

Melvin Milholland, P.E., P.L.S.

205 West Center Street; Fayetteville, Arkansas 72701-5905; Phone: (479) 443-4724; Fax: (479) 443-4707; Mel Mobile: (479) 601-5087 Web: www.MCOengr.com; E-mail: Office: MCOengr@swbell.net; Melvin: Melvin: Melvin. Milholland@swbell.net; Samuel: SHampton@swbell.net;

#### PETITION - TO- VACATE UTILITY EASEMENT

**PETITION TO VACATE** a 25' Utility Easement **LOCATED IN** Lots 6 & 7, of the MISSION HILLS Subdivision, **CITY OF FAYETTEVILLE**, **ARKANSAS**;

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all (TWO) owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in Lot 6 & 7 of Mission Hills Subdivision, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a 25' Utility Easement platted within said subdivision on said Lots 6 & 7, which is described as follows:

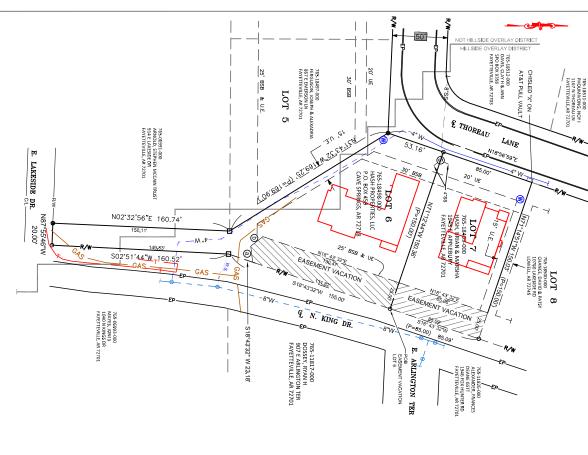
SEE ATTACHED DESCRIPTIONS: Proposed Vacate of Easement Description on each said Lot 6 & 7, is depicted on attached Survey Plat.

That the abutting real estate affected by said abandonment of the 25' Utility Easements are Lots 6 & 7 of Mission Hills Subdivision, City of Fayetteville "NEVER" used by the public for a period of many years since platting of said subdivision, and that the public interest and welfare <u>would not</u> be adversely affected by the abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, *abandon and vacate* the above described real estate, since ALL Public Utility and Governmental "Entities" have reviewed said Petition and acknowledged that each entity has "*no objection*" to this requested VACATION & ABANDONMENT. The petitioners further pray that the above described "Vacated Easement" real estate title, *remain vested* within Lot 6 & 7 Boundaries, as depict on the Recorded Subdivision.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, ARE NOT subject to ANY PUBLIC utility easements, and that title to said real estate sought to be abandoned and vacated, remain vested in the abutting property owners of said Lots 6 & 7 of Mission Hills Subdivision, as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said easement.

	Dated this 19 day of APRIL , 2022
	LOT 6: Hash Properties, LLC ::[ Brett Hash & Melissa Hash ]
	BRETT HASH
	Printed Name
1	All XX
TANA	Signature
	LOT 7: Brian Hash & Marsha Hash, a married couple.
	BRIAN HASH Printed Name
	131)
	Signature



## LOTS 6, 7 & 8 BUILDING SETBACKS & PUE TABLE

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	03-07-2022	gOL	JOB E-947				

\*NS=NOT SHOWN ON PLAT

## VACATE BOUNDARY SEGMENTS (a) \$83°10'43" W 14.68" (b) N38°01'38" W 14.05"

Milholland Company

SURVEYING SPECIALISTS

**▼**E<sub>0</sub>,

PROFESSIONAL ENGINEERS

## JUSTIFICATION FOR UTILITY EASEMENT VACATION

1. THERE ARE NO EXISTING UTILITIES IN THIS EASEMENT.
2. UTILITY EASEMENT IS NOT REQUIRED FOR UTILITY POPINISON.
3. TREE CAMPRY WITHIN SAID VICATED EASEMENT CAN REMAIN IN THE HULDING OVERALY DISTRICT.
14. CITY VIRBAN FOR

REQUEST, 5. @ OF 20' UE FROM 8" CIP TO WEST RW WAS ESTABLISHED FROM FIELD MARKERS BY OTHERS WHICH "DO NOT MATCH GIS, NOR AS-BUILT #1426 FOR JOB NO, FY06215, SHEET #7.

# MISSION HILLS, LOT 6: EASEMENT VACATION DESCRIPTION:

Deed: BOOK 2017 PAGE 22569, Parcel #765-18498-000.

A PART OF LOT 6 OF MISSION HILLS SUBDIVISION AS FIED IN WASHINGTON COUNTY MAD RECORDS PLAT BOOK IT 2AT PAGE BO BEING FARET OF THE SW. 114 OF THE NE 114 OF SECTION 10, 1-19-N, PAJAW, FAVETTEVILLE, ARKANSAS, DESCRIBED AS BEENNMAND AT THE COMMENTENST CONNER OF SAID LOT 6 AND LOT 7, SAID POINT BEING AN HON-POINTON.

THENCE ALONG THE EAST BOUNDARY OF SAID LOT 6, S 18/43/27W 13182
FEET, TO A POINT APPROXIMATELY 7 OF FEET FRAM AN EXISTING GAS MANK ON SAID EAST BOUNDARY OF A 25.0 FOOT "BUILDING SET BACK AND UTILITY EASEMENT; THENCE CROSSING SAID BUILDING SET BACK AND UTILITY EASEMENT; THENCE CROSSING SAID BUILDING SET BACK AND UTILITY EASEMENT; THENCE CROSSING SAID BUILDING SET BACK AND UTILITY EASEMENT PARALLEL TO SAID GAS MAIN AS FOLLOWS
S 83\*1043\* W 14.38 FEET AND 1 38\*013\* W 14.35 FEET TOAD A POINT ON THE WESTERN BOUNDARY OF BAD 25.00 FOOT "BUILDING SET BACK AND UTILITY EASEMENT" TO A POINT ON THE MORE SAID SAID AND THE THE ALONG THE WESTERN BOUNDARY OF SAID LOT SAID SUILDING SET BACK AND UTILITY EASEMENT TO A POINT ON THE MORTHERN BOUNDARY OF SAID LOT SAID SUILDING SET BACK AND UTILITY EASEMENT TO A POINT ON THE MORTHERN BOUNDARY OF LOT SO TO THE POINT-OF-BEGINNING: CONTANING 3.38\*1.0 S.F. MORE OR LESS.

SUBJECT TO: Surveyor's Closure Ratio: 1:45,147

# MISSION HILLS, LOT 7: EASEMENT VACATION DESCRIPTION:

Deed: BOOK 2020 PAGE 34478; Parcel #765-18499-000:

A PART OF LOT 7 OF MISSION HILLS SLEEDVISION AS FILED IN WASHINGTON COUNTY, AND RECORDS PLAT BOOK 17 AT PAGE BO BEING A PART OF THE SW. III. OF THE WILL HAVE BEETON 10, 11-16-M, R-82-W, FAVETTEVILLE, ARKANSAS, DESCRIEDE DAS BESINNING AT THE COMMON EAST CORNER OF SAID LOT 6 AND 7, SAID POINT BEING ANLIRON PINK.

CONTINUING THENCE ALONG THE SOUTHERN BOUNDARY OF SADLOT?

N 171724\* W. 2007 FEEL TO A POINT ON THE WEST BOUNDARY OF A
25.00 FOOT BUILDING SET BACK AND UTILITY ENSEMBLY! THENCE
25.00 FOOT BUILDING SET BACK AND UTILITY ENSEMBLY! TO A POINT ON THE
FOOT BUILDING SET BACK AND UTILITY ENSEMBLY! TO A POINT ON THE
COMMON BOUNDARY OF SADLOT 7 AND LOT 8 OF SAD SUBDIVISION;
THENCE ALONG SADL COMMON BOUNDARY STT-145\*TE 25.00 FEEL TO
POINT ON THE ENSTERN BOUNDARY OF SADLOT 7. THENCE S 18\*432\*\*W
85.00 FEET ALONG SADL BEASTERN BOUNDARY OF LOT 7 TO THE
POINT-OF-BEGINNING: CONTAINING 2727.2 S.F. MORE OR LESS.

SUBJECT TO: Surveyor's Closure Ratio: 1:44,035

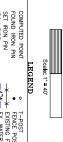
## PROJECT MSP DATA NEIGHBORHOOD LINK REGIONAL LINK REGIONAL LINK - HIGH ACTIVITY VICINITY MAP Rool

FLOOD DATA.
ACCORDING TO FLOOD INSURANCE RATE MAP No. 05143C0210F,
MAP REVISED: MAY 16, 2008, "ZONE X," AREAS DETERMINED TO
BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.

### LOT DESCRIPTIONS:

OF 1. MISSION HILLS SUBDIVISION, IN THE CITY OF EXPETTEVILLE, ACCORDING TO THE PLAT HELDS IN PLAT BOOK 12 AT PAGE 50, OF THE RECORDS OF WASHINGTON COUNTY, ARKANSAS OF 17. MISSION HILLS SUBDIVISION, IN THE CITY OF EXPETTEVILLE, ACCORDING TO THE PLAT FILLS IN PLAT BOOK 12 AT PAGE 50, OF THE RECORDS OF WASHINGTON COUNTY, ARKANSAS

SUBJECT TO ALL PRIOR MINERAL RESERVATIONS AND OIL AND GAS LEASES, IF ANY SUBJECT TO EASEMENTS, RIGHT-OF-WAYS, AND PROTECTIVE COVENANTS OF RECORD, IF ANY.



T-154 SIGNIFICANT TREE TAG	TREE CANOPY LINE	— EP — EDGE OF PAVEMENT	- NOH! OF WA!	D /W DICHT OF WAY	BUILDING SETBACK	- UILLIY EASEMENT		1 HOD	→ SIGN POST	☐ CONCRETE MONUMENT	STATE MONUMENT	⊗ COTTON SPINDLE	<ul><li>IRON PIPE</li></ul>	O SET IRON PIN	<ul> <li>FOUND IRON PIN</li> </ul>	CP COMPUTED POINT	LEGEND	
(	OSIGNIFICANT TREE	}	SEWER MAN HOLE	W EXISTING WATER METER	-SS- SANITARY SEWER LINE	→ POWER POLE	OHP OVERHEAD POWER	GATE VALVE	O FIRE HYDRANT	-GAS- EX. GAS LINE -		1	ا چ ب	* * EXISTING FENCE	FENCE POST	◆ T-POST	END	

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MISSION	V HILLS:	MISSION HILLS: PT LOTS 6 & 7	0	þ	٧
FAYETTEVILLE	PARCEL: 785-18498-000 / 758-18499-000	100 / 755-18499-000			ARKANSAS
DATE: 03-23-2022	CLIENT/GRANTEE	HSA	SC	SCALE:	1"=40'
REVISIONS:	1945 E APPLEBURY DR.		Ę	T BOO	PLAT BOOK No(s): 408
	PHONE: 479-801-4894			l	
	EMAIL: nodd@outlook.com		叧	AV B	DRAWN BY: DGC
CLOSURE: LQT 6: 1:217,259			2	ECKED	W/VHS -AB
AREA LOT 8: 20,405.1 SF			3	MINC	DRAWING NO.
CLOSURE: LOT 7: 1: 156,828			9	7	2
AREA LQT 7: 12,778.3 SF			H		E-94/
ZONES: RFS-4: Residential	SW1/4 / NE1/4	SEC 10, T16, R30	٦		
Single family 4 units per sore	NA GONBAGE TO SISVE	BASIS OF BEARINGS: ARKANSAS STATE PLANE NORTH			