Final Agenda
For The
City Council Meeting
January 6, 2004

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

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the December 16, 2003 meeting minutes.

   Approved.

2. **Minimum Standards; Fayetteville Municipal Airport:** A resolution approving the revised minimum standards for the Fayetteville Municipal Airport as approved and recommended by the Airport Advisory Board.

   Passed and shall be recorded as Resolution No. 01-04.

3. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.

   Removed from the Consent Agenda and moved to Item No. 6 under New Business.

4. **Baird, Kurtz & Dobson, LLP Audit Services Contract Renewal:** A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in an amount not to exceed $59, 325.00 to provide independent audit services to the City of Fayetteville.

   Passed and shall be recorded as Resolution No. 02-04.

5. **Purchase of 3 Komatsu Backhoes from H & E Equipment:** A resolution approving the purchase of Three (3) Komatsu Backhoes from Head & Engquist Equipment in the amount of $159,525.00; and approving a budget adjustment in the amount of $1,970.00 for the same. This request was approved by the Equipment Committee on December 9, 2003.

   Passed and shall be recorded as Resolution No. 03-04.

6. **ADEQ and Tri-County Solid Waste District Recycling Grant; Roll-off Recycling Boxes:** A resolution authorizing the Fayetteville Solid Waste and Recycling Division to accept a grant in the amount of $18,000.00 from the Arkansas Department of Environmental Quality (ADEQ) and the Tri-County Solid Waste District for the

purchase of roll-off recycling boxes for use at the 24-hour community recycling drop-off; and approving a budget adjustment to recognize the grant revenue.

Passed and shall be recorded as Resolution No. 04-04.

7. **Homeland Security Fire Grant; Wellness & Fitness/EMS Training Program:** A resolution authorizing the Fayetteville Fire Department to accept a Department of Homeland Security Fire grant in the amount of $92,820.00 to establish a wellness and fitness/EMS training program; approving a new temporary staff position to establish and coordinate the program; and approving a budget adjustment to recognize the grant revenue.

Passed and shall be recorded as Resolution No. 05-04.

B. OLD BUSINESS:

C. NEW BUSINESS:

1. **Impact Fees for Road, Police and Fire Improvements:** An ordinance waiving the requirements of competitive bidding and approving a contract with Duncan and Associates to calculate Impact Fees for Road, Police and Fire Improvements in the amount of $25,890.00 with a contingency amount of $1,500.00 and approving a Budget Adjustment of $27,390.00.

   Tabled until February 3, 2004 meeting.

2. **VAC 03-13.00; Northwest Arkansas Mall Lot A Utility Easement:** An ordinance approving VAC 03-13.00 to vacate a portion of a 25 foot utility easement lying in Lot A in the Northeast corner of the Northwest Arkansas Mall as depicted on the attached map and legal description.

   Passed and shall be recorded as Ordinance No. 4537.

3. **R-PZD 03-6.00; Benton Ridge, Long, LLC:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-6.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 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.

   Left on the first reading.

4. **R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue, north of Township on Brophy Circle containing 6.01 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.

Left on the first reading.

5. **Black & Veatch Contract Amendment #4:** A resolution approving contract Amendment #4 in the amount of $30,000.00 with Black & Veatch Corporation to perform continuing water and sewer operations and rate study services; and approving a Budget Adjustment in the amount of $25,000.00 for same.

   Passed and shall be recorded as Resolution No. 06-04.

6. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.

   Tabled until January 1, 2004 meeting.

D. INFORMATIONAL:

Council Tour: January 5, 2004

Adjourn 7:25 pm

Fayetteville City Council Meeting January 6, 2004

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

Subject:	Codes, Conduct & Rules. / Gary Lavery				
Motion To:					
Motion By: Seconded:		Swiftly Davis			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	N			
	Mayor Coody	—			

Fayetteville City Council Meeting ● January 6, 2004 ● Council on Agrg. Inc.

Subject:		Consent		Item # 3 pulled from	
Motion To:		Approve		Consent moved to	
Motion By: Seconded:		Jordan / Davis		New Business # 6.	
	Davis	✓			
	Lucas	✓			
Res. 01-04 to 05-04	Jordan ✓	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody	—			

Subject:		Impact Fees for Roads, Police & Fire			
Motion To:		Table to the first meeting in Feb.			
Motion By: Seconded:		Davis / Jordan			
	Davis	✓			
	Lucas	✓			
#1 New Business Tabled to Feb. 3rd?	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody	—			

Subject:		UAC 03-13.00 NW Arkansas Mall Lot A			
Motion To:		Move to the Second read	third read	Pass	
Motion By: Seconded:		Davis Marr	Reynolds Marr		
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody	—	—	—	

#2 New Business

Passed 4/537

Subject:		R-PZD 03-6.00 Benton Ridge			
Motion To:					
Motion By: Seconded:					Ilsa Isaacs
	Davis				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Mayor Coody				

#3 New Business

Left on the first reading

Subject:	R-PZD 03-7.00 Brophy Condo's				
Motion To:					
Motion By: Seconded:					Mayor Coody The only thing I see about this Development (end of side)
	Davis				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Mayor Coody				

#4 New Business

left on the first reading

Subject:	Black & Veatch Contract Adden. #4				
Motion To:		Approve resolution			
Motion By: Seconded:		Marr Jordan			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody	✓			

#5 New Business

Passed Res 03-31

Subject:	Council on Aging Inc. Lease Senior Center			
Motion To:		Table until next meeting.		
Motion By: Seconded:		Marr / Rhoads		
Davis		✓		
Lucas		✓		
Jordan		✓		
Reynolds		✓		
Thiel		✓		
Cook		✓		
Marr		✓		
Rhoads		✓		
Mayor Coody		—		

#6 New Business

Tabled until next Meeting

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

Final Agenda
For The
City Council Meeting
January 6, 2004

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

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the December 16, 2003 meeting minutes.

   Approved.

2. **Minimum Standards; Fayetteville Municipal Airport:** A resolution approving the revised minimum standards for the Fayetteville Municipal Airport as approved and recommended by the Airport Advisory Board.

   Passed and shall be recorded as Resolution No. 01-04.

3. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.

   Removed from the Consent Agenda and moved to Item No. 6 under New Business.

4. **Baird, Kurtz & Dobson, LLP Audit Services Contract Renewal:** A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in an amount not to exceed $59, 325.00 to provide independent audit services to the City of Fayetteville.

   Passed and shall be recorded as Resolution No. 02-04.

5. **Purchase of 3 Komatsu Backhoes from H & E Equipment:** A resolution approving the purchase of Three (3) Komatsu Backhoes from Head & Engquist Equipment in the amount of $159,525.00; and approving a budget adjustment in the amount of $1,970.00 for the same. This request was approved by the Equipment Committee on December 9, 2003.

   Passed and shall be recorded as Resolution No. 03-04.

6. **ADEQ and Tri-County Solid Waste District Recycling Grant; Roll-off Recycling Boxes:** A resolution authorizing the Fayetteville Solid Waste and Recycling Division to accept a grant in the amount of $18,000.00 from the Arkansas Department of Environmental Quality (ADEQ) and the Tri-County Solid Waste District for the

purchase of roll-off recycling boxes for use at the 24-hour community recycling drop-off; and approving a budget adjustment to recognize the grant revenue.

Passed and shall be recorded as Resolution No. 04-04.

7. **Homeland Security Fire Grant; Wellness & Fitness/EMS Training Program:** A resolution authorizing the Fayetteville Fire Department to accept a Department of Homeland Security Fire grant in the amount of $92,820.00 to establish a wellness and fitness/EMS training program; approving a new temporary staff position to establish and coordinate the program; and approving a budget adjustment to recognize the grant revenue.

Passed and shall be recorded as Resolution No. 05-04.

B. OLD BUSINESS:

C. NEW BUSINESS:

1. **Impact Fees for Road, Police and Fire Improvements:** An ordinance waiving the requirements of competitive bidding and approving a contract with Duncan and Associates to calculate Impact Fees for Road, Police and Fire Improvements in the amount of $25,890.00 with a contingency amount of $1,500.00 and approving a Budget Adjustment of $27,390.00.

   Tabled until February 3, 2004 meeting.

2. **VAC 03-13.00; Northwest Arkansas Mall Lot A Utility Easement:** An ordinance approving VAC 03-13.00 to vacate a portion of a 25 foot utility easement lying in Lot A in the Northeast corner of the Northwest Arkansas Mall as depicted on the attached map and legal description.

   Passed and shall be recorded as Ordinance No. 4537.

3. **R-PZD 03-6.00; Benton Ridge, Long, LLC:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-6.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 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.

   Left on the first reading.

4. **R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue, north of Township on Brophy Circle containing 6.01 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.

Left on the first reading.

5. **Black & Veatch Contract Amendment #4:** A resolution approving contract Amendment #4 in the amount of $30,000.00 with Black & Veatch Corporation to perform continuing water and sewer operations and rate study services; and approving a Budget Adjustment in the amount of $25,000.00 for same.

   Passed and shall be recorded as Resolution No. 06-04.

6. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.

   Tabled until January 1, 2004 meeting.

D. INFORMATIONAL:

Council Tour: January 5, 2004

Minutes
Of The
City Council Meeting
December 16, 2003

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

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

Mayor Coody called the meeting to order.

Fayetteville Natural Heritage Committee Presentation:

Walt Eilers spoke on Fayetteville Natural Heritage and their accomplishments over the past year and what they hope to accomplish in the next year.

Peter Heinzelmann spoke on the natural areas in Fayetteville that need to be preserved and how other communities have preserved areas in their community.

Tom Lonon presented the City with a check in the amount of $20,000 from the National Heritage Committee for the preservation of Mount Sequoyah Woods.

Mayor Coody thanked Fayetteville Natural Heritage Committee for their work in raising funds to this project.

Nominating Committee Report: Alderman Marr presented the Nominating Committee Report to the City Council for approval. A copy of the report is attached.

Alderman Marr moved to accept the Nominating Committee Report. Alderman Reynolds seconded. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

CONSENT:

Approval Of The Minutes: Approval of the October 21, 2003, November 18 and December 2, 2003 meeting minutes.

Vanco Engineering Flash Mixer Purchase for the Noland Plant: A resolution approving the purchase of a flash mixer for the Noland Wastewater Treatment Plant in the amount of $21,310.00 from the lowest qualified bidder, Vanco Engineering Company; and approving a budget adjustment in the amount of $55,000.00 for same.

Resolution 188-03 as Recorded in the Office of the City Clerk.

EDC Corporation Bid Award No. 03-68 and Contract Approval: A resolution to approve a contract with EDC Corporation for the AIMS Parking Management System in the amount of $34,357.26, with a project contingency of $3,435.74, and approval of a budget adjustment in the amount of $37,793.00.

Resolution 189-03 as Recorded in the Office of the City Clerk.

Jim Black Contract - Operation of the Lake Fayetteville Boat Dock: A resolution awarding a contract to Jim Black in the amount of $31,719.00 to operate the Lake Fayetteville Boat Dock for calendar year 2004, with five one-year renewal options.

Resolution 190-03 as Recorded in the Office of the City Clerk.

Green Anderson Contract Amendment – Installation of an Emergency Generator for City Administration Building: A resolution to approve amendment # 1 of the agreement with Green Anderson Engineers, Inc. in the amount of $3,100.00 for engineering services related to design of a standby emergency generator system for the City Administration Building.

Resolution 191-03 as Recorded in the Office of the City Clerk.

Jerry Sweetser Construction Contract – Construction of Broyles Road: A resolution approving a construction contract with Jerry D. Sweetser, Inc. in the amount of $397,868.25 for the construction of Broyles Road from Wedington Drive to Persimmon Place Subdivision; approving a 15% project contingency in the amount of $59,680.75; and approving a budget adjustment in the amount of $457,549.00 for same.

Resolution 192-03 as Recorded in the Office of the City Clerk.

Habitat for Humanity Waive of Building Permit Fees and Developmental Fees: A resolution to waive the building permit fee and other developmental fees for homes to be constructed by Habitat for Humanity.

Resolution 193-03 as Recorded in the Office of the City Clerk.

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

OLD BUSINESS:

ADM 03-29.00 Amend Master Street Plan – Cliffs Boulevard Eastern Extension: A resolution approving an amendment to the Master Street Plan relocating Cliffs Boulevard and reducing it to a collector street between Highway 265 and Starr Drive as shown on Exhibit A.

Dawn Warrick, Planning: The Exhibit A that was passed out at agenda session is the revision based on the discussion on this item at the last City Council meeting. I believe that this exhibit fulfills the desires to maintain a connection to Cliffs Boulevard on the Master Street Plan at a collector status. This will also meet the needs of the development that is proposed in this area. The collector that is shown to run along the south edge of the proposed subdivision has been planned into that development and is reflected on the approved preliminary plat that was approved by the Planning Commission on November 10th.

Alderman Thiel: The resolution still states an amendment to the Master Street Plan relocating Cliffs Boulevard.

Kit Williams: Yes it does relocate it to some extent.

Alderman Thiel: So this resolution does address all the changes?

Kit Williams: Yes it does but before you would pass it you would need to move to amend this resolution. The first amendment that was presented to the City Council at the last meeting was changed. This is the new resolution that I drafted to try to reflect what the Council wanted.

Alderman Thiel moved to approve the amendment to the resolution. Alderman Davis seconded. Upon roll call the amendment to the resolution passed 7-0. Alderman Lucas was absent.

Alderman Davis: With the way it is going to be built currently should this pass this evening it will be a residential construction type street.

Dawn Warrick: The street will be constructed to residential street standards, the right of way will reflect that necessary for a collector street. A 50 foot right of way is a residential street and 70 feet is the collector street requirement.

Alderman Davis moved to approve the resolution as amended. Alderman Marr seconded. Upon roll call the resolution passed 7-0. Alderman Lucas was absent.

Resolution 194-03 as Recorded in the Office of the City Clerk.

Hay Group Salary Survey: A resolution adopting the Hay Group's recommendation in the 2003 compensation practices update; implementing 50% of the recommendation in January 2004 and the remaining 50% in January 2005.

Michele Bechhold: This item was tabled at the December 2, 2003 City Council meeting to allow staff time to gather some additional information that City Council requested. We have provided that information to Council.

Alderman Davis: Don, I know you were involved in a teleconference can you tell us what you discovered with that teleconference.

Alderman Marr: There was an email that was put in each alderman's box that kind of recaps that. The question that I had was to verify that the data was in fact correct, specifically relating to the recommended wage increase for the police department because we had such a large increase last year. We aged that data to market January of this year and the recommended increase is greater than the COLA or cost of living adjustment for the current year. My questions were is there an error in the data and if not what is the issue with our policy or practice that's causing us to more than double behind COLA when we just made the adjustment. In the memo it refers to the fact that the change in the participants is basically what is driving that change in this particular data that of the survey data for participants for both years increased approximately 2%. The average salary for the cities that were added this year were approximately 6 ½% greater than the average of cities that remain in the data base from the prior year and 10% greater than those cities that participated in the last study that we did in 2002. We had more participants in the over 90,000 cities, I think it was 6 cities over 90,000 last year participated in the survey, this year 9 did and of those nine five were new of which all were roughly 10% greater than last year's group. On the 20,000 to 50,000 cities which is our lowest bracket, that went down by about 13%. There was a correlation between the size or population mix and their salary data. By having fewer participants in the smallest category and more in the highest category it accounted for movement in our items. I ask how volatileable will it remain and when will it level, obviously that depends on who continues to participate in the survey. I was told by the third year it should stabilize so that we do not see jumps based on participant change.

I believe that our band is way too large. I believe that having 20,000 to 50,000 and over 90,000 is skew data more than it should because of the participants and I think we should focus on trying to identify 20 cities or 25 cities in the category that we are in 50,000 to 90,000 as opposed to having it on the extremes that could pull it down if the participation flips to the lower size or pull it way up. I also think we should set some thresholds that when we cross 75,000 or 80,000 in population then we look at going up and pull in part of the next category and maybe change our band instead of being 50,000 to 90,000 to be 80,000 to 120,000. That would be my recommendation over time to get rid of this problem.

Judy Cohea, Police Department: I am concerned about adjusting the pay matrix. Currently the way our pay plan works is that when we bring an employee in with minimal skills to do the job at the beginning rate our pay matrix is set up to where within three years of on the job training they meet the mid point, if this pay matrix is changed it will take four years for them to reach the mid point and within that four years we will have another adjustment to the range. Since 1989 the range has always increased. Every employee gets an evaluation at six months and then again in another six months and then yearly after that. The evaluation has 45 points, you get a score of between 1 and 5 for each area and you have to get an average of a 3 to be considered for a pay raise. A score of a 3 is an employee than is completely capable of doing

their job. Generally in the first three years you get between a 3 and a 3.5. The reason you get higher than a 3.5 is that you take on extra duties. If we change this matrix it will be 4 years before they meet market. If the market is out there and they are looking for our employees they will go. Some people say our matrix percentages are rich but when we come back every other year for the study our people that are not way above, we have people that are below the mid point. I think our matrix has served us well since 1989. The past three or four years the city has had a hiring freeze for established services, but our work load is increasing, our population is increasing. We continue to get the job done. Changing this pay matrix will make a difference in our ability to hire and maintain employees. I would also like to see full implementation of the increases that Hay Group has recommended.

Mayor Coody: We appreciate your efforts and recognize how hard working everyone is for the city. The city staff population is growing at half the rate as our citizen population, so the work load is getting heavier and the efficiency rate and the productivity is increasing. We recognize and appreciate how good you are for the community.

Alderman Marr: Why would the step matrix be one half of what it is, if it is a 4% step there is not a recommendation to half that is there?

Michele Bechhold: The percent is not a consistent change of 2%; there are 1% and ½% changes also.

Alderman Jordan: If a worker comes in they would receive a certain step percentage this year.

Michele Bechhold: For 2003 their merit raise would depend upon their score on the evaluation and where they are in their pay range. The matrix that we distributed at the beginning of 2003 is in effect for the entire year of 2003. We are looking at proposing a difference matrix for 2004. If someone is due an increase in 2004 and this new matrix is approved then the increase would be under the new matrix which does have reduced percentages.

Alderman Reynolds: When a person is hired in 2003 and they have been told if they perform they would get a certain increase that increase could be less if the matrix is changed?

Michele Bechhold: It would be a different percentage than 2003.

Alderman Jordan: If we change this tonight then we are changing the current plan that these workers were hired under.

Michele Bechhold: It would be changing the 2003 merit matrix, that matrix was changed in 2003 and it would change it again.

Alderman Marr: Can someone tell me the budget dollar difference only related to the matrix change. What impact does that have on the budget?

Michele Bechhold: To leave the matrix of 2003 in place would be $93,363 that does include benefit cost, $49,990 of that would be attributed to the general fund.

Alderman Marr: What number was used in the budget projections?

Michele Bechhold: Budget projections were based on the reduced matrix not the 2003 matrix.

Alderman Marr: So we would be adding roughly $93,000.

Michele Bechhold: Yes

Alderman Rhoads: You are advocating that we change this matrix because why?

Michele Bechhold: The staff recommendation includes a change in the matrix based on information from the Hay Group that was included in the salary survey result document that shows public sector employers are averaging 3% to 3.5% projected merit budget for 2004 and the merit chart that we have proposed would yield a merit cost within that range. It does also produce some savings for the city.

Alderman Davis: The new people that have been hired recently would be the ones that would continue to be behind more so than the ones that have been here for the city for some time is that correct.

Michele Bechhold: The pay ranges do not change or their position in range does not change they would get a smaller increase than they would if we did not change the matrix.

Alderman Davis: The problem I see with what you just told me is the new person if you are hiring them at the 2003 rate that person might seek other employment which you have already spent those cost to get them into the system and to understand the position. So you have lost additional dollars in training on a new individual.

Michele Bechhold: If someone would decide to leave based on a change in their merit increase that is correct. We would incur advertising cost, downtime while that position is vacant and a learning curve cost again.

Alderman Rhoads: Do you have the flexibility in your policies to be able to go out and attract the good employee or do you have to pay them all the same starting rate.

Michele Bechhold: We do not have to start everyone at the minimum of the pay scale we are provided latitude based on their experience and education as it fits to the job.

Alderman Rhoads: Therefore to some degree that takes care of that problem because you can hire them in at a greater amount.

Michele Bechhold: Yes you can hire them in and make some adjustments based on their education and experience.

Alderman Davis: That takes care of the employees that you hire once you change the matrix but it is still going to have a negative affect on the ones you have recently hired.

Alderman Rhoads: Did you have that same flexibility when you hired new people last year or this year?

Michele Bechhold: Yes as far as the latitude to hire above the minimum that has been a long standing policy.

Alderman Marr: You cost risk, advertising, retraining, the things you listed as the cons of not doing this, was that assessed when you made this recommendation. Are you still making the recommendation based off understanding that, that risk is still there and how real that may be or is that something you are fearful of?

Michele Bechhold: As far as the change in the matrix itself generating turn over? Although there is some small amount of risk there and it may be greater for certain positions, we don't expect employees across the city to decide they are going to resign their positions or seek employment elsewhere based on the change in the matrix. We pulled a sample of about 10 employees from various grades between hourly and salary and the average difference was about $127 in the amount that they would receive under the proposed matrix and the current matrix annually.

Alderman Marr: What is the percentage of the city's entire work force that typically qualifies for the full step at the six month review?

Michele Bechhold: The supervisor has three options at six months, to grant no increase and review again in six months, grant half an annual increase and review again in six months or they can grant a full annual increase and review again in one year. I would say the majority 60% to 70% are going to probably grant the full annual increase, there will be some divisions that as a routine grant half of an increase and another half and there are some that opt to not grant anything at six months and review again at the one year mark.

Alderman Marr: Is this $93,000 based on everyone getting the step at 100%?

Hugh Earnest: We do have separate personnel systems, in most of our employees except for police and fire, we do not use a step plan. We have performance evaluations, so it is very hard for us to answer exactly how much of that will be used because it depends on the grading of that particular employee and what the percentage increase based on their ranking. Police and fire use the more traditional step plan.

Alderman Marr: We put head count in our budget every year and we don't fill every position for the year, we have a percent of openings that never get filled even though the money was budgeted it wasn't spent. What I am trying to understand of this $93,000 is that exactly what would be spent if we implement it. If we don't practice that we do this across the board then it is really not $93,000 and the smaller that number gets compared to the risk of losing and retraining changes my decision.

Hugh Earnest: That is at 100% so in all probability it would be something less.

Alderman Marr: But we don't have any estimate of what it has traditionally run.

Steve Davis: Because we budget each position to be fully staffed 12 months out of the year we historically have had a 3.5% to 3.7% personnel services budget left over at the end of every year. We don't have full staff year round we are running about 96% to 97% utilization of budget for that purpose. I would point out also that our turn over was as high as 25% in 1998 and this year it is annualized at 8 ½%, so our turnover rate has decreased steadily since 1998.

Alderman Marr: What is the average cities turn over?

Michele Bechhold: The IPMA which is a government type personnel management association their 2003 benchmarking survey showed an average of 9.2% turn over for cities, that did include voluntary and involuntary turn over in that 9.3%. Ours only includes voluntary.

Steve Davis: Because of the way we count full time equivalent's when we have interns or work studies that end their school term they are counted as a voluntary turn over when they terminate their employment with the city.

Alderman Davis: We are looking at total personnel expenses to be $21 million for 2004, if you are looking at 3% of that that is not going to be used because those positions are not staffed, that is approximately $700,000. This is a small percentage and the training expense is a whole lot greater than what we are talking about. I almost hate to see us change the matrix.

Alderman Jordan: If we have employees that have been hired by the city and they have been told that they will receive a certain percentage of a raise and they will not receive that percent if we change the matrix. We are talking about $93,000, we do studies and pay $200,000, hire consultants for $100,000 or $150,000, I think $93,000 is a small price to pay for keeping the morale and the talents of the workers that we have in this city.

Alderman Rhoads: Do we actually take the matrix to a new employee and say this is what you will get? Do we promise them that they will get this increase or do we say this is the matrix and this is what everyone gets thereby leaving the impression that they will get it?

Michele Bechhold: As far as individual statements by supervisors I would say there are some supervisors that probably don't show their employees the matrix. I would like since we have experienced, well trained supervisors that they are not going to promise anything to anyone.

Alderman Rhoads: My experience is that you tell someone this is what is in place now put it could be changed, it could go up or it could go down is that what supervisors are instructed to tell people.

Michele Bechhold: As far as what they tell people when they are speaking to them I don't know.

Alderman Rhoads: What do you instruct them to tell?

Michele Bechhold: We don't have a specific discussion that we train on.

Mayor Coody: We have two issues in front of us, the matrix and the other is the implementation of the 50% in 2004 and 50% in 2005.

Alderman Jordan moved to amend the resolution to leave the Merit Matrix the same in 2004 as it was in 2003. Alderman Reynolds seconded. Upon roll call the motion to amend the resolution passed 7-0. Alderman Lucas was absent.

John Brooks, Police Department: The civilian personnel were given a much needed raise in January 2002 due to the Hay Group study. With the exception of that merit increase it is not possible to get a raise in the city. The 2003 matrix has just been in existence for a little while we don't even know how well it works yet. It is set up to reward an employee as they move towards that mid point. I would ask that you fully implement the salary increases both civilian and sworn personnel. If you increase the salary ranges by 50% in 2004 and 50% in 2005, city employees sworn or non-sworn will always be behind the current market rate. Funding it fully will still put us at a 2003 market figure because the survey was done in 2003 and the data has not been aged. The employees of the City of Fayetteville are the most valuable asset and they desire to be rewarded for a consistent job well done. I think that if you change this and you don't fund this fully you are going to see morale drop. We need to maintain a plan that rewards all employees equally regardless of job title. The City of Fayetteville has always implemented the pay plan fully since 1989 and we ask that for 2004 the pay plan be fully funded to compensate the employees of the City of Fayetteville.

Steve Davis: When we started this process we were advised by our compensation consultant that the city needed to be closer to market and that included adjusting our merit. The financial institutions have reduced their annual merit budget from 4.8% two or three years ago to just under 4% for 2004, so it is not uncommon for employers to adjust their merit budget to reflect market conditions. This matrix has been amended several times since 1989. I don't know that it has ever been amended to this extent but then again the city has never had a general fund balance in the condition that the current fund balance is in either. The 50% implementation represents an opportunity that we saw postpone spending money for approximately one year and primarily out of general fund. We expect to save approximately $150,000 by the phasing in of this pay plan adjustment over a two year period the vast majority of the $150,000 is in the general fund. We will save $140,000 by splitting the matrix increase on police uniform employees that is the vast majority of that increase.

Alderman Thiel: The total of this Hay plan that was presented to us if we adopt it, we would have to add to the budget $93,000 plus $150,000.

Steve Davis: That is correct.

Alderman Marr: Have we ever treated employee groups differently. A year ago we did not do increases on non-uniformed individuals. I think the change in the mix of our group is inflating the numbers that relate to the uniform individuals category. I would like to look at fully implementing this for the non-uniformed employees and do the 50/50 for the uniform employees

and the reason of doing that is that adding cities over 90,000 and reducing cities 20,000 to 50,000 made a change in the number greater than that of the cost of living. If you half that number you are closer to what the number would have been if the group participation had stayed close or similar.

The part of this policy that I have a problem with we are making recommendations on a group size that drastically can move this up or down and then our employees have the opportunity to pick or choose what part of it they like or don't like. If you go by the data and it is correct, then you can't pick and choose.

I think we need to get out of this looking at extreme cities on either side, we need to identify if we think population drives compensation market then a policy I would like to see adopted as our group size of the 50,000 to 90,000 and that is the range that we look at in addition to what are our cities most comparable to where our employees may go which might bring in other cities like Springdale, Rogers or Bentonville. The thing I don't like about the 50/50 totally, I feel there is justification in dealing with the numbers in the police because we know the participants changed, what I don't like about it on the other side of it is we begin to open a door and a change of practice and it goes against my philosophy, I believe that you don't mess with pay data. When you have done a study the data is the data. I have a hard time unless I find that there is an error or some rational for the adjustment to not do what the market says you should do if we want to pay at market and I would like to pay at market.

Alderman Marr moved to amend the resolution to pay the increase for uniformed employees at 50% in 2004 and the other 50% in 2005 and 100% for non-uniformed employees in 2004. Alderman Jordan seconded. Upon roll call the motion to amend the resolution passed 7-0. Alderman Lucas was absent.

Alderman Thiel: What difference will this make in our budget?

Steve Davis: The total number would be $219,785; the non-uniformed by itself is $71,774.

Alderman Thiel: If we do 100% for non-uniformed and 50% for uniformed how that would affect our budget?

Steve Davis: Combining the merit matrix change, and 100% for non-uniformed is approximately $164,000. If you 100% fund uniform and non-uniformed it would be $219,000 plus $93,000.

A discussion followed on the pay increases and the matrix.

Alderman Rhoads: With this new amendment what increase does that have to the budget?

Steve Davis: $165,137.

Alderman Marr: What is the process that we change the participation group that we are going to average in the future?

Hugh Earnest: An oversight committee was put together and spent many months discussing the particular rationale over the cities that we would choose to drive the Hay Study that resulted in the very large adjustments last year. I would agree that we probably need to look at that mix from 20,000 to over 90,000 but that was the direct result of some 18 to 20 people representing a broad spectrum of all the employee groups agreeing on the cities that we chose and agreeing on the criteria that drove that selection process. A representative from Hay Group and me participated in that. It was from that the list of the 58 cities came from. I would suggest that if we need to make that change that we take that back to the wage and benefit committee and let them make a recommendation to the full Council.

Alderman Davis: Don, what do you think we need to do percentage wise based on those different areas, 50,000 and less, 50,000 to 90,000 and above. What percentage would you recommend?

Alderman Marr: I think the 50,000 to 90,000 category is giving us a wide enough spread. It is getting cities that are growing at rates typically at what we grew at, as I understand they selected university cities. If our growth rate changed and we didn't grow any more are we going to change the cities that we pick?

Alderman Rhoads moved to approve the resolution as amended. Alderman Reynolds seconded. Upon roll call the resolution passed 7-0. Alderman Lucas was absent.

Resolution 195-03 as Recorded in the Office of the City Clerk.

2004 Annual Budget: A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program.
This Resolution was tabled at the November 18, 2003 City Council meeting until the December 2, 2003 City Council meeting.
This resolution was tabled at the December 2, 2003 City council meeting to the December 16, 2003 City Council meeting.

Steve Davis: Steve Davis distributed updated information on the budget showing the pay plan increase.

Alderman Thiel: Does this include the cash that we received on the sale of the I-540 property.

Mayor Coody: No.

Alderman Davis: Where did we take the $165,000 from Steve?

Steve Davis: The $165,000 is divided among several funds. For the most part every thing other than the General Fund we would recommend that it we reflected as an additional expense and that we use more reserves in that fund, because the dollar amount when we look at it across the city is really a very small amount per fund. The one fund that has the largest cost is the Water and Sewer Fund and that is a $25 million plus fund, so this approximate $30,000 is not a very large expense to that fund. The other item that I handed out is the General Fund balance

projection; with this additional $82,000 in cost it moves our reserves to $5,653,000. When we started the budget process we were at $6,099,000, the biggest change between the two numbers is that we removed property tax millage revenue that we had proposed. When we did not adopt the one mil property tax that had to come out of the proposed budget. The second item was that we received notification that our turn back monies from LOPFI were going to be much greater than we anticipated, so we incorporated that number in this turn back revenue. We still have for 2004 a net cost in LOPFI pension of $51,000, in 2004 we will need to have a detailed conversation about the direction the LOPFI pension fund for the state is going and what our expected cost contributions are predicted to be based on an actuarial study received yesterday.

Alderman Davis: The insurance premium tax will not continue to fund LOPFI as a whole?

Steve Davis: No sir. The actuaries are predicting that beginning in 2005 that percentage of funding will continue to decrease until around 2008 it will be somewhere around 25% of the cost. Our cost is expected to go from $51,000 annually to over $264,000 by 2008 and climb further after that.

Mayor Coody: What was the number in 2018?

Steve Davis: I don't remember that one but the 2028 number was $2,769,000.

Alderman Marr: In the letter it talks about the fact that you can only rely on the first 10 years.

Steve Davis: In 2013 that number is $792,000. That is a significant cost increase for our General Fund, even at that level.

Alderman Reynolds: 2018 is $1,300,000.

Jeff Erf: The General Fund revenue and expenses that are in the budget that have been plotted out over several years show the expenses are about $2 million greater than the revenues. Is that correct?

Mayor Coody: That is probably true, since our revenues have been falling since our sister cities to the north do not come and shop in Fayetteville like they use to, plus the fact our expenses continue to climb.

Jeff Erf: They cross in 2000 and it looks like they are starting to diverge by 2008. Do I understand that correctly that we have a shortfall in revenues?

Steve Davis: That is correct.

Jeff Erf: It looks like it has been going on for a while and it can't go on I assume in putridity because the money must come from somewhere. Currently where is that money coming from?

Mayor Coody: Basically we are spending down our reserves. If you will remember in 2001, 2002, and 2003 State of the City Addresses, we made mention of the fact that we had too much

money in reserve and too much money in savings, because if you have a lot of money in savings and you are collecting it from the tax payer you are doing one of two things, collecting too much tax or you are not spending it on the things you need to be spending it on. We wanted to spend down our reserves to a healthy rule of thumb which is 20% of budget or 16 days of operating. The problem is our economy has been helping us to do that because we are not getting the same kind of revenue enhancements that we did when Rogers, Bentonville, Springdale, all of these folks would come to Fayetteville to shop. We are losing that huge influx of tax revenue, at the same time we are seeing increases in salaries, benefits, and the cost of supplies.

Jeff Erf: Within a couple of years, if I am reading the chart properly, we won't have any reserves. I assume there is some law that would require you to keep an amount in reserve.

Mayor Coody: Cities can not deficit spend.

Jeff Erf: That might happen next year, so is there an urgency to correct this problem?

Mayor Coody: Yes

Jeff Erf: In the General Fund projections does that include impact fees?

Steve Davis: No. Impact fees do not go to General Fund because impact fees are solely for capital expendrites. General Fund is an operating fund for day to day services.

Jeff Erf: That would also go for cost of services then?

Steve Davis: The cost of services would flow back into General Fund because that directly relates to services that we provide.

Jeff Erf: The city is in the process of having one done, is that back yet?

Steve Davis: No, we have not received that yet.

Jeff Erf: I know the previous one that was done mentioned that the city could recover hundreds of thousands of dollars in revenues if they increase the cost of services for various fees in the city.

Wilson Springs, the city just received a check for $5.17 million is that reflected any where in the budget?

Steve Davis: We have not reflected that check in the budget.

Jeff Erf: The paper stated that there was an Economic Development Fund that you were going to put $1.8 million into, is that reflected any where in the budget?

Steve Davis: No, that formal paperwork will be presented to City Council on January 6, 2004.

Jeff Erf: What will that money be used for?

Mayor Coody: We do not have it earmarked yet.

Jeff Erf: This will be before you again?

Mayor Coody: Yes

Jeff Erf: I guess the same goes for that $3.4 million that is left? Does that go into a particular fund?

Mayor Coody: It goes into the General Fund for discussion as to what to do with it. We will determine what to do with it after the first of the year.

Alderman Jordan: We will decide that as well.

Jeff Erf: Has the $1.8 million and the $3.4 million already been decided?

Mayor Coody: Basically the rational was the $1.8 million that went to purchase the land and do the infrastructure came from that fund and it is just being replenished; although there is nothing that says you can't move from one fund to another if the City Council so chooses.

Steve Davis: That is correct when we originally purchased the land we had an Economic Development Fund and we used the money that was in that fund to make that initial purchase. We have been spending improvement money for monies designated for Economic Development through the years.

Jeff Erf: The bonds will be paid off for the Continuing Ed Center and according to the contract with the University of Arkansas, the city will have an opportunity to sell that building, it has yet to be determined for how much. Do you have any calculations or predictions on that?

Kit Williams: I don't think anything firm has been decided on that, we are going to look at the contract that we have with the University which controls what we can charge.

Jeff Erf: That could be $3 - $4 million if I understand the contract right, would that money go into the General Fund?

Steve Davis: Because the Continuing Ed Center was purchased with Advertising Promotion, Hotel, Motel and Restaurant tax, the A&P Commission might better have a better claim to that money than the city's General Fund.

Jeff Erf: Well, something would need to be done about that.

Alderman Cook: We discussed closing out projects and where the money goes, do we have a process in place to where when we close projects out that we can see if there is any money left. Can we have an official process for closing projects out?

Hugh Earnest: We have that meeting scheduled for Thursday afternoon; we will be looking at all our CIP projects to see exactly where we are and to see what changes if any we should be made about closing projects or certainly evaluating very carefully where we are on everything we have on the books.

Alderman Cook: When the City Council makes a decision to spend that money on a project plus the contingency and the project is done and there is still money left. Is that money legally tied to that one project?

Kit Williams: It would be until you pass a budget adjustment to put it to another project. I think the only other place it could go is to reserves for the Capital Improvement list. The City Council controls that money and it can only be spent on that project unless you change your mind, if there is excess it could go to another project that you would approve.

Steve Davis: The city does not have a formal project close out or procedure. We are working on that and will be developing more informational reports for City Council that we will bring forward in 2004.

Alderman Davis: Kyle if you will recall this past year we finished out the Betty Jo drainage project and there was dollars left over and we had some item come before the City Council and we had to take some of the left over dollars from Betty Jo and take it to that new project. I agree with what you are saying we need to have a formalized plan in place.

Alderman Jordan: One think that has bothered me about the budget and when we do budget adjustments, we spend hundreds of thousands of dollars probably on consulting fees or engineering fees, I would like to see this city to be able to do a lot more of that work in house, if it is a savings that is one thing. Even if we have to put people on staff, I think in the long run we might save money.

Mayor Coody: We have been working on that over the last few years, we have tried to do especially more engineering work in house. Some jobs are too big and too complex for the number of staff that we have. We have gotten a lot better. There will be jobs that we just can't do, but when we can I am a strong advocate of doing it in house because we have better cost control and product control.

Alderman Jordan: I have constituents that call me about this.

Alderman Reynolds: I heard Mr. Earnest say you were going to have a meeting Thursday to talk about project completion, can the City Council have a copy of those projects and the money left on those projects.

Hugh Earnest: That was our intent.

Alderman Jordan moved to approve the resolution. Alderman Cook seconded. Upon roll call the resolution passed 7-0. Alderman Lucas was absent.

Resolution 196-03 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

OMI Contract Amendment No. 10: A resolution approving Amendment No. 10 to the contract with Operations Management International (OMI) in the amount of $4,373,573.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2004.

Alderman Reynolds moved to approve the resolution. Alderman Jordan seconded. Upon roll call the resolution passed 6-0. Alderman Davis was absent during the vote. Alderman Lucas was absent.

Resolution 197-03 as Recorded in the Office of the City Clerk.

Fayetteville Boys and Girls Club Agreement to Provide Public Recreation: 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 2004.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4532 as Recorded in the Office of the City Clerk.

Council on Aging Agreement and Bid Waiver to Provide Public Recreation for the Citizens of Fayetteville: 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 $32,900.00 to provide public recreation services for the senior citizens of Fayetteville for 2004.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Davis seconded. Upon roll call the motion passed 6-0. Alderman Rhoads was absent during the vote. Alderman Lucas was absent.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded. Upon roll call the motion passed 6-0. Alderman Rhoads was absent during the vote. Alderman Lucas was absent.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Rhoads was absent during the vote. Alderman Lucas was absent.

Ordinance 4533 as Recorded in the Office of the City Clerk.

ANX 03-4.00 – Repeal Ordinance 4518 Carol Stephens Annexation: An ordinance repealing Ordinance No. 4518 for the annexation to the City of Fayetteville, Arkansas, of 1.08 acres located north of Mt. Comfort Road and west of Rupple Road owned by Carol Stephens.

Mr. Williams read the ordinance.

Alderman Davis: The way I look at this map basically Shiloh Community Church did not come into the annexation and we are looking at de-annexing the Stephens property, so what we recently brought in which is the Coger property will still have a connection to the city from the land north of the church.

Dawn Warrick: Yes sir that property is currently under development as Clabber Creek Subdivision Phase II and it will have a street connection into the Coger Subdivision.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Davis seconded. Upon roll call the motion passed 6-0. Alderman Rhoads was absent during the vote. Alderman Lucas was absent.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4534 as Recorded in the Office of the City Clerk.

Alderman Davis: All these islands are inside the city limits of the City of Fayetteville, at what point are we looking at Planning bringing us something to where those islands would be incorporated into the city.

Tim Conklin, Planning: We have researched the property owners and are developing the legal descriptions and the first quarter of next year we anticipate bringing those forward.

Alderman Marr: If we are going to do that why did we repeal this annexation?

Kit Williams: There were problems with the legal description between the County Judges order and our annexation and therefore it threw everything in great doubt, so it was better to de-annex and bring it in when everyone can agree as to what the legal description is.

RZN 03-37.00 – Stonebridge Meadows: An ordinance rezoning that property described in rezoning petition RZN 03-37.00 as submitted by the City of Fayetteville for property located south of Goff Farm Road and east of Stonebridge Meadows.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Jordan: What is the response time out there?

Dawn Warrick: From station five which is approximately three miles it is 5 minutes 36 seconds.

Alderman Davis: Dawn would you mind telling us what we are doing so the citizens will know.

Dawn Warrick: 1.95 acres was dedicated to the city as park land which was a requirement for Phase I of Stonebridge Meadows, that was in the late 90's when Phase I was developed. Phase II was recently brought forward through the annexation and rezoning process as well as a Preliminary Plat, as a part of that the developer wishes to dedicate a different piece of property 5.45 acres to cover the land dedication needs for both Phases I & II. He has requested that this 1.95 acres be incorporated into the Phase II development as residential lots. The Parks Board, Planning Commission and Staff have reviewed it and we all support this proposed change.

Alderman Reynolds: I have had no phone calls on it so I have no objection.

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

Mr. Williams read the ordinance.

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

Ordinance 4535 as Recorded in the Office of the City Clerk.

Traffic and Transportation Study: A resolution accepting the traffic and transportation study dated October, 2003 and prepared by Bucher, Willis & Ratliff.

Alderman Davis: Mayor, the Street Committee reviewed this again the other night and we decided to go ahead and bring this before the Council to accept rather than adopt. Looking at the accepting being that we did not agree with the study as a whole but since they have done the work we feel it needs to be accepted.

Alderman Jordan: Being that we spent $200,000 I would hate to see us turn it away.

Mayor Coody: To be fair it did produce a lot of valuable information that we could not have gotten other wise. All of it may not have been what we expected to see, but the bulk of it was very helpful.

Alderman Marr: I think it is important, I do think this was a valuable study that we received. They told us at the beginning of this study that it had to go through the political process, which is us adjusting the policy oriented decisions. I think for those things that we disagree with, most of them are policy related or what was prioritized. I think we got what we paid for and we have good documents to go to the state with. I don't want the citizens out there thinking that we spent money on something that we didn't need; now it needs to go through what every traffic study has gone through.

Alderman Jordan: There were a lot of things I didn't know until I looked at the study. There was information in there about growth and the needs of the city and the cost to do the items that need to be completed. I think the study was a good investment for the city.

Steve Frankenberger: What will it mean if we accept this, hopefully for one it will not become city policy? I for one am disappointed in the study.

He discussed the study and the issues he had with this study.

Mayor Coody: The number one issue that the public pointed to in our citizen survey was the need for work on our transportation, traffic and mobility. One of our guiding principles is to enhance mobility and make Fayetteville have comfortable streets in which to travel. We have to

do it in such a way that we can afford to do it. We need to give the public an option to fund these issues.

Alderman Marr: At what time frame will we have this back in front of us to address the political policy issues? I want to make sure that we are not using this plan as we have adopted when we haven't adopted it yet.

Tim Conklin: I think the most important element of the study is the Master Street Plan. I think we need to bring that forward and then start the process. We are trying to implement this plan with this study so we need to get it adopted.

Alderman Marr moved to approve the resolution. Alderman Jordan seconded. Upon roll call the resolution passed 6-1. Alderman Marr, Rhoads, Davis, Jordan, Thiel and Cook voting yes. Alderman Reynolds voting no. Alderman Lucas was absent.

Resolution 198-03 as Recorded in the Office of the City Clerk.

LEECO Fire Equipment: A resolution approving the purchase of one Emergency One, Inc. (E-One) pumper apparatus from LEECO, Inc in the amount of $347,645.83; and approving a budget adjustment in the amount of $377,646.00 for same.

Chief Bosch: This is a 2004 request for apparatus replacement. By allowing us to agree to purchase a contract in 2003 we have an opportunity to secure the apparatus at this year's price which will save us about $17,000 in cost. We will not be ordering the apparatus until spring with delivery in the fall.

Alderman Reynolds: Chief Bosch brought this to the equipment committee and we thought he did a good job in saving money, so we agreed to the purchase.

Alderman Davis moved to approve the resolution. Alderman Reynolds seconded. Upon roll call the resolution passed 7-0. Alderman Lucas was absent.

Resolution 199-03 as Recorded in the Office of the City Clerk.

Alderman Marr moved to suspend the rules and add the Sewer Rate Ordinance to the agenda. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Amend § 51.137 Monthly Sewer Rates: An ordinance amending § 51.137 of the Code of Fayetteville, to adjust sewer rates.

Mr. Williams read the ordinance.

Alderman Marr: Kit could you clarify for the public why we are only doing this on the sewer rates and not the water rates that we passed.

Kit Williams: I looked very closely at the water rates; most of the water rate chapter had to deal with bonds and had very little guidance on what you had to do to raise rates. The city has provided water long before they provided sewer, so the sewer rates came along later and the legislature was probably at that point more interested in giving citizens prior notice before the City Council could raise the rates. That is just a guess I don't know why they are handled differently.

Alderman Jordan: So that means we have to go through the public process again.

Kit Williams: It will be a Public Hearing.

This Ordinance was left on the first reading.

Meeting Adjourned at 8:30 PM

Sondra Smith
City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

City Council Agenda January 6, 2004
Supplemental Information

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor
Hugh Earnest, Chief Administrative Officer

FROM: Stephen Davis, Finance & Internal Services Director

DATE: December 31, 2003

SUBJECT: Black & Veatch Contract Amendment Number Four – Supplemental Information

The consulting staff for Black & Veatch will not be back in the office until Monday, January 5, 2004 therefore I do not have a revised Amendment 4 to include as part of the final agenda information for City Council.

City Council, on April 15, 2003, approved contract Amendment 3 for $37,000 and a contingency of $5,000. The work performed through December 2, 2003 by Black & Veatch is within those approved monies (Amendment 3 and contingency).

Staff is requesting City Council approval of an additional contracting authority of $25,000 to provide on-going services through 2005. It is expected that this contract amendment will be sufficient until the City enters into a new agreement for a future operations and rate study engagement. The new contract will be after the City conducts a professional selection process.

Amendment 4 is proposed to provide the City with continuing consulting services, as needed, to address the following list of future services:

- Development of the O.M. & R customer notification that is required as part of Ordinance 51.137 (4) (a) and (b),

- Consultation, as requested, on water and/or sewer rates for discussions between Fayetteville, outside city groups (Farmington and Greenland), ASWCC,

- Bond counsel, bond underwriters, bond trustee(s), external auditors, etc.

It is City Staff's plan to utilize the previously approved contingency of $5,000 to pay for the December 2nd trip.

BLACK & VEATCH

11401 Lamar Avenue
Overland Park, KS 66211 USA

Tel: (913) 458-2000

Black & Veatch Corporation

January 5, 2004

Mr. Stephen Davis
Finance and Internal Services Director
City of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701

Dear Mr. Davis:

Enclosed are two copies of Addendum No. 4 related to additional services in conjunction with the Report on Revenue Requirements, Cost of Service, and Rates for Water & Sewer Service. Please return one fully executed copy to me for our files.

Item (1) has been completed, with effort amounting to 30 hours plus travel expenses. It is anticipated that completion of Item (2) will require approximately 4 hours of effort. Neither the number of meetings nor the extent of analyses associated with item (3) is known at this time.

Please contact me if you have any questions regarding this Addendum.

Very truly yours,

BLACK & VEATCH CORPORATION

Blaine W. Bickel

Blaine W. Bickel

BWB/mdd
Enclosures

ADDENDUM NO. 4
To
CONTINUING SERVICES AGREEMENT
Between
City of Fayetteville and Black & Veatch Corporation

In accordance with the Agreement effective March 14, 2001 between City of Fayetteville, Arkansas (Client) and Black & Veatch Corporation (Consultant), Consultant agreed to perform consulting services as requested by Client. Client has requested Consultant to provide the following additional services in conjunction with preparation of the Report on Operations of the Water & Sewer System and the Report on Revenue Requirements, Cost of Service, and Rates for Water & Sewer Service conducted under Addendum No. 2 to the Continuing Services Agreement:

(1) Preparation of presentation and attendance by two Black & Veatch representatives at City Council meeting December 2, 2003.
(2) Preparation and submittal of information to Arkansas Soil and Water Conservation Commission verifying that User Charge Requirements are met under the rate structure adopted by the City.
(3) Consultation, as requested, on water and/or sewer rates, for discussions between Fayetteville, outside City customer groups, Arkansas Soil and Water Conservation Commission, bond counsel, bond underwriters, bond trustee's, and other parties as may be required.

To cover the cost of these additional services, Black & Veatch is requesting additional authorization in the amount of $30,000. If the services can be completed for less than this amount, the City will be invoiced only for costs actually incurred.

City of Fayetteville, Arkansas (Client) Black & Veatch Corporation (Consultant)

By: _____ By _____

Date: _____ Date: January 5, 2004

Tentative Agenda
For
City Council Meeting
January 6, 2004

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

Steve Davis and Marsha Farthing GASB 34 Presentation at Agenda Session

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the December 16, 2003 meeting minutes.

2. **Minimum Standards; Fayetteville Municipal Airport:** A resolution approving the revised minimum standards for the Fayetteville Municipal Airport as approved and recommended by the Airport Advisory Board.

3. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.

4. **Baird, Kurtz & Dobson, LLP Audit Services Contract Renewal:** A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in an amount not to exceed $59, 325.00 to provide independent audit services to the City of Fayetteville.

5. **Black & Veatch Contract Amendment #4:** A resolution approving contract Amendment #4 in the amount of $30,000.00 with Black & Veatch Corporation to perform continuing water and sewer operations and rate study services; and approving a Budget Adjustment in the amount of $25,000.00 for same.

6. **Purchase of 3 Komatsu Backhoes from H & E Equipment:** A resolution approving the purchase of Three (3) Komatsu Backhoes from Head & Engquist Equipment in the amount of $159,525.00; and approving a budget adjustment in the amount of $1,970.00 for the same. This request was approved by the Equipment Committee on December 9, 2003.

7. **ADEQ and Tri-County Solid Waste District Recycling Grant; Roll-off Recycling Boxes:** A resolution authorizing the Fayetteville Solid Waste and Recycling Division to accept a grant in the amount of $18,000.00 from the Arkansas Department of Environmental Quality (ADEQ) and the Tri-County Solid Waste District for the purchase of roll-off recycling boxes for use at the 24-hour community recycling drop-off; and approving a budget adjustment to recognize the grant revenue.

B. OLD BUSINESS:

C. NEW BUSINESS:

1. **Homeland Security Fire Grant; Wellness & Fitness/EMS Training Program:** A resolution authorizing the Fayetteville Fire Department to accept a Department of Homeland Security Fire grant in the amount of $98,820.00 to establish a wellness and fitness/EMS training program; approving a new temporary staff position to establish and coordinate the program; and approving a budget adjustment to recognize the grant revenue.

2. **Budget Adjustment; Transfer of Funds from the sale of Wilson Springs, I-540:** A resolution to approve a budget adjustment transferring some of the proceeds from the sale of Wilson Springs, I-540 land from the General Fund to the Sales Tax Capital Fund and to Economic Development Program-Professional Services in General Fund.

3. **Impact Fees for Road, Police and Fire Improvements:** An ordinance waiving the requirements of competitive bidding and approving a contract with Duncan and Associates to calculate Impact Fees for Road, Police and Fire Improvements in the amount of $25,890.00 with a contingency amount of $1,500.00 and approving a Budget Adjustment of $27,390.00.

4. **VAC 03-13.00; Northwest Arkansas Mall Lot A Utility Easement:** An ordinance approving VAC 03-13.00 to vacate a portion of a 25 foot utility easement lying in Lot A in the Northeast corner of the Northwest Arkansas Mall as depicted on the attached map and legal description.

5. **R-PZD 03-6.00; Benton Ridge, Long, LLC:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-6.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 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.

6. **R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue, north of Township on Brophy Circle containing 6.01 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.

D. INFORMATIONAL:

Council Tour: January 5, 2004

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

MEMORANDUM

TO: Dan Coody, Mayor
Members of the City Council
THRU: Staff Review Committee
FROM: Ray M. Boudreaux, Director, Aviation and Economic Development
DATE: December 15, 2003
SUBJECT: Revised Minimum Standards for Fayetteville Municipal Airport, Drake Field

---

Requested Action: Approve the Minimum Standards for Fayetteville Municipal Airport, Drake Field.

Discussion: Federal Aviation Regulation, Part 139 requires that airports operating under the regulation have minimum standards for activities conducted on the airport. The Minimum Standards for Fayetteville Municipal Airport, Drake Field were previously approved when the airport was primarily a commercial service airport supporting airlines and passengers. The airport currently operates as a general aviation airport and maintains the higher part 139 standards in an effort to be the best airport in the area servicing general aviation and to be prepared should there be a need for commercial passenger service at the airport. The Airport Board approved the revised Minimum Standards at their December 11, 2003 meeting, following a Public Hearing on the document.

There are very few substantive changes to the Standards. Most of the changes are to remove extraneous material and to make the standards more universal and general in nature. One example was that the standards required a flight school to have a specified amount of space, a specified number of desks and specified training aids. The change was to remove specifics and require that all commercial enterprises have the tools of the trade and the space to perform the work or conduct their business. There has been no reduction in the level required by the standards which require the highest quality of service and professionalism by all those who use the airport and by all commercial enterprises located on the airport.

Budget Considerations: None

Attachments: Staff Review Form
Minimum Standards for Fayetteville Municipal Airport, Drake Field

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

ENTERED 12/19/03

RESOLUTION NO. _____

A RESOLUTION APPROVING THE REVISED MINIMUM STANDARDS FOR THE FAYETTEVILLE MUNICIPAL AIRPORT AS APPROVED AND RECOMMENDED BY THE AIRPORT ADVISORY BOARD.

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

Section 1. That the City Council hereby approves the revised Minimum Standards for the Fayetteville Municipal Airport as approved and recommended by the Airport Advisory Board. A copy of the revised Minimum Standards, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and **APPROVED** this 6th day of January, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

FAYETTEVILLE MUNICIPAL AIRPORT - DRAKE FIELD
4500 S. SCHOOL AVENUE, SUITE F
FAYETTEVILLE, ARKANSAS 72701

THE MINIMUM STANDARDS FOR FAYETTEVILLE MUNICIPAL AIRPORT DRAKE FIELD

ORIGINALLY ADOPTED: February 16, 1981 Resolution 25-81
AMENDED: May,18, 1993 Resolution 50-93
UPDATED AND REPLACED BY: June 6, 2000 Resolution 78-00
AMENDED: December 5, 2000 Resolution 162-00
UPDATED AND REPLACE BY: January 6, 2004 Resolution

TABLE OF CONTENTS

		PAGE
INTRODUCTION		3
STATEMENT OF POLICY		3
SECTION 1:	DEFINITIONS	4
SECTION 2:	GENERAL USE AGREEMENT	5
SECTION 3:	GENERAL REQUIREMENETS	5
SECTION 4:	PENALTIES	12
SECTION 5:	APPLICATIONS	13
SECTION 6:	NOTICE	13
SECTION 7:	LEASE/CONTRACT/PERMIT	14
SECTION 8:	GENERAL REQUIREMENTS	14
SECTION 9:	BASIC LEASE TERMS AND CONDITIONS	16
SECTION 10:	AMENDMENTS TO STANDARDS AND NOTICES	17
ATTACHMENT 1:	LEASE APPLICATION FORM	18

THE MINIMUM STANDARDS
FOR
FAYETTEVILLE MUNICIPAL AIRPORT, DRAKE FIELD
FAYETTEVILLE, ARKANSAS

INTRODUCTION

In order to encourage and ensure the provision of adequate services and facilities, the economic health of, and the orderly development of aviation and related aeronautical activities at the Fayetteville Municipal Airport, Drake Field, the City of Fayetteville as proprietor, sponsor and operator of the airport establishes these minimum standards and requirements ("minimum standards").

The following sections set forth the minimum standards prerequisite to a person or entity operating upon and engaging in one or more activity upon the airport. The minimum standards are not intended to be all-inclusive. Any person or entity engaging in activities at the airport will be required to comply with all applicable federal, state and local laws; ordinances; codes; and other similar regulatory measures to such activities and these Minimum Standards.

STATEMENT OF POLICY

The Fayetteville Municipal Airport, Drake Field Administration intends to operate, manage, plan, finance and develop the airport for its long-term financial viability and safety in a manner consistent with generally accepted airport practices and applicable federal, state and local policies and regulations.

Accordingly, all entities wishing to perform aeronautical and /or commercial, and /or any other activities at the airport shall be accorded a fair and reasonable opportunity, without unlawful discrimination, to qualify and to compete (if applicable) to occupy available facilities at the airport.

The granting of rights and privileges to individuals and businesses will not be construed in any manner as affording any operator any exclusive right for use of the premises and/or facilities at the airport other than those premises which may be leased exclusively to any operator, and then only to the extent provided in a written lease and/or permit.

While the airport director has the authority to manage the airport (including the authority to interpret, administer, and enforce airport agreements and airport owner policies and the authority to permit temporary, short term occupancy of the airport), the ultimate authority to grant the occupancy and use of the airport real estate or permits allowing for the conduct of all activities, and to approve, amend or supplement all leases and permits is expressly reserved to the City of Fayetteville City Council after the advice and council of the Airport Board.

SECTION 1: DEFINITIONS

As used herein, the following terms shall have the meaning listed:

AIRPORT LAYOUT PLAN: - (ALP) Developed by the Airport Director in consultation with the Airport Board.

AIR OPERATIONS AREA: - (AOA) That portion of the Airport designated for use by aircraft and including all runways, taxiways, ramps, aprons and any other areas so delineated for use by aircraft, inside the perimeter fence.

AERONAUTICAL ACTIVITY: - Shall mean any activity which involves, makes possible, or is required for the operation of aircraft or which contributes to, or is required for, the safety of such operations and shall include, but not by way of limitation, all activities commonly conducted on airports, such as charter operations, pilot training, aircraft rental, sight seeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products, whether or not conducted in conjunction with other included activities, repair and maintenance of aircraft, sale of aircraft parts, sale of maintenance of aircraft accessories, radio, communication and navigation equipment and any other activity which, because of its direct relationship to the operation of aircraft, can appropriately be regarded as an "aeronautical activity".

AIRCRAFT: - Any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

AIRPORT: - Shall mean Fayetteville Municipal Airport, Drake Field, Fayetteville, Arkansas owned and operated by the City of Fayetteville as a Department.

AIRPORT BOARD: - Shall mean the seven member board, appointed selected by the Fayetteville City Council to provide guidance for Airport operations and practices and procedures.

AIRPORT DIRECTOR: - Shall mean the Manager or Director of the Airport as designated by the City of Fayetteville.

AIRPORT TRAFFIC AREA: - Shall be as defined in the current Federal Aviation Regulations, Part 1, and as such may be amended from time to time.

CITY COUNCIL: - Shall mean the City of Fayetteville, Arkansas, Council as duly constituted at any time.

DRIVER: - Any person who is in actual physical control of a vehicle.

MINIMUM STANDARDS: - The requirements, standards, rules and regulations established herein, as amended from time to time by the City Council upon recommendation of the Airport Board,

setting forth the minimum requirements to be met as a condition for the right to conduct any activity on the Airport.

MOTOR VEHICLE: - any ground vehicle that is self-propelled.

MOVEMENT AREA: - the area which is under the direct control of the tower, it includes 500 feet perpendicular to and either side of the runway centerline, 200 feet outward from each threshold and a 118 foot area which encompasses each taxiway.

ENITITY: - Any person, firm, partnership, corporation, company or association; and including any trustee, receiver of similar representative thereof.

PILOT: - Any person who is responsible for control of an aircraft.

SECTION 2: GENERAL USE AGREEMENT

No entity, incorporated or otherwise, shall conduct any activity at the Fayetteville Municipal Airport, Drake Field, unless a valid agreement authorizing such activity has been entered into between the entity and the City of Fayetteville.

The agreement will present the terms and conditions under which the activity will be conducted at the airport, including but not limited to: term of the agreement, rent charges, fees and other charges, and the rights and obligations of the respective parties.

SECTION 3: GENERAL REQUIREMENTS

The following general requirements shall apply to all activities at the Airport:

FEDERAL AIR TRAFFIC RULES: The rules of the Federal Aviation Administration for aircraft operated anywhere in the United States, and presently or hereafter effective, are hereby referred to, adopted and made a part hereof as though fully set forth and incorporated herein.

SAFEGUARD OF PERSONS AND PROPERTY. The Airport Director or his/her designated representative shall at all times have authority to take necessary legal actions to safeguard any person, aircraft, equipment or property at the Airport.

LEASE OF AIRPORT PROPERTY. The City of Fayetteville may lease property within the building area or other portions of the Airport for the construction of hangars, buildings, aprons, taxiways and auto parking lots in accordance with the approved Airport Layout Plan.

Leased land from which any building, hangar, or structure is removed after due notice will be cleaned and put back to the condition as originally received by the Lessee.

Lease applications will be submitted through the Airport Director's Office for approval. Following review by the Airport Director and the Airport Board, applications will be processed through the City's Contract Review Committee and the City Attorney for signature by the Mayor. The exceptions will be the standard leases, such as T-Hangar Leases, etc., which, following review and approval by the Airport Director, will be forwarded through the City's Contract Review Committee for the Mayor's signature. All applications for sub-lease or assignment must be submitted to the Airport Director for approval, then forwarded through the City's Contract Review Committee for the Mayor's signature.

No structures may be erected beyond the building restriction line or in conflict with the approved Airport Layout Plan, unless revision are made to the Plan and approved by the FAA.

Fuel Flowage Fees: A fuel flowage fee will be charged for all fuel dispensing activities based on the established City Ordinance, Title IX (9), Chapter 91.16 currently approved and placed in effect by the City Council.

Lien for Charges: A lien for charges may be used to enforce the payment of any charge made for repairs, routine invoicing, improvements, storage or care of any personal property, made or furnished by the City or its agents, in connection with the operation of the Airport. The City shall have a lien upon such personal property, which shall be enforceable as provided by law.

Lien Possessory Right: A lien possessory right may be used to enforce the non-payment of charges. The Airport Manager may retain possession of personal property until all reasonable, customary and usual compensation shall have been paid in full.

Unauthorized Signs and Equipment: No signs or non-aeronautical equipment or portable buildings/house trailers may be erected, moved in or installed on the Airport property except as may be specifically authorized by the Airport Director, in accordance with the City of Fayetteville Sign Ordinance.

Surreptitious Activities: Any person observing suspicious, unauthorized or criminal activities must report such activities immediately to the Airport Administration or Police.

Wrecked/Damaged/Disabled Aircraft: The owner of any aircraft damaged as a result of an accident shall be responsible for the prompt removal of the aircraft following release by the FAA or the National Transportation Safety Board. No aircraft in a non-airworthy condition so disabled as to give the appearance of a wrecked plane, or otherwise so damaged as to be unsightly, shall at any time be parked or tied down out of doors in public view, except with specific authorization by the Airport Director.

Damage to Airport: Any entity, and/or the owner of any aircraft or vehicle causing damage of any kind to the Airport or airport facilities shall be liable to the Airport.

Injury to Persons: Persons entering upon Airport grounds do so at their own risk and with no liability incurring to the Airport for any injury or damage to person or property. Further, any person desiring to use the Airport shall observe and obey all valid laws, resolutions, orders, rules and regulations promulgated and enforced by the Airport or by any authority having jurisdiction over the conduct and operation of the Airport including the FAA. It shall be incumbent upon the user/tenant to be familiar with these regulations.

Pilots: Only properly licensed persons holding current airman and medical certificates issued by the FAA shall be authorized to operate aircraft upon the Airport. This limitation shall not apply to properly licensed sport pilots, ground operations by properly trained and qualified person, students in training while under the supervision of licensed instructors, or to public aircraft of the Federal Government or of a State, territory or political subdivision thereof, or to aircraft licensed by a foreign government with which the United States has a reciprocal agreement covering the operation of such licensed aircraft.

NOTE: Use of the Airport by ultralight vehicles/motorless aircraft without operational contact with the ATCT shall be subject to prior approval by the Airport Director and shall be in accordance with FAR PART 103 and any other rules set by the Airport. Ultra-light operators must be familiar with traffic pattern procedures and shall maintain radio contract with the Air Traffic Control Tower.

Intoxicants and Narcotics Prohibited: No person under the influence of an intoxicant or narcotic shall operate or fly in any aircraft upon or over the Airport; provided however, such prohibition shall not apply to a passenger when accompanied by a nurse or caretaker in an aircraft apart from the pilot.

Foreign Objects: No foreign objects, including bottles, cans, scrap or any object that may cause damage to an aircraft shall be left upon the floor of any building or upon any part of the surface area of the Airport.

Authorized Persons - Air Operations Area (AOA): Any person who has authority to enter the AOA and who permits a guest to accompany him or her shall be responsible for ensuring that such guest remain accompanied by an authorized person at all times while in the AOA. Any person entering the AOA shall ensure that any gate through which entry is gained is properly closed after they enter and is to notify the Airport Management promptly if such gate does not close properly. If vehicle access is used to enter, the vehicle operator, after proceeding through the open gate will stop, and wait until the gate is closed before proceeding to his or her destination. No unrestrained pets, or animals, will be permitted in the AOA.

Vehicle Operations - Air Operations Area – (AOA): No person shall operate any vehicle in the AOA unless such person is licensed to operate such vehicle on the public highways of this State, or unless such vehicle is licensed for operation on such highways or is specially authorized for operation on Airport property only.

No person shall operate any vehicle on any part of the Movement Area without first obtaining permission from the Control Tower, or after its closure, advising of position and intentions by use of the Common Traffic Advisory Frequency.

Every person operating a vehicle in the AOA shall obey the lawful order, signal or direction, by voice, hand or otherwise, of the Control Tower or of any Airport staff member, Airport Rescue and Fire Fighting staff member or law enforcement officer.

No person shall operate any vehicle in the AOA unless authorized to do so by the Airport Director or his/her designated representative.

No person shall operate any vehicle on any part of the airport in a negligent manner or while the operator is under the influence of intoxicating beverages, narcotics or any substance which could adversely affect the full and rational exercise of a driver's mental or physical faculties, or when the vehicle is in an unsafe condition or equipped or loaded so as to endanger persons or property or in a manner unsafe for existing conditions.

All persons on the Movement Area shall obey the following Airport Control Tower light signals:

RED----------STOP
FLASHING RED----------CLEAR RUNWAY IMMEDIATELY
GREEN OR FLASHING GREEN---------- PROCEED
ALTERNATING RED & GREEN---------USE EXTRA CAUTION
FLASHING WHITE---------- RETURN TO POINT OF ORIGIN

No person shall operate any vehicle on the runway, taxiway or movement area unless such vehicle is equipped with a two-way radio in operating condition.

All aircraft, motor vehicles and ground equipment while inside the AOA must be adequately lighted or marked with suitable reflectors during the hours of darkness or periods of reduced visibility during the daylight hours. Reduced visibility is defined as any ground visibility less than 500 feet.

All ground self-propelled vehicles, except responding emergency equipment, shall yield the right-of-way to any aircraft in motion. All aircraft shall hold their positions during an emergency unless otherwise directed by the Control Tower.

Pedestrians and aircraft shall at all times have right-of way over vehicular traffic. All vehicles shall pass to the rear of taxiing aircraft.

No person shall operate, park or stop any vehicle in any aircraft parking area, landing areas, ramp or taxiway except as authorized by Airport Management.

No person shall operate or park any ground vehicle in any area that is not designated by signs or markings.

No person shall operate any vehicle at speeds greater than fifteen (15) miles per hour upon any area of the AOA with the exception of the Movement Area, in which vehicles shall not operate at speeds greater than thirty five (35) miles per hour.

Emergency vehicles while responding/training and official Airport vehicles being used in the performance of official duties are excluded from this section when necessary to accomplish an emergency or official mission; however, such vehicles shall at all times be in contact with the Control Tower.

Fueling of Aircraft: Aircraft shall not be fueled while the engine is running, or while in a hangar, nor other enclosed place.

All fuel trucks will be equipped, operated and maintained in accordance with the National Fire Protection Association, Incorporated, NFPA Manual 407 "Aircraft Fuel Servicing."

Persons or aviation businesses wishing to supply and dispense aviation fuel for their private use must first apply for a permit, be granted a permit, and comply with the "Minimum Standards for Self Fuelers" before initiating their self fueling program.

Public sale of automobile gas for use in aircraft will not be permitted on the Airport.

Aviation or auto fuels will not be stored within a hangar and all fuel which is supplied to the Airport for aeronautical use will pay the applicable flowage fees as specified by City Ordinance.

Tie-down of Aircraft: All aircraft, not hangared, shall be tied down or secured at night and during inclement weather. Aircraft owners or their agents are responsible for the tie-down or security of their aircraft.

Running Aircraft Engines: On aircraft not equipped with adequate brakes, the engine shall not be started until and unless the wheels have been set with blocks attached to ropes or other suitable means for removing them.

No airplane will be propped, started or left running without qualified personnel at the controls.

No engine shall be started or run inside any building.

Damage to Runway Lights: Damage to any field light or fixture shall be reported to Airport Management immediately. Persons causing damage to runway and taxiway lights, as a result of negligent operation of an aircraft, vehicle or as result of a willful act will be liable for replacement cost of the light(s) and/or fixture(s).

Taxiing Aircraft: No person shall taxi an aircraft until he/she has ascertained that there will be no danger of collision with any person or object in the immediate area.

Aircraft will be taxied at a safe and prudent speed, and in such manner as to be at all times under the control of the pilot or taxi certified technician.

Parking Aircraft: Aircraft shall be parked in the areas designated by the Airport Manager for that purpose.

Aircraft will not be parked in such a manner as to hinder the normal movement of other aircraft and traffic unless specifically authorized by the Airport Director as an emergency measure or in an unusual situation. Vehicles shall use care to avoid interference with aircraft in the aircraft parking areas.

Unattended aircraft will be properly shut down, chocked and/or tied down.

Loading/Unloading of Aircraft: Aircraft will not be loaded or unloaded with the engine(s) running with the exception of medical operations.

Authority to Suspend Operations: The Airport Director may suspend or restrict any or all operations whenever such action is deemed necessary in the interest of safety.

Take-offs on Apron, etc.: No take-offs or landings shall be made on the apron, parking ramp or taxiway except by special permission of the Airport Director.

Common Courtesy: Aircraft entering the traffic pattern shall exercise caution and practice courtesy so as not to cause aircraft already in the pattern to deviate from their course.

Parachute Jumping: Parachute jumping into the airport is prohibited except when special arrangements have been made which are authorized by the Airport Director.

Special Procedures: The Airport Director may, in the interest of safety or for special events, designate special traffic procedures for certain operations, such as air shows, lighter than air operations, banner towing, ultralights, etc. Prior approval from the Airport Director is required.

Fire Regulations: Every person using the Airport or its facilities for any purpose, shall exercise the greatest care and caution to prevent fires.

Smoking or open flame within fifty (50) feet of any aircraft or fuel truck is prohibited.

Compressed flammable gas shall not be kept or stored upon the Airport, except at such place as may be designated by the Airport Manager.

No flammable substance shall be used in cleaning motors or other parts of an aircraft inside a hangar or other building.

No one shall smoke, ignite a match or lighter in any airport public owned building.

The floors in all buildings shall be kept clean and free from oil. Volatile, flammable substances shall not be used for cleaning floors.

Refuse, trash, or litter, such as, boxes, crates, cans, bottles, paper, tall grass/weeds shall not be permitted to accumulate in or about a hangar.

At least two 20 lb portable fire extinguishers will be available within 50 feet of the fuel pumps or truck where the open hose discharge capacity of the fuel pump is not more than 200 gallons per minute; at least one wheeled 80 lb fire extinguisher where the open hose discharge capacity is more than 200 gallons per minute, but not more than 350 gallons per minute; at least two wheeled 80 lb fire extinguishers where the open hose discharge capacity is greater than 350 gallons per minute.

All aviation fuel nozzles will have "dead man" controls which will shut off the fuel flow when the nozzle hand control is released. No "lock open" type nozzle shall be permitted for fueling aircraft.

Only when the pilot or crew member is present at the aircraft will a fueling operation take place while passengers are aboard.

In all matters related to aircraft fueling safety the provisions of NFPA Manual 407 "Aircraft Fuel Servicing" published and available from the National Fire Protection Association, Incorporated, 470 Atlantic Avenue, Boston, Massachusetts 02210, shall prevail (as updated or amended from time to time).

Any fuel which becomes spilled through the fueling procedure, fuel farm loading and unloading procedure or fuel which is spilled from any portion of any aircraft is the responsibility of the owner of the aircraft or fueling agency involved. It is their responsibility to clean up the spill. The clean up procedure will conform to those set forth by the Department of Pollution Control and Ecology and all other City, State and Federal guidelines. Under no circumstances is fuel to be "washed down", but instead it shall be absorbed with an approved material and disposed of in the manner specified by City, State and Federal guidelines. All costs of such clean ups shall be borne by the owner/company/tenant involved.

Aircraft Painting: Aircraft painting is prohibited in all buildings except those approved as paint shops. All such facilities will abide by all local, City, State and Federal regulations in place and as amended from time to time by the governing bodies. Any violations and subsequent fines/fees which may be levied shall be borne by the party involved in the violation.

Knowledge of Rules Implied: By publication of these Minimum Standards all persons will be deemed to have knowledge of the contents. Copies of the Minimum Standards are available to all persons requesting a copy.

Copies will be available at all times in the airport office, and copies will be furnished to owners and operators of aircraft based on the Airport.

Conflict in Rules: If and where there is conflict in these and the Federal Aviation Rules (FARs) the latter shall prevail.

SECTION 4: PENALTIES

Penalty for Violation: Any person operating or handling an aircraft in violation of any of these Minimum Standards or refusing to comply herewith, may, at once, be asked to leave the Airport, or may be denied use of the Airport by the Airport Director. When extreme circumstances or conditions exist, said violator may be deprived of the further use of the Airport and its facilities for such period of time as may appear necessary for the protection of life and property.

Any violation of these Standards, as adopted by Council Resolution, shall be subject to all applicable laws of the City of Fayetteville Police and Fire Departments and punishable by fine. This section is cumulative of all other penalties for violation of Federal, State and Local laws, rules, regulations and ordinances.

Prosecution for an offense under this Resolution does not prevent the use of other enforcement remedies or procedures, including administrative measures applicable to the person charged with the conduct involved in the offense.

If any provision of this Resolution is held insufficient as the basis of criminal prosecution as provided herein, the same shall nevertheless be a ground for revocation or suspension of any license, permit or privilege issued under this Resolution.

For any violation hereof, a law enforcement officer or other appropriate enforcement official may require the person cited to sign a written or printed notice to appear in court. If the person cited signs such notice, the officer or other appropriate official may permit the person to proceed without further detaining him/her at that time. Signing the notice shall not be an admission of guilt.

Refusal of the person cited to sign the notice, or failure after signing the notice to appear in court as required, shall be grounds for suspending a license/permit or other privileges at the Airport.

Nothing in this article shall prevent the issuance of a warrant of arrest on the same charge, and trial and conviction thereon as in other cases.

The Director may request any person committing a violation to cease said activity or leave the

Airport, and ask any person who fails to comply with such request to leave.

In any case in which the Federal Aviation Administration, the Department of Pollution Control and Ecology or the Environmental Protection Agency or any other governing agency assesses a civil penalty against the Airport for any Federal/State/Local Regulation violation, the City of Fayetteville shall be reimbursed by the person whose act, or failure to act, caused the violation resulting in the civil penalty or by the person whose employee, agent, servant or independent contractor caused the violation resulting in the civil penalty. This shall be the analogues with concern to any other penalty caused by the person whose act or failure to act causes a violation.

Termination of Permits/Leases/Contracts: Any person, who continues to violate these Minimum Standards shall forfeit his or her rights to the use of the facilities. Issuance of multiple citations or warnings for violations in a 12 month period will be deemed as a basis for conducting a review of the operator/tenant/contractor by the City of Fayetteville. Judgments made based on this review shall be considered binding and cause for termination of their permit/lease/contract. Appeals to action taken by the Airport Management should be made to the Airport Board within thirty days to request a hearing review.

Saving Clause: Should any part of this Resolution be invalid or unconstitutional, no other part shall necessarily be affected thereby.

SECTION 5: APPLICATIONS

Any person, firm or corporation desiring to enter into any form of activity of any nature upon the premises of the Fayetteville Municipal Airport shall first obtain permission from the Airport Director. Each application shall be made in writing and filed with the Airport Director, setting forth in detail the nature of the proposed activity including but not limited to the names and addresses of the owners, the proposed activity, the number of employees, the amount of space or land required and the qualifications of the owners to perform the proposed activity. The application form located at Attachment 1 will be filled out completely.

SECTION 6: NOTICE

Upon the filing of such an application with the Airport Director, and provided it meets the requirements set forth in Section 5, it shall be referred to the Airport Board and Mayor with any recommendations that Airport Staff deem necessary.

Any like business, already in operation shall be notified by first class mail of any application which would incorporate a duplication of a business currently in operation/existence.

SECTION 7: LEASE/CONTRACT/PERMIT

Upon approval of any such application as submitted or modified, the Airport Director shall cause to be prepared a suitable lease/contract/permit setting forth the terms and conditions of the land/facility to be utilized or built, which lease/contract/permit shall, in every instance, be conditioned upon:

a. Original and continued compliance with the Standards required for each particular activity approved and shall refer and incorporate these Standards by reference;

b. Any structure or facility to be constructed or placed upon the Airport shall be constructed in a manner to conform to all safety regulations of the State of Arkansas, the City of Fayetteville, the FAA and any other governmental entity having regulatory authority in connection therewith, and shall be in compliance with the requirements of current building codes and fire regulations of the City of Fayetteville; and that any construction once commenced will be diligently pursued to completion.

c. The right of the City Council to modify or add to the Standards for operation at the Airport.

SECTION 8: GENERAL REQUIREMENTS FOR ALL AIRPORT ACTIVITIES

The following general requirements shall apply to all activities at the airport. Each applicant, and all others, for permission to conduct activities at the Airport, shall comply with the following and enter into a written agreement with the City of Fayetteville Airport Director prior to conducting activity of any kind:

a. Each entity shall demonstrate a history of management and personnel ability, or a Business Plan for the service to be provided, in conducting the same, similar, or comparable type of service or activity.

b. Each entity shall have the financial responsibility and ability to provide facilities and services proposed;

c. Each entity has, or can, reasonably secure necessary certificates from the FAA or other authority where the same are required for the activity proposed;

d. Each entity can and will, at all times, meet standards of all Local, State and Federal bodies having regulatory authority over the Airport entity and any proposed activity.

e. Each entity shall pay a fee, and/or shall lease space from the Airport or land on which to build said suitable space. Each entity will maintain its exclusive area at all times, subject to the approval of the Airport Director.

f. Each entity shall operate in a manner which does not infringe on the rights or property of others and conduct all activity in a fashion which shows due trust to the public.

g. Each entity shall agree to indemnify and hold harmless, the City of Fayetteville, of and from any claims of liability for personal injury, death, or property damage resulting from its operation at the Airport. Insurance in the amounts listed, as applicable, shall be maintained in force at all times until the permit is relinquished or cancelled. The City of Fayetteville shall be listed as additional insured on all commercial insurance policies.

COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE FOR AIRPORT PREMISES:

Liability coverage to provide for bodily injury, mental anguish, personal injury and damage to someone else's property resulting from the ownership, maintenance or use of airport premises. Including, but not limited to the use of mobile equipment which is owned or leased while it is on the airport premises. Mobile equipment means a land vehicle (including machinery and/or apparatus attached to it), whether or not it's self propelled, used exclusively for the maintenance or handling of aircraft or airport premises.

COVERAGE AND LIMITS PROVIDED FOR THE USE OF AIRCRAFT ON THE AIRPORT PREMISES:

General Aviation:

General aviation is to be considered the use of an aircraft for the personal business and/or pleasure use of the owner or leaseholder of an aircraft. Liability limits required by the City of Fayetteville as owner/operator of the Airport shall be:

Aircraft and Comprehensive Public Liability and Property Damage:

$250,000. Bodily Injury each Occurrence
$250,000. Personal Injury each Occurrence
$250,000. Property Damage including Fire Legal Liability
$3,000. Medical Payments each Person

Commercial Aviation:

Commercial aviation is to be considered the use of an aircraft for the purpose of monetary, financial or beneficial gain by goods and services. These operations include, but are not limited to, activity directly related to the service, distribution,

sale, renting, leasing, repair or service of aircraft, aircraft engines or other aircraft components, or operation of an aerial application service, airport, hangar, pilot training, instructional institution, service, air or cargo charter, commercial flying service or aircraft salvage service.

Liability limits required by the City of Fayetteville as owner/operator of the Airport shall be:

Aircraft and Comprehensive Public Liability and Property Damage:

$1,000,000. Bodily Injury each Occurrence
$1,000,000. Personal Injury each Occurrence
$1,000,000. Property Damage
$500,000. Fire Legal Liability
$3,000. Medical Payments each Person

h. Each entity of any kind shall not engage in any activity for furnishing services to the public at the Airport unless:

(1) Said service is furnished on a fair, equal and nondiscriminatory basis to all users thereof, and

(2) Fair, reasonable and non - discriminatory prices are charged for each unit of sale or service, provided that reasonable and non - discriminatory discounts, rebates or other similar types of price reduction may be made to volume purchasers.

i. Each entity at all times, will comply with all local, state, and federal regulations and requirements. Any associated fees, or fines, levied to the Airport as owner in connection with a tenant/contactor/or operator, or any others shall be passed along and borne by the tenant or any other operation deriving benefit from the use of the Airport's property/assets.

j. Each entity shall possess all licenses, permits, and certificates required by the FAA, the State of Arkansas and the City of Fayetteville and will ensure that all remain current and in effect.

SECTION 9: BASIC LEASE TERMS AND CONDITIONS

Airport facilities are leased to aviation related business and industry, to aircraft owners and operators and compatible businesses and industries as established by the Airport Board.

* Modifications to airport owned facilities must be approved by the Airport Director, before installation, or modification, and become the property of the airport unless specifically

addressed in writing.

* Land leases for the construction of facilities are entered into between the parties where it is the responsibility of the tenant to fully maintain and operate his/her facility including the structure and systems.

* Ownership of facilities constructed on airport property will revert to the City at the end of the lease term and any options that have been activated. At the time of reversion, the facility will be in a maintenance free condition or the property returned to its original condition and all debris removed from airport property.

Facilities constructed on airport property must meet all code requirements established by the City of Fayetteville, the State of Arkansas and the FAA. A Notice of Proposed Construction or Alteration form, FAA Form 7460-1, shall be submitted and approved by the FAA before construction commences. All users of Airport facilities will keep the facilities clean and neat at all times. It is essential that grass be mowed and trash be properly disposed of. All tenants will insure that their areas are free of objects that may be a Foreign Object Damage (FOD) hazard.

A copy of the Fayetteville Municipal Airport Lease Application Form is included as part of these Minimum Standards.

SECTION 10: AMENDMENTS TO STANDARDS AND NOTICES

The Airport Board, along with the Airport Director, shall review the *Minimum Standards for Operations and Activities* from time to time and shall recommend such revisions or amendments as shall be deemed necessary. The Minimum Standards are established in order to protect the health and safety of the public and interest of the City of Fayetteville. Upon approval, all amendments are in full force and effect and all commercial operators, tenants and clients shall be required to conform to such amended standards.

NOTICES

Notice of intent to amend the Standards as established herein shall be published in a newspaper of at least local circulation and be considered sufficient notice when printed for the public as a general notice to all citizens.

Attachment 1, Lease Application Form (two pages)

FAYETTEVILLE MUNICIPAL AIRPORT, DRAKE FIELD
LEASE APPLICATION FORM

1. NAME OF LEASEHOLDER(S) OR CORPORATE REPRESENTATIVE(S) AS APPLICABLE

_____

2. HOME ADDRESS OF LEASEHOLDER(S) OR CORPORATE REPRESENTATIVE(S)

_____

3. NAME OF CORPORATION AS INCORPORATED

_____

4. STATE OF INCORPORATION (include copy of incorporation paperwork)

_____

5. ADDRESS AND CONTACT INFORMATION OF CORPORATION FOR PURPOSE OF NOTICES

Street address or P. O. Box: _____
City, State, Zip: _____
Telephone: _____ Cell phone: _____
Fax: _____ E-mail: _____

6. BUSINESS AND/OR SERVICES TO BE PROVIDED

_____

7. HOURS OF OPERATION

_____

8. NAMES AND QUALIFICATIONS OF PERSONS CONDUCTING THE BUSINESS AND/OR PROVIDING THE SERVICE IF DIFFERENT FROM ABOVE INCLUDING CONTACT INFORMATION

_____

Fayetteville Municipal Airport
Lease Application
Page Two

9. TOTAL NUMBER OF EMPLOYEES INCLUDING MANAGEMENT

10. TOOLS, EQUIPMENT, SERVICES AND INVENTORY REQUIRED TO CONDUCT PROPOSED BUSINESS AND/OR SERVICE

11. DESCRIPTION OF PROPERTY TO BE LEASED

12. TYPE AND EXTENT OF CONSTRUCTION OR REQUIRED IMPROVEMENTS TO AIRPORT OWNED PROPERTY CONTEMPLATED AND PLANNED BUDGET, AS APPLICABLE

13. LIST OF AIRCRAFT AND TYPE, IF ANY (INCLUDE "N" NUMBER), TO BE OPERATED BY TENANT

14. PROPOSED COMMENCEMENT DATE OF LEASE

15. PROPOSED TERM OF LEASE

16. INSURANCE PROVIDER (City of Fayetteville/Airport Administration Office must be listed as additional insured and be provided a copy of the Certification of Insurance.)

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council Meeting of: January 6,2004

FROM:

Ray M. Boudreaux	Aviation and Economic Developme	
Name	Division	Department

Approve revised Minimum Standards for Fayetteville Municipal Airport, Drake Field.

The Airport Board approved the Minimum Standards for Fayetteville Municipal Airport, Drake Field at their December 11, 2003 meeting. The standards were previously amended in December of 2000. This rewrite standardizes the requirements and more appropriately reflects the change in mission from Commercial service to general aviation service.

STAFF RECOMMENDATION: Approve Revised Minimum Standards

Division Head	Date	**Received in Mayor's Office**	Date
City Attorney	12/19/03 Date		
Department Director	12/15/03 Date	Cross Reference:	
Finance & Internal Services Dir.	12-19-03 Date	Previous Ord/Res#:	162-00,12/5/00
		Orig. Contract Date:	
Chief Administrative Officer	Date	Orig. Contract Number:	
Mayor	12/19/03 Date	New Item:	Yes No

ENTERED 12-19-0

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor Dan Coody and City Council Members

From: Hugh Earnest, Chief Administrative Officer

Date: December 17, 2003

Subject: Lease with the Council on Aging

Recommendation
The lease as attached is recommended for approval by the Council.

Background
The new Senior Citizen Center that was opened for service in July of 2003 is operated by the Council on Aging. This particular non-profit agency was very active in fund raising for and the design of the current structure. The Council is a service provider at this location as well as being responsible for the operation of nine centers in Washington County. The Council on Aging (COA) has a contract with Area Agency on Aging in Harrison for providing services at the Senor Center. Area Agency on Aging, also a non-profit, contracts with a number of third-party providers for a wide range of services for seniors and also directly operates senior centers in some locations. It should be noted that some 25 years ago, the state set up eight separate Area Agencies on Aging blanketing the state. These non-profits all operate through a number of Federal and State programs set up to deliver services to seniors.

Current situation
The opening of the new Senior Center has given us an opportunity to develop a lease for the use of the building by the Council on Aging. The lease with the Council on Aging essentially defines responsibility for maintenance of the building, lays out terms and conditions in the unlikely case that the city should choose to discontinue use of the facility for services to seniors, and stipulates a lease period and hours of operation.

Budget Impact
There is no direct budget impact, other than a formalization of the obligation of the owners of the building to be responsible for certain maintenance items as detailed in the lease.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A LEASE WITH THE COUNCIL ON AGING, INC. FOR THE FAYETTEVILLE SENIOR ACTIVITY CENTER IN WALKER PARK

WHEREAS, the taxpayers of the City of Fayetteville with assistance of private and public donors paid for the construction of the Fayetteville Senior Activity Center at Walker Park; and

WHEREAS, the Council On Aging, Inc. is an Arkansas Not For Profit Corporation which assisted with the design and construction of the Senior Center and had efficiently and successfully operated the Fayetteville Senior Center on Sang Avenue for many years to the great benefit of Fayetteville citizens; and

WHEREAS, it is to the overall benefit of the City of Fayetteville, the Council On Aging, and Fayetteville citizens for the City to lease to the Council On Aging the premises of the new Fayetteville Senior Activity Center in consideration of the Council On Aging's operation of the Senior Center to provide recreational, cultural and nutritional services to Fayetteville citizens.

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 the lease agreement with the Council On Aging, Inc., attached as Exhibit "A" so that the Council On Aging, Inc. can continue to operate the Fayetteville Senior Activity Center to provide recreational, cultural and nutritional services to Fayetteville citizens.

PASSED and **APPROVED** this the 6th day of January, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

LEASE AGREEMENT TO PROVIDE SERVICES

WHEREAS, the taxpayers of the City of Fayetteville with assistance of private and public donors paid for the construction of the Fayetteville Senior Activity Center at Walker Park (hereinafter "Senior Center"); and

WHEREAS, the Council on Aging, Inc. (hereinafter "Council On Aging:) is an Arkansas Not For Profit Corporation which assisted with the design and construction of the Senior Center and had efficiently and successfully operated the Fayetteville Senior Center on Sang Avenue for many years to the great benefit of Fayetteville citizens; and

WHEREAS, IT IS TO THE OVERALL BENEFIT OF THE City of Fayetteville, the Council On Aging, and Fayetteville citizens for the City to lease to the Council On Aging the premises of the new Fayetteville Senior Activity Center in consideration of the Council On Aging's operation of the Senior Center to provide recreational, cultural and nutritional services to Fayetteville citizens; and

WHEREAS, the City of Fayetteville, as the owner of the structure, recognizes that the Council on Aging is the current contractor of record occupying the structure, and is operating programs for Senior Citizens under the terms and conditions as established by the Area Agency on Aging and agreed to by the City. The City further recognizes that the contractor for provision of said services is subject to change as part of a selection process which will occur at periodic intervals.

NOW THEREFORE, The City of Fayetteville for the consideration stated above and listed below agrees to lease the Fayetteville Senior Activity Center in Walker Park to the Council On Aging, Inc. and the Council On Aging, Inc. agrees to operate and maintain the Senior Center for the benefit of senior citizens of Fayetteville and elsewhere as more particularly described below.

1. The Council On Aging, Inc. can and shall utilize the kitchen in the Fayetteville Senior Activity Center both to provide nutritious meals to those at the Center and to Seniors in the community through the Meals On Wheels or other similar programs.

2. The Council On Aging, Inc. shall operate the Senior Center with sufficient staff to maintain the premises and assist attendees at least five days a week year round during the term of this lease.

3. The City (as the owner of the structure) and the Council on Aging, mutually agree that the maintenance responsibility of the structure shall be as follows:

* All routine maintenance such as cleaning, painting, landscaping, service calls and filter replacement for heating and cooling units, refrigeration and cooking units are the responsibility of the Council on Aging (or whatever successor agency is employed to deliver services in the structure). The Council on Aging (or successor agency) will be responsible for payment of all utility bills and service contracts, as well as maintenance and replacement of the facility's minor systems and components (some examples are light switch replacement, thermostat repair or replacement, light bulb and ballast replacement).

* The City (as owner of the structure) recognizes its responsibility for repair and replacement of issues arising from failure in the structural component of the building. The City further agrees to perform periodic inspections of the structure in order to insure that the facility retains its structural integrity. It further agrees to meet on a periodic basis with representatives of the agency providing service in the facility to ensure that significant operations and repair issues are not overlooked. The City assumes responsibility for needed repair of major building systems (examples are HVAC system and mechanical systems).

4. The term of this *Lease and Agreement to Provide Services* shall be Twenty (20) years beginning on _____, 2003, and ending on _____, 2023. Either party to this *Lease and Agreement to Provide Services* may terminate this *Lease and Agreement* upon giving on year's written notice to the other party. The notice to voluntarily terminate this *Lease and Agreement* shall be effective to begin the one year period prior to termination upon receipt of the notice by the Executive Director of the Council On Aging, Inc. or COA staff member in charge at the Fayetteville Senior Activity Center, or upon receipt by the Mayor of the City of Fayetteville or senior City staff member in the Mayor's Office.

5. The City of Fayetteville agrees to use the Fayetteville Senior Activity Center for the operation of a senior activity center as defined by the applicable state and federal regulations as long as required by such regulations. If the City chooses to discontinue using the Senior Center as a senior activity center such that the Council On Aging, Inc. would be required to reimburse funds received from a federal or state agency, the City will reimburse the required funds either to the Council On aging, Inc. or directly to the governmental agency.

6. The City of Fayetteville will be responsible for any insurance necessary for the structure housing the Fayetteville Senior Activity Center and the Council On Aging, Inc. shall insure all of the contents of this building as well as purchasing and maintaining in

force a liability insurance policy from a company acceptable to the City for any injury or damages resulting from its or visitors' use (including foodservice) of the premises in an amount of at least $1,000,000.00 with a no-fault medical expenses rider of at least $5,000.00 per person. A copy of the Council On Aging, Inc.'s current insurance policy shall be provided to the Fayetteville City Clerk and a copy of any change, modification, renewal or termination of said insurance shall be provided the City Clerk within five (5) days of receipt.

7. The Council On aging, Inc. shall be responsible to fully pay and keep current all utilities (gas, electric, telephone, cable, water, sewer, solid waste, etc.) necessary to properly operate the Senior Center.

8. This Lease and Agreement constitutes the entire agreement between the City of Fayetteville and the Council On Aging, Inc. Any changes or modifications must be in writing and agreed to by the City Council of Fayetteville and the Board of Directors of the Council On Aging, Inc. to be effective.

In Agreement With All of the Terms, Promises, and Conditions stated above and after formal approval by the Board of Directors of the Council On Aging, Inc. and the Fayetteville City Council we execute this Lease and Agreement to Provide Services by signing below on this the ____day of October, 2003.

COUNCIL ON AGING

By:_____
JANET LINEBAUGH
Executive Director

Witness:_____

_____
Name & Title

CITY OF FAYETTEVILLE

By:_____
DAN COODY
Mayor

ATTEST:

_____
Sondra Smith
City Clerk

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council Meeting of: January 6th, 2004

FROM:

Hugh Earnest		Chief Adminstrative Officer
Name	Division	Department

ACTION REQUIRED: Passage of a Resolution authorizing a lease with the Council On Aging

SUMMARY EXPLANATION: See attached memo

STAFF RECOMMENDATION:

Division Head — Date

Received in Mayor's Office 12/19/03 Date

The proposed lease I drafted required operation of the Center 6 days a week. Different responsibility to repair HVAC, plumbing, electrical

City Attorney — Date

Department Director — Date

Finance & Internal Services Dir. — 12-19-03 Date

Chief Administrative Officer — 12-18-03 Date

Mayor — 12/19/03 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

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

ENTERED 12/19/03 AM

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor Dan Coody and the Fayetteville City Council

From: Marsha Farthing, Accounting Manager

Date: December 8, 2003

Subject: Annual Audit

Recommendation
Staff recommends approval of the second year audit engagement with BKD,LLP.

Background
In August 2002 the City Council passed Resolution 124-02 approving a five year contract with Baird, Kurtz & Dobson (BKD), LLP, to provide independent audit services for the City. It is time to approve the engagement letter for services in connection with the audit for the year ending December 31, 2003.

Discussion
The City is required, under Arkansas statutes and applicable bond issues, to have an annual financial audit conducted by either Legislative Audit or a Certified Public Accounting firm licensed in Arkansas. Because of the requirements of bond indentures the City has for the past thirty plus years utilized the services of a private CPA firm to perform these mandated financial audits.

BKD was selected by the City following the applicable procurement rules and regulations concerning the procurement of auditing services. The City entered into a five-year agreement in August 2002. Under this contract BKD will provide an annual audit of the City's financial statements and a review of the City's internal control system as required by state law. In addition to the financial audit, BKD also issues a report on internal control and compliance requirements for major federal award programs as required by the Single Audit Act. The single audit is the primary mechanism used by federal agencies to ensure accountability for federal awards to non-federal entities.

Finally, BKD also provides technical assistance to the City in producing the Comprehensive Annual Financial Report (CAFR). The CAFR includes the City's financial statements as well as statistical information required by the City's bond covenants.

Budget Impact
The cost of the 2003 audit is not to exceed $59,325. The audit has been budgeted in General Fund but the costs will be allocated to the various funds of the City. The increase in cost for the year 2003 is attributable to the increased time requirements for implementing GASB Statement 34.

Other Items
Staff will have a presentation of GASB 34 and the changes to the financial statements from the adoption of GASB 34 in the next few weeks.

RESOLUTION NO. __ __

A RESOLUTION APPROVING THE ANNUAL CONTRACT RENEWAL WITH BAIRD, KURTZ & DOBSON (BKD), LLP, IN AN AMOUNT NOT TO EXCEED FIFTY-NINE THOUSAND THREE HUNDRED TWENTY-FIVE DOLLARS ($59,325.00) TO PROVIDE INDEPENDENT AUDIT SERVICES TO THE CITY OF FAYETTEVILLE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the annual contract renewal with Baird, Kurtz & Dobson (BKD), L.L.P, in an amount not to exceed Fifty-Nine Thousand Three Hundred Twenty-Five Dollars ($59,325.00) to provide independent audit services to the City of Fayetteville. A copy of the engagement letter for services marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and **APPROVED** this 6th day of January, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

BKD LLP

5000 Rogers Avenue, Suite 700
Fort Smith, AR 72903-2079
479 452-1040 Fax 479 452-5542

400 W. Capitol Avenue, Suite 2500
P.O. Box 3667
Little Rock, AR 72203-3667
501 372-1040 Fax 501 372-1250

200 E. 11th Avenue
P.O. Box 8306
Pine Bluff, AR 71611-8306
870 534-9172 Fax 870 534-2146

bkd.com

December 3, 2003

Audit Committee and Board of Directors
Honorable Dan Coody, Mayor
Mr. Stephen Davis, Finance and Internal Services Director
Ms. Marsha Farthing, Accounting Manager
City of Fayetteville, Arkansas
113 West Mountain
Fayetteville, Arkansas 72701

We are pleased to confirm the arrangements of our engagement and the nature of the services we will provide to the **CITY OF FAYETTEVILLE, ARKANSAS**.

ENGAGEMENT OBJECTIVES

We will audit the general purpose financial statements of the **CITY OF FAYETTEVILLE, ARKANSAS** as of and for the year ended December 31, 2003 in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States and U.S. Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments and Nonprofit Organizations*.

The objectives of our audit are:

- ✓ Expression of an opinion on the conformity of your financial statements, in all material respects, with accounting principles generally accepted in the United States of America.
- ✓ Issuance of a report on your compliance based on the audit of your financial statements.
- ✓ Issuance of a report on your internal control over financial reporting based on the audit of your financial statements.
- ✓ Expression of an opinion on your compliance, in all material respects, with the types of compliance requirements described in the *U. S. Office of Management and Budget Circular A-133 Compliance Supplement* that are applicable to each of your major federal award programs.
- ✓ Issuance of a report on your internal control over compliance based on the audit of your compliance with the types of compliance requirements that are applicable to each of your major federal award programs.
- ✓ Issuance of a report on your schedule of expenditures of federal awards.

Solutions for Success

OUR RESPONSIBILITIES

Auditing standards generally accepted in the United States of America, *Government Auditing Standards* and OMB Circular A-133 require that we plan and perform:

- ✓ The audit of the financial statements to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.

- ✓ The audit of compliance with the types of compliance requirements described in the OMB Circular A-133 Compliance Supplement applicable to each major federal award program to obtain reasonable rather than absolute assurance about whether noncompliance having a direct and material effect on a major federal award program occurred.

Accordingly, a material misstatement or noncompliance having a direct and material effect may remain undetected.

Our audit of the financial statements is designed to detect misstatements and noncompliance that, in our judgment, could have a material effect on the financial statements taken as a whole. Consequently, our audit will not necessarily detect errors or fraud resulting in an immaterial misstatement of the financial statements.

Likewise, our audit of compliance with the types of compliance requirements applicable to each major federal award program is designed to detect noncompliance having a direct and material effect on a major program. Consequently, our audit will not necessarily detect noncompliance having an indirect and material or an immaterial effect on any program.

An audit also includes obtaining an understanding of internal control sufficient to plan the audit and to determine the nature, timing and extent of audit procedures to be performed. An audit is not designed to provide assurance on internal control over financial reporting or on internal control over compliance or to identify reportable conditions. However, we will communicate to you any matter that comes to our attention that we consider a reportable condition. Because of the limits in any internal control structure, errors, fraud, illegal acts or instances of noncompliance may occur and not be detected. Also, in the future, procedures could become inadequate because of changes in conditions or deterioration in design or operation. Two or more people may also circumvent controls, or management may override the system. We are available to perform additional procedures with regard to fraud detection and prevention at your request, subject to completion of our normal engagement acceptance procedures. The actual terms and fees of such an engagement would be documented in a separate letter to be signed by you and BKD.

If, for any reason, we are unable to complete our audit of the financial statements or our audit of compliance with the types of compliance requirements applicable to each major federal award program or are unable to form or have not formed an opinion, we may decline to express an opinion or decline to issue a report as a result of this engagement. If we discover conditions that may prohibit us from issuing a standard report, we will notify you as well. In such circumstances, further arrangements may be necessary to continue our engagement.

YOUR RESPONSIBILITIES

To facilitate our audit, management is responsible for making all financial records documentation and other financial and compliance related information available to us. At the conclusion of our engagement, management will provide to us a letter acknowledging certain responsibilities outlined in this engagement letter and confirming:

- The availability of this information
- Certain representations made during the audits for all periods presented
- The effects of any uncorrected misstatements, if any, resulting from errors or fraud aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole

Management is responsible for fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, for adjusting the financial statements to correct material misstatements and for identifying and ensuring compliance with the laws, regulations, contracts and grants applicable to your activities including your federal award programs. Management is also responsible for establishing and maintaining effective internal control over financial reporting and compliance and setting the proper tone; creating and maintaining a culture of honesty and high ethical standards; and establishing appropriate controls to prevent, deter and detect fraud, illegal acts and instances of noncompliance.

The results of our tests of compliance and internal control over financial reporting performed in connection with our audit of the financial statements may not fully meet the reasonable needs of report users. Management is responsible for obtaining audits, examinations, agreed-upon procedures or other engagements that satisfy relevant legal, regulatory or contractual requirements or fully meet other reasonable user needs.

ENGAGEMENT FEES

Our fees will be based on time expended plus charges for travel, long-distance telephone, copies, etc. and will not exceed $59,325. We will issue progress billings during the course of our engagement and our statements are due when received.

Our engagement fee does not include any time for post-engagement consultation with your personnel or third parties, consent letters and related procedures for the use of our reports in offering documents, inquiries from regulators or testimony or deposition regarding any subpoena. Charges for such services will be billed separately.

Our fees may increase if our duties or responsibilities are increased by rule making of any regulatory body or new accounting or auditing standards. We will consult with you in the event any regulations or standards are issued that may impact our fees.

Our invoices are due within 30 days. If our invoices for this or any other engagement you may have with BKD are not paid when due, we may suspend or terminate our services for this or any other engagement. In the event our work is suspended or terminated as a result of nonpayment, you agree we will not be responsible for any consequences to you.

OTHER ENGAGEMENT MATTERS AND LIMITATIONS

Our workpapers and documentation retained in any form of media for this engagement are the property of BKD. We can be compelled to provide information under legal process. In addition, we may be requested by regulatory or enforcement bodies to make certain workpapers available to them pursuant to authority granted by law or regulation. You agree that we have no legal responsibility to you in the event we provide such documents or information.

To the extent permitted by the laws of the State of Arkansas, you agree to indemnify and hold harmless BKD and its personnel from any claims, liabilities, costs, and expenses relating to our services under this agreement attributable to false or incomplete representations by management, except to the extent determined to have resulted from the intentional or deliberate misconduct of BKD personnel.

To the extent permitted by the laws of the State of Arkansas, you agree that any dispute regarding this engagement will, prior to resorting to litigation, be submitted to mediation upon written request by either party. Both parties agree to try in good faith to settle the dispute in mediation. The results of the mediation proceeding shall be binding only if each of us agrees to be bound. We will share any costs of mediation proceedings equally.

If any provision of this agreement is declared invalid or unenforceable, no other provision of this agreement is affected and all other provisions remain in full force and effect.

This engagement letter represents the entire agreement regarding the services described herein and supersedes all prior negotiations, proposals, representations or agreements, written or oral, regarding these services. It shall be binding on heirs, successors and assigns of you and BKD.

If you intend to include these financial statements and our report in an offering document at some future date, you agree to seek our permission to do so at that time. You agree to provide reasonable notice to allow sufficient time for us to perform certain additional procedures. Any time you intend to publish or otherwise reproduce these financial statements and our report and make reference to our firm name in any manner in connection therewith, you agree to provide us with printers' proofs or masters for our review and approval before printing or other reproduction. You will also provide us with a copy of the final reproduced material for our approval before it is distributed. Our fees for such services are in addition to those discussed elsewhere in this letter.

You agree to notify us if you desire to place these financial statements or our report thereon on an electronic site, such as the World Wide Web. You recognize that we have no responsibility as auditors to review information contained in electronic sites.

BKD is a registered limited liability partnership under Missouri law. Under applicable professional standards, partners of **BKD, LLP** have the same responsibilities as do partners in a general accounting and consulting partnership with respect to conformance by themselves and other professionals in BKD with their professional and ethical obligations. However, unlike the partners in a general partnership, the partners in a registered limited liability partnership do not have individual civil liability, directly or indirectly, including by way of indemnification, contribution, assessment or otherwise, for any debts, obligations or liabilities of or chargeable to the registered limited liability partnership or each other, whether arising in tort, contract or otherwise.

If the above arrangements are acceptable to you, please sign the enclosed copy of this letter and return it to us.

BKD, LLP

BKD, LLP

The services and arrangements described in this letter are in accordance with our understanding and are acceptable to us.

CITY OF FAYETTEVILLE, ARKANSAS

BY Dan Coody, Mayor
(Name & Title)

DATE 12/10/03

kk/rp
2003CLIENT/71997/ENGL2523

Clifton Gunderson LLP
Certified Public Accountants & Consultants

October 4, 2002

To the Partners of
BKD LLP
and the SEC Practice Section Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of BKD LLP (the firm) in effect for the year ended May 31, 2002. A system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide it with reasonable assurance of complying with professional standards. The elements of quality control are described in the Statements on Quality Control Standards issued by the American Institute of Certified Public Accountants (the AICPA). The design of the system, and compliance with it, are the responsibilities of the firm. In addition, the firm has agreed to comply with the membership requirements of the SEC Practice Section of the AICPA Division for CPA Firms (the Section). Our responsibility is to express an opinion on the design of the system, and the firm's compliance with that system and the Section's membership requirements based on our review.

Our review was conducted in accordance with standards established by the Peer Review Committee of the Section and included procedures to plan and perform the review that are summarized in the attached description of the peer review process. Our review would not necessarily disclose all weaknesses in the system of quality control or all instances of lack of compliance with it or with the membership requirements of the Section since it was based on selective tests. Because there are inherent limitations in the effectiveness of any system of quality control, departures from the system may occur and not be detected. Also, projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the system of quality control for the accounting and auditing practice of BKD LLP in effect for the year ended May 31, 2002, has been designed to meet the requirements of the quality control standards for an accounting and auditing practice established by the AICPA, and was complied with during the year then ended to provide the firm with reasonable assurance of complying with professional standards. Also, in our opinion, the firm complied during that year with the membership requirements of the Section in all material respects.

Clifton Gunderson LLP

Attachment to the Peer Review Report of BKD LLP

Description of the Peer Review Process

Overview

Member firms of the AICPA SEC Practice Section (the Section) must have their system of quality control periodically reviewed by independent peers. These reviews are system and compliance oriented with the objective of evaluating whether:

> The reviewed firm's system of quality control for its accounting and auditing practice has been designed to meet the requirements of the Quality Control Standards established by the AICPA.
>
> The reviewed firm's quality control policies and procedures were being complied with to provide the firm with reasonable assurance of complying with professional standards.
>
> The reviewed firm was complying with the membership requirements of the SECPS in all material respects.

The Section's Peer Review Committee (PRC) establishes and maintains review standards. At regular meetings and through report evaluation task forces, the PRC considers each peer review, evaluates the reviewer's competence and performance, and examines every report, letter of comments, and accompanying response from the reviewed firm that states its corrective action plan before the peer review is finalized. The Transition Oversight Staff (formerly the staff of the Public Oversight Board), an independent oversight body, plays a key role in overseeing the performance of peer reviews working closely with the peer review teams and the PRC.

Once the PRC accepts the peer review reports, letters of comments, and reviewed firms' responses, they are maintained in a file available to the public. In some situations, the public file also includes a signed undertaking by the firm agreeing to specific follow-up action requested by the PRC. That file also includes the firm's annual report which contains information regarding the number of firm offices, firm professionals, and SEC clients for which the firm is principal auditor-of-record.

Planning the Review

To plan the review of BKD LLP, we obtained an understanding of (1) the nature and extent of the firm's accounting and auditing practice, and (2) the design of the firm's system of quality control sufficient to assess the inherent and control risks implicit in its practice. Inherent risks were assessed by obtaining an understanding of the firm's practice, such as the industries of its clients and other factors of complexity in serving those clients, and the organization of the firm's personnel into practice units. Control risks were assessed by obtaining an understanding of the design of the firm's system of

quality control, including its audit methodology, and monitoring procedures. Assessing control risk is the process of evaluating the effectiveness of the reviewed firm's quality control system in preventing the performance of engagements that do not comply with professional standards.

Performing the Review

Based on our assessment of the combined level of inherent and control risks, we identified practice units and selected engagements within those units to test for compliance with the firm's quality control system. The engagements selected for review included audits of clients that are SEC registrants, audits performed under the Government Auditing Standards, an audit performed under FDICIA, a multi-office audit and audits of Employee Benefit Plans. The engagements selected for review represented a cross-section of the firm's accounting and auditing practice with emphasis on higher-risk engagements. The engagement reviews included examining working paper files and reports and interviewing engagement personnel.

The scope of the peer review also included examining selected administrative and personnel files to determine compliance with the firm's policies and procedures for the elements of quality control pertaining to independence, integrity, and objectivity; personnel management; and acceptance and continuance of clients and engagements. In addition, we tested compliance with the membership requirements of the Section, including those pertaining to independence quality controls and concurring partner review.

Prior to concluding the review, we reassessed the adequacy of scope and conducted an exit conference with firm management to discuss our findings and recommendations.

BKD LLP

5000 Rogers Avenue, Suite 700
Fort Smith, AR 72903-2079
479 452-1040 Fax 479 452-5542

400 W. Capitol Avenue, Suite 2500
P.O. Box 3667
Little Rock, AR 72203-3667
501 372-1040 Fax 501 372-1250

200 E. 11th Avenue
P.O. Box 8306
Pine Bluff, AR 71611-8306
870 534-9172 Fax 870 534-2146

bkd.com

December 3, 2003

Audit Committee and Board of Directors
Honorable Dan Coody, Mayor
Mr. Stephen Davis, Finance and Internal Services Director
Ms. Marsha Farthing, Accounting Manager
City of Fayetteville, Arkansas
113 West Mountain
Fayetteville, Arkansas 72701

We are pleased to confirm the arrangements of our engagement and the nature of the services we will provide to the **CITY OF FAYETTEVILLE, ARKANSAS**.

ENGAGEMENT OBJECTIVES

We will audit the general purpose financial statements of the **CITY OF FAYETTEVILLE, ARKANSAS** as of and for the year ended December 31, 2003 in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States and U.S. Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments and Nonprofit Organizations*.

The objectives of our audit are:

- ✓ Expression of an opinion on the conformity of your financial statements, in all material respects, with accounting principles generally accepted in the United States of America.
- ✓ Issuance of a report on your compliance based on the audit of your financial statements.
- ✓ Issuance of a report on your internal control over financial reporting based on the audit of your financial statements.
- ✓ Expression of an opinion on your compliance, in all material respects, with the types of compliance requirements described in the *U. S. Office of Management and Budget Circular A-133 Compliance Supplement* that are applicable to each of your major federal award programs.
- ✓ Issuance of a report on your internal control over compliance based on the audit of your compliance with the types of compliance requirements that are applicable to each of your major federal award programs.
- ✓ Issuance of a report on your schedule of expenditures of federal awards.

Solutions for Success

A member of Moores Rowland International

OUR RESPONSIBILITIES

Auditing standards generally accepted in the United States of America, *Government Auditing Standards* and OMB Circular A-133 require that we plan and perform:

- ✓ The audit of the financial statements to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.

- ✓ The audit of compliance with the types of compliance requirements described in the OMB Circular A-133 Compliance Supplement applicable to each major federal award program to obtain reasonable rather than absolute assurance about whether noncompliance having a direct and material effect on a major federal award program occurred.

Accordingly, a material misstatement or noncompliance having a direct and material effect may remain undetected.

Our audit of the financial statements is designed to detect misstatements and noncompliance that, in our judgment, could have a material effect on the financial statements taken as a whole. Consequently, our audit will not necessarily detect errors or fraud resulting in an immaterial misstatement of the financial statements.

Likewise, our audit of compliance with the types of compliance requirements applicable to each major federal award program is designed to detect noncompliance having a direct and material effect on a major program. Consequently, our audit will not necessarily detect noncompliance having an indirect and material or an immaterial effect on any program.

An audit also includes obtaining an understanding of internal control sufficient to plan the audit and to determine the nature, timing and extent of audit procedures to be performed. An audit is not designed to provide assurance on internal control over financial reporting or on internal control over compliance or to identify reportable conditions. However, we will communicate to you any matter that comes to our attention that we consider a reportable condition. Because of the limits in any internal control structure, errors, fraud, illegal acts or instances of noncompliance may occur and not be detected. Also, in the future, procedures could become inadequate because of changes in conditions or deterioration in design or operation. Two or more people may also circumvent controls, or management may override the system. We are available to perform additional procedures with regard to fraud detection and prevention at your request, subject to completion of our normal engagement acceptance procedures. The actual terms and fees of such an engagement would be documented in a separate letter to be signed by you and BKD.

If, for any reason, we are unable to complete our audit of the financial statements or our audit of compliance with the types of compliance requirements applicable to each major federal award program or are unable to form or have not formed an opinion, we may decline to express an opinion or decline to issue a report as a result of this engagement. If we discover conditions that may prohibit us from issuing a standard report, we will notify you as well. In such circumstances, further arrangements may be necessary to continue our engagement.

YOUR RESPONSIBILITIES

To facilitate our audit, management is responsible for making all financial records documentation and other financial and compliance related information available to us. At the conclusion of our engagement, management will provide to us a letter acknowledging certain responsibilities outlined in this engagement letter and confirming:

- The availability of this information
- Certain representations made during the audits for all periods presented
- The effects of any uncorrected misstatements, if any, resulting from errors or fraud aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole

Management is responsible for fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, for adjusting the financial statements to correct material misstatements and for identifying and ensuring compliance with the laws, regulations, contracts and grants applicable to your activities including your federal award programs. Management is also responsible for establishing and maintaining effective internal control over financial reporting and compliance and setting the proper tone; creating and maintaining a culture of honesty and high ethical standards; and establishing appropriate controls to prevent, deter and detect fraud, illegal acts and instances of noncompliance.

The results of our tests of compliance and internal control over financial reporting performed in connection with our audit of the financial statements may not fully meet the reasonable needs of report users. Management is responsible for obtaining audits, examinations, agreed-upon procedures or other engagements that satisfy relevant legal, regulatory or contractual requirements or fully meet other reasonable user needs.

ENGAGEMENT FEES

Our fees will be based on time expended plus charges for travel, long-distance telephone, copies, etc. and will not exceed $59,325. We will issue progress billings during the course of our engagement and our statements are due when received.

Our engagement fee does not include any time for post-engagement consultation with your personnel or third parties, consent letters and related procedures for the use of our reports in offering documents, inquiries from regulators or testimony or deposition regarding any subpoena. Charges for such services will be billed separately.

Our fees may increase if our duties or responsibilities are increased by rule making of any regulatory body or new accounting or auditing standards. We will consult with you in the event any regulations or standards are issued that may impact our fees.

Our invoices are due within 30 days. If our invoices for this or any other engagement you may have with BKD are not paid when due, we may suspend or terminate our services for this or any other engagement. In the event our work is suspended or terminated as a result of nonpayment, you agree we will not be responsible for any consequences to you.

OTHER ENGAGEMENT MATTERS AND LIMITATIONS

Our workpapers and documentation retained in any form of media for this engagement are the property of BKD. We can be compelled to provide information under legal process. In addition, we may be requested by regulatory or enforcement bodies to make certain workpapers available to them pursuant to authority granted by law or regulation. You agree that we have no legal responsibility to you in the event we provide such documents or information.

To the extent permitted by the laws of the State of Arkansas, you agree to indemnify and hold harmless BKD and its personnel from any claims, liabilities, costs, and expenses relating to our services under this agreement attributable to false or incomplete representations by management, except to the extent determined to have resulted from the intentional or deliberate misconduct of BKD personnel.

To the extent permitted by the laws of the State of Arkansas, you agree that any dispute regarding this engagement will, prior to resorting to litigation, be submitted to mediation upon written request by either party. Both parties agree to try in good faith to settle the dispute in mediation. The results of the mediation proceeding shall be binding only if each of us agrees to be bound. We will share any costs of mediation proceedings equally.

If any provision of this agreement is declared invalid or unenforceable, no other provision of this agreement is affected and all other provisions remain in full force and effect.

This engagement letter represents the entire agreement regarding the services described herein and supersedes all prior negotiations, proposals, representations or agreements, written or oral, regarding these services. It shall be binding on heirs, successors and assigns of you and BKD.

If you intend to include these financial statements and our report in an offering document at some future date, you agree to seek our permission to do so at that time. You agree to provide reasonable notice to allow sufficient time for us to perform certain additional procedures. Any time you intend to publish or otherwise reproduce these financial statements and our report and make reference to our firm name in any manner in connection therewith, you agree to provide us with printers' proofs or masters for our review and approval before printing or other reproduction. You will also provide us with a copy of the final reproduced material for our approval before it is distributed. Our fees for such services are in addition to those discussed elsewhere in this letter.

You agree to notify us if you desire to place these financial statements or our report thereon on an electronic site, such as the World Wide Web. You recognize that we have no responsibility as auditors to review information contained in electronic sites.

BKD is a registered limited liability partnership under Missouri law. Under applicable professional standards, partners of **BKD, LLP** have the same responsibilities as do partners in a general accounting and consulting partnership with respect to conformance by themselves and other professionals in BKD with their professional and ethical obligations. However, unlike the partners in a general partnership, the partners in a registered limited liability partnership do not have individual civil liability, directly or indirectly, including by way of indemnification, contribution, assessment or otherwise, for any debts, obligations or liabilities of or chargeable to the registered limited liability partnership or each other, whether arising in tort, contract or otherwise.

If the above arrangements are acceptable to you, please sign the enclosed copy of this letter and return it to us.

BKD, LLP

BKD, LLP

The services and arrangements described in this letter are in accordance with our understanding and are acceptable to us.

CITY OF FAYETTEVILLE, ARKANSAS

BY Dan Coody, Mayor
(Name & Title)

DATE 12/17/03

kk/rp
2003CLIENT/71997/ENGL2523

RESOLUTION NO. 124-02

A RESOLUTION APPROVING A CONTRACT WITH BAIRD, KURTZ & DOBSON (BKD), LLP, IN AN AMOUNT NOT TO EXCEED FORTY-NINE THOUSAND NINE HUNDRED DOLLARS ($49,900.00) FOR CALENDAR YEAR 2002, WITH ALL SUBSEQUENT ANNUAL EXPENDITURES SUBJECT TO CITY COUNCIL APPROVAL TO PROVIDE INDEPENDENT AUDIT SERVICES TO THE CITY OF FAYETTEVILLE.

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

Section 1. That the City Council of Fayetteville, Arkansas hereby approves a contract with Baird, Kurtz & Dobson (BKD), LLP, in an amount not to exceed Forty-Nine Thousand Nine Hundred Dollars ($49,900.00) for calendar year 2002, with all subsequent annual expenditures subject to City Council approval to provide independent audit services to the City of Fayetteville. A copy of the contract, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and **APPROVED** this 20th day of August, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

_____
HEATHER WOODRUFF, City Clerk

RES. 124-02

CONTRACT

This professional services contract is executed this 20th day of August, 2002 by and between the City of Fayetteville, Arkansas, hereinafter called the City and BKD, LLP.

WHEREAS, the City has issued a Request for Proposal for Independent Audit; and

WHEREAS, BKD, LLP has submitted a proposal to provide such professional services;

WITNESSETH: IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

1. BKD, LLP shall provide the City with the necessary professional services to audit all funds including those which are covered under the provisions of the Single Audit Act.

2. The term of the contract shall run from the date of execution until the 31st day of December, 2002, and shall automatically renew each year, subject to budget approval by the governing body of the City, for such terms as are required to perform the contracted professional auditing services for the fiscal years ending December 31, 2002 through December 31, 2006.

3. The professional accounting services shall be provided in accordance with the terms and conditions set forth in the Request for Proposal, with the exception of §II.J.2., which is deleted entirely, attached hereto and marked Exhibit "A;" the Proposal to Provide Services, attached hereto and marked Exhibit "B;" and the Engagement Letter, attached hereto and marked Exhibit "C". Each of these Exhibits are hereby incorporated by reference as if set forth word for word in their entirety.

4. BKD, LLP shall be compensated for services rendered under this contract in accordance with the terms and conditions set forth in the Exhibits. No work shall be performed beyond the present scope of this contract without express prior approval by the governing body of the City.

5. The City or BKD, LLP shall have the right to terminate the contract upon 30 days written notice.

6. In the event of a conflict between any terms and conditions of this contract and the Exhibits, the terms and conditions of the Exhibits shall take precedence in the following order: this Contract, Exhibit "C", Exhibit "B" and Exhibit "A".

RES. 124-02

7. Neither party may assign any of its rights or delegate any of its obligations under this agreement, without the express written consent of the other.

8. It is agreed that the failure of any party to invoke any of the available remedies under this agreement or under law in the event of one or more breaches or defaults by any party under the agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

9. Each paragraph of this agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

10. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

11. This agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto. This agreement supersedes all prior agreements, contracts and understandings of any kind between the parties relating to the subject matter hereof. This agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this professional services contract on or as of the date first written above.

CITY OF FAYETTEVILLE

Dan Coody, Mayor

Heather Woodruff, City Clerk

BKD, LLP

By:

City Of Fayetteville

(Not a Purchase Order)

		Requisition No.:	Date: 12/8/2003
		P.O Number:	Expected Delivery Date:
Vendor #: 11856	Vendor Name: BKD, LLP	Mail Yes:__ No:____	
Address: 400 West Capitol Ave. Suite 2500	Fob Point: Fayetteville	Taxable Yes:_ No:X	Quotes Attached Yes:____ No:____
City: Little Rock / State: Arkansas	Zip Code: 72203 / Ship to code: 201	Divison Head Approval: Marsha Farthing	
Requester: Marsha Farthing	Requester's Employee #: 823	Extension: 288	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	**Annual Audit Services**	**1**		**59,325.00**	**$59,325.00**	**1010-6600-5307-00**			
2					**$0.00**				
3					**$0.00**				
4					**$0.00**				
5					**$0.00**				
6					**$0.00**				
7					**$0.00**				
8					**$0.00**				
9					**$0.00**				
10					**$0.00**				
	Shipping/Handling		Lot		**$0.00**				

Special Instructions:

Subtotal:	**$59,325.00**
Tax:	
Total:	**$59,325.00**

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/17/03

STAFF REVIEW FORM - FINANCIAL OBLIGATION

_____ AGENDA REQUEST
_X_ CONTRACT REVIEW
_____ GRANT REVIEW

For the Fayetteville City Council Meeting of: January 6, 2004

FROM:

Marsha Farthing	Accounting and Audit	Finance and Internal Services
Name	Division	Department

Approve the second year engagement of a five year contract with BKD,LLP in the amount of $59,325 for annual audit services.

COST TO CITY:

$59,325.00	$ 60,900 - 2004	Services and Charges
Cost of this request	Category/Project Budget	Program Category / Project Name
1010-6600-5307-00	$ -	Miscellaneous
Account Number	Funds Used to Date	Program / Project Category Name
N/A	$ 60,900 -	General
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item _____ Budget Adjustment Attached

Budget Manager — Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing	12/8/03	Nancy Smith	12/8/03
Accounting Manager	Date	Internal Auditor	Date
D. Wharton	12/11/03	P Vice	12/12/03
City Attorney	Date	Purchasing Manager	Date

STAFF RECOMMENDATION: Approve the second year of five year contract for annual audit.

Marsha Farthing — 12/11/03
Division Head — Date

_____ — _____
Department Director — Date

Stephen Lawson — 12-15-03
Finance & Internal Services Dir. — Date

Hugh Sarratt — 12-17-03
Chief Administrative Officer — Date

Dan Coody — 12/17/03
Mayor — Date

Received in Mayor's Office _____ Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

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

ENTERED 12-11-03

Staff Review Form - Page 2

Description _____ Meeting Date _____

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

City Council Agenda January 6, 2004

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor
Hugh Earnest, Chief Administrative Officer

FROM: Stephen Davis, Finance & Internal Services Director

DATE: December 10, 2003

SUBJECT: Black & Veatch Contract Amendment Number Four

Recommendation

Staff recommends City Council approval of a $30,000 contract amendment with Black & Veatch, such work to be funded using the existing $5,000 contingency and a $25,000 budget adjustment. This contract amendment funds the out-of-scope services to date and provides a budget for continuing technical support until the city requests qualifications statements for the next operations evaluation and rate study in 2005.

Current Status

City Council approved contract amendment #3 with Black & Veatch on April 15, 2003 in the amount of $37,000 with a project contingency of $5,000 to provide funding to: expand the benchmarking study, adjust the water & sewer rate study to reflect the impact of the Beaver Water District rate increase and provide funding for four meetings with customers outside the City; two meetings with City Council, Chamber of Commerce, and Water and Sewer Committee and two meetings with the Arkansas Soil and Water Conservation Commission (ASWCC). Black & Veatch has participated in a total of ten (10) meetings. Additionally, Black & Veatch developed five (5) alternative rates structures that were presented to City Council and/or the various customer groups. Finally, Black & Veatch reviewed the % across-the-board and fixed-unit-cost across-the-board rate options to ensure compliance with federal guidelines associated with the low interest cost loan from ASWCC. These activities represent out-of-scope services that have been absorbed within the existing contract amendment and contingency.

Now that the new rates have been approved by City Council there remain several very important issues that require expertise in this rate study. The cities of Fayetteville and Farmington are continuing the discussion of the sewer services provided to Farmington; the cities of Fayetteville and Greenland will likely enter into similar discussions after the Farmington issues have been resolved and the cities of Fayetteville and Elkins may enter into further discussions of the wholesale sewer rate charged to Elkins. Finally, the adopted rates have to be re-submitted to ASWCC for confirmation that the new rates comply with applicable Federal regulations. This change order is

predicted to provide sufficient contract authority to fund the additional cost incurred by the City for these additional meetings, rate calculations and additional review by ASWCC.

The additional $30,000 is proposed to be used by the City as continuing services until the next operations and rate study work begins in 2005.

Discussion

As the discussions continue with the outside city customers and regulatory agencies, expertise in this rate report will be critical for a better understanding of the rate structure, the compliance with applicable state and federal requirements and the impact of any rate alternatives.

Budget Impact

This contract amendment utilizes $5,000 of previously approved contingency and an additional $25,000 in water & sewer reserves.

K:\STEVE DAVIS\WATER & SEWER\BLACK & VEATCH ADDENDDUM NUMBER 4A RATE STUDY AGENDA MEMO.DOC

RESOLUTION NO. _____

A RESOLUTION APPROVING CONTRACT AMENDMENT #4 IN THE AMOUNT OF $30,000.00 WITH BLACK & VEATCH CORPORATION TO PERFORM CONTINUING WATER AND SEWER OPERATIONS AND RATE STUDY SERVICES; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $25,000.00 FOR SAME.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Contract Amendment #4 in the amount of $30,000.00 with Black & Veatch Corporation to perform continuing water and sewer operations and rate study services.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $25,000.00 for same.

PASSED and **APPROVED** this 6th day of January, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

BLACK & VEATCH

11401 Lamar Avenue
Overland Park, Kansas 66211 USA

Tel: (913) 458-2000

Black & Veatch Corporation

December 11, 2003

Mr. Stephen Davis
Finance and Internal Services Director
City of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701

RECEIVED
DEC 12 2003
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

Dear Mr. Davis:

Enclosed are two copies of Addendum No. 4 related to additional services in conjunction with the Report on Revenue Requirements, Cost of Service, and Rates for Water & Sewer Service. Please return one fully executed copy to me for our files.

Items (1) through (7) of the Addendum have been completed. Approximately 90 hours of effort have been expended to complete these seven items. It is anticipated that completion of Item (8) will require approximately 4 hours of effort. An allowance of 80-90 hours of effort, plus travel expenses, is included in Item (9). Neither the number of meetings nor the extent of analyses associated with negotiation of contract provisions and rates with outside City customers is known at this time.

Please contact me if you have any questions regarding this Addendum.

Very truly yours,

BLACK & VEATCH CORPORATION

Blaine W. Bickel

Blaine W. Bickel

BWB/mdd
Enclosures

ADDENDUM NO. 4
To
CONTINUING SERVICES AGREEMENT
Between
City of Fayetteville and Black & Veatch Corporation

In accordance with the Agreement effective March 14, 2001 between City of Fayetteville, Arkansas (Client) and Black & Veatch Corporation (Consultant), Consultant agreed to perform consulting services as requested by Client. Client has requested Consultant to provide the following additional services in conjunction with preparation of the Report on Operations of the Water & Sewer System and the Report on Revenue Requirements, Cost of Service, and Rates for Water & Sewer Service conducted under Addendum No. 2 to the Continuing Services Agreement:

(1) Development of alternatives to the cost-of-service rate structure for water and sewer service, including rate schedules reflecting across-the-board increases and uniform volume rate increases.
(2) Development of typical bills for various usage levels by customer classification for the alternative rate schedules.
(3) Evaluation of the ability of the alternative sewer rate schedules to meet User Charge Requirements for proportional recovery of operation, maintenance and replacement (OM&R) costs.
(4) Preparation of responses to questions contained in the letter dated November 21, 2003 from the Mayor of Farmington.
(5) Development of water and sewer rate schedules and typical bills reflecting alternative rates of return (3.6%, 4.0%, and 4.95%) to outside City customers.
(6) Review of draft water and sewer rate ordinance reflecting across-the-board increases to inside City customers and cost of service rates to outside City customers under contract.
(7) Preparation of presentation and attendance by two Black & Veatch representatives at City Council meeting December 2, 2003.
(8) Preparation and submittal of information to Arkansas Soil and Water Conservation Commission verifying that User Charge Requirements are met under the rate structure adopted by the City.
(9) Assistance to the City in negotiations with outside City customers in matters related to contract provisions and rates.

To cover the cost of these additional services, Black & Veatch is requesting additional authorization in the amount of $30,000. If the services can be completed for less than this amount, the City will be invoiced only for costs actually incurred.

City of Fayetteville, Arkansas (Client)	Black & Veatch Corporation (Consultant)
By: _____	By: _____
Date: _____	Date: December 11, 2003

ADDENDUM NO. 4
To
CONTINUING SERVICES AGREEMENT
Between
City of Fayetteville and Black & Veatch Corporation

In accordance with the Agreement effective March 14, 2001 between City of Fayetteville, Arkansas (Client) and Black & Veatch Corporation (Consultant), Consultant agreed to perform consulting services as requested by Client. Client has requested Consultant to provide the following additional services in conjunction with preparation of the Report on Operations of the Water & Sewer System and the Report on Revenue Requirements, Cost of Service, and Rates for Water & Sewer Service conducted under Addendum No. 2 to the Continuing Services Agreement:

(1) Development of alternatives to the cost-of-service rate structure for water and sewer service, including rate schedules reflecting across-the-board increases and uniform volume rate increases.
(2) Development of typical bills for various usage levels by customer classification for the alternative rate schedules.
(3) Evaluation of the ability of the alternative sewer rate schedules to meet User Charge Requirements for proportional recovery of operation, maintenance and replacement (OM&R) costs.
(4) Preparation of responses to questions contained in the letter dated November 21, 2003 from the Mayor of Farmington.
(5) Development of water and sewer rate schedules and typical bills reflecting alternative rates of return (3.6%, 4.0%, and 4.95%) to outside City customers.
(6) Review of draft water and sewer rate ordinance reflecting across-the-board increases to inside City customers and cost of service rates to outside City customers under contract.
(7) Preparation of presentation and attendance by two Black & Veatch representatives at City Council meeting December 2, 2003.
(8) Preparation and submittal of information to Arkansas Soil and Water Conservation Commission verifying that User Charge Requirements are met under the rate structure adopted by the City.
(9) Assistance to the City in negotiations with outside City customers in matters related to contract provisions and rates.

To cover the cost of these additional services, Black & Veatch is requesting additional authorization in the amount of $30,000. If the services can be completed for less than this amount, the City will be invoiced only for costs actually incurred.

City of Fayetteville, Arkansas (Client)

By: _____

Date: _____

Black & Veatch Corporation (Consultant)

By: _____

Date: December 11, 2003

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: FISD/Water & Wastewater Division: Billing & Collections / Meter Ops Program: Meter Capital Expenditures	Date Requested	Adjustment Number
2004		1/6/2004	

Project or Item Requested:

$25,000 is requested in the Water & Sewer Rate/Operations Study capital project.

Project or Item Deleted:

None. $25,000 from the Use of Fund Balance account.

Justification of this Increase:

The funding is needed to cover amendment #4 with Black & Veatch.

Justification of this Decrease:

Due to several capital projects not moving forward from 2003 to 2004, there is sufficient funding available in the Water & Sewer Fund.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Professional services	5400	1840	5314	00	25,000	02064	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	5400	0940	4999	99	25,000		

Approval Signatures

Requested By	Date
Budget Manager	12-11-03 Date
Department Director	Date
Finance & Internal Services Director	12/16/03 Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

CITY OF FAYETTEVILLE

2004 Purchase

Purchase Requisition

(not a purchase order)

Requisition No.:		Date: Dec 10, 2003	
P.O. Number:		Expected Delivery Date:	
Vendor #: 21690	Vendor Name: Black & Veatch	Mail: Yes____ No_XX___	
Address:		FOB Point: Fayetteville, AR	Taxable: Yes____ No__XX___
City:	State:	Zip:	Ship To Code: 180	Division Head Approval:
Requester: Stephen Davis		*Requester's Employee#: 330	Extension: 330

Item	Description:	Quantity	Unit of issue	Unit Cost	Extended Cost	Account Number:	Project/SubProject Number:	Inventory #	Fixed Asset #
1	Water & Sewer Rate Study Amendment 4	1	ea	$30,000.00	$30,000.00	5400-1840-5314-00	02064-1		
2					$0.00				
3					$0.00				
4					$0.00				
5					$0.00				
6					$0.00				
7					$0.00				
8					$0.00				
9					$0.00				
10					$0.00				
11					$0.00				
	SHIPPING/HANDLING				**$0.00**				

Special Instructions: _____

Subtotal: $30,000.00

Tax: N/A

TOTAL: $30,000.00

Approvals: (Purchasing office use only)

Mayor:_____ Department Director:_____ Purchasing Manager:_____

Fin. & Int. Services Director: _____ Budget Manager:_____ Information Tech. Mgr:_____

K:\Steve Davis\Water & Sewer\B&V_Water & Sewer Rate Study Amend 4 Pur_Req FORM

STAFF REVIEW FORM

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: January 6, 2004

FROM:

Stephen Davis	Finance & Internal Services Dir.	Finance & Internal Services
Name	Division	Department

ACTION REQUIRED: Approval of Amendment #4 with Black & Veatch for continuing services associated with the 2002/2003 Water & Sewer Rate Study. Approval of a budget adjustment in the amount of $25,000 is also requested. City Council previously approved a contingency in the amount of $5,000.

COST TO CITY:

$30,000.00	$ 63,043.00	Water & Sewer Rate Study
Cost of this request		Program Category / Project Name
5400-1840-5314-00	$ 58,043.00	
Account Number	Funds Used to Date	Program / Project Category Name
02064	$ 5,000.00	Water & Sewer
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item X Budget Adjustment Attached

Budget Manager — 12-1-03 Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fairthing — 12/11/03 Date — Accounting Manager
Nancy Smoot — 12/12/03 Date — Internal Auditor
[illegible] — 12/11/03 Date — City Attorney
[illegible] — 12-12-03 Date — Purchasing Manager

STAFF RECOMMENDATION: Staff recommends approval of this contract amendment and budget adjustment.

Division Head — Date
Department Director — Date
Finance & Internal Services Dir. — 12/10/03 Date
Chief Administrative Officer — 12-14-03 Date
Mayor — Date

Cross Reference

New Item: Yes No

Previous Ord/Res#:

Orig. Contract Date

Orig. Contract Number 796

ENTERED 12-11-03

K:\Steve Davis\Water & Sewer\Water & Sewer Rate Study_amendment 4 Staff_Review

CITY OF FAYETTEVILLE

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: December 10, 2003

Subject: Purchase of 3 Backhoes from H & E Equipment

RECOMMENDATION: That City Council approves the purchase of 3 Backhoes for the Water & Sewer Division from Head & Engquist Equipment, per bid 03-71, bid tabulation sheets attached. They had the low bid on the two mid-size backhoes. They were the only bid on the large size backhoe that had no exceptions to the specifications. Although Williams Tractor had a lower bid on the large size backhoe, there were 4 exceptions to the specifications.

We are also requesting approval of a Budget Adjustment to move $1970 from Project #2086 to Project #2076 (Backhoes/Loaders) as this project is short $1970 needed to purchase the 3 backhoes.

BACKGROUND: Backhoe units 637 and 638 are in need of replacement. The large size backhoe is an expansion unit for the new pipe-laying sewer crew that was approved earlier this year.

$157,555.00 is available for this purchase in 9700.1920.5802.00, Project #2076. This is $1970 less than needed – we have attached a budget adjustment to move $1970 from Project #2086 to cover the shortfall as no units will be purchased from Project #2086 this year.

This request was approved by the Equipment Committee on December 9, 2003.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF THREE (3) KOMATSU BACKHOES FROM HEAD & ENGQUIST EQUIPMENT IN THE AMOUNT OF $159,525.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $1,970.00 FOR SAME.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of three (3) Komatsu backhoes from Head & Engquist Equipment in the amount of $159,525.00.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $1,970.00 for same.

PASSED and **APPROVED** this 6th day of January, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

CITY OF FAYETTEVILLE

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: City of Fayetteville, Equipment Committee

From: David Bragg, Fleet Operations Supt.

Date: December 5, 2003

Subject: Purchase of Backhoes for Water and Sewer Division

Bids were received on November 12, 2003 for one Large Tractor Loader Backhoe (expansion) and two medium Tractor Loader Backhoes (replacement) for the Water and Sewer Division. Five bids were received on each bid.

1. Bid 03-70 (2) Medium Tractor Loader Backhoes

Lowest bidder, H&E Equipment, meets all specifications. Fleet staff has met with prospective vendor, thoroughly inspected dealer facilities and a like machine and confirmed compliance with specifications.

I recommend acceptance of the bid of $50,567.90 each ($101,135.80 total) for 2 Komatsu model WB 140-2 backhoes from H&E Equipment of Springdale.

2. Bid 03-71 (1) Large Tractor Loader Backhoes

Lowest bidder, Williams Tractor, Inc. listed 4 exceptions to specifications. These exceptions are significant to the manhole lifting performance requirements of this application.

Second lowest bidder, H&E Equipment, meets all specifications. Fleet staff has met with prospective vendor, thoroughly inspected dealer facilities and a like machine and confirmed compliance with specifications. W & S staff has confirmed compliance with the manhole lifting performance requirements of this bid and concurs with bid award.

I recommend acceptance of the bid of $58,388.76 for 1 Komatsu model WB 150-2 backhoe from H&E Equipment of Springdale.

$157,555 is available in 2003 Capital Project # 02076 for these purchases. A budget transfer of $1,970 will be requested from unused funds in 2003 Capital Project # 02086.

APPROVED BY COMMITTEE
12/9/03

BID: 03-71
DATE: 11/12/03
TIME: 2:00 P.M.
CITY OF FAYETTEVILLE

Large Size Tractor Loader

BIDDERS	ITEM 1	Quantity	TOTAL BID	
1. Williams Tractor Inc.	$54,999.00	1	$54,999.00	4 EXCEPTIONS
2. Warrior of Arkansas Inc.	$63,855.01	1	$63,855.01	
3. Scott Construction Equipment Co.	$70,779.00	1	$70,779.00	
4. H & E Equipment	$58,388.76	1	$58,388.76	NO EXCEPTIONS
5. J.A. Riggs Tractor Co.	$68,250.00	1	$68,250.00	

CERTIFIED BY : P Vice
P. VICE PURCH MGR

Ben Bell
WITNESS

11/12/03
DATE

BID: 03-70
DATE: 11/12/03
TIME: 2:00 P.M.
CITY OF FAYETTEVILLE

Medium Size Tractor Loader

BIDDERS	ITEM	Quanity	TOTAL BID
1. Williams Tractor Inc.	$50,999.00	2	$101,998.00
2. Warrior of Arkansas Inc.	$624,000.71	2	$124,801.42
3. Scott Construction Equipment Co.	$62,905.00	2	$125,810.00
4. H & E Equipment	$50,567.90	2	$101,135.80
5. J.A. Riggs Tractor Co.	$63,950.00	2	$127,900.00

CERTIFIED BY : P Vice
P. VICE PURCH MGR

Ben Bell
WITNESS

11/12/03
DATE

City Of Fayetteville

(Not a Purchase Order)

Requisition No.				Date: 12/8/2003	
P.O Number				Expected Delivery Date:	
Vendor # 7008	Vendor Name: HEAD & ENGQUIST EQUIPMENT			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		Requester's Employee # 1940		Extension: 495	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Komatsu WB150-2 Backhoe	1	EA	$58,388.76	$58,388.76	9700.1920.5802.00	2076.1		700650
2	To be Unit #650		EA		$0.00				
3	Komatsu WB140-2 Backhoe	1	EA	$50,567.90	$50,567.90	9700.1920.5802.00	2076.1		700651
4	To be Unit 651		EA		$0.00				
5	Komatsu WB140-2 Backhoe	1	EA	$50,567.90	$50,567.90	9700.1920.5802.00	2076.1		700652
6	To be Unit #652		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: _____ 159,524.56

Tax: _____

Total: _____

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Operations Division: Fleet Operations Program: Capital Expenditures	Date Requested	Adjustment Number
2003		12/5/2003	

Project or Item Requested:
Project #2076 is short of funds by $1970 for the purchase of 3 backhoes.

Project or Item Deleted:
Project #2086 Fire Dept. Replacement units has $14,212. in it which will not be spent this year.

Justification of this Increase:
The purchase of three backhoes has been approved for this year.

Justification of this Decrease:
Sufficient funds remain to comply with City policy.

Increase Budget (Decrease Revenue)

Account Name	Account Number	Amount	Project Number
Vehicles and equipment	9700 1920 5802 00	1,970	02076 .1

Decrease Budget (Increase Revenue)

Account Name	Account Number	Amount	Project Number
use of Fund Balance	9700 0970 4999 99	1,970	

Approval Signatures

Barbara Olsen — 12-10-3
Requested By — Date

Budget Manager — Date

Department Director — Date

[signature] — 12-15-03
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

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: January 6, 2004

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Approval of purchase of 3 backhoes from H & E Equipment, per bid opening 11/12/03. Approval of budget adjustment to move $1970. from project #2086 (Fire Replacement units) to project #2076 (Backhoes). Project 2076 is short of funds by $1970; project 2086 has $14,212 left in it which will not be spent this year.

COST TO CITY:

$159,525.00	$ 157,555.00	Backhoes/Loaders
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ -	Vehicles and Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02076.1	$ 157,555.00	Shop
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item X Budget Adjustment Attached

Budget Manager — 12-11 03 Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fawthrop — 12/11/03 Date — Accounting Manager
Nancy Smith — 12/12/03 Date — Internal Auditor
D. P. Whit — 12/11/03 Date — City Attorney
P Vick — 12/12/03 Date — Purchasing Manager

STAFF RECOMMENDATION:

12/10/03 Date — Division Head
12/15/03 Date — Department Director
12/05/03 Date — Finance & Internal Services Dir.
12-17-03 Date — Chief Administrative Officer
12/17/03 Date — Mayor

Received in Mayor's Office ____ Date

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

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

ENTERED 12-10-03 aw

City Council Agenda Item

Preprint agenda date and item number inserted by city clerk

To: Mayor and City Council

From: Gary Dumas

Date: December 19th, 2003

Subject: Resolution accepting grant award for a Recycling Drop-Off Containers.

Recommendation: The Solid Waste and Recycling Division Staff recommends that the City Council pass a resolution to accept a recycling grant from the Arkansas Department of Environmental Quality passed through to the Tri-County Solid Waste District and eventually passed through to the City of Fayetteville in the amount of $18,000.

Background: The City was awarded a recycling grant from the Arkansas Department of Environmental Quality in September in the amount of $18,000 for the purchase of roll-off type recycling boxes for use at the 24 hour Community Recycling Drop-Off located on Happy Hollow Road. The grant funds have been distributed through to the Tri-County Solid Waste District and are awaiting our request for funding.

Discussion: The Recycling Drop-Off is used by numerous residents and provides an easy access to recycle items. With the Drop-off opened 24 hours a day, seven days a week the site is providing easy access to participating in our recycling program. The new containers will work in addition to the existing containers.

Budget Impact: There is no budget impact from the action of passing this resolution.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE SOLID WASTE AND RECYCLING DIVISION TO ACCEPT A GRANT IN THE AMOUNT OF EIGHTEEN THOUSAND DOLLARS ($18,000.00) FROM THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ) AND THE TRI-COUNTY SOLID WASTE DISTRICT FOR THE PURCHASE OF ROLL-OFF RECYCLING BOXES FOR USE AT THE 24-HOUR COMMUNITY RECYCLING DROP-OFF; AND APPROVING A BUDGET ADJUSTMENT TO RECOGNIZE THE GRANT REVENUE.

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 authorizes the Fayetteville Solid Waste and Recycling Division to accept a grant in the amount of Eighteen Thousand Dollars ($18,000.00) from the Arkansas Department of Environmental Quality (ADEQ) and the Tri-County Solid Waste District for the purchase of roll-off recycling boxes for use at the 24-hour Community Recycling Drop-Off.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment to recognize the grant revenue.

PASSED and **APPROVED** this 6th day of January, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Operations Division: Solid Waste & Recycling Program: Recycling	Date Requested	Adjustment Number
2004		1/6/2004	

Project or Item Requested:
$18,000 is requested in Containers.

Project or Item Deleted:
None. A state grant was received.

Justification of this Increase:
For the purchase of roll-off type recycling boxes.

Justification of this Decrease:
Sufficient funding remains to comply with City policies.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number
Containers	5500	5060	5227	00	18,000	

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number
State grants	5500	0950	4302	00	18,000	

Approval Signatures

Requested By	Date
Budget Manager	Date
Department Director	Date
[signature]	12-19-03
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C (D) E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council Meeting of: January 6th, 2004

FROM:

Brian Pugh	Operations	Solid Waste and Recycling
Name	Division	Department

ACTION REQUIRED: The Solid Waste and Recycling Division Staff recommends that the City Council pass a resolution to accept a recycling grant from the Arkansas Department of Environmental Quality passed through to the Tri-County Solid Waste District and eventually passed through to the City of Fayetteville in the amount of $18,000.

SUMMARY EXPLANATION:

The City was awarded a recycling grant from the Arkansas Department of Environmental Quality in September in the amount of $18,000 for the purchase of roll-off type recycling boxes for use at the 24 hour Community Recycling Drop-Off located on Happy Hollow Road. The grant funds have been distributed through to the Tri-County Solid Waste District and are awaiting our request for funding. With the Drop-off opened 24 hours a day, seven days a week the site is providing easy access for participating in our recycling program. The new containers will work in addition to the existing containers.

STAFF RECOMMENDATION:

Division Head — 12/17/03 Date

City Attorney — 12/19/03 Date

Department Director — 12/18/03 Date

Finance & Internal Services Dir. — 12/19/03 Date

Chief Administrative Officer — 12-19-03 Date

Mayor — 12-2-03 Date

Received in Mayor's Office _____ Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

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

ENTERED 12-18-03 TLM

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Water & Sewer Program: Water Dist. Maint Date of Request: 12/1/2003

Acct.# Currently Charged: 5400.4310. Acct. # to be Charged: 5400.4310.

Expansion ___ or Replacement X Date Required: ASAP

Unit # for Vehicle being Replaced: 637 Unit # for Expansion/Replacement: 6XX5

Purchase Price of Exp./Replace Vehicle: 50,568.00 CIP Budget / Project # 9700.1920.5802 2076.1

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 691.00 Maintenance: 341.00 Overhead: 208.00

# of Months Budgeted: 12.00 Total Budgeted: 14,880.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 825.00 Maintenance: 250.00 Overhead: 185.00

# of Months to be in Service for 2004 Year: 12.00 Current Year Expense: 15,120.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

Medium size tractor loader, similar to unit being replaced.

MODEL WB 140-2

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

It is necessary to replace units with high hours and/or high maintenance costs which are no longer suited for regular line service.

Approval Signatures:

Division Head	12/8/03 Date	Finance & Internal Services Dir.	12/8/03 Date
Fleet Operations Superintendent	12/8/03 Date	Chief Administrative Officer	12-17-03 Date
Budget Manager	12/8/03 Date	Mayor	12/17/03 Date
Department Director	12-10-03 Date		

Please return original form to Fleet when signed by all.

ENTERED 12-22-03

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Water & Sewer Program: Water Dist. Maint. Date of Request: 12/1/2003

Acct.# Currently Charged: 5400.431 Acct. # to be Charged: 5400.4310.

Expansion ___ or Replacement X Date Required: ASAP

Unit # for Vehicle being Replaced: 638 Unit # for Expansion/Replacement: 6XX5

Purchase Price of Exp./Replace Vehicle: 50,568.00 CIP Budget / Project # 9700.1920.5802 2076.1

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 832.00 Maintenance: 269.00 Overhead: 249.00

# of Months Budgeted: 12.00 Total Budgeted: 16,200.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 825.00 Maintenance: 250.00 Overhead: 185.00

# of Months to be in Service for 2004 Year: 12.00 Current Year Expense: 15,120.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

Medium size tractor loader, similar to unit being replaced.

MODEL WB 140-2

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

It is necessary to replace units with high hours and/or high maintenance costs which are no longer suited for regular line service.

Approval Signatures:

Division Head	12/8/03 Date	Finance & Internal Services Dir.	12-08-03 Date
Fleet Operations Superintendent	12/8/03 Date	Chief Administrative Officer	12-17-03 Date
Budget Manager	12/8/03 Date	Mayor	12/17/03 Date
Department Director	12-10-03 Date		

Please return original form to Fleet when signed by all.

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Water & Sewer Program: Water/Sewer Maint. Date of Request: 12/1/2003

Acct.# Currently Charged: _____ Acct. # to be Charged: 5400.4410.

Expansion X or Replacement ___ Date Required: ASAP

Unit # for Vehicle being Replaced: _____ Unit # for Expansion/Replacement: 6XX1

Purchase Price of Exp./Replace Vehicle: 58,390.00 CIP Budget / Project # 9700.1920.5802 2076.1

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: _____ Maintenance: _____ Overhead: _____

# of Months Budgeted: _____ Total Budgeted: 0.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 971.00 Maintenance: 250.00 Overhead: 211.00

# of Months to be in Service for 2004 Year: 12.00 Current Year Expense: 17,184.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

Backhoe capable of lifting precast manholes. Large size tractor loader.

MODEL WB 150-2

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

Needed for expansion pipe-laying sewer crew.

Approval Signatures:

Division Head	12/8/03 Date	Finance & Internal Services Dir.	12-08-03 Date
Fleet Operations Superintendent	12/8/03 Date	Chief Administrative Officer	12-17-03 Date
Budget Manager	12/10/03 Date	Mayor	12/17/03 Date
Department Director	12-10-03 Date		

Please return original form to Fleet when signed by all.

City Council Meeting of January 6, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Chris Bosch, Fire Chief CB

Date: December 16, 2003

Subject: A Resolution approving the acceptance of the Fire Department's 2003 FIRE Act Grant Award, in the sum of $92,820.

RECOMMENDATION

The Fire Department recommends approval of this Resolution, which will enable us to accept the award of $92,820 through the Department of Homeland Security's FIRE Act Grant program.

BACKGROUND

The Assistance to Fire Fighters (FIRE Act) Grant program; which is administered by the Federal Emergency Management Agency, was established in the Fall of 2000 in an effort to provide local fire fighters with necessary funding to secure and maintain many of the basic tools, equipment and training required to ensure the safety and security of our nations citizens.

Funds for this program are identified and made available in four separate categories. These categories include; the Fire Operations and Fire Fighter Safety Program, the Fire Prevention Program, the Emergency Medical Services Program and the Firefighting Vehicle Acquisition Program. Under the current guidelines grants are awarded with varying matching funds requirements with volunteer and combination agencies having a 90/10 matching funds requirement and paid professional departments having a 70/30 matching funds requirement.

In 2003, the U.S. Congress appropriated approximately $745 million dollars to fund this program. The grant application process opened on March 14, 2003 with applications accepted through April 14, 2003. Through this highly competitive grant program, FEMA received over 18,000 requests for assistance from various fire service organizations from across the nation.

DISCUSSION

In March of 2003, the Fire Department requested and received Council approval of a Resolution allowing us to pursue this grant request. As noted in our March 2003 request, the Fire Department requested FEMA's assistance in funding the establishment of two specific programs.

The primary program is a Fire Fighter Wellness & Fitness program, which will allow the organization to focus on developing and maintaining an effective health and fitness program for our personnel. Heart attacks, Cardio Vascular Accidents (Stroke) and Cancer are the top three causes of Fire Fighter fatalities in the nation today. As you know, each of these health issues is preventable through effective exercise and proper dieting routines. By establishing and maintaining a comprehensive Wellness and Fitness Program for our Fire Fighters, we can begin the process of ensuring their health and safety for many years to come.

Under the guidelines of this grant, employee participation is mandatory and Fire Fighters will learn how to establish and maintain realistic individual health and safety goals. Further, this program will assist in

reducing the likelihood of Fire Fighter injuries resulting from strains and sprains, which are common occurrences on every emergency incident scene. This program will also help to speed up the recovery time for those injured through unpreventable accidents. By implementing this program, the Fire Department should see an overall reduction in sick leave use resulting from minor injuries received while off duty as well. Many of these on and off duty injuries occur because often times Fire Fighters are unaware of how to properly prepare for and/or prevent these injuries.

The second portion of this request is the Fire Department Emergency Medical Technician Training program, which will allow the Department to provide Fire Fighter EMS training in a more cost effective manner. Currently the Fire Department is required to provide this training by outsourcing it to private contractors who charge the Department anywhere from $200 to $600 per person per year or by working with the Arkansas Fire Academy to maintain certification. This includes the actual cost of the training class and any overtime required to attend this class as well as overtime required to replace personnel who are attending the class. Unfortunately, due to limited human and fiscal resources as well as a high demand for service, the Arkansas Fire Academy only schedules training sessions on a regional basis, which causes each reason to receive one session per year. These sessions usually fill up quickly and the class fills up quickly.

Establishing this program, in house, will allow the Fire Department to conduct EMT training in a more efficient and effective manner. By providing Fire Fighters with Continuing Educational Units (CEU's) while, on-duty we will be able to limit the amount of overtime dollars and travel expenses required for personnel to attend refresher classes. This would also allow the Fire Department to establish and maintain its own training schedule and tailor the program to meet the needs of the Department rather than conforming to the schedule and needs of a third party provider. Once established this training program will also be available to other City Departments.

BUDGET IMPACT

Currently the Fire Department has limited resources available in the 2004 Budget to establish and maintain these programs in-house. Further, if this program was established using current personnel, the continuity and success of this program may be compromised due to our limited level of expertise. In an effort to ensure the success of this program, the Fire Department believes it is imperative to hire a Program Coordinator, as a temporary employee, who has experience in the field of EMS, Health and Safety. Funding for this position is included in the current grant award, under the guidelines established by Congress and approved by FEMA.

This program will allow the Fire Department to conduct health assessments, develop a Department wide employee fitness program and provide effective training related to the emergency medical service. The Fire Department has requested funding for an additional staff position, including salary and benefits, as well as the required equipment and ancillary expenses necessary to get this program off the ground. Further, this specific program runs for two years and the Fire Department will receive, upon request, the funding required to continue this program in the 2004 grant request process; however, the 2004 matching funds requirement changes from 70/30 to 50/50 for the second year of the grant.

As previously mentioned, initially this grant requires the Department to provide 30% in matching funds; however, Insurance Turnback (Act 833) funds can be used meet this requirement for the 2003 and 2004 funding cycles and the Fire Department is planning to utilize those funds for this purpose. Initially, this program will require $132,600 to start. FEMA has agreed to provide $92,820 (70%) for this program and our portion will be $39,780 (30%).

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE FIRE DEPARTMENT TO ACCEPT A DEPARTMENT OF HOMELAND SECURITY FIRE GRANT IN THE AMOUNT OF $92,820.00 TO ESTABLISH A WELLNESS AND FITNESS/EMS TRAINING PROGRAM; APPROVING A NEW TEMPORARY STAFF POSITION TO ESTABLISH AND COORDINATE THE PROGRAM; AND APPROVING A BUDGET ADJUSTMENT TO RECOGNIZE THE GRANT REVENUE.

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 authorizes the Fayetteville Fire Department to accept a Department of Homeland Security FIRE Grant in the amount of $92,820.00 to establish a Wellness and Fitness/EMS Training Program.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a new temporary staff position to establish and coordinate the program.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment to recognize the grant revenue.

PASSED and **APPROVED** this 6th day of January, 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: Operations Program: Operations	Date Requested	Adjustment Number
2004		1/6/2004	

Project or Item Requested:
$132,600 in various accounts to fund an EMS Training / Wellness & Fitness Program.

Project or Item Deleted:
None. $92,820 in Federal Grant revenue and $39,780 in Act 833 funds.

Justification of this Increase:
A grant from FEMA was awarded to the City of Fayetteville for the establishment of a Fitness program.

Justification of this Decrease:
The $92,820 will be received from FEMA and the $39,780 is special Act 833 revenues that are given to the Fire Department for Fire related expenses.

Increase Budget (Decrease Revenue)

Account Name	Account Number	Amount	Project Number
Various Accounts As Needed		132,600	

Decrease Budget (Increase Revenue)

Account Name	Account Number	Amount	Project Number
Federal grants	1010 0001 4309 00	92,820	
Fire Act 833	1010 0001 4308 00	39,780	

Approval Signatures

Requested By	Date
Budget Manager	12-22-03 Date
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Date of Approval	Initial	Date
Posted to General Ledger	Initial	Date
Posted to Project Accounting	Initial	Date
Entered in Category Log	Initial	Date

Award Status

Congratulations! Your grant application has been been selected for an award.

View Award Package

Award Number: EMW-2003-FG-01477
Award Amount: $92,820

You establish acceptance of this award when you expend any grant funds available to you. You should fill out your Direct Deposit Form 1199A immediately; however, submit your request for funds when you are ready to spend the money. *It is a federal requirement to minimize the time between you receiving the funds in your bank account and your spending of those funds.* For planning purposes, you can estimate that it could take up to **three weeks** for the funds to be transferred to your account.

Award Package

Federal Emergency Management Agency
Washington, D.C. 20472

Dr. William Watts
Fayetteville Fire Department
303 W. Center
Fayetteville, Arkansas 72701-5102

Re: Grant No.EMW-2003-FG-01477

Dear Dr. Watts:

Congratulations. Your grant application submitted to the Emergency Preparedness & Response Directorate (EP&R/FEMA of DHS) for the FY03 Assistance to Firefighters Grant Program in the program area of Emergency Medical Services has been approved. The approved project costs amount to $132,600.00. The Federal share is 70 percent or $92,820.00 of the approved amount and your share of the costs is 30 percent or $39,780.00.

As part of your award package, you will find EP&R's grant Agreement Articles. Please make sure you read and understand the Articles as they outline the terms and conditions of your grant award. Maintain a copy of these documents for your official file. **You establish acceptance of the Grant and EP&R's grant Agreement Articles when you request and receive any of the Federal grant funds awarded to you.**

For your convenience, we will have an on-line system that will accept payment requests. The first step to request your grant funds is to ensure that EP&R has your correct direct deposit information on-line. Please log onto https://portal.fema.gov/ using your userid and password and confirm the direct deposit information. Once you have confirmed your direct deposit information, print a copy of it by clicking the *Print SF 1199A* button on the screen. Sign the form and take it to your bank to complete the bottom portion. Please write your grant number on the top of your SF 1199A before mailing it to EP&R. Once your bank has completed and signed the form, mail it by priority mail, with the original signatures, to the address below:

Emergency Preparedness and Response Directorate (EP&R)
Financial & Acquisition Management Division
Grants Management Branch
Attn: Assistance to Firefighters Grant Program
500 C Street, SW, Room 334
Washington, D.C. -20472

If you currently have Assistance to Firefighters Grant with EP&R and your direct deposit information has not changed, you do not need to resubmit that information. If your direct deposit information has changed, please follow the detailed instructions in the preceding paragraph.

The second step will be to request your grant funds. Grant funds should be requested to meet your immediate needs and should therefore be requested as close as possible to the time that you will actually spend the funds. If you have any questions or concerns regarding the process to request your grant funds, please contact your Grants Management Specialist, Sheila Parker Darby at 202-646-3655.

Sincerely,

Patricia A. English
Senior Procurement Executive

Agreement Articles

Federal Emergency Management Agency
Washington, D.C. 20472

AGREEMENT ARTICLES

ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM

GRANTEE: Fayetteville Fire Department

PROGRAM: Emergency Medical Services

AGREEMENT NUMBER: EMW-2003-FG-01477

AMENDMENT NUMBER:

TABLE OF CONTENTS

Article I	Project Description
Article II	Grantee Concurrence
Article III	Period of Performance
Article IV	Amount Awarded
Article V	Requests for Advances or Reimbursements
Article VI	Budget Changes
Article VII	Financial Reporting
Article VIII	Performance Reports
Article IX	FEMA Officials
Article X	Other Terms and Conditions
Article XI	General Provisions
Article XII	Audit Requirements

Article I - Project Description

The grantee shall perform the work described in the approved grant application's program narrative. That narrative is made a part of these grant agreement articles by reference. The purpose of the Assistance to Firefighters Grant Program is to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards. After careful consideration, FEMA has determined that the grantee's project, as detailed in submitted project narrative and budget information, submitted as part of the grantee's application (and considered part of this agreement by reference), was consistent with the program's purpose and worthy of award. As such, any deviation from the approved program narrative must have prior written approval from FEMA. Please contact your Grants Management Specialist if you are seeking a deviation from the approved program narrative.

Article II - Grantee Concurrence

By requesting and receiving Federal grant funds provided by this grant program, the grantee accepts and agrees to abide by the terms and conditions of the grant as set forth in this document and the documents identified below. All documents submitted as part of the application are made a part of this agreement by reference.

Article III - Period of Performance

The period of performance (grant period) shall be from 01-JAN-04 to 31-DEC-04.

The grant funds are available to the grantee for obligation only during the period of performance of the grant award. The grantee is not authorized to incur new obligations after the expiration date unless the grantee has requested, and FEMA has approved, a new expiration date. The grantee has 90 days after period of performance to incur costs associated with closeout or to pay for obligations incurred during period of performance. Award expenditures are for the purposes detailed in the approved grant application only. The grantee cannot transfer funds to other agencies or departments without prior written approval from FEMA.

Article IV - Amount Awarded

The amount of the award is detailed on the Obligating Document(76-10A) for Award attached to these articles. Following are the budgeted estimates for object classes for this grant (including Federal share plus grantee match):

Personnel	$40,000.00
Fringe Benefits	$14,200.00
Travel	$15,000.00
Equipment	$53,400.00
Supplies	$10,000.00
Contractual	$0.00
Construction	$0.00
Other	$0.00
Indirect Charges	$0.00
Total	$132,600.00

Article V - Requests for Advances or Reimbursements

Grant payments under the Assistance to Firefighter Grant Program are made on an advance or reimbursable basis for immediate cash needs. When the grantee needs grant funds, the grantee fills out the on-line Request for Advance or Reimbursement, after completing the SF 1199A, Direct Deposit Form, on-line.

Payments under this grant program are made via direct deposit, therefore before a payment is made, grantees must confirm their on-line Direct Deposit information, print a copy, sign it and mail (with an original signature) the hardcopy to FEMA by priority mail to at the following address:

Department of Homeland Security
Emergency Preparedness and Response Directorate (FEMA)
Grants Management Branch
500 C Street, SW, Room 350
Washington, DC 20472

Attn: Assistance to Firefighters Grant Program

Article VI - Budget Changes

Generally, changes in the budget-line items are permitted, as long as the original program narrative is

accomplished. The only exception to this provision is for grants where the Federal share is in excess of $100,000.00. In grants where the Federal share exceeds $100,000.00, the budgeted line items can be changed, but if the cumulative changes exceed ten (10) percent of the total budget, FEMA must approve those changes. Please submit a request for an amendment through the on-line system by clicking the Grants Management option and selecting the option for amendment requests.

Article VII - Financial Reporting

The Request for Advance or Reimbursement mentioned above will also be used for interim financial reporting purposes. At the end of the performance period, or upon completion of the grantee's program narrative, the grantee must complete, on-line, a final financial report that is required to close out the grant. The Financial Status Report is due within 90 days after the end of the performance period.

Article VIII - Performance Reports

The grantee must submit a semi-annual and a final performance report to FEMA. The final performance report should provide a short narrative on what the grantee accomplished with the grant funds and any benefits derived there from. The semi-annual report is due six months after the award date. Please log into the firegrants system when your department is eligible to submit a semi-annual performance report.

Article IX - FEMA Officials

Program Officer: Brian A. Cowan, Chief of the Grants Program Office, is the Program Officer for this grant program. The Program Officer is responsible for the technical monitoring of the stages of work and technical performance of the activities described in the approved grant application.

Grants Assistance Officer: Richard Goodman, Chief of the Grants Management Branch, or Sylvia A. Carroll, Grants Management Specialist, is the Assistance Officer for this grant program. The Assistance Officer is the Federal official responsible for negotiating, administering, and executing all grant business matters.

Grants Management Specialist: Sheila Parker Darby 202-646-3655 is the Grants Management Specialist for this grant award and shall be contacted for all financial and administrative grant business matters.

Article X - Other Terms and Conditions

A. Pre-award costs directly applicable to the awarded grant are allowable if approved in writing by the FEMA program official prior to the award and after the close of the application period.

B. The grantee agrees to maintain their operating expenditures in the funded grant category during the period of performance at a level equal to or greater than the average of their operating expenditures in the two fiscal years preceding the fiscal year in which assistance is awarded.

C. The grantee agrees to provide information to the National Fire Incident Reporting System for the period covered by the grant.

D. The grantee agrees to complete timely closeout of the grant.

E. The grantee agrees to keep an official grant file, maintaining copies of all actions taken on the grant from application through to closeout for a period of three years after the official grant closeout date.

Article XI - General Provisions

The following are hereby incorporated into this agreement by reference:

44 CFR, Emergency Management and Assistance

Part 7	Nondiscrimination in Federally-Assisted Programs
Part 13	Uniform administrative requirements for grants and cooperative agreements to state and local governments
Part 17	Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-free Workplace (Grants)
Part 18	New Restrictions on Lobbying

31 CFR 205.6 Funding Techniques

OMB Circular A-122 Cost Principles for Non-Profit Organizations

OMB Circular A-110	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other NonProfit Organizations Assistance to Firefighters Grant Application and Assurances contained therein.

Article XII- Audit Requirements

All grantees must follow the audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. The main requirement of this OMB Circular is that grantees that expend $300,000.00 or more in Federal funds (from all Federal sources) must have a single audit performed in accordance with the circular.

As a condition of receiving funding under this grant program, you must agree to maintain grant files and supporting documentation for three years after the conclusion of the grant. You must also agree to make your grant files, books, and records available for an audit by FEMA, the General Accounting Office (GAO), or their duly authorized representatives to assess the accomplishments of the grant program or to ensure compliance with any requirement of the grant program.

Additional Requirements if applicable

FEDERAL EMERGENCY MANAGEMENT AGENCY
OBLIGATING DOCUMENT FOR AWARD/AMENDMENT

1a. AGREEMENT NO.	2. AMENDMENT NO.	3. RECIPIENT NO.	4. TYPE OF ACTION	5. CONTROL NO.
EMW-2003-FG-01477	0	71-6018462	AWARD	W358175N

6. RECIPIENT NAME AND ADDRESS
Fayetteville Fire Department
303 W. Center
Fayetteville
Arkansas, 72701-5102

7. ISSUING FEMA OFFICE AND ADDRESS
FEMA/Financial and Grants Management Division
500 C Street, S.W., Room 350
Washington DC, 20472
Specialist:Sheila Parker Darby 202-646-3655

8. PAYMENT OFFICE AND ADDRESS
FEMA/Financial Services Branch
500 C Street, S.W., Room 723
Washington DC, 20472

9. NAME OF RECIPIENT PROJECT OFFICER	PHONE NO.	10. NAME OF FEMA PROJECT COORDINATOR	PHONE NO.
William Watts	479-575-8365	Brian Cowan	(202) 646-2821

11. EFFECTIVE DATE OF THIS ACTION	12. METHOD OF PAYMENT	13. ASSISTANCE ARRANGEMENT	14. PERFORMANCE PERIOD
01-JAN-04	SF-270	Cost Sharing	From:01-JAN-04 To:31-DEC-04
			Budget Period From:01-OCT-03 To:30-SEP-04

15. DESCRIPTION OF ACTION
a. (Indicate funding data for awards or financial changes)

PROGRAM NAME ACRONYM	CFDA NO.	ACCOUNTING DATA (AACS CODE) XXXX-XXX-XXXXXX-XXXXX-XXXX-XXXX-X	PRIOR TOTAL AWARD	AMOUNT AWARDED THIS ACTION + OR (-)	CURRENT TOTAL AWARD	CUMMULATIVE NON-FEDERAL COMMITMENT
AFG	83.554	2004-57-6410RA-63210000-4101-D	$0.00	$92,820.00	$92,820.00	$39,780.00
		TOTALS	$0.00	$92,820.00	$92,820.00	$39,780.00

b. To describe changes other than funding data or financial changes, attach schedule and check here.
N/A

16 a. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address)

Assistance to Firefighters Grant Program recipients are not required to sign and return copies of this document. However, recipients should print and keep a copy of this document for their records.

16b. FOR DISASTER PROGRAMS: RECIPIENT IS NOT REQUIRED TO SIGN

This assistance is subject to terms and conditions attached to this award notice or by incorporated reference in program legislation cited above.

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title)	DATE
N/A	N/A
18. FEMA SIGNATORY OFFICIAL (Name and Title)	DATE
Sylvia Carroll	01-DEC-03

Go Back

Narrative Statement

Project Description

Please provide your narrative statement in the space provided below:

Introduction

The Fayetteville, Arkansas Fire Department is an organization made up of eighty-seven uniformed and two civilian employees. Currently the Fayetteville Fire Department operates as a paid professional fire department providing Fire, EMS and Rescue service to a metropolitan population of approximately sixty thousand citizens with a transient population of approximately fifteen to twenty thousand college students and employees. Fayetteville is the original home of the University of Arkansas, with the University occupying a large portion of the community's urban core.

The Fayetteville Fire Department was formally organized in 1897 and has grown and transitioned into a leader in the provision of fire, emergency medical, rescue and community service in the City of Fayetteville and also in the Northwest Arkansas Region.

Historical Perspective

Over the past sixteen years the City of Fayetteville has grown in population by approximately forty-one percent, with the development of multi-family housing leading this overwhelming growth rate. This change in residential population has also spurred an increase commercial development, which has benefited the community as well as the region. The overwhelming growth and accelerated development trends have drastically increased the need for additional fire, emergency, and rescue resources in the community. Unfortunately, these growth patterns were somewhat unexpected, which has forced the local government organization to identify alternative funding mechanisms in order to sustain their basic service delivery systems.

Unfortunately, the Fayetteville Fire Department is one of those agencies. Prior to December 2000 the organization functioned on a shoestring budget which often caused the Department to trim expenditures from key training programs, and restricted the procurement of vital equipment. Often times, basic employee training and safety were sacrificed or neglected, in an effort to meet bottom line budget expectations. Many of these cuts were instituted due to a lack of understanding of the importance of providing and maintaining an up to date safety and training program.

Current Situation

In November 2001, the Fayetteville Fire Department began the process of organizational redevelopment. As a result of this transitional process many aspects of the Department have been critically examined and restructured with any additional resources being redeployed in an effort to improve employee health, safety, and training in an effort to ensure that Fire Department personnel can efficiently and effectively protect the citizens of our community.

As you know, cancer, stroke, and heart attacks are the top three killers of fire fighters across the country. More firefighters succumb to one, or all three deadly diseases, than do those who lose their lives while fighting fires, providing emergency medical, or rescue service. Often times the signs and symptoms of these three deadly killers go undetected ignored or misdiagnosed.

Scientists have proved that a consistent and organized physical training program can help to reduce, or even eliminate the likelihood of these diseases in fire fighters. Since the spring of 2002 the Fayetteville Fire Department has been working, in partnership with the University of Arkansas Physical Education Department to develop a physical fitness program for members of our organization. This program is currently in the final stages of development and we are certain it will assist us in ensuring the health and safety of our personnel. Once this process is complete the Department will be ready to take the next step in implementing this beneficial program, which will also assist the Department in reducing the amount of employee time lost as a result of injuries.

Since this partnership began, the Fayetteville Fire Department has assigned one Department representative who has worked closely with the University to ensure the continuity and successful development of this program. With the program reaching its final development stages these individuals have identified the need for a dedicated Program Coordinator who can focus specifically on maintaining this program as his/her primary role within the Department. This recommendation has been made by both the Fire Department Battalion Chief currently assigned to this program and also by Dr. Barry Brown, Ph.D, in Physical Fitness and Health Sciences from the University of Arkansas.

As the Department begins it transition into the 21st Century we have identified the need to focus on maintaining an effective health and safety program for our personnel. We have researched various funding opportunities and have determined that the

FIRE Act Grant is one of the best methods of funding this highly important program.

Project Plan

The Fayetteville Fire Department has determined that in order to provide safe and effective working conditions, for its Fire Fighters, it will be necessary to implement this program. We have determined that in order for this program to maintain continuity and ensured success it must be a mandatory Fire Fighter Wellness and Fitness program.

The University of Arkansas has agreed to continue working with the Fire Department to establish and maintain this program; however, they have identified that the Department should appoint one full time Program Coordinator to oversee the program and also must purchase various pieces of monitoring equipment, as well as, up-to-date cardio-vascular equipment if the program is going to be successful.

The Fayetteville Fire Department is requesting FIRE Act Funding for one Full Time Position to oversee this program, as well as, additional funds to procure the necessary equipment required to ensure the success of this program. The Fire Department understands that our organization will be required to provide 30% in matching funds. The Department also understands it will be required to maintain this staff position, without FIRE Act Grant assistance, for a minimum of one full year after these funds are awarded.
Our organization is committed to the success of this program and we are willing to fulfill the terms and conditions of this grant should this request be approved.

Program Benefits

As previously stated, this program will assist the Department in ensuring the health and safety of its personnel and also provide the opportunity to maintain a good working relationship with the University of Arkansas. Further, once this program is up and running the Fayetteville Fire Department intends to offer assistance to other Department's in the area. This assistance will include fitness screenings and the use of cardio-vascular equipment as well as monitoring equipment.

Funding

Currently, the Fayetteville Fire Department has approximately $35,000 budgeted in 2003 for employee training. Further the Department has approximately $40,000 in the equipment fund, which has been identified for use as matching funds if this grant is awarded.

Due to the nature of this program it cannot be supported solely through the use of local funding. This situation is created as a result of the sudden downturn in the economy, heightened state of national security resulting from activities in the Middle East, and the events of Sept. 11, 2001. The Fayetteville Fire Department receives funding through the annual municipal budgeting process. However, local revenues are not expected to meet the City's projected revenue levels for the current calendar year.

Additional Information to Be Considered

The Fayetteville Fire Department has never undertaken any type of Health and Wellness Program for its employees. Further, this will be the first Fire Department Health and Wellness Program to be established in Northwest Arkansas and one of the few programs being established across the nation.

As previously stated, this program will be mandatory and employees will be required to submit to regular physical examinations, and to meet pre-established individual health and fitness goals, which will be developed by the individual and the Program Coordinator. In order for this program to be successful, it is imperative that the Fayetteville Fire Department identify a full-time Program Coordinator and purchase the equipment necessary to ensure success.

It is certain this program will benefit the employees of the Fayetteville Fire Department, but it will also directly benefit the citizens we serve by improving the quality of Fire, EMS and Rescue service in our area.

If you received a grant award in the 2002 process, does your current request relate to your 2002 award? No

If you answered yes, above, which of the following apply?

This request enhances the 2002 award
This request continues the 2002 award
This request completes the 2002 award

Total Budget

Select section to review Go

Budget Object Class	
a. Personnel	$ 40,000
b. Fringe Benefits	$ 14,200
c. Travel	$ 15,000
d. Equipment	$ 53,400
e. Supplies	$ 10,000
f. Contractual	$ 0
g. Construction	$ 0
h. Other	$ 0
i. Indirect Charges	$ 0

Indirect Cost Details

Agency Indirect Cost Agreement with

Indirect Cost Rate %

Agreement Summary

Federal and Applicant Share

Federal Share	$ 92,820
Applicant Share	$ 39,780
Federal Rate Sharing (%)	70/30

* Non-Federal Resources *(The combined Non-Federal Resources must equal the Applicant Share of $ 39,780)*

a. Applicant	$ 39780
b. State	$ 0
c. Local	$ 0
d. Other Sources	$ 0

If you entered a value in Other Sources, Please identify the source of your cost share, i.e., fund reserves, savings, fund-raisers, donations, etc.

Total Budget	**$ 132,600**

Select section to review Go

[Federal Register: March 14, 2003 (Volume 68, Number 50)]
[Notices]
[Page 12553-12560]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr14mr03-104]

[[Page 12553]]

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Assistance to Firefighters Grant Program

AGENCY: U.S. Fire Administration (USFA), FEMA, Emergency Preparedness and Response, Homeland Security.

ACTION: Notice of funds availability.

SUMMARY: We, USFA, are publishing this Notice to announce the availability of grant funding for the Assistance to Firefighters Grant Program (AFGP) for fiscal year 2003 and to provide the details and guidance regarding the 2003 program year.

The program is intended to make grants directly to fire departments of a State for the purpose of enhancing the departments' ability to protect the health and safety of the public as well as that of firefighting personnel facing fire and fire-related hazards. A portion of this year's grants will be awarded on a competitive basis to the applicants that best address the program's priorities as described in this Notice of Funds Availability (NOFA), then demonstrate financial need and maximize the benefits to be derived from the grant funds.

DATES: This notice is effective March 14, 2003.

FOR FURTHER INFORMATION CONTACT: Brian A. Cowan, Director, Grants Program Office, USFA, DHS, 500 C Street, SW., Room 330, Washington, DC 20472.

SUPPLEMENTARY INFORMATION:

Authority: Federal Fire Prevention and Control Act of 1974, 15 U.S.C. 2201 et seq., and the Consolidated Appropriations Resolution, 2003, Pub. L. 108-7.

Appropriations

For fiscal year 2003, Congress appropriated $750,000,000 to carry out the activities of the Assistance to Firefighters Grant Program (AFGP). From this amount $4,875,000 was rescinded leaving $745,125,000 to carry out the AFGP. We are also authorized to spend up to $37,500,000 for administration of the AFGP (five percent of the appropriated amount). In addition, we may set aside as much as

$27,500,000 of the funds available under the Assistance to Firefighter Grant Program in order for us to make grants to, or enter into contracts or cooperative agreements with, national, State, local or community organizations or agencies, including fire departments, for the purpose of carrying out fire prevention and injury prevention programs. This leaves approximately $680,000,000 for competitive grants to fire departments. We have until September 30, 2004, to obligate the appropriated funds.

Background

The purpose of the AFGP is to award grants directly to fire departments of a State to enhance their ability to protect the health and safety of the public, as well as that of firefighting personnel, with respect to fire and fire related hazards. We will award the grants on a competitive basis to the applicants that first address the AFGP's priorities then demonstrate financial need and adequately demonstrate the benefit to be derived from their projects.

For the purpose of the AFGP, ``State'' is defined as the fifty States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. We will provide the chief executives of the States with information concerning the total number and dollar amount of awards made to fire departments in their States.

Applicants may apply for any number of activities within one grant proposal that address all of their needs within a programmatic or functional area. The programs, and associated activities are as follows:

(a) Fire Operations and Firefighter Safety Program. Eligible activities under this function are Training, Wellness and Fitness, Firefighting Equipment, Personal Protective Equipment, and Modification to Fire Stations and Facilities.

(b) Fire Prevention Program. Eligible activities under this function include, but are not limited to Public Education and Awareness, Enforcing Fire Codes, Inspector Certification, Purchase and Install Smoke Alarms, and Arson Prevention and Detection.

(c) Emergency Medical Services Program. Eligible activities under this function are Equipment Acquisition, Training, and Wellness and Fitness Activities. Vehicles are not eligible in this programmatic area.

(d) Firefighting Vehicle Acquisition Program. Eligible apparatus under this program include, but are not limited to, pumpers, brush trucks, tankers, rescue, ambulances, quints, aerials, foam units, and fireboats.

Applicants seeking funding from this grant program in fiscal year 2003 may apply for assistance in only one of the four programmatic areas listed above. Within the selected programmatic area, applicants may develop a comprehensive program and include in their application as many of the eligible activities as necessary to address their needs. For example, if a fire department determines that it has needs in the area of fire operations, that fire department could apply for any one of the activities, or any combination of activities, or all of the activities listed within that program. If a department wants a vehicle, it would apply under the vehicle program..

We anticipate 20,000 to 25,000 fire departments will apply for assistance. Of these, we anticipate awarding approximately 7,000 grants. However, due to the length of time that it will take us to make these awards, we anticipate that approximately half of these awards will be made before September 30, 2003. We anticipate the balance of the awards will be made before June 30, 2004.

The law requires a certain distribution of grant funds between career departments and combination/volunteer fire departments. Specifically, we must ensure that fire departments that have either all-volunteer forces of firefighting personnel or combined forces of volunteer and career firefighting personnel receive a portion of the total grant funding that is not less than the proportion of the United States population that those departments protect. According to a 2001 survey by the National Fire Protection Association (NFPA), volunteer and combination departments protect 56 percent of the population of the United States and career departments protect 44 percent of the population. Therefore, we will ensure that no less than 56 percent of the funding available for grants will be awarded to volunteer and combination departments.

In order to fulfill our obligations under the law, we will make funding decisions using rank order after the panel evaluation as the preliminary basis. We may deviate from rank order and make funding decisions based on the type of department (career, combination, or volunteer), size and character of the community the applicant serves (urban, suburban, or rural), and/or the geographic location of the fire department. In these instances where we are making decisions based on geographic location, we will use States as the basic geographic unit. Geographic location of an applicant may be used primarily as a final discriminator, i.e., in cases where applicants have similar qualifications, we may use the geographic location of the applicants to maximize the diversity of the awardees.

[[Page 12554]]

Fire Prevention and Safety Grants

In addition to the grants available to fire departments in fiscal year 2003 through the competitive grant program, we will set aside as much as $27,500,000 of the funds available under the Assistance to Firefighter Grant Program in order for us to make grants to, or enter into contracts or cooperative agreements with, national, State, local or community organizations or agencies, including fire departments, for the purpose of carrying out fire prevention and injury prevention programs.

In accordance with statutory requirement to fund fire prevention activities, our support to Fire Prevention and Safety Grant activities will concentrate on organizations that focus on the prevention of injuries to children from fire. In addition to this priority, we are also placing an emphasis on funding innovative projects that focus on protecting the USFA-identified high-risk populations, i.e., children under fourteen, seniors over sixty-five, and firefighters. Since the victims of burns experience both short- and long-term physical and psychological effects, we are also placing a priority on programs that focus on reducing the immediate and long-range effects of fire and burn injuries, and primarily those affecting children.

A separate Notice of Funds Availability will be issued to announce the pertinent details of the Fire Prevention and Safety Grant portion of this program.

Applicant Eligibility

Eligible applicants for the Assistance to Firefighters Grant Program are limited to fire departments of a State. Under the existing interim final rule, a ``fire department of a State'' is defined as an agency or organization that has a formally recognized arrangement with a State, local or tribal authority (city, county, parish, fire

district, township, town or other governing body) to provide fire suppression services to a population within a fixed geographical area. For the purpose of this program, ``State'' is defined as the fifty States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

A fire department can apply for assistance for its emergency medical services unit provided the unit falls organizationally under the auspices of the fire department. Airport fire departments and port authority fire departments are eligible, but only if they have a formally recognized arrangement with the local jurisdiction to provide fire suppression services, on a first-due basis, outside the confines of the airport or port facilities. Airport fire departments and port authority fire departments whose sole responsibility is suppression of fires on the airport grounds or port are not eligible for this grant program.

Fire departments that are Federal, or contracted by the Federal government, and which are solely responsible under their formally recognized arrangement for suppression of fires on Federal installations, are not eligible for this grant program. Fire departments or fire stations that are not independent but are part of, or controlled by a larger fire department or agency are typically not eligible to apply on their own, but may be included in the larger agency's application. Fire departments that are for-profit departments (i.e., do not have specific non-profit status or are not municipally based) are not eligible to apply for assistance under this program. Also not eligible for this program are non-fire based EMS companies, ambulance services, rescue squads, auxiliaries, dive teams, urban search and rescue teams, fire service organizations or associations, and State/local agencies such as a forest service, fire marshal, hospitals, and training offices.

Application Process

Eligible applicants will be able to access the application on USFA's e-grant system. This system is accessible from the USFA Internet homepages. The application will only be available during the application period. Although we do not encourage the use of paper applications, paper applications will be available for applicants that do not have access to the Internet. If an applicant does not have access over the Internet to the USFA Web site, the applicant may contact us directly to request a copy via mail. Although we do not recommend it due to inherent delays and relatively short application period, those fire departments interested in receiving an application in the mail must call our toll-free hotline at 866-274-0960.

Applicants applying via paper application rather than the automated e-grant system should complete and submit their applications to us at Grant Program Technical Assistance Center, 16825 South Seton Avenue, Emmitsburg, Maryland, 21727-8998. Faxed applications will not be considered. We will not be responsible for applications sent to any other address.

The application period for the 2003 Assistance to Firefighters Grant Program is Monday, March 10, 2003, to Friday, April 11, 2003. Complete application packages must be submitted electronically or otherwise received by us on or before the close of business (5 p.m. EST) on Friday, April 11, 2003. Applications submitted by mail must be post-marked by April 8, 2003, or received by us on or before close of business (5 p.m. EST) on April 11, 2003. We will not accept late, faxed, or emailed applications.

The automated grant application system has features built into it

that will guarantee that the application is complete when submitted. We will not accept incomplete applications submitted by mail. We will not be responsible for any application that is not mailed to the address specified above.

We will evaluate each application in the preliminary screening process to determine which applications best address the program's established priorities. This preliminary screening is based on the applicants' answers to the activity-specific questions. Each activity within an application will be scored and applications that have multiple activities will have the scores prorated based on the amount of funding requested for each activity.

The best applications as determined in this preliminary step will be deemed to be in the ``competitive range.'' All applications in the competitive range will be subject to a second level review by a technical evaluation panel. The panelists will assess the application's merits with respect to the clarity and detail provided in the narrative about the project, the applicant's financial need, and the project's purported benefit to be derived from the cost.

Using the evaluation criteria included herein, the panelists will independently score each application before them and then discuss the merits/shortcomings of the application in an effort to reconcile any major discrepancies. A consensus on the score is not required. The assigned score will reflect the degree to which the applicant: clearly relates their proposed project; demonstrates financial need; and, details a high benefit to cost value of the proposed activities. The highest scoring applications resulting from this second level of review will then be considered for award.

In order to be successful in the panel evaluation, the narrative should include a detailed description of the planned activities, uses for the grant funds including details of each budget line item. For example, if personnel costs are

[[Page 12555]]

included in the budget, please provide a break down of what those costs are for. The narrative should also explain why the grant funds are needed and why the department has not been able to obtain funding for the planned activities on its own. A discussion of financial need should include an explanation of any Federal funding received for similar activities. Finally, the applicant's narrative should detail the benefits the department or community will realize as a result of the grant award. In addition to describing the cost effectiveness of the grant request, an applicant can demonstrate cost benefit by describing, as applicable, how the grant award will (1) Fit in with a regional approach, i.e., is consistent with current capabilities and requests of neighboring fire departments or otherwise benefits other fire departments in the region, (2) promote interoperability of equipment/technology with other fire departments and local, state and Federal first responders, and (3) allow the fire department to respond to all hazards. In addition to fire prevention/suppression, all hazards includes incidents involving seismic (earthquake), atmospheric (tornados, hurricanes), technological (hazardous materials, nuclear, etc.), and terrorism.

In addition to the project narrative, the applicant must provide an itemized budget detailing the use of the grant funds. If an applicant is seeking funds in more than one eligible activity within a program, separate budgets will have to be generated for each activity and then an overall or summary budget would have to be generated. For those applicants applying on line, the summary budget will be automatically generated by the e-grant system.

Applicants that need assistance in formulating the justification or narrative statement required by this program may contact us for technical assistance. We will also be conducting grant workshops in each State. We will place the information regarding the workshops on the USFA Web site. Our Technical Assistance Center's toll free number is 866-274-0960, our email using the feedback form, and our Web

site addresses are www.fema.gov and www.usfa.fema.gov, respectively.

Eligible Activities

Specific activities that are eligible for consideration for each program area are provided below under the descriptions of this year's eligible programs. Each department may only submit one application per application period. Applicants may only apply for one program area per application but they may seek funding in as many activities within the program area as they need. The specific activities eligible for each program area are delineated below. Applicants that submit multiple applications within one application period or more than one program will have each of their applications deemed ineligible. Applications submitted under this NOFA does not preclude applications submitted under subsequent NOFAs, though multiple awards in one Federal fiscal year may be limited.

Fire Operations and Firefighter Safety Program.

Appropriate activities under this program area include: Training, Wellness and Fitness, Firefighting Equipment, Personal Protective Equipment, and Modifications to Fire Stations and Facilities. You can apply for as many eligible activities under this function as necessary to meet your operational needs. There are no bonuses or penalties for applying for only one activity or for multiple activities. The purchase of any equipment (communications systems and equipment or personal protective equipment or firefighting equipment) under this program should have the intent and/or goal of solving your interoperability problems, as applicable. Any applicant seeking funding for equipment herein should provide details in the narrative section of their application regarding their local plan to enable interoperability for their jurisdiction.

(a) Training activities: USFA may make grants for the purpose of training firefighting personnel. Examples of training activities include, but are not limited to firefighting I and II, driver/operator, fire officer, hazardous materials response, incident command, supervision and safety, arson prevention and detection, handling of hazardous materials, or training firefighting personnel to provide training in any of these areas.

Eligible uses of training funds include but are not limited to purchase of training curricula, training equipment (including trailers), training props, training services, attendance at formal training forums, etc. Tow vehicles or other means of transport may be eligible as a transportation expense under this activity if adequately justified in your grant proposal, but we will limit transportation expenses to $6,000 per year. Compensation to volunteer firefighters for wages lost as a result of attending training under this program is an eligible expense if justified in your grant proposal. Overtime expenses paid to career firefighters to attend training, or overtime expenses paid to firefighters to cover for their colleagues while their colleagues are in training, is an eligible expense if justified in your grant proposal. Even though compensation is an eligible expense,

proposals that contain such compensation expenses may be less favorable than similar proposals without compensation expenses due to the benefit/cost element in the evaluation process.

Activities that are not eligible in this area include construction of facilities such as classrooms, buildings, towers, etc. Renovations to an existing facility necessary to accomplish training activities are allowable if the renovations are minor and comply with the definition in the final rule and published in the Federal Register (i.e., limited to minor interior alterations costing less than $10,000).

(b) Wellness and fitness activities: USFA may make grants for the purpose of establishing or expanding wellness and fitness initiatives for firefighting personnel. Applicants will not be eligible for funding under the wellness and fitness activity unless they currently provide entry level physical examinations, immunization programs, and periodic health screenings, or intend to use grant funds to provide these three benefits to all their active firefighting personnel including EMS staff.

Eligible expenses in a wellness and fitness activity for firefighting personnel may include the procurement of medical services to ensure that the firefighting personnel are physically able to carry out their duties (purchase of medical equipment is not eligible under this category). Expenses to carry out wellness and fitness activities may include costs such as personnel (i.e., health-care consultants, trainers, and nutritionists), physicals, equipment (including shipping), supplies, and other related contract services that are directly associated with the implementation of the proposed activity are eligible.

Transportation expenses and fitness club memberships for the firefighters or their families are not eligible under the wellness and fitness activity. Other expenses that are not eligible in this area include construction of facilities to house a fitness program such as exercise or fitness rooms, showers, etc. Renovations to an existing facility necessary to accomplish wellness and fitness activities are allowable if the renovations are minor and comply with the definition in the final rule and published in the Federal Register (i.e.,

[[Page 12556]]

limited to minor interior alterations costing less than $10,000).

(c) Firefighting equipment acquisition: USFA may make grants for the purpose of acquiring additional firefighting equipment, including equipment needed directly for fire suppression or to enhance the safety or effectiveness of firefighting or rescue activities.

Eligible expenses include those expenses necessary to acquire additional firefighting equipment, including equipment for individual communications and monitoring equipment. Compressor systems, cascade systems, or similar SCBA refill systems are eligible expenditures in this area. Small boats (under 13 feet in length), jet-skis, and all-terrain vehicles (ATVs) may be considered firefighting or rescue equipment if properly justified in the narrative section of the application.

Renovations to an existing facility necessary to accommodate new firefighting equipment are allowable if the renovations are minor and comply with the definition in the final rule and published in the Federal Register (i.e., limited to minor interior alterations costing less than $10,000).

Thermal imaging cameras are eligible, but the number of cameras that can be applied for and/or purchased with grant funds will be limited based on the population served by the department applying for assistance. Departments that serve communities of less than 20,000 can

purchase one thermal imaging camera with grant funds if awarded a grant; departments serving communities between 20,000 and 50,000 can purchase two cameras with grant funds if awarded a grant; and departments serving communities of over 50,000 can purchase three cameras with grant funds if awarded a grant.

Activities that are not eligible in this area include construction of facilities such as buildings, towers, etc. Vehicles, as defined in the final rule and published in the Federal Register, are not eligible under this activity. Signage and outdoor warning sirens or systems are also not eligible. Personal protective equipment, including clothing for structural and/or wildland fire suppression such as ``Turnout Gear'' or ``Bunker Gear'' (including boots, pants, coats, gloves, hoods, goggles, vests, helmets, coveralls, and fire shelters), self-contained breathing apparatus, spare cylinders, and personal alert safety systems, is not eligible under this activity, but is eligible under the Personal Protective Equipment Acquisition activity.

Integrated communications systems (or parts thereof), such as computer-aided dispatch, base stations, repeaters, etc., are eligible under this activity. Portable radios and/or mobile communications equipment (including mobile repeaters) are also eligible. Personal accountability systems are eligible as well. The cost of shipping equipment purchased under this program is also an eligible expense.

The purchase of any equipment under this program must have the intent and/or goal of satisfying local problems with interoperable systems. Any applicant seeking funding for communications systems and/or equipment must provide details regarding their local plan to enable interoperability for their jurisdiction in the narrative section of their application.

(d) Personal protective equipment acquisition: USFA may make grants for the purpose of acquiring personal protective equipment required for active firefighting personnel by the Occupational Safety and Health Administration, and other personal protective equipment for firefighting personnel.

Eligible personal protective equipment includes clothing for structural and wildland fire suppression such as ``Turnout Gear'' or ``Bunker Gear'' (including boots, pants, coats, gloves, hoods, goggles, vests, helmets, coveralls, and fire shelters), self-contained breathing apparatus, spare cylinders, and personal alert safety systems. Protective clothing for response to hazardous materials incidents and other specialized incidents are also eligible under this activity.

The purchase of three-quarter length rubber boots is an ineligible expenditure under this activity since it precludes the effective use of the eligible PPE cited above. Uniforms (formal/parade or station/duty) or uniform items (hats, badges, etc.) are also not eligible expenditures under this activity. Personal communications equipment such as radios and pagers are not eligible under this activity, but eligible under firefighting equipment acquisition activity.

The purchase of any equipment under this program must have the intent and/or goal of satisfying local problems with interoperable systems. Any applicant seeking funding for communications systems and/or equipment must provide details regarding their local plan to enable interoperability for their jurisdiction in the narrative section of their application.

(e) Modifications to fire stations and facilities activities: Eligible measures under this activity are limited but focused on promoting fire and life safety in fire stations and facilities. We believe that each of the eligible measures, if incorporated, would make any facility safer for firefighters. Measures that are eligible for funding are the installation of sprinkler systems, installation of vehicle exhaust extraction systems, the installation of smoke and/or

fire alarm notification systems, and minor renovations to facilities that are necessary in order to accomplish other activities under this grant. The grant funds are to be used to retrofit existing structures that do not have the eligible safety features or to upgrade facilities whose features are dated. The funds are not to be used to supplement new construction.

There are no monetary limits on the individual initiatives under this activity such as vehicle exhaust systems, sprinkler systems or smoke/fire alarm systems, but no applicant can request more than $100,000 in the modifications per fire station under their jurisdiction.

Fire Prevention Program.

USFA may make grants for the purpose of establishing or enhancing a fire prevention program. Appropriate activities in this program include, but are not limited to the following: public education, public awareness, enforcing fire codes, inspector certification, purchase and installation of smoke alarms and fire suppression systems, and arson prevention and detection activities. Applicants can apply for as many related activities under this function as necessary.

Eligible expenses to carry out these activities would include costs such as a fire education/safety trailer, personnel, transportation, equipment (including appropriate personal protective equipment), supplies, and contracted services which are directly associated with the implementation of the proposed activity. Tow vehicles or other means of transport may be eligible as a transportation expense if adequately justified in the proposal, but transportation expenses will be limited to $6,000 per year.

Construction is not eligible under this program. A safety village that is not transportable would be considered construction, and therefore, not eligible. Firearms are also not eligible.

Emergency Medical Services Program.

USFA may make grants for the purpose of establishing or enhancing a fire department's emergency medical services program. Applicants can apply the training activity, the equipment acquisition activity, or the wellness and fitness activity or all of these activities under this program area.

[[Page 12557]]

Eligible expenses for the training activities under this program could include instructional costs (i.e., books, materials, equipment, supplies, and exam fees), certification/re-certification expenses, and continuing education programs. Eligible expenses for equipment acquisition in this program could include defibrillators, basic and advanced life support equipment, universal precaution supplies (i.e., medical PPE) mobile and portable communication equipment, computers, expendable supplies (but not medications), and infectious disease control and decontamination systems.

Integrated communications systems (or parts thereof), such as computer-aided dispatch, base stations, repeaters, etc., are eligible under this activity. Portable radios and/or mobile communications equipment (including mobile repeaters) are also eligible. The purchase of any equipment under this program must have the intent and/or goal of satisfying local problems with interoperable systems. Any applicant seeking funding for equipment must provide details regarding their local plan to enable interoperability for their jurisdiction in the

narrative section of their application.

Wellness and fitness activities under the EMS program: USFA may make grants for the purpose of establishing or expanding wellness and fitness initiatives for firefighting and EMS personnel of a fire department. An applicant will not be eligible for funding under this wellness and fitness activity unless the applicant currently provides entry-level physical examinations, immunization programs, and periodic health screenings, or intends to use grant funds to provide these benefits to all firefighting personnel including active EMS staff.

Eligible expenses in a wellness and fitness activity for EMS personnel may include the procurement of medical services to ensure that the EMS personnel are physically able to carry out their duties (purchase of medical equipment is not eligible under this category). Expenses to carry out wellness and fitness activities may include costs such as personnel (i.e., health-care consultants, trainers, and nutritionists), physicals, equipment (including shipping), supplies, and other related contract services that are directly associated with the implementation of the proposed activity are eligible.

Not eligible in this program are medications and vehicles, such as ambulances. Vehicles must be applied for under the Vehicle Acquisition Program detailed below. Transportation expenses and fitness club memberships for the EMS personnel or their families are not eligible under the wellness and fitness activity. Other expenses that are not eligible in this area include construction of communication towers or facilities to house a fitness program such as exercise or fitness rooms, showers, etc. Renovations to an existing facility necessary to accomplish wellness and fitness activities are allowable if the renovations are minor and comply with the definition in the final rule and published in the Federal Register (i.e., limited to minor interior alterations costing less than $10,000).

Firefighting Vehicle Acquisition Program

USFA may make grants for the purpose of acquiring new firefighting vehicles, used fire apparatus, or refurbished apparatus. The funds may also be used to refurbish a vehicle that the department currently owns. Applicants may apply for only one vehicle per year under this program. A listing of the eligible vehicles and their relative priority is contained in the Evaluation Criteria section below.

Eligible expenses under this program would include the cost of the vehicle and associated equipment necessary to conform to applicable national standards. New, used or refurbished vehicles are eligible, however any used or refurbished vehicles must conform to national standards that were in effect the year the vehicle was manufactured. Custom vehicles are eligible, but due to benefit/cost considerations during review, they may not be as favorably evaluated as a lower costing standard model commercial vehicle. An allowance for transportation to inspect a vehicle under consideration or during a vehicle's production would be eligible if justified and included in the grant proposal. Also eligible would be the additional costs associated with the purchase and installation of a vehicle-mounted exhaust filtration system for any vehicle purchased with grant funds.

Applicants will not be allowed to modify the scope of work of a vehicle award, i.e. change the type of vehicle requested. Aircraft, bulldozers, and construction-related equipment are not eligible.

Other Eligible Costs

Administrative Costs. Administrative costs are allowable under any of the program areas listed above, in accordance with OMB Circular A-87

or OMB Circular A-122, as applicable. Applicants may apply for administrative costs if the costs are directly related to the implementation of the program for which they are applying. Applicants must list their costs under the ``other'' category in their budget and explain what the costs are for in their project narrative. Examples of eligible administrative costs would be shipping, computers, office supplies, etc. We will assess the reasonableness of the administrative costs requested in each application and determine if it is in the best interest of the program to fund all or a portion of the requested expenses.

Indirect Costs. Applicants that have an approved indirect cost rate may charge indirect costs to the grant if they submit the documentation that supports the rate to us. Indirect cost rates must be formally established and approved by the applicant's cognizant Federal agency. We will allow the rate to be applied as long as it is consistent with its established terms. For example, some indirect cost rates may not apply to capital procurements; in this case, indirect cost rates would not apply for a grant to purchase equipment or a vehicle.

Audit Costs. Some applicants with large awards may be required to undergo an audit in accordance with OMB Circular A-133, specifically, recipients of Federal funding that spends in excess of $300,000 of those funds in a year. The costs incurred for such an audit would be an expenditure that is eligible for reimbursement if included in the budget proposal.

Grant Writer Fees. Fees for grant writers may be included as a pre-award expenditure (as provided in section 152.7(b)), but fees payable on a contingency basis are not an eligible expense that can be charged to the grant. For grant writers' fees to be eligible as a pre-award expenditure, the fees must have been paid prior to award. Applicants may be required to provide documentation to support these pre-award expenditures.

Reasonableness of Costs. The panelists will review the applications that make it into the competitive range and judge each application on its own merits. The panelists will consider all expenses budgeted, including administrative and indirect, as part of the cost-benefit determination and may recommend appropriate adjustments. Regardless of eligibility of any costs requested, we reserve the right to reduce any requests for assistance, in whole or in part, that we deem to be excessive or otherwise contrary to the best interests of this program.

Pre-award Costs. Generally, fire departments cannot use grant funds to pay for products and services contracted for, or purchased prior to the effective date of the grant. However, we will

[[Page 12558]]

consider requests for reimbursement for these on an exception basis. Expenses incurred after the application deadline but prior to award may be eligible for reimbursement if the expenses were justified, unavoidable (i.e., urgent and compelling), consistent with the scope of work, and specifically approved by the Assistance Officer. Expenses, obligations, commitments or contracts incurred or entered into prior to the application deadline are not eligible to be included as an expense.

Evaluation Criteria

Specific rating criteria for each of the eligible programs and activities follow below. These rating criteria will provide an understanding of the grant program's priorities and the expected cost effectiveness of any proposed projects.

(1) Fire Operations and Firefighter Safety Program.

(i) Training Activities. We believe that more benefit is derived from the direct delivery of training than from the purchase of training materials, equipment or props. Therefore, applications focused on direct delivery of training will receive a higher competitive rating. We will also accord higher rating to programs achieving benefits from statutorily required training over non-mandatory or strictly voluntary training. We will rate more highly those programs that benefit the highest percentage of targeted personnel within a fire department. Training designated for Rapid Intervention Teams will have a slightly higher competitive advantage. It should be noted that on average the sending of trainees away for training will be less cost effective than delivery of the same training on-site.

Due to the inherent differences between urban, suburban, and rural firefighting characteristics, we have developed different priorities in the training activity for departments that service these different types of communities. For departments serving rural communities, we believe that funding of basic, operational-level firefighting, rescue, and responder training (i.e., training in basic firefighting duties or operating fire apparatus) has greater benefit than funding of officer training, safety officer training, or operations training. Likewise, we feel there is a greater cost-benefit to officer training than for other specialized training such as mass casualty, HAZMAT, WMD awareness, advance rescue, or inspector training. Conversely, for departments that are servicing communities that are suburban or urban, we believe there is a higher benefit to be gained by funding specialized training such as mass casualty, HAZMAT, advance rescue, or inspector training than the funding of officer training, safety officer training, or operations training, which in turn has a higher benefit than basic, operational, or awareness level activities.

(ii) Wellness and Fitness Activities. We believe that in order to have an effective wellness/fitness program, fire departments must offer an entry physical examination, an immunization program, and periodic health screenings. Accordingly, applicants seeking funding in this category must currently offer all three benefits, or must propose to initiate any of these benefits not currently offered with these grant funds in order to receive additional consideration for funding this activity. We believe the greatest benefit will be realized by supporting new wellness and fitness programs, and therefore, we will accord higher competitive ratings to those applicants lacking wellness/fitness programs over those applicants that already possess a wellness/fitness program. We believe that programs with annual physicals and general health screening provide high benefits and programs including employee assistance-type offerings, incident rehabilitation, formal fitness regiments, and/or injury prevention components offer significant benefits. Injury rehabilitation is eligible but provide a low cost benefit. Finally, since participation is critical to achieving any benefits from a wellness or fitness program, we will give higher competitive rating to departments whose wellness and fitness programs mandate participation as well as programs that provide incentives for participation.

(iii) Firefighting Equipment Acquisition. The stated purpose of this grant program is to protect the health and safety of the public and firefighters from fire and fire related hazards. As such, we believe that this grant program will achieve the greatest benefits if we provide funds to fire departments purchasing basic firefighting equipment before any other type of equipment. We will afford departments buying basic firefighting equipment for the first time (equipment never owned before) a higher competitive rating than departments buying replacement equipment or equipment that will be used to expand the department's capabilities into new mission areas. We

believe there is more benefit realized to bring a department up to the applicable minimum standard (i.e., as required by statute, regulation, or professional firefighting guidance), rather than to the department that is replacing equipment or enhancing capabilities. Equipment designated for Rapid Intervention Teams will have a slightly higher competitive advantage.

(iv) Personal Protective Equipment Acquisition. A stated purpose of this grant program is to protect the health and safety of firefighters from fire, fire related hazards and other hazardous conditions. The goal is to provide active firefighters with a complete set of equipment, breathing apparatus as well as turnout gear. As such, this grant program will achieve the greatest benefits if we provide funds to fire departments purchasing basic protective equipment for firefighting before other types of protective equipment. In order to achieve the goal and maximize the benefit to the firefighting community, we believe that we must fund those applicants needing to provide personal protective equipment (PPE) to a high percentage of their personnel. Accordingly, we will give a high competitive rating in this category to fire departments in which a large percentage of their active firefighting staff do not have any personal protective equipment and to departments that wish to purchase enough PPE to equip 100 percent of their active firefighting staff. We will also give a higher competitive rating to departments that are purchasing the equipment for the first time as opposed to departments replacing obsolete or substandard equipment (e.g., equipment that does not meet current NFPA and OSHA standards), or purchasing equipment for a new mission. Departments that are replacing used gear that is very old, will be afforded a higher competitive rating than a department whose gear is relatively new. We will provide a higher competitive rating to departments requesting integrated PASS devices than to those departments that are requesting non-integrated PASS devices. We also believe it is more cost beneficial to fund departments that have a high volume of fire related responses per year before funding less active departments. With respect to call volume, departments will be compared to departments with similar characteristics, i.e., urban compared to urban, suburban compared to suburban, and rural compared to rural. Equipment designated for Rapid Intervention Teams will have a slightly higher competitive advantage.

(v) Modifications to Fire Stations and Facilities. The stated purposes of this grant program is to protect the health and safety of firefighters, as such, eligible projects under this activity that are designed to directly protect the health and safety of firefighters. We believe that more benefit would be

[[Page 12559]]

derived from modifying fire stations than would be realized by modifying fire-training facilities or other fire-related facilities. Facilities that would be open for broad usage and have a high occupancy capacity would receive a higher competitive rating than facilities that have limited use and/or low occupancy capacity. The frequency of use would also have a bearing on the benefits to be derived from grant funds. The frequency and duration of a facility's occupancy have a direct relationship to the benefits to be realized from funding in this activity. As such, facilities that are occupied or otherwise in use 24-hours-per-day/seven-days-a-week would receive a higher competitive rating than facilities used on a part-time or irregular basis.

(2) Fire Prevention Program. We believe that the public as a whole will receive the greatest benefit by creating new fire prevention programs. Therefore, our priority is to target these funds to fire departments that do not have an existing fire prevention program as

opposed to those departments that already have such a program. Also, we believe the public will benefit greatly from establishing fire prevention programs that will continue beyond the grant year as opposed to limited efforts. Therefore, we will give a higher competitive rating to programs that will be self-sustaining after the grant period.

Because of the benefits to be attained, we will give a higher competitive rating to programs that target one or more of USFA's identified high-risk populations (i.e., children under fourteen years of age, seniors over sixty-five and firefighters), and programs whose impact is/will be periodically evaluated. We believe that the purchase or development and/or implementation of public education programs provides the highest benefits to a community therefore, applications that propose this type of project will receive the highest competitive rating. Programs that develop and enforce fire codes and standards, and arson prevention and detection programs typically provide long-term effect on fire prevention, therefore, they will receive a high competitive rating. We also believe programs that purchase and install residential and public detection and suppression systems provide significant benefits.

Programs that are limited to the purchase of public information materials and presentation aids and equipment achieve the least benefit; therefore, these types of activities will receive a lower competitive rating.

(3) Emergency Medical Services Program. Our overall objective in this program is to help fire departments start or expand EMS service delivery by providing training and equipment necessary to achieve their desired level of capacity. Because of the inherent benefits, the primary goal of this program is to train and equip all firefighters to the basic EMS certification level (i.e., first responder and EMT) and work toward an EMT-B level of capacity before assisting departments with established EMS programs in upgrading existing services.

In this program area, we will give the highest competitive rating to fire departments that are planning on acquiring a basic life-support level of service over upgraded or expanded services. We believe that enhancing or expanding an existing service that currently meets basic life-support to an intermediate life-support system would a higher benefit than enhancing existing services to the paramedic level.

Higher priority will be given to departments with a high call volume relative to departments of similar characteristic (i.e., urban, suburban, or rural). Also, departments that strive to comply with a State, Federal, or national standard will be afforded a slightly higher competitive standing.

(1) Firefighting Vehicle Program. In recognition of the inherent differences between urban, suburban, and rural firefighting conventions, we have developed different priorities in the vehicle acquisition program for departments that service these different types of communities. The following chart delineates our priorities in this program area for each type of community. Due to the competitive nature of this program and the imposed limits of funding available for this program, it is unlikely that we would fund many vehicles that are not listed as a priority-one or a priority-two this year.

Vehicle Acquisition Program Priorities

	Urban	Suburban
Priority One.....	Pumper Quint Rescue-pumper Aerial	Pumper Quint Rescue-pumper

	Rescue	
Priority Two.....	HAZMAT	Brush
	Light/Air	Rescue
	Rehab	Aerial
		HAZMAT
Priority Three.....	ARFF	Light/Air
	Foam	Tanker
	Brush	Pumper-tanker
	Command	Rehab
	Fire Boat	Command
Priority Four.....	Tanker	ARFF
	Pumper-tanker	Foam
	Watercraft	Watercraft
	Ambulance	Fire Boat
		Ambulance

Regardless of the type of community served, we believe that more benefit will be realized by funding fire departments that own few or no firefighting apparatus than by providing funding to a department with numerous vehicles. Therefore, we will give a higher competitive rating in the apparatus category to fire departments that have

[[Page 12560]]

few or no firefighting vehicles relative to other departments servicing similar types of communities. We consider vehicles that are on long-term loan or assignment to the applicant to be part of the applicant's fleet.

We will also give higher competitive rating to departments that have not recently purchased a new firefighting vehicle, and departments that wish to replace or relegate an old, high-mileage vehicle. We will also provide a higher competitive rating to departments seeking a vehicle that incur a significant number of responses relative to other departments servicing similar communities.

We believe that more benefit will accrue to a community that needs a new vehicle (i.e., the initial purchase of a new or used vehicle) as its first vehicle or to relegate a non-compliant vehicle to reserve status, i.e., relegate a vehicle that does not conform to applicable standards. Relegating a compliant vehicle has a lower priority than relegating a non-compliant vehicle. But replacing a compliant vehicle has more benefit than purchasing a vehicle to expand the operational capacity of a department into a new mission area.

While no competitive advantage has been assigned to the purchase of commercial vehicles versus custom vehicles, or used vehicles versus new vehicles in the preliminary evaluation of applications, it has been our experience that depending on the type and size of department, the technical evaluation panelists often prefer low-cost vehicles when evaluating the cost/benefit section of the project narratives. Panelists may be provided with guidance for use in their evaluation on the reasonableness of vehicle costs. We may also instill funding limits on requests for vehicles that we deem excessive or otherwise not in the best interest of the program.

Finally, we believe that it would be more beneficial to the nation's fire service if we gave these vehicle awards to as many fire departments as possible, therefore, we will allow each fire department to apply for only one vehicle per year.

Reporting Requirements

The grantees may be required to submit a progress report regarding the financial and performance status of their project after six months of performance and at the closure of the grant. The due dates will vary from grantee to grantee, based on the performance period as indicated in the Articles of Agreement. These performance reports should provide us with a comparison of actual accomplishments to the objectives approved in the grant scope of work. Any issues that may affect a timely close out of the award should be reported at this time.

The mid-term report is due within 30 days of the end of the first six-months. All grantees will be required to submit a final report within 90 days of completion of the grant performance period or the closure of the grant, whichever comes first.

Dated: March 7, 2003.

Michael D. Brown,

Acting Under Secretary, Emergency Preparedness and Response Directorate.

[FR Doc. 03-6172 Filed 3-13-03; 8:45 am]

BILLING CODE 6719-08-P

NEWS

From The United States Congress

FOR IMMEDIATE RELEASE
December 10, 2003

CONTACT:

Lincoln: Drew Goesl (202) 224-4843
Pryor: Rodell Mollineau (202) 224-2353
Ross: Adrienne Elrod (202) 225-0753
Berry: Andrew Nannis (202) 225-4076
Snyder: Jennifer Oglesby (501) 324-5943
Boozman: Patrick Creamer (202) 225-4301

To: Terry

Arkansas Delegation Announces $1,054,140 in Fire Protection Grants

WASHINGTON, D.C. – U.S. Senators Blanche Lincoln and Mark Pryor, along with U.S. Reps. Marion Berry, Vic Snyder, Mike Ross, and John Boozman announced Friday that nine fire departments in Arkansas have been awarded $1,054,140 in grants from the Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant Program.

This program provides support to fire departments by providing the tools and resources necessary to ensure both the safety of department personnel and the general public. Grant funds are used to enhance firefighting operations, develop firefighter health and safety programs, acquire new equipment and vehicles, enhance EMS programs, and conduct fire prevention and safety programs.

The following departments have been awarded grants for Fire Operations and Firefighter Safety:

- **Reetor – $29,196**
- **Little Rock – $429,800**
- **McAlmont (North Little Rock)— $35,243**
- **Fort Smith – $230,895**
- **Morning Star (Hot Springs) – $22,973**
- **Point Cedar (Bismark) – $25,034**

The following department was awarded a Fire Prevention grant:

- **Trumann– $35,550**

The following department was awarded a grant to purchase a firefighting vehicle:

- **South Bend (Jacksonville) – $152,629**

The following department was awarded a grant for Emergency Medical Services:

- **Fayetteville – $92,820**

These awards are part of the 26th round of grant announcements. To date, over 6,800 fire departments have received almost $517 million to support their role as first responders in the neighborhoods and communities they serve as firefighters.

-END-

Executive Summary
Fire Department 2003 FIRE Act Grant
March 4, 2003

Background:

During 2002 the Fayetteville Fire Department requested and received a FIRE Act Grant through the Federal Emergency Management Agency and the US Fire Administration. This grant, which totaled approximately $111,000, was used to purchase new turn-out gear for all Fire Department uniform personnel.

This grant program is part of the Federal Government's effort to enhance homeland security and improve local Fire Department's ability to provide efficient and effective Fire, EMS and Rescue services at the municipal level. This grant currently requires a 30% match; however, local Fire Departments are allowed to utilize Act 833 Insurance Turnback money to cover this requirement.

Current Status:

During the 2003 funding cycle FEMA has identified four primary criteria areas in which these grants will be awarded. These areas are Fire Operations and Safety, Fire Prevention, Fire Department Vehicles and Emergency Medical Services. Organizations requesting grant funds during the 2003 cycle, and who have received funding during previous cycles, are required to apply in a different category this year.

Since the Fire Department applied for, and received, funding under the Fire Operations and Safety category we have decided that this years request should focus on the Emergency Medical Service aspect of the grant.

The Fire Department would like to request funding, through this grant, to establish two specific programs. The primary program would be the Fire Fighter Wellness & Fitness program, which will allow the organization to focus on developing and maintaining an effective health and fitness program for our personnel. The secondary program will be the Fire Department Emergency Medical Technician Training program which will allow the Department to provide EMT training to its personnel in a more cost effective manner.

Currently the Fire Department is required to provide this training by outsourcing it to private contractors who charge the Department approximately $600 per person, or $52,000 per year. This includes the actual cost of the training class and any overtime required to attend this class. Establishing these two programs would allow the Fire Department to conduct this training in a more efficient and effective manner while employees are on-duty rather than paying overtime for them to attend these classes. This would also allow the Fire Department to set the training schedule rather than being forced to conform to schedule of an independent instructor. Once these programs are established this training service could also be made available to other City Departments on an as needed basis.

Potential Cost Factors:

The establishment of this Division would require the employment of a Program Coordinator and the purchase of several pieces of monitoring and training equipment. These costs will allow the Fire Department to conduct health assessments, develop individual employee fitness programs and provide effective training related to the emergency medical service. Fortunately, this year's FIRE Act Grant, under the EMS category, provides funding for the personnel, as well as equipment, necessary to accomplish these goals. The Fire Department would like to request funding for this additional staff position as well as the aforementioned equipment.

As previously mentioned, this grant requires the Department to provide 30% in matching funds; however, Insurance Turnback (Act 833) funds can be used meet this requirement. Through this process the Department will also be required to maintain this position for one additional year, after the funding is awarded; however, this can be accomplished through the standard annual budgeting process. Current estimates identify the initial start-up cost for this program will be approximately $100,000 with FEMA providing $70,000 and the Fire Department providing the matching $30,000.

The Fire Department is currently working out a detailed cost sheet for this application and will be happy to provide this information once the process is complete. Further, according to City Ordinance, the Fire Department will bring this request before the Council for approval prior to accepting the grant if it is awarded. This initial request does not commit the City to any requirements; it simply provides the Fire Department with permission to proceed with the grant request process.

Recommendation:

The Fire Department would like to request a Resolution, from the Council, allowing us to submit a grant application to the Federal Emergency Management Agency for a FIRE Act Grant. This grant would provide funding for the establishment of a Wellness & Fitness/EMS Division. We believe this funding will be beneficial to the Department and will assist us in more efficiently and effectively maintain adequate levels of training and improved service to the citizens of Fayetteville.

From the Desk of the Fire Chief

Fayetteville Fire Dept
303 W. Center St.
Fayetteville, AR. 73701
(479) 575-8365

Memo

To: Stephen Davis, Finance & Internal Services Director

From: Chris Bosch, Fire Chief (CB)

CC: Dan Coody, Mayor

Hugh Earnest, Chief Admin. Officer

Date: December 16, 2003

Re: 2003 FEMA FIRE Act Grant Request

On December 10, 2003, I received notice of our award, through the FIRE Act Grant. The amount awarded was $92,820 for the establishment of a Wellness & Fitness/EMS Training program.

When I initially requested permission, from City Council, to apply for this grant you had expressed several questions regarding the Fire Department's current and previous system for providing and maintaining EMT training and certification. At this time, I would like to address your questions and clear up any confusion surrounding the current method for providing EMT training and recertification. I will try to address these questions as drafted.

1. How has the City paid/provided for re-certification for EMT's in prior years?

Historically, the Fire Department has been required to find an agency in the region who has scheduled an EMT training and recertification class and then try to place as many students in the class as possible. Often times these efforts were conducted with help from the Arkansas Fire Academy or the Northwest Arkansas Community College; however, we were at the mercy of the provider regarding when, where, and how often these refresher opportunities could be provided. We also have no control over the cost of these classes, which normally span a 3-6 week period with the cost of this training budgeted through the Fire Department's Travel & Training Budget.

2. Was the re-certification class conducted by the Fire Training Officer?

The Department's Training Officer currently coordinates the re-certification process; however, we currently do not have anyone on staff that can provide this level of training on an in house basis, without creating additional overtime costs or negatively influencing the minimum staffing levels.

3. How will the Fire Department be able to provide the training in-house, maintain minimum staffing, and not incur overtime?

As previously mentioned, the Fire Department does not have anyone, on staff, who is capable of providing this level of training, as required by the Arkansas State Fire Academy and the State Department of Health, without impacting the minimum staffing levels and subsequently creating additional overtime costs. Through funding provided by this grant, the Fire Department would be able to hire an EMT Instructor, as a Civilian Employee, to establish and oversee this training program as well as the Wellness & Fitness Program.

Currently, there are two methods for maintaining Fire Fighter EMT certification. The first method involved each EMT attending a 24-hour refresher course then passing a re-certification examination once every two years. Normally, this course spans a 3-6 week period with classes scheduled during the evening in four-hour sessions. This often requires Fire Fighters to attend this class while on shift, which means they are required to leave their assigned post which creates the need for replacement overtime while they are in class and also while they travel to and from the class. When a Fire Fighter is off duty and is required to attend class, he/she receives overtime pay for their time in class, since the EMT Certification is a requirement of their minimum standard training.

The second method for maintaining EMT certification is through the provision of Continuing Education Units, with a fire fighter requiring 36 hours every two years. Historically, due to the lack of a certified EMT Instructor, the Fire Department has not utilized this method of training, which would be more cost effective and reduce the amount of overtime required to maintain certification.

The Fire Department is proposing the adoption of this recertification model for providing EMT CEU's, while Fire Fighters are on duty. This would reduce the overtime required for refresher training and allow for a more effective EMT training program. Fire Fighters will receive EMT/CEU training while on-duty and the necessary hours of training will be provided while the units remain in service so we can maintain minimum staffing levels without creating the need for additional training overtime.

4. Can an existing Fire Department Position be re-assigned to provide the staff requested as part of this grant application?

As previously mentioned, in order to provide this level of training, the EMT Instructor must be a Paramedic, attend 48 hours of EMT Instructor Training, participate in

clinical training time, and participate in at least eight hours of classroom teaching time every two years. The Fire Department currently does not have anyone on staff available to provide this level of training, without negatively influencing minimum staffing or creating additional overtime costs in some other area of the Department.

5. How does this new program and related new staff fit into the overall staffing issues for the Fire Department?

As you may recall, the Fire Department identified the need for this position in the 2003 Budget preparation process. We requested this position as a target overrun for the "03" budget but were unable to secure this position due to a lack of available funds. Originally, this position was request because the Fire Department realized this position would better serve the Department by allowing us to utilize the CEU model for EMT recertification while on-duty.

This position will benefit the Fire Department by allowing us to conduct recertification training on an in-house basis and provide EMS oversight between the Fire Department, Central EMS and Washington County and the State Department of Health. This person will also be responsible for ensuring that contract reporting standards are met and that EMS reporting data is tabulated, analyzed and tracked to maintain an more effective EMS system.

6. Does the Fire Department have existing facilities to support this grant?

Currently, the Fire Department has the space required to handle this program. This person will have an office at Fire Station 1 and will provide training sessions at each Fire Station in order to keep the respective Fire Units in service and in their primary response districts while participating in training. The Fire Department also has the necessary funds available to meet the 30% matching funds requirement, by utilizing the annual Insurance Turn Back Funds provided under the Act 833 provisions. Historically the restrictions on the use of these funds has been somewhat limited; however, in 2003 the State of Arkansas modified these requirements to allow Act 833 funds to be used as matching funds for various grant programs.

I hope my response helps to clear up any questions and concerns you might have regarding the 2003 FIRE Act Grant application and award, as well as the Fire Department's ability to meet the grant requirements. As noted, I believe these funds will assist the Fire Department in establishing a comprehensive program that will help reduce annual overtime expenditures, improve the quality of our overall training program and ensure that each Fayetteville Fire Fighter is able to provide the most effective level of service possible. If you have any questions regarding this program, please feel free to contact me. I will be happy to answer any questions you might have.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Hugh Earniest, Chief Administrative Officer
Chris Bosch, Fire Chief

FROM: Stephen Davis, Finance & Internal Services Director

DATE: February 20, 2003

SUBJECT: Fire Department FEMA Grant

The Fire Department has an agenda request to obtain City Council authorization to apply for a FEMA grant that will provide for two programs: Fire Fighter Wellness & Fitness and Emergency Medical Technician Training. The projected cost of both programs is approximately $111,000.

A portion of the justification for the programs is the requirement that the City's EMT's be re-certified every two years. The re-certification cost, per the agenda memo, is approximately $52,000 and includes the cost paid to the third party provider, as well as the overtime paid to the fire fighter.

Finance staff has reviewed the agenda item and have several questions. I request that the item be left on the agenda and that the questions are clarified between the time of grant filing and any grant acceptance. The questions are as follows:

1) How has the City paid/provided for re-certification for EMT in prior years?
2) Was the re-certification class conducted by the Fire Training Officer?
3) How will the Fire Department be able to provide the training in-house, maintain minimum staffing and not incur overtime?
4) Can an existing Fire Department position be re-assigned to provide the staff requested as part of this grant application?
5) How does this new program and related new staff fit into the overall staffing issues for the Fire Department?
6) Does the Fire Department have existing facilities to support this grant request?

EMPLOYEE REQUISITION
CITY OF FAYETTEVILLE

DEPARTMENT **Fire** DIVISION **Operations**

♦ POSITION DATA (COMPLETE ALL ITEMS IN THIS SECTION)

JOB TITLE **EMS Coordinator / Wellness Program Coordinator**

JOB GRADE _____ [ ] FULL TIME [X] TEMPORARY [ ] PART TIME

*PRE-EMPLOYMENT DRUG SCREENING __ DOT __ SAFETY SENSITIVE __ EXEMPT

DATE EMPLOYEE NEEDED _____ CDL REQUIRED YES [ ] NO [ ]

GL FUND & PROGRAM/SPLIT OUT **1010.3020.5101.00**

♦ BUDGET STATUS

1. [ ] EXISTING BUDGETED POSITION

_____ _____
NAME OF FORMER EMPLOYEE LAST DAY IN POSITION

2. [X] NEW POSITION (REQUIRES HR DIV. APPROVED JOB DESCRIPTION & VALUATION)

POSITION AUTHORIZED BY:

[ ] CURRENT ANNUAL BUDGET

[ ] IN-YEAR BUDGET ADJUSTMENT

♦ NOTES/COMMENTS

ADVERTISE POSITION? Yes [X] No [ ]

DOES THIS EMPLOYEE NEED INTERNAL SERVICES TRAINING? Yes [ ] No [X]

OTHER COMMENTS:

♦ APPROVAL SIGNATURES (ALL SIGNATURES ARE REQUIRED TO OPEN A POSITION)

_____ _____
Division Head Date Dept. Director 12/16/03 Date

_____ _____
Human Resources Division Date Finance and Internal Svcs. Director Date

_____ _____
Budget and Res. Division Date Mayor/CAO Date

THIS EMPLOYEE REQUISITION FORM MUST BE PROPERLY COMPLETED WILL ALL APPROVAL SIGNATURES PRIOR TO THE HR DIVISION INITIATING ACTION TO FILL JOB OPENING. Revised 8/03

CITY OF FAYETTEVILLE
POSITION DESCRIPTION

SECTION 1 **HEADING**

Position: EMS/Wellness & Fitness Coordinator Job Code: 62

Incumbent: New Position Department: Fire Department

Reports To: Chris Bosch (Name)
Fire Chief (Title)

Payroll Section: Fire Training

Approvals: _____ (Initials) (Date)

Date: December 16, 2003

SECTION 2

(Briefly describe the overall role of your job in the City and the reasons for its existence.)

The primary responsibility of the EMS/Wellness & Fitness Coordinator is to establish and maintain an EMS Training program for the Fayetteville Fire Department and to establish and monitor the Fire Department's Wellness & Fitness Program. This person will also track the Fire Department's progress in ensuring that our citizens receive the most efficient and effective Basic Life Support Service the Fire Department can provide.

This individual will be charged with complete oversight of the Fire Department's EMS program and also with serving as the Department's primary liaison with Central EMS, the Washington County Medical Director and the Arkansas State Department of Health.

SECTION 3 **MAJOR DUTIES & TASKS**

1. Establish an ongoing Emergency Medical Technician Training Program for the Department.
2. Establish an ongoing Wellness & Fitness Program for the Fire Department.
3. Conduct ongoing Emergency Medical training sessions for each member of the Department.
4. Conduct ongoing Wellness & Fitness Assessments for Fire Department personnel.
5. Track the continuing education training credits for each EMT currently employed by the Department.
6. Assist Fire Department personnel in establishing and achieving realistic health & fitness goals.
7. Develop and review all EMS reports to ensure the Fire Department is meeting the necessary requirements for EMT's as established by the State of Arkansas and the National Registry of Emergency Physicians.

8. Track trends and changes in the field of Emergency Medical Service and ensure that all Department EMT's have been educated regarding these critical changes.
9. Work with the State and County Board of Health to ensure the Fayetteville Fire Department is meeting all required guidelines established by these agencies.
10. Maintains up to date records on EMT certification and ensures that EMT's meet all recertification requirements on an ongoing basis.
11. Maintain up to date records on Wellness & Fitness activities of Fire Department Personnel.
11. Identify and procure grant funding to be utilized in maintaining the Fire Department's EMT Program.

SECTION 4 EQUIPMENT OPERATED AND SKILL LEVEL REQUIRED

(Describe the equipment you operate on the job.)

This individual will be required to exhibit skills in the use of a personal computer and various software programs as well as any other equipment used by Emergency Medical Technicians working in the field.

SECTION 5 SPECIAL LICENSES OR CERTIFICATES REQUIRED

This individual will be required to have the certification level of Paramedic/EMT Trainer as recognized by the State of Arkansas. A Bachelor of Science or Arts degree is desirable but not mandatory at this time.

SECTION 6 WORKING CONDITIONS

(Describe the environment in which you do your work.)

Physical Effort:

Some physical effort and lifting may be required; however, this individual will be working in administrative capacity as well as in a classroom setting.

Adverse Conditions:

None

Hazards:

None

SECTION 7 NATURE AND SCOPE

(Paragraph description of the type of work you do.)

Major Challenges:

The major challenge surrounding this position will be the establishment of a new program for the Department that has never participated or conducted an internal Emergency Medical Service Training Program.

Workflow:

The Fire Chief and his\her designee will give assignments. Routine functions consist of scheduling and teaching CEU classes to over 80 Certified Emergency Medical Technicians within the Fire Department as well as reviewing and processing EMS Reports and conducting Automatic External Defibrillator Reviews with the Medical Director. Also, establishing and maintaining the Fire Department's Wellness & Fitness program, including all records maintenance and tracking. Work is primarily self initiated and can include specific assignments as necessary.

Decision Making:

This individual will be expected to prioritize work to maintain smooth flow of work on a daily basis. Fire Department Standard Operating Procedures will be utilized. Duties/assignments will be reviewed by Fire Chief, or his/her with considerable latitude for the exercise of independent judgment and initiative in performing routine daily functions.

Contacts:

This individual will be in direct contact with the general public, municipal organizations, other City Departments, division heads, vendors.

SECTION 8 ADDITIONAL REMARKS

(Add any other important information that has not been included)

This individual will be assigned to a 40 hour work week with some overtime on an as needed basis. Travel will be minimal, but may include attending various Emergency Medical Service conferences, seminars and trade shows.

Proficiency in the use of computers and EMS tools is preferable.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
X GRANT REVIEW

For the Fayetteville City Council Meeting of: January 6, 2004

FROM:

Chris Bosch, Fire Chief	Fire Administration	Fire
Name	Division	Department

ACTION REQUIRED: The Fire Department requests approval of a Resolution accepting a grant award of $92,820 through the Assistance to Fire Fighters Grant Program, Emergency Medical Services section. This request includes funding for a temporary position to establish and coordiate this program. The Fire Department's matching funds requirement for this request is $39,780 and has been received from Act 833 monies distributed during 2003.

COST TO CITY:

$39,780.00	$ 57,250.28	Assistance to Fire Fighters Grant
Cost of this request	Category/Project Budget	Program Category / Project Name
1010.0001.4308.00	$ 39,780.00	EMS Training/Wellness & Fitness
Account Number	Funds Used to Date	Program / Project Category Name
	$ 17,470.28	Act 833 Revenue Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item X Budget Adjustment Attached

Budget Manager — 11-22-03 Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fountain — 12/19/03 Date — Accounting Manager

Nancy Smith — 12/19/03 Date — Internal Auditor

D. L. Whit * See Comments — 12/19/03 Date — City Attorney

L Vice — 12/19/03 Date — Purchasing Manager

STAFF RECOMMENDATION: Approval of the Resolution.

Division Head — Date

C B B — 12/16/03 Date — Department Director

Finance & Internal Services Dir. — 12/22/03 Date

Chief Administrative Officer — Date

Mayor — Date

Received in Mayor's Office — Date

Cross Reference:

Previous Ord/Res#: 35-03

Orig. Contract Date:

Orig. Contract Number:

New Item: **Yes** No

ENTERED 12/17/03 JLS

Staff Review Form - Page 2

Description 2003 FIRE Act Grant Acceptance Meeting Date January 6, 2004

Comments:

Budget Manager

Reference Comments:

Accounting Manager

City Attorney

Resolution may need revision after we've seen the Budget Adjustment paperwork.

12/19/03

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

January 6, 2003 City Council Agenda

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

FROM: Dan Coody, Mayor

DATE: December 18, 2003

Subject **Sale of Wilson Springs Site (I-540 Property)**

Recommendation
City Council is requested to approve a budget adjustment in the amount of $1,558,000 from General Fund reserves to Economic Development Grants in Sales Tax Capital Fund and $100,000 from General Fund reserves to Economic Development Program – Professional Services in General Fund for a total adjustment of $1,658,000. The proposed adjustment will provide funds to restore the original money used to purchase Wilson Springs property along I-540, provide the appropriation to enable Lyle Sumek to return for a follow-up meeting on our strategic plan and fund a more aggressive effort in obtaining federal funding for local issues.

Discussion
The closing of the I-540 Property was completed last week and the City has deposited a check in the amount of $5,177,115. It is certainly one that will be of great benefit to good, well-planned development in this area of our city.

The culmination of this transaction proves that progressive economic development and environmental protection can be achieved if we work at it hard enough and have the political courage to support new ideas. I want to thank each of you for your help in seeing this project through. This is one of our most important accomplishments.

Our goal with the one-time windfall is to keep it from being only a one-time windfall. We need to use this as seed money to be used to fulfill our goals for Fayetteville as many times as possible. I will be bringing to you some concepts for your consideration that may help us capitalize on this infusion for many years to come.

Right now, however, one of the first items that needs to be completed is the transfer of a portion of the funds to replenish the economic development grant project. The vast majority of the original funds to purchase the property came from money budgeted for economic development and that investment should be made in order to continue the original intent. The transfer proposed is approximately $1.7 million. The remaining $3.5 million can remain in General Fund as a restricted reserve to be appropriated with specific City Council approval. None of the funds from the sale of the I-540 property can be spent without specific City Council approval.

Attachments:
Budget adjustment form
Schedule of land cost through December 31, 2002
Copy of Settlement Statement

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT TRANSFERRING SOME OF THE PROCEEDS FROM THE SALE OF WILSON SPRINGS, I-540 LAND FROM THE GENERAL FUND TO THE SALES TAX CAPITAL FUND AND TO ECONOMIC DEVELOPMENT PROGRAM – PROFESSIONAL SERVICES IN GENERAL FUND

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 budget adjustment (attached as Exhibit "A") which transfers $1,558,000 from General Fund reserves to Economic Development Grants in the Sales Tax Capital Fund and $100,000.00 from General Fund reserves to Economic Development Program – Professional Services in General Fund.

PASSED and **APPROVED** this the 6th day of January, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Sales Tax Capital Improvements	Date Requested	Adjustment Number
2004	Division: Program:	1/6/2004	

Project or Item Requested:

$100,000 is requested for Economic Development and $1,558,000 in Sates Tax Capital Improvements.

Project or Item Deleted:

None. Funds are from the sale of the Wilson Springs property along I-540.

Justification of this Increase:

To provide an appropriation to enable Lyle Sumek to return for a follow-up meeting on the strategic plan and to restore the original money used to purchase Wilson Springs property along I-540.

Justification of this Decrease:

Sufficient funding remains to comply with City policies.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Transf to Cap Improvement	1010	6600	7602	47	1,558,000		
Professional services	1010	0500	5314	00	100,000		
Professional services	4470	9470	5314	00	1,558,000	02050	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	1010	0001	4999	99	1,658,000		
Transfer from General	4470	0947	6602	01	1,558,000		

Approval Signatures

Requested By	Date
Barbara Fell Budget Manager	12/19/03 Date
Department Director	Date
Finance & Internal Services Director	12-19-03 Date
Mayor	Date

Budget Office Use Only

Type: A B C (D) E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

Commerce Park Land - 289.27 Acres
Land Cost and Unrealized Investment Earnings

Year	Investment in Land	Average Rate of Return	Unrealized Interest Earnings (Estimated)	Total
1990	1,301,305.74	0.04481	58,311.51	1,359,617.25
1991	1,301,305.74	0.07392	96,192.52	1,397,498.26
1992	1,301,305.74	0.05755	74,890.15	1,376,195.89
1993	1,301,305.74	0.06312	82,138.42	1,383,444.16
1994	1,301,305.74	0.04658	60,614.82	1,361,920.56
1995	1,301,789.73	0.06651	86,582.03	1,388,371.76
1996	1,304,704.09	0.05442	71,002.00	1,375,706.09
1997	1,307,618.45	0.05644	73,801.99	1,381,420.44
1998	1,310,532.81	0.05215	68,344.29	1,378,877.10
1999	1,313,263.00	0.04996	65,610.62	1,378,873.62
2000	1,509,211.38	0.05769	87,066.40	1,596,277.78
2001	1,646,807.88	0.05255	86,539.75	1,733,347.63
2002	1,658,814.03	0.04015	66,601.38	1,725,415.41
			977,695.88	

Total Land Cost	1,658,814.03
Total Unrealized Interest Earnings	977,695.88
Total	2,636,509.91

1

Bgt # I-540
Resl. No. 68-03

U.S.DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OMB No.2502-

A. SETTLEMENT STATEMENT

B. TYPE OF LOAN

1. ☐FHA 2. ☐FMHA 3. ☐ CONV.UNINS.
4. ☐VA 5. ☐CONV.INS.

6. File Number	7. Loan Number	8. Mortgage Insurance Case Number
FATIC 03-7409BV		

C. NOTE: This form is furnished to give you statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. NAME AND ADDRESS OF BORROWER	E. NAME AND ADDRESS OF SELLER	F. NAME AND ADDRESS OF LENDER
LEGACY PROJECT, LLC., H. COLLINS HAYNES, AUTHORIZED MEMBER 5417 PINNACLE POINT DR., STE 100 ROGERS,AR 72758	CITY OF FAYETTEVILLE DAN COODY, MAYOR 113 W. MOUNTAIN STREET FATETTEVILLE, AR 72701	COMMUNITY BANK OF NORTH ARKANSAS

G. PROPERTY LOCATION	H. SETTLEMENT AGENT	I. SETTLEMENT DATE
PT NW NE NE NE 33-17-30 FAYETTEVILLE, ARKANSAS	BRONSON TITLE SERVICES, INC. PLACE OF SETTLEMENT 2886 BELLA VISTA WAY BELLA VISTA, AR 72714	12-12-03 DISBURSEMENT DATE 12-12-03

J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER		400. GROSS AMOUNT DUE TO SELLER	
101. Contract sales price	5,200,000.00	401. Contract sales price	5,200,000.00
102. Personal Property		402. Personal Property	
103. Settlement charges to borrower (line 1400)	280,813.00	403.	
104.		404.	
105.		405.	
ADJUSTMENTS FOR ITEMS PAID BY SELLER IN ADVANCE		ADJUSTMENTS FOR ITEMS PAID BY SELLER IN ADVANCE	
106. City/Town taxes to		406. City/Town taxes to	
107. County taxes to		407. County taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER	5,480,813.00	420. GROSS AMOUNT DUE TO SELLER	5,200,000.00
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER		500. REDUCTIONS IN AMOUNT DUE TO SELLER	
201. Deposit or earnest money	10,000.00	501. Excess Deposit (see instructions)	10,000.00
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	12,885.00
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204. Application deposit		504. Payoff of first mortgage loan	
205. Second lien mortgage		505. Payoff of second mortgage loan	
206. NEW LOAN AMOUNT $13,000,000.0		506.	
207. INITIAL DRAW	5,470,813.00	507.	
208.		508.	
209.		509.	
ADJUSTMENTS FOR ITEMS UNPAID BY SELLER		ADJUSTMENTS FOR ITEMS UNPAID BY SELLER	
210. City/Town taxes to		510. City/Town taxes to	
211. County taxes to		511. County taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY/FOR BORROWER	5,480,813.00	520. TOTAL REDUCTION AMOUNT DUE SELLER	22,885.00
300. CASH AT SETTLEMENT FROM OR TO BORROWER		600. CASH AT SETTLEMENT TO OR FROM SELLER	
301. Gross amount due from borrower (line 120)	5,480,813.00	601. Gross amount due to seller (line 420)	5,200,000.00
302. Less amounts paid by/for borrower (line 220)	(5,480,813.00)	602. Less reduction amount due seller (line 520)	(22,885.00)
303. CASH ☒ FROM ☐ TO BORROWER		603. CASH ☒ TO ☐ FROM SELLER	5,177,115.00

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

LEGACY PROJECT, LLC., H. COLLINS HAYNES, AUTHORIZED MEMBER — Borrowers

CITY OF FAYETTEVILLE DAN COODY, MAYOR — Sellers

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of this transaction.

Settlement Agent — Date

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U. S. Code Section 1001 and Section 1010.

Previous Edition Is Obsolete
Z366.LM (03/91) P(7/91) U(7/8/91)

HUD-1 (07-67) RESPA, HB 4305.2

STAFF REVIEW FORM

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: January 6, 2004

FROM:

Hugh Earnest	Chief Administrative Officer	General Government
Name	Division	Department

ACTION REQUIRED: City Council is requested to approve a budget adjustment transferring proceeds from the Wilson Springs property from General Fund to Sales Tax Capital Fund. The transfer will re-allocate $1,558,000 to Economic Development Grant Project, $100,000 for Professional Services in the Economic Development Program in General Fund and $3,519,000 as a reserved fund balance for future appropriation by City Council.

COST TO CITY:

None at this time	$ -	
Cost of this request		Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	General Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ____ Budgeted Item XX Budget Adjustment Attached

Barbara Tell — 12/19/03
Budget Manager — Date

CONTRACT/GRANT/LEASE REVIEW:

_____ — _____
Accounting Manager — Date

Nancy Smith — 12/19/03
Internal Auditor — Date

_____ — 12/19/03
City Attorney — Date

Alice — 12/19/03
Purchasing Manager — Date

STAFF RECOMMENDATION: Approval of a resolution authorizing the budget amendment.

_____ — _____
Division Head — Date

_____ — _____
Department Director — Date

Steve Davis — 12/19/03
Finance & Internal Services Dir. — Date

_____ — _____
Chief Administrative Officer — Date

Dan Coody — 12/19/03
Mayor — Date

Cross Reference

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

Previous Ord/Res#: _____

Orig. Contract Date _____

Orig. Contract Number _____

Staff Review Form - Page 2

Description _____ Meeting Date _____

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council
Through: Hugh Earnest, Chief Administrative Officer
From: Tim Conklin, Community Planning and Engineering Services Director T.C.
Date: December 18, 2003
Subject: Approval of a bid waiver ordinance and approval of a contract and budget adjustment in the amount of $27,390 for Duncan and Associates to prepare road, fire, and police impact fee's.

RECOMMENDATION

Staff recommends approval of a bid waiver ordinance and approval of a contract and budget adjustment for Duncan and Associates to prepare road, fire, and police impact fee's.

BACKGROUND

The City Council on November 18, 2003 passed Resolution No. 167-03 requesting staff to bring forward information on the feasibility of adopting impact fee's for roads police, and fire.

Staff is recommending that competitive biding be waived and approval of a bid waiver and budget adjustment in order to contract with Duncan and Associates. Approval of the Bid Waiver would allow Duncan and Associates to develop the methodology and calculate the road impact fee based on an "improvements based" methodology and also develop the methodology and calculate the fire and police impact fees. This work will result in two methodologies and two sets of potential fees for roads along with fire and police impact fees. Staff has received the following estimate for this work:

Cost to Develop Methodology and Calculate Impact Fees

	Proposed Cost	**Comparison Cost**
Roads (Improvement Based) (Citywide)	$14,890	$25,000 +/- Conway ($44,000 for Roads and Parks, includes Ord.)
Fire (Optional)	$4,750	$8,200 Bentonville
Police (Optional)	$4,750	$8,600 Bentonville
One trip to Fayetteville	$1,500	
Cost to City	**$25,890**	
Contingency (Extra Trip)	$1,500	
Total Cost	**$27,390**	

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING AND APPROVING A CONTRACT WITH DUNCAN AND ASSOCIATES TO CALCULATE IMPACT FEES FOR ROAD, POLICE AND FIRE IMPROVEMENTS IN THE AMOUNT OF $25,890.00 WITH A CONTINGENCY AMOUNT OF $1,500.00 AND APPROVING A BUDGET ADJUSTMENT OF $27,390.00

WHEREAS, Duncan and Associates were selected in 2000 to calculate impact fees for water, sewers, parks and roads and presented their impact fee to the City Council in 2001; and

WHEREAS, the City Council adopted the impact fees for water and for sewer presented by Duncan and Associates in late 2002 by implementing ordinance; and

WHEREAS, Duncan and Associates can use their prior expertise gained from these earlier studies to provide a more cost effective analysis and report concerning potential impact fees for roads, police and fire in conformity with the state's new impact fee statute

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 between the City of Fayetteville, Arkansas and Duncan and Associated in the amount of $25,890.00, plus a contingency of $1,500.00 to provide impact fee studies for roads, police and fire. This contract is attached as Exhibit "A".

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves the budget adjustment in the amount of $27,390.00 attached as Exhibit "B".

PASSED and **APPROVED** this the 6th day of January, 2004.

APPROVED:

By: _____ DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council
Through: Hugh Earnest, Chief Administrative Officer
From: Tim Conklin, Community Planning and Engineering Services Director T.C.
Date: December 18, 2003
Subject: Approval of a bid waiver ordinance and approval of a contract and budget adjustment in the amount of $27,390 for Duncan and Associates to prepare road, fire, and police impact fee's.

RECOMMENDATION

Staff recommends approval of a bid waiver ordinance and approval of a contract and budget adjustment for Duncan and Associates to prepare road, fire, and police impact fee's.

BACKGROUND

The City Council on November 18, 2003 passed Resolution No. 167-03 requesting staff to bring forward information on the feasibility of adopting impact fee's for roads police, and fire.

Staff is recommending that competitive biding be waived and approval of a bid waiver and budget adjustment in order to contract with Duncan and Associates. Approval of the Bid Waiver would allow Duncan and Associates to develop the methodology and calculate the road impact fee based on an "improvements based" methodology and also develop the methodology and calculate the fire and police impact fees. This work will result in two methodologies and two sets of potential fees for roads along with fire and police impact fees. Staff has received the following estimate for this work:

Cost to Develop Methodology and Calculate Impact Fees

	Proposed Cost	**Comparison Cost**
Roads (Improvement Based) (Citywide)	$14,890	$25,000 +/- Conway ($44,000 for Roads and Parks, includes Ord.)
Fire (Optional)	$4,750	$8,200 Bentonville
Police (Optional)	$4,750	$8,600 Bentonville
One trip to Fayetteville	$1,500	
Cost to City	**$25,890**	
Contingency (Extra Trip)	$1,500	
Total Cost	**$27,390**	

DISCUSSION

The City Council in October of 2000 hired Duncan and Associates to study impact fees and subsequently amended their contract to prepare impact fee ordinances for water and sewer which were adopted on December 17, 2002. Duncan and Associates is very familiar with Fayetteville and has already completed the methodology and calculation for a "consumption based" road impact fee. Because of their past work and performance on developing the existing impact fees, Staff is recommending contracting with Duncan and Associates to prepare the new impact fees.

BUDGET IMPACT

A budget adjustment in the amount of $27,390 is required to fund this project. Funding is available from the identified remaining 2003 CIP Street/ROW/Intersections project.

E-Mail's From Duncan and Associates – November 25, 2003

Tim,

Per your request, I have reviewed the City's new Traffic and Transportation Study and developed a proposed budget to develop an improvements-driven or plan-based road impact fee. I have also developed costs to prepare fire and police impact fee studies. As we discussed, the fire and police fees may have to be based on the existing level of service, unless the City has facility master plans for those services.

The road study could be provided for $14,890. This is significantly less that what we would normally charge, but we are able to offer you a reduced price because of the quality of the BRW study and the fact that we will be able to build on the background analysis we did in the original road impact fee study. The fire and police studies would cost $4,750 each, for a grand total of $24,390. The road impact fee study could be stand-alone, but the prices for the other two assume they are in addition to the road impact fee study.

The price quoted above includes the preparation of a staff review draft and a final report. It does not include preparation of an implementing ordinance. The price does not include any trips to Fayetteville to attend meetings, which we would be happy to provide at an additional cost of $1,500 per person-day.

The City would be responsible for providing all necessary data, including the current CIP and TIP (and RTP if changed), residential building permits issued by housing type for 2002 and 2003 to date, nonresidential square footage by land use type from Washington County Assessor, inventory of fire and police station building square footage and site acres, inventory of major police and fire capital equipment, cost data (including recent land acquisitions and building construction, insured value listings, asset listings, and current equipment replacement values), history of police and fire capital grant funding,
etc.

I would be happy to prepare a formal scope of services and budget if desired. Let me know how you would like to proceed.

Clancy

Clancy Mullen, AICP
Duncan Associates
13276 Research Blvd., Suite 208
Austin, TX 78750
512.258.7347 ext 204
512.258.9994 (fax)

Tim,

I should probably clarify that the price I quoted for the road impact fee study is to calculate a city-wide plan-based fee. The transportation plan appears to recommend that a financing mechanism such as impact fees would be computed for multiple Priority Growth Areas. However, the transportation plan does not provide sufficient information to determine the future cost attributable to subareas of the city (improvements physically located in a subarea could serve growth in adjacent subareas as well). To do this, additional modeling work like what we had done for Cary, NC would be required.

Clancy

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Sales Tax Capital Improvements	Date Requested	Adjustment Number
2003	Division:	1/6/2004	
	Program:		

Project or Item Requested:
$27,390 is requested for a Street/Fire/Police Impact Fee study.

Project or Item Deleted:
The Street ROW/Intersection/Cost Sharing project is being reduced by $27,390.

Justification of this Increase:
Resolution #167-03 was approved by City Council on November 18, 2003 requesting the study.

Justification of this Decrease:
Sufficient funding remains to comply with City Policy and with project completion.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Professional services	4470	9470	5314	00	27,390	04001	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Street improvements	4470	9470	5809	00	27,390	02116	1

Approval Signatures

Requested By	Date
B. Cell	12/19/03
Budget Manager	Date
	12-19-03
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C (D) E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

PROFESSIONAL SERVICES AGREEMENT
BETWEEN
CITY OF FAYETTEVILLE AND DUNCAN ASSOCIATES

This Professional Services Agreement is made by and between the City of Fayetteville, a political subdivision of the State of Arkansas (City) and James Duncan and Associates, Inc., a professional corporation doing business as Duncan Associates located in Austin, Texas.

WHEREAS, City desires to engage Duncan Associates to perform certain services relating to the
development of impact fees for roads, fire and police facilities.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter provided, City and Duncan Associates agree as follows.

1. **Scope of Agreement.** Duncan Associate's relationship to City shall be that of independent contractor; at all times this relationship shall be governed by and be in strict compliance with the terms of this Professional Services Agreement.

2. **Professional Services.** Duncan Associates shall furnish services to City as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

3. **Deliverables and Schedule.** Duncan Associates shall begin its services promptly after receipt of an executed copy of this Agreement and will complete the services and deliverables pursuant to the schedule as set forth in Exhibit "B." Times for performance shall be extended for periods of delay resulting from circumstances over which Duncan Associates has no control.

4. **Compensation and Hourly Rates.** For services provided by Duncan Associates as described in Exhibit "A," City shall compensate Duncan Associates monthly based upon the percent completion of individual tasks and in accordance with the fee schedule outlined in Exhibit "C." Payment of each such invoice shall be due to Duncan Associates within thirty (30) days of receipt by City.

5. **Subcontracting.** Any subcontractor relationships must first be approved by the City.

6. **Conflict of Interest.** Duncan Associates agrees that it has no interest and shall acquire no interest, direct or indirect, that would conflict in any manner with the performance of the services hereunder. Duncan Associates further agrees that, in the performance of this Agreement, no person having any such interest shall be employed.

7. **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon written notice to the other party. In the event of any

termination, Duncan Associates will be paid for all services rendered to date of such termination.

8. **Ownership of Documents.** All documents prepared in the performance of this Agreement shall be delivered to City and become the property of the City before final payment is made to Duncan Associates.

9. **Amendments.** No amendments or modifications of this Agreement shall be valid unless in writing and signed by each of the parties to the Agreement.

10. **Venue.** The laws of the State of Arkansas shall govern the construction and interpretation of this agreement.

11. **Severability.** Any provision in this Agreement that is prohibited or unenforceable under state or federal law shall be ineffective to the extent of such prohibitions or unenforceability, without invalidating the remaining provisions hereof. Also, the non-enforcement of any provision by either party to this Agreement shall not constitute a waiver of that provision nor shall it effect the enforceability of that provision or the remainder of this Agreement.

12. **Freedom of Information Act.** City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, Duncan Associates will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et.seq.) Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

13. **Changes in Scope or Price.** Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees.

IN WITNESS WHEREOF, City and Duncan Associates have caused this instrument to be signed by their respective duly authorized officers.

EXECUTED on this, the _____ day of _____, 2004.

DUNCAN ASSOCIATES

By: _____
Jim B. Duncan, President

EXECUTED on this, the _____ day of_____, 2004, by City of Fayetteville.

CITY OF FAYETTEVILLE, A Municipal Corporation

By: _____
Dan Coody, Mayor

Witness: _____
Sondra Smith
Fayetteville City Clerk

Exhibit A
SCOPE OF SERVICES

Task 1: Road Impact Fee Study

The Consultant will prepare a road impact fee study using an improvements-driven methodology based on the City's recently-completed *Traffic and Transportation Study* prepared by BRW. The road impact fee will be a city-wide fee. The road impact fee study will utilize information developed for the previous April 2002 draft of a consumption-based road impact fee prepared by the Consultant as well as information derived from the BRW study. The City will provide additional readily-available data needed by the Consultant to complete the study at no charge.

The impact fee study will calculate the cost per service unit to accommodate growth based on the growth projections, growth-related improvements and improvement costs identified in the BRW study. The study will determine appropriate revenue and/or deficiency credits to ensure that new development is not charged more than its proportionate share of the cost of new facilities. The study will include a table that establishes the number of service units and amount of facility demand associated with different land use types. Finally, the study will include a net unit cost schedule that represents the maximum impact fees that could be charged by land use category.

The impact fee study will be consistent with the requirements of the Arkansas Development Impact Fees Act (§14-56-102, Arkansas Code). Two drafts of the road impact fee study will be prepared. A preliminary draft will be provided for staff review. The final draft will incorporate staff comments on the preliminary draft. The final draft will be delivered in digital format, accompanied by supporting spreadsheets.

DELIVERABLES: PRELIMINARY DRAFT ROAD IMPACT FEE STUDY
FINAL DRAFT ROAD IMPACT FEE STUDY
SUPPORTING SPREADSHEETS

Task 2: Fire and Police Impact Fee Studies (optional)

At the City's option, and only following receipt of written authorization from the City, the Consultant will include in the same documents as the preliminary and final road impact fee studies an analysis of police and/or fire impact fees. Unless the City can provide facility master plans for police and fire facilities, the analyses will be based on the existing levels of service for those facilities. The City will provide the Consultant, at no charge, all information needed to prepare the analysis, including, but not limited to, existing city-wide land use data (residential units by housing type and nonresidential building floor area by land use type), an inventory of existing police and fire facilities (land area, building square footage, capital equipment), insured values and fixed asset listings for police and fire buildings and equipment, current replacement costs based on recent acquisitions or improvements where available, capital improvement plans, history of recent capital grants, and outstanding debt and debt service schedules for police and fire facilities.

DELIVERABLES: PRELIMINARY DRAFT POLICE IMPACT FEE STUDY
PRELIMINARY DRAFT FIRE IMPACT FEE STUDY
FINAL DRAFT POLICE IMPACT FEE STUDY
FINAL DRAFT FIRE IMPACT FEE STUDY
SUPPORTING SPREADSHEETS

Task 3: Public Presentation

Jim Duncan or Clancy Mullen will present the study at a public meeting in Fayetteville. Additional trips to attend meetings will be provided at an additional cost.

DELIVERABLE: PUBLIC MEETINGS (ONE PERSON-DAY)

Exhibit B
PROJECT SCHEDULE

The schedule for the tasks outlined in the Scope of Services is illustrated in the following project schedule.

Tasks	Months After Contract Execution			
	1	2	3	4
1: Road Impact Fee Study	◊	♦		
2: Fire and Police Impact Fee Studies (optional)	◊	♦		
3: Public Presentation				★

◊ = draft deliverable ♦ = final deliverable ★ = meeting/presentation

Exhibit C
CONSULTANT COMPENSATION

The total cost of the professional services described in the accompanying Scope of Services is $25,890. This lump-sum budget includes all direct and indirect expenses incurred by the consultant team in performing the services. Task 2 is optional, and will not be undertaken without explicit written authorization from the City. The breakdown of project cost by task is presented below. The City will be billed monthly based on percent completion of individual tasks.

Task		Amount
Task 1:	Road Impact Fee Study	$14,890
Task 2.1:	Fire Impact Fee Study (optional)	$4,750
Task 2.2:	Police Impact Fee Study (optional)	$4,750
Task 2 Total (optional)		$9,500
Task 3:	Public Participation (1 person-day)	$1,500
Total Project		$25,890

Additional trips shall be provided at $1,500 per person-day. Other additional services beyond those specified in the accompanying Scope of Services may be negotiated or billed on a time and expense basis at the following hourly rates. The only expense not included in the lump-sum price per person-day for travel or in the hourly rates is overnight mail, which will be billed separately.

Principal (Jim Duncan)	$150
Land Use Attorney	$175
Project Director (Clancy Mullen)	$135
Associates	$95

RESOLUTION NO. 167-03

A RESOLUTION TO REQUEST CITY STAFF TO STUDY THE FEASIBILITY AND ADVISABILITY OF NEW IMPACT FEES IN THE AREAS OF STREET CONSTRUCTION, FIRE FIGHTER OPERATIONS, POLICE OPERATIONS AND CAPITAL COSTS

WHEREAS, the City of Fayetteville is facing a long term stagnation of its sales tax revenue despite a rapidly growing population; and

WHEREAS, the population growth is creating a need for street construction and improvements, increased police and fire personnel and facilities and support staff; and

WHEREAS, the City cannot afford to increase spending for road construction, or increased personnel for police, fire and other services without increasing revenue from property taxes or impact fees on new development; and

WHEREAS, it is only fair that the increasing population in new development that is causing a need for new roads and increased fire, police and other staff pay its fair share of the costs for these additional services and roads.

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 city staff to study the feasibility and advisability of additional impact fees on new development in the areas of road construction, police operations and capital costs and fire operations and capital costs.

PASSED and **APPROVED** this the 18th day of November, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

STAFF REVIEW FORM - FINANCIAL OBLIGATION

_____ AGENDA REQUEST
__X__ CONTRACT REVIEW
_____ GRANT REVIEW

For the Fayetteville City Council Meeting of: January 6, 2004

FROM:

Tim Conklin, AICP	Comm. Planning & Eng. Svcs.	Comm. Planning & Eng. Svcs.
Name	Division	Department

ACTION REQUIRED: Approval of a bid waiver ordinance and approval of a contract with Duncan and Associates in the amount of $25,890 with a project contingency of $1,500 for a total project amount of $27,390 and approval of a budget adjustment.

COST TO CITY:

$27,390.00	$ -	
Cost of this request	Category/Project Budget	Program Category / Project Name
4470 9470 5314 00	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
04001.1	$ -	
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ____ Budgeted Item x Budget Adjustment Attached

B Fell — 12/19/03
Budget Manager — Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fanchig — 12/19/03
Accounting Manager — Date

Nancy Smith — 12/19/03
Internal Auditor — Date

D D f. White — 12/19/03
City Attorney — Date

P Lilco — 12/19/03
Purchasing Manager — Date

STAFF RECOMMENDATION:

_____ — _____
Division Head — Date

E. Conklin — 12-19-03
Department Director — Date

Stephen Dave — 12.19.03
Finance & Internal Services Dir. — Date

_____ — _____
Chief Administrative Officer — Date

Dan Coody — 12/19/03
Mayor — Date

Received in Mayor's Office _____ Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

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

RECEIVED 12-19-03

Staff Review Form - Page 2

Description _____ Meeting Date January 6, 2004

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

City Council Meeting of January 6, 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: December 17, 2003

Subject: Easement Vacation for the Brandon Mall office building (VAC 03-13.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of an existing utility easement crossing the subject property. The easement was used to connect private service lines to serve the restaurant which previously operated on this site.

BACKGROUND

A large scale development has been approved to construct a 28,350 SF, 3-story office building with sales and professional office uses north of the Northwest Arkansas Mall. To create the subject lot, a lot split has been processed, approved by the Subdivision Committee on October 16, 2003. An existing structure that formerly housed Shoney's restaurant is proposed to be demolished and removed, with the new, larger structure proposed to be sited in the same general location. The existing parking lot is to be utilized, with alterations.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. No objections were reported regarding this requested easement vacation.

The Planning Commission voted 9-0-0 in favor of this request on Monday, December 8, 2003. The item was included on the Commission's consent agenda.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 03-13.00 TO VACATE A PORTION OF A 25 FOOT UTILITY EASEMENT LYING IN LOT A IN THE NORTHEAST CORNER OF HE NORTHWEST ARKANSAS MALL AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described utility easement is not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons all of its rights together with the rights of the public generally, in and to the following described street right of way:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By_____
DAN COODY, Mayor

ATTEST:

By_____
SONDRA SMITH, City Clerk

DRAFT

EXHIBIT "A"
VAC 03-13.00

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION TWENTY THREE (23), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

COMMENCINGAT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER (SE ¼) OF SAID SECTION TWENTY THREE (23), THENCE ALONG THE NORTH LINE OF SAID SECTION TWENTY THREE (23) NORTH 89°00'51"EAST, 791.00 FEET TO A SET IRON PIN ON THE WEST RIGHT OF WAY OF U.S. HIGHWAY 71B; THENCE ALONG SAID RIGHT OF WAY SOUTH 00°06'58" EAST, 136.88 FEET TO A FOUND RAILROAD SPIKE ON THE WEST RIGHT OF WAY OF U.S. HIGHWAY 71B; THENCE NORTH 20°12'20"WEST 56.38 FEET; THENCE SOUTH 81°01'40" WEST, -101.44 FEET; THENCE SOUTH 08°02'30" EAST, - 27.03 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTHERLY ALONG SAID LINE, A DISTANCE OF 95.55 FEET; THENCE SOUTH 81°57'30" WEST, 25.00 FEET; THENCE NORTH 08°02'30" WEST, 93.70 FEET; THENCE NORTH 77°43'53" EAST, 25.07 FEET TO THE POINT OF BEGINNING, CONTAINING 2,366.00 SQUARE FEET, MORE OR LESS; AND SUBEJCT TO ANY EASEMENTS, AND OR RIGHTS OF WAY, AND RESTRICTIONS, OF RECORD, IF ANY.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of October 27, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jeremy Pate, Associate Planner
	Matt Casey, Staff Engineer
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	October 20, 2003

LSD 03-35.00: Large Scale Development (Brandon Mall, pp 135) was submitted by Brian Moore of Engineering Services, Inc. on behalf of Gary Brandon for property located at the northeast corner of the Northwest Arkansas Mall on Zion Rd. The property is zoned C-2, Thoroughfare Commercial, and contains approximately 1.78 acres. The request is to develop a 28,350 sq. ft. office building. Planner: Jeremy Pate

Findings:

Proposal: The applicant requests to construct a 28,350 SF, 3-story office building with sales and professional office uses north of the Northwest Arkansas Mall. To create the subject lot, a lot split has been processed, approved by the Subdivision Committee on October 16, 2003. An existing structure that formerly housed Shoney's restaurant is proposed to be demolished and removed, with the new, larger structure proposed to be sited in the same general location. The existing parking lot is to be utilized, with alterations. Ninety-seven (97) parking spaces are provided, which meets the Parking Lot ordinance requirements of 119, +/- 30%.

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	Vacant, hillside	C-2, Thoroughfare Commercial
South	Northwest Arkansas Mall	C-2, Thoroughfare Commercial
East	Highway 71B	C-2, Thoroughfare Commercial
West	Vacant	C-2, Thoroughfare Commercial

Right-of-way being dedicated: None Required

Street Improvements: None Required

Adjacent Master Street Plan Streets: Highway 71B, Principal Arterial

Tree Preservation:
Existing canopy: 16.32%
Preserved canopy: 11.06%
Mitigation required: 10 trees, on-site

Recommendation: Staff recommends approval of **LSD 03-35.00** subject to the following conditions:

Conditions of Approval:

1. Structures shall not be built over existing utility easements. A request for vacation of the existing 25-foot utility easement on which the proposed structure encroaches shall be processed and approved by Planning Commission and City Council. Building permits shall not be issued prior to easement vacation approval.

2. Planning Commission determination and approval of Commercial Design Standards. *Staff finds the submitted elevation drawings to be in compliance with Commercial Design Standards.*

3. Planning Commission determination of the greenspace reduction request from 15 feet to 5 feet along Hwy 71B. *Staff is in support of this request, as existing topography and dense vegetation between the subject property and Hwy 71B act as an existing buffer.*

4. The associated Lot Split shall be filed of record with the County prior to issuance of building permits.

Standard Conditions of approval:

5. A detailed Landscape Plan shall be submitted to the Landscape Administrator prior to building permit approval.

6. All mechanical/utility equipment shall be screened using materials that are compatible with and incorporated into the structure.

7. Trash enclosures shall be screened with access not visible from the street.

8. 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)

9. 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.

10. Large scale development shall be valid for one calendar year.

11. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits

b. Separate easement plat for this project that shall include the tree preservation area.
c. Project Disk with all final revisions
d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy

12. Additional conditions:

_____

_____

PLANNING COMMISSION ACTION: **__yes__Required**
_____Approved _____Denied

Date: October 27, 2003

Comments:

_____

_____

The "CONDITIONS OF APPROVAL", beginning on page two of this report, are accepted in total without exception by the entity requesting approval of this development item.

_____
By

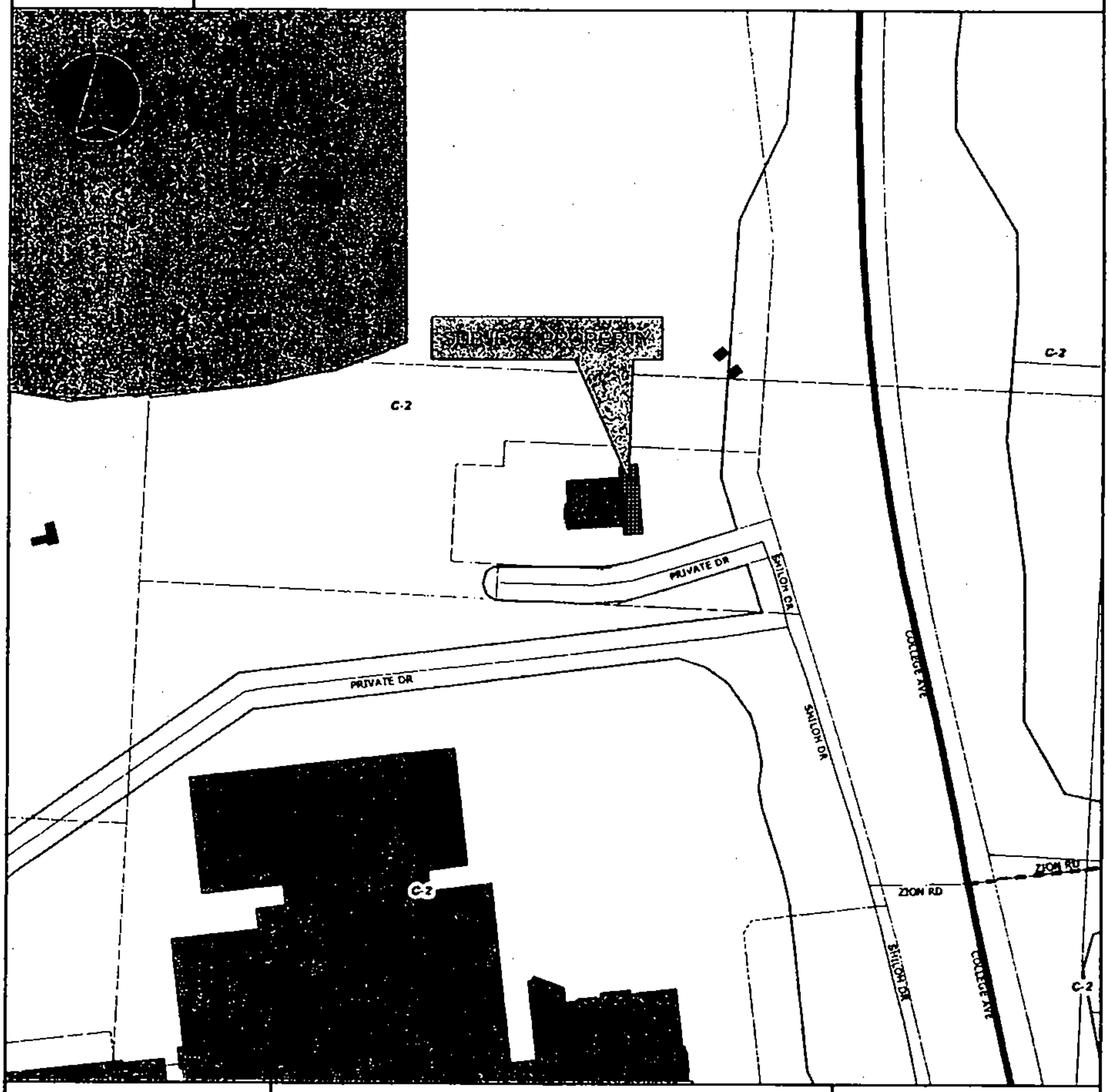
_____
Title

_____
Date

VAC03-13.00

Close Up View

BRANDON MALL



Overview

Legend

Subject Property
VAC03-13.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 75 150 300 450 600
Feet

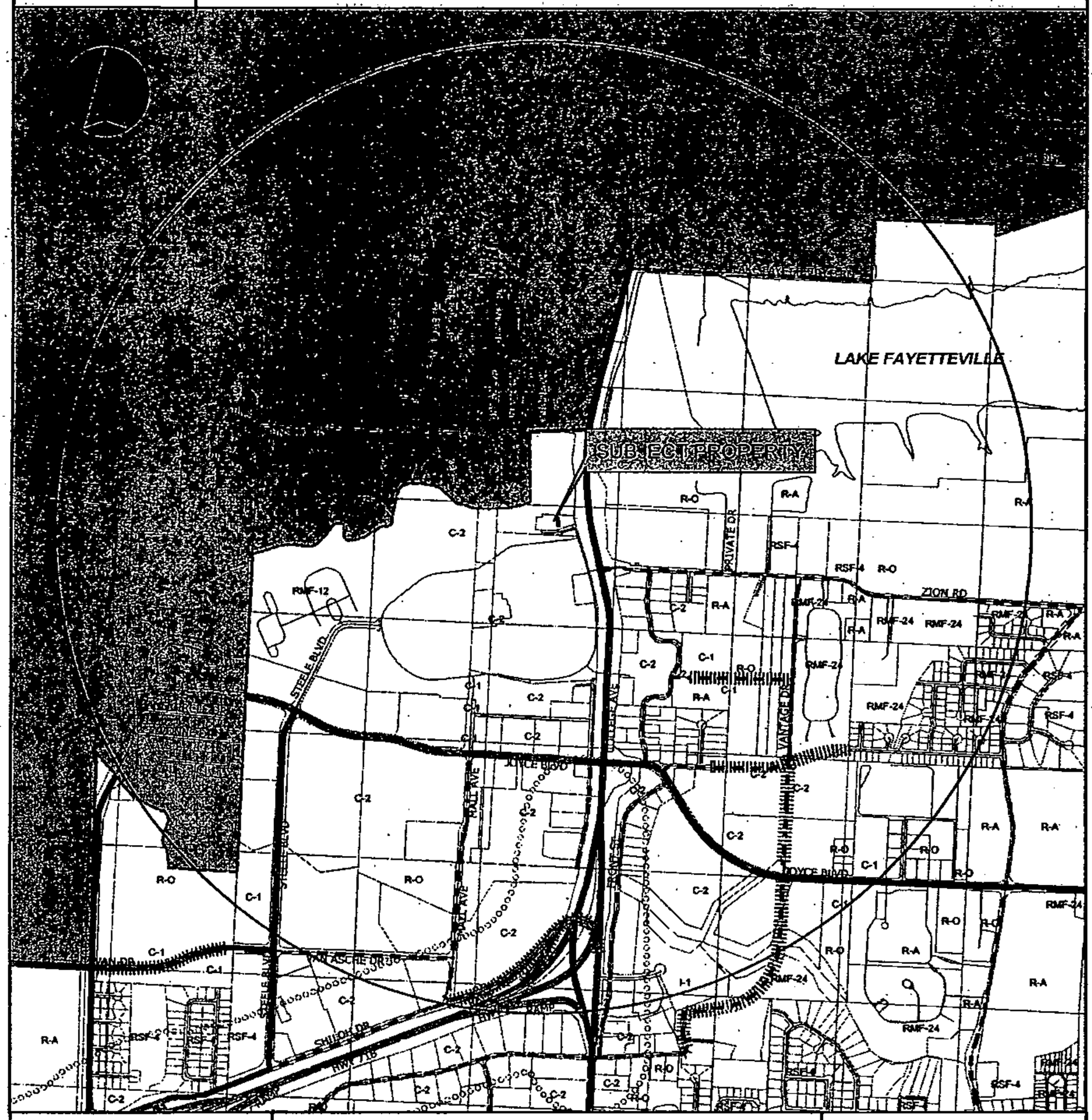
Exhibit "B"

pg. 1

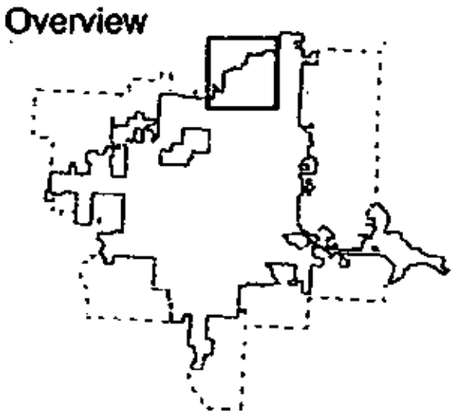
VAC03-13.00

One Mile View

BRANDON MALL



Overview



Legend

Subject Property
VAC03-13.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

Exhibit "B"

Page 2

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: January 6, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 03-13.00: Vacation (Brandon Mall, pp 135) was submitted by Engineering Services, Inc. on behalf of Gary Brandon Enterprises, Inc. for property located at the northeast corner of the Northwest AR Mall, west of Hwy 71B. The property is zoned C-2, Thoroughfare Commercial. The request is to vacate a portion of an existing utility easement on the subject property.

STAFF RECOMMENDATION: Approval.

Dawn L. Warrick — 12/19/03
Division Head — Date

City Attorney — 12-19-03
Date

Department Director — 12-18-03
Date

Finance & Internal Services Dir. — 12-19-03
Date

Chief Administrative Officer — ____
Date

Mayor — 12/19/03
Date

Received in Mayor's Office — 12/19/03
Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

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: December 17, 2003

Subject: Residential Planned Zoning District for Benton Ridge (R-PZD 03-06.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating the Residential Planned Zoning District (R-PZD) for Benton Ridge. This action will establish a unique zoning district for development of an 8.34 acre tract located on the east side of Crossover Road, north of Huntsville Road and south of Wyman Road. The proposal is for the construction of 43 dwelling units on 23 residential lots (20- two family units, 3- single family units).

BACKGROUND

Staff has met with the applicant numerous times to discuss both the PZD process and the content of the proposal as submitted. Originally, the applicant proposed 21 Two-family lots and three commercial lots connected by a loop drive. Staff concerns with the proposal included the loss of significant tree canopy and natural drainage-ways, in a PZD process which specifically requires consideration of existing natural amenities in an effort to preserve them. A number of submittals and meetings occurred thereafter, all in which Staff reiterated concerns with these issues (see attached comments letter dated 31 July). The proposal was modified with the use of a cul-de-sac and single family homes in October, however Staff and the Subdivision Committee expressed concern with the use of proposed 4-plexes in a single-family residential dominated area. A neighborhood meeting was held by the applicant and several concerns addressed from the Subdivision Committee meeting, all of which are documented in the Staff report. Covenants for the development as well as detailed information regarding the location of proposed driveways and building footprints for each lot were considered as a part of this review process.

DISCUSSION

The Planning Commission voted 9-0-0 in favor of this request on Monday, December 8, 2003. Approval of a planned zoning district requires City Council approval as it includes zoning (land use) as well as development approval (preliminary plat). Recommended conditions included in the attached staff report were approved by the Planning Commission.

BUDGET IMPACT
None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED (R-PZD 03-06.00) LOCATED ON THE EAST SIDE OF CROSSOVER ROAD NORTH OF HUNTSVILLE ROAD AND SOUTH OF WYMAN ROAD CONTAINING 8.34 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 03-06.00 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 December 8, 2003.

Section 3. That this ordinance shall take affect 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 03-06.00

PART OF LOTS 40 AND 41 OF W.E. ANDERSON FARM OR SUBDIVISION AS PER PLAT OF SAID SUBDIVISION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS, BEING PART OF THE SE1/4 OF THE SE1/4 OF SECTION 14 IN TOWNSHIP 16 NORTH, RANGE 30 WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT AN EXISTING IRON PIN ON THE NORTH LINE OF LOT 41 OF W.E. ANDERSON FARM THAT IS S87°44'19"E 147.06 FEET FROM THE N.W. CORNER OF SAID LOT 41; THENCE S87°44'19"E 515.99 FEET TO AN EXISTING IRON PIN AT THE NE CORNER OF SAID LOT 41; THENCE ALONG THE EAST LINE OF SAID LOT 41 S02°58'03"W 330.68 FEET TO AN EXISTING IRON PIN AT THE NE CORNER OF LOT 40 OF SAID W.E. ANDERSON FARM; THENCE ALONG THE EAST LINE OF SAID LOT 40 S02°46'06"W 323.67 FEET TO AN EXISTING IRON PIN AT THE SE CORNER OF SAID LOT 40; THENCE ALONG THE SOUTH LINE OF SAID LOT 40 N88°00'06"W 185.72 FEET TO THE SE CORNER OF A CEMETERY; THENCE ALONG THE BOUNDARY LINE OF SAID CEMETERY THE FOLLOWING FOUR (4) COURSES: N01°34'51"E 150.00 FEET, N88°00'06"W 267.00 FEET, S01°34'47"W 132.00 FEET, THENCE N88°00'06"W 192.64 FEET TO THE EAST RIGHT-OF-WAY LINE FOR ARKANSAS STATE HIGHWAY 265; THENCE ALONG SAID HIGHWAY 265 EAST RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES: N05°57'13"E 217.36 FEET, N04°37'51"W 160.74 FEET, THENCE N01°17'45"E 145.72 FEET; THENCE LEAVING SAID HIGHWAY 265 EAST RIGHT-OF-WAY LINE S87°44'19"E 142.52 FEET TO AN EXISTING IRON PIN; THENCE N02°30'01"E 127.01 FEET TO THE POINT OF BEGINNING, CONTAINING 8.34 ACRES, MORE OR LESS.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of December 08, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
Matt Casey, Staff Engineer
THRU: December 02, 2003

R-PZD 03-06.00: Planned Zoning District (Benton Ridge, pp 527) was submitted by Crafton, Tull and Associates, Inc. on behalf of Long LLC for property located on the east side of Crossover Road, north of Huntsville Road and south of Wyman Road. The property is zoned RSF-4, Residential Single-family, 4 units per acre and contains approximately 8.34 acres. The request is to rezone the subject property to a Residential Planned Zoning District, with a total of 43 dwelling units on 23 lots (20 Two-family, 3 Single-family). Planner: Jeremy Pate

Findings:

Proposal: The request is for a Residential Planned Zoning District on 8.34 acres currently zoned RSF-4, which allows a maximum density of 4 units per acre of single family dwellings. The applicant requests a rezoning and preliminary plat approval for a residential subdivision with 23 lots. Eighteen (18) lots are proposed to be constructed with two-family dwelling units for a total of 36 dwelling units. Two lots are proposed to be developed with one (1) four-unit multi-plex spanning the lot line, resulting in a total of 4 dwelling units. The three remaining lots near Crossover Road are proposed to be single family lots, for a total of 3 dwelling units. Total proposed dwelling units on the 8.34 acres numbers 43, therefore the proposed density for the R-PZD is **5.2 DU/acre.**

Proposed Lots:
R-PZD, Residential Planned Zoning District

Lot No.	Land Use	Structure	# of Units	# of Bedrooms
1	Multi-Family (One 4-plex)	Sarasota Grove Multi-plex	4	12
2				
3	Two-Family	Nutmeg Circle	2	6
4	Two-Family	Nutmeg Circle	2	6
5	Two-Family	Nutmeg Circle	2	6
6	Two-Family	Chelsea Blvd.	2	6
7	Two-Family	Cooper Lake	2	6
8	Two-Family	Chelsea Blvd.	2	6

9	Two-Family	~~Creekside Way~~ COOPER LAKE	2	6
10	Two-Family	~~Creekside Way~~ COOPER LAKE	2	6
11	Two-Family	Chelsea Blvd.	2	6
12	Two-Family	Nutmeg Circle	2	6
13	Two-Family	Spruce Ridge	2	?
14	Two-Family	Chelsea Blvd.	2	6
15	Two-Family	Cooper Lake	2	6
16	Two-Family	Cooper Lake	2	6
17	Two-Family	Spruce Ridge	2	TBD
18	Two-Family	Morenci Court	2	6
19	Two-Family	Chelsea Blvd.	2	6
20	Two-Family	TBD	2	TBD
21	Single Family	Single Family Home	1	N/A
22	Single Family	Single Family Home	1	N/A
23	Single Family	Kennedy Cottage	1	N/A
24	Detention Pond	Detention Pond	0	0
25	Conservation Easement	No development	0	0
26	Conservation Easement	No development	0	0
27	Conservation Easement	No development	0	0
28	Conservation Easement	No development	0	0

The site contains significant groupings of trees, some of which are located along a natural drainage way, which is required to be considered as part of a Planned Zoning District:

> *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. (§166.06)*

> *Natural Features. Maximum enhancement and minimal disruption of existing natural features and amenities. (§161.25)*

With this in mind, staff has worked with the applicant to preserve several groupings of trees and a portion of the natural drainage way that meanders through the center of the site, thereby protecting the trees that depend upon this water source.

A waiver for the maximum 500-foot length of a cul-de-sac has been formally submitted. The applicant requests a 965-foot length. In previous submittals, a loop drive was utilized, which both

removed a significant grouping of trees near the front of the property and minimized the area available for a detention pond, thereby creating a 9-10' wall surrounding the pond. Staff recommended realignment of the drive for these reasons, and supports the proposal and waiver request the applicant is presenting.

Three lots at the entrance of the development are indicated for single family homes, with the remainder proposed to be two-family dwelling units. A draft of restrictive covenants addressing building materials, size, fencing, landscaping, etc. has been submitted. A final draft is required to be filed with the Final Plat.

Existing Development: Currently two single family homes are on the site, to be removed.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Single family homes	RSF-4, Residential Single Family, 4 units per acre
South	Buckner Cemetery, Single family homes	RSF-4, Residential Single Family, 4 units per acre
East	Single family	RSF-4, Residential Single Family, 4 units per acre
West	Crossover Road, Vacant	RSF-4, Residential Single Family, 4 units per acre

Water: Existing 8" line along Crossover Road, 8" lines extended to serve development

Sewer: Existing 6" sanitary sewer

Street Improvements Proposed: None

Adjacent Master Street Plan Streets: Crossover Road (State Hwy 265) is classified as a principal arterial on the Master Street Plan, requiring a minimum 55 feet of right-of-way dedication, by warranty deed.

Tree Preservation:

Existing canopy:	29.72%
Preserved canopy:	16.21%
Required:	20.00%
Mitigation:	$10,800.00

Tree preservation areas indicated on the plat are to be placed in a protective easement with ownership noted on the plat.

Background: Staff has met with the applicant numerous times to discuss both the PZD process and the content of the proposal as submitted. Originally, the applicant proposed 21 Two-family lots and three commercial lots connected by a loop drive. Staff concerns with the proposal included the loss of significant tree canopy and natural drainageways, in a PZD process which

specifically requires consideration of existing natural amenities in an effort to preserve them. A number of submittals and meetings occurred thereafter, all in which Staff reiterated concerns with these issues (see attached comments letter dated 31 July). The proposal was modified with the use of a cul-de-sac and single family homes in October, however Staff and the Subdivision Committee expressed concern with the use of proposed 4-plexes in a single-family residential dominated area. A neighborhood meeting was held by the applicant and several concerns addressed from the Subdivision Committee meeting, all of which are documented in the Staff report. A timeline summary of the Benton Ridge R-PZD process is below:

Project History:

Date	Action	Comments
25 June	Initial meeting with applicant	Three commercial lots, 21 Two-family lots proposed
07 July	Initial R-PZD submittal by applicant	
14 July	In-house Review Meeting with applicants to discuss inadequate submittal of materials	Tabled at In-House for lack of materials
16 July	Technical Plat Review	Tabled prior to meeting
30 July	Technical Plat Review	Tabled; no changes were presented in the new submittal by the applicant with the exception of a greenspace drawing
31 July	Letter to Applicants, Representatives detailing Staff concerns	Comments addressed density, natural drainageways, tree preservation, discrepancies in submittal information, submittal requirements for elevations, etc.
06 August	Meeting with applicant to discuss staff concerns	Commercial Design Standards, density, PZD process discussion
12 August	Meeting with applicant	Agreed with applicant to table prior to meeting to address outstanding issues, changes in proposal (cul-de-sac, no commercial proposed, introduction of 4-plexes)
14 August	Subdivision Committee	Tabled prior to meeting
14 October	Meeting with Applicant to discuss new proposal for submittal	
15 October	Technical Plat Review	Staff recommendation to forward to Subdivision Committee w/revisions

30 October	Subdivision Committee	Project Tabled by S.C. pending N'hood mtg, footprints added to site plan, bldg elevations, other revisions
11 November	Neighborhood Meeting	
26 November	Subdivision Committee	Project forwarded to Planning Commission w/revisions for setbacks, driveways, parking, cave heights, screening
02 December	Zoning Review Team	Toured the Property
08 December	Planning Commission hearing	Staff recommendation of approval and forward to City Council

Recommendation:
Forward to the City Council with a recommendation for approval of the requested rezoning.

Planning Commission approval of the proposed preliminary plat subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district for R-PZD 03-06.00 with all conditions of approval as determined by the Planning Commission.

2. An ordinance creating this R-PZD shall be approved by City Council.

3. A Final Plat is required to legalize the lot configuration, filed pursuant to Fayetteville city requirements.

4. Lot 20, which is not currently identified with a corresponding building footprint/
5. elevation, shall be identified prior to Final Plat approval.

6. Interior street names shall be approved by the City 9-1-1 Coordinator.

7. All setbacks, protective easements, designated lot uses, building footprints and elevations are binding with the approval of the R-PZD.

8. Submitted covenants are binding to the project and a final draft shall be filed with the Final Plat. The covenants shall be enhanced and revised to more adequately and correctly reflect the conditions of the proposal herein.

9. Planning Commission determination of a waiver for cul-de-sac length (500 feet

maximum, proposed is 965feet). *Staff is in support of the waiver, in order to preserve an existing significant stand of trees.*

10. Payment of Tree Preservation mitigation fees in the amount of **$10,800** into the City's Tree Escrow Account, as approved by the Landscape Administrator, shall be made prior to Final Plat.

Standard Conditions of Approval:

11. 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)

12. 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.

13. Payment of parks fees in the amount of **$16,275** shall be required prior to Final Plat.

14. Sidewalks shall be constructed in accordance with current City regulations along both sides of the interior street, four feet in width, a minimum of six feet from the curb. Sidewalks shall tie in to existing sidewalks along Crossover Road, and be constructed through the driveway.

15. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

PLANNING COMMISSION ACTION: **__yes__Required**
_____Approved _____Denied

Date: December 08, 2003

Comments:

The "CONDITIONS OF APPROVAL", beginning on page one of this report, are accepted in total without exception by the entity requesting approval of this development item.

By

Title

Date

ndings associated with R-PZD 03-06.00

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 Two-family and Single Family residential subdivision includes provisions that preserves and enhances the surrounding neighborhood. Setbacks from adjoining properties to the north and west have been revised in order to provide a buffer that is more indicative of the existing RSF-4 zoning. Site layout, circulation patterns and land uses have all been altered from initial inception to best preserve existing stands of trees and a natural drainage way through the property. The proposed density (5.2 DU/Acre) is only slightly above that allowed by right in the existing zoning district, and buildings, open space, screening and landscaping have been placed and/or ensured by covenants to further the amenity of the development to the community. Accommodations have been made to place 4 lots in Conservation Easements, in addition to Tree Canopy preservation areas, common green spaces and a lot serving as a detention pond. The applicant is required to file a Final Plat and Covenants pursuant to City regulations to create legal lots of record in the subdivision, prior to the issuance of building permits.

(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: The cemetery is required to be screened with native, drought tolerant vegetation, as indicated on the Tree Preservation plan. In addition, the draft Covenants submitted by the

applicant requires each lot to plant a 2" caliper tree for each residential unit. Where possible, existing vegetation and tree canopy has been placed in a Tree Preservation Easement or Conservation Easement to ensure adequate screening from adjacent properties.

(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: The proposed cul-de-sac is 965 feet in length, which requires a waiver by Planning Commission. Staff has worked with the applicant to provide adequate vehicular access while still preserving a significant stand of trees near Crossover Road. The street has been designed with a 28-foot width, which allows on-street parking.

(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: N/A

(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 applicant has made revisions to setbacks and saved existing tree canopy along the perimeter of the property when possible to meet this requirement.

(6) *Sidewalks.* As required by §166.03.

FINDING: Four-foot sidewalks are proposed along both sides of the proposed street, and shall connect to existing sidewalks along Crossover Road.

(7) *Street Lights.* As required by §166.03.

FINDING: Adequate street lights have been provided to meet Ordinance requirements.

(8) *Water.* As required by §166.03.

FINDING: 8" water lines are being extended to serve the development.

(9) *Sewer.* As required by §166.03.

FINDING: Sewer lines are being extended to serve the development. A 6" sewer line is existing on the site.

(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: The applicant is proposing a public street that meets all requirements set forth by 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 Landscape Administrator has approved the applicant's Tree Preservation Plan preserving 16.81% of the 29.72% existing canopy and the proposed mitigation fees in the amount of $10,800, due prior to Final Plat approval.

(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: N/A

(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 has submitted a draft of covenants for the proposed PZD describing the responsibilities and maintenance of future open space, landscaping, building types, heights, etc. A final draft shall be submitted and filed with the Final Plat.

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 exhibits flexibility in the density of development and types of residential units, mixing single family and two-family units in a variety of building types and elevations to provide a cohesive new neighborhood. The site plan has been reflective of the adjoining neighborhood's wishes, enlarging setbacks when adjoining single family homes, utilizing single family homes in those areas that are most visible from Crossover Road, and preserving open space and tree preservation areas in places that offer the most benefit to the surrounding community. The proposed development will provide for a variety of housing types, from owner-occupied duplexes to rental properties to single family homeowners. Suitable enhancement and minimized disruption of existing natural features has been a goal from the initial submittal of the proposed PZD.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policies for Residential Areas which are:

9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policy for Environmental Resources which is:

9.16.b Define and protect areas of significant…hillsides, trees and other environmental resources through…density controls, protective easements ,and other new and existing development standards and regulations.

9.16.e Develop methods to identify tree preservation ares in perpetuity through tree easements and/or private conservation easements.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policy for Community Character which is:

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: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. Those findings are attached to this report. An ordinance will be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the Planning Commission. Covenants provided by the developer will be included in the PZD ordinance. This ordinance will be forwarded to the City Council for approval.*

(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 R-PZD proposed is consistent with the City's General Plan for residential development, and allows a more flexible means of development to better accommodate the siteing of structures and drives so as to preserve the existing natural amenities of the site, including significant stands of trees and a natural drainage channel.

(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 proposal calls for Use Unit 8, Single Family Dwellings, and Use Unit 26, Multifamily dwellings.

(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 PZD proposed is entirely residential in use.

***Required Findings for Rezoning Request.**

RECOMMENDATION:

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-PZD03-06.00 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use

planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed rezoning from the existing RSF-4 to R-PZD, with the development as presented, is consistent with the General Plan's designation of the site as Residential. The density proposed is 5.2 Dwelling Units per acre, only slightly above the allowed 4 units per acre. The single family and two-family dwelling units proposed are compatible with the surrounding single family residential land use and zoning.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed rezoning is needed in order to facilitate development of the proposed mixed-density, mixed-use unit (single family and two-family) subdivision. The flexibility of the PZD zoning allows for better insurance of compatibility with adjoining properties by permitting reduced interior setbacks not available with standard zoning districts.**

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 appreciable increase traffic danger and congestion in this area. Crossover Road is an improved state highway in this location, and street improvements are not recommended in this location. An increase in traffic will occur with development, approximately 323 average vehicle trips per day generated by the proposed development. It is the opinion of the Fayetteville Police Department that this Planned Zoning District <u>will</u> <u>not</u> 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.

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.

Engineering **- The property currently has access to an 8" water line along Crossover Road, which is proposed to be extended to serve development onsite. An extension of the water main will be required to provide water supply within any development on this property.**

The site currently has access to an 6" sewer main on the site and an 8" sewer line to the east. Sewer is to be extended within the development. The existing sewer mains should have sufficient capacity to serve the development.

Fire **- Water supply with fire hydrants is needed to serve development on this site. Response time from the Fire Station #5 is will be 1 minutes 43 seconds (1.2 miles).**

Police **- Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing citizenry. No additional equipment or personnel is needed to provide service to this area. No undesirable increase in load on police services is perceived by the proposed rezoning.**

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**

Benton Ridge
Summary of Trip Generation Calculation
For 43 Dwelling Units of Residential PUD
December 04, 2003

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	7.50	3.32	1.00	323
7-9 AM Peak Hour Enter	0.11	0.00	1.00	5
7-9 AM Peak Hour Exit	0.40	0.00	1.00	17
7-9 AM Peak Hour Total	0.51	0.72	1.00	22
4-6 PM Peak Hour Enter	0.40	0.00	1.00	17
4-6 PM Peak Hour Exit	0.22	0.00	1.00	9
4-6 PM Peak Hour Total	0.62	0.80	1.00	27
Saturday 2-Way Volume	6.82	2.66	1.00	293
Saturday Peak Hour Enter	0.27	0.00	1.00	12
Saturday Peak Hour Exit	0.29	0.00	1.00	12
Saturday Peak Hour Total	0.56	0.75	1.00	24

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS

Crafton, Tull & Associates, Inc.

901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.craftull.com

December 2, 2003

Mr. Jeremy Pate
City of Fayetteville – Planning Department
113 West Mountain
Fayetteville, AR 72703

RE: Benton Ridge PZD – Subdivision Committee Comments
CTA Job No. 031061-00

Dear Mr. Pate:

The attached set of plans and drainage report were revised per the subdivision committee review comments from the November 26th meeting. Below is a breakdown of how the comments were addressed:

1. The varied rear building setbacks along the north property line and the east property line were revised to be a minimum of 20'.

2. The driveways for the proposed building on Lots 1 and 2 were revised to provide additional room for parking.

3. A note was added to the site plan to provide screening between the cul-de-sac and the cemetery.

4. A note addressing conservation easements and tree preservation were added to the preliminary plat.

5. The draft covenants were revised to address how buildings would be sold, tree preservation, etc.

6. The proposed sanitary sewer was extended to Lot 23.

7. The developer will not able to determine the accurate eave heights for Sarasota Grove or Nutmeg Circle until the building plans are ordered. The developer is not comfortable with ordering the detailed building plans until the project is approved, but will furnish this information for review and approval prior to the issuance of a building permit.

8. The developer is still looking for a building footprint for Lot 20 that will maintain the integrity of the proposed subdivision. Once a footprint is selected, the developer will furnish the information to the planning department for review prior to the issuance of a building permit.

Respectfully,
Crafton, Tull & Associates, Inc.

Juli Zimmerman

Juli Zimmerman, E.I.
Project Engineer

RECEIVED
DEC 0 2 2003
PLANNING DIV.

From: "Jufi Zimmerman" <jzimm@craftull.com>
To: <jpate@ci.fayetteville.ar.us>
Date: 11/24/03 1:03PM
Subject: Benton Ridge - summary of changes

Jeremy -

Several items have been addressed since the previous Subdivision Committee, and I would like to summarize them in preparation for this week's committee meeting.

1. A note was added to the preliminary plat explaining the Tree Preservation/Green Space areas that are to be located within protective easements. Conservation easements are areas of common property and will be maintained by the POA. Areas designated as green space area to be owned by lot owner and to be maintained by covenants by the lot owner.

2. The cul-de-sac was moved north, so that there would be no grading within 5' of the south property line. A formal letter was submitted requesting a waiver for the length of the cul-de-sac.

3. Lot 23 was changed from a two-family dwelling to a single-family dwelling. There are now 20 two-family dwellings and 3 single-family dwellings. The total number of units for the project is 43 units, and the proposed density is 5.2 units per acre.

4. A drawing was submitted showing the building footprints and driveways for the proposed lots. An identification key was made to show which building elevations went with which lot. The building heights and number of bedrooms were also included. A packet showing the floor plans and elevations of each building was also included.

5. The 5' setback in front of Lots 1 through 5 was revised to a 20' utility easement.

6. The 8' setback on the back of Lots 7 through 9 was revised to a 15' setback.

7. The 5' setback on the east side of Lot 17 was revised to a 10' setback.

8. A meeting was held on Tuesday, November 18th, at 6:30 with the neighboring property owners. The neighbors that signed-in were:

Orvie Gosnell (2678 Travis)
Dorothy Ryskey (555 Sherlock)
Jerry and Sue Mounce (577 Sherlock)
Rick Nickell (2633 Wyman)
Clanton (390 Crossover)
Elsa Isaacs (2665 Travis)
James Wright (3758 Huntsville)
Wilda Hardin (2677 Travis)

Per property owner's comments at this meeting, the proposed duplexes on Lots 9 and 10 were revised from the Creekstone Way floor plan to the Cooper Lake floor plan. I will bring a revised drawing showing these new footprints to the subdivision committee.

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.craftull.com

November 19, 2003

Mr. Jeremy Pate
City of Fayetteville – Planning Department
113 West Mountain
Fayetteville, AR 72703

RE: Benton Ridge PZD – Subdivision Committee Comments
CTA Job No. 031061-00

Dear Mr. Pate:

The attached set of plans and drainage report were revised per technical plat review comments on October 30, 2003. Below is a breakdown of how the comments were addressed:

Planning Comments:

1. A note was added to the preliminary plat explaining the Tree Preservation/Green Space areas that are to be located within protective easements. (See Sheet 2)

2. The detention pond was assigned a lot number. (See Sheet 2).

3. A meeting was held on Tuesday, November 18th, at 6:30 with the neighboring property owners. A copy of the invitation is attached.

4. The building footprints and driveways were added to the lots. An identification key was made to show which building elevations went with which lot. The building heights and number of bedrooms were also included.

5. A formal letter is included requesting a waiver for the length of the cul-de-sac.

6. The cul-de-sac was moved north, so that there would be no grading within 5' of the south property line.

7. Lot 23 was reverted back to a single-family dwelling.

Please do not hesitate to call if you have any questions or comments about the revised plans. My direct dial number is (479) 878-2455.

Respectfully,
Crafton, Tull & Associates, Inc.

Juli Zimmerman

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.craftull.com

November 19, 2003

City of Fayetteville
113 West Mountain
Fayetteville, AR 72703

RE: Benton Ridge PZD – Formal Request for Waiver
CTA Job No. 031061-00

Dear Planning Commissioners:

The developer would like to formally request a waiver for the length of the proposed cul-de-sac street for the Benton Ridge Planned Zoning District project.

The proposed cul-de-sac length is 965' in length. Rather than extending the proposed street to Crossover for a second entrance, the proposed cul-de-sac allows for a large group of existing pine trees to be preserved.

Respectfully,
Crafton, Tull & Associates, Inc.

Juli Zimmerman

Juli Zimmerman, E.I.
Project Engineer

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.craftull.com

November 11, 2003

Dear Neighbors:

You are invited to an informational meeting which will be held on November 18, 2003 at 6:30 p.m. at the Ramada Inn located at 3901 N. College, Fayetteville, Arkansas concerning the proposed Benton Ridge PZD Subdivision.

The proposed project is located on the east side of Crossover Road, north of Huntsville Road and south of Wyman Road. The developer will be present to answer any questions you may have.

Thank you,

Juli Zimmerman

Juli Zimmerman, EI
Project Engineer

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax 479.631.6224 www.craftull.com

October 6, 2003

City of Fayetteville
Planning Commissioners
Fayetteville, AR

RE: Benton Ridge PZD Rezoning Request
CTA Job No. 031061-00

Dear Commissioners:

We are respectfully requesting this rezoning on behalf of Raymon and Melba Rogers, the current property owner of Lot 40 of the W.E. Anderson Farms, and on behalf of Carl and Ora Murrell, Trustees, the current property owner of Lot 41 of the W.E. Anderson Farms, and on behalf of Long, L.L.C., who has the properties under contract for purchase.

We are requesting that the property be rezoned as a Residential PZD for the following reasons:

1. **Flexibility.** The developer is proposing a mixed use within the twenty-three-lot subdivision. Lots 1 through 20 will be designated as two-family residential lots (Unit 9). Lots 21 through 23 will be designated as single-family residential dwellings (Unit 8).

2. **Compatibility and Harmony.** This area of Fayetteville is currently being developed as single-family residential (RSF-4), and the developer feels that a Residential PZD is compatible with the surrounding usage and will be beneficial to the community. The developer is proposing 43 units (20 duplex units, and 3 single family units), which will give the proposed site a density of 5.2 units per acre. This is just slightly about the density allowed by the RSF-4 zoning.

3. **Natural Features.** The building setbacks were adjusted throughout the proposed subdivision to best protect the natural features on the site, which will be designated as tree preservation areas in the covenants. The natural drainage way that runs through the center of the property is being preserved.

RECEIVED
OCT 0 6 2003
PLANNING DIV.

Full public utilities are available. An existing 8-inch waterline is located along the west property line along Crossover Road. An existing 6-inch sanitary sewer line runs through the center of the property and along the north property line. An existing 8-inch waterline runs along the east property line.

Should you have any questions, or require any additional information, please contact us at your convenience.

Respectfully,

Crafton, Tull & Associates, Inc.

Jerry Kelso, P.E.
Project Manager

RECEIVED
OCT 06 2003
PLANNING DIV.

Benton Ridge PZD
Proposed Covenants

- All Residential units must be 1400 sq.ft heated and cooled. E.g. a duplex would be 2800 sq.ft overall
-
- All building must be a minimum of 70% brick or masonry finish material.
-
- Any siding must be of natural materials – no vinyl or masonite.
-
- Soffit & Fascia may be either wooden or aluminum.
-
- All roofing must be of an architectural shingle or wood shingle.
-
- All units must have a landscape plan approved by the POA.
-
- All yards will be fully sodded.
-
- All units will have a sprinkler system installed in the front and side yards.
-
- A POA will be created to maintain(mowing,weedeating) all of the yards.
-
- Any structural changes, exterior color/façade treatment alterations, or additions must be approved by the POA
-
- No vehicles can be parked anywhere but the designated areas. No inoperative vehicles can be left in sight.
-
- Fencing must be wood or wrought iron and must be approved by the POA. The poa will be responsible for letting an individual homeowner know when the appearance of his fence is unacceptable and will work with that homeowner to remedy the situation (i.e. stain the fence, new fence required)
-
- No businesses or live stock will be kept or operated on the residential lots.

- No trees existing in the building setbacks may be cut down unless the have been determined to be dead.

- Each lot will plant atleast a 2" caliper tree for each residential unit located on that lot. E.g. duplex = 2 trees planted and maintained

- Each unit will have a 6' yard light and matching mailbox. They will be of black painted metal (same as in Brookbury woods)

- All Structures(units) within the bounds of a legal lot are to be sold in their entirety.(no sale of one side of a duplex unit is permitted)
- Conservation areas are within common property and are to be owned and maintained by the property Owner's Association.
- Areas designated as green space are to be owned by the lot owner, but maintained by the POA.
- Since the PZD has included a larger road than required, Parking will be allowed on the street.
- The minimum square footage for lots 1 & 2 (zero lot lines) will be 1200 square feet per unit.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

[redacted]
Jerry Kelso
901 N. 47th Street Ste 200
Rogers, AR 72756

Re: Benton Ridge PZD proposal

Dear Mr. Kelso,

The following is a review of project requirements concerning the project mentioned above:

Staff remains concerned with the development as proposed and at this time is not comfortable recommending approval for the overall project. The following comments are items of concern that have been discussed with the applicant and applicant representative on several occasions (June 25, July 07, July 14, 2003). The site plans from the initial meeting have not appreciably changed in any manner as an outcome of these discussions. Staff remains unconvinced with how the proposed development achieves the intent and spirit of the Planned Zoning District as set forth in the Unified Development Code.

166.06 Planned Zoning Districts (PZD) D.

(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.*

- The natural drainage features of the site are not being preserved in any manner. The natural drainage pattern is being reconfigured and stormwater is being channeled to a detention pond with approximately 9-foot high detention walls, creating an undesirable condition that could be avoided with more site-sensitive design and clustering of structures. Staff has expressed specific concern regarding these retaining walls, and comments are included in the Technical Plat review packet.

- In numerous places, the proposed tree preservation areas in which trees are intended to remain also

contain building envelopes. The tree preservation areas effectively become negated once the lot is sold and built upon. In particular, lots 2, 5, 18, and 24 indicate preserved tree areas within the building envelopes. Again, more site-sensitive design and potentially the clustering of dwelling units could alleviate both the potential loss of units and loss of trees for the overall development.

- The tree preservation area on lot 24, proposed to be utilized as commercial/office use, effectively creates an unbuildable lot. If the tree preservation area is truly to be in effect in this location, Staff needs to see a building footprint that works with that lot in the proposed manner.

- The natural drainage area has associated trees, including a 30" Ash, a 24" Elm, a 20" Elm, and several 10-12" Cherry, Sycamore, Pin oak and Ash trees, all of which are being removed. Staff is optimistic that some of these trees could be saved, along with the natural drainage area, with an alternate site layout.

Staff has consistently asked for design alternatives for the layout of the overall development, and as of yet has not received anything more than the current plan to review. The conceptual idea for the project reaches the benchmark set by the Planned Zoning District ordinance, however, the development needs to follow through. It is Staff's opinion that the site is overly developed to accomplish the goals and criteria set forth by the Planned Zoning District. The density allowed with the current zoning (RSF-4) is more compatible with that of the surrounding single family residential land use. The site plan could perhaps provide better compatibility with fewer lots and a reconfiguration of site layout and circulation to permanently preserve natural features and site amenities.

Please feel free to contact City Staff to review these and other comments and concerns regarding your proposed development project. We look forward to reviewing a revised site plan, and hope these comments will aid in that process.

Sincerely,

Jeremy C. Rale
Associate Planner
City of Fayetteville

cc: Juli Zimmerman, Crafton, Tull & Associates
Mr. Jon Brittenum
Dawn Warrick, Zoning & Development Administrator
Craig Carnagey, Landscape Administrator

From: <rustytwr@cox-internet.com>
To: <planning@ci.fayetteville.ar.us>
Date: Mon, Oct 27, 2003 12:16 AM
Subject: benton ridge subdivison

Garey Sorensen
425 S Stone Bridge Rd
Fayetteville AR
72701
479 521 8718
479 871 9012
rustytwr@cox-internet.com

October 27, 2003
Subdivison Committee
Planning Commission
113 West Mountain St
Fayetteville AR
72701

Members of the Subdivision Committee and Planning Commission,

My name is Garey Sorensen and I am a resident at 425 S Stone Bridge Rd. I am also President of the Wyman/Stone Bridge Neighborhood Association. This letter is in regard to the development known as Benton Ridge. My personal concerns are as follows,

1. the density of the development
2. the encroachment next to the cemetery

As a concern of the neighborhood associations, besides my own concerns, are

1. effects of changing the natural drainage
2. effects on our property values
3. that these are not planned as single family homes
4. will structures fit in with already established homes
5. Set back from property lines.

I have looked at a blueprint of the development and one of my major concerns is the cul-d-sac next to the cemetery. I believe there should be some kind of buffer and a removal of the street to protect the cemetery. My wife has family in the cemetery, I have church family that has family members there, and I have planned to be buried there myself.

Simply put, we do not wish to stop development. We would like to see the development be for single family homes on about half of the lots now called for. As it looks now, there would be 22 duplexes, which would be 44 families. That could roughly amount to 150 people on approx 8 acres. As one resident put it, in 10 years time that would be a blight (slum) on our neighborhood. We wish the Committee and Commission to turn down the plans as they are now. We would like to see the developers work with the Neighborhood Association and the over seers of the Buckner Cemetery to build something that is pleasing to the majority.

Sincerely,
Garey Sorensen

RECEIVED
OCT 28 2003
PLANNING DIV.

October 27, 2003

City of Fayetteville
Subdivision Committee

My name is Malcolm Scott Clanton I live at 390 S. Crossover Rd. This letter is in regards to the Benton Ridge proposed subdivision. I am an adjoining landowner and I acquired a set of plans from the city. I and am very opposed because of the extreme population density of the plan. I am also concerned about the closeness to the Buckner Cemetery. Following the plans I took my tape measure to the Cemetery and noticed that the sidewalk that goes around the cul-de-sac would be approximately fifteen feet from a grave. As you know with dead end cul-de-sacs especially during construction you would have far increased litter into the cemetery proper i.e. trash, beer bottles. I feel this plan is irreverent to the historical cemetery.

Most people don't remember that Buckner Community had it's own autonomy at one time. The only remaining pieces of the Community are Buckner Church, and Buckner Cemetery. I am not naïve enough to think that 81/2 acres of land in the middle of Fayetteville would stay undeveloped, however, I feel that this is not a good plan and should be rethought. I ask only one thing of the developer, which is any street that comes off of Crossover rd. in Buckner Community, should be Buckner Street. I know these developers have a lot of money tied up in what they do. However, all of my money is tied up in where I live in this community. I love where I live and the people this is a great neighborhood and much thought should be placed into what is built here.

Thank You,

Malcolm S. Clanton
Vice President of the Wyman /Stonebridge neighborhood watch association
390 S. Crossover Rd.
Fayetteville, AR 72701

October 20, 2003

Planning Commission:

We are writing concerning a project called Benton Ridge Planned Zoning District. This project, located on the east side of Crossover Road, north of Huntsville Road and south of Wyman, abuts to the subdivision and community area that we live in.

We are strongly against having a rental project adjoining our quiet area of living. Not only do we feel that this will increase the noise and traffic in our area, but also decrease our property values. The proposed residential project will be placing 63 family dwellings on the property that at present has two families. We as a small quiet single- family residential area, are asking you to please consider the neighborhoods that are already in this area and ask you to deny this request.

Respectfully,

Leon Bozarth
Elaine Bozarth

Leon and Elaine Bozarth
2761 Travis Street
Fayetteville, AR 72701

RECEIVED
OCT 2 2 2003
PLANNING DIV.

RECEIVED
OCT 2 1 2003
PLANNING DIV.

Subdivision Committee,

This letter is in Regards To The Benton Ridge develoment Proposal on The east side of Crossover RD North of huntsville Rd and South of Wyman RD in fayetteville. AT 830 Am on Thursday Oct 30 Room 111 you will revue a Subdivision with 20 Two family Residential a 3 Single family lots on 6.34 Acers. Would equal Aproux 63 Familys.

I highly Opposes of This Project. Reasons being.

A) Our Neighborhood is made up of Singal family homes. (NOT condoes)

B) The Value of our grandfathered in homes would be at risk. My ~~Neighbors~~ Neighbors on TRAVIS & holmes St. Would be in greator Jeopardy of Noise and devaluing land.

Please do NOT even consider This Custer of Condoes To be built.

Yours Truly
Hollie Gerstner
10/20/03

JANE PARKS
3365 WYMAN RD.
FAYETTEVILLE, AR. 72701
October 19, 2003

RECEIVED
OCT 2 1 2003
PLANNING DIV.

SUBDIVISION COMMITTEE
ROOM 219
113 W. MOUNTAIN
FAYETTEVILLE, AR. 72701

PLEASE NOTE MY CONCERNS REGARDING THE BENTON RIDGE DEVELOPMENT . THE PROPOSALS BY BRYAN DANDY AND ROBERT SCHMIDT WILL COME BEFORE YOUR COMMITTEE ON OR ABOUT OCTOBER 30, 2003.

1. **SHODDY WORKMANSHIP ON SIMILAR DWELLINGS BUILT ON MISSION BLVD.**
2. **WYMAN/STONEBRIDGE NEIGHBOR HOOD IS NOTA MIXED USE NEIGHBOR HOOD.**
3. **TREES WILL BE CUT. TOP SOIL REMOVED AND CLAY AND ROCKS BROUGHT IN AS FILL**
4. **THIS AREA WAS ORIGINALLY A 2 FAMILY LOT**
5. **A RESIDENTIAL/OFFICE COMPLEX WILL NOT FIT IN WITH THIS AREA**
6. **PROPERTY VALUES WILL DECLINE.**
7. **INCONSISTENCIES IN CITY COMMUNICAES ARE TROUBLING. HOW MANY OF WHAT TYPE BUILDINGS WILL BE BUILT VARIES WITH EACH MEMORANDUM.**
8. **WILL THERE BE DAMAGE TO BUCKNER CEMETERY?**
9. **WILL THE NATURAL CREEK BE OBLITERATED?**
10. **THE DENSITY OF POPULATION THIS WILL ADD TO OUR AREA IS NOT ACCEPTABLE TO THE WYMAN/STONEBRIDGE ASSOCIATION OR TO ME PERSONALLY.**

PLEASE CONSIDER THESE CONCERNS.

RESPECTFULLY,
Jane Parks
JANE PARKS

Jerry and Sue Mounce
577 Sherlock Avenue
Fayetteville, AR 72701

RECEIVED
OCT 24 2003
PLANNING DIV.

October 20, 2003

Subdivision Committee
City of Fayetteville
City Administration Building
113 West Mountain
Fayetteville, AR 72701

Dear Sirs or Madams:

I am writing you regarding the Benton Ridge Planned Zoning District.

I am an adjoining landowner to the East of the proposed project and want you to know that I am greatly disturbed at the prospects of such a development being in my back yard. I built this house about eight years ago in a single residential neighborhood and would not have done so if such a project as this could be seen (and heard) from my back porch. This type of project is not in keeping with the neighborhood I chose to build in and live in. I want you to not allow it.

I have been a resident of this area all of my life and my parents lived here all of their lives. As I now approach retirement in this neighborhood, I am appalled that the city would even consider changing my neighborhood in this way. I did not move here to live next to renters. I moved here to live with landowners who have a vested interest in their own property and live as owners of it. I do not wish to look out my back window to see a neighborhood that is not in keeping with the one I have chosen to live in as I retire with my wife.

This letter is to let you know of my displeasure in the possibilities of the impact that such a development would have on my hard earned and long sought investment here on Sherlock Avenue. If I had wanted to live in a duplex neighborhood I would have moved near to one. I did not then want to live near one and I do not appreciate that the powers that be in Fayetteville would make me live near one now.

Please do not allow this project to proceed.

Sincerely,

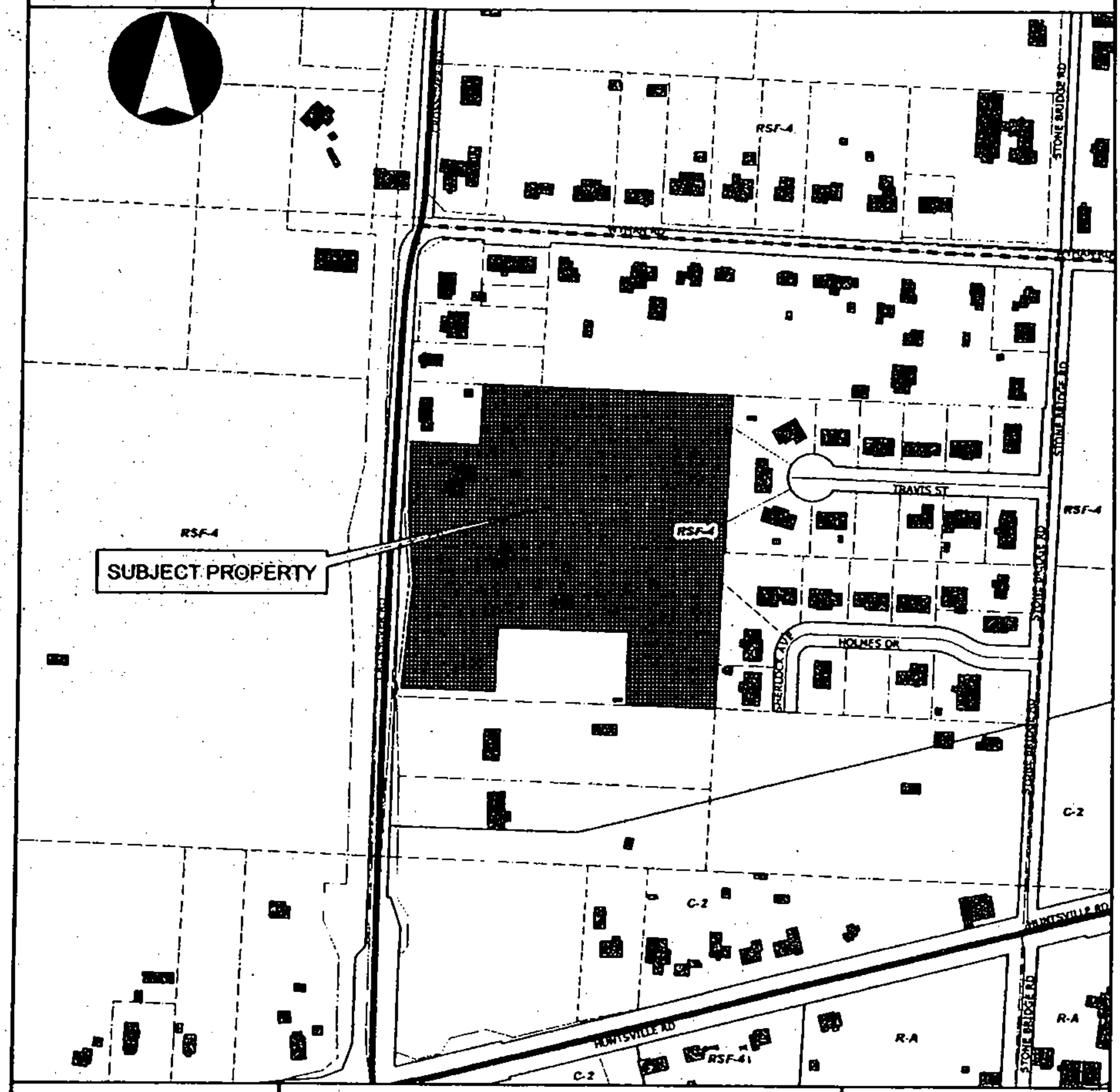
Jerry Mounce

File

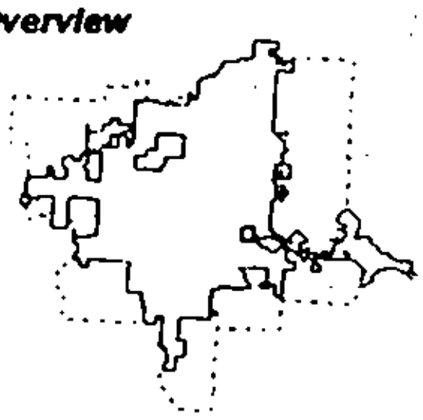
RPZD03-06.00

Close Up View

BENTON RIDGE



Overview



Legend

Subject Property
RPZD03-06.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

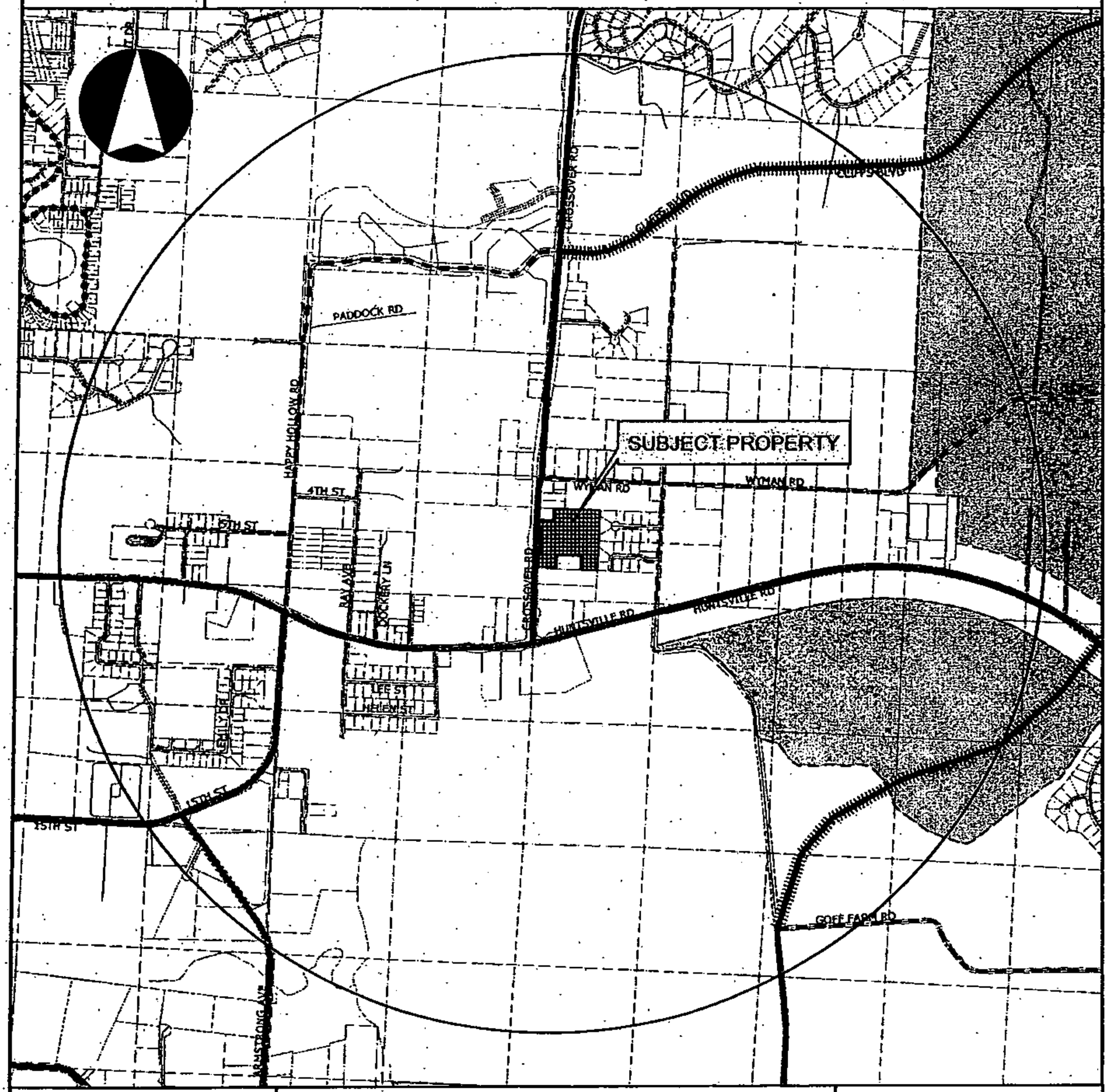
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 100 200 400 600 800
Feet

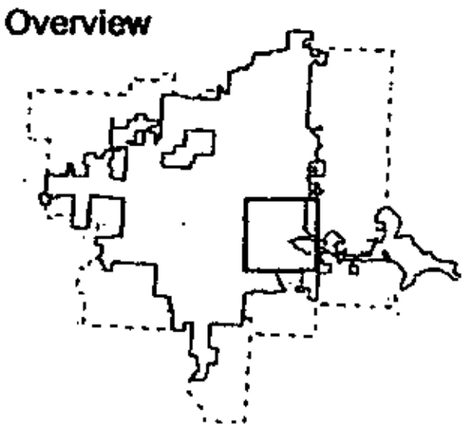
RPZD03-06.00

One Mile View

BENTON RIDGE



Overview



Legend

Subject Property

RPZD03-06.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: January 6, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

R-PZD 03-06.00: Residential Planned Zoning District (Benton Ridge, pp 527) submitted by Crafton, Tull and Associates, Inc. on behalf of Long, I.I.C for property located on the east side of Crossover Road, north of Huntsville Road and south of Wyman Road. The property is zoned RSF-4, Residential Single-family, 4 units per acre, and contains approximately 8.34 acres. The request is to rezone the subject property to a R-PZD 03-06.00, with a total of 43 dwelling units on 23 lots (20 Two-family and 3 Single-family).

STAFF RECOMMENDATION: Approval.

Division Head — 12/19/03 Date

City Attorney — 12-19-03 Date

Department Director — 12-19-03 Date

Finance & Internal Services Dir. — 12-19-03 Date

Chief Administrative Officer — Date

Mayor — 12/19/03 Date

Received in Mayor's Office 12/19/03 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 12/19/03 TLM

City Council Meeting of January 6, 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: December 17, 2003

Subject: Residential Planned Zoning District for Brophy Condos (R-PZD 03-07.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating the Residential Planned Zoning District (R-PZD) for Brophy Condos. This action will establish a unique zoning district for development of a 6.01 acre tract located east of College Ave, north of Township on Brophy Circle. The request is to rezone the subject property to a Residential Planned Zoning District with a total of 50 Residential dwelling units (25 Two-family units).

BACKGROUND

The applicant requests a rezoning and preliminary plat approval for a residential development within an R-PZD zoning district. The proposed use is two-family residential to be built in three phases. Density for the entire site is 8.32 units per acre. The development encompasses an area with three zoning designations of RSF-4, RMF-24, and RMF-40. The site is located east of College Avenue and north of Brophy Circle and has extensive canopy-coverage on steep terrain.

The applicant proposes to construct 25 duplexes with 50 total units to be sold using a horizontal property regime. Therefore, an individual may buy one unit located on a lot, which is defined as the building area for each duplex. There are two lot sizes. Twenty-one of the buildings are to be built at 35' by 40' and four at 40' by 50'. Seven styles of building elevations have been proposed. Styles 1, 2, and 3 are proposed for the larger building units and 4 through 7 for the smaller units. Below are the dimensions of each building style. The driveways for each of the buildings are unique. Minor changes are required to the plat to assure that the correct driveway configuration is represented for each unit. There is also a proposed five foot area around each unit designated as a construction perimeter and deck/porch easement.

DISCUSSION

The Planning Commission voted 5-3-0 in favor of this request on Monday, December 8, 2003. Approval of a planned zoning district requires City Council approval as it includes

zoning (land use) as well as development approval (preliminary plat). Recommended conditions included in the attached staff report were approved by the Planning Commission. Planning Commission did amend the conditions of this project to state that the structures to be located along the western edge of the development shall be limited in height to a maximum of two storys.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED (R-PZD 03-07.00) LOCATED EAST OF COLLEGE AVENUE, NORTH OF TOWNSHIP ON BROPHY CIRCLE CONTAINING 6.01 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 03-07.00 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 December 8, 2003.

Section 3. That this ordinance shall take affect 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 03-07.00

A PART OF THE SE ¼ OF THE SW ¼ AND A PART OF THE SW ¼ OF THE SE ¼ OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, IN THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

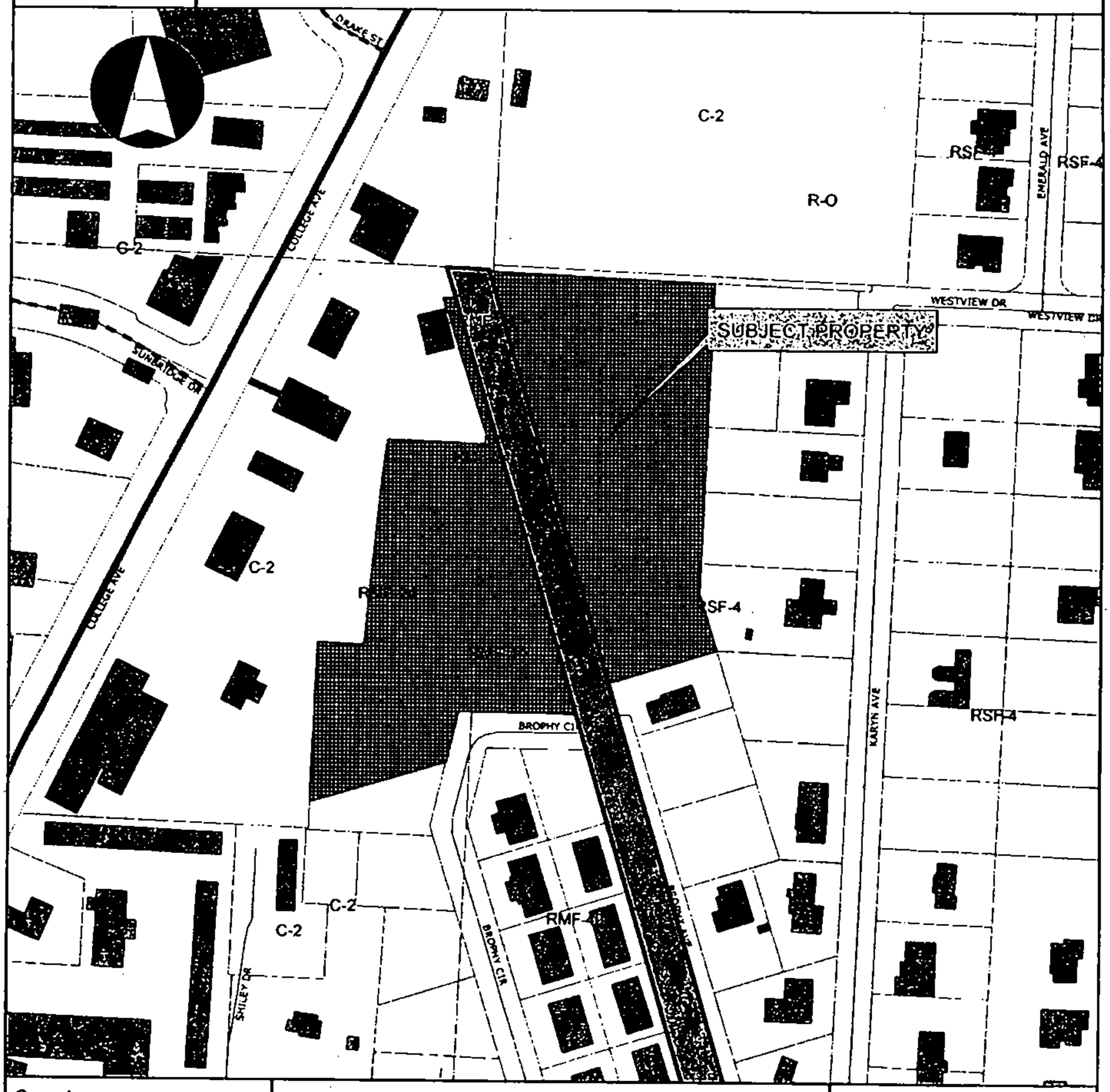
COMMENCING AT THE NE CORNER OF SAID SE ¼, SW ¼, RUN THENCE S02°19'51"W 10.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE S87°36'31"E 78.62 FEET; THENCE S87°41'04"E 226.63 FEET; THENCE S02°26'59"W 430.36 FEET; THENCE S17°19'50"E 84.79 FEET; THENCE S72°52'23"W 139.18 FEET; THENCE S75°58'14"W 50.08 FEET; THENCE 17°19'50"E 39.39 FEET; THENCE N89°13'34"W 185.06 FEET; THENCE S14°01'58"W 44.10 FEET; THENCE S67°01'51"W 211.76 FEET; THENCE N02°32'57"E 219.99 FEET; THENCE S87°42'47"E 63.58 FEET; THENCE N05°44'36"E 86.47 FEET; THENCE N06°05'49"E 149.85 FEET; THENCE N07°51'09"E 50.71 FEET; THENCE S87°41'04"E 139.79 FEET; THENCE N17°44'06"W 212.91 FEET; THENCE S87°41'04"E 56.84 FEET; THENCE N01°26'29"E 40.10 FEET; THENCE S87°36'31"W 11.05 FEET TO THE P.O.B., CONTAINING 6.01 ACRES, MORE OR LESS, AND SUBJECT TO ALL RIGHTS OF WAY AND UTILITY EASEMENTS OF RECORD.

DRAFT

R-PZD03-07.00

Close Up View

BROPHY

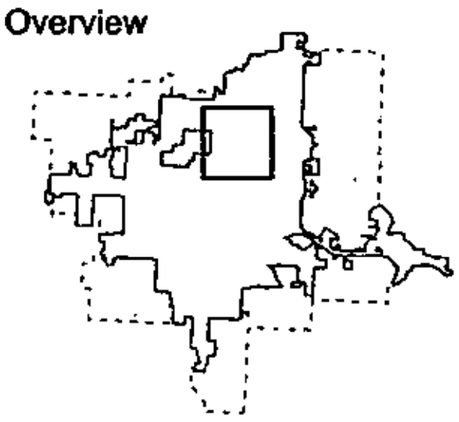


R-PD03-07.00

One Mile View

BROPHY

Overview



Legend

Subject Property
- R-PZD03-07.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of December 08, 2003

PLANNING DIVISION CORRESPONDENCE

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
Matt Casey, Staff Engineer
THRU: Dawn Warrick, Zoning & Development Administrator, A.I.C.P.
DATE: December 02, 2003

R-PZD 03-07.00: Planned Zoning District (Brophy Condominiums, pp 290, 291) was submitted by William Rudasill of WBR Engineering Assoc. on behalf of Ralph Brophy for property located east of College Ave, north of Township on Brophy Circle. The property is zoned RMF-40, RMF-24 and RSF-4 and contains approximately 6.01 acres. The request is to rezone the subject property to a Residential Planned Zoning District with a total of 50 Residential dwelling units (25 Two-family units). Planner: Suzanne Morgan

Findings: The applicant requests a rezoning and preliminary plat approval for a residential development within an R-PZD zoning district. The proposed use is two-family residential, with 50 units (25 duplexes) proposed to be built in three phases. Density for the entire site is 8.32 units per acre. The development encompasses an area with three zoning designations of RSF-4, RMF-24, and RMF-40. The site is located east of College Avenue and north of Brophy Circle and has extensive canopy-coverage on steep terrain. This item must be heard at City Council pursuant to the requirements for a PZD.

The applicant proposes to construct 25 duplexes with 50 total units to be sold using a horizontal property regime. Therefore, an individual may buy one unit located on a lot, which is defined as the building area for each duplex. There are two lot sizes. Twenty-one of the buildings are to be built at 35' by 40' and four at 40' by 50'. Seven styles of building elevations have been proposed. Styles 1, 2, and 3 are proposed for the larger building units and 4 through 7 for the smaller units. Below are the dimensions of each building style. The driveways for each of the buildings are unique. Minor changes are required to the plat to assure that the correct driveway configuration is represented for each unit. There is also a proposed five foot area around each unit designated as a construction perimeter and deck/porch easement.

Building Styles:

Style	1	2	3	4	5	6	7
Dimension	42' x 39'	48' x 40'	46' x 39'	40' x 32.5'	36' x 33'	36' x 34'	38' x 32'

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	Commercial along College Avenue & vacant property	C-2, Thoroughfare Commercial R-O, Residential Office
South	Duplex and Four-plex units	RMF-40, Residential Multi-family – 40 units per acre
East	Single-family residential	RSF-4, Residential Single-family – 4 units per acre
West	Commercial	C-2 Thoroughfare Commercial

Easements: There is an existing 20' sewer easement located on the west of the proposed private drive named Brophy Place. A private 55' gas easement also exists on this property. Exact location of this easement is to be determined. No structures shall encroach on any public or private easements.

Right-of-way being dedicated: The applicant proposes to construct 24' wide private streets with four foot sidewalks and a six foot greenspace along both sides of the street. These private streets will connect an existing private drive extending east from College Avenue and Brophy Circle, a dedicated right-of-way.

Street Improvements: The 24' private drive shall be built to City standards to include curb, gutter, and storm sewer.

Adjacent Master Street Plan Streets: College Avenue (principle arterial) and Brophy Circle (local street).

Tree Preservation:

Existing canopy:	58.4 %
Preserved canopy:	23.9 %
Required:	25 %
Mitigation:	$2,972 payment into the City's Tree Escrow Account prior to final plat.

Project History:

Date	Action	Comments
22 August 2003	Tabled	Meeting scheduled with engineer for week of August 25, 2003
23 September 2003	Resubmitted	Tabled at In-House
6 October 2003	Resubmitted legal, plats, site plans, elevations, soils, waiver request, and covenants	Tabled at In-House
13 October 2003	In-House Review	Forwarded to Technical Plat
15 October 2003	Technical Plat Review	Forwarded to Subdivision Committee

04 November 2003	Meeting with Mr. Rudasill; Project tabled.	Comments addressed tree preservation data, driveways, building styles, and sidewalks.
12 November 2003	Project Tabled. Meeting with Mr. Rudasill, Suzanne Morgan, and Matt Casey	Retaining walls were shown in an easement. No structures are allowed to be built in an easement. Questions regarding location of gas easement.
13 November 2003	Zoning Review Team Toured the Property	Visited the property.
17 November 2003	Faxed letter to Mr. Rudasill.	Letter listed items to be addressed for the submittal for Subdivision Committee on November 26th.
25 November 2003	Meeting with Mr. Brandt from Arkansas Western Gas and Mr. Rudasill.	Gas easement is private. Gas lines will be located in the field and easement will be measured off of survey.
26 November 2003	Subdivision Committee	Discussion to lessen sidewalk requirement to 4' with a 4' green space; overhead electric lines; cross sections of specific units requested; impermeable/ permeable surface comparison requested.

Recommendation:
Forward to the City Council with a recommendation for approval of the requested rezoning.

Planning Commission approval of the proposed preliminary plat subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district for R-PZD 03-07.00 with all conditions of approval as determined by the Planning Commission.

2. An ordinance creating this R-PZD shall be approved by City Council.

3. A Final Plat is required to legalize the lot configuration, filed pursuant to City of Fayetteville requirements.

4. All easements, both private and public, shall clearly be identified on the plat.

5. Driveways shown on the plat shall reflect the driveway required for each proposed building elevation.

6. The 24' private drive shall be built to City street standards with curb, gutter, and storm drain.

7. Planning Commission determination of request for four foot sidewalks with a six foot of green space. *Staff is recommending five foot sidewalks with a two foot greenspace in order to provide pedestrian access, area for greenspace and adequate depth for vehicle stacking in driveways.*

8. Street lights shall be installed with this development in accordance with §166.03.

9. Interior street names shall be approved by the City 9-1-1 Coordinator.

10. A sign shall be erected at each entrance of the private street to indicate the road as private.

11. All designated crosswalks shall have sidewalks connecting to the street.

12. Payment of parks fees in the amount of **$19,650** shall be required prior to building permit.

13. Covenants for this planned zoning district shall be updated to include requirements for maintenance for private streets per Chapter 166.06 and address any needed corrections or clarification.

14. Covenants shall include a statement prohibiting vehicles from overhanging or parking on sidewalks.

Standard Conditions of Approval:

15. 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)

16. 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.

17. Sidewalk construction in accordance with current standards to include a sidewalk and greenspace with width to be determined by Planning Commission along all proposed streets.

18. Preliminary Plat shall be valid for one calendar year.

19. Prior to the issuance of a building permit the following is required:
a. Grading and drainage permits
b. Separate easement plat for this project that shall include the tree preservation area.
c. Project Disk with all final revisions
d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy
e. Parks fees paid and/or deed recorded and copy received.

Findings associated with R-PZD 03-07.00

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 subject property is adjacent to property zoned C-2 to the west, C-2 and R-O to the north, RSF-4 to the east and RMF-40 to the south. The surrounding land uses are commercial, single family residential and multi-family residential. The subject property is 6.01 acres and zoned RSF-4, RMF-24, and RMF-40. Rezoning the property to have 25 duplexes for a total of 50 units and an overall density of 8.32 units per acre is compatible with surrounding uses and zoning. The site is located on hilly terrain and entirely covered with tree canopy.

(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: A total of 23.9% of the tree canopy is proposed to remain and designated as common area for the entire project. No buffers or other screening has been proposed other than the natural features of the land. The largest sections of preservation are located along the east and west boundary lines to create a buffer between this proposed development and the existing single family dwellings and commercial buildings.

(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: The proposed 24' private streets will connect an existing private drive intersecting College Avenue and Brophy Circle, which connects to Township St. The private drive, West View Place, has joint ownership. The applicant is one of these owners. Traffic generated by this development will not negatively impact the area due to several connections to nearby collector and arterial streets.

(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: Each proposed unit shall have a one-car garage and driveway to provide for a total of two off-street parking spaces for each unit.

(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: There is a total open space/pervious surface of 3.64 acres (60.6%) and 2.37 acres (39.4%) is impervious. Buffer between this development and the surrounding

property is proposed to be the tree preservation area. The eastern edge has a buffer area ranging from 240'at the north to 30.25' at the south end of the property. The buffer along the western property line ranges from 35' to 75' north to south.

(6) *Sidewalks.* As required by §166.03.

FINDING: The applicant is proposing four foot sidewalks with a six foot green space on both sides of the road. Staff is recommending a five foot sidewalk with a two foot green space in order to allow for enough stacking room in the driveways for all units.

(7) *Street Lights.* As required by §166.03.

FINDING: Street lights shall be installed in accordance with §166.03.

(8) *Water.* As required by §166.03.

FINDING: Water shall be extended to serve development.

(9) *Sewer.* As required by §166.03.

FINDING: Sewer shall be extended to serve development.

(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: The proposed private streets are ending in a cul-de-sac and connecting a private and public street. The street shall be built in accordance with City standards. The cul-de-sac will serve 14 units. At 50 units, the street is required to be built at a minimum 24' width. Covenants shall reflect the appropriate maintenance of the private drives as stated above (see vi and vii). The developer shall erect a sign at each entrance to the proposed street indicating it is a private street.

(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: There is an existing 58.4% of canopy on this site. The applicant is proposing to preserve 23.9% canopy in a designated tree preservation area and mitigate by payment of $2,972 into the City's Tree Fund. The applicant has also proposed to retain approximately 36.4% of additional the canopy; however, this canopy is located within easements and other areas which will not ensure the preservation of these trees.

(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: The applicant has indicated in the submitted Covenants, Conditions and Restrictions that the height of each building shall not exceed two and one-half stories in or 35' in height.

(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 has submitted a draft of covenants for the proposed PZD describing the responsibilities and maintenance of future open space, landscaping, building

heights, etc. A final draft shall be submitted and filed with the Final Plat.

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 proposed R-PZD is located on property with three zoning designations. It is located between RSF-4 and C-2 zones and has steep terrain. A 55' privately owned gas easement and a 20' sewer easement bisect the property. Tree canopy exists on 58.4% of the property and 23.9% is proposed to be preserved in open/common space. The General Plan designates this area to be used for residential purposes, as the applicant is proposing. Staff finds that the proposed development is compatible with surrounding neighborhoods and provides an appropriate transition from the commercial developments along College Avenue and the single family homes to the east.

(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: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. Those findings are attached to this report. An ordinance will be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the Planning Commission. Covenants provided by the developer will be included in the PZD ordinance. This ordinance will be forwarded to the City Council for approval.

(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 applicant proposes to build an R-PZD with 25 duplexes. This is an infill development that will provide a harmonious relationship with the surrounding developments and minimize traffic and congestion. The site is constrained by easements and natural features and this project will allow for development and use of the land while also preserving approximately half of the existing canopy.

(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 two-family dwellings are a permitted use under use unit #9.

(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 PZD proposed is entirely residential in use.

RECOMMENDATION: Approval of R-PZD with conditions.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-PZD 03-07.00 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed rezoning from the existing RSF-4, RMF-24, and RMF-40 to R-PZD, with the development as presented, is consistent with the General Plan's designation of the site as Residential. The density proposed is 8.32 Dwelling Units per acre. The two-family dwelling units proposed are compatible with the surrounding single-family and multi-family residential land use and zoning.**

The proposal is consistent with the General Plan 2020 in which it meets the guiding policies for Residential Areas which are:

9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

9.8.b Adopt regulations which establish a development scale to maintain compatibility and proportionality between nonresidential development and adjacent residential areas.

9.8.i Establish performance zoning design standards to mitigate adverse impacts of contrasting land uses with residential land uses.

9.8.k Adopt a City policy of "connectivity", meaning that commercial areas and residential areas are easily accessible by vehicles, pedestrians and bicyclists.

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 8.32 units per acre. Currently the 6.01 acre tract is sectioned into three zones of 4, 24, and 40 units per acre. With maximum build out of each of these sections, a total of 129 units could be developed. Staff finds that due to the physical and zoning constraints on this property the rezoning proposed is justified. Comments from engineering, police, and fire have been included with this report.**

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 appreciable increase traffic danger and congestion. There are two access points from the development and Brophy Circle, the southern access, is an improved roadway.**

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: **Water and sewer lines will need to be extended into the development and any upgrades needed due to the addition of the project will be determined prior to development. The addition of 50 units will not significantly alter the population density.**

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

PC Meeting of December 8, 2003

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8202

ENGINEERING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Matt Casey, Staff Engineer
DATE: November 18, 2003

R-PZD 03-07.00: Planned Zoning District (Brophy Condominiums, pp 290, 291) was submitted by William Rudasill of WBR Engineering Assoc. on behalf of Ralph Brophy for property located east of College Ave, north of Township on Brophy Circle. The property is zoned RMF-40, RMF-24 and RSF-4 and contains approximately 6.01 acres. The request is to rezone the subject property to a Residential Planned Zoning District with a total of 50 Residential dwelling units (25 Two-family units). Planner: Suzanne Morgan

- *A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion*

- *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.*

The property currently has access to a 6" water line along Brophy Circle. An extension of the water main will be required to provide water supply within any development on this property. The main will also have to be looped to the northeast to connect with the 6" line along West View Drive to provide dual feed for the development.

The site currently has access to a 6" sewer main on the site. This sewer main flows into the 10" that runs along College Avenue. Sewer will need to be extended within the development. Calculations will be requested at the time of development to determine if the existing 6" line can handle the additional flows from the project. If not, the main will need to be upgraded from the development to the main along College Avenue.

Brophy Circle, which is where the development will be accessed from, is an improved roadway. Access is also proposed through a private drive on the north side of the site. Street improvements will only be recommended within the proposed development.

Name Matt Casey Department Engineering

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

November 18, 2003

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **R-PZD 03-07.00 Planned Zoning District (Brophy Condominiums, pp 290,291)** submitted by William Rudasill of WBR Engineering Assoc. on behalf of Ralph Brophy for property located east of College Ave, north of Township on Brophy Circle 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 Rezoning District **will not** substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

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

FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 11-12-03

REZONING ✓ ANNEXATION ____

REZONING # R-PZD 03-07.00 OWNER Ralph Brophy
ANNEXATON# ____ OWNER ____
LOCATION OF
PROPERTY Brophy Circle

NEAREST FIRE STATION AND
LOCATION Fire Station #4 Plainview St.

RESPONSE TIME FROM FIRE STATION # 4 TO
LOCATION OF
PROPERTY 4 MINUTES 0 SECONDS.
TRAVEL MILES FROM FIRE STATION # 4 TO LOCATION OF
PROPERTY 1.9 miles.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS Township can be Dangerous in the Winter - 2 access Roads From Complex will be req. D.1043 2000 ED of INT. Fire Code
EXISTING FIRE HYDRANTS? IF SO
LOCATION 0

WATER SUPPLY WITH HYDRANTS
NEEDED? yes.

ADDITIONAL
COMMENTS

D. Farrar

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION

TO: WBR Engineering
COPY: Suzanne Morgan, Associate Planner
FROM: Craig Carnagey, Sr. Planner
DATE: Nov. 14, 2003
SUBJECT: Brophy PZD

TREE PRESERVATION

1. The Tree Canopy Table needs to be simplified in order to clearly reflect only the preserved canopy that meets the criteria laid out in the ordinance.

2. Indicate ownership of the Tree Preservation Area on the Final Plat.

3. A payment into the City's Tree Escrow Account in the amount of $2,972.00 is required before Final Plat.

City of Fayetteville
Tree Preservation Plan Review Form

Project: Brophy Condominiums **Developer:** Ralph Brophy

Location: N. Brophy Circle **Engineer:** WBR Engineering

This form shall stand as a: ✓Initial Review/Letter of Confirmation

✓Recommendation to Planning Commission or City Council

❒ Final Administrative Determination*

Requirements Submitted:

✓Initial Review ✓Site Analysis ✓Analysis Report ✓Tree Preservation Plan

Canopy Measurements:

% Tree Canopy Required to be Preserved
Land Use R-PZD
%To be Preserved 25

Total Area of Site
Acres 6.01
Square Feet 261,802

Total Area of Existing Tree Canopy
Acres
Square Feet 152,881
% of Total Site Area 58.4

Existing Tree Canopy Preserved
Acres
Square Feet 62,570
% of Total Site Area 23.9

Mitigation/Off Site Alternatives Requested: ✓Yes ❒No

❒On-Site Mitigation ❒Off-Site Preservation ❒Off-Site Reforestation ✓Tree Fund

Tree Preservation Criteria Met: ✓Yes ❒No (See back for criteria list and comments)

Applicant's Plan: ❒Approved ❒ Denied ✓Conditionally Approved
Conditions for Approval: Tree preservation table needs to be simplified to clearly indicate required canopy calculations.

Signed: _____ The Landscape Administrator
Date: _____

Criteria used by the Landscape Administrator to evaluate Tree Preservation Plans

1. The desirability of preserving a tree or group of trees by reason of age, location, size or species.
Comments: Large groups of trees along the eastern perimeter of the site have been preserved.
2. Whether the design incorporates the required Tree Preservation Priorities.
Comments: Yes, priority groupings have been preserved.
3. The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.
Comments: The area is heavily treed on the eastern edge with few trees to the property adjacent to the west. Preservation of trees within the wooded eastern edge will help reduce environmental degradation.
4. 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.
Comments: The preserved eastern perimeter trees will provide a buffer between properties.
5. Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.
Comments: Building footprints and lot sizes have been reduced to allow retention of tree canopy.
6. Whether the size or shape of the lot reduces the flexibility of the design.
Comments: No.
7. The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.
Comments: Trees on the site are in moderate to good condition.
8. The placement of the tree or group of trees in relation to utilities, structures, and use of the property.
Comments: Utilities have been sited for least impacts to trees.
9. The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.
Comments: There are several existing utility easements on this property, and any upgrade to these lines would impact trees.
10. Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.
Comments: Yes, an existing street r.o.w. that was previously cleared is being utilized to avoid unnecessary tree removal.
11. Construction requirements for On-Site and Off-Site Alternatives.
Comments: None
12. The effects of proposed On-Site Mitigation or Off-Site Alternatives.
Comments: Payment into the Tree Fund is required.
13. The effect other chapters of the UDO, and departmental regulations have on the development design.
Comments: None
14. The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations.
Comments: N/A
15. The impact a substantial modification or rejection of the application would have on the Applicant.
Comments: Tree preservation criteria has been met by the applicant.

*An appeal may be filed against a Final Administrative Determination in accordance with Chapter 155 of the Unified Development Ordinance. City Landscape Administrator determinations/decisions may be appealed by any person aggrieved to the Planning Commission within 10 business days. Recommendations go straight to Planning Commission, thus no formal appeal is necessary for recommendations.

City of Fayetteville
Tree Mitigation Form

Project: Brophy Condominiums **Developer:** Ralph Brophy

Location: N. Brophy Circle **Engineer:** WBR Engineering

Canopy Measurements:
%Tree Canopy
Land Use R-PZD
Required to be Preserved 25

Total Area of Site
Acres 6.01
Square Feet 261,802

Amount of Preservation Requirement Requested for Mitigation:
Acres
Square Feet 2,880
% of Total Site .01

Total Area of Existing Tree Canopy
Acres
Square Feet 152,881
% of Total Site Area 58.4

Existing Tree Canopy Preserved
Acres
Square Feet 62,570
% of Total Site Area 23.9

Type of Mitigation Pursued:
❐On Site Mitigation ❐Off Site Preservation ❐Off Site Reforestation ✓Tree Fund

List Mitigation Species, Caliper, and Quantity of trees to be planted in the space below. Refer to table and on back for figuring quantity and caliper sizes.

Species	Caliper	Qty.
mitigation trees / 218 base density		13

Amount proposed to be deposited in the City of Fayetteville Tree Fund:
$ 2972.00
Mitigation Proposal: ✓Approved ❐Disapproved

Signed:_____, Landscape Administrator, _____ date

From: Rebecca Ohman
To: Morgan, Suzanne; Pate, Jeremy
Date: 10/29/03 11:47AM
Subject: Subdivision Comments

LSP 03-56.00

Parks and Recreation fees are assessed in the amount of $555 for one additional single family lot.

Fees are due prior to issuance of a building permit.

PPL 03-18.00

On December 9, 2002, PRAB voted to accept a combination of money and land to meet the Park Land Dedication requirements. City Council approved a combination of money and land at the January 7, 2003 meeting in Resolution 01-03, waiving Ordinance 166.03K.

The developer has agreed to provide 1.84 acres of land and $14,568.75 for 103 Single family lots.

A deed representing the park land and the remaining parks fees are due prior to issuance of the final plat.

Parks and Recreation requests the developer erect park boundary signs. Signs are available at the Parks and Recreation offices located on Happy Hollow Road.

POA should exclude the park land dedication from the covenants.

Construction debris or dumping shall not be permitted on park property.

PPL 02-13.10

The Parks and Recreation Advisory Board accepted a land dedication on January 15, 2002. PRAB accepted a banking credit of excess park land dedicated.

The park land dedication for 112 single family lots is 2.68 acres. The owners have dedicated 8.19 acres, leaving a banking credit of 5.51 acres for the southeast park district.

Please label the park land with a lot number.

Parks Staff requests a review of the proposed concrete weir on Lot 114 for potential flow on Park Property prior to construction.

A deed for the park land dedication must be received by the Parks and Recreation Division prior to issuance of the final plat.

Parks and Recreation requests the developer erect park boundary signs. Signs are available at the Parks and Recreation offices located on Happy Hollow Road.

POA should exclude the park land dedication from the covenants.

Construction debris or dumping shall not be permitted on park property.

✳ ***RPZD 03-7.00***

The Parks and Recreation Advisory Board reviewed this project on July 7, 2003 and recommended money in lieu of land for 50 Multi-Family units. Parks fees are due in the amount of $19,650 before issuance of a final plat.

LEGAL DESCRIPTION:

A PART OF THE SE1/4 OF THE SW1/4 AND A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, IN THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER OF SAID SE1/4, SW1/4, RUN THENCE S02°19'51"W 10.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE S87°36'31"E 78.62 FEET; THENCE S87°41'04"E 226.63 FEET; THENCE S02°26'59"W 430.36 FEET; THENCE S17°19'50"E 84.79 FEET; THENCE S72°52'23"W 139.18 FEET; THENCE S75°58'14"W 50.08 FEET; THENCE S17°19'50"E 39.39 FEET; THENCE N89°13'34"W 185.06 FEET; THENCE S14°01'58"W 44.10 FEET; THENCE S67°01'51"W 211.76 FEET; THENCE N02°32'57"E 219.99 FEET; THENCE S87°42'47"E 63.58 FEET; THENCE N05°44'36"E 86.47 FEET; THENCE N06°05'49"E 149.85 FEET; THENCE N07°51'09"E 50.71 FEET; THENCE S87°41'04"E 139.79 FEET; THENCE N17°44'06"W 212.91 FEET; THENCE S87°41'04"E 56.84 FEET; THENCE N01°26'29"E 40.10 FEET; THENCE S87°36'31"W 11.05 FEET TO THE P.O.B., CONTAINING 6.01ACRES, MORE OR LESS, AND SUBJECT TO ALL RIGHTS-OF-WAY AND UTILITY EASEMENTS OF RECORD.

Submitted For PZD 03-07 OK

RECEIVED
OCT 06 2003
PLANNING DIV.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

Applicant's Signature

REVISED PER ELR 10/6/03

Brophy Condos
Summary of Trip Generation Calculation
For 50 Dwelling Units of Residential Condominium / Townhouse
December 04, 2003

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	5.86	3.09	1.00	293
7-9 AM Peak Hour Enter	0.07	0.00	1.00	4
7-9 AM Peak Hour Exit	0.37	0.00	1.00	19
7-9 AM Peak Hour Total	0.44	0.69	1.00	22
4-6 PM Peak Hour Enter	0.36	0.00	1.00	18
4-6 PM Peak Hour Exit	0.18	0.00	1.00	9
4-6 PM Peak Hour Total	0.54	0.76	1.00	27
Saturday 2-Way Volume	5.67	3.10	1.00	284
Saturday Peak Hour Enter	0.25	0.00	1.00	13
Saturday Peak Hour Exit	0.22	0.00	1.00	11
Saturday Peak Hour Total	0.47	0.71	1.00	24

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS

WBR Engineering Associates, P.A.

4241 Gabel Drive, Ste 1B
Fayetteville, AR 72703

Voice: (479) 582-2820
Fax (479) 582-1788
E-Mail: wbrjr@aol.com

November 18, 2003

BROPHY CONDOMINIUM DEVELOPMENT PLANNING NARRATIVE

THIS PROJECT IS INTENDED TO FINALIZE THE PROPOSED DEVELOPMENT MR BROPHY PLANNED FOR THIS AREA OVER 20 YEARS AGO TO SUPPLEMENT HIS RETIREMENT. THE PROPOSED SITE IS LOCATED SUCH THAT IS SUITED AS A TRANSITIONAL DEVELOPMENT FROM COMMERCIAL ZONE ALONG COLLEGE AVE TO THE R-1 RESIDENTIAL AREA DEVELOPED TO THE EAST. THE REQUEST FOR THE PLANNED ZONE DISTRICT IS TO CONSOLIDATE THREE ZONES INTO ONE DEVELOPMENT AND PROVIDE A BEST USE DEVELOPMENT FOR THIS PROPERTY. THE TERRAIN, AVAILABLE ACCESS AND NEED TO PRESERVE THE HILLSIDE AND TREES LEND ITSELF TO THE NEED FOR A PLANNED ZONE AND PLANNED CONSTRUCTED DEVELOPMENT TO ACCOMPLISH THE ABOVE.

THE PROPOSED DEVELOPMENT WILL CONSIST OF 25 FREE STANDING BUILDINGS OR 50 LIVING UNITS WITH ACCOMPANYING DRIVE, WALKWAY AND INFRASTRUCTURE. THE INTENT OF THE PROJECT IS TO PROVIDE DUPLEX/CONDOMINIUM BUILDING SITES WHICH CAN BE SOLD TO PROSPECTIVE DEVELOPERS FOR SPECULATIVE UNIT SALES OR RENTALS. THE INTENT IS TO PROVIDE FOR A FIXED CONSTRUCTION PACKAGE OF A BUILDING FOOTPRINT AND A FIXED BUILDING PAD WITH DRIVEWAY ACCESS TO FIT THAT PLAN. IT IS NOT THE INTENT OF MR. BROPHY TO BUILD THE UNITS HIMSELF. THERE ARE TWO PAD SIZES. THE FIRST IS A 40' WIDE BY 35' DEEP AREA WITH A 5' ACCESSORIES EASEMENT AROUND THE ENTIRE PERIMETER WHICH WILL ACCOMMODATE DECKS, PATIOS, STAIRWELLS, SIDEWALKS AND WILL ALSO ACT AS A CONSTRUCTION ACCESS EASEMENT. THE SECOND PAD WILL CONSIST OF A 50' WIDE BY 40' DEEP PAD ALSO WITH A 5' ACCESSORIES EASEMENT AROUND THE PERIMETER. THE REMAINDER OF THE PROPERTY WILL CONSIST OF COMMON PROPERTY AND OPEN SPACE TO BE INCLUDED IN A PROPERTY OWNERS ASSOCIATION OR HORIZONTAL PROPERTY REGEIM.

ACCESS TO THE DEVELOPMENT CONSIST OF PRIVATE COMMERCIAL DRIVE ON THE NORTH AND PUBLIC MULTI-FAMILY ACCESS TO THE SOUTH. THE IMPACT OF THIS DEVELOPMENT IS IN-LINE WITH THE SURROUNDING DEVELOPMENT AND IN OUR OPINION IS THE BEST DEVELOPMENT SOLUTION FOR THE GIVEN PROPERTY . WATER AND SEWER ARE READILY AVAILABLE TO THE SITE AN HAVE SUFFICIENT CAPACITY TO ACCEPT THE ADDITIONAL LOADS FROM THE PROPOSED DEVELOPMENT.

RESPECTFULLY SUBMITTED

WBR ENGINEERING
ON BEHALF OF RALPH BROPHY

WBR Engineering Associates, P.A.

4241 Gabel Drive, Ste 1B
Fayetteville, AR 72703

Voice: (479) 582-2820
Fax (479) 582-1788
E-Mail: wbrjr@aol.com

December 2, 2003

BROPHY GREEN SPACE COMPUTAION
(AS REQUESTED BY SUBDIVISION COMMITTEE)

GREEN SPACE PROVIDED: (TREES, LANDSCAPE ISLANDS, AND LAWN OR OPEN SPACE. 3.64 ACRES OR 60.6%

IMPERVIOUS SURFACE: DRIVES, WALKS, STREET AND ROOF
2.37 ACRES OR 39.4%

RESPECTFULLY SUBMITTED

WBR ENGINEERING
ON BEHALF OF RALPH BROPHY

WBR Engineering Associates, P.A.

4241 Gabel Drive, Ste 1B
Fayetteville, AR 72703

Voice: (479) 582-2820
Fax: (479) 582-1788
E-Mail: wbrjr@aol.com

November 19, 2003

BROPHY WAIVER REQUEST

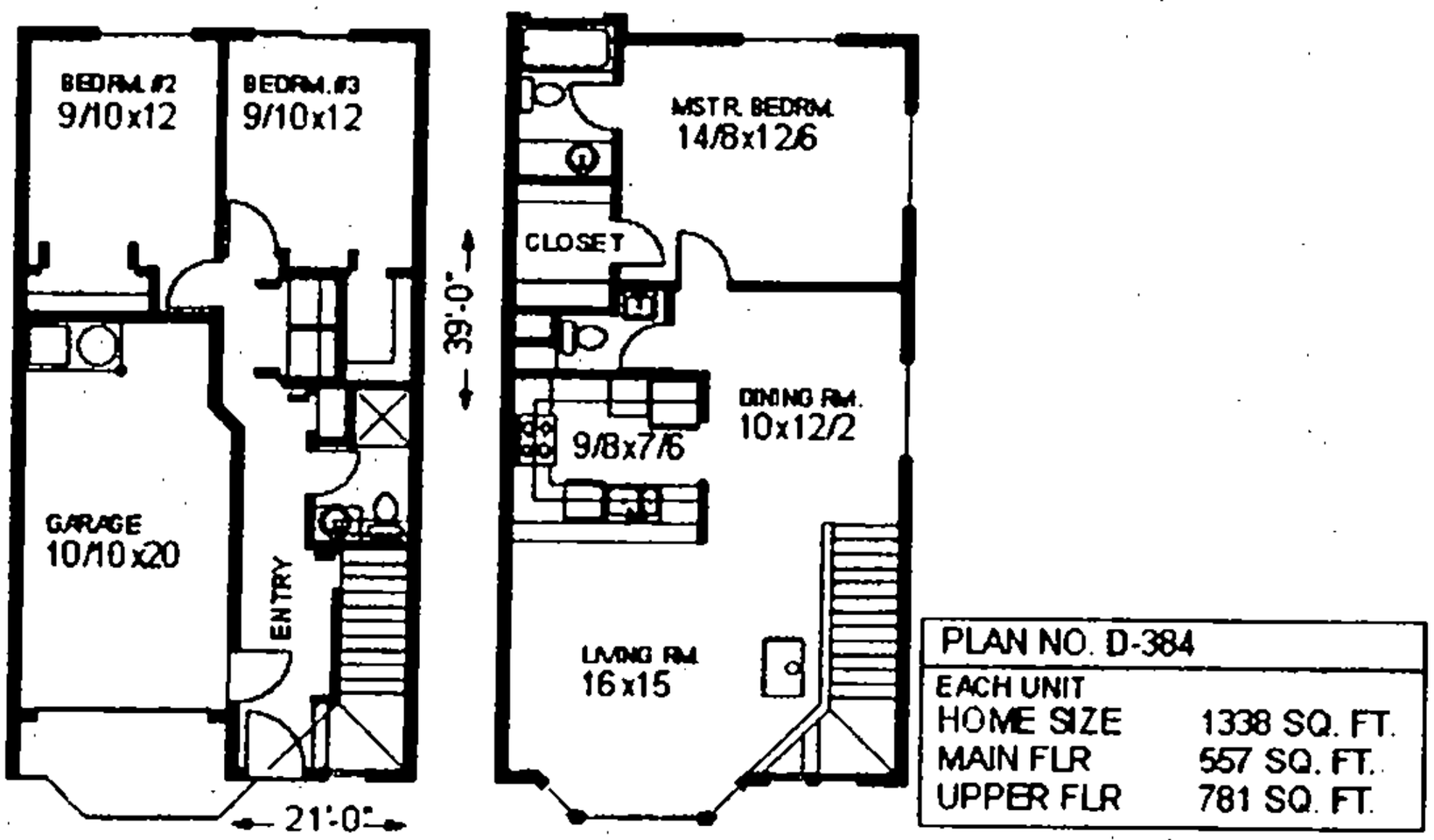
1. 4' SIDEWALK INSTEAD OF REQUESTED 6' SIDEWALK ALONG PRIVATE STREETS.

2. RETAINING WALLS GREATER THAN 10' TALL DUE TO CONSTRUCTION ON SLOPED AREAS AND TO AVOID GREAT CUTS AND FILLS.

3. KEEP EXISTING ABOVE GROUND ELECTRIC LINES BEHIND UNITS 43 & 44 AND ALONG THE OFF-SITE LINES TO THE NORTH TO PRESERVE EXISTING TREE CANOPY. ALL LINES WITHIN THE PRIMARY DEVELOPMENT AREA WILL BE PLACE UNDERGROUND PER ORD.

RESPECTFULLY SUBMITTED

WBR ENGINEERING
ON BEHALF OF RALPH BROPHY



PLAN NO. D-384	
EACH UNIT	
HOME SIZE	1338 SQ. FT.
MAIN FLR	557 SQ. FT.
UPPER FLR	781 SQ. FT.

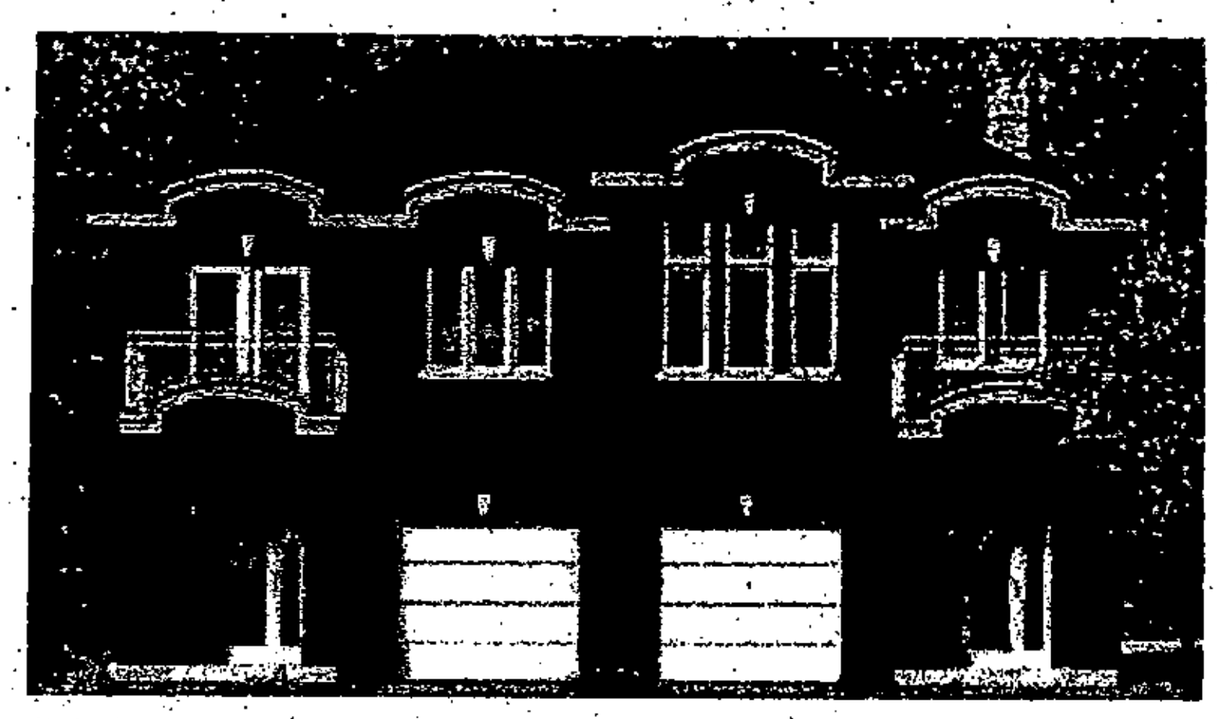
Bruinier & associates, inc. designers A.I.B.D.
PHONE: (503) 246-3022 1304 SW BERTHA BLVD. PORTLAND OREGON 97219

Previous Next

[Home] [Duplexes/Rowhouses] [Single Family] [Apartments] [Virtual Tours]
[Book Store] [Order] [New Plans] [About Us] [Contact Us]

PLAN 2

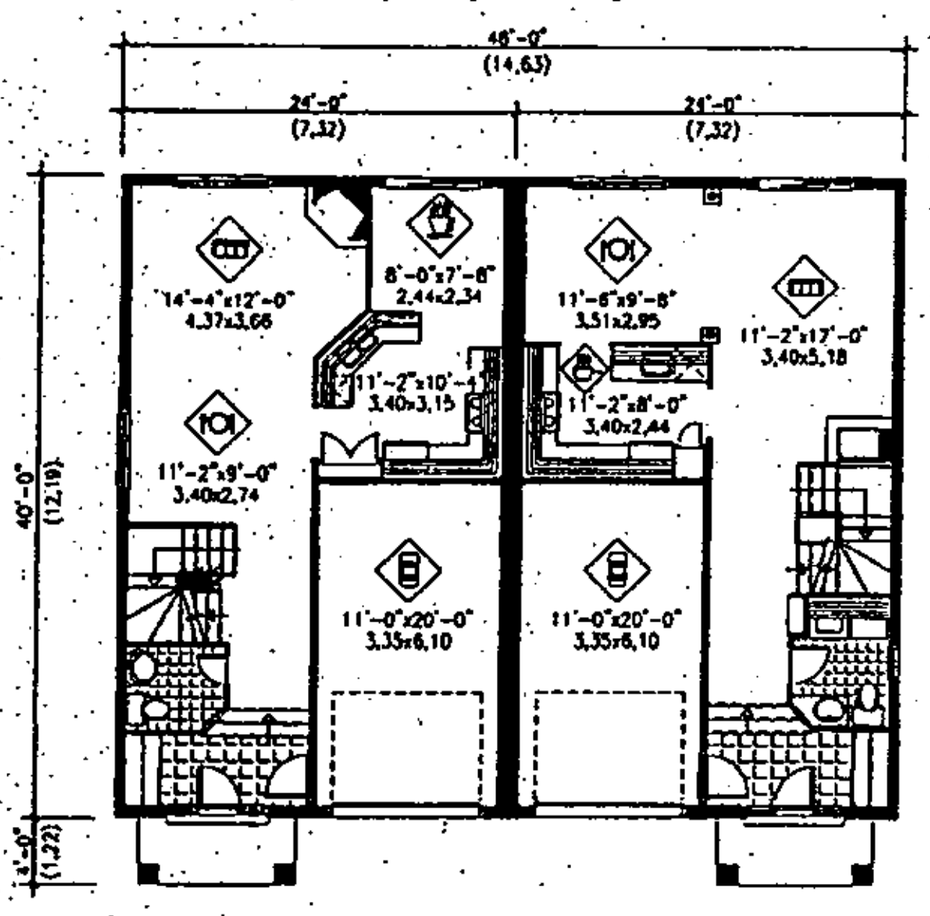
HouseplanGuys Plan Image



© image copyrighted by designer

For questions, call us toll-free at 1-866-977-5267
or email us at info@houseplanguys.com

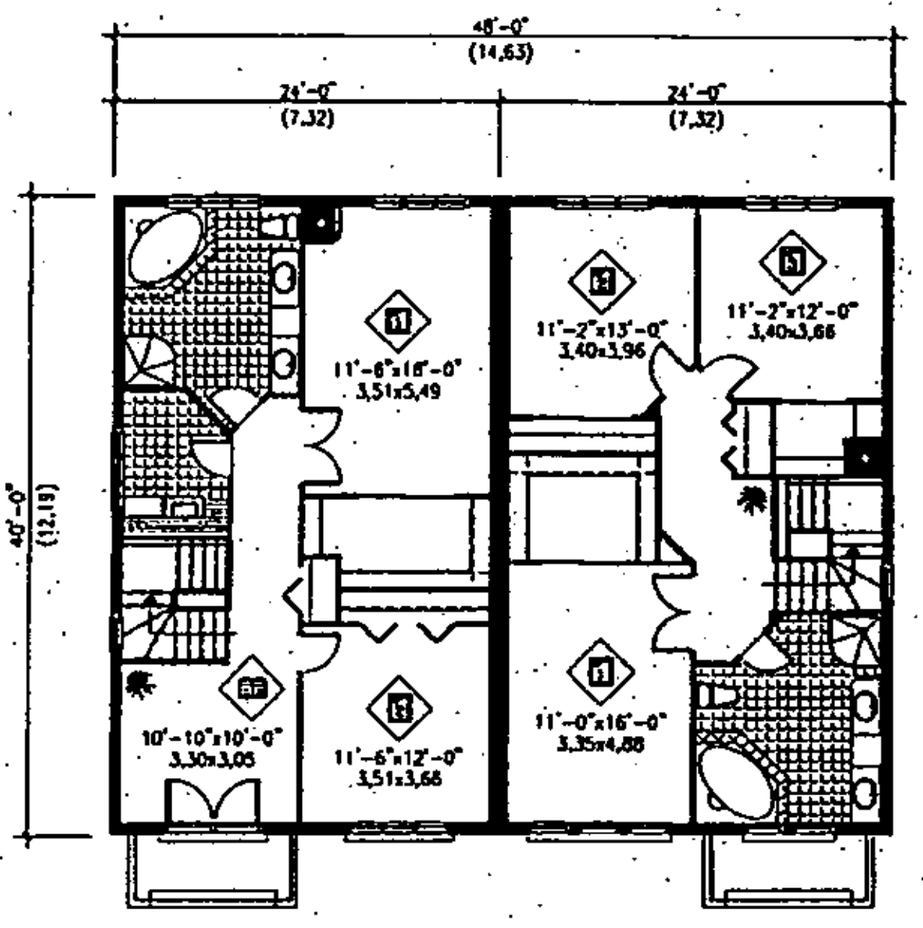
HouseplanGuys Plan Image



© image copyrighted by designer

For questions, call us toll-free at 1-866-977-5267
or email us at info@houseplanguys.com

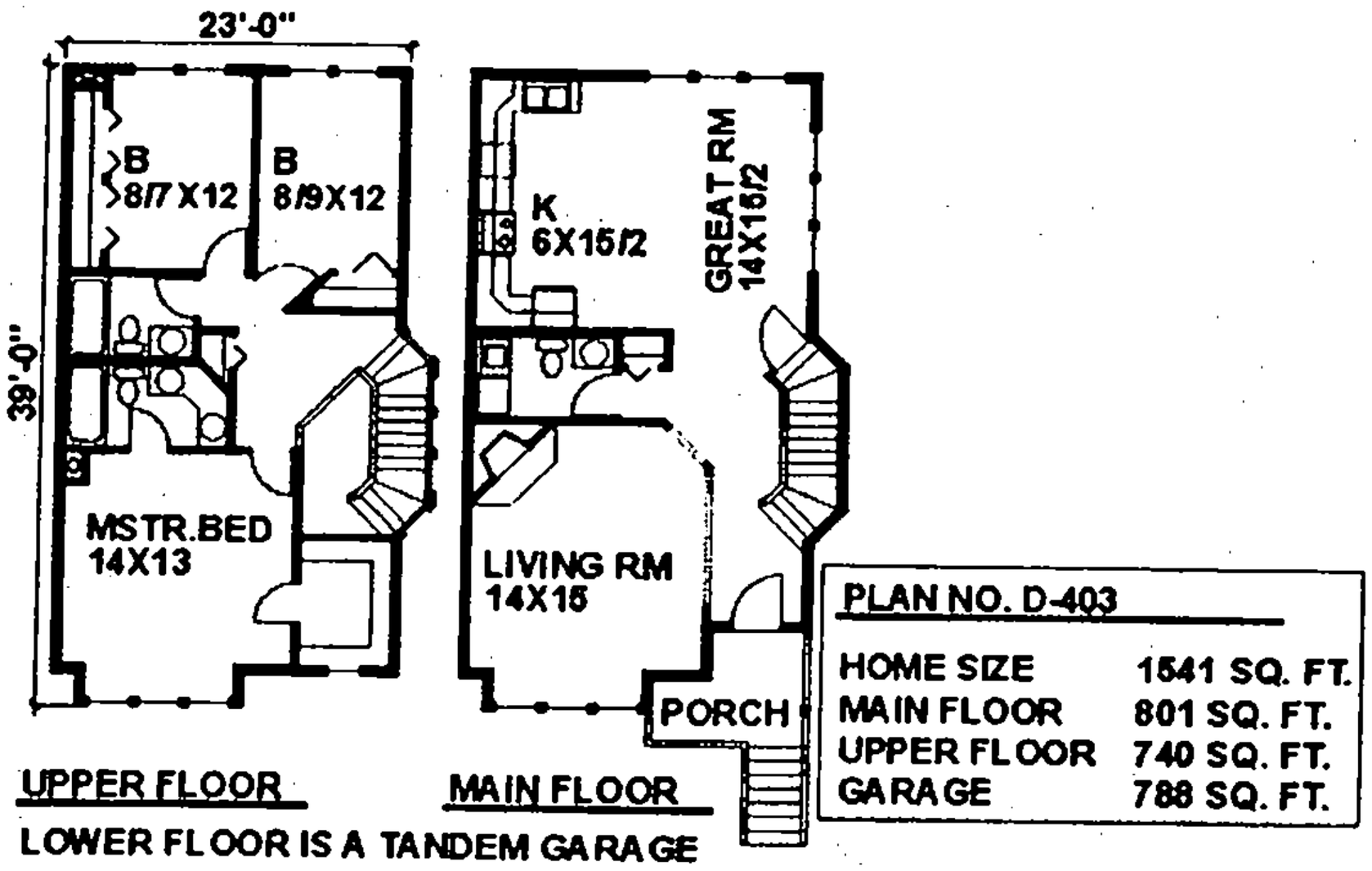
HouseplanGuys Plan Image



© image copyrighted by designer

For questions, call us toll-free at 1-866-977-5267
or email us at info@houseplanguys.com

PLAN 3



PLAN NO. D-403	
HOME SIZE	1541 SQ. FT.
MAIN FLOOR	801 SQ. FT.
UPPER FLOOR	740 SQ. FT.
GARAGE	788 SQ. FT.

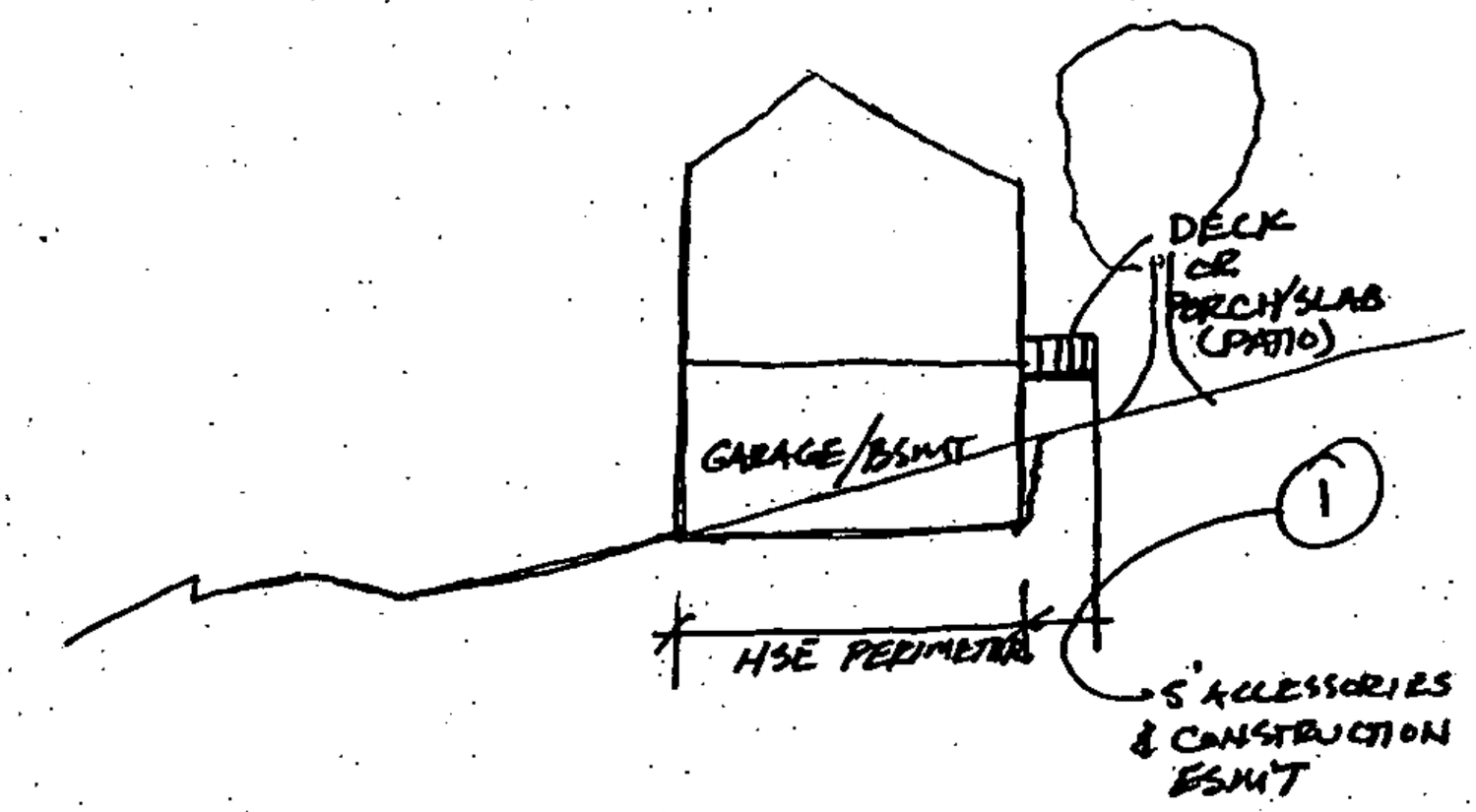
Bruinier & associates, inc. designers A.I.B.D.
PHONE: (503) 246-3022 1304 SW BERTHA BLVD. PORTLAND OREGON 97219

Virtual Tour

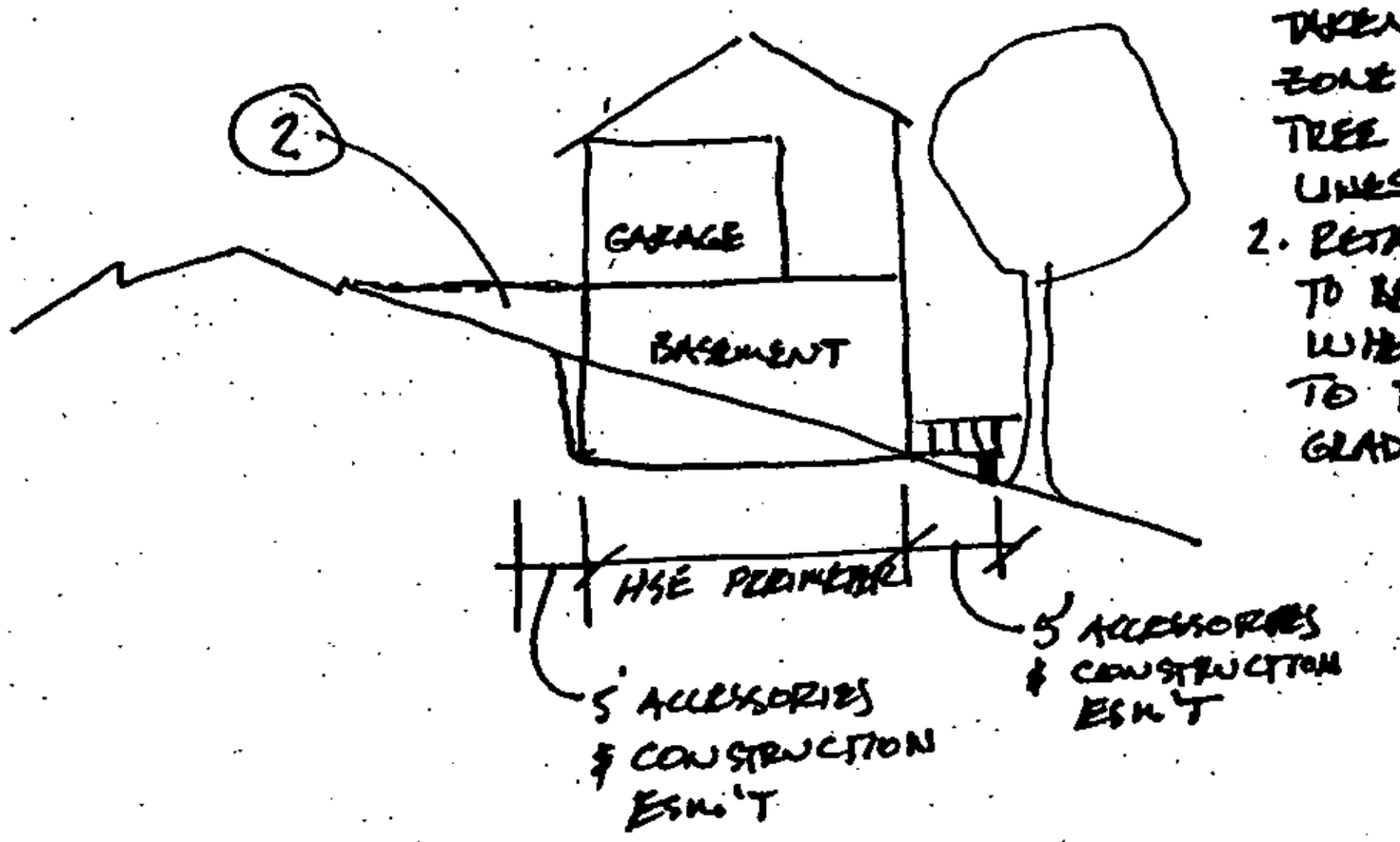
Previous Next

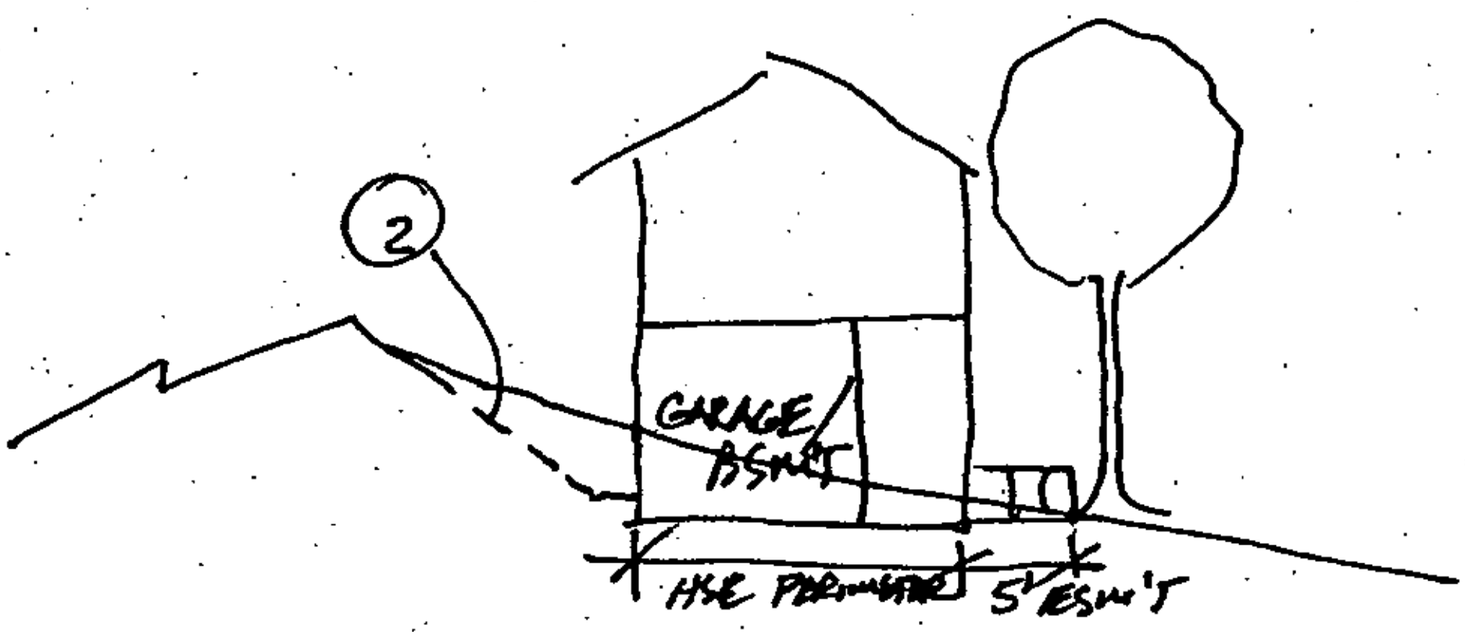
[Home] [Duplexes/Rowhouses] [Single Family] [Apartments] [Virtual Tours]

CONSTRUCTION PRACTICE SCHEMATIC (NTS) BROPHY CONDO'S / PZD



NOTE:
1. MEASURE TO BE TAKEN IN ESM'T ZONE TO PROTECT TREE ROOTS & DRIP LINES WHEN POSSIBLE
2. RETAINING WALLS TO BE UTILIZED WHERE POSSIBLE TO PRESERVE NATURAL GRADE





RECEIVED
OCT 06 2003
PLANNING DIV.

3rd version

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Declarant is the Declarant of certain property in Fayetteville, Washington County, Arkansas, and has caused certain lands owned by him to be platted into an addition known as Ralph Brophy's Condominiums Association Addition to the City of Fayetteville, Washington County, Arkansas, and the plat thereof appears of record in the office of the Recorder of Washington County, Arkansas, in Plat Book _____ at Page _____; and,

WHEREAS, Declarant desire to provide for the use of property for the highest of residential uses and to restrict its uses as such;

NOW THEREFORE, Declarant hereby adopts the covenants stated herein and agrees that the stated covenants shall apply to all of the property now platted as Ralph Brophy's Condominiums Association Addition to the City of Fayetteville, Washington County, Arkansas, as covenants running with the land. These covenants shall apply in their entirety to the area now known and described as Ralph Brophy's Condominiums Association Addition to the City of Fayetteville, Washington County, Arkansas, as shown on the recorded plat thereof.

1. DEFINITIONS.

A. Association shall mean and refer to Ralph Brophy's Condominiums Association, its successors and assigns.

B. Declarant shall mean and refer to Ralph Brophy until a successor or assign should acquire more than eighty percent (80%) of the undeveloped lots from the Declarant for the purpose of development. In that event, Declarant shall perform all actions necessary to facilitate the transfer to the newly appointed Declarant.

C. Property shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

D. Common Area shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Declarants. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows: see attached Exhibit A.

2. LAND USE AND BUILDING TYPES.

No lot in the addition shall be used for any other purpose than Two-Family Townhouses/Condominiums as that term is defined in the City of Fayetteville Municipal Zoning Ordinance. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached duplex not to exceed two and one-half stories, thirty-five (35) feet in height, and each such dwelling shall have a private garage or carport for the storage of not less than one automobile.

RECEIVED
OCT 06 2003

No business or commercial use shall be carried on or permitted in any structure or in any portion of this addition in keeping with the general plan to develop this property for the highest class of residential occupancy.

3. DWELLING SIZE AND QUALITY.

Size, design, location and site development of dwellings in this planned development shall be subject to the construction under current city codes and must be sided with either vinyl and/or brick, and shall be approved by the community association. All dwellings shall be constructed within the bounds set forth on the plat of the development and shall utilize hill-side construction methods such as Pier & Beam, etc. to preserve tree cover where practicable. Slab on grade pads shall not exceed the perimeter of the allowable building areas as platted. All dwellings placed upon the premises shall be of new construction and shall be of the highest class workmanship and best quality materials. Approval of plans for construction of principal residences and permitted accessory buildings shall not be unreasonably withheld by the Declarant based upon the style of design of the exterior of such proposed principal residences as long as the same are designed, in whatever style, in accordance with the highest standards of architectural design. All construction shall be completed within one (1) year from the beginning of such construction.

4. ARCHITECTURAL CONTROL.

No residence, permitted accessory building, fence, wall or other structure shall be constructed, created or maintained upon any lot in the addition, nor shall any modification, alteration or change be made in the exterior of any existing residence or permitted accessory building until the construction, grading and drainage and landscape plans and specifications showing the nature, size, shape, dimensions, materials and location of the same shall have been submitted to and approved, in writing by the Declarant, or an authorized agent of Declarant, or the Declarant has waived his right in the manner hereinafter provided.

5. THE ARCHITECTURAL CONTROL COMMITTEE.

The Architectural Control Committee shall consist of Ralph Brophy. Mr. Brophy shall assign a successor in the event of his death or resignation. Any property owner in the addition seeking to obtain the required approval or any plans for construction, modification or alteration or improvements on his, her or its property shall submit the same in two (2) copies to the Declarant or any person designated by him A written receipt from the Declarant shall be prima facie evidence of the delivery of such plans and the date thereof. If, with thirty (30) days from the date of delivery of such plans to a member of it, the Declarant has not stated to the owner deficiencies in the proposal for such construction or alteration or improvements, the owner may proceed with such construction or alterations as though affirmative approval had been received from the Declarant. Notice shall be given to the owner at the address for the property owner indicated in the city telephone directory or as otherwise indicated by the owner, in writing, to the owner by certified mail with return receipt requested. If deficiencies are noted and called to the owner's attention in the proposed plans within the thirty (30) day period following delivery thereof to the owner, the owner shall not proceed with any such construction or alteration until such deficiencies have been corrected to the satisfaction of the Declarant. The Declarant shall have full power to enforce the provisions and restrictions hereof

RECEIVED
OCT 06 2003
PLANNING DIV.

by an action for an injunction as fully as though he were the Declarant of property in the subdivision and whether or not he is actually the Declarant of property in the subdivision.

6. GENERAL RESTRICTIONS.

a. No noxious or offensive activity and no commercial activities of any kind shall be carried on upon any lot in this addition, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

b. No manufactured housing, trailer, recreational vehicle, mobile home, tent, shack, or barn shall be erected on any lot in this subdivision, temporary or permanently, except for temporary use by construction contractors only. Tents used for recreational purposes of a short duration shall not be considered as excluded by this provision.

c. No signs, billboards, posters or advertising devices shall be permitted upon any of the lots in this addition except that the Declarant of each lot may place house numbers and the Declarant's name upon his or her mail box or dwelling; however, each letter thereof shall be no more than 6 inches in height and 6 inches in width; and Declarant may place a sign not more than 4 square feet in size advertising the property for sale should it be offered for sale by the Declarant.

d. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for commercial purposes.

e. No trash, ashes or other refuse may be thrown or dumped on any of the lots in the addition.

f. No building material of any kind or character shall be placed or stored upon any lot in the addition until the Declarant is ready to commence construction of the improvements requiring such materials. Building materials shall only be placed or stored between the curb and the property line of the site to be developed and shall be stacked in a decent and proper manner unless contained in a lumber storage container.

g. No privy, cesspool, septic tank field or disposal plant shall be installed or maintained on any lot in the addition, and all residences and permitted accessory buildings shall have the plumbing connected to the city sanitary sewer system.

h. All garages shall be finished inside and shall be fully enclosed with garage doors. Carports are not allowed.

i. All driveways in the addition shall consist of a hard surface acceptable to the Declarant and driveways are to be no less than 18 feet and no more than 24 feet in width.

j. No trucks, mail carts, dune buggies, golf carts, mobile homes, commercial vehicles, travel trailers, campers, boats, motors or trailers shall be kept on the lot or in the street adjacent to any lot except that such items may be stored or parked inside an enclosed garage or similar enclosure.

RECEIVED
OCT 06 2003
PLANNING DIV.

so screened with fencing or plant material as not to be visible from the street.

k. Grass, weeds and vegetation shall be kept mowed and cleared at regular intervals on each lot by the Declarant thereof so as to maintain the same in a neat and attractive manner. No debris shall be allowed to accumulate upon any lot. Dead trees, shrubs, vines and plants shall be promptly removed from each lot. The Declarant or HomeDeclarants Association shall have the right, privilege and option to cause any unkept lots to be mowed and to remove dead trees, plants or other vegetation and debris from such lot if, after ten days' notice in writing, from the HomeDeclarants Association to the Declarant, the Declarant has failed or neglected to do so, and the HomeDeclarants Association shall be entitled to a lien on such lot for the cost of such work.

l. Each lot Declarant shall provide and maintain a light located in the vicinity of the intersection of the driveway and street, which light shall be in all respects in accordance with the requirements of the Architectural Control Committee.

m. Exterior surfaces of each dwelling place shall be composed of either brick or vinyl siding.

n. All dwelling places will be guttered and all guttering must have leaf guards to prohibit buildup of leaves and other foreign objects from obstructing the gutters.

o. All Declarants of dwelling places in this development are required to furnish termite insurance and treatment at their own expense and Declarant reserves the right to demand presentation of termite inspection and protection at reasonable times and places.

p. Any swimming pool plans shall have to be approved by the HomeOwner's Association and meet city code requirements.

7. BUILDING LOCATION.

Buildings shall be located on lots as shown on the final plat of the planned zoning district.

8. DIVISION OF LOTS.

A "lot" as that word is used herein shall consist of a numbered lot as shown on the plat of the addition.

9. FENCING AND ORNAMENTAL STRUCTURES.

No fences shall be erected on any portion of a lot between the line drawn across the front foundation or building line of the principal dwelling and intersecting the side lot lines and the front lot line. Dog pens properly screened by walls, fences, or plantings may be constructed and maintained in the rear yard portion of any lot. Retaining walls, ornamental fences of less than 3 feet in height, and composed brick, wood or natural stone construction may be permitted on a lot in the front portion as herein described and the front lot line. However, no other structure exceeding 3 feet

RECEIVED
OCT 06 2003
PLANNING DIV.

in height shall be placed or permitted on the portion of any lot lying nearest to the abutting street and in front of a line extended across the front foundation line of the principal dwelling.

10. DEFINITION OF "PRINCIPAL DWELLING".

The term "principal dwelling," "resident" or "principal residence" as used in these restrictive covenants shall refer to a residence meeting the requirements hereof and approved by the Committee for construction in the Addition.

11. HOMEOWNER'S ASSOCIATION.

For the purpose of maintaining areas to be used in common with some or all of the residents and owner of property in the addition, the streets, the street lights, drainage and such other activities and undertakings as may be for the general use and benefit of owner and residents of the property, each and every lot owner, in accepting a conveyance of any lot in this Addition, agrees to and shall become a member of and be subject to the obligations and duly enacted by-laws and rules of the Ralph Brophy Condominiums Association.

12. LIEN FOR MEMBERSHIP DUES.

Assessment fees for the development are $45.00 per month, or $540.00 per year, payable monthly/yearly as it comes due/in advance, but no assessment fee shall become due and payable on real property until one month after dwelling place has been constructed and occupied.

All owners of property in the Addition shall pay the required dues to the HomeOwners Association promptly when the same become due, and in the event of failure to pay the same promptly when the same become due, such dues shall constitute a lien upon the property owned by such owner in the Addition and the same may be enforced in equity as in the case of any lien foreclosure authorized in the State of Arkansas.

All delinquent assessments shall bear interest at the rate of ten percent (10%) per annum from the date the same become due until they are paid, and the association shall be entitled to a reasonable fee for its attorneys when their services become necessary to collect any delinquent assessments, all of which shall be a part of the lien for dues.

13. SUBORDINATION OF LIEN FOR MEMBERSHIP DUES.

The liens herein retained for membership dues to the HomeOwners Association are hereby made expressly inferior and subordinate to valid and bona fide mortgages and deeds of trust or retained vendor's liens securing obligations of owner of any of the lots in the addition up to the time of sale at foreclosure of any such mortgage, deed of trust or vendor's lien and for a period of six (6) months thereafter or until the residence upon such property is occupied, whichever date shall first occur, after which time monthly membership dues shall thereafter accrue as a lien upon such lot in the identical form and manner as prior to the foreclosure sale of the property involved. This subordination shall be construed to apply not only to the original, but to all successive, mortgages, deeds of trust, and vendor's liens given by property owners to secure obligations, together with all

RECEIVED
OCT 06 2003
PLANNING DIV.

extensions and renewals thereof.

14. EASEMENTS.

No recorded easement shall be used by any company or person, other than the owner of the affected lot or lots, for any purpose other than those designated on the plat of the addition.

15. PERSONS BOUND BY THESE COVENANTS.

All persons or corporations who now own or shall hereafter acquire any of the lots in this addition shall be deemed to have agreed and covenanted with the Declarant of all other lots in this addition and with its or their heirs, successors and assigns to conform to and observe the restrictions, covenants and stipulations contained herein for a period of 25 years from the date these covenants are recorded, and these covenants shall thereafter automatically extend in effect for successive periods of 10 years unless prior to the end of the original term or any successive term of the application hereof [a majority] of the then owners of lots in the addition agree to the amendment or removal of these covenants in whole or in part. These covenants may be amended at any time by the owners of [80%] of the lots in the addition. No changes in these covenants in the manner herein set forth shall be valid unless the same shall be placed of record in the office of the Recorder of Washington County, Arkansas, duly executed and acknowledged by the requisite number of owners.

17. RIGHT TO ENFORCE.

The covenants, agreements and restrictions herein set forth shall run with the title to the lots in this addition and bind the present Declarant, its heirs, successors and assigns, future owners and their heirs, successors and assigns; and all parties claiming by, through or under them shall be taken to hold, agree and covenant with the owners of other lots in the addition, their heirs, successors and assigns, and with Declarant, as to the covenants and agreements herein set forth and contained. None shall be personally binding on any person, persons, or corporations except with respect to breaches committed during its, his or their holding of title to lots in the addition. Any owner or owners of lots in this Addition, or Declarant, shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of any of the covenants, agreements or restrictions contained herein together with any other rights to which they might otherwise be entitled under the laws of the State of Arkansas. The invalidation of any one of these covenants, restrictions or agreements herein contained by the order of a court of competent jurisdiction shall in no way affect any of the other provisions hereof which will remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has hereunto set his hand and seal this _____ day of _____, 2003.

[ACKNOWLEDGMENT]

RECEIVED
OCT 06 2003
PLANNING DIV.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: January 6, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

R-PZD 03-07.00: Residential Planned Zoning District (Brophy Condominiums, pp 527) was submitted by William Rudasill of WBR Engineering Assoc. on behalf of Ralph Brophy for property located east of College Ave, north of Township on Brophy Circle. The property is zoned RMF-40, RMF-24 and RSF-4 and contains approximately 6.01 acres. The request is to rezone the subject property to a R-PZD 03-07.00 with a total of 50 Residential dwelling units (25 Two-family units).

STAFF RECOMMENDATION: Approval.

s/Dawn J. Warrick — 12/9/03
Division Head — Date

12-19-03
City Attorney — Date

12-18-03
Department Director — Date

12-19-03
Finance & Internal Services Dir. — Date

Chief Administrative Officer — Date

2/19/03
Mayor — Date

Received in Mayor's Office 12/19/03
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 12/19/03

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: **January 7, 2004**

RE: **Passed Resolutions and Ordinances from City Council meeting of January 6, 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. **Minimum Standards: Fayetteville Municipal Airport:** Resolution approving revised minimum standards for Fayetteville Municipal Airport as approved and recommended by Airport Advisory Board;

2. **Baird, Kurtz & Dobson, LLP Audit Services Contract Renewal:** Resolution approving annual contract renewal w/Baird, Kurtz & Dobson, LLP in amount not to exceed $59,325.00 to provide independent audit services to City of Fayetteville;

3. **Purchase of 3 Komatsu Backhoes from H & E Equipment:** Resolution approving purchase of three Komatsu Backhoes from Head & Engquist Equipment in amount of $159,525.00; and approving budget adjustment in amount of $1,970.00 for same;

4. **ADEQ and Tri-County Solid Waste District Recycling Grant: Roll-off Recycling Boxes;** Resolution authorizing Fayetteville Solid Waste and Recycling Division to accept grant in amount of $18,000.00 from Arkansas Department of Environmental Quality (ADEQ) and Tri-County Solid Waste District for purchase of roll-off recycling boxes for use at 24-hour community recycling drop-off and approving budget adjustment to recognize grant revenue;

5. **Homeland Security Fire Grant: Wellness & Fitness/EMS Training Program:** Resolution authorizing Fayetteville Fire Department to accept Department of Homeland Security Fire Grant in amount of $92,820.00 to establish a wellness and fitness/EMS training program; approving new temporary staff position to establish and coordinate program; and approving budget adjustment to recognize grant revenue;

6. **VAC 03-13.00:** Ordinance approving VAC 03-13.00 to vacate a portion of a 25-foot utility easement lying in Lot A in the Northeast corner of Northwest Arkansas Mall as depicted on attached map and legal description;

7. **Black & Veatch Contract Amendment #4:** Resolution approving contract Amendment #4 in amount of $30,000.00 w/Black & Veatch Corporation to perform continuing water and sewer operations and rate study services and approving budget adjustment in amount of $25,000.00 for same.

Tentative Agenda
For
City Council Meeting
January 6, 2004

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

Steve Davis and Marsha Farthing GASB 34 Presentation at Agenda Session

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the December 16, 2003 meeting minutes.

B. OLD BUSINESS:

1. A

Solid Waste Consent

C. NEW BUSINESS:

1. **Firefighters Grant Award:** No Information.

2. **Budget Adjustment; Sale of Wilson Springs, I-540:** A resolution to approve a budget adjustment transferring some of the proceeds from the sale of Wilson Springs, I-540 land from the General Fund to the Sales Tax Capital Fund and to Economic Development Program-professional services in General Fund.

3. **Impact Fees for Road, Police and Fire Improvements:** An ordinance waiving the requirements of competitive bidding and approving a contract with Duncan and Associates to calculate Impact Fees for Road, Police and Fire Improvements in the amount of $25,890.00 with a contingency amount of $1,500.00 and approving a Budget Adjustment of $27, 390.00.

Consent 4. **Revised Minimum Standards/Fayetteville Municipal Airport:** A resolution approving the revised minimum standards for the Fayetteville Municipal Airport as approved and recommended by the Airport Advisory Board.

Consent 5. **Council on Aging, Inc. Lease:** A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.

6. **VAC 03-13.00; Northwest Arkansas Mall Lot A:** An ordinance approving VAC 03-13.00 to vacated a portion of a 25 foot utility easement lying in Lot A in the Northeast corner of the Northwest Arkansas Mall as depicted on the attached map and legal description.

Consent 7. **Audit Services Contract Renewal; Baird, Kurtz & Dobson, LLP:** A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in an amount not to exceed Fifty-Nine Thousand Three Hundred Twenty Five Dollars ($59, 325.00) to provide independent audit services to the City of Fayetteville.

Consent 8. **Purchase of 3 Komatsu Backhoes:** A resolution approving the purchase of Three (3) Komatsu Backhoes from head & Engquist equipment in the amount of $159,525.00; and approving a budget adjustment in the amount of $1,970.00 for the same.

Capital Approved

Consent 9. **Black & Veatch Contract Amendment:** A resolution approving contract Amendment #4 in the amount of $30,000.00 with Black & Veatch Corporation to perform continuing water and sewer operations and rate study services; and approving a Budget Adjustment in the amount of $25,000.00 for same.

D. INFORMATIONAL:

Council Tour: January 5, 2004

~~Newspaper Advertising~~

Approved by Equipment Com. 12/9/03

PZD-03-6.00

PZD - 03-7.00

Agenda Session

Tentative Agenda
For
City Council Meeting
January 6, 2004

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

Steve Davis and Marsha Farthing GASB 34 Presentation at Agenda Session

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the December 16, 2003 meeting minutes.

2. **Minimum Standards; Fayetteville Municipal Airport:** A resolution approving the revised minimum standards for the Fayetteville Municipal Airport as approved and recommended by the Airport Advisory Board.

3. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.

4. **Baird, Kurtz & Dobson, LLP Audit Services Contract Renewal:** A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in an amount not to exceed $59, 325.00 to provide independent audit services to the City of Fayetteville.

New Business

5. **Black & Veatch Contract Amendment #4:** A resolution approving contract Amendment #4 in the amount of $30,000.00 with Black & Veatch Corporation to perform continuing water and sewer operations and rate study services; and approving a Budget Adjustment in the amount of $25,000.00 for same.

6. **Purchase of 3 Komatsu Backhoes from H & E Equipment:** A resolution approving the purchase of Three (3) Komatsu Backhoes from Head & Engquist Equipment in the amount of $159,525.00; and approving a budget adjustment in the amount of $1,970.00 for the same. This request was approved by the Equipment Committee on December 9, 2003.

7. **ADEQ and Tri-County Solid Waste District Recycling Grant; Roll-off Recycling Boxes:** A resolution authorizing the Fayetteville Solid Waste and Recycling Division to accept a grant in the amount of $18,000.00 from the Arkansas Department of Environmental Quality (ADEQ) and the Tri-County Solid Waste District for the purchase of roll-off recycling boxes for use at the 24-hour community recycling drop-off; and approving a budget adjustment to recognize the grant revenue.

B. OLD BUSINESS:

C. NEW BUSINESS:

1. **Homeland Security Fire Grant; Wellness & Fitness/EMS Training Program:** A resolution authorizing the Fayetteville Fire Department to accept a Department of Homeland Security Fire grant in the amount of $98,820.00 to establish a wellness and fitness/EMS training program; approving a new temporary staff position to establish and coordinate the program; and approving a budget adjustment to recognize the grant revenue.

Consent

2. **Budget Adjustment; Transfer of Funds from the sale of Wilson Springs, I-540:** A resolution to approve a budget adjustment transferring some of the proceeds from the sale of Wilson Springs, I-540 land from the General Fund to the Sales Tax Capital Fund and to Economic Development Program-Professional Services in General Fund.

Remove

3. **Impact Fees for Road, Police and Fire Improvements:** An ordinance waiving the requirements of competitive bidding and approving a contract with Duncan and Associates to calculate Impact Fees for Road, Police and Fire Improvements in the amount of $25,890.00 with a contingency amount of $1,500.00 and approving a Budget Adjustment of $27,390.00.

4. **VAC 03-13.00; Northwest Arkansas Mall Lot A Utility Easement:** An ordinance approving VAC 03-13.00 to vacate a portion of a 25 foot utility easement lying in Lot A in the Northeast corner of the Northwest Arkansas Mall as depicted on the attached map and legal description.

5. **R-PZD 03-6.00; Benton Ridge, Long, LLC:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-6.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 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.

6. **R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue, north of Township on Brophy Circle containing 6.01 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.

D. INFORMATIONAL:

Council Tour: January 5, 2004

NORTHWEST ARKANSAS EDITION
Arkansas Democrat Gazette

RECEIVED
JAN 12 2004
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

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 was inserted in the regular editions on 1-5-04.

PO# 04-386

** Publication Charge: $ 171.72

Subscribed and sworn to before me this

08 day of January, 2004.

Sean-Michael Argo
Notary Public

My Commission Expires: 07/25/2013

** Please do not pay from Affidavit.
An invoice will be sent.

Official Seal
SEAN-MICHAEL ARGO
Notary Public-Arkansas
WASHINGTON COUNTY
My Commission Expires 07-25-2013

Final Agenda
For The
City Council Meeting
January 6, 2004

City of Fayetteville

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

A. CONSENT

1. Approval Of The Minutes: Approval of the December 16, 2003 meeting minutes.
2. Minimum Standards; Fayetteville Municipal Airport: A resolution approving the revised minimum standards for the Fayetteville Municipal Airport as approved and recommended by the Airport Advisory Board.
3. Council on Aging, Inc.; Lease Senior Center, Walker Park: A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.
4. Baird, Kurtz & Dobson, LLP Audit Services Contract Renewal: A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in an amount not to exceed $59,325.00 to provide independent audit services to the City of Fayetteville.
5. Purchase of 3 Komatsu Backhoes from H & E Equipment: A resolution approving the purchase of Three (3) Komatsu Backhoes from Head & Engquist Equipment in the amount of $159,525.00; and approving a budget adjustment in the amount of $1,970.00 for the same. This request was approved by the Equipment Committee on December 9, 2003.
6. ADEQ and Tri-County Solid Waste District Recycling Grant; Roll-off Recycling Boxes: A resolution authorizing the Fayetteville Solid Waste and Recycling Division to accept a grant in the amount of $18,000.00 from the Arkansas Department of Environmental Quality (ADEQ) and the Tri-County Solid Waste District for the purchase of roll-off recycling boxes for use at the 24-hour community recycling drop-off; and approving a budget adjustment to recognize the grant revenue.
7. Homeland Security Fire Grant; Wellness & Fitness/EMS Training Program: A resolution authorizing the Fayetteville Fire Department to accept a Department of Homeland Security Fire grant in the amount of $92,820.00 to establish a wellness and fitness/EMS training program; approving a new temporary staff position to establish and coordinate the program; and approving a budget adjustment to recognize the grant revenue.

B. OLD BUSINESS:

C. NEW BUSINESS:
1. Impact Fees for Road, Police and Fire Improvements: An ordinance waiving the requirements of competitive bidding and approving a contract with Duncan and Associates to calculate Impact Fees for Road, Police and Fire Improvements in the amount of $25,890.00 with a contingency amount of $1,500.00 and approving a Budget Adjustment of $27,390.00.
2. VAC 03-13.00; Northwest Arkansas Mall Let A Utility Easement: An ordinance approving VAC 03-13.00 to vacate a portion of a 25 foot utility easement lying in Lot A in the Northeast corner of the Northwest Arkansas Mall as depicted on the attached map and legal description.
3. R-PZD 03-8.00; Benton Ridge, Long, LLC: An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-8.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 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.
4. R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy: An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue, north of Township on Brophy Circle containing 6.01 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.
5. Black & Veatch Contract Amendment #4: A resolution approving contract Amendment #4 in the amount of $30,000.00 with Black & Veatch Corporation to perform continuing water and sewer operations and rate study services; and approving a Budget Adjustment in the amount of $25,000.00 for same.

D. INFORMATIONAL:
Council Tour January 8, 2004

NORTHWEST ARKANSAS EDITION

Arkansas Democrat Gazette

RECEIVED
JAN 06 2004
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

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 1-5-03 was inserted in the regular editions on .

PO# 03-0000154-001

** Publication Charge: $ 171.72

Subscribed and sworn to before me this

05 day of January, 2004.

Sean-Michael Argo
Notary Public

My Commission Expires: 07/25/2013

** Please do not pay from Affidavit.
An invoice will be sent.

Official Seal
SEAN-MICHAEL ARGO
Notary Public-Arkansas
WASHINGTON COUNTY
My Commission Expires 07-25-2013

Final Agenda
For The
City Council Meeting
January 6, 2004

City of Fayetteville

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

A. CONSENT:

1. Approval Of The Minutes: Approval of the December 16, 2003 meeting minutes.
2. Minimum Standards; Fayetteville Municipal Airport: A resolution approving the revised minimum standards for the Fayetteville Municipal Airport as approved and recommended by the Airport Advisory Board.
3. Council on Aging, Inc.; Lease Senior Center, Walker Park: A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.
4. Baird, Kurtz & Dobson, LLP Audit Services Contract Renewal: A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in an amount not to exceed $59,325.00 to provide independent audit services to the City of Fayetteville.
5. Purchase of 3 Komatsu Backhoes from H & E Equipment: A resolution approving the purchase of Three (3) Komatsu Backhoes from Head & Engquist Equipment in the amount of $159,525.00; and approving a budget adjustment in the amount of $1,970.00 for the same. This request was approved by the Equipment Committee on December 9, 2003.
6. ADEQ and Tri-County Solid Waste District Recycling Grant; Roll-off Recycling Boxes: A resolution authorizing the Fayetteville Solid Waste and Recycling Division to accept a grant in the amount of $18,000.00 from the Arkansas Department of Environmental Quality (ADEQ) and the Tri-County Solid Waste District for the purchase of roll-off recycling boxes for use at the 24-hour community recycling drop-off; and approving a budget adjustment to recognize the grant revenue.
7. Homeland Security Fire Grant; Wellness & Fitness/EMS Training Program: A resolution authorizing the Fayetteville Fire Department to accept a Department of Homeland Security Fire grant in the amount of $92,820.00 to establish a wellness and fitness/EMS training program; approving a new temporary staff position to establish and coordinate the program; and approving a budget adjustment to recognize the grant revenue.

B. OLD BUSINESS:

C. NEW BUSINESS:
1. Impact Fees for Road, Police and Fire Improvements: An ordinance waiving the requirements of competitive bidding and approving a contract with Duncan and Associates to calculate Impact Fees for Road, Police and Fire Improvements in the amount of $25,890.00 with a contingency amount of $1,500.00 and approving a Budget Adjustment of $27,390.00.
2. VAC 03-13.00; Northwest Arkansas Mall Lot A Utility Easement: An ordinance approving VAC 03-13.00 to vacate a portion of a 25 foot utility easement lying in Lot A in the Northeast corner of the Northwest Arkansas Mall as depicted on the attached map and legal description.
3. R-PZD 03-6.00; Benton Ridge, Long, LLC: An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-6.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 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.
4. R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy: An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue, north of Township on Brophy Circle containing 6.01 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.
5. Black & Veatch Contract Amendment #4: A resolution approving contract Amendment #4 in the amount of $30,000.00 with Black & Veatch Corporation to perform continuing water and sewer operations and rate study services; and approving a Budget Adjustment in the amount of $25,000.00 for same.

D. INFORMATIONAL:
Council Tour January 6, 2004