

RESOLUTION NO. 9-1983

WHEREAS, the U. S. Environmental Protection Agency, hereinafter referred to as EPA, has refused to accept the Cotter-Gassville Sewer Project because the work is not up to the standards imposed and has refused to pay over to said project the balance held by it under the grant obtained by said Cities until the work is in compliance with the standards set;

WHEREAS, the contractor, being Kunco, Inc., and the Engineer, being John A. Mahaffey and Associates, have failed, neglected or refused to complete the work in accordance with the standards imposed and with the bids submitted by them;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COTTER, ARKANSAS, AS FOLLOWS:

1. That the representative of said Cities in the joint sewer project, Wayland G. Rasmussen, be, and he hereby is, authorized and directed to call the bonds, that is, to require the respective bonding companies of the contractor, Kunco, Inc., and the Engineer, John A. Mahaffey and Associates, to complete the joint sewer project of the Cities in accordance with the respective bids of said contractors and the requirements of EPA.

2. That in furtherance thereof said representative of said Cities in the joint sewer project be, and he hereby is, authorized and directed to employ Hon. David Blair, Attorney at Law, of Batesville, Arkansas, who is familiar with this type of controversy, to take whatever steps are necessary, whether by litigation or otherwise, to enforce the proper completion of said joint sewer project, assisted by Ronald P. Kincade, Attorney for Gassville, and Jennie F. Pond, Attorney for Cotter, the fee of said attorneys to be based upon any recovery made from the bonding companies, contractor, engineer, or any other person by reason of such litigation or anticipated litigation as follows: $\frac{1}{3}$ of the recovery made if the matter is tried in a Court of competent jurisdiction, or, if the matter is not actually so tried, $\frac{1}{4}$ of the recovery made by reason of litigation or anticipated litigation. It is expressly understood that recovery means only those amounts received by the Cities from such litigation or anticipated litigation and does not include any funds received by way of grants or otherwise from any governmental agency.

PASSED this 20th day of October, 1983.

APPROVED: _____

Mayor

ATTEST:

Shirley Bramlet
Recorder/Treasurer

(SEAL)