RESOLUTION NO. R 98-11

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A RESOLUTION REQUESTING THE COUNTY COURT TO ACCEPT LANDS BACK INTO FAULKNER COUNTY WHICH WERE INADVERTENTLY DESCRIBED IN AN ORDER FOR ANNEXATION AND ORDINANCE ANNEXING LAND

WHEREAS, the Faulkner County Court, in its Order dated August 26, 1997, included the following lands as part of an annexation to the City of Conway:

Part of the W ½ SE ¼ of Section 25, T5N, R14W, described as follows: Beginning at the northwest corner of said W ½ SE ¼ of Section 25, T5N, R14W; thence south 165 feet; thence East 1,320 feet, more or less to the East line of said W ½ SE ¼ thence north 165 feet more or less, to the northeast corner of said W ½ SE ¼; thence West to the point of beginning, containing 5.0 acres, more or less.

WHEREAS, it has been ascertained that through drafting error this entire tract of Petitioner David Baker containing five (5) acres was inadvertently included in the Order and Ordinance No. 0-97-41 for annexation; and

WHEREAS, that only a fifty foot right-of-way on the west end of the above described tract along and adjacent to Wasson Road was to have been included in the Order for annexation and Ordinance annexing said properties; and

WHEREAS, there is a procedure to exclude territory from the limits of the City of Conway and remit said lands back to Faulkner County pursuant to 14-40-1801 (c), as well as by and through the inherent powers of the municipality annexing lands and the county court; and

WHEREAS, it would be proper and right to grant the Petition and request the County Court to exclude said territory, less and except the above stated fifty foot right-of-way.

NOW THEREFORE, be it resolved by the City Council of the City of Conway, Arkansas:

(1) That the Petition is hereby granted and request pursuant to the County Court's inherent authority and A.C.A. 14-40-1801 is hereby made to said County Court to exclude the following: Part of the W  $\frac{1}{2}$  SE  $\frac{1}{4}$  of Section 25, T5N, R14W, described as follows: Beginning at the northwest corner of said W  $\frac{1}{2}$  SE  $\frac{1}{4}$  of Section 25, T5N, R14W; thence south 165 feet; thence East 1,320 feet, more or less to the East line of said W  $\frac{1}{2}$  SE  $\frac{1}{4}$  thence north 165 feet more or less, to the northeast corner of said W  $\frac{1}{2}$  SE  $\frac{1}{4}$ ; thence West to the point of beginning, containing 5.0 acres, more or less.

LESS AND EXCEPT, the west fifty feet of the above described lands, for purposes of right of way.

10 th PASSED AND APPROVED: Jehnan

APPROVED:

ATTEST:

the Hartaniel Clerk

## BEFORE THE CITY COUNCIL OF THE CITY OF CONWAY

IN RE: Part of the W ½ SE 1/4 of Section 25, T-5-N, R-14-W

# PETITION TO EXCLUDE TERRITORY FROM THE LIMITS OF THE CITY OF CONWAY

Comes now Petitioner, David Baker, and for his Petition to Exclude Territory from the Limits of the City of Conway and remit them back to Faulkner County, states as follows:

1. That he is the owner of the property described below:

Part of the W  $\frac{1}{2}$  SE  $\frac{1}{4}$  of Section 25, T5N, R14W, described as follows: Beginning at the northwest corner of said W  $\frac{1}{2}$  SE  $\frac{1}{4}$  of Section 25, T5N, R14W; thence south 165 feet; thence East 1,320 feet, more or less to the East line of said W  $\frac{1}{2}$  SE  $\frac{1}{4}$  thence north 165 feet more or less, to the northeast corner of said W  $\frac{1}{2}$  SE  $\frac{1}{4}$ ; thence West to the point of beginning, containing 5.0 acres, more or less.

2. That a description of the Petitioner's property was inadvertently included with that described in the annexation proceedings which were before the Faulkner County Court in Faulkner County Case # CC-97-66 and also included in Ordinance No. 0-97-41.

3. Attached hereto is the affidavit of Michael L. Murphy, local counsel for Improvement District #11 for which the annexation was to facilitate, in which he states that the inclusion of the entire five acres was inadvertent. 4. That it was the Petitioner's best belief and understanding that there would only be a nominal fifty foot rightof-way taken into the city, which is that portion which lies along the above described tract adjacent and along Wasson Road, but not the entire five (5) acre tract.

5. That it would be proper and right to grant the Petition and City Council should pass a resolution pursuant to A.C.A. 14-40-1801 and request the County Court to exclude the territory described above, leaving the stated fifty foot of right-of-way.

WHEREFORE, Petitioner prays that his Petition be granted and for all other just and proper relief.

Respectfully Submitted BAKE DAVID

#### VERIFICATION

STATE OF ARKANSAS ) ) ss COUNTY OF FAULKNER)

I, David Baker, hereby state that I have read the above and foregoing, know the contents thereof and that the same is true and correct to the best of my knowledge and belief.

Subscribed and sworn to before me this  $\frac{274}{1998}$  day of Junuary, 1998.

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PUPLIC NOTARY

MY COMMISSION EXPIRES: / / / 08/30/2002

OFFICIAL SEAL GINGER R. ELLIS NOTARY PUBLIC - ARKANSAS FAULKNER COUNTY MY COMMISSION EXPIRES: 08-30-2006

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## AFFIDAVIT

STATE OF ARKANSAS ) ) ss COUNTY OF FAULKNER)

Before the undersigned, a Notary Public, duly qualified and acting in and for said county and state, appeared Michael L. Murphy to me well known to be the affiant herein, who stated the following under oath:

1. I am local counsel for Improvement District #11.

2. David Baker is the owner of the property described below:

Part of the W ½ SE ¼ of Section 25, T5N, R14W, described as follows: Beginning at the northwest corner of said W ½ SE ¼ of Section 25, T5N, R14W; thence south 165 feet; thence East 1,320 feet, more or less to the East line of said W ½ SE ¼ thence north 165 feet more or less, to the northeast corner of said W ½ SE ¼; thence West to the point of beginning, containing 5.0 acres, more or less.

3. A description of David Baker's property was inadvertently included with that described in the annexation proceedings which were before the Faulkner County Court in Faulkner County Case # CC-97-66 and also included in Ordinance #097-41. Mr. Baker did not seek annexation of his property and did not seek to be included in proposed Municipal Improvement District No. 11.

4. It is my understanding that there would only be a nominal fifty foot right-of-way along the above described tract adjacent and along Wasson Road but not the entire five (5) acre tract. The inclusion of the entire five (5) acres is inadvertent.

IN WITNESS WHEREOF, I hereunto set my hand this 28 day of JANUARY, 1998.

MICHAEL L. MURPHY

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Subscribed and sworn to before me this \_\_\_\_\_\_\_ day of

January \_\_, 1998.

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Amanda Lee Tytler, Notary Public Faulkner County, Arkansas My Commission Expires 9/20/2006

<u>Amanda hee Tytler</u> NOTARY PUBLIC

### BRAZIL, ADLONG, MURPHY & OSMENT, PLC

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William Clay Brazil Matthew W. Adlong Michael L. Murphy Pamela S. Osment

Amy Brazil Joe Don Winningham

OF COUNSEL Thomas C. Courtway

February 3, 1998

Mayor David Kinley Conway City Hall 1201 Oak Street Conway, Arkansas 72032

RE: Municipal Improvement District #11

Dear Mayor Kinley:

Enclosed please find the Petition to Exclude Territory from the Limits of the City of Conway for inclusion on the February 10th agenda. I have also enclosed a proposed Resolution. This is procedural clean-up, non-controversial. Thank you.

Sincerely,

Michael L. Murphy

327-2183

MLM:alt

Enclosures

cc: Jerry Park, Commissioner Robert Downey, Commissioner Marcie Garis, Commissioner