AGENDA

FORT SMITH BOARD OF DIRECTORS
REGULAR MEETING

MAY 18, 2010 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS
SERVICE CENTER
3205 JENNY LIND ROAD

THIS MEETING IS BEING TELECAST LIVE ON THE CITY CABLE ACCESS CHANNEL 6

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

MAYOR'S ANNOUNCEMENTS AND RECOGNITIONS

- Presentation of proclamations for Public Works Week
- Presentation of proclamation for Building Safety Month
- Presentation of proclamation for National Preservation Month

APPROVE MINUTES OF THE MAY 4, 2010 REGULAR MEETING

ITEMS OF BUSINESS:

1. Ordinance repealing and replacing Article II of Chapter 2, Sections 2-26 through 2-47 of the Fort Smith Municipal Code *~ Tabled at the May 4, 2010 regular meeting ~*

2. Ordinance ordering the owners of certain dilapidated and substandard structures to demolish same, authorizing the City Administrator to cause the demolition of such structures to occur, and for other purposes *(3602 Reed Lane & rear storage building and 2910 North "K" Street)*

3. Resolution accepting and prioritizing the recommendations of the Homelessness Task Force

4. Consent Agenda

A. Resolution granting a temporary revocable license for the placement of a storage building in a public utility easement pursuant to terms of agreement and authorizing Mayor to execute agreement *(8609 Vickery Lane)*

B. Resolution granting a temporary revocable license for the placement of two driveways in a public right-of-way pursuant to terms of agreement and authorizing Mayor to execute agreement *(2025 South "S" Street and 1912 South 21st Street)*

C. Resolution to accept the bids and authorize contracts for the construction of Street Overlays/Reconstruction, Project No. 10-03-E ($1,739,088.05)

D. Resolution accepting bid for the remodel of the sanitation administration building ($56,222.53)

E. Resolution authorizing the purchase of a tv inspection van for use by the sewer line maintenance department ($220,000.59)

F. Resolution authorizing the execution of a memorandum of agreement between the City of Fort Smith, Arkansas and PoliceReports.US concerning the online distribution and collection of fees for accident reports on behalf of the Fort Smith Police Department

G. Resolution authorizing the Mayor to execute an easement with Oklahoma Gas and Electric Company

H. Resolution authorizing partial payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant - Contract 3 ($2,376,299.36)

I. Resolution authorizing the Mayor to execute an agreement with Old Republic Surety Company for the settlement of performance obligations by surety associated with construction of the Lake Shepherd Springs Recreational Area, Swimming Pool and Pump House Project ($74,250.00)

J. Resolution authorizing acquisition of real property interests for the Sunnymede Basin Sewer Improvements Project ($10,981.00)

K. Resolution authorizing partial payment to Branco Enterprises, Inc. for construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2 ($654,332.85)

L. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Dixon Contracting, inc. for the Sunnymede Walking Trails ($582,629.00)

DIRECTORS FORUM

CITY ADMINISTRATOR'S REPORT

EXECUTIVE SESSION

- Performance evaluation ~ City Administrator
- Appointments: Airport Commission (1), Community Development Advisory Board (1), Fort Smith Municipal Employees Benevolent Fund Board of Advisors (3), and Housing Assistance Board (2)

ADJOURN

The City of Fort Smith ARKANSAS

MEMORANDUM

May 12, 2010

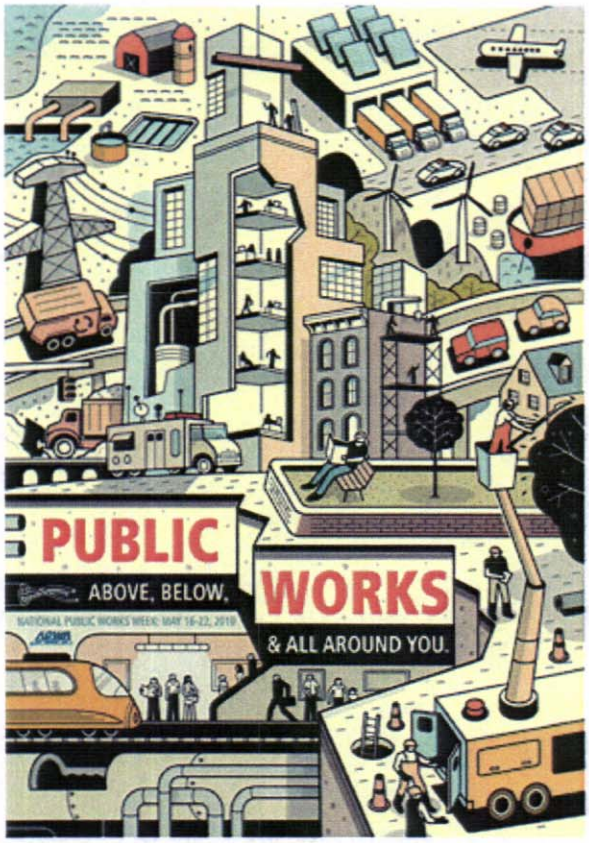
TO: Dennis Kelly, City Administrator

FROM: Ray Gosack, Deputy City Administrator

SUBJECT: Public Works Week

May 16-22 is national public works week. Mayor Baker will also be proclaiming this period as public works week in Fort Smith. This year's theme is

PUBLIC WORKS: ABOVE, BELOW AND ALL AROUND YOU



The proclamation provides an opportunity to recognize the importance of street, water and sewer, sanitation, stormwater, parks, public transit, and capital project management. The provision of essential public services relies on the dedication of the 400 employees in Fort Smith's public works departments. They help create the foundation for a stronger, more livable community.

A public works employee appreciation picnic will be held on Wednesday, May 19th at Fort Smith River Park from 11:00 a.m. to 1:00 p.m. The mayor and board of directors are invited to attend.

Please join me in recognizing the 400 city employees who provide high-quality, essential public services 365 days a year.

-Ray

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ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING ARTICLE II OF CHAPTER 2, SECTIONS 2-26 THROUGH 2-47, OF THE FORT SMITH MUNICIPAL CODE

BE IT ORDAINED AND ENACTED by the Board of Directors of the City of Fort Smith, Arkansas that:

SECTION 1: Article II of Chapter 2, including Sections 2-26 through 2-47, of the Fort Smith Municipal Code is hereby repealed in its entirety and replaced with the following language:

ARTICLE II. MAYOR AND BOARD OF DIRECTORS*

Sec. 2-26. Regular meetings of the board of directors.

Beginning January 1, 2010 and continuing through December 31, 2010, the regular meetings of the city board of directors shall be held at 6:00 p.m. in the board room at the Fort Smith Public Schools Service Center, 3205 Jenny Lind, on the first and third Tuesday evenings, unless such date is a legal holiday, in which case such meeting shall be held on the following evening at the same time and place.

Sec. 2-27. Special meetings.

Special meetings of the board of directors may be called by a majority of the board of directors as follows:

(a) On oral motion stating the time, date, place (if then known) and item or items of business on the agenda for the proposed meeting adopted by the board of directors at any regular meeting or special meeting of the board which is attended by all directors and the mayor. The city clerk shall confirm the meeting called by notice to each director, the mayor, and the city administrator of the time, date, place and item or items of business on the agenda for the meeting called.

Approved as to form
Publish / time

(b) When four (4) or more members of the board of directors are present and all members of the board and the mayor, whether present or absent, consent in writing to the holding of the meeting. The written consent shall contain the time, date, place and item or items of business on the agenda, and shall be recorded in the minutes of the board by the city clerk. Absent members and the mayor may give written consent to the meeting by facsimile or electronic mail addressed to the city clerk.

(c) When four (4) or more members of the board of directors give notice to the city clerk, either orally or in writing, of the time, date, and item or items of business on the agenda for the special meeting. Oral notice received by the city clerk shall be reduced to writing and recorded in the minutes of the board. Written notice of the special meeting of the board shall contain the time, date, place and item or items of business on the agenda, and shall be either delivered to each member of the board, the mayor and the city administrator at least twenty-four (24) hours before the time of the meeting called, or shall be sent by electronic mail or facsimile to each member of the board of directors and to the mayor to addresses or facsimile numbers provided by each for this purpose at least forty-eight (48) hours before the time of the meeting called. The city administrator may request all members of the board of directors to call a special meeting for any specified purpose by notice to each member of the board of directors and the mayor of the time, date, place and item or items of business on the agenda of the proposed meeting. The requested meeting may be called by four (4) or more members of the board of directors as provided in this subsection.

(d) If an emergency event, which could not have been reasonably anticipated but which, because of its importance and pressing urgency, requires immediate consideration, the board of directors may have a special meeting at any time and at any place when at least four (4) or more directors are present, and after written notice has been given of the time, place and item of business for consideration to each director, and to the news media by the most expeditious manner possible, at least two (2) hours prior to the meeting. Expeditious manner shall be deemed satisfied if attempted contact is by e-mail, telephone and facsimile copy. Any action taken at such meeting shall be reported promptly to the mayor and to all members of the board of directors who were absent, and any action taken shall be an item of business on the agenda at the next regular or special meeting of the board of directors duly called for reconsideration at the request of any member of the board of directors.

(e) The city clerk shall prepare and give all notice required by this section and the Freedom of Information Act of 1967 [A.C.A. 25-19-101], and when required such notice shall be given to each member of the board, the mayor, the city administrator, the public and the news media pursuant to the Freedom of Information Act of 1967 [A.C.A. § 25-19-101]. Said notice shall include the time, date, place and item or items of business on the agenda for the meeting called.

(f) No special meeting of the board of directors shall be called to order until the two (2) hour notice of the meeting is first given to the public and the representatives of the news media as required by the Freedom of Information Act of 1967 [A.C.A. § 25-19-101 et seq.]. The mayor and each member of the board of directors shall be deemed to have consented to any special

meeting of the board of directors and its consideration of the items of business stated on the agenda at the beginning of the meeting if they are present at the beginning of the meeting and do not object to the holding of the meeting.

Sec. 2-28. Executive sessions.

(a) Executive sessions of the board of directors shall be scheduled as the last item of business on a regular or special meeting agenda, subject to the provisions of Section 2-37(a) for re-arranging the order of the meeting agenda.

(b) Except as otherwise specifically provided by law, executive sessions will be permitted only for the purpose of discussing or considering employment, appointment, promotion, demotion, disciplining or resignation of any public officer or employee.

(c) Any item of business arising at a study session, regular or special meeting of the board, requiring the consideration of the board in executive session shall be automatically postponed for executive session at the next regular or special meeting of the board. A motion duly adopted to consider an item of business in executive session shall automatically postpone consideration of the item of business. All seven (7) directors may concur with adding the item to the agenda of the meeting in progress for an executive session before adjournment of the regular or special meeting in progress. If consideration at the regular or special meeting in progress does not occur, the matter shall be scheduled for an executive session at the next regular or special meeting.

(d) Any decision of the board of directors made in executive session, which decision is required by the Freedom of Information Act of 1967 [A.C.A. § 25-19-101 et seq.] to be presented and voted on at the public meeting, shall be the subject of formal action by the board which shall reconvene in public session after the executive session.

(e) Only the members of the board, the mayor, and the city administrator shall regularly attend executive sessions of the board. Persons specifically requested to attend a particular meeting may do so as allowed by the Arkansas Freedom of Information Act, and such person or persons shall leave the meeting at the conclusion of the matter pertaining to them.

Sec. 2-29. Study session meetings.

(a) The board of directors may hold study session meetings at such times, under such circumstances and on such conditions as the board may prescribe for the purpose of informing themselves of the business and affairs of the city, provided no official action of the board of directors shall be taken at such meetings. The city clerk shall not be required to keep minutes of study session meetings.

(b) The city clerk shall prepare and give notice of study session meetings. Such notice shall be given to each member of the board, the mayor, the city administrator, the public and the news media pursuant to the Freedom of Information Act of 1967 [A.C.A. § 25-19-101]. Said notice

shall include the time, date, place and item or items of business on the agenda for the meeting called.

(c) The regularly-scheduled study session meeting shall precede the regular meeting of the board by at least five (5) days.

(d) To the extent practical, items of business or matters which are complex or involve policy decisions shall be presented at a study session meeting together with a briefing of relevant facts and circumstances prior to being placed on the agenda of a regular meeting. Additionally, the city administrator shall provide a list of all then-known items contemplated to be on the next regular meeting agenda.

(e) The time and place of study session meetings shall be determined by a majority of the members of the board, and notice given as herein provided.

(f) Only the city administrator, the mayor, or a member of the board of directors may invite persons to address the board of directors at a study session, and a majority of the board of directors may limit the time of a presentation, or deny any presentation to the board. In all controversial and complex matters, such a briefing may be a condition precedent to further consideration of the item of business. The city administrator or his staff shall undertake reasonable efforts to give notice of the study session to persons having an existing direct interest, as contrasted with a general interest, in the item of business under study by the board of directors at a study session, and the board of directors may to permit such directly interested persons to make informed presentations to the board if requested to do so.

(g) The study session meeting room shall be so arranged as to encourage and facilitate communication between the mayor, the members of the board of directors, the city administrator and any invited guests.

Sec. 2-30. Personnel to attend study session meetings.

shall attend all study session meetings of the board. The city administrator shall also require the presence at the study session meetings of other employees of the city having relevant superior personal knowledge or expert opinion of matters to be presented to the board for consideration.

(b) The board of directors may on a motion duly adopted require the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code, or in his absence an assistant qualified and licensed attorney at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code, or any other municipal employee to attend study session meetings of the board.

Sec. 2-31. Formulation of agenda.

Each item of business for consideration by the board of directors at any regular, special, study session or executive session meeting of the board shall be first placed on a written agenda. The agenda shall be formulated and disseminated according to the following directions.

(a) The preparation of the agenda for each regular, special, study session or executive session meeting of the board of directors shall be the duty of the city clerk, under the supervision of the mayor.

(b) An item of business may be placed on the agenda for any regular, special, study session or executive session meeting of the board at a study session meeting preceding the meeting of consideration by the city administrator, or by the concurrence of any two (2) members of the board. An item of business may be placed on the agenda for any regular, special, study session or executive session meeting of the board at any time by the city administrator provided notice of the specific subject of the addition to the agenda is given to the mayor and the members of the board of directors at least forty-eight (48) hours before the meeting of consideration.

(c) An item of business may be placed on the agenda at least forty-eight (48) hours prior to the time of the meeting of consideration by four (4) members of the board upon notice to the city clerk of the name of the proposed directors and the specific subject of the items of business to be considered. The city clerk shall immediately notify the directors, the city administrator and the mayor of the specific subject of the addition to the agenda.

(d) Any item of business may be denied a place on or removed from the agenda by notice of four (4) directors to the city clerk prior to the date of the meeting of the proposed consideration. The city clerk shall immediately notify the city administrator, the mayor, the directors and other interested persons of such action.

(e) An item of business requiring immediate action by the board may be placed on the agenda within forty-eight (48) hours or at the meeting of consideration by notice from all seven (7) members of the board to the city clerk pursuant to subsection (c) above or by unanimous vote of the entire membership of the board. An absent member of the board may express consent to consideration by those present in writing, or by facsimile or electronic mail communicated to the city clerk.

(f) An item of business presented at a regular or special meeting of the board, not placed on the agenda of the meeting at which presented, shall be automatically placed on the agenda of the following regular meeting unless its place on the agenda is denied, or it is removed as provided in this article.

(g) Any ordinance or resolution placed on the agenda of any regular or special meeting of the board requiring by its terms the appointment by the board of a person and the insertion of a person's name in the ordinance or resolution shall be automatically referred to and constitute a call of an executive session prior to adjournment of such meeting, and formal action on the ordinance or resolution shall take place in public session after the executive session.

Sec. 2-32. Briefing of board by the city administrator.

(a) The city administrator may present to the board of directors at any meeting any matter without detailed briefing for the purpose of determining whether the board desires that the matter be staffed and the board thoroughly briefed at a subsequent meeting of the board, or not. Available information relevant to the question of further consideration and briefing should be presented.

(b) It shall be the duty of the city administrator to keep the members of the board advised of all facts and circumstances pertaining to or affecting the legislative policy of the city, and it shall be the duty of the city administrator and his staff to investigate, assimilate relevant information, and brief the board of directors on all matters requiring consideration and legislative action by the board.

(c) Before any complex or controversial item of business is placed on the agenda of a regular, special, study session or executive session meeting of the board by the city administrator, the city administrator and his staff shall first present to the board so much of the following as is relevant and feasible:

(1) Statement of the problem or the issue presented.

(2) A statement of all pertinent and relevant facts together with available documentation.

(3) Any expert opinion concerning the item of business for consideration.

(4) Copies of other municipal legislation affecting the item of business.

(5) Copies of pertinent comparable legislation in other municipalities.

(6) Statement of the intended results of any proposed legislation or statement of policy on the problems sought to be eliminated, or the good to be accomplished by the proposed legislation.

(7) A statement of the obstacles to accomplishment of the desired objective.

(8) A statement of the possible solutions with advantages and disadvantages of each.

(9) The course of action recommended by the city administrator, if any, and his reasons therefor.

(d) It shall be the duty of the city administrator and his staff to present to the board the same information outlined in this section for each item of business initiated by members of the board at their request, or by citizens presenting complex or controversial items of business, provided the city administrator may require as a condition precedent to his presentation of an item of business initiated by a citizen that the initiating person attend a meeting of the board and make a presentation of relevant facts and circumstances to the board and such other of the staff briefing

requirements outlined in the preceding subsection as is relevant and reasonable.

(e) The majority of the board may, by vote, if timely done pursuant to section 2-31, place a complex or controversial item of business on the agenda at the request of the city administrator without the complete and thorough briefing to the board required by this section.

(f) All or any part of the information to the board required by this section may be furnished either orally or in writing to each member of the board prior to or at the presentation of the item of business for a place on the agenda.

(g) The city administrator shall request the board of directors to authorize the necessary staff, equipment and material to perform the duties prescribed by this article.

Sec. 2-33. Meeting material, equipment and supplies.

(a) The city clerk shall have present at each meeting of the board of directors a copy of Robert's Rules of Order, a copy of this Code, and at the meeting of initial consideration, a copy of every other contract, resolution or ordinance of the city directly affecting matters of consideration by the board. The city administrator shall advise the city clerk prior to each meeting of the subject of matters proposed for consideration by the board which are not known by the city clerk to be already on the agenda. The city clerk shall provide necessary supplies for each director at each meeting. The city administrator shall have present at the meeting of initial consideration every legal opinion, and other letters, documents, charts, maps or photographs not in the possession of the city clerk directly affecting new matters of consideration by the board at each regular, special, study session or executive session meeting of the board, except where impractical because of the complexity or bulk of the documents, in which case available summaries shall be utilized.

(b) Upon request by any director, the city administrator and his staff shall have present at any subsequent meeting of consideration the relevant documents described in subsection (a) above.

Sec. 2-34. Presiding officer; vote; mayor's veto; overriding veto.

(a) The mayor shall preside at all regular, special, and study session meetings, including executive sessions, of the board of directors but shall not have a vote on any matter coming before the board. The mayor shall have the power of veto over all decisions made by the board of directors, except with respect to matters relative to city personnel, but a veto by the mayor may be overridden by the affirmative vote of five (5) or more members of the board of directors. In the absence of the mayor, the assistant mayor shall have the same duties and authority as chairman without veto, and also shall have the right to vote as a director.

(b) In the absence of both the mayor and the assistant mayor the board of directors shall elect from its membership a person to serve as chairman of the meeting. Such election of a chairman shall not occur before the designated starting time of the meeting and shall not occur before a

quorum is present.

Sec. 2-35. Rules of order.

(a) Robert's Rules of Order shall govern the proceedings of all regular, special, agenda and executive meetings of the board of directors, except as modified by A.C.A. tit. 14, ch. 48 [§ 14-48-101 et seq.], and the provisions of this article. The city administrator shall provide a copy of Robert's Rules of Order to each member of the board of directors, the mayor and the city clerk.

(b) The mayor, assistant mayor or other person presiding over the meeting shall have the affirmative duty and authority to require the members of the board of directors and other persons present at the meeting to comply with the rules of order. The chairman of the meeting shall constantly maintain the decorum of the meeting, and shall have authority to order the removal of persons not on the board of directors violating the rules of order or disturbing the meeting. The chairman of the meeting may require the city administrator to provide a person having police authority to be present at a meeting to assist in the performance of the duties of the presiding officer. It is the purpose of this subsection to require the chairman of the meeting to enforce the rules of order and to maintain the decorum of the meeting without a request for rule compliance or objection to rule violation by a member of the board of directors. If a member of the board of directors believes there is a violation of the foregoing by a citizen, he or she may make a motion to end the presentation or assert a point of order. If said motion receives a second, there shall immediately be taken a vote of the board of directors on the motion to end the presentation. The chairman may enforce the point of order or may submit same to a vote of the board of directors.

(c) A majority of the board may on a motion, without second, order the previous question, which shall have the effect to cut off all debate and bring the board to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the item of business to its passage or rejection. It shall be in order, pending the motion for the previous question, or after the previous question shall have been ordered on its passage, for the mayor to entertain and submit without debate a motion to commit, with or without instructions, to a standing or select committee. All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether an appeal or otherwise, without debate.

(d) No member of the board of directors shall speak or debate on any item of business, which is not on the agenda at any regular meeting of the board of directors, except on a motion to add the item of business to the agenda as provided in this article, without the unanimous consent of the members of the board who are present.

(e) The minutes of each regular or special meeting of the board of directors shall be accurately summarized by the city clerk, reduced to writing, and a copy provided to each member of the

board of directors and the mayor prior to the next regular meeting. No minutes of any past meeting of the board of directors shall be read at any subsequent meeting unless a reading is requested by a member of the board of directors.

(f) The chairman of each meeting of the board shall rotate the opportunity to first speak or debate on successive items of business among the members of the board.

(g) All special and standing committees of the board shall be appointed by the chairman of the meeting, subject to the approval of a majority of the board, which approval shall be recorded.

(h) The membership of standing committees shall terminate on December thirty-first of each year and new members appointed at the next regular meeting of the board. Special committees shall terminate upon the presentation to the board of a committee report stating that it is final or at the expiration of one (1) year, whichever event occurs first.

(i) The referral of a matter or item of business to a committee shall have the effect of requiring the city administrator and his staff to fully support the committee in its work.

Sec. 2-36. Presentation of information requiring no board action.

(a) Any information or report may be presented to the board of directors by the city administrator, by the mayor, or by a member of the board at any meeting of the board. No official action shall be taken on such matter unless first placed on the agenda as provided herein.

(b) Any member of the board may request the city administrator to remain after any meeting for the purpose of informing the city administrator of specific citizen complaints or other matters not requiring the attention of the entire board and the city administrator and his staff shall note the complaints or matters presented for action under section 2-45, or for other appropriate action, and the director presenting the complaint or the matter shall be advised of the action taken.

Sec. 2-37. Agenda consideration at opening of meeting; public comment on agenda items.

(a) After each regular or special meeting of the board of directors is called to order and the roll is called, the mayor shall inquire of the members of the board of directors if any director desires to present any item of business or other matter to the board during the meeting, or which is not already on the agenda of a regular or special meeting. If the mayor receives an affirmative response, the subject of all such items of business or matters for consideration shall be promptly determined. No person, except a member of the board of directors, shall be permitted by the mayor to discuss any item of business or other matter presented at the meeting for a place on the agenda until the item of business is placed on the agenda, or other matter is approved by the board for presentation at the meeting. The mayor shall submit separately to the board for vote without motion each item of business or other matter proposed by a director. A director presenting items requiring board action, but not placed on the agenda of the meeting at which presented, shall be told by the mayor that the item will be on the agenda for the next regular

meeting of the board, unless removed by a majority of the board. At each regular or special meeting of the board the mayor may then ascertain the number of persons present for each item on the agenda and shall rearrange the order of the agenda subject to the approval of the board, so that the business of the largest groups of people present is first on the agenda.

(b) After a motion is made and seconded for approval of each item on the agenda of any regular or special meeting of the board, and before such item is discussed by members of the board, the mayor shall inquire of those present if anyone has a statement to make concerning the item under consideration. An applicant before the board may have up to five (5) minutes to make an opening presentation. If a group of citizens opposes the applicant, they may have up to five (5) minutes to make an opposing presentation. Each side shall have up to three (3) minutes to make a rebuttal presentation. All other comments from citizens shall be limited to no more than two (2) minutes per citizen. Any of these time limits may be extended by a consensus of the members of the board. Citizen comments must be relevant to the agenda item under consideration.

Sec. 2-38. Ordinances and resolutions--Passage; one subject, title rule.

(a) All ordinances, resolutions or orders for the appropriation of money shall require for their passage or adoption the concurrence of a majority of the board of directors. All by-laws and ordinances of a general or permanent nature shall be fully and distinctly read on three (3) different days, unless five (5) members of the board of directors shall dispense with the rule. The affirmative vote of at least five (5) directors to suspend the rule shall dispose with the requirement to fully read the item and with the requirement of voting on three (3) different days. No ordinance shall contain more than one (1) subject which shall be clearly expressed in its title.

(b) The formality of suspending the rules regarding readings on successive dates shall not be required in the event of a unanimous vote of the entire board.

(c) If a by-law or ordinance is duly adopted, or amended, and a director voting against the measure states consents to dispensing with the rules, such director's vote on the measure adopted shall be recorded for the measure to reflect the unanimous vote required by subsection (b) above.

(d) If it shall be necessary for the preservation of the public peace, health and safety that a measure shall become effective immediately, and the measure contains an emergency section, a separate roll call vote by yea and nay shall be had on the emergency section. Five (5) or more votes in favor of the emergency shall be required. If the emergency section is not adopted, the remainder of the measure shall be considered passed.

Sec. 2-39. Same--Voting requirements.

(a) On the passage of every ordinance, resolution or order to enter into a contract by the board of

directors, the yeas and nays shall be called and recorded; and to pass any ordinance, resolution or order, a concurrence of at least four (4) members of the board of directors shall be required.

(b) When a motion for passage or adoption of an item of business which is the subject of an ordinance or resolution on the agenda at any regular, or special meeting of the board of directors is duly seconded, the ordinance or resolution shall be read prior to the first vote, subjected to any other parliamentary procedure including subsidiary and privileged motions, and then put to vote to end that only one (1) vote shall be taken on each main motion.

Sec. 2-40. Salaries.

(a) The mayor shall receive compensation in the amount of ten thousand dollars ($10,000.00) per year. Additionally, the mayor shall receive as reimbursement for vehicle expense the sum of four hundred fifty dollars ($450.00) per month.

(b) Each member of the board of directors shall receive compensation in the amount of one thousand dollars ($1,000.00) per year. A member's compensation shall be reduced by one-twenty-fourth (1/24th) for each regular meeting at which a member is absent. No such [illegible] special meeting called by the board of directors. Each member of the board of directors shall receive as reimbursement for vehicle expense the sum of four hundred dollars ($400.00) per month.

Sec. 2-41. Actual expenses.

(a) The mayor and the members of the board of directors shall be reimbursed for actual out-of-pocket expenses incurred in the performance of their official duties, and they shall be reimbursed for personal automobile use on city business requiring travel more than twenty-five (25) miles one (1) way from the principal office location of the city.

(b) Application for reimbursement shall be made within thirty (30) days of the date the non-travel expense is incurred or within two (2) weeks of the date the travel is concluded and the application shall be supported by appropriate vouchers in the same manner as provided by the city administrator for reimbursement of expenses of other municipal personnel. Reconciliation of travel advances shall be made within two (2) weeks of the date the travel is concluded. In addition, the application for reimbursement shall state the date and item of municipal business requiring the expenditure or travel. All travel expense reimbursements and travel advances shall be made in accordance with the city's travel policy.

(c) To the extent feasible, the city administrator shall establish a procedure for providing direct services and supplies to the mayor and the members of the board necessary to an efficient and economical performance of their official duties.

Sec. 2-42. Administrative assistance to the board of directors.

(a) The city administrator shall provide such secretarial assistance to the board of directors and the mayor as is prescribed by the board for its members and the mayor. The city administrator shall provide adequate office space and the necessary furniture, equipment and supplies for one (1) member of the board, or the mayor to work effectively on city business. Available personnel, supplies, space, furniture and equipment now utilized by the mayor may be designated and assigned to the requirements of this section.

(b) Each member of the board of directors shall be provided with supplies, documents and information necessary to the proper performance of the duties of director in preparation for and in attending meetings of the board.

(c) Official stationery bearing the names of the mayor and the members of the board shall be provided to the board.

(d) The city administrator shall provide to each member of the board of directors on request an appropriately designed identification card for use by the members of the board on official business.

(e) Directors and the mayor may request information that is routine and readily available from any department or office head of the city. The department or office head shall furnish all available information and facts requested by the directors and mayor to the city administrator, who shall then forward such information and facts to all directors and the mayor. Requests from directors or the mayor for information that is not routine or is not readily available shall be made through the city administrator.

(f) Directors and the mayor may request information directly to the internal auditor, who will respond directly to the requesting director or mayor.

Sec. 2-43. Director approval procedure of city administrator personnel action.

Except as otherwise provided in this article, the city administrator shall obtain the approval of the board of directors prior to the employment or discharge of exempt personnel of the city who are heads of departments, city clerk, internal auditor, and the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code as follows:

(1) The city administrator shall notify all members of the board of directors either orally or in writing of the proposed action, the reasons therefor, and all relevant and pertinent facts bearing upon the decision of either employment or discharge. After notification from the city administrator, there shall be scheduled an executive session at the next regular or special meeting of the board of directors to discuss approval, denial or modification of the city administrator's proposed action.

(2) Following the board's action, the city administrator shall then notify in person or by telephone the individual subject to the approved action and may confirm the action in writing to the individual.

(3) Where reasonable and feasible, employees of the city shall be first given an opportunity to resign at the request of the city administrator and the board of directors prior to notice of discharge.

(4) No director nor the mayor shall communicate the exempt personnel action proposed by the city administrator, except through the city administrator as herein provided.

Sec. 2-44. Citizen complaints and citizen initiated items of business.

(a) Any citizen having a complaint or an item of business with the city should present the complaint or the item of business to the city administrator's office for action prior to presentation of the complaint or item of business to the board of directors at a meeting. Before presentation of the complaint or item of business to the board of directors, the aggrieved citizen shall first notify the city administrator, or his designated representative, of the nature of the complaint, and the city administrator shall immediately cause an investigation to be made of the complaint or requested item of business and notify the citizen and board of directors of the results of the investigation and recommended action, if any. A citizen who remains aggrieved by the action of the city administrator may then present the matter to the board of directors at any subsequent regular meeting after giving notice to the city administrator at least seven (7) days before the regular meeting. The matter shall be scheduled as an item of business on the regular meeting agenda. The city administrator shall provide the board of directors with a briefing report on the citizen's request, any action taken by the city administrator or his staff, and other information deemed relevant by the city administrator. The citizen shall have up to three (3) minutes to present his or her request at the regular meeting. The board of directors may extend this time limit by its concurrence. After considering the citizen's request, the board of directors may:

(1) take any action it deems appropriate, consistent with applicable law;

(2) determine to not consider the matter any further:

(3) request additional information from the citizen or the city administrator;

(4) defer the matter for further consideration at a study session meeting or a subsequent regular meeting.

If the board of directors determines to not consider the matter any further, the city administrator shall not schedule on a regular, special or study session meeting agenda any identical or substantially similar request made by any citizen within one (1) year of the board of directors' determination to not consider the matter any further.

(b) At each regular meeting, there shall be an item on the agenda immediately preceding adjournment of the meeting, which item shall allow citizens to introduce matters to the board of

directors. Each citizen shall have up to two (2) minutes to present his or her matters, which matters shall be limited to those involving the city government and shall not be directly related to items considered on that meeting's agenda. If a matter presented by a citizen requires consideration of possible action by the board of directors or the city administrator, the matter shall be handled in accordance with Section 2-44(a).

Sec. 2-45. Record of action requested by the board.

The city clerk shall maintain a list of the items of business for which a member of the board has requested a staff briefing or other action, and a list of all items referred to the city administrator or other city official for action, the date of the request or referral, and the name of the person making the request or presenting the item referred, and the anticipated date for a report on the action requested. The date of the subsequent report or briefing shall be noted on the list.

Sec. 2-46. Notice.

Unless otherwise specifically provided in this article, any notice to the city clerk required by this article may be given orally or in writing. Notice received orally shall be first recorded in writing by the recipient. All notices shall be immediately communicated to the city clerk, who shall maintain a permanent record of all notices in the minutes of the meetings of the board. Unless otherwise specifically provided in this article, the city clerk shall give written notice of each item of business placed on the agenda of any regular, special, study session or executive meeting of the board to the members of the board, the mayor and the city administrator at least four (4) days prior to the date of the meeting of consideration. Actual notice of any item of business subsequently placed on the agenda as provided herein shall be immediately given by the city clerk to each member of the board, the mayor and the city administrator by the most effective and expeditious means available.

Sec. 2-47. Effect of noncompliance with article; procedures.

(a) Failure to comply with the provisions of this article shall not invalidate any action of the board which is otherwise in accordance with the law of this state, unless a member of the board states the objection at the time of the action, or files an objection to the action of the board at or prior to the next regular meeting of the board. If a member of the board makes or files an objection to a proceeding, the facts and grounds for the objection shall be stated by the objecting director and referred by him to the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code for opinion, which shall be presented to the board as an item of business on the agenda at the second regular meeting following the challenged action.

(b) If the opinion of the qualified and licensed attorneys at law contracted to provide legal

services pursuant to sections 2-111--2-113 of this Code states that the challenged action violates the provisions of this article, the matter challenged shall automatically be reconsidered by the board.

(c) If the opinion of the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code states that the challenged action does not violate the provisions of this article, no further consideration of the challenged action shall be required.

(d) At the adjournment of the second regular meeting following the challenged action, all violations of the provisions of this article shall be deemed waived, the action taken confirmed, and no violation of this article shall be grounds for invalidating any action of the board thereafter, if the action otherwise complies with the laws of this state.

SECTION 2: Emergency Clause. The immediate effectiveness of this Ordinance establishing procedures for the governing body of the City is required to provide for the orderly conducting of the affairs of the governing body and the City. Therefore, an emergency is declared, and this Ordinance shall be in full force and effect immediately upon its passage and approval.

PASSED and APPROVED this _____ day of May, 2010.

_____

Mayor

ATTEST:

_____

City Clerk

The City of Fort Smith ARKANSAS

MEMORANDUM

May 13, 2010

TO: Dennis Kelly, City Administrator

FROM: Ray Gosack, Deputy City Administrator

SUBJECT: Board Meetings - Municipal Code

Attached for the board of directors' consideration is the ordinance adopting changes to board meeting procedures. The changes:

- modernize the code
- streamline the myriad of procedural matters addressed in the code
- reflect the board's actual operating practices
- bring the code into compliance with the Arkansas Freedom of Information Act.

Section 2-42(f) regarding the internal auditor has been modified as the board directed at the May 11th study session. All other changes were considered at the April 27th study session.

The staff recommends adoption of the ordinance.

Ray

Attachment

2

ORDINANCE NO._____

AN ORDINANCE ORDERING THE OWNERS OF CERTAIN DILAPIDATED AND SUBSTANDARD STRUCTURES TO DEMOLISH SAME, AUTHORIZING THE CITY ADMINISTRATOR TO CAUSE THE DEMOLITION OF SUCH STRUCTURES TO OCCUR, AND FOR OTHER PURPOSES.

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

WHEREAS, certain owners of real property have caused or allowed certain tracts of real property to deteriorate to the condition that such tracts of real property and the improvements thereon are now, and for several months prior hereto have been dilapidated, unsightly, unsafe, unsanitary, noxious and detrimental to the public welfare, and

WHEREAS, the condition of such tracts of property and the improvements located thereon are in violation of the City Ordinances and the statutes of the State of Arkansas.

NOW, THEREFORE,

SECTION 1: It is the opinion of the Board of Directors that the hereinafter described tracts of real property, and the improvements located there, are dilapidated, unsafe and otherwise detrimental to the public health and constitute structural, fire and health hazards:

STREET ADDRESS:

3602 REED LANE & REAR STORAGE BUILDING - ACREAGE .490, PT SW NE; 34-09-32

2910 North K Street - Lots 29 & 30, Block 6 Hunton's Addition

SECTION 2: The owners of the tracts of real property described in Section 1 are hereby ordered to remove or raze the improvements located on the said tracts of property and to remedy the unsightly and unsanitary conditions otherwise located on said tracts of real property within thirty (30) days from the date of this ordinance.

Approved as to form
JSC
Publish 1 time

SECTION 3: With reference to said tracts of real property and improvements located there for which the order contained in Section 2 of this ordinance has not been complied with within thirty (30) calendar days from the date of passage of this ordinance, the City Administrator is hereby authorized to execute a contract, based on the bid(s) accepted on the date of this action or at a later date, for the removal or razing of the described improvements on the tracts of real property in order to remedy the unsightly and unsanitary conditions located on said tracts of property.

SECTION 4: The provisions of this ordinance are hereby declared to be severable to the extent that a decision by any court of competent jurisdiction determining that any portion of this ordinance or any application thereof is unconstitutional, invalid or otherwise illegal shall not affect the constitutionality, validity or legality of the other provisions and/or applications of the ordinance.

SECTION 5: Emergency Clause. It is hereby found and declared by the Board of Directors that the dilapidated, unsanitary condition of the tracts of real property and improvements described herein constitute an immediate menace to the health, welfare and safety of the citizens of the City so that an emergency is hereby declared and that this ordinance shall be effective from and after the date of its passage.

PASSED AND APPROVED this _____day of_____2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

MEMORANDUM
Building Safety Division

TO: Dennis Kelly, City Administrator

FROM: Jimmie Deer, Building Official

DATE: May 10, 2010

SUBJECT: Unsafe Structures

The following structures have been damaged and/or deteriorated to a condition that has caused the Building Department to condemn them. The property and the improvements, thereon are now, and for several months prior hereto, have been dilapidated, unsafe, unsightly, unsanitary, obnoxious and detrimental to the public welfare and are found to be in violation of the Ordinances of the City of Fort Smith.

The property descriptions and owners are:

2910 North k Street - Lots 29&30, Block 6: Hunton's Addition

Owners: Montel Tyrone Carey
P.O. Box 4112
Fort Smith, AR 72914

3602 Reed Lane and Rear Storage Building- Acreage 490 Part SW NE 34-09-32

Owners: Oaklawn Mini Storage Inc.
P.O. Box 254
van Buren, AR 72956

The owners of these properties have been notified according to the procedures outlined in Section 16-88 of the Fort Smith Municipal Code. The property owners were notified by certified mail and posting the same letters on the buildings. The letter or notice contains information concerning the appeal procedure outlined in Section 16-91 of the Municipal Code. The Code specifies that they must file any appeals within fifteen (15) days from the date of service. The owner(s) of the subject properties did not file an appeal within the fifteen (15) day period nor have they requested an appeal hearing since that deadline has passed.

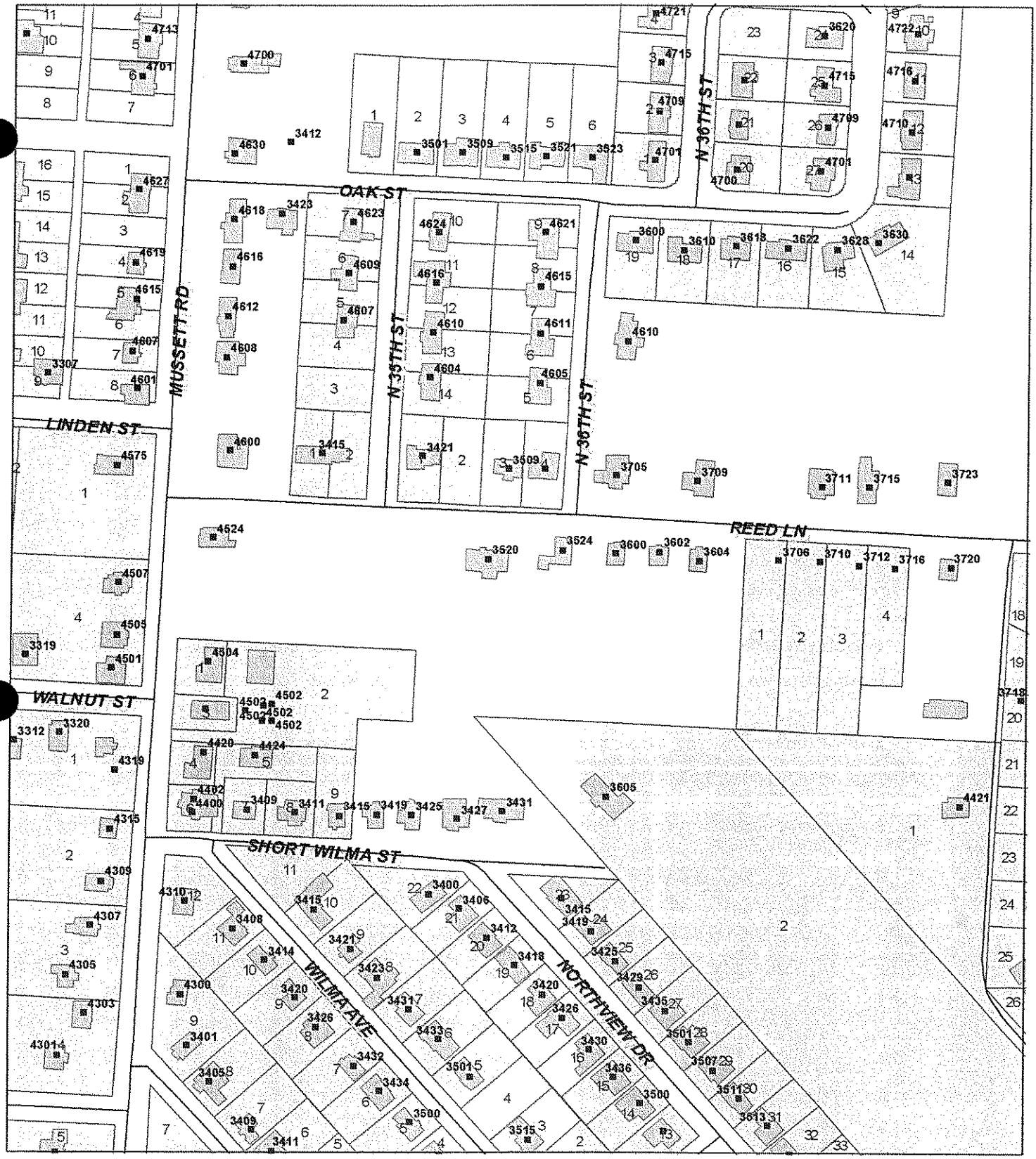
2910 North K Street - The Structure has been without water service since October 5, 2007. The property was posted and unsafe notices were sent out to the owners on November 18, 2009 and the owners signed for the notices on November 25, 2009. The owners began some demolition and clean out but as of today the owners have not been in contact with us and no building permits have been obtained or repairs been made to the structure.

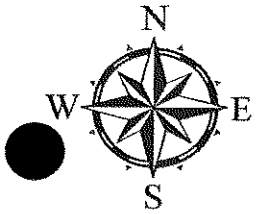
3602 Reed Lane and Rear Storage Building: The structure burnt on January 4, 2010 .The property was posted and unsafe notices sent out to the owners on April 14, 2010. The letters were signed for by the owners and as of today the owners have not been in contact with us and no building permits have been obtained.

Therefore, I am recommending this matter be referred to the Board of Directors for their review. An Ordinance will be prepared that will order the property owners to demolish or repair the buildings within thirty (30) calendar days and if such work has not occurred, the staff will be authorized to have the structures removed.

Please contact me if you have any questions or if we need to discuss this matter in more detail.

CC: Wally Bailey





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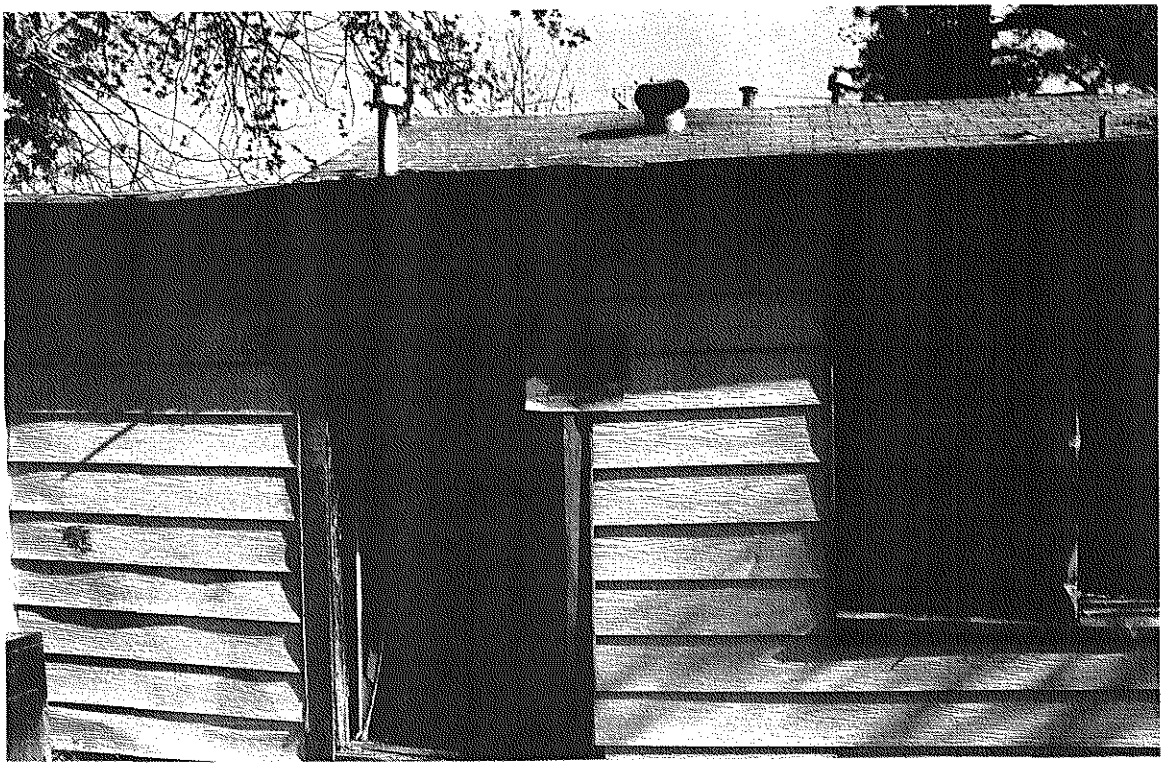

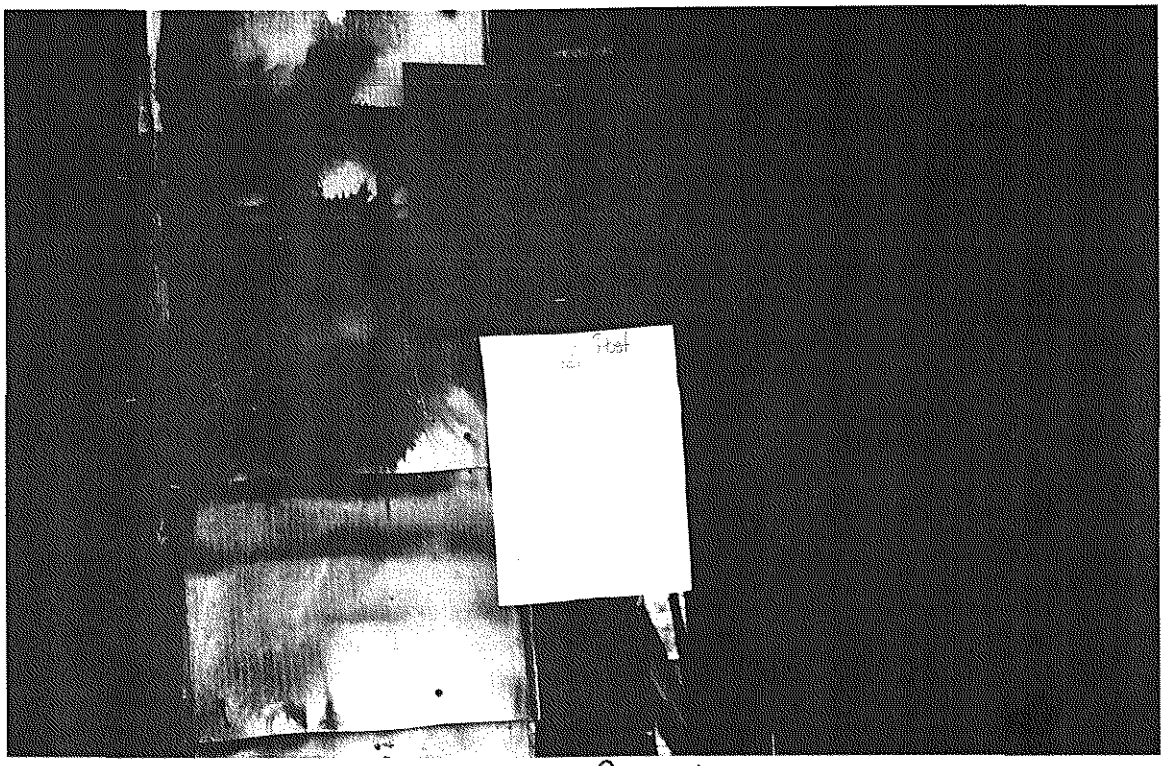

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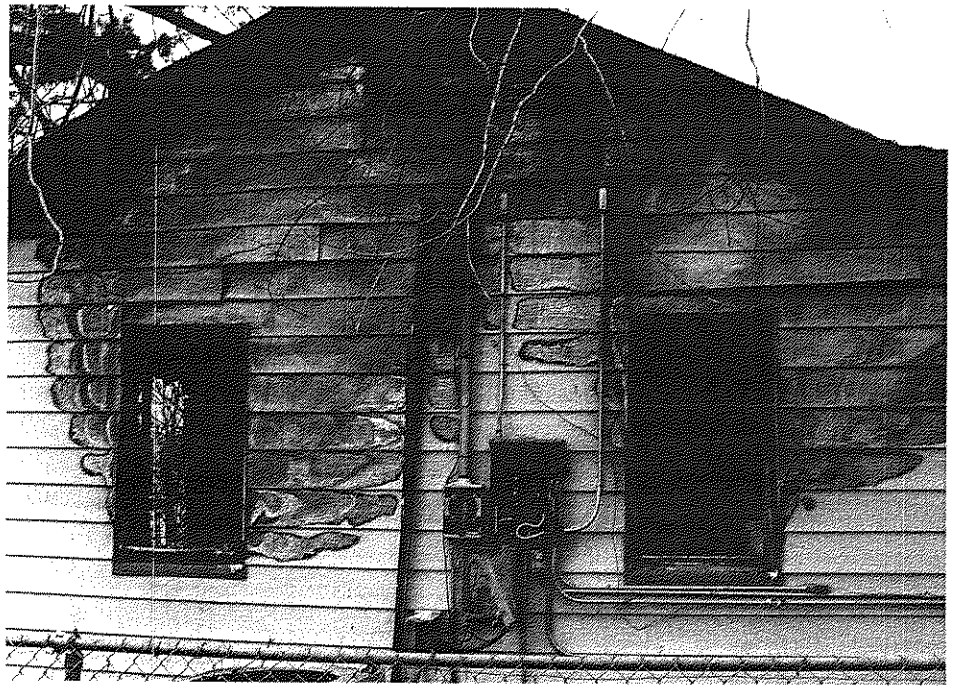

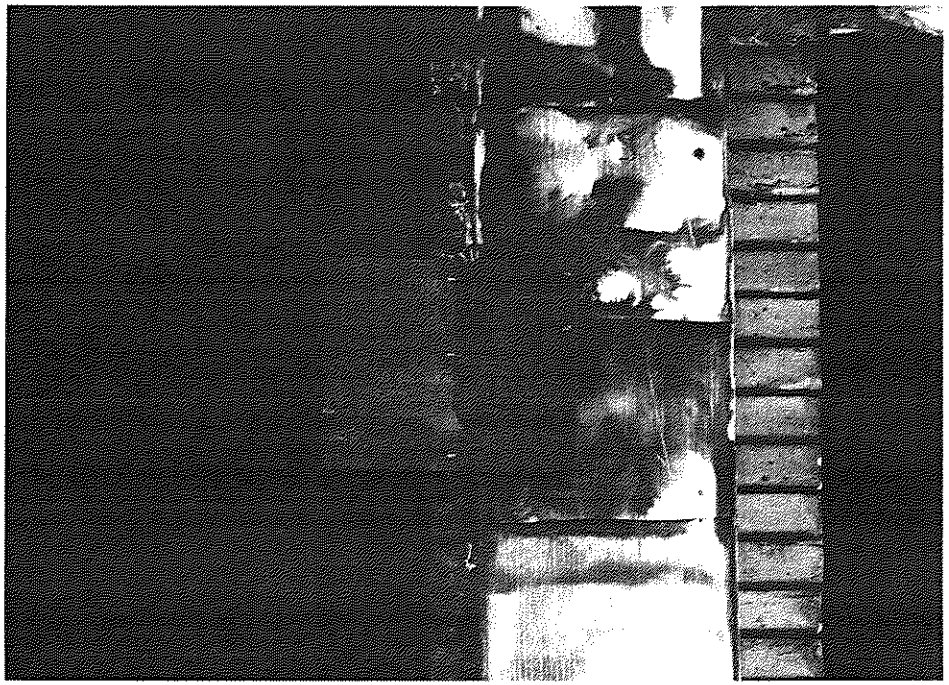

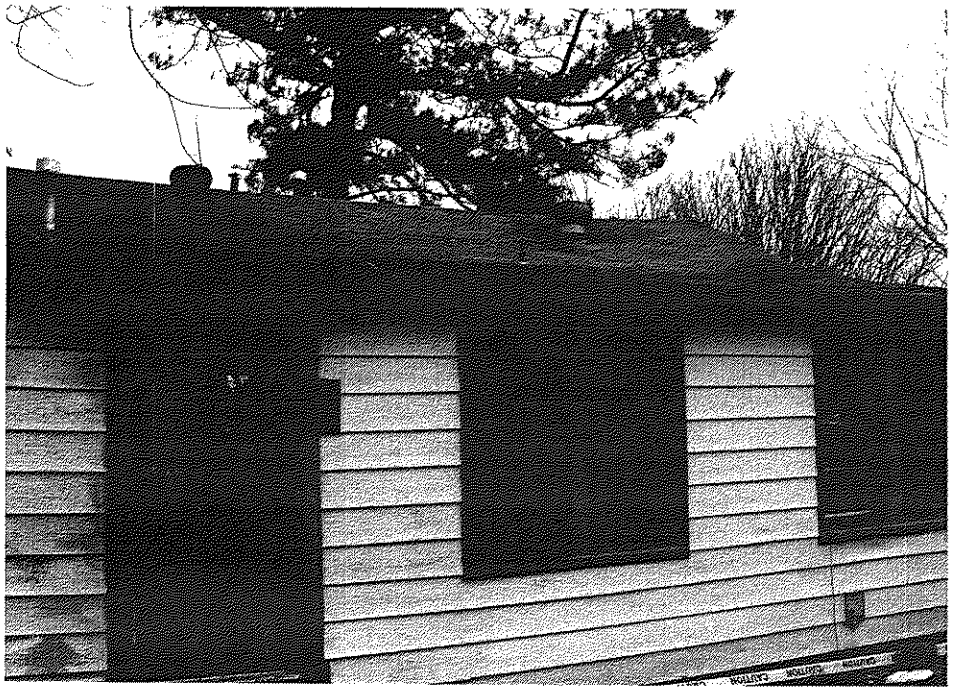

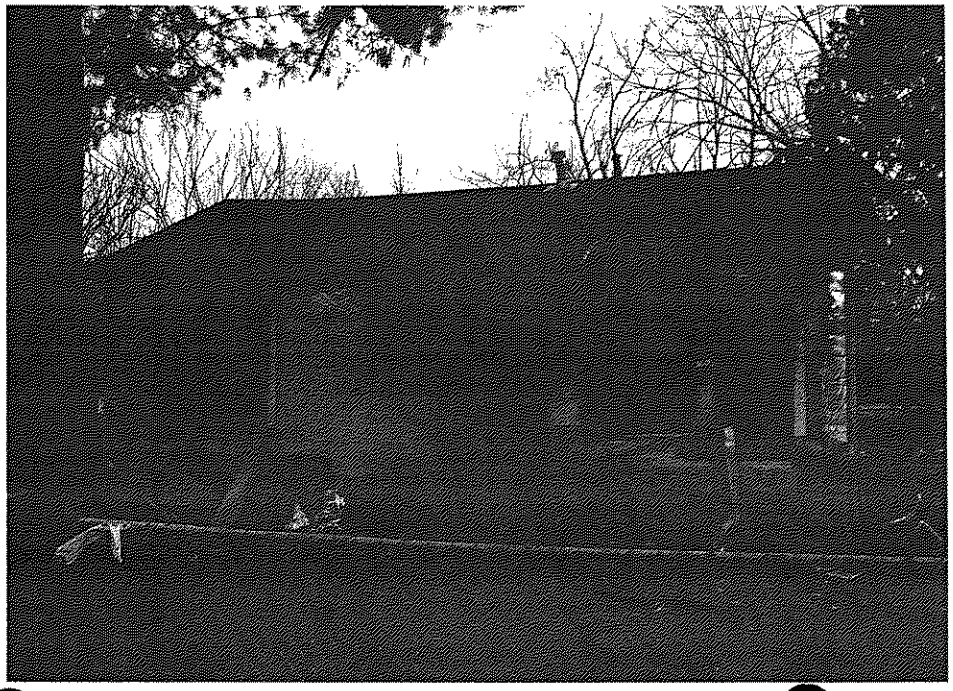

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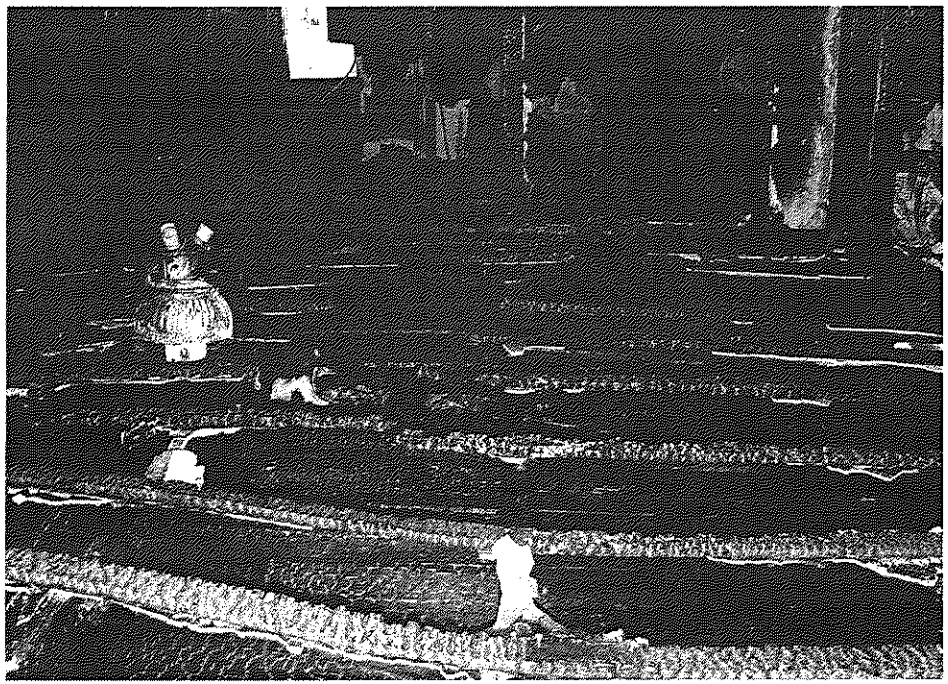

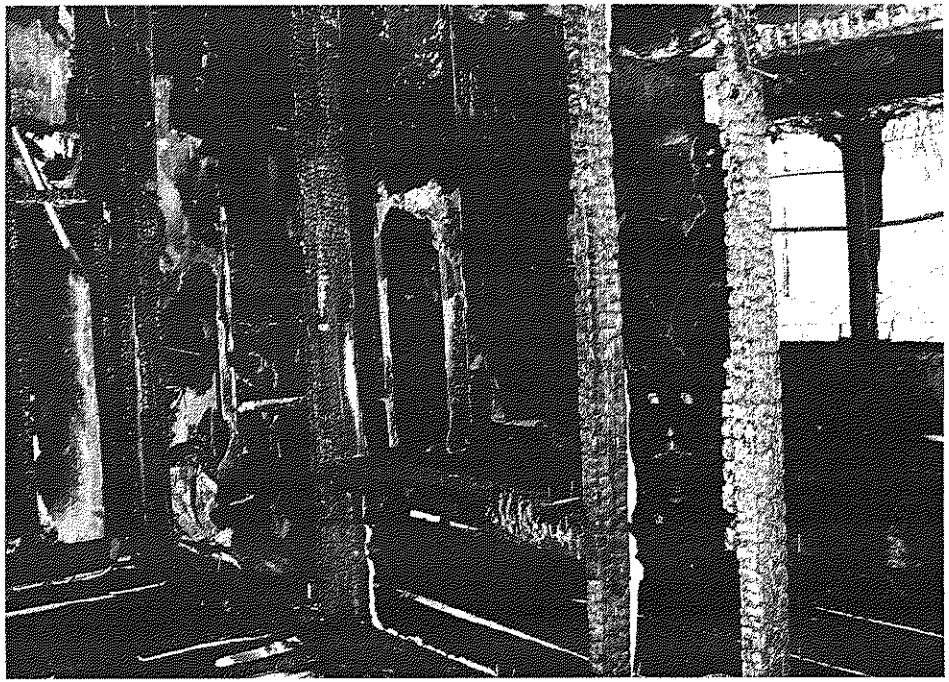

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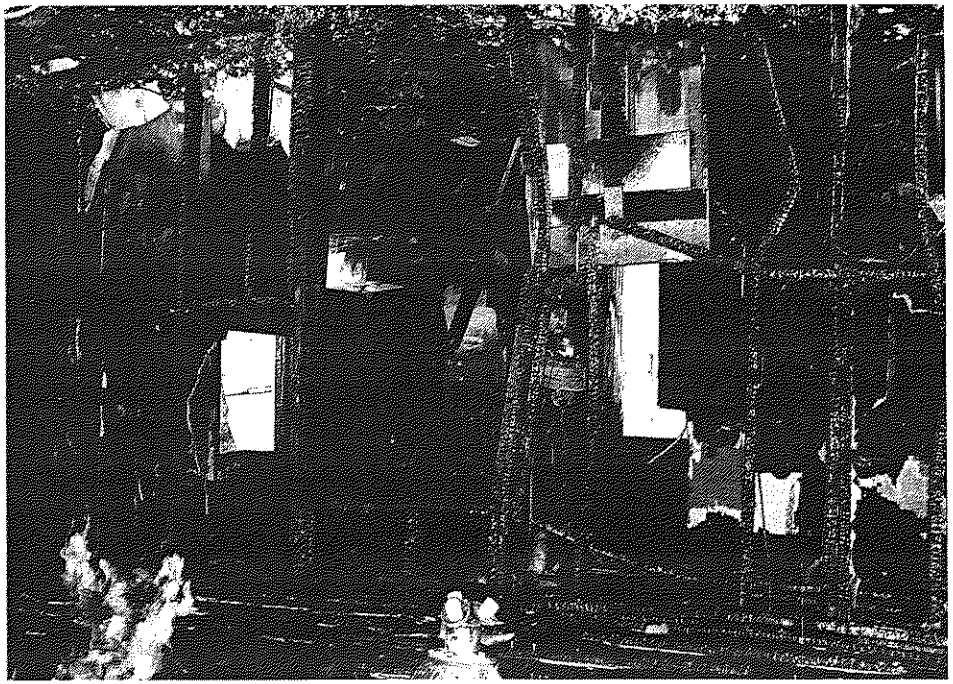

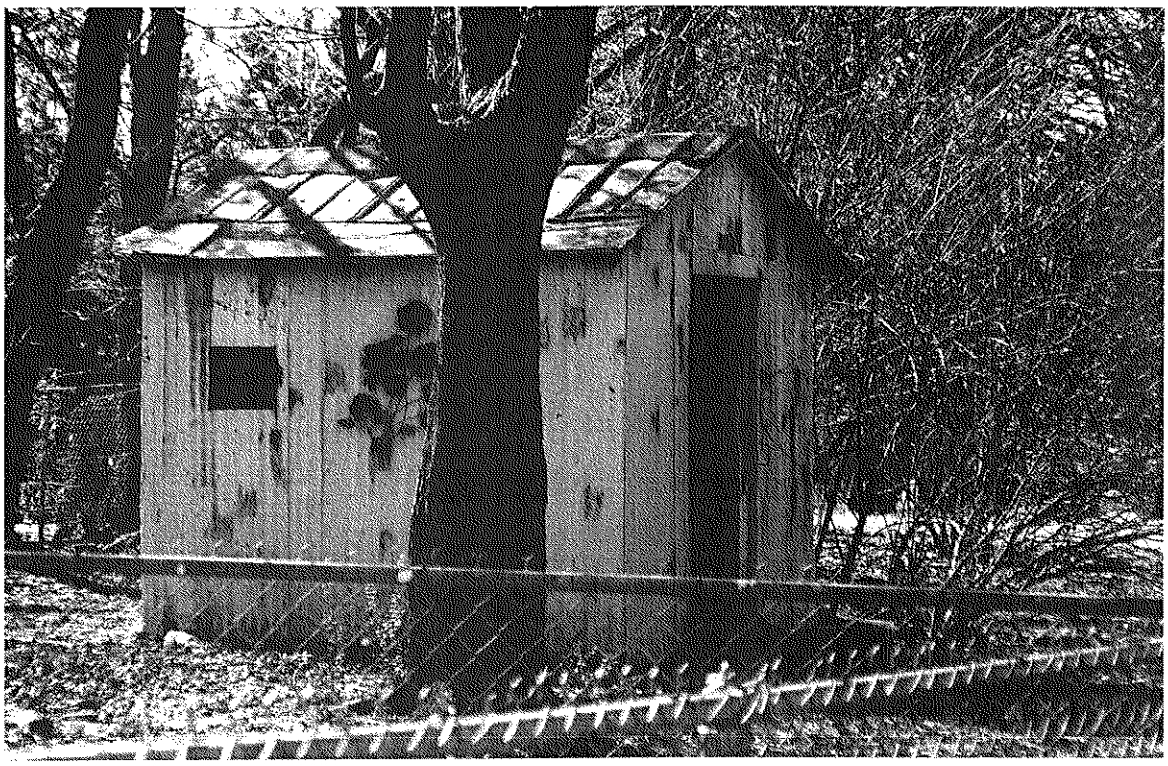

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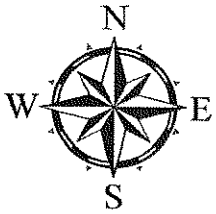

2910 North K Street

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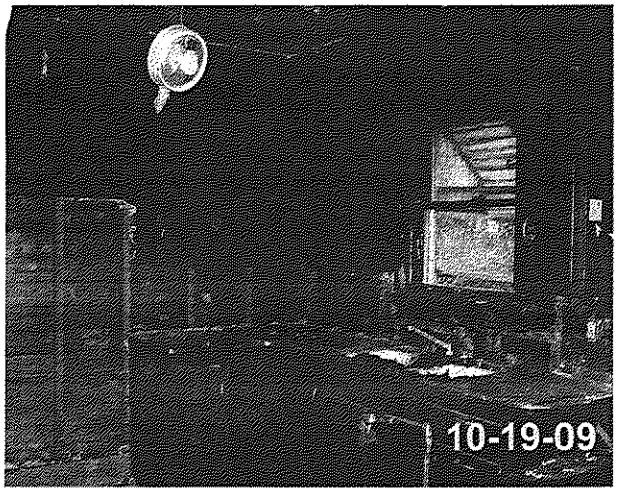
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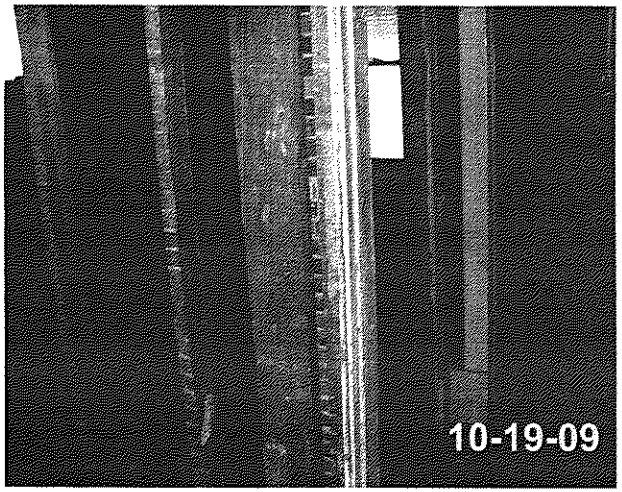
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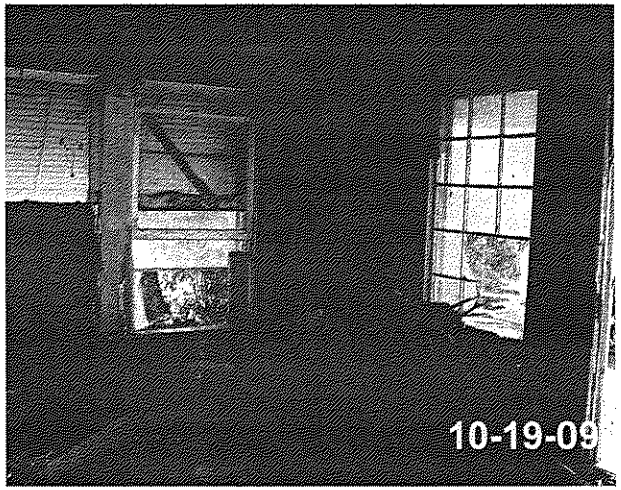
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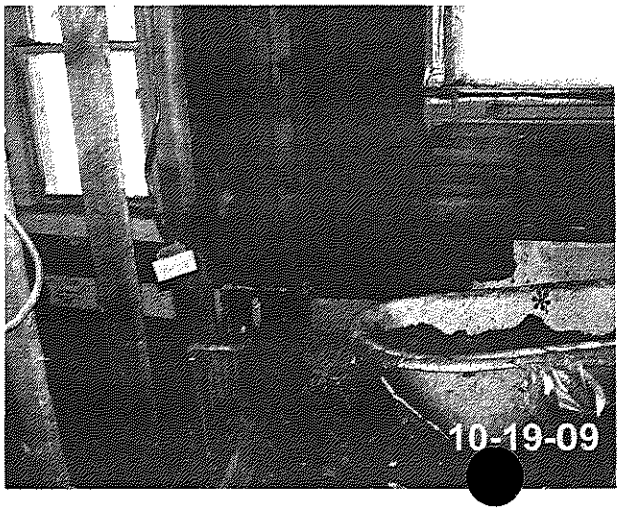
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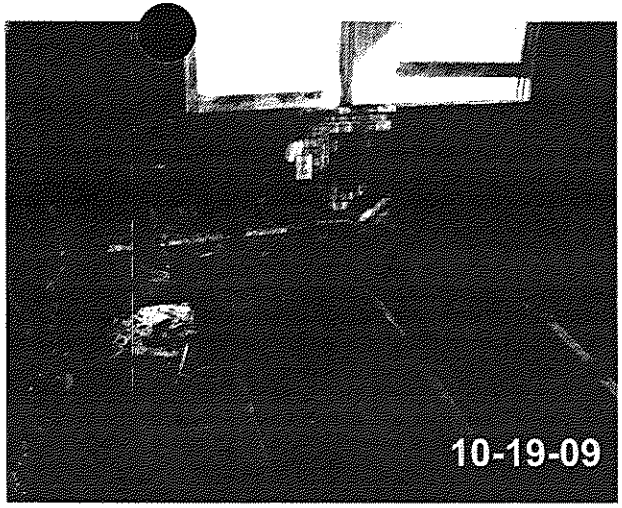
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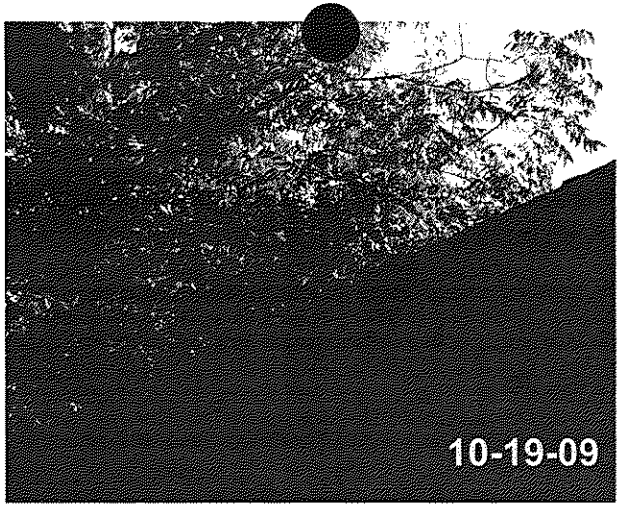
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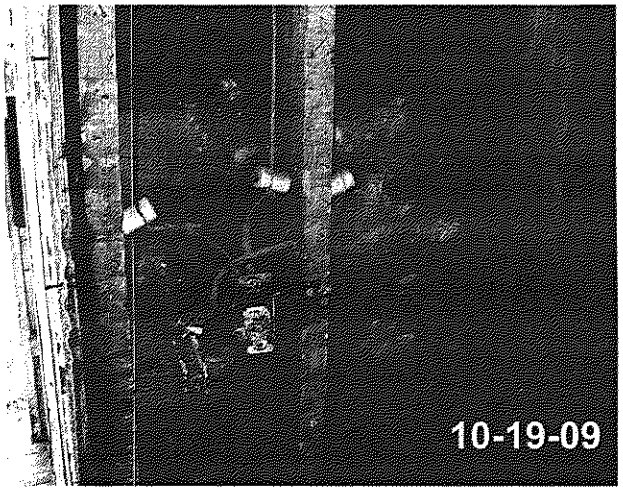
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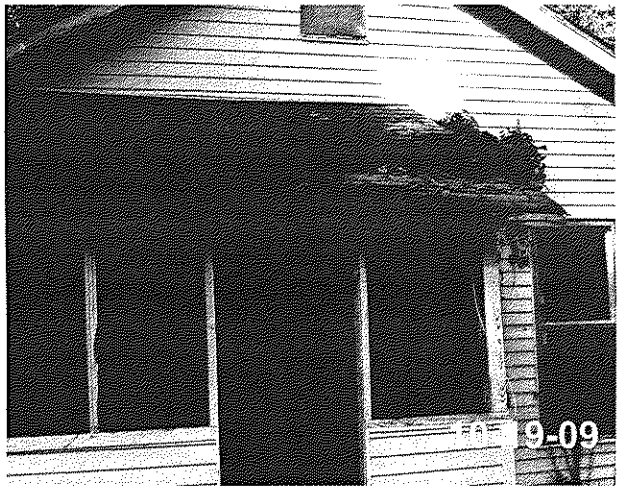
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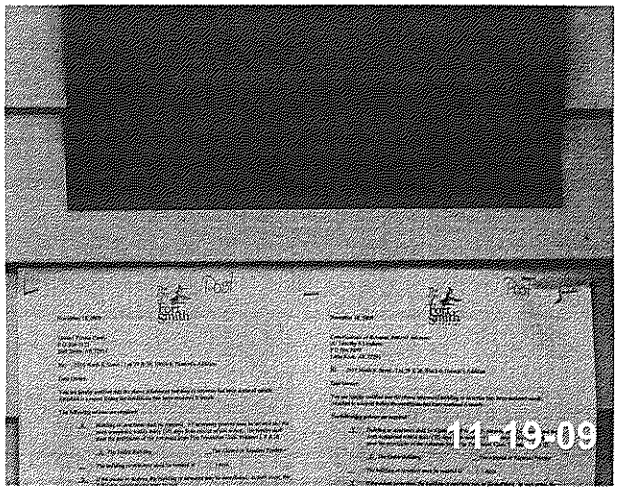
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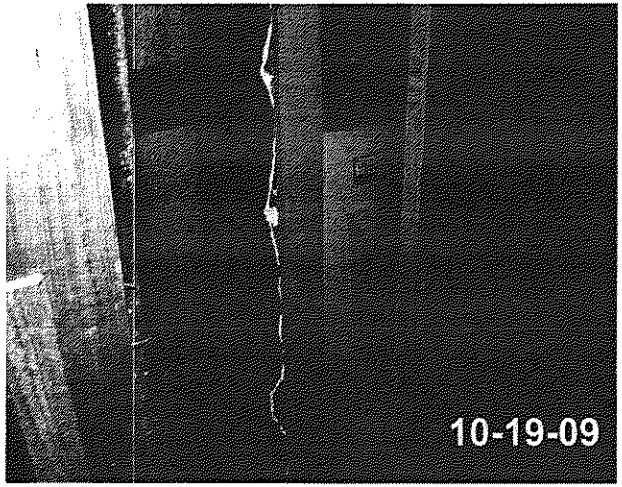
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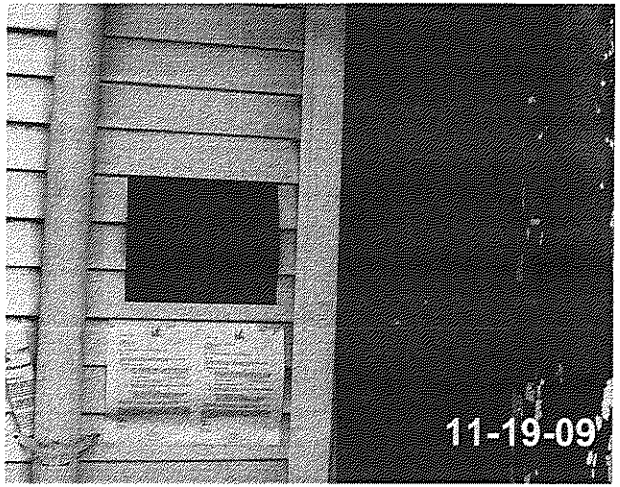
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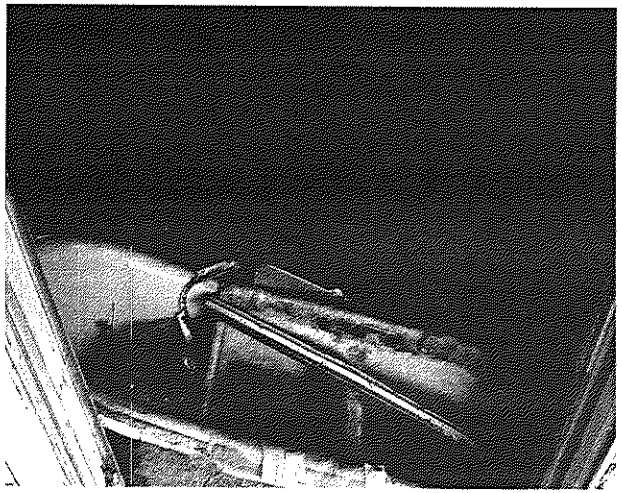
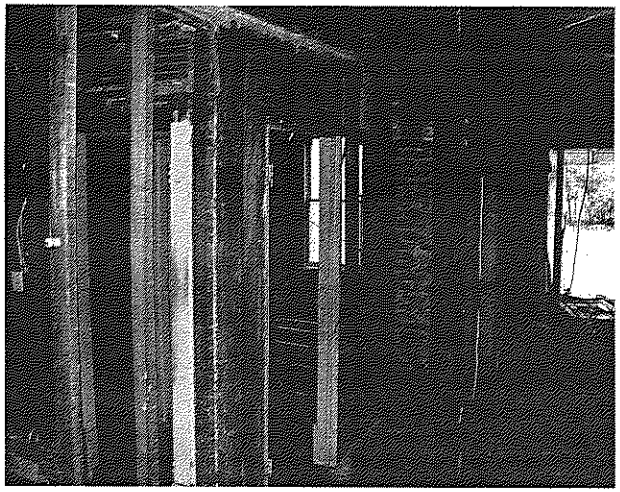
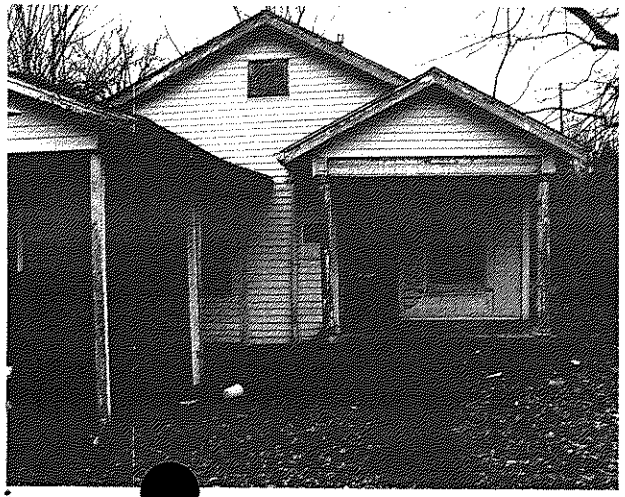
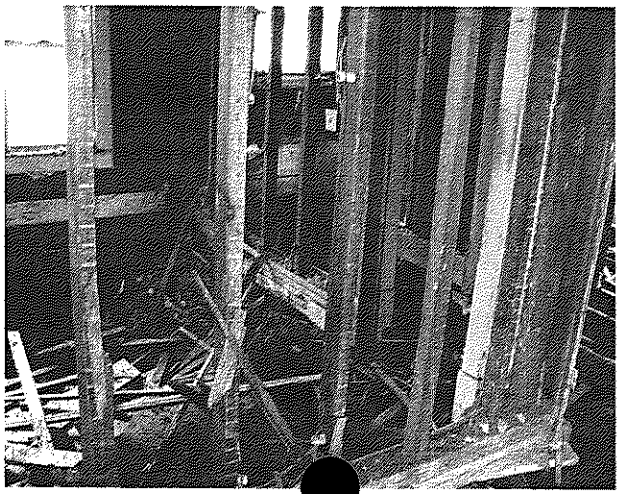








2910 N. K St.

12-23-09

RK

3.

RESOLUTION NO._____

A RESOLUTION ACCEPTING AND PRIORITIZING THE RECOMMENDATIONS OF THE HOMELESSNESS TASK FORCE

WHEREAS, the Board of Directors appointed a Homelessness Task Force to review issues related to the problem of homelessness in Fort Smith; and,

WHEREAS, the Homelessness Task Force conducted several meetings and has made recommendations to the Board of Directors which will assist the City of Fort Smith address issues related to homelessness in Fort Smith; and,

WHEREAS, the Board of Directors expresses their appreciation to the members of the Homelessness Task Force.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

Section 1: The Board of Directors hereby accepts the recommendations of the Homelessness Task Force.

Section 2: The Homelessness Task Force Recommendations are hereby prioritized by the Board of Directors as shown in Exhibit A.

This Resolution adopted this _____day of May, 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form
JSL
No publication required

EXHIBIT "A"

PRIORITIZED HOMELESSNESS TASK FORCE RECOMMENDATIONS

#1 Strengthen the Old Fort Homeless Coalition with city involvement through a full-time paid staff person

#2 Explore a campus site in a current industrial area south of Garrison Avenue

#3 Old Fort Homeless Coalition conduct an analysis of homelessness services to identify any gaps in services to the homeless

#4 Put more teeth in existing ordinances and hold property owners responsible for the maintenance of their properties, and add more staff to administer ordinances

#5 Identify a homeless management reporting system to identify the scope of the homeless problem in our area

#6 Establish a campus setting with a consolidation of services that will eliminate travel, duplication of services, and better represent the dignity of homeless persons (including exploring funding sources and solutions to the disposition of service providers existing facilities

#7 Continuation of enhanced police protection in the Belle Grove and Downtown Areas

#8 Create a job corps, through the Old Fort Homeless Coalition, and that the city give priority to the jobs corps when city services, such as lot clean-ups are contracted

#9 Undertake a community education program to generate support (awareness) for the homeless and a homelessness campus

MEMORANDUM

To: Dennis Kelly, City Administrator
From: Wally Bailey, Director of Development Services
Date: May 13, 2010
Subject: Homelessness Task Force Recommendations

The Board of Directors met in a special study session on Monday, May 3, 2010, to prioritize the recommendations of the Homelessness Task Force recommendations. The Board was also briefed on the recommendations at a study session on March 30, 2010.

We have prepared a resolution for the Board of Directors to formally accept the recommendations of the Homelessness Task Force and to confirm the Board's prioritization of those same recommendations. I have attached the meeting summary for your review.

The resolution will give the Board and staff direction as we prepare budgets, seek funding opportunities, and review other decisions related to homelessness issues.

Please contact Brenda Andrews or me if you have any questions.

Special Board of Directors Study Session
Elm Grove Community Center
6:00 p.m., May 3, 2010

Meeting Summary

A special study session was held by the Board of Directors on May 3, 2010, 6:00 p.m., to prioritize the Homelessness Task Force's recommendations.

Mayor Baker called the meeting to order. On roll call, the following directors were present: Directors Steve Tyler, Bill Maddox, Don Hutchings, Cole Goodman, and Kevin Settle.

Members of the task force were also invited to participate in the meeting. Task force members present included: Tom Minton, Elaine Burton, Ken Pevehouse, Linda Gabriel, Marshall Sharpe, Carolyn Plank, Joyce Taylor, David Kerr, and Captain Carlyle Gargis.

Following a discussion of the recommendations, the Board and task force members were given six dots to indicate their votes for the recommendations they believed to be the most important.

Following is a list of the recommendations prioritized according to the total votes given to each recommendation.

- Strengthen the Old Fort Homeless Coalition with city involvement through a full-time paid staff person

TOTAL VOTES:	**14**
Board:	5
Task Force:	9

- Identify a homeless management reporting system to identify the scope of the homeless problem in our area

TOTAL VOTES:	**12**
Board:	3
Task Force:	9

- Establish a campus setting with a consolidation of services that will eliminate travel, duplication of services, and better represent the dignity of homeless persons (including exploring funding sources and solutions to the disposition of service providers existing facilities

TOTAL VOTES: 12

Board: 2
Task Force: 10

- Explore a campus site in a current industrial area south of Garrison Avenue

TOTAL VOTES: 9

Board: 5
Task Force: 4

- Continuation of enhanced police protection in the Belle Grove and Downtown Areas

TOTAL VOTES: 9

Board: 2
Task Force: 7

- Old Fort Homeless Coalition conduct an analysis of homelessness services to identify any gaps in services to the homeless

TOTAL VOTES: 9

Board: 4
Task Force: 5

- Put more teeth in existing ordinances and hold property owners responsible for the maintenance of their properties, and add more staff to administer ordinances

TOTAL VOTES: 6

Board: 4
Task Force: 2

- Create a job corps, through the Old Fort Homeless Coalition, and that the city give priority to the jobs corps when city services, such as lot clean-ups are contracted

TOTAL VOTES: 5

Board: 2
Task Force: 3

- Restrict social service agencies from expanding in their current locations or the creation of new social service agencies in the downtown and Belle Grove areas (as a companion to the campus recommendation)

TOTAL VOTES: 4

Board: 0
Task Force: 4

- Undertake a community education program to generate support (awareness) for the homeless and a homelessness campus

TOTAL VOTES: 2

Board: 2
Task Force: 0

- Consider an education process to prevent panhandling, and an ordinance if necessary

TOTAL VOTES: 1

Board: 0
Task Force: 1

- Expand Section 8 Housing in an effort to prevent homelessness

TOTAL VOTES: 0

Board: 0
Task Force: 0

The following recommendations were not voted on because staff had taken steps to satisfy both recommendations:

- Recommendation to expand free voucher transportation system (Fort Smith Transit) for social service providers

- Recommendation to work with Jefferson Bus Lines to ensure that restrooms and waiting area are available to passengers who arrive on buses at night

The meeting adjourned at approximately 8:00 p.m.

4A.

RESOLUTION NO. _____

A RESOLUTION GRANTING A TEMPORARY REVOCABLE LICENSE FOR THE PLACEMENT OF A STORAGE BUILDING IN A PUBLIC UTILITY EASEMENT PURSUANT TO TERMS OF AGREEMENT AND AUTHORIZING MAYOR TO EXECUTE AGREEMENT

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: Pursuant to the terms and conditions expressed in the attached Agreement, a Temporary Revocable License is hereby granted to Carolyn Ledbetter, her successors or assigns, for the placement and maintenance of a storage building at 8609 Vickery Lane in a public utility easement as shown in Exhibit "A" and adjacent to the following described property:

Southfield Heights, Phase II, Lot 177
An addition to the City of Fort Smith,
Sebastian County, Arkansas

SECTION 2: The Mayor is authorized to execute the Agreement providing the terms and conditions for the above-captioned Temporary Revocable License.

THIS RESOLUTION ADOPTED THIS _____ DAY OF MAY 2010.

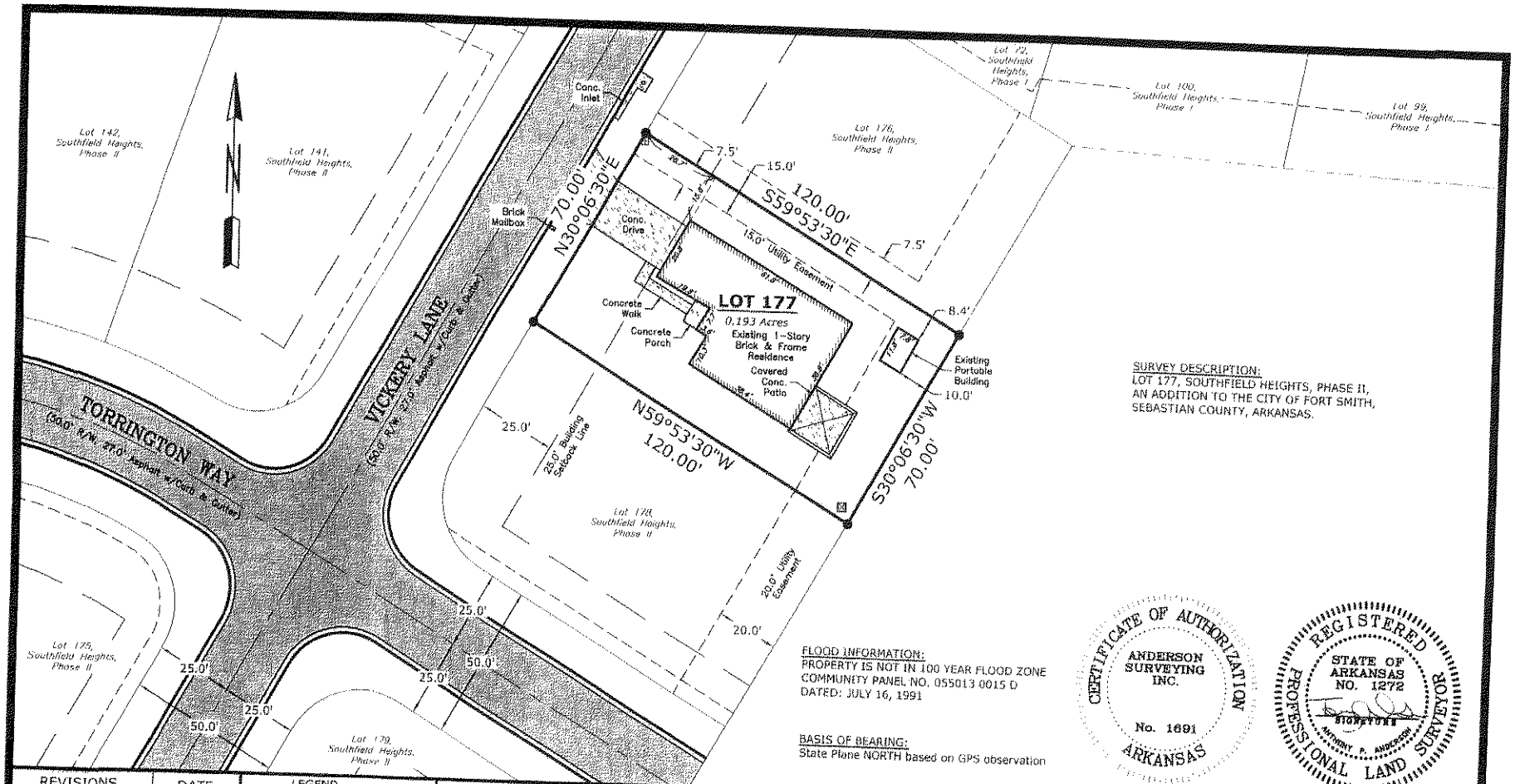
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form
JSC
No publication required



SURVEY DESCRIPTION:
LOT 177, SOUTHFIELD HEIGHTS, PHASE II, AN ADDITION TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS.

FLOOD INFORMATION:
PROPERTY IS NOT IN 100 YEAR FLOOD ZONE
COMMUNITY PANEL NO. 055013 0015 D
DATED: JULY 16, 1991

BASIS OF BEARING:
State Plane NORTH based on GPS observation

CERTIFICATE OF AUTHORIZATION
ANDERSON SURVEYING INC.
No. 1691
ARKANSAS

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS
NO. 1272
SIGNATURE
ANTHONY P. ANDERSON

REVISIONS	DATE
ADDED PORTABLE BUILDING	4-22-2010
MOVED PORTABLE BUILDING	5-11-2010

30 0 30
Scale in Feet

LEGEND
- SET RAILROAD SPIKE
- SET 1/2" REBAR
- EXISTING IRON PIN
- EXISTING CONC NAIL
- FENCE POST
- EXISTING RR/SPIKE
- SET NAIL
- WATER METER
- GAS METER
- POWER POLE
- ELEC./TELE. PEDESTAL
- EXISTING FENCE
- OVERHEAD ELECTRIC

SURVEYORS CERTIFICATION

I HEREBY CERTIFY THAT THE HEREON PLATTED AND DESCRIBED SURVEY WAS COMPLETED UNDER MY SUPERVISION ON THE 11th DAY OF May, 20 10.
TO THE BEST OF MY KNOWLEDGE AND ABILITY, THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PERSONS NAMED ON THIS PLAT AND ALSO THOSE WHO MORTGAGE OR GUARANTEE THE TITLE THERETO, WITHIN ONE YEAR FROM DATE HEREOF, AND AS TO THEM I WARRANT THE ACCURACY OF SAID SURVEY.

ANTHONY P. ANDERSON AR PLS. 1272

FORT SMITH, SEBASTIAN COUNTY, ARKANSAS
SURVEY OF
LOT 177,
SOUTHFIELD HEIGHTS, PHASE II

DATE: 5-11-2010
JOB NO: 10-04-27
SCALE: 1"=30'

FOR USE BY:
Rausch Coleman
8609 Vickery Lane
Fort Smith, AR

ANDERSON SURVEYING INC.
Arkansas -- Oklahoma
P.O. Box 129
Van Buren, AR 72957
(479)-474-4247
Fax (479)-410-5333
e-mail: andersonsurveying@cox.net

EXHIBIT "A"

Memo

To: Dennis Kelly, City Administrator

From: Brenda Andrews, Senior Planner

Date: May 13, 2010

Subject: Temporary Revocable License for the Placement of a storage building in a Public Utility Easement at 8609 Vickery Lane

Carolyn Ledbetter has requested a Temporary Revocable License for the placement of a 11.8' x 7.8' storage building in a 20' public utility easement at 8609 Vickery Lane located in the Southfield Heights, Phase II subdivision as shown in Exhibit A. The board approved a Temporary Revocable License for this property in November 2009 for a covered patio encroachment in the easement. Enclosed is a vicinity map showing the location of 8609 Vickery Lane.

The request was reviewed by the appropriate city departments and the franchise utility companies. We received no objections to the request.

Enclosed is a copy of the Temporary Revocable License Agreement signed by Ms. Ledbetter agreeing to the terms of the Temporary Revocable License.

A Resolution granting the Temporary Revocable License and authorizing Mayor Baker to sign the agreement is enclosed for the Board's consideration.

Enc.

TEMPORARY REVOCABLE LICENSE AGREEMENT

SECTION 1: On _____, 2010, the Board of Directors passed Resolution No. _____ granting a temporary revocable license to Carolyn Ledbetter, her successors or assigns, which, subject to the terms and conditions expressed in this Agreement, temporarily allows the placement and maintenance of a storage building placed in a public utility easement at 8609 Vickery Lane as shown in Exhibit "A" and adjacent to the following described property:

Southfield Heights, Phase II, Lot 177
An Addition to the City of Fort Smith,
Sebastian County, Arkansas

Section 2: It is agreed that the City shall have no responsibility for the maintenance of the storage building. If the storage building is damaged in any manner, same shall be removed by the licensee, or any successor or assignee, at the licensee's sole cost and expense (or at the sole cost of any successor or assignee) in a manner meeting the approval of the City Administrator. Upon thirty (30) days notice from the City Administrator, the licensee (or any successor or assignee) shall remove the storage building from the public utility easement at the licensee's sole cost and expense (or at the sole cost of any successor or assignee) and in a manner meeting the approval of the City Administrator. The licensee, her successor or assignees, shall hold the City harmless from and indemnify the city for all expenses, losses, cost, causes of action and judgments, including legal expense, arising from the placement and maintenance of said improvements. Should any City department or utility company require access to the existing public utility easement for any purpose,

said City department or utility company shall have no duty to give prior notice to the licensee in emergency situations. For routine or scheduled maintenance, reasonable notice shall be given if the work may affect any improvement by the licensee. Under any circumstance, the City shall have no responsibility to protect or replace any improvements the temporary placement of which is authorized by the license granted by the City.

SECTION 3: The licensee shall obtain a building permit for the storage building.

SECTION 4: The terms of this temporary license are deemed accepted by the licensee by the licensee's signature below and by any successor or assignee of the licensee by the acquisition of or reliance on the rights to the temporary license granted by the City.

In witness whereof, this document is executed this ____ day of _____, 2010.

CITY OF FORT SMITH, ARKANSAS

BY: _____
Ray Baker, Mayor of Fort Smith

Attest:

_____
City Clerk

CAROLYN LEDBETTER

BY: Carolyn Ledbetter
Carolyn Ledbetter

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

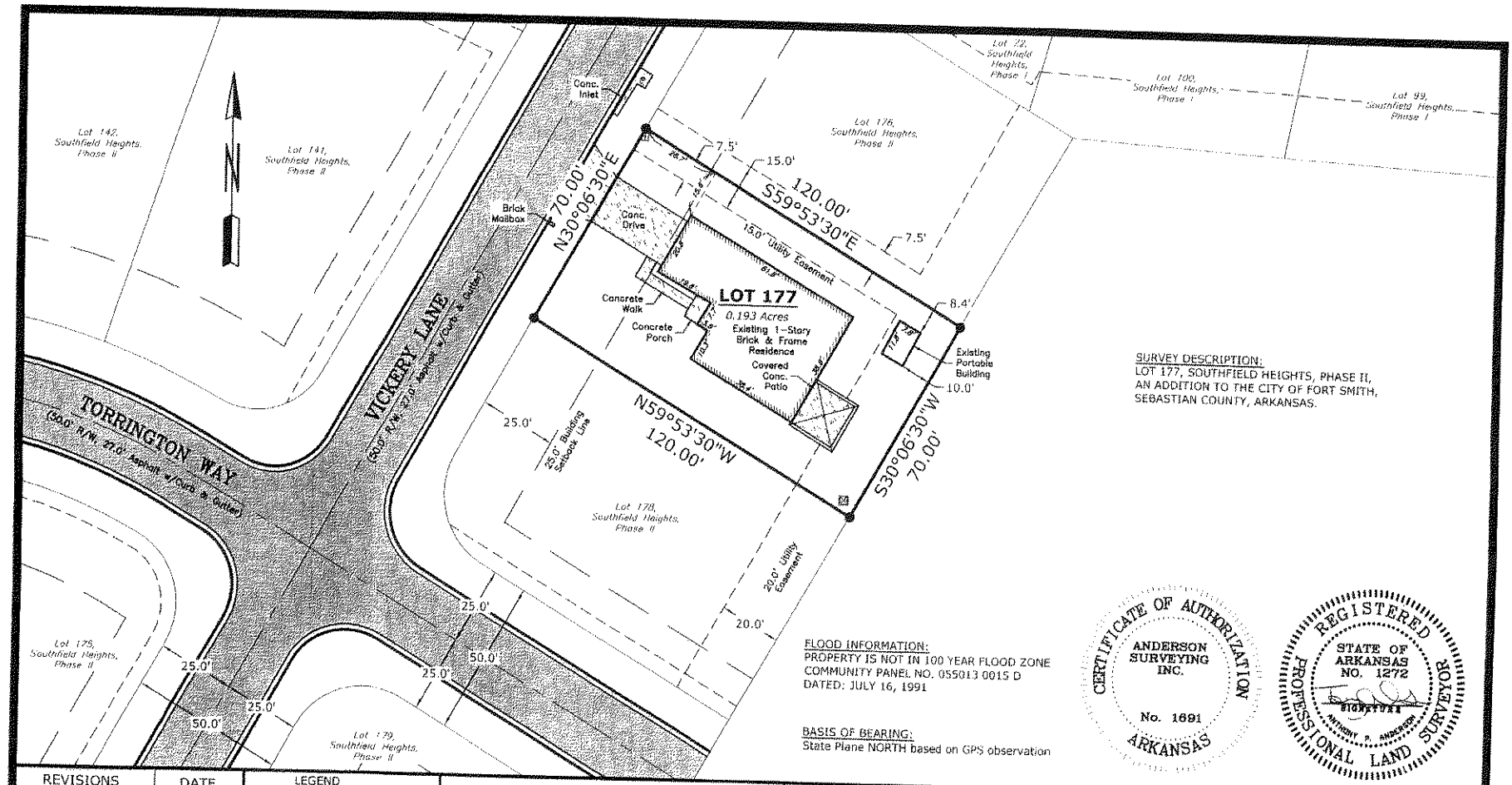
On this 12 day of MAY, 2010, before me, the undersigned notary public, personally appeared, Carolyn Ledbetter, known to me or satisfactorily proven to be the persons whose name are subscribed to the within instrument and acknowledged the execution of the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires:
10.25.2016

CANDYCE WATERS
No. 12357817
NOTARY
PUBLIC
EXPIRES
10-25-2016
SEBASTIAN COUNTY - ARKANSAS



SURVEY DESCRIPTION:
LOT 177, SOUTHFIELD HEIGHTS, PHASE II, AN ADDITION TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS.

FLOOD INFORMATION:
PROPERTY IS NOT IN 100 YEAR FLOOD ZONE
COMMUNITY PANEL NO. 055013 0015 D
DATED: JULY 16, 1991

BASIS OF BEARING:
State Plane NORTH based on GPS observation

CERTIFICATE OF AUTHORIZATION
ANDERSON SURVEYING INC.
No. 1691
ARKANSAS

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS
NO. 1272
SIGNATURE
ANTHONY P. ANDERSON

REVISIONS	DATE
ADDED PORTABLE BUILDING	4-22-2010
MOVED PORTABLE BUILDING	5-11-2010

30 0 30
Scale in Feet

LEGEND
- SET RAILROAD SPIKE
- SET 1/2" REBAR
- EXISTING IRON PIN
- EXISTING CONC NAIL
- FENCE POST
- EXISTING RR/SPIKE
- SET NAIL
- WATER METER
- GAS METER
- POWER POLE
- ELEC./TELE. PEDESTAL
- EXISTING FENCE
- OVERHEAD ELECTRIC

SURVEYORS CERTIFICATION

I HEREBY CERTIFY THAT THE HEREON PLATTED AND DESCRIBED SURVEY WAS COMPLETED UNDER MY SUPERVISION ON THE 11th DAY OF May, 20 10.
TO THE BEST OF MY KNOWLEDGE AND ABILITY.
THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PERSONS NAMED ON THIS PLAT AND ALSO THOSE WHO MORTGAGE OR GUARANTEE THE TITLE THERETO, WITHIN ONE YEAR FROM DATE HEREOF, AND AS TO THEM I WARRANT THE ACCURACY OF SAID SURVEY.

ANTHONY P. ANDERSON AR PLS. 1272

FORT SMITH, SEBASTIAN COUNTY, ARKANSAS
SURVEY OF
LOT 177,
SOUTHFIELD HEIGHTS, PHASE II

DATE: 5-11-2010
JOB NO: 10-04-27
SCALE: 1"=30'

FOR USE BY:
Rausch Coleman
8609 Vickery Lane
Fort Smith, AR

ANDERSON SURVEYING INC.
Arkansas -- Oklahoma
P.O. Box 129
Van Buren, AR 72957
(479)-474-4247
Fax (479)-410-5333
e-mail: andersonsurveying@cox.net

EXHIBIT "A"

4B.

RESOLUTION NO. _____

A RESOLUTION GRANTING A TEMPORARY REVOCABLE LICENSE FOR THE PLACEMENT OF TWO DRIVEWAYS IN A PUBLIC RIGHT-OF-WAY PURSUANT TO TERMS OF AGREEMENT AND AUTHORIZING MAYOR TO EXECUTE AGREEMENT

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: Pursuant to the terms and conditions expressed in the attached Agreement, a Temporary Revocable License is hereby granted to Randy A. Ghan and Deborah A. Ghan, their successors or assigns for the placement and maintenance of two concrete driveways placed in the South 21st Street right-of-way as shown in Exhibit "A" and adjacent to the following described property:

Park Hill Addition, Block 20, Lot 8
An Addition to the City of Fort Smith,
Sebastian County, Arkansas

SECTION 2: The Mayor is authorized to execute the Agreement providing the terms and conditions for the above-captioned Temporary Revocable License.

THIS RESOLUTION ADOPTED THIS _____ DAY OF MAY 2010.

APPROVED:

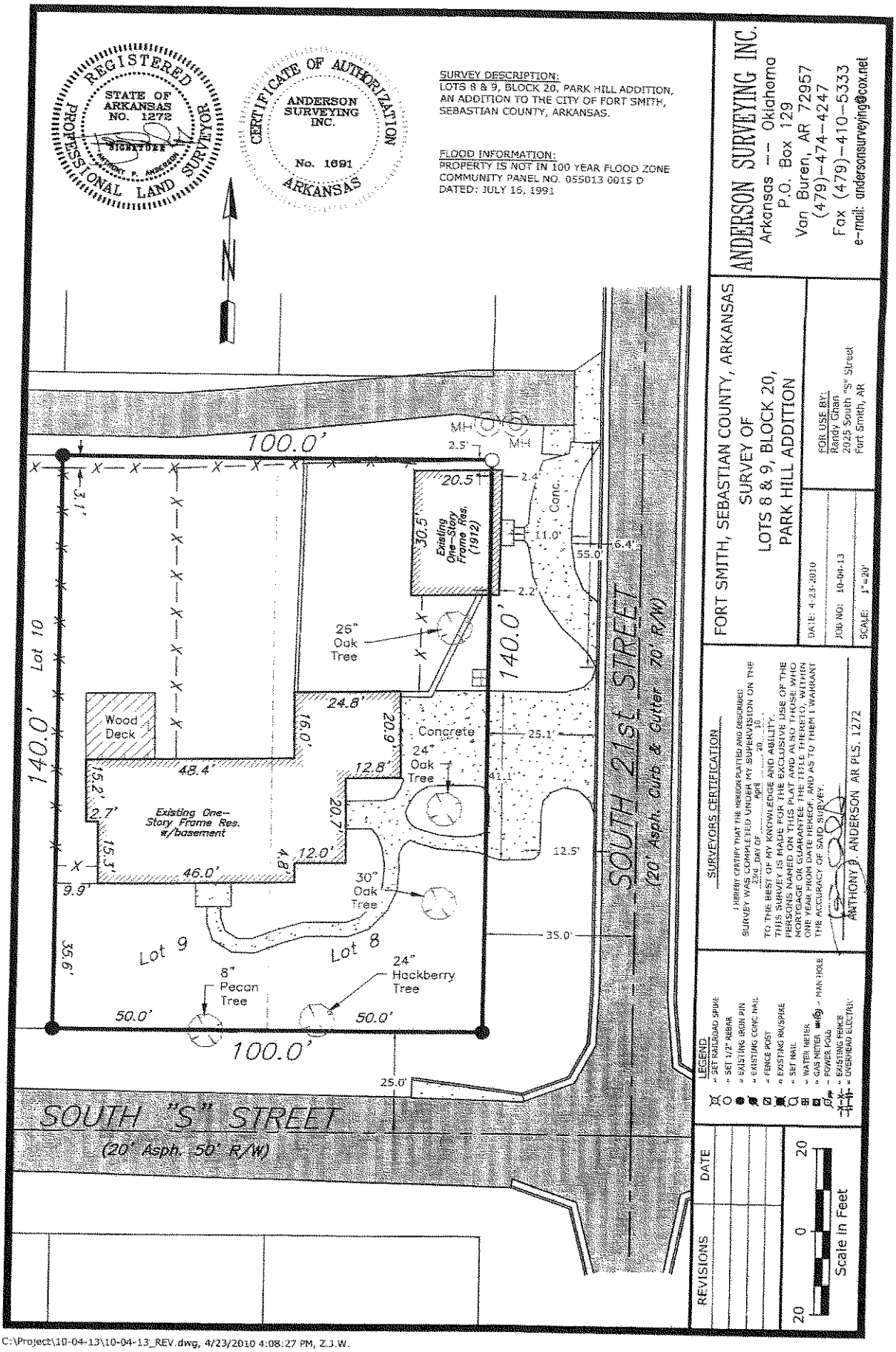
_____
Mayor

ATTEST:

_____
City Clerk

Approval as to form
JSL
no publication required

EXHIBIT "A"



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Memo

To: Dennis Kelly, City Administrator

From: Brenda Andrews, Senior Planner

Date: May 13, 2010

Subject: Temporary Revocable License for the Placement of two concrete driveways in in the South 21st Street Public Right-of-Way in the Park Hill Addition, Block 20, Lot 8

Randy and Deborah Ghan of 2025 South "S" Street have requested a Temporary Revocable License for the placement of two concrete driveways in the South 21st Street right-of-way as shown in Exhibit A. The driveway near the intersection of South "S" measures approximately 41' x 25' and is for the Ghan's residence at 2025 South "S. The circular driveway measures approximately 55' x 11' and is for the Ghan's rental property at 1912 South 21st Street. Enclosed is a vicinity map showing the location of the Ghan's property.

The request was reviewed by the appropriate city departments and the franchise utility companies. We received no objections to the request.

Enclosed is a copy of the Temporary Revocable License Agreement signed by Mr. and Mrs. Ghan agreeing to the terms of the Temporary Revocable License.

A Resolution granting the Temporary Revocable License and authorizing Mayor Baker to sign the agreement is enclosed for the Board's consideration.

Enc.

VICINITY MAP

Park Hill Addition, Block 20, Lot 8

2009 City of Fort Smith, AR. Printed on Thu May 13 2010 10:37:01 AM.

TEMPORARY REVOCABLE LICENSE AGREEMENT

SECTION 1: On _____, 2010, the Board of Directors passed Resolution No. _____ granting a temporary revocable license to Randy A. Ghan and Deborah A. Ghan, their successors or assigns, which, subject to the terms and conditions expressed in this Agreement, temporarily allows the placement and maintenance of two concrete driveways placed in the South 21st Street right-of-way as shown in Exhibit "A" and adjacent to the following described property:

Park Hill Addition, Block 20, Lot 8
An Addition to the City of Fort Smith,
Sebastian County, Arkansas

Section 2: It is agreed that the City shall have no responsibility for the maintenance of the two concrete driveways. If either of the concrete driveways is damaged in any manner, same shall be removed by the licensee, or any successor or assignee, at the licensee's sole cost and expense (or at the sole cost of any successor or assignee) in a manner meeting the approval of the City Administrator. Upon thirty (30) days notice from the City Administrator, the licensee (or any successor or assignee) shall remove the concrete driveways from the public utility easement at the licensee's sole cost and expense (or at the sole cost of any successor or assignee) and in a manner meeting the approval of the City Administrator. The licensee, their successor or assignees, shall hold the City harmless from and indemnify the city for all expenses, losses, cost, causes of action and judgments, including legal expense, arising from the placement and maintenance of said

improvements. Should any City department or utility company require access to the existing public utility easement for any purpose, said City department or utility company shall have no duty to give prior notice to the licensee in emergency situations. For routine or scheduled maintenance, reasonable notice shall be given if the work may affect any improvement by the licensee. Under any circumstance, the City shall have no responsibility to protect or replace any improvements the temporary placement of which is authorized by the license granted by the City.

SECTION 3: The licensee shall obtain driveway permits for both driveways.

SECTION 4: The terms of this temporary license are deemed accepted by the licensee by the licensee's signature below and by any successor or assignee of the licensee by the acquisition of or reliance on the rights to the temporary license granted by the City.

In witness whereof, this document is executed this ____ day of _____, 2010.

CITY OF FORT SMITH, ARKANSAS

BY: _____
Ray Baker, Mayor of Fort Smith

Attest:

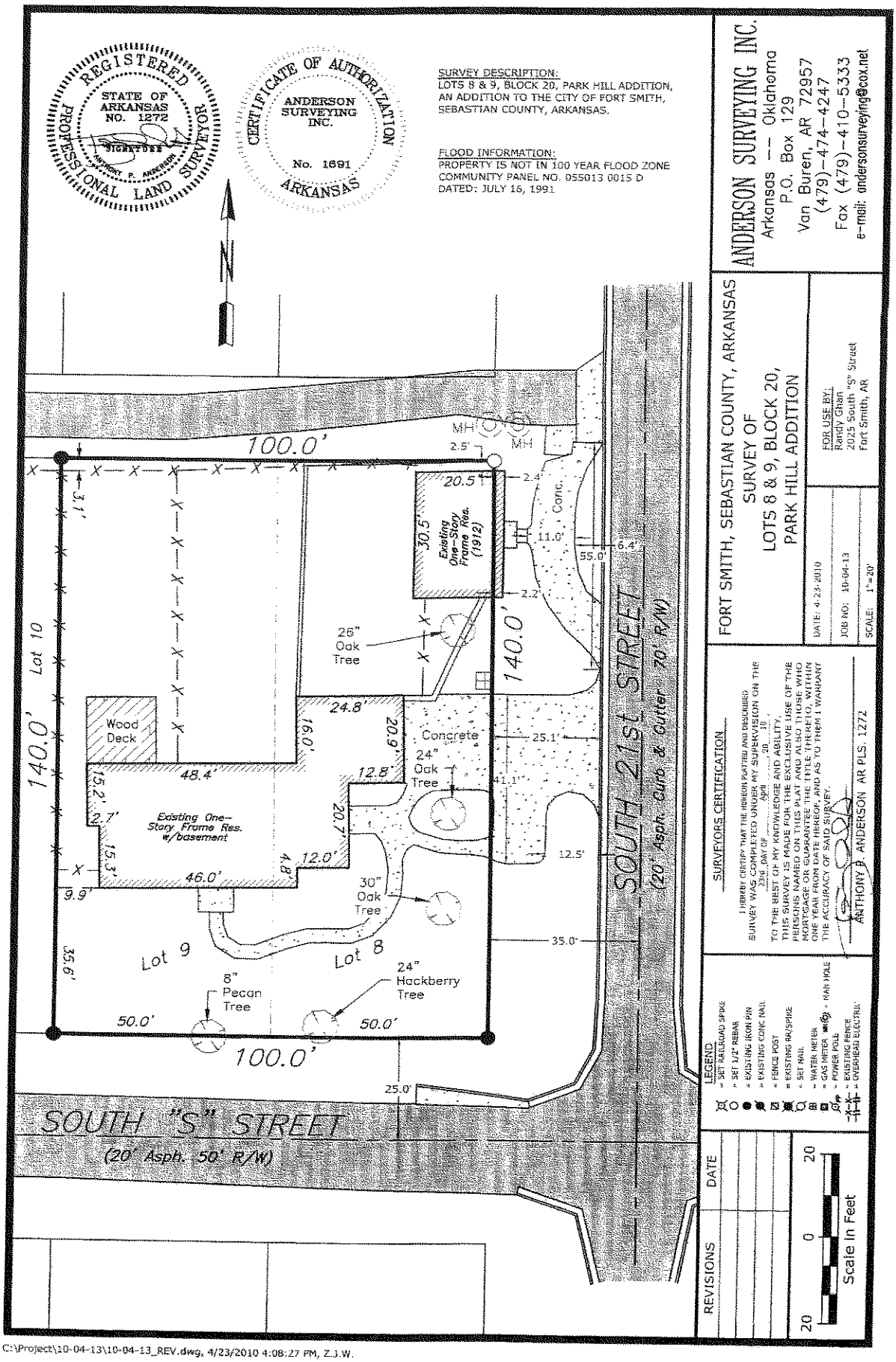
_____
City Clerk

LICENSEES

BY: _____
Randy A. Ghan

BY: _____
Deborah A. Ghan

EXHIBIT "A"



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ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

On this _____ day of _____, 2010, before me, the undersigned notary public, personally appeared, Ray Baker, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged the execution of the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____
Notary Public

My Commission Expires:

_____

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
)SS
COUNTY OF SEBASTIAN)

On this 12 day of May, 2010, before me, the undersigned notary public, personally appeared, Randy A. Ghan and Deborah A. Ghan, known to me or satisfactorily proven to be the persons whose name are subscribed to the within instrument and acknowledged the execution of the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Evamarie Miller
Notary Public

My Commission Expires:

5-1-2012

4C

RESOLUTION _____

A RESOLUTION TO ACCEPT THE BIDS AND AUTHORIZE CONTRACTS FOR THE CONSTRUCTION OF STREET OVERLAYS/RECONSTRUCTION
PROJECT NO. 10-03-E

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: The bid of Forsgen, Inc., received May 11, 2010, for the construction of Street Overlays/Reconstruction, Project No. 10-03-E, in the amount of $1,733,128.05 be accepted.

SECTION 2: The Mayor is authorized to execute a contract with Forsgren, Inc., subject to the terms set forth in Section 1 above.

SECTION 3: The bid of Data Testing, Inc., received May 11, 2010, for quality control testing services for the construction of Street Overlays/Reconstruction, Project No. 10-03-E, in the amount of $5,960.00 be accepted.

SECTION 4: The Mayor is authorized to execute a contract with Data Testing, Inc., subject to the terms set forth in Section 3 above.

SECTION 5: Payment for construction authorized by Section 1 and Section 3 is hereby authorized from the Sales Tax Fund (1105).

This resolution adopted this _____ day of May, 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form

_____

☒ No Publication Required
☐ Publish ____ Times

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

FROM: Stan Snodgrass, P.E., Director of Engineering

DATE: May 12, 2010

SUBJECT: Street Overlays/Reconstruction
Project No. 10-03-E

The above subject project consists of asphalt street overlays, reconstruction and minor drainage improvements to the streets listed on the attached sheet and shown on the attached exhibit. The total length of streets to be improved is approximately 2.9 miles.

Construction plans and specifications were prepared by Hawkins-Weir Engineers, Inc. An advertisement was published and bids were received on May 11, 2010. Five contractors requested plans and specifications and four bids were received which are summarized as follows:

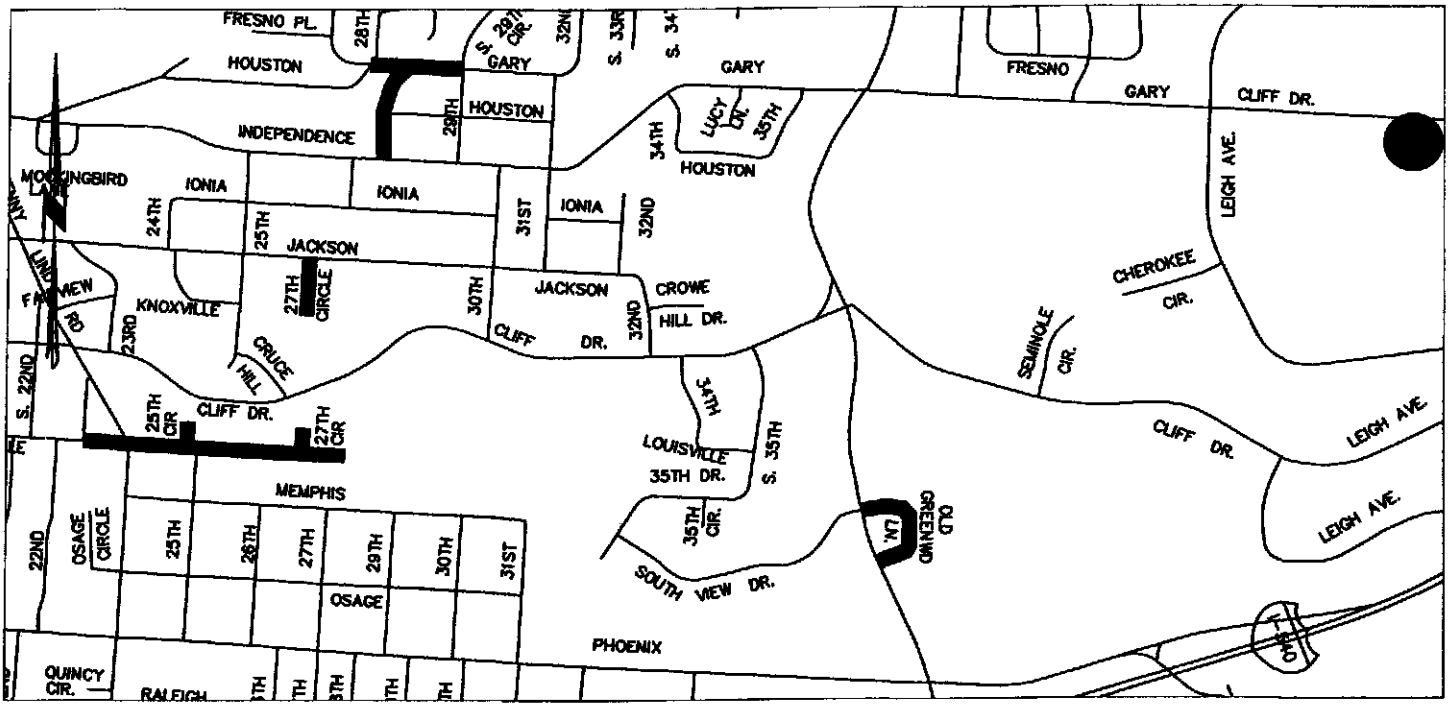
CONTRACTOR	AMOUNT	CONTRACTOR	AMOUNT
1. Forsgen, Inc. Fort Smith, AR	$1,733,128.05	3. Township Builders Little Rock, AR	$1,955,509.00
2. Wilson Brothers Alma, AR	$1,745,910.20	4. Steve Beam Construction Barling, AR	$2,287,591.50
	Engineer's Estimate	$1,950,000.00	

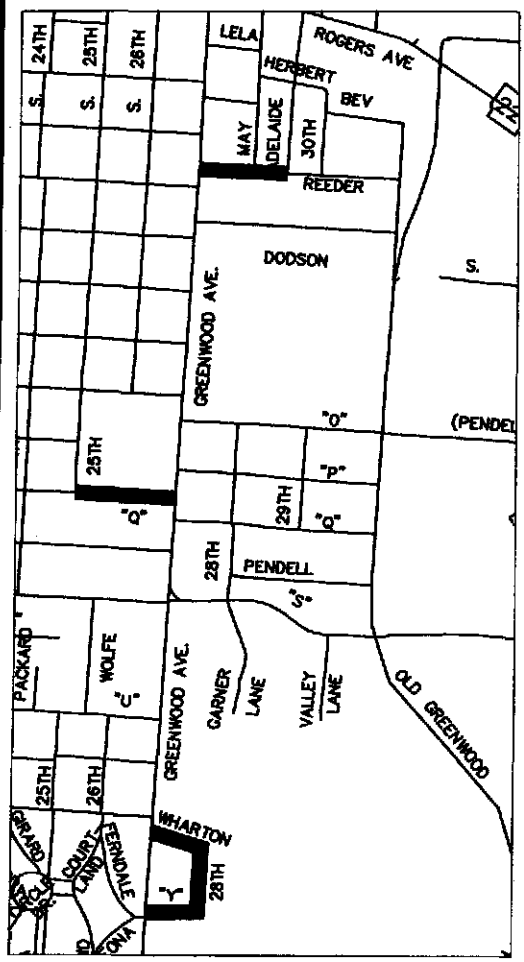
I recommend that the lowest bid be accepted and that the construction contract be awarded to Forsgren, Inc. The estimated notice to proceed date for this contract is June 1, 2010. Based on the contract duration of 210 days, the estimated completion date would be December 28, 2010.

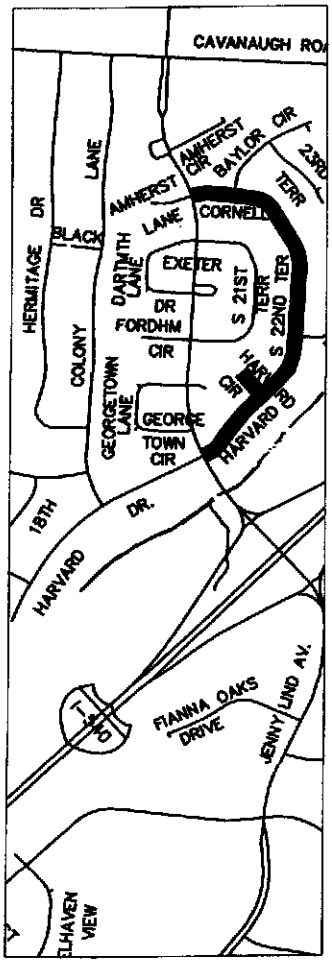
Also, two bids were received on May 11, 2010, for project quality assurance testing. They are summarized as the follows:

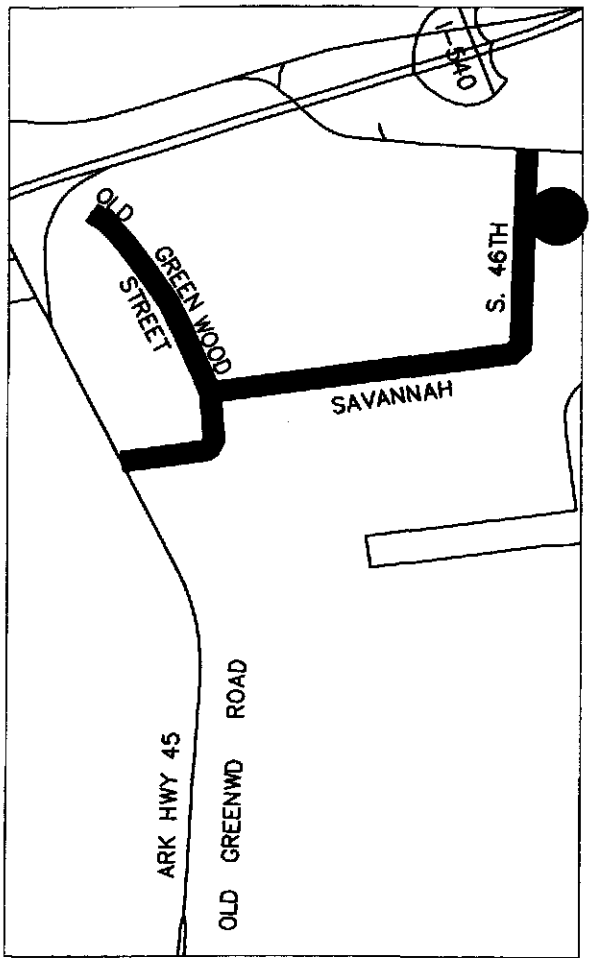
TESTING FIRM	AMOUNT
Data Testing, Inc. Fort Smith, AR	$5,960.00
Ark-Con Testing Van Buren, AR	$9,740.00

I recommend that the quality assurance testing contract be awarded to Data Testing, Inc., in the amount of $5,960.00. Attached is a Resolution to accomplish the above recommendations. Funds are available in the Sales Tax Program (1105) for the construction and testing.









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2010 CAPITAL IMPROVEMENTS PROGRAM
STREET OVERLAYS/RECONSTRUCTION

The City of Fort Smith Arkansas

Project:	10-03-E
Date:	OCT. 2009
Scale:	NONE
Drawn By:	RBR

2010 CAPITAL IMPROVEMENTS PROGRAM
STREET OVERLAYS/RECONSTRUCTION
PROJECT NO. 10-03-E

STREET	FROM	TO	LENGTH
CORNELL AVE.	JENNY LIND RD.	22ND TER.	956
HARVARD AVE.	FORDHAM AVE.	JENNY LIND RD.	1,034
22ND TER.	CORNELL AVE.	FORDHAM AVE.	500
HARVARD CR.	HARVARD AVE.	END OF ROAD	87
SAVANNAH ST.	OLD GREENWOOD RD.	46TH ST.	1,924
OLD GREENWOOD ST.	SAVANNAH ST.	END OF ROAD	1,800
46TH ST.	SAVANNAH DR.	PHOENIX AVE.	993
OLD GREENWOOD LN.	OLD GREENWOOD RD.	OLD GREENWOOD RD.	1,878
25TH CR.	LOUISVILLE ST.	END OF ROAD	172
27TH CR.	LOUISVILLE ST.	END OF ROAD	175
LOUISVILLE ST.	23RD ST.	END OF ROAD	1,730
27TH CR.	JACKSON ST.	END OF ROAD	389
SOUTH Q ST.	25TH ST.	GREENWOOD AVE.	651
WHARTON ST.	GREENWOOD AVE.	28TH ST.	290
SOUTH Y ST.	GREENWOOD AVE.	28TH ST.	266
28TH ST.	SOUTH Y ST.	WHARTON ST.	576
REEDER ST.	GREENWOOD AVE.	ADELAIDE AVE.	581
28TH ST.	INDEPENDENCE ST.	GARY ST.	683
GARY ST.	28TH ST.	29TH ST.	577

4D

RESOLUTION NO. _____

A RESOLUTION ACCEPTING BID FOR THE REMODEL OF THE SANITATION ADMINISTRATION BUILDING

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY FORT SMITH, ARKANSAS, THAT:

The bid, as indicated on the attached Bid Tabulation No. **04-28-10BA** for the remodel of the administrative building of the Department of Sanitation from RSR Design & Reconstruction for $56,222.53, is accepted.

This Resolution adopted this _____ day of May, 2010.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:

_____

☑ No Publication Required

☐ Publish ____ Times

Interoffice Memorandum

TO: Dennis Kelly, City Administrator

COPY TO: Baridi Nkokheli, Director of Sanitation

FROM: Alie Bahsoon, Purchasing Manager AB

SUBJECT: Remodel of Administration Building
Department of Sanitation

DATE: May 5, 2010

BID TAB: **04-28-10BA**

Bids were advertised on April 10 and 11, 2010 for the remodeling of the administrative building of the Department of Sanitation. A mandatory pre-bid meeting was held on April 16th at site and seven contractors were in attendance.

You will find attached the bid tabulation for your review and approval. The bid proposal from RSR Design & Construction for $56,222.53 meets our specifications and approval and I am recommending that we proceed with the approval of the enclosed resolution. In an effort to save paper, the specifications are not attached but are available in my office should you or any of the board members require to view them.

Funding for this project has been appropriated for in the amount of $30,000 out of the Landfill 2010 Budget, *Capital Outlay Account* (6301-301). Additional funding for the remaining balance will be made available from the Sinking Fund.

Please let me know should you have any questions.

Tabulation of Bids - City of Fort Smith Remodel of Fort Smith Department of Sanitation Administration Building Bid Tab #04-28-10BA		
Contractor		**COST**
Dixon Contracting, Inc. Fort Smith, AR		$76,000.00
A.J. Greenwood Van Buren, AR		$64,560.00
Hobbs Construction Co. Fort Smith, AR		$57,400.00
RSR Design & Reconstruction Fort Smith, AR		$56,222.53 ✔

✔ Awarded Bid

Date Advertised: 04-10-10 & 04-11-10
Bid Opening Date: 04-28-10

Responsible Environmental Management

Fort Smith Department of Sanitation

MEMORANDUM

May 14, 2010

To: Dennis Kelly, City Administrator

From: T. Baridi Nkokheli, Director NK

Subject: Repair of Department of Sanitation Administration Building

---

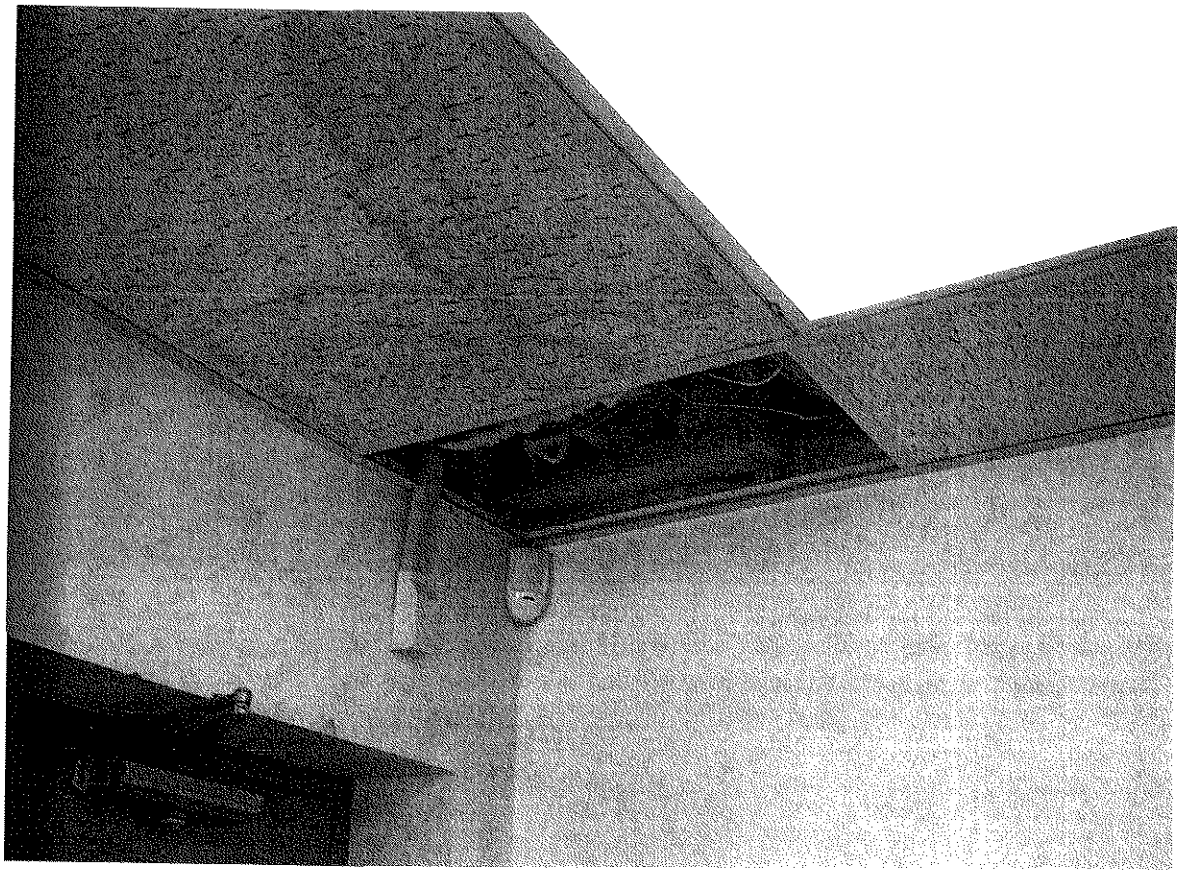
In 2009, we requested and were approved by the Board of Directors to install a new, pitched roof to our administration building due to severe water leaks during rain events. The new roof construction was completed in December 2009, resolving the issue.

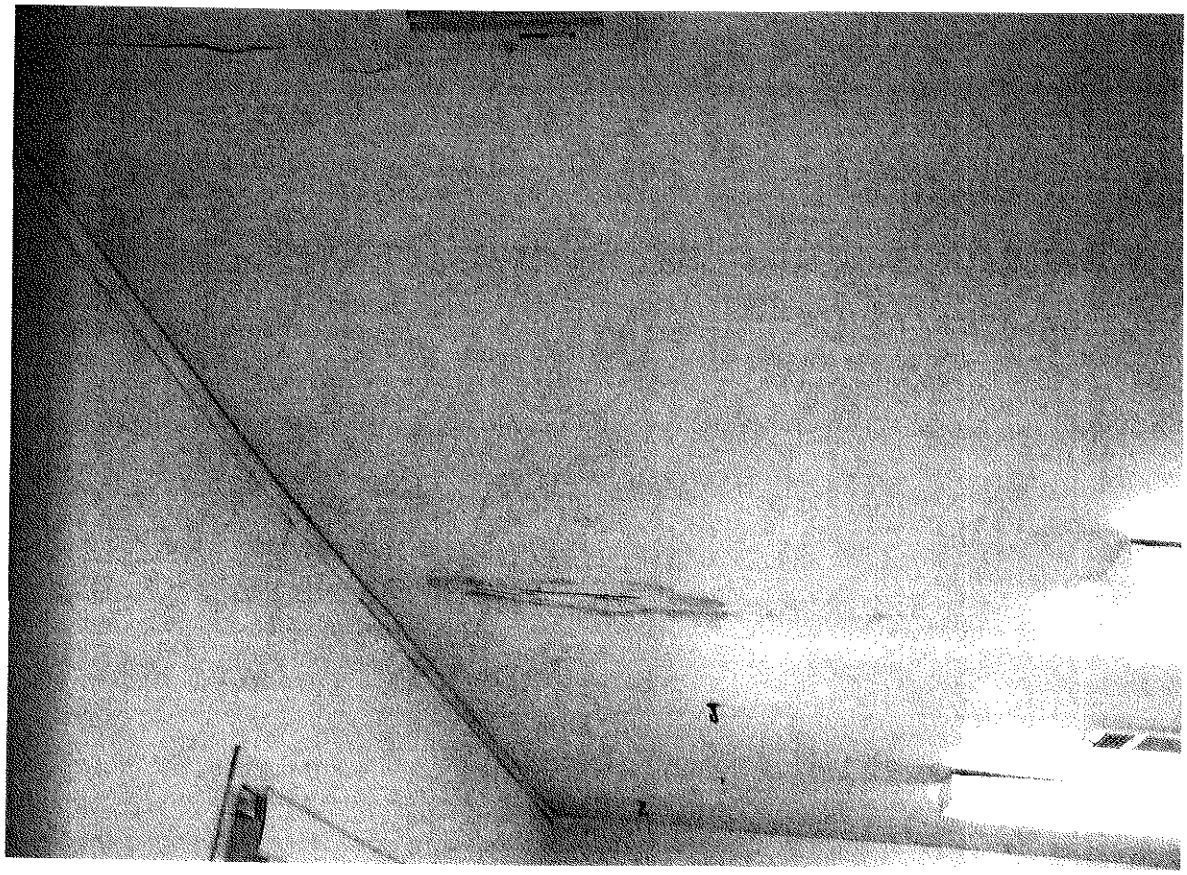
The original administration building was built in 1990 with a flat roof. In 1993 and 1998, additions were made to the building creating seams between the original building and the additions which, from what we understand, have leaked since their inception. The resulting leakage has caused water damage and mold/mildew intrusion to the ceiling, walls, and floors which requires removal, repair, and/or replacement to structural framing supports, insulation materials, ceiling tiles, drywall, paint, and flooring as well as other items (see attached photographs). Additional mold/mildew removal may be necessary to help ensure the health of our employees and citizens who visit to conduct city business.

During our pre-bid assessment of the water damage, it was determined that neither of our restrooms met the Americans with Disabilities Act (ADA) standards. Therefore, we are requesting additional funding in order to ensure compliance with the ADA standards.

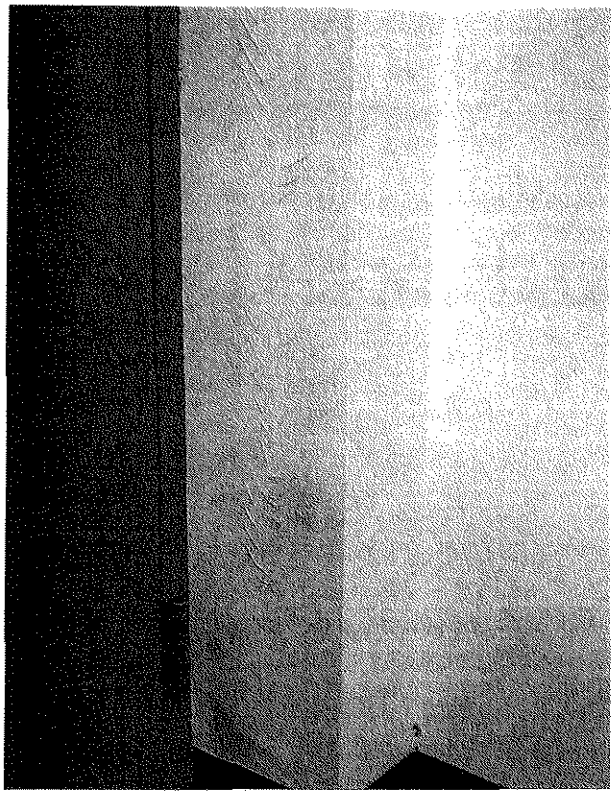
Funding for the repairs in the amount of $30,000 was appropriated under program 6301 (Sanitation Administration – Capital Outlay 6301-301) in the 2010 budget. The severity of the mold/mildew and the need for the ADA repairs were discovered after the 2010 budget process was complete. Additional funding for this project is available in the landfill sinking fund.

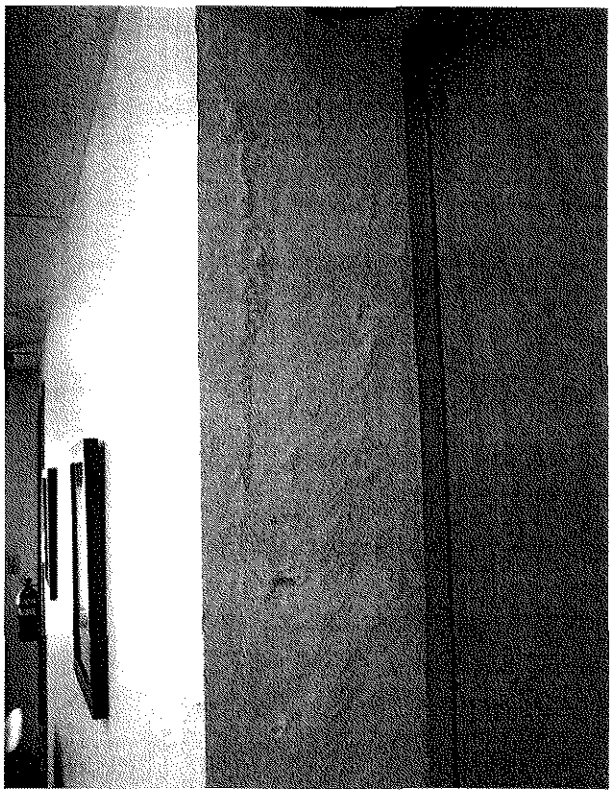
Please let me know if you should require any additional information.

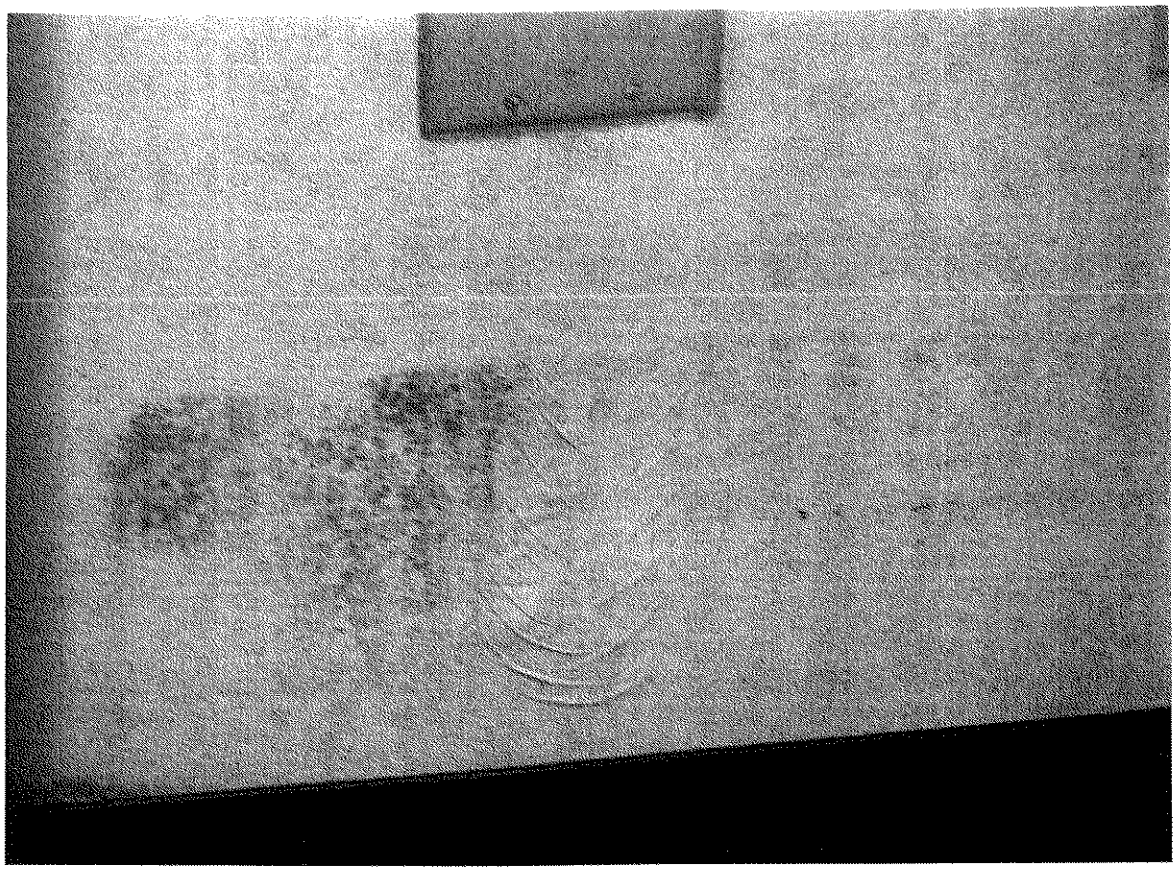




Admiralty
Works







4E

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PURCHASE OF A TV INSPECTION VAN FOR USE BY THE SEWER LINE MAINTENANCE DEPARTMENT

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY FORT SMITH, ARKANSAS, THAT:

The bid, as indicated by enclosure for the purchase of a tv inspection van from Cues, Inc. for $220,000.59, is accepted.

This Resolution adopted this _____ day of May, 2010.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:

JSC
_____

☑ No Publication Required

☐ Publish ____ Times

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator **DATE:** May 14, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Sewer System Internal Inspection Television Van

The utility department's sewer system maintenance capability includes the ability to internally inspect and record the condition of sanitary sewer lines to support decisions related to overall condition, necessary repair or replacement. This work is accomplished by the use of a specially equipped step van which includes features such as a stand-alone electric generator, an operator's station for the cable winching reels which control the television camera within the sewer main, and the operator's viewing and recording equipment. Our current inspection van was purchased in 1998 and the cameras and other equipment have become obsolete. Spare parts and repair services are no longer available. The equipment is now unreliable due to age of the equipment and the harsh environment that it is used in. For the past several years the schedule for the replacement of this equipment through the budget process has been pushed back due to the lack of funding. The ongoing repairs have been accomplished by the manufacturer sourcing whatever good used parts could be found. That has led to excessive downtime. The manufacturer has advised us that we have now reached the end of their used parts sourcing process and that they will be unable to provide further repair support.

The 2010 operating budget for the sewer line maintenance program identifies $250,000 for the purchase of a new television inspection van. The attached information from Alie Bahsoon, purchasing manager, shows that he has been able to utilize the U. S. Communities Government Purchasing Alliance, through one of their member organizations, The Houston-Galveston Area Council, for the purchase of this equipment. The new van and equipment meeting our specifications would be purchased through Cues, Inc., who is one of the major suppliers of this specialized equipment and is also the manufacture of our current unit. The purchase price for the inspection van is $220,000.59, which includes a $30,000 trade in allowance for our 1998 unit.

The purchase price for the internal inspection television van is within the budgeted amount and it is my recommendation that this item is submitted to the Board for their approval at their next scheduled meeting. Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Ray Gosack
Alie Bahsoon
Kara Bushkuhl

Interoffice Memorandum

TO: Dennis Kelly, City Administrator

COPY TO: Steve Parke, Director of Utilities

FROM: Alie Bahsoon, Purchasing Manager

SUBJECT: Purchase of a TV Inspection Van

DATE: May 10, 2010

The City of Fort Smith ARKANSAS

In December of 2005, the Board of Directors approved Ordinance 93-05, thereby authorizing the city to participate in the State Cooperative Purchasing program. This process has enabled us to take advantage of other negotiated contracts that the State of Arkansas currently participates in.

One of these contracts is the *U.S. Communities Government Purchasing Alliance*, a national organization for local government agencies to assist them in making better use of their collective purchasing powers and improving their overall purchasing effectiveness.

As outlined in the attached memorandum from the Utilities Department, *The Houston-Galveston Area Council (H-GAC)* is a member of this alliance. Because of their contract, local governments nationwide are permitted to purchase through their cooperative purchasing program. The State of Arkansas has executed an "Inter-local Contract" with H-GAC through the U.S. Communities Government Purchasing Alliance. For your information, I have attached a copy of the State of Arkansas Statute which authorizes inter-local cooperative activities.

The Utilities Department has budgeted $250,000 for this purchase for which funding has been appropriated for in the 2010 City Budget. Because of the H-GAC contract, bids were not solicited and we are therefore acquiring the inspection van from Cues, Inc. in the amount of $220,000.59. This amount includes a trade-in amount of $30,000 for the existing 1998 GMC inspection van (Asset 541) that is requiring substantial maintenance upgrades due to the age and high mileage (over 87,000).

Please be advised that this purchase fulfils all of the purchasing obligations as mandated by both state and local purchasing requirements; I am therefore recommending that the enclosed resolution is approved.

Please let me know if should require any additional information.

Arkansas Code

19-11-206 Definitions concerning intergovernmental relations

As used in this subchapter, unless the context otherwise requires:

(1) "State public procurement unit" means the Office of State Procurement and any other procurement agency of this state;

(2) "Local public procurement unit" means:

(A) Any county, city, town, state agency, and any other subdivision of the state or public agency thereof,

(B) Any fire protection district;

(C) Any regional water distribution district;

(D) Any rural development authority;

(E) Any public authority;

(F) Any public educational, health, or other institution;

(G) Any nonprofit corporation during such time that it contracts with the Division of Developmental Disabilities Services of the Department of Human Services to provide services to the developmentally disabled, provided the contract exceeds seventy-five thousand dollars ($75,000) per year

(H) Any nonprofit corporation providing fire protection services to a rural area or providing drinking water to the public in a rural area;

(I) Any nonprofit corporation which contracts with the Department of Human Services, provided that the contract includes provisions for transportation services, and the contract exceeds seventy-five thousand dollars ($75,000) per year; and

(J) To the extent not prohibited by law, any other entity which expends public funds for the acquisition or leasing of commodities and services;

(3) "Public procurement unit" means either a local public procurement unit or a state public procurement unit;

(4)(A) "External procurement activity" means any buying organization not located in this state which, if located in this state, would qualify as a public procurement unit.

(B) An agency of the federal government is an external procurement activity; and

(5) "Cooperative procurement" means procurement conducted by, or on behalf of, more than one (1) public procurement unit or by a public procurement unit with an external procurement activity.

19-11-249 Cooperative purchasing.

Any public procurement unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any commodities or services with one (1) or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public procurement units and open ended state public procurement unit contracts which are made available to local public procurement units.

What is H-GAC?
The Houston-Galveston Area Council (H-GAC) is a regional council of governments and a political subdivision of the State of Texas. H-GAC conducts its affairs under the laws of Texas and is governed by a 35-member board comprised of elected officials from the 13-county H-GAC region. The Board awards all contracts in public meetings. Through these contracts local governments nationwide are permitted to purchase through the H-GAC Cooperative Purchasing Program.

What are some differences between H-GAC's Program and others?
H-GAC has offered Cooperative Purchasing since 1973. The Program specializes in high ticket, capital-intensive products and services that require technical, detailed specifications and extensive professional skills to evaluate bid and proposal responses.

No membership dues are required to participate in the H-GAC Cooperative Purchasing Program.

How does the H-GAC Program work?
Your entity executes an "Interlocal Contract" with H-GAC. The document sets out the conditions, requirements, and processes through which your purchase orders are received, confirmed and processed. You send your purchase orders directly to an H-GAC supplier with a duplicate to H-GAC for confirmation. The supplier processes your orders, delivers the products and invoices you for payment.

Is my entity eligible to purchase through the H-GAC Program?
The Texas Interlocal Cooperation Act permits joint participation by local governments, states, state agencies, and non-profit corporations providing one or more government functions and services in Texas—and in other states. Most states have interlocal cooperation authority or other joint power provisions that allow participation in cooperative activities.

What are the benefits of the H-GAC Program?
- Volume Purchasing
- Volume Discounts
- Technical specifications that can eliminate the need to hire consultants
- Elimination of advertising, printing, and delivery costs
- Expedited procurement process without lengthy delays

4.F

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF FORT SMITH, ARKANSAS AND POLICEREPORTS.US CONCERNING THE ONLINE DISTRIBUTION AND COLLECTION OF FEES FOR ACCIDENT REPORTS ON BEHALF OF THE FORT SMITH POLICE DEPARTMENT

BE IT RESOLVED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

Section 1. The Memorandum of Agreement between the City of Fort Smith and PoliceReports.US, which shall be substantially in the form attached hereto, is hereby approved and provides for the terms, conditions, and mutual agreements concerning online distribution and collection of fees for accident reports on behalf of the Fort Smith Police Department.

Section 2. The Mayor, his signature being attested by the City Clerk, is hereby authorized to execute this Memorandum of Agreement to which the City of Fort Smith is a party.

This resolution passed and approved this _____day of _____, 2010.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form: _____ npr
Asst City Attorney

219 Williamson Road
Mooresville, North Carolina, 28117

MEMORANDUM OF AGREEMENT

Agency: City of Fort Smith

Address: 100 S. 10th Street, Fort Smith, Arkansas 72901

Phone Number: 479-709-5000

ORI #: AR0660100

PoliceReports.US Agrees:

1. To license the software for use by the Agency.
2. To provide all upgrades, modifications, and other enhancements that are routine and necessary to maintain functioning of the online report distribution system.
3. To provide customer service support to the Agency and to purchasers of reports.
4. To abide by all applicable laws and regulations relating in any way to the distribution of reports.
5. That the Agency may terminate this agreement at any time upon providing written notice.
6. To not increase the cost of service or reports during the defined "Term of Agreement" period indicated below, unless authorized or required by law.

Agency Agrees:

1. To not disclose any information to a third party that is considered confidential, including: strategies and technologies, product or service development information, business plans and models, commercial and marketing information, technical information, computer source and object code, memoranda, correspondence, data, documents, or analyses unless required by the Arkansas Freedom of Information Act or a Court Order.
2. To upload the data (reports) in a timely manner.
3. To promote the use of the online distribution system through written and verbal means.
4. To allow PoliceReports.US to provide vehicular information (VIN number, accident date, city, state, report number) to third parties (e.g., CARFAX). This does not include personally identifying information of driver or passengers.
5. That PoliceReports.US has no control over the content of reports submitted by the Agency and bears no liability from claims based on content.
6. That it may terminate this agreement at any time upon giving written notice.

Terms of Agreement:

- **Effective Date of Agreement:** _____
- **Term of Agreement:** 3 Years
- **Cost of Service:** ***Charge Per Report Fee (e-commerce)***

E- Commerce	Accident	Incident Reports
The fee collected for each report distributed is:	$10.00	N/A
PoliceReports.US per report fee:	$3.00	N/A
Amount returned per report distributed	$7.00	N/A

Credit Card processing fee is:	***Included***	***Included***

Payment Terms:

- PoliceReports.US will collect the fees for all reports distributed through our system.
- Within 10 days of the end of each month, PoliceReports.US will provide a report of the number of reports distributed and a check or electronic funds transfer for the appropriate amount to be returned to the agency.

The parties each hereby cause this Agreement to be executed by their duly authorized representative effective as of the Effective Date.

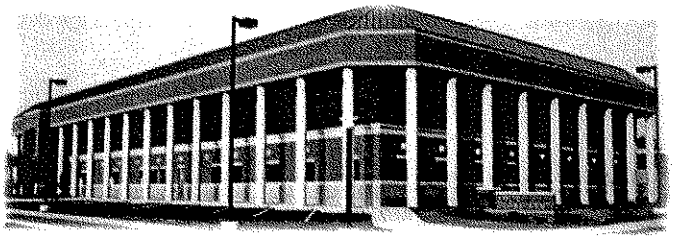
Agency: City Of Fort Smith | **PoliceReports.US, LLC**

By:_____ **By:**_____

Print Name: Ray Baker **Print Name:** H. Craig Huneycutt

Title: Mayor **Title:** President

FOR HOME OFFICE USE ONLY:	**AGREEMENT NUMBER: AR033**
PROCESSED BY:	**DATE PROCESSED:**



Fort Smith Police Department

Kevin Lindsey, Chief of Police

INTERDEPARTMENTAL MEMORANDUM

To: **Dennis Kelly, City Administrator**

From: **Kevin Lindsey, Chief of Police**

Subject: **PoliceReports.US Memorandum of Understanding**

Date: **May 10, 2010**

Attachment: **A.C.A. § 27-53-210**

Early this year the Fort Smith Police Department received an offer for a free CARFAX account to aid in investigations involving vehicles. This account could potentially be used by Fort Smith Police officers for investigations involving vehicle accidents and stolen vehicles, as well as many other types of criminal investigations. Staff began researching this offer, discovering that we would be required to partner with PoliceReports.US to receive a free CARFAX account.

PoliceReports.US offers the service of records management for several law enforcement agencies in the State of Arkansas, as well as other agencies across the nation. The law enforcement agency is required to upload reports with vehicle information to PoliceReports.US, who, in turn, provides the vehicle information to CARFAX for a nominal fee to aid in expanding their database for vehicles. PoliceReports.US does not include any personal or sensitive information with the records distributed to CARFAX.

Citizens wishing to obtain a copy of their accident report will be directed to PoliceReports.US via a web link on the police department's website. PoliceReports.US will charge citizens a fee, as set by the law enforcement agency, as well as a three dollar ($3.00) convenience fee for the service of maintaining these records for the law enforcement agency. PoliceReports.US suggests that the Fort Smith Police Department charge a fee of ten dollars ($10.00), as prescribed by Arkansas law.

After researching Arkansas state statutes it has been determined that the Fort Smith Police Department is not in compliance with A.C.A. § 27-53-210, which directs law enforcement agencies to charge a fee of ten dollars ($10.00) for copies of accident

reports. The Fort Smith Police Department currently charges four dollars ($4.00) for photo copies of accident reports and will be raising the fee to ten dollars ($10.00).

Staff recommends partnering with PoliceReports.US, charging the same fee of ten dollars ($10.00) to citizens who desire to print accident reports at their convenience. PoliceReports.US would return seven dollars ($7.00) of every ten dollars ($10.00) collected to the Fort Smith Police Department. The convenience fee of three dollars ($3.00) would be retained by PoliceReports.US. This will allow the Fort Smith Police Department to be in compliance with Arkansas law, give citizens the opportunity to print accident reports at their convenience and reduce foot traffic to the information desk at the Fort Smith Police Department. It would also allow the Fort Smith Police Department to partner with CARFAX for the purpose of adding an additional tool to aid in investigations involving vehicles.

Attachment

27-53-210. Copies — Fee. (a) Photostatic or written copies of reports and records may be obtained from the Director of the Department of Arkansas State Police, or from his or her duly designated assistants, by any person who shall request the Department of Arkansas State Police for them in writing. (b) (1) In order to partially reimburse the department for the cost of making photostatic or written copies of motor vehicle accident reports and copies of records of traffic violations, there shall be charged a fee of ten dollars ($10.00) for each copy of a basic accident report and a fee of one dollar and fifty cents ($1.50) per page for each copy of a supplemental report. (2) All funds collected under this subsection shall immediately be paid over by the department to the Treasurer of State and shall be credited by him or her as a special revenue to the Department of Arkansas State Police Fund. (c) (1) In order to partially reimburse county and municipal law enforcement agencies for the cost of making copies of motor vehicle accident reports and copies of records of traffic violations, there shall be charged a fee of ten dollars ($10.00) for each copy of a basic accident report and a fee of one dollar fifty cents ($1.50) per page for each copy of a supplemental report. (2) All funds collected under this subsection shall be retained by the municipality or county for the support of the law enforcement agency. History. Acts 1953, No. 90, §§ 1, 2; 1963, No. 272, §§ 1, 2; A.S.A. 1947, §§ 75-916, 75-917; Acts 1993, No. 606, § 1; 2005, No. 2158, § 1.

4 G

RESOLUTION NO._____

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE
AN EASEMENT WITH OKLAHOMA GAS AND ELECTRIC COMPANY

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS that:

The Mayor is hereby authorized to execute an easement to the Oklahoma Gas and Electric Company to install a guy wire and anchor on City Property at Lake Fort Smith to serve property located at 4221 N. Highway 71, Mountainburg, Arkansas.

This resolution adopted this _____ day of May 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator **DATE:** MAY 11, 2010

FROM: Steve Parks, Director of Utilities

SUBJECT: Easement to Oklahoma Gas & Electric Company
Lake Fort Smith Property, Mountainburg, Arkansas

Oklahoma Gas and Electric Company (OG & E) has a customer on the west side of Highway 71 that is building a new structure and is in need of electrical service. The property's address is 4221 N. Highway 71, and is located approximately one quarter-mile north of the intersection of Highway 282 and Highway 71, Mountainburg, Arkansas.

The primary electric line that serves all the properties in the area is located on the east side of Highway 71 on city property, and runs northerly and parallel with the Highway right of way. OG & E plans to attach a guy wire and anchor to an existing pole on city owned property and extend the electric wire overhead across to the west side of Highway 71 to serve the Short property.

OG & E requires an easement for the guy wire and anchor and is requesting the city to grant an easement for the project. The easement is 16 feet in width and 20 feet in length and will not affect any improvements or otherwise present any problems. A copy of the easement and exhibit showing the easement area is attached.

Staff recommends that the Resolution authorizing the Mayor to execute the easement be submitted to the Board for their approval at its next scheduled meeting. Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Ray Gosack

THIS INSTRUMENT WAS PREPARED BY:
LAND MANAGEMENT
AFTER RECORDING RETURN TO SAME @:
OG&E ELECTRIC SERVICES
ATTN: RIGHT OF WAY DEPT. - M/C AF90
7200 HIGHWAY 45
FORT SMITH, ARKANSAS 72916

EASEMENT

Work Order # **7307186**

KNOW ALL MEN BY THESE PRESENTS:

THAT **THE CITY OF FORT SMITH, ARKANSAS, BY MAYOR RAY BAKER,** Grantor, in consideration of Ten or more dollars, in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration, does hereby grant and warrant unto **OKLAHOMA GAS AND ELECTRIC COMPANY,** an Oklahoma corporation, Grantee, its successors and assigns, the right privilege and authority to erect, operate and maintain a system of poles, wires, and other necessary fixtures for the transmission of electric current and communication messages, upon, under, over and across the property hereinafter described, together with the authority to cut down, control the growth of, or trim and keep trimmed any trees that may in the judgment of the Grantee interfere with or endanger said line or its maintenance and operation, with full power and authority to enter upon the premises for said purposes.

The real property covered by this easement is situated in Crawford County, State of Arkansas, and described as follows:

A SIXTEEN (16) foot wide easement being eight (8) feet each side of the centerline lying in the Southeast Quarter of the Southwest Quarter of Section 35, Township 12 North, Range 30 West, being more particularly described as follows: Commencing at a ½ inch existing rebar marking the Northwest corner of the SE/4 of the SW/4 of Section 35; thence along the North line of said forty, South 86 deg. 56' 30" East 47.29 feet to a set p/k nail in the centerline of Ark. State Hwy. 282; thence continue along the North line of said forty South 86 deg. 56' 30" East 699.03 feet to a ½ inch set rebar with cap on the West right of way line of U. S. Hwy. 71; thence continue South 86 deg. 56' 30" East 100 feet to the East right of way line of U. S. Hwy. 71; thence along said East right of way line Southeast 260 feet to an existing OG&E pole and to the **point of beginning;** thence South 89 deg. East 20 feet to the **point of terminus.**

The centerline of this easement shall be along the actual route of the line as installed and shall include any additional easement area needed for downguys or anchors.

Grantor agrees that no building or other structure shall be erected nor shall any excavation or other removal of soil, so as to change the grade of terrain, be accomplished by Grantor, its heirs or assigns, within the above described easement area unless the written consent of the Grantee is first obtained.

Grantor hereby consents to permit Grantee to trim trees and foliage on Grantor's property immediately adjacent to the easement granted herein to insure the health of the trees involved, and Grantee shall have the right to enter upon Grantor's property for this purpose.

The rights and privileges above granted to continue so long as same are used or needed for the transmission and distribution of electric current or communication messages; but should Grantee remove its property from the premises and abandon the right of way herein granted, then the rights granted in this easement shall terminate.

Signed and delivered this _____ day of _____, 2010.

ATTEST: **CITY OF FORT SMITH, ARKANSAS**

_____ BY:_____

RAY BAKER, Mayor

STATE OF ARKANSAS }

}§ **ACKNOWLEDGMENT**

COUNTY OF SEBASTIAN }

Before me, the undersigned, a Notary Public, in and for Said County and State, on this _____ day of _____, 2010, personally appeared _RAY BAKER_, to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument as its MAYOR , and acknowledged to me that he executed the same as his free and voluntary act and deed of such city, for the uses and purposes therein set forth.

My Commission Expires:

_____

_____

Notary Public

(Draft No. _____) R/W File No. **7307186**

Form 468 (Rev 7/2003) ARK_OH-C2.DOT Atlas Sheet No.

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4 H

RESOLUTION NO. _____

RESOLUTION AUTHORIZING PARTIAL PAYMENT TO CROSSLAND HEAVY CONTRACTORS, FOR CONSTRUCTION OF THE LAKE FORT SMITH WATER TREATMENT PLANT - CONTRACT 3

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

Partial payment number eight to Crossland Heavy Contractors, Inc., in the amount of $2,376,299.36, for construction of the Lake Fort Smith Water Treatment Plant - Contract 3, Project Number 07-09-C3, is hereby approved.

This Resolution adopted this _____ day of May 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator **DATE:** May 7, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Lake Fort Smith Water Treatment Plant Improvements
Contract 3 - Project Number 07-09-C3

Crossland Heavy Contractors, Inc., has submitted partial pay request number eight in the amount of $2,376,299.36 for work completed on the Lake Fort Smith Water Treatment Plant Improvements - Contract 3. A project summary sheet is attached for your information. The quality of Crossland's work has been very good and they are on schedule to complete the project by the contract completion date.

The attached Resolution authorizes payment to Crossland. Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Ray Gosack

Project Summary

Project Status: Underway

Project name: **Lake Fort Smith Water Treatment Plant Improvements - Contract 3**

Today's Date: May 7, 2010

Project number: **07-09-C3**

Staff contact name: Steve Parke

Project engineer: Burns & McDonnell, Inc.

Staff contact phone: 784-2231

Project contractor: Crossland Heavy Contractors, Inc.

Notice to proceed issued: August 31, 2009

Completion Date: December 27, 2011

	Dollar Amount	Contract Time (Days)
Original contract	$31,641,000.00	785
Change orders:		
Change Order No. 1	$22,902.00	14
Change Order No. 2	$89,078.00	49
Total change orders	$111,980.00	63
Adjusted contract	$31,752,980.00	848
Payments to date (as negative):	$-5,723,443.90	18% complete
Amount of this payment (as negative)	$-2,376,299.36	
Retainage held	$899,971.47	
Contract balance remaining	$23,653,236.74	
Amount Over as a percentage	1.00%	

Final Comments:

To date contractor has completed 23.8% of project. (Does not include payment for materials stored)

4 I

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH OLD REPUBLIC SURETY COMPANY FOR THE SETTLEMENT OF PERFORMANCE OBLIGATIONS BY SURETY ASSOCIATED WITH CONSTRUCTION OF THE LAKE SHEPHERD SPRINGS RECREATIONAL AREA, SWIMMING POOL AND PUMP HOUSE PROJECT

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

SECTION 1: The City of Fort Smith agrees to accept the total sum of $74,250.00 as full and final satisfaction of any and all claims by the City against Old Republic Surety Company under surety's Performance Bond No. RCN0608661 made, executed and delivered to the City on April 17, 2007, in conjunction with City's award of bid to Freddy Van of Arkansas, Inc., for construction of the Lake Shepherd Springs Recreational Area, Swimming Pool and Pump House, Project Number 99-01-C24.

SECTION 2: The Mayor is hereby authorized to execute, his signature being attested by the City Clerk, an Agreement with Old Republic Surety Company, substantially in the form attached hereto, which accepts payment in the amount of $74,250.00 and releases surety from further obligations under the terms of the identified Performance Bond.

This Resolution adopted this _____ day of May 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

AGREEMENT

This Agreement (the "Agreement") is made and entered into this _____ day of May, 2010 by and between Old Republic Surety Company ("Old Republic" and The City of Fort Smith, Arkansas ("the City").

RECITALS

WHEREAS, Freddy Van of Arkansas, Inc ("Freddy Van") entered into an Agreement with the City on April, 17th , 2007 for the construction of Lake Shepard Springs Recreational Area, Swimming Pool and Pump House – Project 99-01-C24.

WHEREAS, as required by law and under the requirements of the Agreement, Freddy Van and Old Republic made, executed and delivered to the City on April 17th, 2007, its Performance Bond No. RCN0608661 (the "Old Republic' Performance Bond") in the Penal sum of $998,000.00.

WHEREAS, the City on March 28th, 2008 declared Freddy Van in default under the requirements of the Agreement and made demand upon Old Republic to perform its obligations within the terms of Old Republic's Performance Bond. Old Republic acknowledged the notice of default on March 19, 2008.

WHEREAS, Old Republic and the City acknowledge that, after March 28, 2008, all work required to satisfy the Agreement was completed by the City so that the City therefore agrees to release Old Republic from any all liability or

claims of any kind the City may have against Old Republic's Performance Bond No. RCN0608661 as set forth below.

NOW, THEREFORE, in consideration of the agreements and undertakings hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy therefor being hereby acknowledged, the City and Old Republic agree as follows:

AGREEMENT

1. **Payment by Old Republic.**

In consideration for this agreement, Old Republic agrees to pay, pursuant to it's obligations under the Performance Bond, the City, and the City agrees to accept, the total sum of $74,250.00 as full and final satisfaction of any and all claims by the City against Old Republic as related to the Bond, or that The City has asserted or could have asserted against Old Republic in connection with the Project. Pursuant to the terms of this Agreement, the Payment by Old Republic to the City will be made as follows: $74,250.00 within 14 days of the date of the last signature on this Agreement.

2. **No Third Party Rights.**

This Agreement is solely for the benefit of the City and Old Republic. The City and Old Republic do not intend by any provision of this Agreement to create any rights in or increase the rights of any third-party beneficiaries, nor to confer any benefit upon or enforceable rights under this Agreement or otherwise upon anyone other than the City and Old Republic. Specifically, the City and Old Republic acknowledge that nothing in this

Agreement shall extend or increase the rights of any third-party claimants or the liabilities or obligations of Old Republic under the Bonds.

3. **Whole Agreement.**

This Agreement constitutes the whole of the understanding, discussions, and agreements by and between the City and Old Republic. The terms and provisions of this Agreement are contractual and not mere recitals. The City and Old Republic acknowledge that there have been no oral, written or other agreements of any kind as a condition precedent to or to induce the execution and delivery of this Agreement. Any written or oral discussions conducted prior to the effective date of this Agreement shall not in any way vary or alter the terms of this Agreement.

4. **Effective Date.**

The Effective Date of this Agreement shall be: May ____ , 2010.

5. **Changes.**

This Agreement shall not be changed, amended or altered in any way except in writing and executed by both the City and Old Republic.

6. **Titles.**

The titles provided in this Agreement are solely for the convenience of the City and Old Republic and are not to be deemed substantive descriptions of what is contained within each paragraph.

7. **Execution.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original.

8. Recitals.

The Recitals contained in this Agreement are incorporated herein by reference and made a part hereof.

9. Governing Law.

This Agreement has been executed in the State of Arkansas and shall be governed by and controlled by the laws of the State of Arkansas.

10. Successors and Assigns.

This Agreement shall be binding upon the parties and their respective successors and assigns.

11. Invalidity, Illegality or Unenforceability.

In the event that one or more provisions of this Agreement shall be declared to be invalid, illegal or unenforceable in any respect, unless such invalidity, illegality or unenforceability shall be tantamount to a failure of consideration, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby.

12. Construction of Agreement.

It is understood and agreed by the City and Old Republic that this Agreement shall be construed without regard to any presumption or other rule

requiring construction against the party causing this Agreement, or any Exhibits attached to this Agreement, to be drafted.

IN WITNESS WHEREOF, the parties have executed this Agreement and each of the undersigned personally represent and warrant that they have the full right, power and authority to execute this Agreement on behalf of the respective parties.

City of Fort Smith, Arkansas

_____

Mayor Ray Baker

Date: _____

Attest:

_____

City Clerk

Old Republic Surety Company

_____

By: _____

Title: _____

Date: _____

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator **DATE:** May 10, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Settlement Agreement with Old Republic Surety Company
Lake Shepherd Springs Recreational Area,
Swimming Pool and Pump House Project 99-01-C24

On April 17, 2007, the city awarded a construction contract to Freddy Van of Arkansas, Inc., in the amount of $998,000 for construction of the Lake Shepherd Springs Recreational Area Swimming Pool and Pump House Project 99-01-C24. A notice-to-proceed was issued on May 21, 2007, stipulating contract completion within 210 days. Poor performance and realization that the contractor would not complete the project prior to the State Park's planned Memorial Day pool opening resulted in the March 18, 2008, termination of the contract with Freddy Van and authorization of a takeover agreement with Old Republic Surety Company for completion of the project. Old Republic had issued the Performance Bond for Freddy Van's contract with the city. Liquidated damages against Freddy Van in the amount of $74,250 had accrued to that point.

Old Republic subsequently contracted with a management firm for completion of the project. Mickle Wagner Coleman continued to provide project management and inspection services for the city. Although the project was not yet complete, the pool was opened on Memorial Day for the 2008 swim season. Continued poor performance and lack of progress by Old Republic's subcontractor led to the city's June 9, 2008, notification to Old Republic declaring them in default of the takeover agreement and that the city would assume responsibility for completion of the project. The city then contracted with Allied Electrical of Van Buren and Burton Pools & Spas of Fort Smith to complete the remaining work. Subsequent to completing the project, defects in the application of pool coatings by Old Republic's subcontractor were discovered when the pool was closed at the end of the 2008 swim season. Plans and specifications for recoating the pool were prepared and a contract awarded to Creative Design Pools, a Burton Company. By May 15, 2009, all work on the project was completed and the facility turned over to State Parks for operation and maintenance.

On September 1, 2009, staff sent a letter to Old Republic outlining final project costs and advising of city's intent to assess liquidated damages in the amount of $74,250. The final project costs exceeded the $998,000 contract amount by $61,481.79. Final project costs included all payments made to Freddy Van under the original contract; to Old Republic for work completed under the takeover agreement; to Allied Electrical, Burton Pools and Creative Design Pools for project completion; and, to Mickle Wagner Coleman for engineering services. On September 28, 2009, Old Republic requested detailed documentation on the city's completion of the project which staff provided to them on November 3. Despite repeated inquiries made to Old Republic about their progress in completing their review of documents provided, no word was received from them until March 8, 2010. They requested that staff meet with a representative of Guardian Group, a construction management firm retained by Old Republic to assist them with the review

of the documentation. On March 23 staff met with a representative of Guardian Group and on April 9 Old Republic notified the city that it agreed to the liquidated damages assessment.

With the circumstances requiring the city to complete a portion of the work the performance bond coverage must be addressed differently than a typical final contract completion and acceptance. To address that issue, the city and Old Republic negotiated a contract settlement agreement. Under the terms of the agreement Old Republic agrees to pay, and the city agrees to accept, the amount of $74,250 as full and final satisfaction on any and all claims by the city against Old Republic. The city attorney's office has reviewed the matter of releasing of Old Republic from a traditional bond obligation and staff is satisfied that given the successful completion and current operations of the pool together with the unusual circumstances under which construction was undertaken, there remains little risk to the city or to State Parks.

A Resolution stipulating the terms of project closeout and authorizing the Mayor to sign the Agreement is attached. Should you or members of the Board have questions or desire any additional information, please let me know.

attachment

pc: Ray Gosack

RESOLUTION NO. _____ 4 J

RESOLUTION AUTHORIZING ACQUISITION OF REAL PROPERTY INTERESTS
FOR THE SUNNYMEDE BASIN SEWER IMPROVEMENTS PROJECT

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

SECTION 1: The following appraised value for the acquisition of a sanitary sewer line easement for the Sunnymede Basin S001 Sewer Improvements, Project No. 09-05-E1, is approved and acquisition of the easement for the appraisal amount is hereby authorized:

Tract No.	Owner	Appraised Value
63	E. C. Gilbreath & Barbara J. Gilbreath	$10, 981.00

SECTION 2: The City Administrator, or his designated agent, and the City Attorney are hereby authorized to acquire the easement for the above listed appraisal amount. All such actions previously taken for this project are hereby confirmed.

This Resolution adopted this ____ day of May 2010.

APPROVED:

_____
Mayor

Attest:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator **DATE:** May 10, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Sunnymede Basin Sanitary Sewer Improvements Project S001
Project 09-05-E1

As part of the Sunnymede relief sewer improvements the city must construct a new sanitary sewer line to replace existing undersized sewer lines. The new lines will vary in diameter from 14 to 16-inches, and replace the old sewer line of varying diameter from 10 to 12-inches. This new line will be part of the collection system upgrades which will provide greater flow capacity to the new Sunnymede pump station and equalization basin currently under construction near the east end of Grand Avenue. This portion of that work will extend from a point on Euper Lane, east of I-540, and proceed northerly with I-540 along 62nd Street to a point on Free Ferry Road. A vicinity map of the project area is attached.

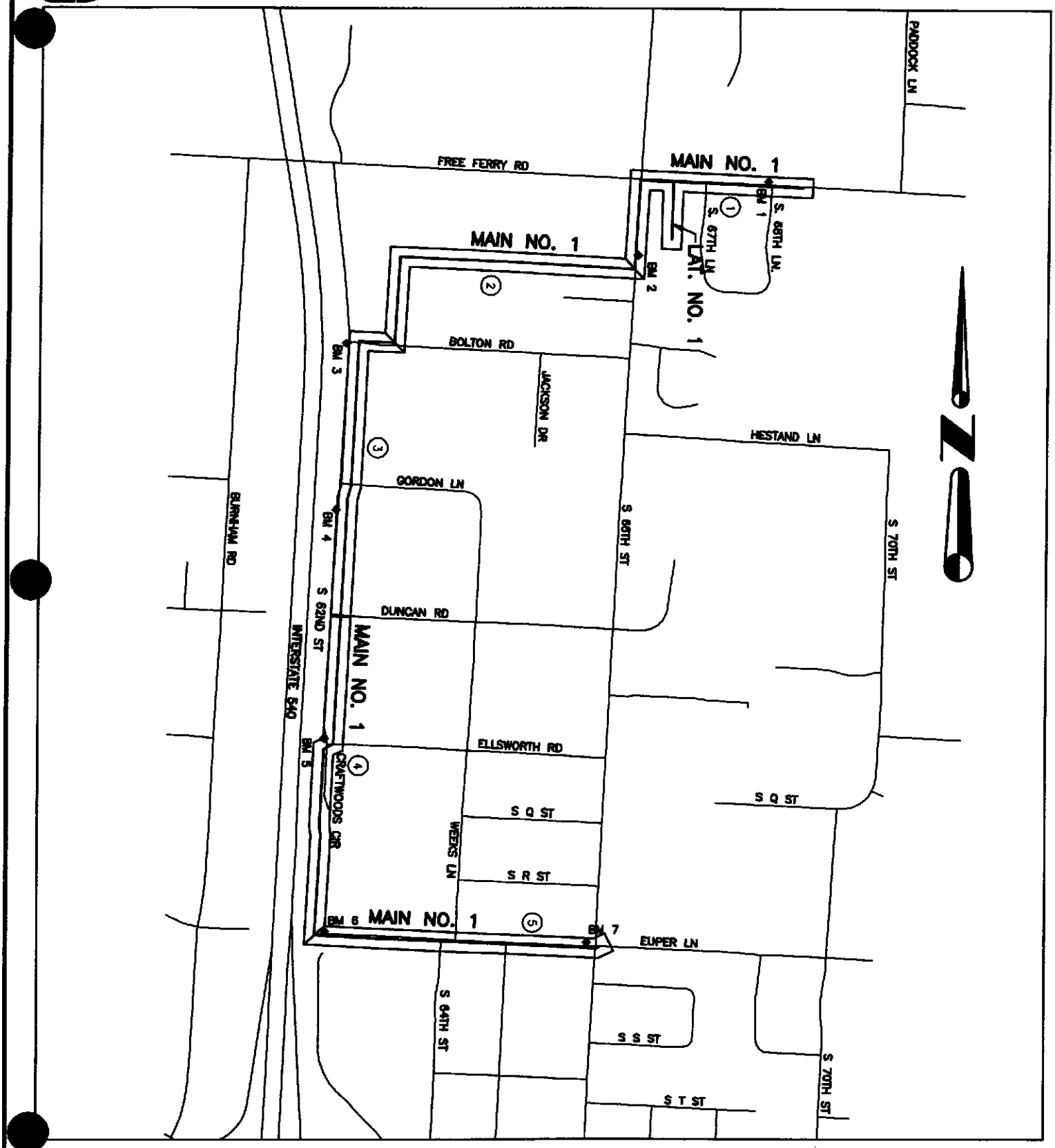
The project will require acquisition of 19 easements. Calmo Realty Services is the city's appraiser for this project. Their work to date has identified one property which will require Board approval in order to extend an offer to the property owners for the needed easement. The easement to be acquired from E.C. and Barbara Gilbreath has been appraised at $10,981.00. An exhibit showing the easement area is attached. The remaining 18 easements, valued under $10,000.00 by the appraiser, are being negotiated under guidelines set forth in the city's property acquisition policy.

Staff recommends that the Resolution authorizing the offer to Mr. & Mrs. Gilbreath be submitted to the Board for their approval at its next scheduled meeting. Should you or the Board have any questions or desire additional information, please let me know.

attachment

pc: Ray Gosack

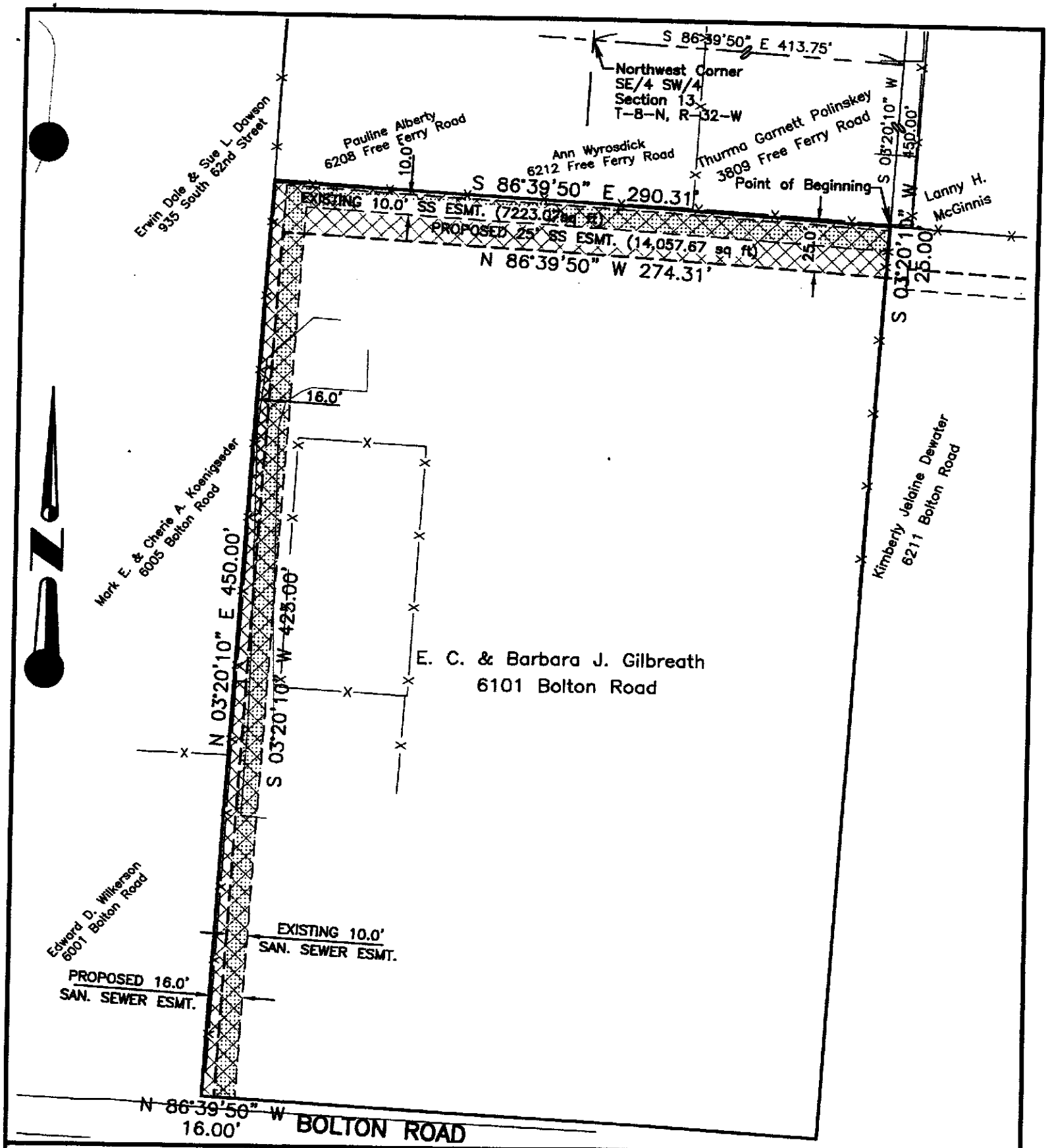
Brixey Engineering & Land Surveying, Inc.
Land Surveyors – Consulting Engineers
P.O. Box 6180 Ft. Smith, Ark. 72906 (479)646-6394



VICINITY MAP

SUNNYMEDE SEWER
PROJECT NO. 09-05-E1
FORT SMITH, ARKANSAS

Prepared For: City of Fort Smith



BRIXEY ENGINEERING & LAND SURVEYING, INC.

CONSULTING ENGINEERS — LAND SURVEYORS

8223 East Highway 45 (479) 646-6394

P.O. Box 8180 Fort Smith, Arkansas 72906

EXHIBIT "A" — TRACT 63
PROPOSED SAN. SEWER EASEMENT
SUNNYMEDE BASIN — S01
PROJECT NO. 09-05-E1
FORT SMITH, ARKANSAS

Prepared For: City of Fort Smith

Scale: 1" = 60'

Date: 05/03/2010

Drawn By: RJH

Job No. 09-0319

4 K

RESOLUTION NO. _____

RESOLUTION AUTHORIZING PARTIAL PAYMENT TO BRANCO ENTERPRISES, INC., FOR CONSTRUCTION OF THE PHASE II "P" STREET WASTEWATER TREATMENT PLANT WET WEATHER IMPROVEMENTS - SCHEDULE 2

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

Partial payment number twenty-two to Branco Enterprises, Inc., in the amount $654,332.85 for the construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2, Project Number 05-14-C1, is hereby approved.

This Resolution adopted this _____ day of May 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator **DATE:** May 3, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Phase II "P" Street Wastewater Treatment Plant
Wet Weather Improvements - Schedule 2
Project Number 05-14-C1

Branco Enterprises, Inc., has submitted partial pay request number twenty-two in the amount of $654,332.85 for work completed on the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2. Work is progressing at the scheduled rate. A project summary sheet is attached for your information.

The attached Resolution authorizes payment to Branco Enterprises, Inc. Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Ray Gosack

Project Summary

Today's date: May 3, 2010

Project name: **Wet Weather Improvements, "P" Street Wastewater Treatment Plant Phase II - Schedule 2**

Staff contact name: Steve Parke

Project number: **05-14-C1**

Staff contact phone: 784-2231

Project engineer: Hawkins-Weir Engineers, Inc.

Notice to proceed issued: July 21, 2008

Project contractor: Branco Enterprises, Inc.

Completion date: September 25, 2010

	Dollar Amount		Contract Time (Days)
Original contract	$31,840,000.00		750
Change orders:			
Number One	$48,626.00		31
Number Two	$36,561.14		35
Total change orders	$85,187.14		66
Adjusted contract	$31,925,187.14		816
Payments to date (as negative):	$ (23,813,170.47)	74.6%	
Amount of this payment (as negative)	$ (654,332.85)	2.1%	
Retainage held	$1,596,259.36		
Contract balance remaining	$7,457,683.82	23.4%	
Amount Over ~~(under)~~ as a percentage	0.3%		

Final Comments:

RESOLUTION NO. _____ 4 L

RESOLUTION ACCEPTING THE BID OF AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH DIXON CONTRACTING, INC., FOR THE SUNNYMEDE WALKING TRAILS

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

SECTION 1: The bid of Dixon Contracting, Inc., for the construction of the Sunnymede Walking Trails, Project Number 10-04-C1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute a contract with Dixon Contracting, Inc., for an amount of $582,629.00, for performing said construction.

This Resolution adopted this _____ day of May 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator **DATE:** May 12, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Sunnymede Walking Trails
Project Number 10-04-C1

This project is for the construction of the landscaping and day-use walking trail component of the new Sunnymede sewer pump station and equalization basin project. These amenities were previously presented and accepted by the Board and residents who attended the public meeting as being necessary for the public's acceptance of this project at this location. An exhibit showing the proposed landscaping and walking trail is attached.

The low bid for the project was submitted by Dixon Contracting, Inc., in the amount of $582,629.00. A bid tabulation showing the bidders and their bid amounts is attached. Dixon Contracting has performed several contracts for the city in recent years and they have been completed with good results.

The attached Resolution authorizes the Mayor to execute a contract for the Sunnymede Walking Trails with Dixon Contracting, Inc., for an amount of $582,629.00. Funding for this work was made part of the original project budget and is available from the bonds issued for the wet weather sewer improvements. It is my recommendation that the contract be approved.

Should you or members of the Board have any questions or need additional information, please let me know.

attachment

pc: Ray Gosack

Sunnymede Flow Management Facility

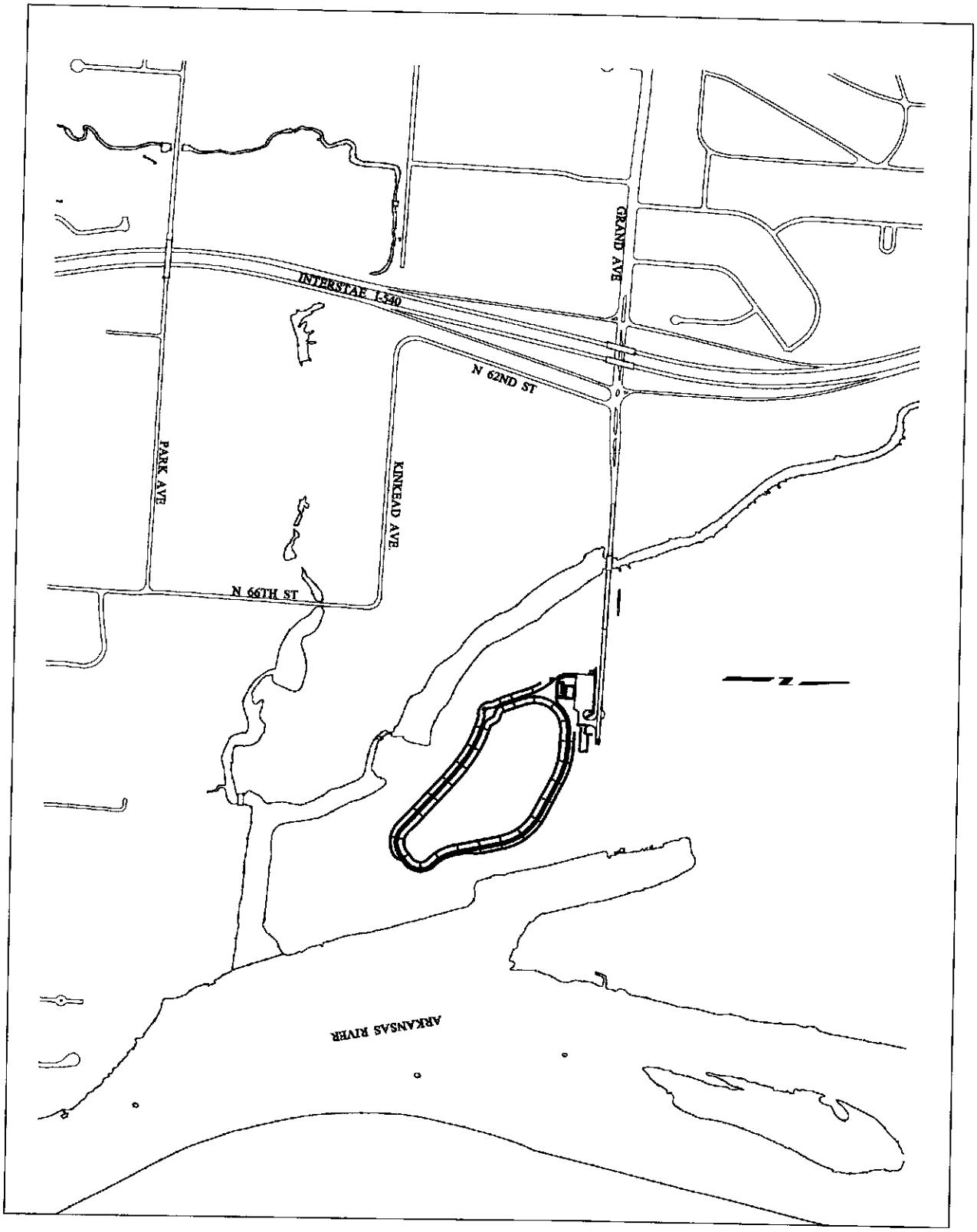
Park Development Concept

0' 50' 100' 200'

May 30, 2007
Revised July 26, 2007
Revised December 17, 2007

HOWELL & VANCUREN

O:\UtilityDept_General\DWG_DATA\Exhibits\SParke\Sunnymede Flow Management Facility\Park Developement Concept Site Plan.dwg, 5/14/2010 9:35:15 AM, \\khylpr01\UTL_HP5550HDN



Tabulation of Bids Received

Project Name
Sunnymede Walking Trails
Project No. 10-04-C1

Bid Opening
May 11, 2010
2:00 P.M.

Bids Received

Dixon Contracting, Inc. . Fort Smith, AR	$ 582,629.00
Forsgren, Inc. Fort Smith, AR	$ 676,093.00
Wilson Brothers, Inc. Alma, AR	$ 677,180.00
Dean Crowder Construction, Inc. Bentonville, AR	$ 707,032.50
Township Builders, Inc. Little Rock, AR	$ 822,777.00
Crawford Construction Co. Fort Smith, AR	$ 859,690.00
Steve Beam Construction, Inc. Barling, AR	$ 832,991.38
Cameron Hubbs Construction Van Buren, AR	$ 908,102.50

The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: May 10, 2010

SUBJECT: Airport Commission

The term of Mr. M. Scott Archer will expire June 30, 2010 on the Airport Commission. Mr. Archer would like to be reappointed.

The applicants available at this time are:

John Huffman	8301 Clover Drive
Thomas Gage	1115 S. Waldron Rd. Ste. 101
James E. Kelly, III	5500 Painter Lane
Andrew Smith	9225 Rosewood Drive
Reginald (Rusty) Henderson	8812 Royal Ridge Drive

Appointments are **by the Mayor confirmed by the Board of Directors.** One appointment is needed; the term will expire June 30, 2015.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 785-2801
Administrative Offices FAX (479) 784-2430

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The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: May 11, 2010

SUBJECT: Community Development Advisory Committee

The term of Ms. Yvonne Keaton Martin of the Community Development Advisory Committee will expire June 30, 2010. Ms. Martin would like to be reappointed.

The applicants available at this time are:

William Tyler Lamon	5200 North O Street
Bill Hollenbeck	904 South 26 Street
John Huffman	8301 Clover Drive

Appointments are **by the Board of Directors.** One appointment is needed; the term will expire June 30, 2013.

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The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: May 10, 2010

SUBJECT: Fort Smith Municipal Employees Benevolent Fund Board of Advisors

The terms of Mr. Ricky Brooks, Mr. Mark Talley and Mr. Garry Cathcart will expire June 30, 2010. Mr. Brooks, Mr. Talley and Mr. Cathcart do want to be reappointed.

There are no other applicants available at this time.

Appointments are **by the Board of Directors.** Three appointment are needed; the term will expire June 30, 2013.

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The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: May 10, 2010

SUBJECT: Housing Assistance Board

The terms of Mr. Oberste and Ms. Wallace have expired on April 30, 2010 on the Housing Assistance Board. Mr. Oberste and Ms. Wallace do not want to be reappointed.

The applicants available at this time are:

Karen V. Wuthrich	8913 Copper Oaks Ln
Jim Harris	525 North 39 Street
William Tyler Lamon	5200 North O Street

Appointments are **by the Board of Directors.** Two appointment are needed; the term will expire April 30, 2012.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
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Administrative Offices FAX (479) 784-2430

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