



Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Steve Tyler

Ward 2 – Andre’ Good

Ward 3 – Don Hutchings

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA
Fort Smith Board of Directors
Regular Meeting
June 19, 2012 ~ 6:00 P.M.
Fort Smith Public Schools Service Center
3205 Jenny Lind Road

5:30 p.m. – Reception for Bill Black with the Fort Smith National Historic Site

THIS MEETING IS BEING TELECAST LIVE ON THE GOVERNMENT ACCESS CHANNEL 6

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING

(Section 2-37 of Ordinance No. 24-10)

APPROVE MINUTES OF THE JUNE 5, 2012 REGULAR MEETING

ITEMS OF BUSINESS:

1. Resolution recognizing the contributions of Bill Black to the Fort Smith National Historic Site and the city of Fort Smith
2. Presentation of the 2011 Audit
3. Ordinance amending Chapter 18, Article III of the Fort Smith Municipal Code to amend Sections 18-66 and 18-77 regarding park rules and to add Section 18-81 regarding permits for public assembly or special events in city parks
(Tyler/Hutchings placed on agenda at the June 12, 2012 study session)

4. Consent Agenda

- A. Resolution accepting completion of and authorizing final payment for the construction of 2011 Sidewalk Program, Project No. 11-20-A (\$6,611.68 / *Engineering Department / Budgeted – Sidewalk Program Fund*)
- B. Resolution authorizing the Mayor to execute an agreement, along with Sebastian County, for design and construction oversight with Larkin Group, Inc. for the aquatic facility at Ben Geren Park (\$567,500.00 / *Parks Department / Budgeted – 2012 Sales Tax Bonds*)
- C. Resolution authorizing the utilization of the Construction Manager at Risk construction delivery method for Fire Station No. 11 at Chaffee Crossing (*Hutchings/Weber placed on agenda at the June 12, 2012 study session*)
- D. Resolution accepting bid for the purchase of fire apparatus (\$4,125,920.30 / *Fire Department / Budgeted – 2012 Sales Tax Bonds*)
- E. Resolution accepting bid for the purchase of an asphalt roller (\$41,072.95 / *Street Department / Budgeted – Sinking Fund*)
- F. Resolution amending Resolution No. R-80-11 relative to the purchase of a skid steer loader (\$72,806.00 / *Street Department / Not Budgeted – Sinking Fund*)
- G. Resolution accepting bid for the purchase of a container carrier truck (\$94,937.62 / *Sanitation Department / Budgeted – Sinking Fund*)
- H. Resolution authorizing the execution of a memorandum of understanding concerning mobile data support between the City of Fort Smith, Arkansas and Sebastian County, Arkansas
- I. Resolution authorizing the Mayor to execute an agreement and Authorization Number One with RJN Group, Inc. for the design of the Basin 9 Collection System Improvements (\$197,930.00 / *Utility Department / Budgeted - 2012 Sales Tax Bonds*)
- J. Resolution authorizing the Mayor to execute an agreement and Authorization Number One with RJN Group, Inc. for engineering services for the Basin 17 Collection System Improvements (\$159,608.95 / *Utility Department / Budgeted - 2012 Sales Tax Bonds*)

- K. Resolution authorizing Amendment Number One to Authorization Number Two with RJN Group, Inc. for engineering services for the South 28th Street Sewer Replacement Project (*\$20,184.00 / Utility Department / Budgeted - 2009 Sales Tax Bonds*)
- L. Resolution authorizing Change Order Number Two with Forsgren, Inc. for the construction of the South 28th Street Sewer Replacement Project (*Days only*)
- M. Resolution accepting Consent Administrative Order (*\$2,400.00 / Utility Department / Not Budgeted – to be reimbursed by contractor*)
- N. Resolution authorizing the Mayor to execute Authorization Number Two to the agreement with Brixey Engineering & Land Surveying, Inc. for engineering services for the South 62nd Street Sewer Improvements – S001 (*\$80,234.00 / Utility Department / Budgeted - 2009 Sales Tax Bonds*)
- O. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Forsgren, Inc. for the South 62nd Street Sewer Improvements – S001 (*\$2,134,433.00 / Utility Department / Budgeted - 2009 Sales Tax Bonds*)
- P. Resolution authorizing the Mayor to execute an Authorization Number Three to the agreement with Morrison Shipley Engineers, Inc. for engineering services for the Sunnymede Basin Neighborhood and Ramsey Tributary Sewer Improvements (*\$120,930.00 / Utility Department / Budgeted - 2009 Sales Tax Bonds*)
- Q. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Forsgren, Inc. for the Sunnymede Basin Neighborhood and Ramsey Tributary Sewer Improvements (*\$2,187,107.50 / Utility Department / Budgeted - 2009 Sales Tax Bonds*)
- R. Ordinance declaring an exceptional situation waiving the requirements of competitive bidding and authorizing final payment to the Burgess Company, Inc. for the South 24th Street Zero Street Emergency Sewer Repair – Z001 (*\$29,599.00 / Utility Department / Budgeted – 2009 Sales Tax Bonds*)
- S. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with LTC Resources, Inc.

- T. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Wichita Waste Management
- 5. Resolution directing staff to solicit bid proposals for residential manual refuse collection in alleyways

OFFICIALS FORUM ~ presentation of information requiring no official action

(Section 2-36 of Ordinance No. 24-10)

- A. Mayor
- B. Directors
- C. City Administrator

EXECUTIVE SESSION

- Appointments: Advertising and Promotion Commission (1), Historic District Commission (2), Mechanical Board of Adjustments and Appeals (1), Planning Commission (1) and Port Authority (1)

ADJOURN

DRAFT

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JUNE 5, 2012 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Reverend Walter Brasher of Life Springs Church, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, George Catsavis, Pam Weber, Kevin Settle and Phillip H. Merry, Jr. The Mayor declared a quorum present.

The Mayor inquired if any Board member had any item of business to present that was not already on the agenda. There was none presented.

With regard to the time limit policy for persons wishing to address the Board, the Mayor communicated that five (5) minutes per side would be granted for controversial items with three (3) minutes for rebuttal per side.

The minutes of the May 15, 2012 regular meeting were presented for approval. Hutchings, seconded by Settle, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Mayor Sanders recognized the following Boy Scouts from Troop 4, who were in attendance to earn their Communication Merit Badge:

- ♦ Bruce Jones
- ♦ Tanner Paschal
- ♦ Brandon Green

Item No. 1 was an ordinance rezoning identified property and amending the zoning map (*from Residential Multi-Family High Density (RM-4) and Residential Single Family Duplex Low/Medium Density (RSD-2) to Transitional (T) by classification at 1915 South 74th Street and 7811 Euper Lane*)

June 5, 2012 Regular Meeting

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of Methodist Nursing Home of Fort Smith and Methodist Village Inc. The existing uses on the site include retirement housing and a nursing home facility. Currently, the existing nursing home is a nonconforming land use. The requested Transitional (T) zone is a corrective rezoning, which will allow the nursing home facility to become a conforming use; however, any future expansions of the nursing home facility would require an approved conditional use permit. A neighborhood meeting was held on April 30, 2012 with several property owners in attendance. The Planning Commission held a public hearing on May 8, 2012 with no individual speaking in opposition to the request. The Planning Commission approved the rezoning request by vote of eight (8) in favor and zero (0) opposed.

Settle, seconded by Merry, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 41-12.

Item No. 2 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *~June 2012 amendments ~*

Mr. Bailey briefed the Board on the advising such includes two amendments. In regard to Amendment No. 1, currently single family structures that are within Commercial and Industrial zoning districts are nonconforming land uses. As such they cannot obtain building permits for minor additions. The only mechanism to allow the property owner to make minor improvements to their property is for them to rezone their

June 5, 2012 Regular Meeting

individual lots to residential, which can be costly and time consuming. The proposed amendment will allow minor improvements to single family dwellings without a rezoning application. The Planning Commission unanimously approved this recommendation to amend the UDO accordingly.

In May 2000, the UDO was amended to allow casino gaming businesses in Industrial zoning districts. Such businesses cannot be located within 2,640 feet from churches, schools, parks, day care centers, etc.; however, such restrictions were inadvertently not included in the UDO amendment adopted in 2000. Amendment No. 2, which is included in the proposed ordinance as Section 2, will formally identify the location restrictions. The Planning Commission unanimously approved this recommendation. After further review, staff has discovered that additional amendments may be necessary to thoroughly address all regulations regarding casing gaming businesses. Due to such, staff recommends consideration of Amendment No.2 be tabled to allow staff to more thoroughly review all necessary amendments relating to casino gaming businesses.

Settle, seconded by Hutchings, moved to amend the ordinance to exclude Section 2. The members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Good, moved adoption of the ordinance as amended. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Tyler, moved adoption of Section 4 the emergency clause. The members all voting affirmatively, the Mayor declared the

June 5, 2012 Regular Meeting

motion carried and the ordinance as amended and emergency clause were adopted and given No. 42-12.

Item No. 3 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 *(1426 Phoenix Avenue - Burnt residential structure only and 609 - 611 South 17th Street)*

Mr. Bailey briefed the Board on the item advising the structures have been determined to be unsafe and detrimental to the public welfare; therefore; he recommended approval.

Director Hutchings inquired if staff received any responses to notifications of the impending demolition.

Mr. Bailey merely advised the property has a potential buyer. The individual is trying to address multiple liens prior to the sale; however, the potential buyer has indicated no objection to the proposed demolition.

Tyler, seconded by Merry, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Weber, moved adoption of Section 5 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 43-12.

Item No. 4 was a resolution directing staff to continue manual collection of the

June 5, 2012 Regular Meeting

residential solid waste from the alleyways of specific neighborhoods; and for other purposes ~*Merry/Tyler placed on agenda at the May 29, 2012 study session* ~

City Administrator Ray Gosack briefed the Board on the item advising the proposed resolution directs the Department of Sanitation to abandon the 2012 expansion of the residential automated program and continue manual collection of residential solid waste in alleyways to multiple neighborhoods.

The following individuals addressed the Board and spoke in favor of Item No. 4 citing sensitivity of the weight of the sanitation trucks on brick streets, ease of getting refuse to the curb, and potential rate increases.

- John McIntosh
Fort Smith, AR
- E.A. Mayo
Fort Smith, AR
- Shandrah Bremner
Fort Smith, AR

The following individuals also addressed the Board speaking in opposition to the item citing automated collection is more efficient and cost effective. Mr. Culberson also advised of his intent to file an initiative petition for the issue of citywide automated residential collection be placed on the general election ballot.

- Joel Culberson
Fort Smith, AR
- Belinda McNeu
Fort Smith, AR

There was very lengthy discussion regarding the cleanliness of alleyways, previous survey results, potential sanitation rate increases and overall efficiency of the automated program.

June 5, 2012 Regular Meeting

Tyler, seconded by Catsavis moved adoption of the resolution the members voted as follows: ayes – Tyler, Catsavis, Weber and Merry; nays – Good, Hutchings and Settle. The Mayor declared the motion carried and the resolution was adopted and given No. R-109-12.

Item No. 5 consisted of the following items regarding River Valley Sports Complex at Chaffee Crossing:

- A. Ordinance appropriating funds for 8-field softball tournament complex at Chaffee Crossing
- B. Resolution directing the City Administrator to sign and submit an application to the Assistant Secretary of Defense - Reserve Affairs for the Arkansas Army National Guard to perform clearing, grading and earth work for a softball complex at Chaffee Crossing *~Weber/Merry placed on agenda at the May 29, 2012 study session ~*

Administrator Gosack briefed the Board on the items as discussed at the May 29, 2012 study session. The resolution authorizes the submittal of an application, including the release and hold harmless agreement, for Innovative Readiness Training Request for Military Assistance to the Assistant Secretary of Defense – Reserve Affairs. The organizers of the sports complex have obtained a tentative commitment from the Governor and Arkansas Army National Guard to provide the clearing, grading and earth work for the 8-field softball complex at Chaffee Crossing project at no cost. The ordinance identifies the \$1.6 million in future funds the city has appropriated to meet the requirement of the application. Fund availability will begin in June of 2013 and final funds available in June of 2014. Approval of such will commit the city to the project.

The following individuals were present to address the Board:

- Kent Blochberger
Fort Smith, AR

Re: Alleged the proposal does not address the total cost of the project and he

June 5, 2012 Regular Meeting

questioned if agreements are in place for construction and operation of the project. He further expressed concern that the city is being rushed into a decision without all of the pertinent details needed for the future success of the venture.

- Bob Newbold
Fort Smith, AR

Re: Reiterated Mr. Blochbergers concerns, and expressed concern with how this action will affect the two (2) promised softball fields at Ben Geren.

There was much discussion among the Board whereby Director Settle affirmed the two (2) softball fields at Ben Geren are still on track as promised.

Administrator Gosack advised as stated in his staff report from the May 29, 2012 study session that in order to provide the public funds for the project the city will need to solicit proposals for the construction of the facility, and approve a contract with the selected entity for construction and operation of the completed facility.

Mayor Sanders inquired about the changes to the business plan regarding the increased cost.

Mr. Lee Webb, representing the River Valley Sports Complex, advised changes in the business plan merely increases the complex to eight (8) fields rather than the originally proposed four (4) fields.

Director Catsavis inquired whom is responsible for upkeep of the fields if something unforeseen prohibits the complex from being built on schedule.

If construction of the fields is delayed, Mr. Webb advised the area must be stabilized and confirmed that funds from a private donor are in place to accomplish such.

Good, seconded by Merry, moved adoption of Item No. 5A. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was

June 5, 2012 Regular Meeting

adopted and given No. 44-12.

Merry, seconded by Good, moved adoption of Item No. 5B. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-110-12.

The Consent Agenda (Item No. 6) was introduced for consideration, the items being as follows:

- A. Ordinance authorizing the Mayor to execute an agreement with the Fort Smith Tigers Softball Program (*\$1,919.96 / Mayor / Not Budgeted - 4100 - 219*)
- B. Ordinance to abandon a public utility easement located in 7110 Group Addition, an addition to the City of Fort Smith, Sebastian County, Arkansas
- C. Resolution authorizing a time extension and assessing liquidated damages for the construction of Street Overlays/Reconstruction Project No. 11-03-A
- D. Resolution accepting completion of and authorizing final payment for the construction of Street Overlays/Reconstruction Project No. 11-03-A (*\$19,116.56 / Engineering Department / Budgeted - Sales Tax Program Fund*)
- E. Resolution authorizing an amendment to the engineering services agreement for the design of Jenny Lind Road and Ingersoll Avenue Project No. 07-01-A, AHTD Job No. 040471 (*\$2,582.39 / Engineering Department / Budgeted - Sales Tax Program Fund*)
- F. Resolution authorizing an amendment to the engineering services agreement for the design of the Arkansas River Levee Repair, Project No. 06-06-A (*\$35,515.00 / Engineering Department / Budgeted - Sales Tax Program Fund*)
- G. Resolution authorizing an agreement with the Lutheran Duval Neighborhood Association, Inc. to maintain a neighborhood park at 623 North 13th Street

June 5, 2012 Regular Meeting

- H. Resolution authorizing the Mayor to execute an agreement with Windstream Communications, Inc. for use of the city rights-of-way to provide fiber-optic services within the corporate limits of the City of Fort Smith, Arkansas; and for other purposes
- I. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith, Arkansas and Sebastian County, Arkansas regarding the 2012 Edward Byrne Memorial Justice Assistance Grant (JAG) Program
- J. Resolution approving an architectural services agreement with Guest Reddict Architects for architectural services related to the design and construction of Fire Station No. 11 and a public access street at 8900 Massard Road (\$170,500.00 / Fire Department / Budgeted - 2012 Sales Tax Bonds)
- K. Resolution authorizing acquisition of real property interests for the Sunnymede Basin Neighborhood and Ramsey Tributary Sewer Improvements (\$3,857.90 / Utility Department / Budgeted -2009 Sales Tax Bonds)
- L. Resolution authorizing acquisition of real property interests for the Zero Street Neighborhood Improvements (\$43.75 / Utility Department / Budgeted - 2012 Sales Tax Bonds)
- M. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with Hawkins-Weir Engineering, Inc. for the design of the Mill Creek Interceptor Improvements – Phase I (\$200,000.00 / Utility Department / Budgeted - 2012 Sales Tax Bonds)
- N. Resolution accepting the project as complete and authorizing final payment to Branco Enterprises, Inc. for construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2 (\$116,754.00 / Utility Department / Budgeted - 2009 Sales Tax Bonds)
- O. Resolution accepting the project as complete and authorizing final payment to M. Phillips Construction, Inc. for the Sunnymede Basin Neighborhood Sewer Improvements - Phase I (\$290,036.18 / Utility Department / Budgeted - 2009 Sales Tax Bonds)

June 5, 2012 Regular Meeting

- P. Resolution accepting the project as complete and authorizing final payment to Goodwin & Goodwin, Inc. for construction of the Lift Station 7 & 14 Replacement/Consolidation (*\$92,110.28 / Utility Department / Budgeted - 2008 Revenue Bonds*)

Regarding Item No. 6H, the following individual was present to address the Board:

- ◆ Joe Minor, Construction Manager for Windstream Communications
Tulsa, OK

Re: Merely spoke in favor of the item citing such will allow placement of the fiber-optic cables in city right-of-ways.

Hutchings, seconded by Weber, moved adoption of the consent agenda items.

The members all voting affirmatively, the Mayor declared the motion carried and the resolutions and ordinances were adopted with the ordinances given No. 45-12 and 46-12 and the resolutions numbered R-111-12 through R-124-12 respectively.

Mayor Sanders opened the Officials Forum with the following comments offered:

- Mayor Sanders

Re: 1. Announced the monthly town hall meeting will occur immediately following adjournment and reminded five (5) minutes per person will be allotted for individuals to present matters to the Board.

2. Extended much appreciation to the veterans and people involved who participated in the Memorial Day service at the National Cemetery.

- Director Weber

Re: 1. Merely announced the Goodyear blimp was in Fort Smith and extended a heartfelt welcome.

2. Expressed much appreciation for the Bass Reeves Statue dedication ceremony.

June 5, 2012 Regular Meeting

- Director Merry
 - Re: 1. Expressed much appreciation to the Mayor, Police and Fire for their presentation and involvement in the Bass Reeves Statue dedication ceremony.
 - 2. Conveyed heartfelt gratitude to Griffin Charitable Organization for the donation of the historic signs, which were recently installed in various locations downtown.
- Administrator Gosack
 - Re: Announced the Park at West End has had increased attendance and doing very well this year so far.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Good, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:38 p.m.

APPROVED:

Mayor

ATTEST:

City Clerk

RESOLUTION NO. _____

A RESOLUTION RECOGNIZING THE CONTRIBUTIONS OF
BILL BLACK TO THE FORT SMITH NATIONAL HISTORIC SITE
AND THE CITY OF FORT SMITH

WHEREAS, William “Bill” Black, through his employment by the National Park Service, has effectively served as Superintendent of the Fort Smith National Historic Site for a period of twenty (20) years; and

WHEREAS, Under Mr. Black’s leadership, the Fort Smith National Historic Site has seen significant improvements and major rehabilitation, including the planning and development of its Visitor Center and related exhibits, and the renovation and restoration of the site following the devastation of the 1996 tornado; and

WHEREAS, Mr. Black served admirably in his capacity as Superintendent, developing and maintaining effective relationships with local, state and other Federal government agencies, officials, working with the National Park Service to purchase the historic Frisco Station, participating in the Bass Reeves statue project from inception to completion, and working with community organizations to the benefit of the historic site, the City of Fort Smith, and the surrounding community; and

WHEREAS, Mr. Black has accepted a new assignment from the National Park Service and is leaving the Fort Smith area after these many years of service.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of Fort Smith, Arkansas, that:

Section 1. The City of Fort Smith hereby recognizes and thanks Mr. Bill Black for his effective leadership and contribution to the continued success and development of the Fort Smith Historic Site during his twenty year tenure at the Site.

Section 2. In addition, the City of Fort Smith hereby recognizes Mr. Bill Black’s contributions to the interpretations of the City of Fort Smith’s overall history, his active participation in the advancement and development of

downtown Fort Smith, and for his overall service to the City and the surrounding community.

Section 3. On behalf of the citizens of the City of Fort Smith, the Board of Directors hereby thanks Mr. Black for his service, and expresses a wish of continued success for Mr. Black and his family.

ADOPTED and APPROVED this 19th day of June, 2012.

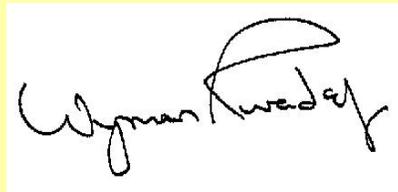
APPROVED

Mayor

ATTEST

City Clerk

APPROVED AS TO FORM:



City Attorney

No publication required

Memo



To: Ray Gosack, City Administrator
From: Jeff Dingman, Deputy City Administrator
Date: 6/14/2012
Re: Resolution recognizing Bill Black

Included on the June 19 agenda for the Board of Directors' regular meeting is a resolution recognizing the service of Mr. Bill Black, who is leaving Fort Smith after serving more than 20 years as superintendent of the Fort Smith National Historic Site. Mr. Black is being assigned to a new post within the National Park Service.

In his time at the Fort Smith National Historic Site, Mr. Black has been involved in many projects, such as recovery from the 1996 tornado and projects to improve the visitor center and its exhibits. Mr. Black has championed downtown projects and the Fort Smith community as a whole.

There will be a reception for Mr. Black before the board meeting, starting at 5:30pm. The park service will be hosting an afternoon reception for him on June 26.



2

MEMORANDUM

June 19, 2012

TO: Ray Gosack, City Administrator

FROM : Kara Bushkuhl, Director of Finance *KB*

SUBJECT: 2011 CAFR Presentation

The formal presentation for the comprehensive annual financial report (CAFR) is scheduled for the June 19, 2012 Board of Directors meeting. Mr. George Moschner of the audit advisory committee (AAC), will make the presentation. Electronic copies of the CAFR were distributed to Administration and the Board of Directors on Thursday, June 14th via email.

Should you have any questions, please don't hesitate to call me.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 18, ARTICLE III, OF THE
FORT SMITH MUNICIPAL CODE TO AMEND SECTIONS 18-66 AND 18-77
REGARDING PARK RULES AND TO ADD SECTION 18-81 REGARDING
PERMITS FOR PUBLIC ASSEMBLY OR SPECIAL EVENTS IN CITY PARKS

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

SECTION 1: The Fort Smith Municipal Code is hereby amended to amend Sections 18-66 and 18-77 and to add Section 18-81 to Chapter 18, Article III:

Sec. 18-66.

No abusive, profane or indecent language or other conduct reasonably calculated to annoy or disrupt any recreational program or other authorized activity will be permitted within any park area whether the program or activity is provided by the City of Fort Smith or authorized by the Director of the Parks and Recreation Department or his or her designee through a permit for a specific time and place within city parks.

Sec. 18-77.

The sale, solicitation, or exhibit of goods or services is prohibited in any park area. This prohibition shall not apply to vendors and individuals holding a valid Parks and Recreation Department concessions or use permit or authorized under a public assembly or special events permit issued by the Director of the Parks and Recreation Department or his or her designee.

Sec. 18-81. Permits for Public Assembly or Special Events in City Parks.

- (1) Definitions
 - a. "Appeal" shall have the meaning set forth in subsection (12).
 - b. "Applicant" means the person or entity that seeks the issuance of a Permit.
 - c. "Application" means a written application for a Permit on a form prescribed for such purpose.
 - d. "City" means "The City of Fort Smith" acting through its Parks and Recreation Department.
 - e. "City Property" herein means all City parks, plazas and public spaces that have

been constructed or maintained under the administration of the Parks and Recreation Department. The term “City Property” herein shall not include City facilities or grounds not under the auspices of the Parks and Recreation Department.

- f. “Permit” means a written authorization issued by the Parks and Recreation Department for the staging or production of a Public Assembly or Special Event on City Property under stated terms and conditions.
- g. “Permittee” means the person or entity to whom a Permit is issued.
- h. “Permit Denial” means a written notice from the Director of the Parks and Recreation Department or his or her designee informing an Applicant that the Applicant’s Application for a Permit has been denied. (see subsection 10 below)
- i. “Permit Revocation” means a written notice from the Director of the Parks and Recreation Department or his or her designee informing a Permittee that the Permit has been revoked. (see subsection 11 below)
- j. “Public Assembly” means a demonstration, a meeting or gathering, a rally or protest event, a political rally or event, speechmaking, marching, the holding of vigils or religious services, and all other like forms of conduct on City Property, the primary purposes of which is expressive activity or the communication or expression of views or grievances, that (1) is engaged in by more than fifty (50) persons and the conduct of which has the effect, intent, or propensity to draw a crowd of onlookers, or (2) will occur on or in any City property administered by the Parks and Recreation Department without compliance with the normal and customary regulations or controls governing such places. The term “Public Assembly” shall not mean the casual use of City Property or “Special Event.”
- k. “Public Assembly or Special Event Sponsor” means the person or entity that is responsible for the staging or production of a Public Assembly or Special Event.
- l. “Special Event” means a public spectator event or attraction, concert, sports event, pageant, ceremony or similar event that is open to the public and reasonably calculated to attract fifty (50) or more persons.

(2) Permit Requirement for a Public Assembly or Special Event

No person or entity shall conduct or hold a Public Assembly or Special Event on City Property without first obtaining a Permit from the Director of the Parks and Recreation Department or his or her designee.

(3) Application for Permit

- a. The Applicant must apply for a Permit by filing an Application, in person or by U.S. mail, fax, or electronic means with the Parks and Recreation Department at Creekmore Community Center, 3301 South M Street, Fort Smith, Arkansas 72903.
- b. The Application must be filled out completely and signed and dated by the Applicant. If the Public Assembly or Special Event is sponsored or produced by an entity, a person legally authorized to bind the entity must also sign the Application.
- c. The Application must contain the following information:
 1. the name; address; e-mail address, if available; day-time telephone number; and fax number, if available, of the Applicant;
 2. the name of the person who will be in charge of the Public Assembly or Special Event on-site;
 3. the name; address; e-mail address, if available; day-time telephone number; and fax number, if available, of the Public Assembly or Special Event Sponsor;
 4. the date, time, duration, and location of the proposed Public Assembly or Special Event (including the set up and take down times);
 5. an estimate of the approximate number of persons who are reasonably expected to attend the Public Assembly or Special Event;
 6. if the Public Assembly or Special Event will include a march, a detailed description of the proposed route of the march (with assembling, starting, and ending points) and the proposed starting and ending times for the march;
 7. a statement of any equipment expected to be used by the Applicant or Public Assembly or Special Event Sponsor;
 8. a statement of any equipment or facilities that the Applicant or Public Assembly or Special Event Sponsor desires to use from the Parks and Recreation Department;
 9. if the Public Assembly or Special Event is a spontaneous event which has been planned in response to a specific occurrence, such occurrence must be briefly described; and

10. a certification that the Applicant and Public Assembly or Special Event Sponsor will comply with all governmental rules and regulations applicable to the Public Assembly or Special Event.
 - d. After submission of an Application, the Applicant must immediately provide the Parks and Recreation Department with any information that will amend, supplement or change any of the information originally provided in the Application.
- (4) Application Deadlines for Public Assembly or Special Event
- a. Public Assembly:
 1. The Application for a Permit must be submitted to the Parks and Recreation Department at least five (5) business days prior to the proposed date and time of the Public Assembly. However, the Parks and Recreation Department will accept Applications less than five (5) days prior to the proposed date and time of the Public Assembly, provided, however, that the proposed Public Assembly is a spontaneously planned event in response to a recent occurrence (e.g., a march or rally that is timed to coincide with a recent or future political or other announcement, decision, determination, or declaration by a local, state, or federal official).
 2. Where (1) the Applicant has requested the Parks and Recreation Department to provide special or technical services for purposes of assisting in the production or staging of the Public Assembly, (2) the Applicant has requested or requires the rental and use of Parks and Recreation Department owned equipment or facilities for the production or staging of the Public Assembly, or (3) the Applicant intends to erect fixed structures upon City Property, e.g., sound stage or canopies, the Application for a Permit must be submitted to the Parks and Recreation Department at least forty-five (45) days prior to the proposed date and time of the Public Assembly. Absent extraordinary circumstances, the Parks and Recreation Department will not accept Applications meeting the criteria of this subsection beyond this forty-five (45) day deadline.
 3. An Application shall be deemed submitted on the date it is received by the Parks and Recreation Department or, if received on a holiday, after normal business hours, or on a day City offices are otherwise closed, on the next business day.
 - b. Special Event
 1. The Application for a Permit must be submitted to the Parks and Recreation Department at least forty-five (45) days prior to the proposed date and time of the Special Event. Absent extraordinary circumstances,

the Parks and Recreation Department will not accept Applications meeting the criteria of this subsection beyond this forty-five (45) day deadline.

2. An Application shall be deemed submitted on the date it is received by the Parks and Recreation Department or, if received on a holiday, after normal business hours, or on a day City offices are otherwise closed, on the next business day.

(5) Deposits for Public Assembly or Special Event

- a. Prior to issuance of a Permit, a Deposit in the amount of \$500 shall be required to cover costs of any damage to the facility such as restoration, rehabilitation, and cleanup of the area used, as well as other costs resulting from the Public Assembly or Special Event. It is the Applicant's responsibility to return the property to the condition it was in prior to the event. The Applicant agrees to reimburse the City for clean up and restoration that exceeds \$500.

(6) Order of Processing

The Parks and Recreation Department will process Applications for a Permit in the order that they are received. The Parks and Recreation Department will allocate the use of a particular City Property or a part thereof among competing Applicants in the order of receipt of fully executed Applications together with the required application fee. The Parks and Recreation Department will have priority use of the requested City Property where the proposed Public Assembly or Special Event conflicts or interferes with a previously scheduled event or with an annual or otherwise regularly-held event or ceremony that is sponsored by or on behalf of the Parks and Recreation Department.

(7) Grounds for Denial of Application for Permit

- a. The Parks and Recreation Department will approve an Application and grant a Permit unless there is a sufficient basis for denial of the Application.
- b. To the extent permitted by law, the Parks and Recreation Department may deny an application for permit if the applicant or person or entity on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant. An application for permit may also be denied on any one of the following grounds:
 1. the Application for a Permit (including any required attachments and submissions) is not fully completed and executed;

2. the Application for a Permit contains a material falsehood or misrepresentation;
3. the Applicant has not tendered any required deposit;
4. the proposed Public Assembly or Special Event conflicts or interferes with a previously scheduled, annual, or otherwise regularly-held event or ceremony that is sponsored by or on behalf of the Parks and Recreation Department or any other person or entity at the same City Property for the same date and time;
5. a fully executed prior Application for a Permit for the same City Property and for the same date and time has been received, and a Permit has been or will be granted to a different Applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular City Property or part thereof;
6. the property sought to be used for the Public Assembly or Special Event is closed or partially closed for construction, renovations, or other reasons, and use of the City Property may reasonably pose a threat to the safety of participants or may reasonably pose an adverse impact upon the natural environment of the City Property;
7. the Public Assembly or Special Event will substantially or unnecessarily interfere with traffic in the area contiguous to the activity, and will unreasonably disrupt movement or circulation of vehicular or pedestrian traffic, unless there are readily available at the time of the proposed Public Assembly or Special Event sufficient city resources to mitigate any interference or disruption;
8. there are unavailable at the time of the Public Assembly or Special Event a sufficient number of police officers to police and protect participants in the Public Assembly or Special Event and non-participants from traffic related hazards in light of the other demands for police protection at the time of the proposed Public Assembly or Special Event or the Public Assembly or Special Event will otherwise place an undue burden on other personnel resources of the City.
9. the Parks and Recreation Department has revoked a Permit which was previously issued to the Applicant or has revoked a permit for a Public Assembly or Special Event that was previously sponsored by the Public Assembly or Special Event Sponsor;
10. the size of the City Property cannot safely and reasonably accommodate the expected number of participants in the Public Assembly or Special

Event without an unduly adverse impact upon the landscape, planting, or natural environment of the City Property;

11. the Public Assembly or Special Event and the concentration of persons, vehicles or things at the assembly or event and disbanding areas is reasonably expected to have an unduly adverse impact on the public health or safety of the Applicant, other users of the City Property, City employees, or the public (e.g., the Public Assembly will unreasonably interfere with the movement or service capabilities of police vehicles, fire fighting equipment, or emergency medical or ambulance services);
12. the Public Assembly or Special Event will unreasonably interfere with customary functions and uses of, and ingress and egress to and from, buildings that are immediately adjacent to the City Property;
13. the Applicant, or the person or entity on whose behalf the Application for a Permit was made, has on prior occasions damaged City Property and has not paid in full for such damage;
14. the Applicant, or the person or entity on whose behalf the Application for a Permit was made, has not reimbursed the Parks and Recreation Department for requested Parks and Recreation Department personnel or equipment or facilities utilized in connection with a previously issued Permit.
15. the Applicant has not complied or cannot comply with applicable licensure requirements, ordinances, or regulations of the City concerning the sale or offering for sale of any goods or services, including the requirement to obtain a City business privilege license;
16. the Public Assembly or Special Event is prohibited by law, including but not limited to, applicable City ordinances and regulations;
17. the City Property requested is a non-public forum that has not been opened for expressive activity to the general public; or
18. the Application is sought for an event that is more appropriately covered by the Parks and Recreation Department's Special Events Policy or an event that does not satisfy the definition of "Public Assembly."

(8) Action of Application: Amendment or Revision of Applications

- a. In the case of Applications submitted for Public Assembly under the deadline set forth in subsection 4(a) above, the Director of the Parks and Recreation

Department or his or her designee will grant or deny the Application within two (2) business days after receipt of the Application.

- b. In the case of Applications submitted under the deadline set forth in subsection 4(a)(2) above, the Director of the Parks and Recreation Department or his or her designee will grant or deny the Application within thirty (30) days of receipt of the Application.
- c. Any amendment or revision of an Application for a Permit for either a Public Assembly or Special Event will for purposes of determining the priority of the Application, relate back to the original filing thereof; but the time within which the Parks and Recreation Department will grant or deny the Application for a Permit will be computed from the date of amendment or revision.

(9) Notice of Action; Issuance of Permit

- a. The Parks and Recreation Department will immediately provide to the Applicant notice of the grant or denial of the Application for a Permit in accordance with the written instructions of the Applicant in the Application.
- b. Upon approval of the Application for a Permit, the Parks and Recreation Department will issue to the Applicant a Permit denoting the location of the City Property, and the date, time, and duration for which the Permit is valid. The Permit will note thereon any reasonable restrictions, and any other special requirements, that are applicable to the Permit.
- c. The Permit will be made available for personal pick up by the Applicant, or will be transmitted to the Applicant, in accordance with the written instructions of the Applicant in the Application.
- d. A Permit cannot be transferred or assigned, except that a Permit may be assigned or transferred to an entity that is a legal successor to the Permittee only after obtaining written permission from the Parks and Recreation Department.

(10) Denial of Application; Contents of Notice

- a. In the Permit Denial, the Parks and Recreation Department will expressly set forth all grounds upon which the Application for a Permit was denied.
- b. Where feasible and applicable, the Permit Denial will contain a proposal by the Parks and Recreation Department for measures by which the Applicant may cure any identified defects in the Application.
- c. Where the grounds for the Permit Denial are those identified in subsection 7(b)(4, 5, 6, 7, 8, 10, 11, or 12) above, the Parks and Recreation Department will offer to

the Applicant:

1. a proposal to hold the Public Assembly or Special Event at different City Property, if available, for the same date and time, so long as the alternate City Property is reasonably similar to the proposed location with comparable public visibility; or
 2. a proposal to hold the Public Assembly or Special Event at the same City Property, if available, but on an alternative date or time.
- d. The Parks and Recreation Department will transmit the Permit Denial to the Applicant in accordance with the written instructions of the Applicant in the Application or make the Permit Denial available for personal pick up by the Applicant.
 - e. An Applicant desiring to accept an alternate proposal made by the Parks and Recreation Department in accordance with subsection (10)(c) above will promptly notify the Parks and Recreation Department in writing of its acceptance.

(11) Permit Revocation

Upon written notice to a Permittee, the Parks and Recreation Department may revoke a Permit, where it has been determined that: the Permittee does not intend to comply with, cannot comply with, or has violated, any of the conditions or restrictions applicable to the Permit, including but not limited to the following:

- a. failure of the Applicant to obtain any permits or licenses that are legally required by The City of Fort Smith Code or any City ordinances in connection with the Public Assembly or Special Event;
- b. failure of the Applicant to remit any required user fee(s) or deposit(s) for City-owned equipment or facilities;
- c. or failure to comply with any conditions applicable to the Permit.

(12) Procedures for Appeal of Permit Denials and Permit Revocations

- a. An Applicant who is denied a Permit, or a Permittee whose Permit has been revoked, may file a written Appeal from such Permit Denial or Permit Revocation with the City Administrator or his or her designee.
- b. The Appeal must state succinctly the grounds upon which it is asserted that the Permit Denial or Permit Revocation should be modified or reversed. The Appeal must be accompanied by copies of the Application for a Permit, the written Permit

Denial or Permit Revocation from the Parks and Recreation Department, and any other papers or documentation material to the determination.

- c. The City Administrator or his or her designee shall promptly affirm, modify, or reverse the Permit Denial or Permit Revocation and give notice in writing of the final decision to the Applicant. The City Administrator or his or her designee's decision shall be the final decision of the City.

(13) Permit Restrictions and Permissions

- a. The Parks and Recreation Department may place reasonable restrictions on the conduct of a Public Assembly or Special Event, which restrictions may consider the customary use and nature of the City Property, recreational use policies, the size and location of the City Property, and the degree to which the Public Assembly or Special Event might interfere with the customary uses and adopted recreational use policies for the City Property.
- b. Applicants of Permitted Public Assemblies or Special Events have authorization from the Parks and Recreation Department to select food or merchandise vendors that comply with applicable public health codes and City business regulations to provide goods and services at the permitted Public Assembly. The Applicant may prohibit food and merchandise vendors at their discretion within the permitted area during the duration of the Permit.
- c. Applicants of Permitted Public Assemblies or Special Events may allow the solicitation of signatures for petitions, gifts, money, or for goods or services within the Permitted area during the duration of the Permit.

(14) Compliance with Applicable Law

- a. A Permittee must comply with all applicable provisions of The City of Fort Smith Municipal Code and all City ordinances, including those provisions concerning food and noise levels. A Permittee must obtain, in advance of a Public Assembly or Special Event, separate permits for certain activities that are accessory to a Public Assembly or Special Event, including, but not limited to, vending of food and goods, special parking facilities, hanging banners, setting up tents, use of fireworks, and serving alcoholic beverages.
- b. Failure to obtain any such permits may be a basis for revocation of a Permit.
- c. The issuance of a Permit will not supersede a requirement for the Applicant to obtain any other permits required by law.

(15) Insurance

- a. The Applicant shall procure and maintain a general liability insurance policy of at least \$300,000 at all times during the Applicant's use of City Property and shall name "The City of Fort Smith" as an additional insured thereunder.
- b. The Applicant shall provide the Parks and Recreation Department with a certificate of insurance from the insurer evidencing such coverage prior to the Applicant's use of the City Property, and within the time prescribed by the Parks and Recreation Department. The certificate shall also provide that the insurer shall give the Parks and Recreation Department reasonable advance notice of insurer's intent to cancel the insurance coverage provided.

(16) Indemnity Agreement

Upon submission of an Application and the issuance of a Permit, each Applicant shall be deemed to have agreed to defend, indemnify and hold harmless the City, its elected and appointed officials, agents, and employees, from and against any and all claims against the City, its elected and appointed officials, agents, and employees, and for all damage or losses to City-owned buildings, structures, or other property, which arise from the acts or omissions of the Applicant or persons within or under the direct control or supervision of the Applicant (e.g., employees).

(17) Reimbursement of City Equipment and Facilities Costs

- a. Each Public Assembly or Special Event Sponsor shall pay any applicable rental fees in advance of the Public Assembly or Special Event, for any and all equipment and facilities to be provided by the Parks and Recreation Department for use in connection with the production or staging of the Public Assembly or Special Event. A schedule of such equipment and facility rental fees shall be provided to an Applicant upon request.
- b. Following the conclusion of a Public Assembly or Special Event, the Public Assembly or Special Event Sponsor shall pay the Parks and/or Recreation Department for the repair and/or replacement costs (as determined by the Parks and Recreation Department in its sole discretion) of equipment and/or facilities not returned or returned in an unacceptable condition (reasonable wear and tear excepted).

(18) Reimbursement of City Personnel Costs

Each Public Assembly or Special Event Sponsor shall reimburse the Parks and Recreation Department an amount equal to all applicable personnel costs for services that are specifically requested from the Parks and Recreation Department for the purpose of staging and conducting the Public Assembly or Special Event.

(19) Waiver of Insurance Requirement

- a. Any requirement for insurance may be waived by the City Administrator, or his or her designee, if the requirement will be so financially burdensome that it will preclude the Applicant from using City Property for the proposed Public Assembly. A waiver of the insurance requirement contained in subsection 15 shall not be permitted where the Public Assembly will require equipment, services, or facilities set forth in subsection 4(a)(2). A waiver of the insurance requirement shall not be permitted for Special Events.
- b. Fees for City-owned equipment, facilities, and City-provided services that are requested by the Applicant cannot be waived pursuant to this subsection.
- c. Application for a waiver of the insurance requirement shall be made simultaneously with the Application and must include an affidavit by the Applicant and sufficient financial information about the Applicant to enable the City Administrator, or his or her designee, to determine whether the insurance requirement will be so financially burdensome that it will preclude the Applicant from using the City Property for the proposed Public Assembly.

SECTION 2: Severability. In the event that any provision of this Ordinance, or the application thereof to any person or circumstance, shall be judged invalid, the remainder of this Ordinance and the application of any such remaining provisions to other persons or circumstances shall not be affected thereby.

SECTION 3: Emergency Clause. An emergency is hereby declared to exist relating to the appropriateness of the rules and regulations for Fort Smith Parks. Therefore this Ordinance shall be in full force and effect upon and after the date of passage.

Passed and approved this _____ day of June, 2012.

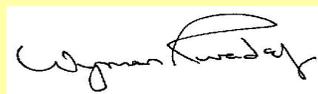
APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



Publish 1 Time



Memo:

June 14, 2012

To: Ray Gosack, City Administrator
From: Mike Alsup, Parks and Recreation Director
Re: An ordinance proposing Section 18-81 of the Fort Smith Municipal Code, a section to provide regulations for Public Assembly and Special Events, and amendments to Sections 18-66 and 18-77

The Parks and Recreation Commission recommends approval of an ordinance to add Section 18-81 to the Municipal Code and to amendment Sections 18-66 and 18-77.

An ordinance proposing a section be added to the Municipal Code to provide regulations for special events and public assemblies with anticipated attendance of over fifty (50), was submitted to the Board of Directors in November; the Board tabled the proposed ordinance for review by the State Attorney General. Revisions were made to address concerns expressed with the original proposal prior to Attorney General McDaniel's review. His review was received and the proposed section was revised to address issues written in the Attorney General's, opinion. Gatherings with an anticipated attendance of less than fifty (50) are not affected. Also, someone circulating a petition in a park would not be affected provided the activity does not disrupt other programs and patrons in the park.

The court case of Thomas versus Chicago Park District and other sources were used in the opinion to provide an analysis of the proposed ordinance in regard to the First Amendment of the U.S. Constitution. Of particular note is the U.S. Supreme Court decision that regulations of this type are legitimate.

I. The proposed ordinance

The proposed ordinance is clearly aimed at coordinating multiple uses of the city's public parks, ensuring that park facilities are preserved from damage, and ensuring that attendees are protected from dangerous or unlawful activity. The U.S. Supreme Court has declared that these purposes are legitimate governmental interests. The proposed ordinance attempts to accomplish this set of goals by establishing a system for obtaining a permit or license for all "Public Assemblies" or "Special Events" that people plan to hold in a public park. (Page 2, Attorney General Opinion)

The "Application" of the opinion located on pages 4 through 6 lists five (5) issues to be considered. The proposed ordinance was revised to address these issues.

The first issue is limiting the permitting authority's ability to deny a permit. The Director of Parks and Recreation or his or her designee is the permitting authority. The permitting authority must only be able to deny a permit based on Section 7 Grounds for Denial of Application for Permit. Denial of an application is not left to his or her discretion.

The second issue is duplicative provisions. The City Attorney addressed this issue; the number of grounds for denial was reduced from twenty-two (22) to eighteen (18).

The third issue concerns the constitutionality of allowing a permitted group to exclude others from the park. This issue was addressed by eliminating the permitted group's ability to deny access to the park. The Parks and Recreation Department staff and City of Fort Smith Police officers may deny access to individuals who are disrupting recreational programs in City parks according to Municipal Code 18-66, Disruption of recreational programs.

The fourth issue concerned the number of people anticipated at a Special Event constituting the need for a permit. This was addressed by adding a designation of fifty (50) or more persons to the definition of Special Event.

The fifth issue concerns the \$500 fee/deposit. There is no fee recommended to apply for a permit. The deposit is to cover the cost of restoration and clean up of the permitted area in the event the permittee does not leave the premises in the condition the property was in prior to the event. No changes were needed for this issue. The Department's normal fees to use facilities apply for special events and public assemblies such as room reservation fees.

The regulations were modeled after the City of Philadelphia's regulations for use of parks facilities. The issues Attorney General McDaniel brought to light in the opinion have been addressed. These issues were based on case law with special consideration given to a case involving the City of Chicago Park District's regulations governing the use of their facilities. The Supreme Court has declared that regulating the use of municipal park facilities is permissible to preserve the facilities and protect the people.

The amendments to ordinances 18-66 and 18-77 are needed for consistency with the proposed ordinance. The amendments to both sections include verbiage relating to activities permitted by the Director of Parks and Recreation addressed in proposed Section 18-81.

The amendment to section 18-66 includes ... or "other" conduct... The original language primarily addresses verbal disruptions of recreational activities. Other conduct may also disrupt recreational activities. Disruptions that are not abusive, profane, or indecent language might include someone bringing a guitar to a concert and singing their own song or someone loudly expressing their view about a subject during an event. This amendment

will give Police officers or Parks Department staff the authority to stop disruptive language or behavior at recreational activities on park property or property maintained by the Parks Department.

The amendment to section 18-77 gives acknowledgment to the permitting procedure currently in place. The amendment will make the procedure enforceable.

Please call me with any questions.



STATE OF ARKANSAS
THE ATTORNEY GENERAL
DUSTIN MCDANIEL

MAY 04 2012
FORT SMITH
Parks & Recreation

Opinion No. 2012-025

May 2, 2012

The Honorable Denny Altes
State Representative
8600 Moody Road
Fort Smith, Arkansas 72903-6718

Dear Representative Altes:

You have asked for my opinion on the constitutionality of a proposed ordinance in the City of Fort Smith, Arkansas governing public assemblies in public parks.

RESPONSE

Having reviewed the 10-page ordinance, I must begin by saying that this office is not authorized or equipped to construe local ordinances.¹ Any attempt to fully assess this proposed ordinance's constitutionality would require me to interpret some of its provisions to ascertain the drafters' intent. Accordingly, I am somewhat limited in the scope of my review. I can simply explain some of the many issues that typically arise in the context of these kinds of ordinances and I can direct you to the applicable case law.

DISCUSSION

I will begin this analysis by briefly explaining the apparent general goals of this 10-page ordinance and the means by which the proposal intends to accomplish this set of goals. With this general understanding of the ordinance in place, we will be able to see that the body of law most relevant to a constitutional analysis of the ordinance is the First Amendment to the U.S. Constitution. Finally, I will briefly note how the First Amendment applies to laws like this proposed ordinance. Some issues of interpretation and definitional problems prevent me from being able to

¹ *E.g.*, Op. Att'y Gen. Nos. 2007-235, 2004-235 (both noting that the opinion-rendering function of this office is not an appropriate vehicle for interpreting local ordinances).

fully apply the First Amendment to the ordinance and reach a definitive conclusion regarding its constitutionality.

I. The proposed ordinance

The proposed ordinance is clearly aimed at coordinating multiple uses of the city's public parks, ensuring that park facilities are preserved from damage, and ensuring that attendees are protected from dangerous or unlawful activity. The U.S. Supreme Court has declared that these purposes are legitimate governmental interests.² The proposed ordinance attempts to accomplish this set of goals by establishing a system for obtaining a permit or license for all "Public Assemblies" or "Special Events" that people plan to hold in a public park.

II. The First Amendment

a. General statement of applicable law

Laws that require people to obtain a permit before speaking in a public forum (like a city park) implicate the First Amendment to the U.S. Constitution, which states that "Congress shall make no law...abridging the freedom of speech...or the right of people to peaceably assemble..." The U.S. Supreme Court has held that the Fourteenth Amendment to the U.S. Constitution makes the First Amendment applicable to every level of state and local government.³

Under the First Amendment, a law is considered a "prior restraint" on speech if, among other things, the law requires those wanting to engage in speech to obtain a license or permit before doing so. The U.S. Supreme Court has explained that prior restraints "are the most serious and least tolerable infringement on First Amendment rights,"⁴ and that because prior restraints are generally presumed to be unconstitutional, the governmental entity that has enacted the restraint has a heavy burden to show that the law is constitutional.⁵

² See *Thomas v. Chicago Park Dist.*, 534 U.S. 316, 322 (2002).

³ E.g., *Thornhill v. Alabama*, 310 U.S. 88, 95 (1940).

⁴ *Nebraska Press Assn. v. Stuart*, 427 U.S. 539, 559 (1976).

⁵ *New York Times v. United States*, 403 U.S. 713, 714 (1971).

The Supreme Court has developed a multi-part test to which all prior restraints must be subjected. The test can be illustrated concisely through a series of questions:

First, is the law content neutral?

If yes, then the law is subjected to the next question.

If no, then the law is subjected to strict scrutiny.⁶

Second, does the law serve an important government interest?

If yes, then the law is subjected to the next question.

If no, then the law is invalidated.

Third, is the law (i) a valid restriction on the time, place, and manner of speech that (ii) leaves adequate alternatives for speech?

If yes, then the law is subjected to the next question.

If no, then the law is invalidated.

Fourth, does the law give clear criteria to the licensing/permitting authority that leaves it with virtually no discretion?

If yes, then the law is subjected to the next question.

If no, then the law is invalidated.

Fifth, does the law provide procedural safeguards that require a prompt response to a request for a license/permit?

If yes, then the law is upheld.

If no, then the law is invalidated.⁷

b. Elaboration on question four

In what follows, I will focus mostly on the fourth question. The seminal case addressing question four as it applies to licensing/permitting systems for public parks is the 2002 U.S. Supreme Court case *Thomas v. Chicago Park District*.⁸ In

⁶ A law only passes strict scrutiny if it is (1) necessary to serve a (2) compelling government interest, and (3) is narrowly drawn to achieve that end. *E.g., Gilleo v. City of Ladue*, 986 F.2d 1180, 1182 (8th Cir. 1993).

⁷ See Erwin Chemerinsky: *Constitutional Law: Principles and Policies*, 4th ed. (2011), pp. 1174, 1167–77; see also *Forsyth County v. The Nationalist Movement*, 505 U.S. 123, 130 (1992); *Bowman v. White*, 444 F.3d 967, 980 (8th Cir. 2006).

⁸ 534 U.S. 316.

Thomas, the City of Chicago had adopted an ordinance that required large groups (defined as 50 or more people) to obtain a permit if they wanted to hold large-scale events in Chicago's public parks. The application could be denied only for one of 13 specified grounds. A group challenged the ordinance's constitutionality under the First Amendment because, they argued, the discretion of the permitting authority was not sufficiently curtailed.

The Court, which upheld the ordinance, focused on the fact that the permitting authority was limited to denying permits on *only* one of the 13 enumerated bases.⁹ The court then reviewed many of the bases and specifically upheld each one, both individually and collectively, as furthering a sufficiently important government interest.

III. Application

The Fort Smith ordinance should be evaluated under, among other things, *Thomas v. Chicago Park District*. Applying the portions of that case as I have just outlined them, a court would assess several issues, some of which I will discuss below. First, as noted above, the *Thomas* Court thought it was important that the ordinance it reviewed tethered the permitting authority's ability to deny a permit by requiring the authority to invoke one of the 13 specifically enumerated grounds for denial. A court will carefully examine the proposed ordinance to ensure that the permitting authority can only deny an application for one of the proposal's 22 enumerated reasons. Accordingly, a court would have to construe the ordinance to assess whether the ordinance does clearly constrain the permitting authority.

The second issue centers on the 22 enumerated bases for denying an application. Many items seem duplicative. As noted above, I cannot engage in an interpretation of this ordinance. Hence, I cannot attempt to parse each of the 22 items to determine how, exactly, they are distinct from each other in substance (not just in wording). A court would be faced with assessing what, precisely, the ordinance intends by several apparently duplicative provisions, such as: grounds 8 and 13, grounds 9 and 15, grounds 11 and 12, and grounds 11 and 14.

The foregoing two issues relate to the degree of discretion given to the permitting authority regarding grounds for denial. In contrast, a third issue pertains to whether a group with a permit to use the park may constitutionally exclude others

⁹ *Id.* at 324.

from the park. The proposed ordinance purports to authorize a successful applicant to “allow or prohibit the solicitation of signatures for petitions, gifts, money, or for goods or services within the Permitted area during the duration of the Permit.”¹⁰ Depending on the circumstances, this could be unconstitutional. As noted above, I cannot delve into the various factual scenarios that would render this provision unconstitutional. Instead, I will simply direct you to the substantial case law on whether the government can allow a permittee to exclude others from a traditional public forum.¹¹

A fourth issue that will arise pertains to one of the definitions. As noted, above, any person or group wanting to hold a “Public Assembly” in a public park must obtain a permit. In section 1(k), the ordinance defines “Public Assembly” to mean, among other things, something that at least 51 people attend or plan to attend. This concern about the number of attendees was also at issue in *Thomas*, and the Court seemed to think that the concern was key to the ordinance’s validity. In contrast to the definition of “Public Assembly,” the proposal, in section 1(m), does not limit the term “Special Event” by any reference to the number of attendees. Instead, the term is simply defined as “a public spectator event or attraction...ceremony or similar event that is open to the public.” A court might view this failure to tie the definition to a particular number of attendees as constitutionally significant.¹²

Finally, the proposed ordinance would require applicants to pay a \$500 fee/deposit.¹³ Courts are clear that cities may charge for the administrative costs associated with reviewing permits.¹⁴ But the courts are less clear regarding the

¹⁰ Proposed ordinance, p. 9, section 13(c).

¹¹ E.g., *Startzell v. City of Philadelphia*, 533 F.3d 183, 188 (3d Cir. 2008); *Gathright v. City of Portland*, 439 F.3d 573, 578 (9th Cir. 2006); *Jankowski v. City of Duluth*, ___ F.3d ___, 2011 WL 7656906 (D. Minn. Dec. 20, 2011); *Gay-Lesbian-Bisexual-Transgender Pride/Twin Cities v. Minneapolis Park and Recreation Bd.*, 721 F. Supp. 2d 866, 874 (D. Minn. 2010).

¹² Indeed, the Eight Circuit Court of Appeals held unconstitutional a similar ordinance, in part, because it failed to tie the restrictions to larger groups. See *Douglas v. Brownell*, 88 F.3d 1511, 1523–24 (8th Cir. 1996).

¹³ Proposed ordinance, p. 4, section 5.

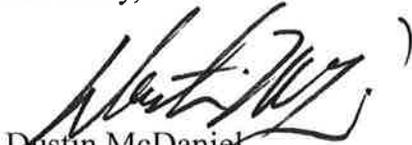
¹⁴ See, e.g., *Murdock v. Com. of Pennsylvania*, 319 U.S. 105 (1943).

constitutionally acceptable range for such a fee.¹⁵ So while I am not in a position to assess the amount of the fee, I will simply note that such a fee must be proportionally related to the administrative costs that the city actually incurs.¹⁶

In conclusion, the scope of my review is necessarily limited to identifying the above issues and the body of law that is most relevant to a constitutional analysis of this kind of ordinance. The proposed ordinance's legality is a matter that must be addressed by the city's local counsel, who will be in a position to apply this body of law after he or she construes the ordinance to determine local legislative intent.

Assistant Attorney General Ryan Owsley prepared this opinion, which I hereby approve.

Sincerely,



Dustin McDaniel
Attorney General

DM/RO:cyh

¹⁵ *See, e.g., Murdock*, 319 U.S. at 113–114 (noting that the fee must bear some relation to the scope of the activities that the applicants plan to undertake).

¹⁶ *See id.*

RESOLUTION NO. _____

**A RESOLUTION TO ACCEPT COMPLETION OF AND
AUTHORIZE FINAL PAYMENT FOR THE CONSTRUCTION OF
2011 SIDEWALK PROGRAM
PROJECT NO. 11-20-A**

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

SECTION 1: The City of Fort Smith hereby accepts the construction of the 2011 Sidewalk Program, Project No. 11-20-A, as complete.

SECTION 2: Final payment is authorized in the amount of \$6,611.68 to the contractor, Harris Company of Fort Smith, Inc., for the 2011 Sidewalk Program, Project No. 11-20-A.

This Resolution adopted this _____ day of June, 2012.

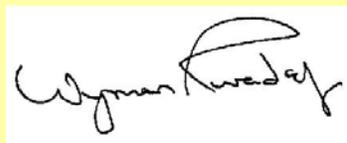
APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to Form



No Publication Required

INTER-OFFICE MEMO

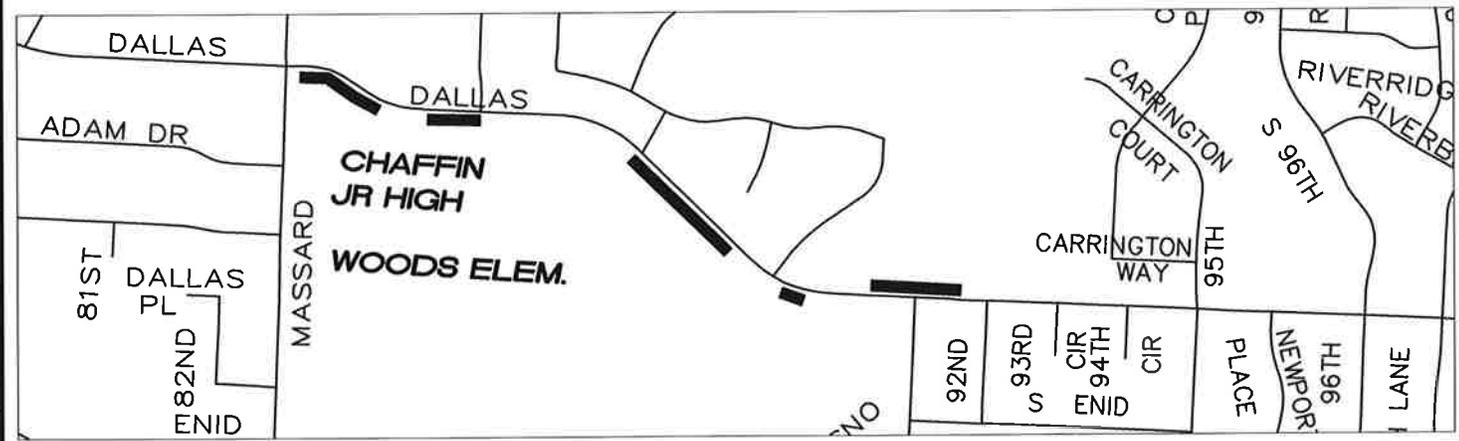
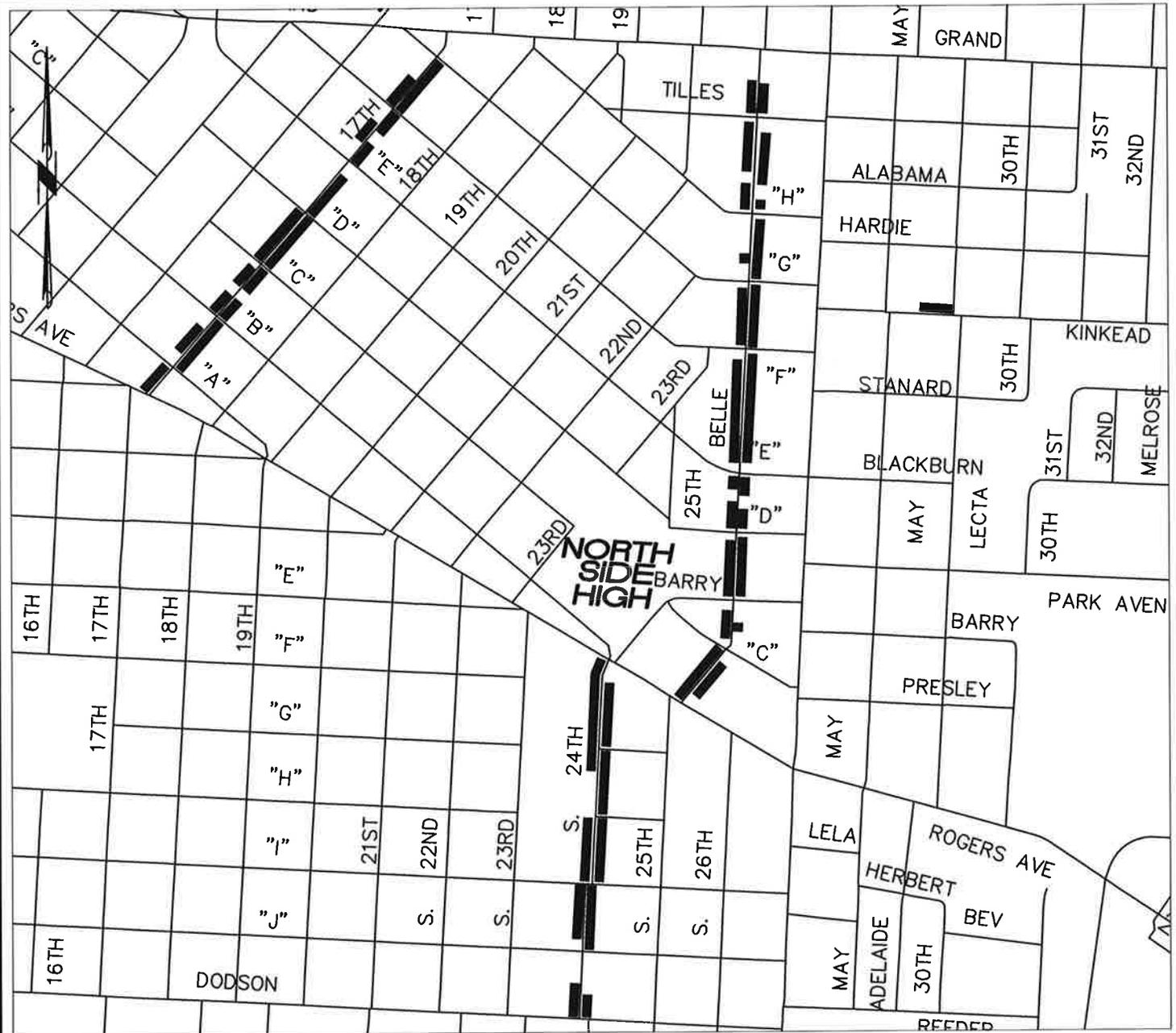
TO: Ray Gosack, City Administrator
FROM: Stan Snodgrass, P.E., Director of Engineering
DATE: June 5, 2012
SUBJECT: 2011 Sidewalk Program
Project No. 11-20-A

The above subject project consisted of the construction and replacement of sidewalks in the 2011 Sidewalk Program. The limits of sidewalk that were repaired are shown on the attached drawing. A project summary sheet is also attached.

Attached is a Resolution to accept the project as complete and authorize final payment to the contractor. I recommend that the Resolution be accepted by the Board of Directors at the next regular meeting.

Attachments

G:\DRAWINGS\CIP\00-00 CIPALL\2011\CIPALL 2011 OVERALL.DWG 06/07/12-14:32 RBR SW EX1



2011 CAPITAL IMPROVEMENTS PROGRAM
 SIDEWALK IMPROVEMENTS



Project: 2011 SIDEWALKS
 Date: SEPT. 2010
 Scale: NONE
 Drawn By: RBR

SUMMARY SHEET

City of Fort Smith
 Project Status Complete
 Today's Date: 06/05/2012
 Staff contact name: Stan Snodgrass
 Staff contact phone: 784-2225
 Contract time (no of days): 180
 Notice to proceed issued: 09/07/2011

Project name: 2011 Sidewalk Program
 Project number: 11-20-A
 Consultant engineer: City of Fort Smith, Engineering
 Project contractor: Harris Company of Fort Smith

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	\$388,159.20	7/19/2011	3/4/2012
Contract Revisions:			
1			
2			
3			
Adjusted contract amount	\$388,159.20		
Payments to date (as negative):	\$377,356.53		
Amount of this payment	\$6,611.68		
Contract balance remaining	\$4,190.99		
Retainage held		0%	
Final payment	\$6,611.68		
Amount under original as a percentage		1.1%	

Final Comments:

The project was substantially complete February 28, 2012.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT, ALONG WITH SEBASTIAN COUNTY, FOR DESIGN AND CONSTRUCTION OVERSIGHT WITH LARKIN GROUP, INC., FOR THE AQUATIC FACILITY AT BEN GEREN PARK

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

The Mayor is hereby authorized to execute an agreement, along with Sebastian County, for design and construction oversight services with Larkin Group, Inc., for the Aquatic Facility at Ben Geren Park for an amount not to exceed \$567,500.00 which will be equally divided between the City of Fort Smith and Sebastian County per the agreement approved by Resolution 33-12 (City of Fort Smith) and by Ordinance 2012-4 (Sebastian County).

This Resolution adopted this _____ day of June, 2012.

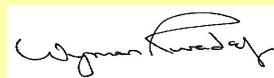
APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



No Publication Required



Memo:

June 14, 2012

To: Ray Gosack, City Administrator
From: Mike Alsup, Parks and Recreation Director
Re: Contract for design and construction oversight services for the aquatic facility at Ben Geren Park

It is recommended that Larkin Group, Inc. be approved to provide engineering services for the aquatic facility at Ben Geren Park. Larkin has extensive experience in planning, designing, and overseeing construction of aquatic facilities across the United States. Sebastian County contracted with Larkin to provide the concept plan and feasibility study of the proposed facility. Local firms that are part of the design and construction oversight team are Mickle Wagner Coleman Engineers, Randy Coleman, and MAHG Architecture, Galen Hunter.

The project budget is \$8,000,000 with a construction budget of \$7,400,000. The contract with the Larkin team is \$567,500 which is seven percent (7%) of the project budget. The planned procurement method is a one bid package to include all work with award to the lowest qualified bidder. Bidder's qualifications and experience with aquatics facilities will be evaluated prior to the bidding process. The anticipated schedule is to begin construction in February of 2013, with substantial completion expected in April of 2014, and opening Memorial Day weekend of 2014.

The scope of the project includes the aquatic facility as proposed in "Concept B" of the Sebastian County feasibility study of 2010 with support buildings and parking. Features planned include water slides, a lazy river, and children's water play area. Buildings associated with the facility include restrooms with changing and shower facilities, concessions, and buildings housing the mechanical equipment. Grading, storm water controls, and utility services are included in the scope of the project. An operational analysis of the plan will be provided which will give the City and County a good idea of operational costs and revenues with the completed design of the facility.

Please call me with any questions.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE UTILIZATION OF THE CONSTRUCTION
MANAGER AT RISK CONSTRUCTION DELIVERY METHOD FOR FIRE STATION 11 AT
CHAFFEE CROSSING

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

Utilization of the Construction Manager at Risk construction delivery method is hereby
approved for construction of Fire Station 11 at Chaffee Crossing.

This Resolution adopted this day of June ____, 2012

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



No Publication Required



Fort Smith Fire Department

200 North Fifth Street
Fort Smith, Arkansas 72901
479-783-4052



Mike Richards
Fire Chief

Memo

To: Ray Gosack, City Administrator
From: Mike Richards, Fire Chief
Date: June 6, 2012
Re: Construction Delivery Method for Fire Station 11

With approval of the Architect Services Agreement with Guest Reddick Architects at the June 5 Board meeting we are proceeding with the next phase for the construction of Fire Station 11 at Chaffee Crossing. A decision on the construction delivery method needs to be made soon to ensure a smooth, cost-efficient, and timely construction project. The construction delivery method can have wide-reaching effects on the budget, schedule, and quality of the project. This will be a complicated project that must be managed by experienced and well qualified professionals.

Fire Department Staff has researched various construction delivery methods for Fire Station 11. We believe that it is in the best interest of the City and are recommending the use of the Construction Manager at Risk construction delivery method instead of the traditional Design-Bid-Build method. The following outline will illustrate some of the more significant pros and cons of each delivery method.

Construction Manager at Risk

PROS

- Construction Manager (CM) chosen based on qualifications and experience and not low bid amount
- CM works with Architect in the Developmental Design (DD) and Construction Document (CD) phases to help make cost saving adjustments early in the project
 - CM provides continuous budget control throughout the design process
- CM has experience in choosing sub contractors for the project
- There will still be competitive bids from subcontractors for the project
 - The CM assists in the bidding process and the bids are opened in public
- The CM at Risk method normally reduces the total project construction delivery time
- Reduced change orders in construction
- CM provides "checks and balances" (design vs. constructability)
- Maximum value achieved

CONS

- Potentially higher costs than just accepting the "low-bid" method

Design-Bid-Build

PROS

- Traditional and most familiar to the general public and City staff
- Potential lowest initial cost via competitive bidding

CONS

- Selection of the general contractor is typically based on price, instead of qualifications and experience
 - Can be difficult to “disqualify” unqualified and/or inexperienced contractors
 - May be a significant factor in this economy and market
- No construction input during DD and CD phases resulting in less value engineering early in the process. This can lead to higher construction costs.
- Project delivery time is longer due to “linear” process of this method
 - If early DD estimates are inaccurate and too low, there is a risk of a significant delay in the project due to the need to re-design the project to fit the budget
 - Only one phase can be done at a time before beginning next phase
- Owner holds the major risk in the project especially for time delays
 - The Design Team does commit to design the project within budget even if re-design and re-bidding is necessary
- Highest potential for change orders

With approval from the Board of Directors to use the Construction Manager at Risk method of delivery for Fire Station 11, our next step would be to release a Request for Qualifications (RFQ) proposal for selecting a CM. It is very important we begin this selection process to work with the A/E team in the DD and CD design phases of this project to maximize the benefits of using a CM. Also, any delay in the decision to use the CM at Risk method or selection process will delay the DD and/or CD phases and therefore prolong the entire construction project. The Board of Directors will have final approval of the selection of the Construction Manager.

Any delay, whether it is due to a pending decision of the delivery method or the decision to use the design-bid-build method, could have a negative impact on our future Insurance Service Office (ISO) Public Protective Classifications ratings. ISO is scheduled to return to Fort Smith sometime in the late summer/early fall of 2013. It will be important that we show significant improvements in fire protection capabilities when they return to ensure we maintain our excellent Class 2 fire protection rating. For these reasons I recommend that we use the Construction Manager at Risk option for the construction of Fire Station 11.



RESOLUTION NO. _____

**RESOLUTION ACCEPTING BIDS FOR THE PURCHASE OF
FIRE APPARATUS**

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

The bids, as indicated by enclosure for the purchase of 6 (six) fire apparatus for \$4,125,920.30 from EVS Mid South, are accepted.

This Resolution adopted this _____ day of June, 2012.

APPROVED:

MAYOR

ATTEST:

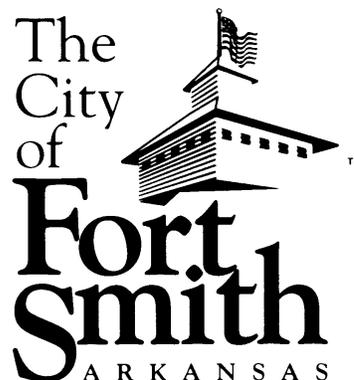
CITY CLERK

Approved as to form:

No Publication Required

Interoffice Memorandum

TO: Ray Gosack, City Administrator
FROM: Alie Bahsoon, Purchasing Manager 
SUBJECT: Fire Apparatus Purchase
DATE: June 12, 2012



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

One of these contracts is the 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 Fire 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 “Interlocal 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 interlocal cooperative activities.

Though funding has not been appropriated for in the 2012 budget, funding of \$4,125,920.30 will come from the revenue bonds financed from the $\frac{3}{4}$ cent sales tax approved by the citizens of Fort Smith in March, 2012.

Please note the units being traded are as follows:

- Asset 318; 1984 Pierce Arrow 1250 GPM Pumper VIN: 1P9CA01D1FA040740
- Asset 325; 1992 Pierce Arrow 1250 GPM Pumper VIN: 4P1CA02D5NA000675
- Asset 337; 1995 E-One Hurricane 1500 GPM Pumper VIN: 4ENBAAA83S1004461
- Asset 338; 1995 E-One Hurricane 1500 GPM Pumper VIN: 4ENBAAA85S1004462
- Asset 339; 1995 E-One Hurricane 105' Ladder Truck VIN: 4ENDABA89S1004463

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.

State of Arkansas Statutes

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.



Fort Smith Fire Department

200 North Fifth Street
Fort Smith, Arkansas 72901
479-783-4052



Mike Richards
Fire Chief

Memo

To: Ray Gosack, City Administrator
From: Mike Richards, Fire Chief
Date: June 12, 2012
Re: Fire Apparatus Purchase

The Fire Department is ready to proceed with the purchase of the six (6) new fire apparatus as part of the overall Fire Department Improvement Plan. This plan was developed for public and firefighter safety, as well as maintaining our excellent Insurance Services Office (ISO) Class 2 Fire Protection Rating. We have been able to secure a cooperative purchasing bid through the Houston-Galveston Area Council (H-GAC) program with Pierce Manufacturing and their local fire apparatus dealer, EVS Mid South in Conway, Arkansas, for the amount of \$4,435,720.30

However, the City has the option to take prepay discounts on each fire apparatus. By agreeing to prepay for the fire apparatus at the time of order the City can save \$166,800.00. We also have the option of trading in five (5) of our older fire apparatus that we are taking out of service. The total trade in discount for one (1) 105' aerial ladder truck and four (4) pumpers is \$143,000.00. By taking advantage of both of these options the City can save \$309,800.00 making the **total final purchase price for all six (6) fire apparatus:**

\$4,125,920.30

This does not include a 3% price increase that Pierce Manufacturing is deferring if we place the order by June 30, 2012. The 3% equals a savings of \$133,071.61. The total savings to the City by taking advantage of the prepay discounts, utilizing the trade-in option, and placing the order by June 30, 2012, is \$442,871.61.

The funding for this purchase will come from the revenue bonds financed from the ¾ cent sales tax approved by the citizens of Fort Smith in March, 2012. The \$4,125,920.30 purchase price (if we take advantage of all the options) is approximately \$179,000 below our proposed budget for the apparatus.

The fire apparatus we are going to purchase include:

- Two (2) 100' aerial ladder trucks
 - These will replace two (2) 1995 model aerial ladder trucks
 - One of the two will be placed in reserve status
- One (1) 75' Quint (A Quint is a combination pumper-ladder)
 - This will replace the pumper that will be relocated to Fire Station 11 at Chaffee Crossing and gain ISO credit
- Three (3) 1500 GPM pumper trucks
 - All three will replace aging pumpers currently in our fleet

We have used the H-GAC cooperative purchasing program for fire apparatus for the last several years with great success. Fire Department Staff recommends approval of the resolution accepting the bid for all six (6) fire apparatus with the prepaid discounts and trading in our older fire apparatus. The delivery of the fire apparatus to the fire department will be approximately 8 months after the purchase order is released to Pierce Manufacturing.



RESOLUTION NO. _____

RESOLUTION ACCEPTING BID FOR THE PURCHASE OF AN ASPHALT ROLLER

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 an asphalt roller for \$41,072.95 from JA Riggs, is accepted.

This Resolution adopted this _____ day of June, 2012.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:

No Publication Required

Interoffice Memorandum

TO: Ray Gosack, City Administrator
FROM: Alie Bahsoon, Purchasing Manager 
SUBJECT: Asphalt Roller Purchase
DATE: June 11, 2012



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 National Joint Powers Alliance (NJPA), a national municipal contracting agency offering national contract purchasing solutions by facilitating and awarding national competitively bid contracts. Because of their contract, local governments nationwide are permitted to purchase through their cooperative purchasing program. For your information, I have attached a copy of the State of Arkansas Statute which authorizes inter-local cooperative activities.

The Street Department (Program 5302) has budgeted \$49,500 for this purchase for which funding has been appropriated for in the 2012 City Budget in the "Reserve for Equipment-Sinking Fund Account". Because of the NJPA contract, bids were not solicited and we are therefore acquiring this roller from JA Riggs of Fort Smith in the amount of \$41,072.95. You will find attached a memorandum from the Street Department with additional information.

Please be advised that this purchase fulfills 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.

State of Arkansas Statutes

Arkansas Code

19-11-206 Definitions concerning intergovernmental relations

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

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(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

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(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.

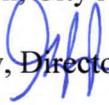
(B) An agency of the federal government is an external procurement activity; and

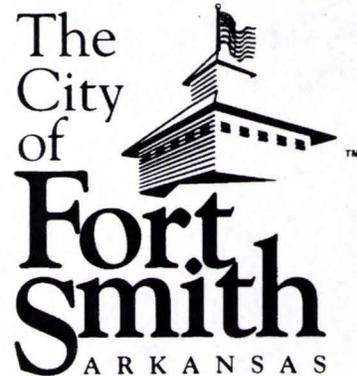
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19-11-249 Cooperative purchasing.

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Interoffice Memorandum

TO: Ray Gosack, City Administrator
FROM: Greg Riley,  Director of Street/Traffic Control
SUBJECT: Asset 461 Roller
DATE: June 11, 2012



During our overlay projects in the summer of 2011 our asphalt roller (asset 461) broke down which caused several problems. We were able to get it running fast enough to salvage the asphalt that was down, but subsequently we found many problems with the electronics in the machine. The problems were compounded by the fact that it was very difficult to get parts for this 1993 model machine as it is so out of date. We eventually did get it repaired. However, the concern is that if it were to break down again while asphalt is being laid, there is the potential for a significant loss of money in having to remove and replace asphalt that did not get compacted adequately.

We decided it would be in our best interest to replace the machine to alleviate this risk. The machine proposed meets our requirements and budget for this equipment. We believe the trade in allowance for the old machine at \$5,850 is fair for that piece of equipment.



Quote 106933-01

June 4, 2012

CITY OF FORT SMITH
 3900 KELLEY HWY
 FORT SMITH ARKANSAS

DEAR ALIE BAHSOON,
 THANK YOU FOR THIS OPPORTUNITY TO QUOTE CATERPILLAR PRODUCTS FOR YOUR BUSINESS NEEDS.
 WE ARE PLEASED TO QUOTE THE FOLLOWING FOR YOUR PURCHASE CONSIDERATION.

ONE (1) NEW CATERPILLAR MODEL: CB34Q PAVING AND COMPACTION WITH ALL STANDARD EQUIPMENT IN ADDITION TO THE ADDITIONAL SPECIFICATIONS LISTED BELOW:

Sell Price	\$46,922.95
Ext Warranty	Included
Less Gross Trade Allowance	(\$5,850.00)
Before Tax Balance	\$41,072.95

TRADE-INS

Model	Make	Serial Number	Year	Trade Allowance
TW70C	SAKIA (SA)	VTW1-10103	1993	\$5,850.00

Standard Warranty: 12 Months / Unlimited Hours Premier Warranty* All standard warranties include travel time & mileage for first three months. Scheduled Oil sampling is required during entire warranty period.

Extended Warranty: 36 MO/5000 HR PT & HYD

F.O.B/TERMS

Fort Smith

THANK YOU FOR YOUR INTEREST IN RIGGS CAT AND CATERPILLAR PRODUCTS FOR YOUR BUSINESS NEEDS. THIS QUOTATION IS VALID FOR 30 DAYS, AFTER WHICH TIME WE RESERVE THE RIGHT TO RE-QUOTE. IF THERE ARE ANY QUESTIONS, PLEASE DO NOT HESITATE TO CONTACT ME.

SINCERELY,


 BRETT AVLOS
 MACHINE SALES REPRESENTATIVE RIGGS CAT

Accepted by _____ on _____

 Signature

ONE (1) NEW CATERPILLAR MODEL: CB34Q PAVING AND COMPACTION WITH ALL STANDARD EQUIPMENT IN ADDITION TO THE ADDITIONAL SPECIFICATIONS LISTED BELOW:

STANDARD EQUIPMENT

POWERTRAIN - Caterpillar C2.2-4 cyl diesel engine - 34.1 kW / 45.7 HP gross power - Hydrostatic transmission - Service and parking brakes

ELECTRICAL - Engine start switch with auto preheat - Backup alarm and warning horn - 65-ampere alternator - 12-volt electric starting - Maintenance free 100 AH battery, 750 amp

OPERATOR ENVIRONMENT - Gauges : Fuel level and Hour meter - Operator warning system indicators : -
-Parking brake engaged - -Hydraulic oil temperature high - -Engine coolant temperature high - -Electrical system voltage low - -Engine oil pressure low - -Vibration activated - -Engine preheat - Lockable, vandalism guard for instrument - panel. - Hydraulic control level. - Seat with : - -Lateral sliding adjustment - -Fore and aft adjustment -
-Draining capability - -Wide retractable seat belt 76.2mm/3inch - -Armrest and wrist rest - 2 platform handrails / 2 guardrails - Steering wheel spinner - 12-volt power point

DRUMS - Two smooth drums: 1300mm / 51.2 inch - wide x 800mm / 31.5 inch diameter - (CB34 ONLY). - Two smooth drums : 1400mm / 55.1 inch - wide x 800mm / 31.5 inch diameter - (CB34 XW ONLY). - Front, both or rear drum vibration - control with timer delay on vib to - improve power management on slopes. - 4 retractable, spring-loaded, self - adjusting scrapers. - Pressurized drum watering system with: - - continuous or intermittent modes - - 300L / 79.2gal water tank - - sight gauge for water tank level.

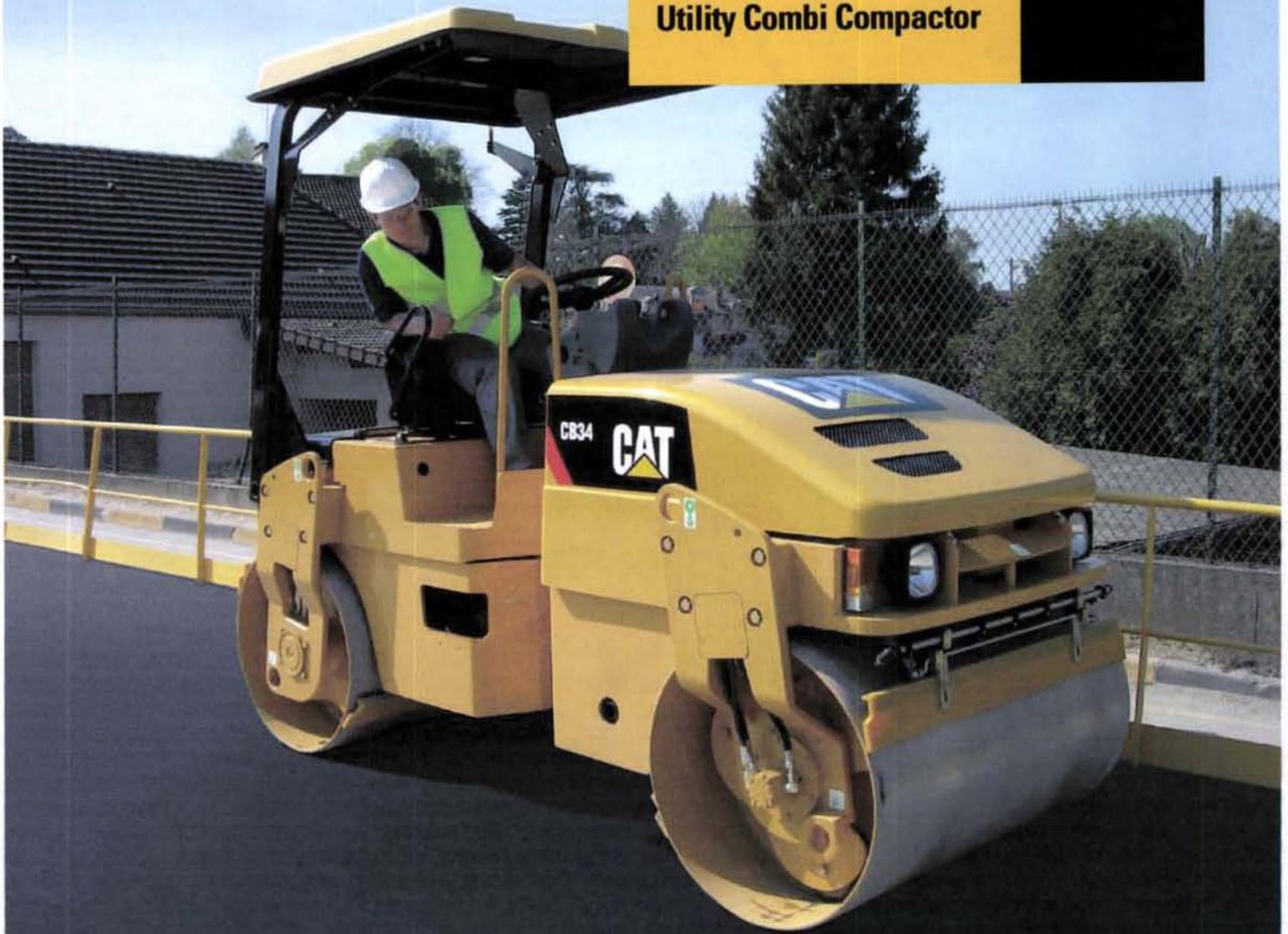
OTHER STANDARD EQUIPMENT - Locking engine enclosure - Sight gauge for hyd. tank level. - Air restriction indicator - 57L (15gal.) fuel tank capacity - 4 transport tie-down and 4 lift points - Quick connect hyd. pressure test ports - Caterpillar O-ring face-seals coupling

Description	Reference No
CB34 UTILITY COMPACTOR DCA2	370-0529
Available from the Baltimore PDC.	
Available starting February 2011	
305-7225 CB34 VIBRATORY COMPACTOR	305-7225
278-1669 COOLING, HIGH AMBIENT	278-1669
255-4121 ROPS, FOLDABLE	255-4121
309-7283 MATS, COCOA	309-7283
255-4103 LIGHTS, ROADING AND WORKING	255-4103
262-5720 SWITCH, SUSPENSION SEAT	262-5720
263-8130 SWITCH, BATTERY DISCONNECT	263-8130

CB34
CB34 xw
 Utility Compactors



CC34
 Utility Combi Compactor



	CB34	CB34 XW	CC34
Cat C2.2 Diesel Engine			
Gross power (ISO 14396) at 2400 rpm	34.1 kW/46 hp	34.1 kW/46 hp	34.1 kW/46 hp
Net power (ISO 9249) at 2400 rpm	33 kW/45 hp	33 kW/45 hp	33 kW/45 hp
Compaction width	1300 mm	1400 mm	1300 mm
Operating weight (with ROPS)	3940 kg	4200 kg	3670 kg

Caterpillar® C2.2 Engine

The C2.2 engine provides efficient power while meeting EU Stage IIIa engine emission requirements.



Power. The liquid cooled Caterpillar C2.2 engine provides a gross power of 34.1 kW (46 hp) and a torque of 143 Nm for excellent performance and reliability on grades and in tough conditions.

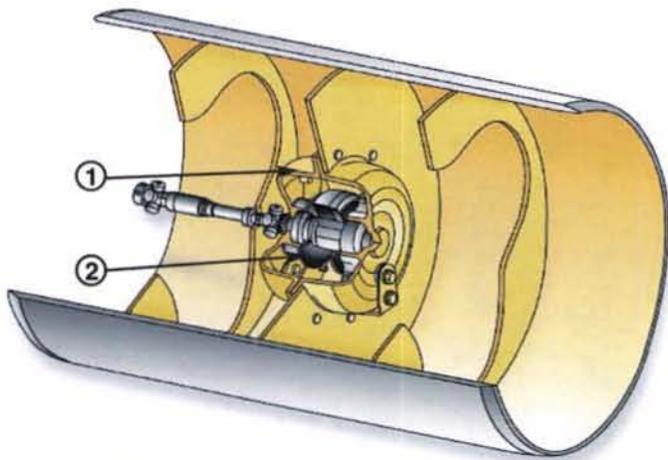
Large Cooling Package. The large cooling package with integrated water and oil cooler keeps engine temperatures low in order to maximize fuel efficiency and minimize emissions.

High Ambient Cooling Option. The high ambient cooling provides capability to achieve greater production rates at high ambient temperatures.

Reduced Sound Levels. Low sound levels are achieved in both operating speeds. An intermediate throttle position enables even quieter operation for optimum operator comfort.

Vibratory System

The vibratory system provides good balance between frequency and amplitude in order to meet various job site conditions.



- 1 Eccentric Weight Housing
- 2 Exclusive Eccentric Weight

Dual Frequency Vibratory System. The standard vibratory system incorporates two frequencies in order to provide increased application versatility.

Vibration Selection. A vibratory selection switch provides standard front, rear and both drum vibratory capabilities.

Automatic Vibratory Control. The vibratory system includes an automatic start feature that activates whenever the propel lever is moved from the neutral position.

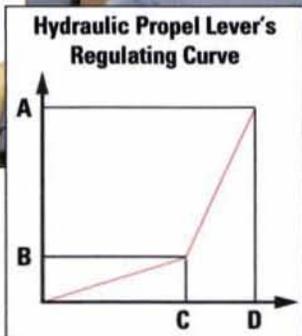
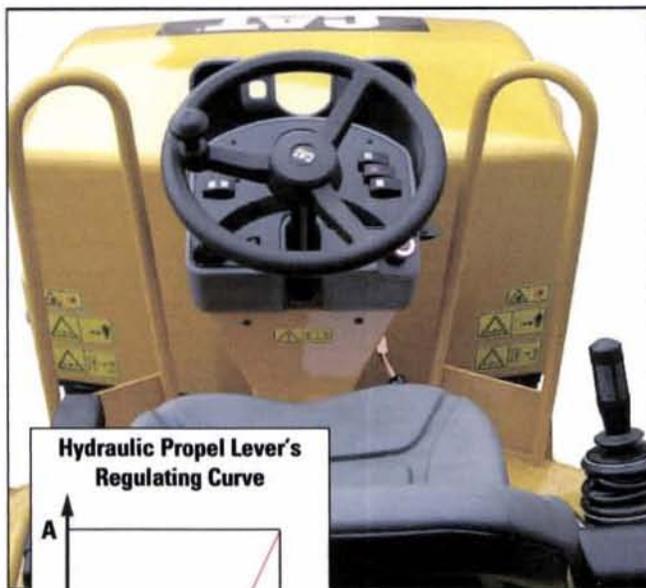
Rear Drum Vibe Delay. The vibe delay function controls the start of the rear drum in order to assist power management on slopes.

Pod-style weight housings. They are assembled and sealed at the factory to ensure cleanliness, extended bearing life and easy field exchange/service.

Bearing lubrication. Change interval for bearing lubrication is every 3 years or 3000 hours.

Operator's Station

The convenient, comfortable operating environment with sliding seat provides good visibility and promotes day-long productivity.



- A Maximum Speed
- B Low Speed
- C Half Stroke
- D Maximum Stroke

Operator's Station. The operator's station incorporates a fully-equipped console and an adjustable sliding suspension seat. Arm and wrist rests provide better operator comfort for day-long productivity. The steering wheel includes a steering knob for easy maneuverability in turns. A 12-volt outlet for plugging in personal electronic devices is also included.

Instrument Panel. The easy-to-understand instrument panel cluster integrates a fuel level indicator, hour meter and light indicators for machine functions. The key switch includes an automatic engine pre-heat feature in order to assist in cold-weather starting.

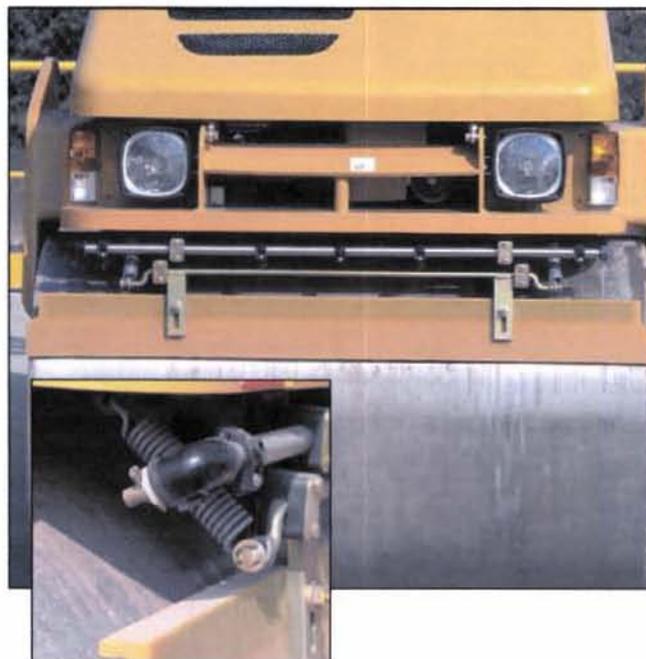
Smooth Operation. The hydraulic propel lever's two step regulating curve provides smooth and precise control at low speed. Machine speed increases gradually in the first half of lever stroke for optimum control in confined areas. The second half of lever stroke enables maximum transfer speed to be reached rapidly.

Foldable ROPS (optional). The foldable ROPS includes two gas struts that assist the operator when raising or lowering for transport. The ROPS structure folds backwards and does not require special tools.

Unobstructed visibility. Sloped engine enclosure, low profile rear end and sliding operator's station provide unobstructed visibility to the drum edges or wheel contact points.

Water Spray System

Corrosion-proof system and extended-life components provide reliable operation.



Water Tank. A 300 liter high-capacity polyethylene water tank is enclosed within the machine frame. The tank design provides extended operation and a single fill point.

Spray Capabilities. The standard pressurized water spray system with constant or intermittent capabilities provides extended operation between refills.

Water Pump and Filters. The extended life water pump and filters are conveniently located for easy access while providing optimum spray and flow.

Water Filtration. Triple water filtration reduces machine downtime caused by system clogs.

Large Water Tank Fill and Drain. The large water tank fill and grouped drains allow the system to be filled and drained within minutes.

Spray Nozzles and Filters. Water spray nozzles and filters are easily removed by hand without the need of special tools.

Extra Wide Drums – CB34 XW

Wider drums on the CB34 XW provide increased production results on larger job sites.



Increased Production. The CB34 XW is equipped with 1400 mm wide drums and can cover greater mat widths in fewer overlapping passes. The rolling pattern changes with an increased production.

Increased Amplitude. Wider drums, increased amplitude and dual frequency balanced with the amplitude setting makes this machine an excellent choice of machinery on thin asphalt lift mats and larger job sites.

Tyres Enhance Versatility – CC34

The CC34 incorporates a steel, front drum with rear pneumatic tyres. The pneumatic tyres provide even compaction on uneven surfaces.



Optional tyre spray system control activates the solvent sprayed to prevent asphalt from adhering to the tyres surface.

Front drum and rear rubber tyres. Steel front drum and rubber tires at the rear allow a single machine to function as both a double drum and pneumatic compactor.

Rubber tyres. Four rubber tyres (10.5/80 - 16 6-ply) generate a high ground contact pressure that penetrates deep into the lift.

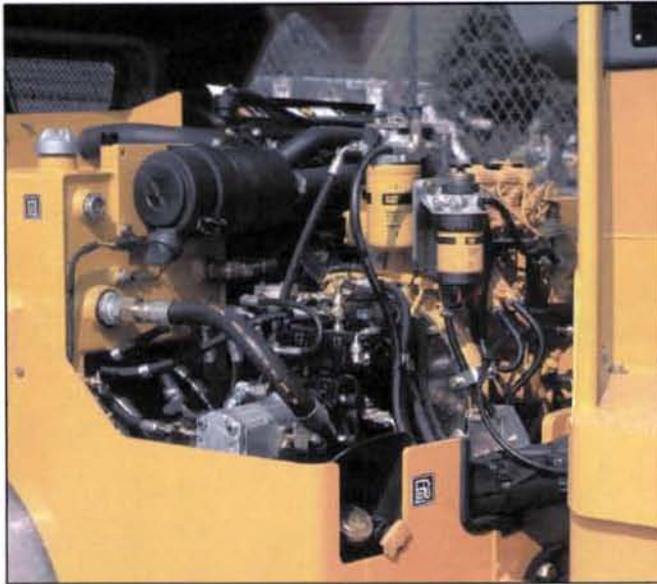
Flexible tyres. Because the tyres are flexible, horizontal pressures develop, assisting with compaction.

Adjustable scraper. Each tyre is fitted with a replaceable, adjustable scraper. The scrapers can be positioned above the tyres when they are not needed.

Emulsion Filing Port. The emulsion filling port is located at the rear of the machine and can be accessed without opening the rear hood.

Serviceability

The CB34, CB34 XW and CC34 machines provide the reliability and serviceability that you've come to expect from Caterpillar.



Engine Enclosure. Fiberglass engine enclosure pivots upward and locks open with a prop rod.

Vibe Lubrication. Oil-bath lubrication of eccentric weight bearings reduces routine maintenance to 3 year/3000 hour intervals.

Service Points. External engine components, hydraulics and routine service points are clustered in easy-to-access locations.

Oils. Extended-life oils increase maintenance intervals for the vibratory system, hydraulic system and engine oil. Engine oil change interval has been extended to 500 hours.

Drains. Remote-mounted drains for engine, hydraulic oil and cooling system provide simplified collection of fluids.

Hydraulic Test Ports. Quick-connect hydraulic test ports simplify system diagnosis.

Electrical System. Electrical wiring is color-coded and numbered for simple troubleshooting. Nylon-braided wrap and all-weather connectors ensure electrical system integrity.

Engine

Four-stroke cycle, four cylinder Caterpillar C2.2 diesel engine meets European Stage IIIa emission requirements.

Gross Power	2400 rpm
ISO 14396	34.1 kW/46 hp
Net Power	2400 rpm
ISO 9249	33 kW/45 hp
Bore	84 mm
Stroke	100 mm
Displacement	2216 cm ³

- All engine horsepowers are metric including front cover.
- Net power ratings are tested at the reference conditions for the specified standard.
- Net power advertised is the power available at the flywheel when the engine is equipped with fan, air cleaner, muffler and alternator.
- Dual-element, dry-type air cleaner with visual restriction indicator.

Transmission

CB34 and CB34 XW – Variable-displacement piston pump supplies pressure flow to fixed-displacement hydraulic motors that drive the front and rear drums.

CC34 – Variable-displacement piston pump supplies pressure flow to a fixed-displacement hydraulic motor that drives the front drum, and the pump supplies pressure flow to two fixed-displacement motors that drive the rear wheels.

For the three machines, a propel lever located at the operator's station provides smooth control of the infinitely variable speeds in both forward and reverse.

Speed

Forward and reverse 0-12.5 km/h

Steering

Priority-demand hydraulic power-assist steering system provides smooth, firm machine handling.

Minimum turning radius

CB34/ CC34	
Inside drum edge	3000 mm
Outside drum edge	4300 mm
CB34 XW	
Inside drum edge	2950 mm
Outside drum edge	4350 mm
Steering angle	35°

Instrumentation

- The control console includes: steering wheel with knob, water spray system switch, vibratory drum selector switch, horn, hazard flasher control, turn signals, warning and working light switches, engine start switch with preheat and the secondary brake.
- The instrument panel cluster integrates the fuel level indicator, service hour meter and also the light indicators for: roading lights, secondary brake, hydraulic oil temperature, engine coolant temperature, alternator, engine oil pressure, vibration on, engine preheat and the turn signals.
- The vibratory system is actuated with a switch on the top of the propel lever.
- When the vibratory system is activated, a vibration indicator light illuminates.
- The engine throttle control is operated via a three-position lever for low, intermediate and high engine speed.
- The control console, the hood and the literature compartment are equipped with lockable covers.

Water Spray System

- Spray bars are constructed of stainless steel for corrosion resistance. The water tank is reinforced polyethylene.
- An electric water pump provides either continuous or intermittent spray. Intermittent spray setting increases spray time by 50 percent over continuous setting.
- Triple filtration includes a filter on the tank fill spout, an in-line filter at the water pump and filters on each spray nozzle. Spray nozzles are easily removed without tools for cleaning.

Frame

Fabricated from heavy gauge steel plate and rolled sections. The two sections are joined by two hardened steel pins that are supported by heavy-duty roller bearings. A vertical pin provides a $\pm 35^\circ$ steering angle and the frame/yoke provides $\pm 10^\circ$ oscillation for a smooth ride and uniform drum loading.

Tyre Spray System Option

- Tyre Spray System allows a solvent to be sprayed on the tire surfaces, helping prevent asphalt from adhering to the tyres.
- One spray nozzle is positioned above each tyre.
- The system is controlled with an on/off switch on the control console.

Electrical System

The 12-volt electrical system includes one maintenance-free Cat® battery and color-coded and numbered wiring wrapped in nylon braid. The system includes a 65-amp alternator.

Final Drives

CB34 and CB34 XW – High-torque, low-speed hydraulic motors directly drive each drum.

CC34 – High-torque, low-speed hydraulic motor directly drives the front drum, and two high-torque, low-speed hydraulic motors directly drive the rear wheels.

Brakes

Brake systems meet EN500-4. The braking system will automatically engage if a pressure drop in the hydraulic system occurs.

Service

Closed-loop hydrostatic drive system provides dynamic braking during machine operation.

Secondary and Parking

Spring-applied/hydraulically released brake on front and rear drums. Actuated by switch on console or automatically when pressure is lost in brake circuit or when engine is shut off.

Wheels and Tyres

CC34 – 10.5/80 - 16 6-ply tyres are standard. Each tyre is equipped with a replaceable scraper.

- The scrapers help clean asphalt or soil off the tyres. The scrapers can be retracted when they are not needed.
- An optional traction control device on the rear tyres, activated by a foot control from the operator's platform, increases tractive effort and minimizes drum spinning in slippery conditions.

Service Refill Capacities

	Liters
Fuel Tank	57
Engine oil with filter	10.6
Hydraulic fluid tank	48
Water spray system	300
Tyre spray system	20

Compaction Characteristics

Vibration selections

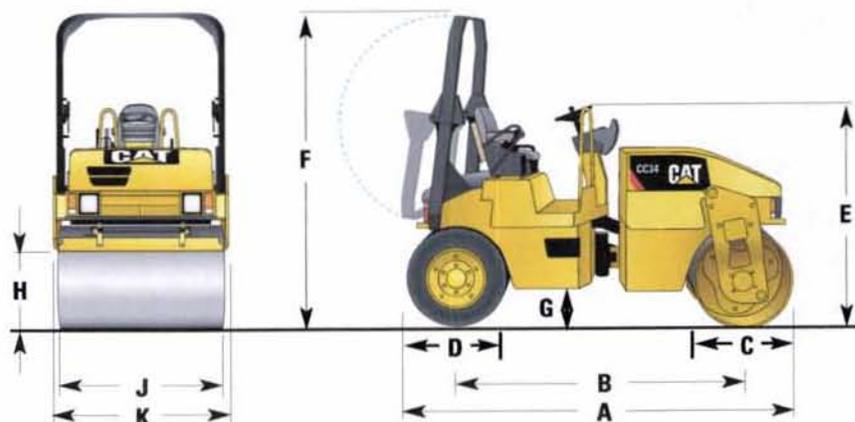
CB34	Front, Rear and both
CB34 XW	Front, Rear and both
CC34	Front
Eccentric weight drive	Hydraulic
Frequency	
CB34/CC34	69/61 Hz
CB34 XW	53/48 Hz
Nominal amplitude	
CB34/CC34	0.37 mm
CB34 XW	0.5 mm
Centrifugal force per drum	
CB34/CC34	33.1 kN
CB34 XW	29.5 kN
Static linear load	
CB34	15.2 kg/cm
CC34/CB34 XW	15 kg/cm

Optional Equipment

Roll Over Protective Structure (ROPS)
 Foldable ROPS
 Sun Canopy
 Traction Control (CB34 and CB34 XW)
 Rear Tyres Traction (CC34 only)
 Working Light Package
 Rooding and Working Light Package
 Lights Protection
 Rotating Beacon
 Battery Disconnect Switch
 Engine Tachometer
 Suspension Seat with Seat Switch
 Pump Brake Release (CC34 only)
 Coco Mats
 Water Distribution Mats
 Spark Arrestor Muffler
 Non-Machined Drum Edges
 Drum-End Guard System
 High Ambient Cooling
 Tyre Wetting System (CC34 only)
 Italian Road Homologation

Dimensions

All dimensions are approximate.



	CB34/CC34	CB34 XW
	mm	mm
A Length	3120	3120
B Wheelbase	2320	2320
C Drum diameter	800	800
Drum shell thickness	13	15.5
D Tyre diameter (CC34)	-1770	-
E Height at steering wheel	1847	1847
F Height at ROPS	2557	2557
Height with ROPS folded	1890	1890
G Ground clearance	284	284
H Curb clearance	602	602
J Compaction width	1300	1400
K Machine width	1390	1490

Weights

Operating weights include lubricants, 80 kg operator, full fuel tank, full hydraulic system and half-full water tanks (all weights are approximate).

	CB34	CB34 XW	CC34
	kg	kg	kg
Operating weight with ROPS	3940	4200	3670
at front drum	1940	2070	1950
at rear drum	2000	2130	-
at rear wheels	-	-	1720
weight per rear wheel	-	-	430

RESOLUTION NO. _____

**A RESOLUTION AMENDING RESOLUTION NO. R-80-11 RELATIVE TO
THE PURCHASE OF SKID STEER LOADER**

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

Resolution No. R-80-11 approving bid for the purchase of a skid steer loader is hereby amended to accept the bid as indicated on the attached Bid Tabulation No. **6641-5302-SF-BA** for the purchase of a skid steer loader for \$72,806 from JA Riggs.

This Resolution adopted this _____ day of June, 2012.

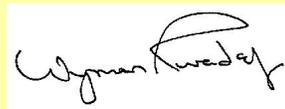
APPROVED:

MAYOR

ATTEST:

CITY CLERK

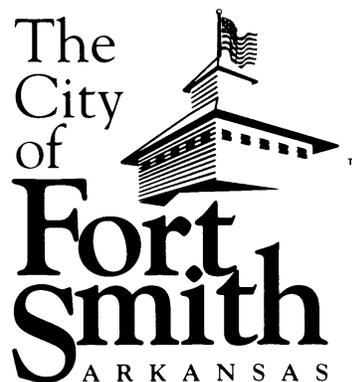
Approved as to form:



No Publication Required

Interoffice Memorandum

TO: Ray Gosack, City Administrator
FROM: Alie Bahsoon, Purchasing Manager
SUBJECT: Purchase of Skid Steer Loader
DATE: June 11, 2012
BID TAB: 6641-5302-SF-BA



In May of 2011, the Board authorized (per Resolution R-80-11) the purchase of a skid steer loader from Alma Tractor in the amount of \$54,529. This purchase replaced a 2002 model that was 9 years old with over 560 hours. The skid steer is vital to the department's operations and is intended to be used in the Street Construction Division (Program 5302) with a primary purpose of milling and sweeping streets for overlay projects.

The New Holland loader purchased from Alma Tractor (Bid #1) proved to be inadequate and lacked the performance needed to meet the necessary requirements of the department. Additionally, the alternate machine (Bid #2) proved to be unsatisfactory as well (see attached memorandum from the Street Department staff).

In accordance with the purchasing requirements, we resorted to the second lowest bidder, in this case being JA Riggs Tractor of Fort Smith. To our benefit, the price for the machine went down and JA Riggs Tractor has offered to sell us a Caterpillar 279C loader for \$72,806. This machine has met and exceed our performance expectations.

Though funding for this skid steer was not been budgeted for in the 2012 Budget, \$63,556.49 will be available from the reimbursement to be received from Alma Tractor and the remainder will come out of the "Reserve for Street Equipment-Sinking Fund Account" in the amount of \$9,249.51.

I am recommending that the enclosed resolution is approved and the revised bid noted by enclosure on the attached tabulations, be accepted.

Please let me know should you have any questions.

REVISED BID TABULATION

Tabulation of Bids-City of Fort Smith Street Department (2011) SKID STEER LOADER Bid Tab 6641-5302-SF-BA			
Vendor Description	JA Riggs Fort Smith	Alma Tractor Bid #1	Alma Tractor Bid #2
Loader			
Year	2011	2011	2011
Make	Caterpillar	New Holland	GEHL
Model	279CA XPS HF	C232	CTL75
Cost 2012 Pricing	\$75,254.00 ✓ \$72,806.00 ✓	\$70,029.00 ✓ *	\$71,804.00 *
Trade-In			
Asset 3006	(\$8,900.00)	(\$15,500.00)	(\$15,500.00)
Freight	N/A	N/A	N/A
Delivery Terms	30 Days	90 Days	30 Days
Total Bid Price	\$66,354.00	\$54,529.00	\$56,304.00

Bids Advertised: 03/27/11

Bids Opened: 04/11/11

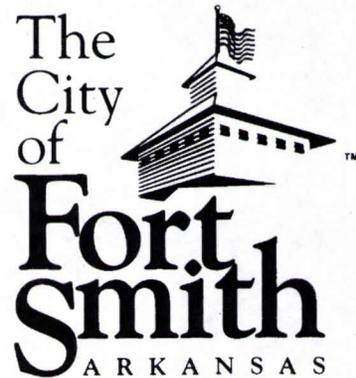
* Did not meet performance requirements

✓ **Recommended Bid Award**

REVISED BID TABULATION

Interoffice Memorandum

TO: Ray Gosack, City Administrator
FROM: Greg Riley, Director of Street/Traffic Control
SUBJECT: Skid Steer Loader
DATE: June 11, 2012



In May of 2011, the Board authorized (per Resolution R-80-11) the purchase of a skid steer loader from Alma Tractor. We took delivery of this unit and discovered that it would not adequately handle the task of milling asphalt. The machine would bog down and not efficiently remove material. We demonstrated the problem to Alma Tractor and they felt that for the spec given, no machine would handle this operation. Alma Tractor brought out the machine that was they bid as an alternate and we attempted to use it and it did not perform adequately. Alma Tractor offered to refund the money paid for the machine minus some rental time.

Riggs Tractor of Fort Smith was the second bid and they agreed to demo their machine to assure that it would perform prior to moving forward in the process. Their machine did do the grinding task adequately with no problems. Based on this demonstration, we are pleased with the performance of this machine and believe that it will meet our requirements. We recommend paying the additional monies out of the reserve account to purchase this machine. We are without this piece of equipment at this time and we need it to complete our street overlays this summer.



Quote 107065-02

June 7, 2012

CITY OF FORT SMITH

Attention: ALIE BAHSOON

DEAR ALIE,
THANK YOU FOR THIS OPPORTUNITY TO QUOTE CATERPILLAR PRODUCTS FOR YOUR BUSINESS NEEDS.
WE ARE PLEASED TO QUOTE THE FOLLOWING FOR YOUR PURCHASE CONSIDERATION.

ONE (1) NEW CATERPILLAR MODEL: 279CA COMPACT CONSTRUCTION EQUIPMENT WITH ALL STANDARD EQUIPMENT IN ADDITION TO THE ADDITIONAL SPECIFICATIONS LISTED BELOW:

STOCK NUMBER: MBT2964 **SERIAL NUMBER:** 0MBT02964 **YEAR:** 2012 **SMU:** 3

Sell Price	\$72,806.00
Before Tax Balance	\$72,806.00

WARRANTY

Standard Warranty: 12 Months / Unlimited Hours Premier Warranty* All standard warranties include travel time & mileage for first three months. Scheduled Oil sampling is required during entire warranty period.

F.O.B/TERMS

Ft Smith Ar

THANK YOU FOR YOUR INTEREST IN RIGGS CAT AND CATERPILLAR PRODUCTS FOR YOUR BUSINESS NEEDS. THIS QUOTATION IS VALID FOR 30 DAYS, AFTER WHICH TIME WE RESERVE THE RIGHT TO RE-QUOTE. IF THERE ARE ANY QUESTIONS, PLEASE DO NOT HESITATE TO CONTACT ME.

SINCERELY,

BRETT AVLOS
MACHINE SALES REPRESENTATIVE RIGGS CAT

Accepted by _____ on _____

Signature

**ONE (1) NEW CATERPILLAR MODEL: 279CA COMPACT CONSTRUCTION EQUIPMENT
WITH ALL STANDARD EQUIPMENT IN ADDITION TO THE ADDITIONAL SPECIFICATIONS
LISTED BELOW:
STANDARD EQUIPMENT**

POWERTRAIN - Caterpillar C3.4T Tier4i Certified - Diesel Engine - 73 Net Horsepower @ 2500 RPM - Fuel Priming Pump - Glow Plugs Starting Aid - Liquid Cooled, Direct Injection - Air Cleaner, Dual Element, Radial Seal - S-O-S Sampling Valve, Hydraulic Oil - Filter, Spin on, Hydraulic - Filters, Bayonet-Type, Fuel -and Water Separator - Tilt Up Radiator / Hydraulic Oil Cooler - Muffler, Standard - Spring Applied, Hydraulically Released, Wet Multi Disc Parking Brakes - Hydrostatic Transmission

UNDERCARRIAGE - Steel Imbed Rubber Track (18" Wide) - 2 Speed Motor - Suspension - Independent Torsion Axle

HYDRAULICS - CONTROLS: - Electro/Hydraulic Implement Control, RH - Electro/Hydraulic Hydrostatic - Transmission Control, LH - Hand and Foot Throttle

ELECTRICAL - 12 Volt Electrical System - 90 Ampere Alternator - Ignition Key Start / Stop / Aux Switch - Lights:- Gauge Backlighting - Two Rear Tail Lights -Two Rear Working Lights - Two Adjustable Front - Halogen Lights - - Dome Light - Backup Alarm - Heavy Duty Battery, 880 CCA

OPERATOR ENVIRONMENT - Gauges : - Fuel Level - Hour Meter - Operator Warning System Indicators: - Air Filter Restriction - Alternator Output - Armrest Raised / Operator - Out of Seat - Engine Coolant Temperature - Engine Oil Pressure - Glow Plug Activation - Hydraulic Filter Restriction - Hydraulic Oil Temperature - Park Brake Engages - Adjustable Suspension Vinyl Seat - Fold In Ergonomic Contoured Armrest - Control Interlock System, when Operator - Leaves Seat or Armrest Raised : Hydraulic System Disables - Hydrostatic Transmission Disables - - Parking Brake Engages - ROPS Cab, Open, Tilt Up - FOPS, Level I - Top and Rear Windows - Deluxe Headliner - Floormat - Interior Rear View Mirror - 12V Electric Socket - Horn

OTHER STANDARD EQUIPMENT - Engine Enclosure - Lockable - Extended Life Antifreeze (-37C, -34F) - Machine Tie Down Points (4) - Coupler, Mechanical - Support, Lift Arm - Hydraulic Oil Level Sight Gauge - Radiator Coolant Level Sight Gauge - Radiator Expansion Bottle - Caterpillar Tough Guard TM XT Hose - Auxiliary, Hydraulics, Continuous Flow - Heavy Duty Flat Faced Quick Disconnects - Split D-Ring to Route Work Tool Hoses - Along Side of Left Lift Arm - Electrical Outlet, Beacon - Variable Speed Hydraulic Cooling Fan - Belly Pan Cleanout

Description	Reference No
279C COMPACT TRACK LOADER	304-1879
CONVERSION ARRANGEMENT	258-3800
INSTRUCTIONS, ANSI, NACD	304-1861
BELT, SEAT, 2"	258-4095
ENGINE, TIER 3 COMPLIANT	295-7114
QUICK COUPLER, HYDRAULIC	258-2791
HYDRAULICS, HIGH FLOW XPS	258-3182
ROPS, ENCLOSED WITH A/C (C3)	258-3680
SEAT, COMFORT, AIR SUSPENSION	258-4330
DOOR, CAB, POLYCARBONATE	258-4080
PACKAGE, PERFORMANCE, (TL3)	304-1913
INSTRUCTIONS, ENGLISH	233-5913
RADIO READY	258-4066
COLD PLANER, PC206	246-7314
BUCKET-GP, BOCE 72"	279-5373



Alma Tractor & Equipment, Inc.

June 13, 2012

Mr. Bashoon, Purchasing Manager
City of Fort Smith, AR

RE: New Holland C232 Track Loader s/n: NBM427257 and 40" Cold Planer

Per our discussion verbally, Alma Tractor and Equipment will refund the City of Ft. Smith, \$ 63,556.49 for the above mentioned New Holland Tracked Skid Steer and Cold Planer. Even though the machine met bid specifications, we could not make it perform as it should and therefore we are offering to buy the unit back. We hope and trust that this offer will be acceptable and that this whole series of events will not obstruct us in future business with the City.

Thank you and best regards,

Jim Barker, President
Alma Tractor & Equipment, Inc.



RESOLUTION NO. _____

**RESOLUTION ACCEPTING BID FOR THE PURCHASE OF A
CONTAINER CARRIER TRUCK**

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

The bid, as indicated by enclosure on the attached Bid Tabulation
6303-SF-BA for the purchase of a container carrier truck for \$94,937.62 from
Carco International, is accepted.

This Resolution adopted this _____ day of June, 2012.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:

No Publication Required

Inter office Memorandum

TO: Ray Gosack, City Administrator

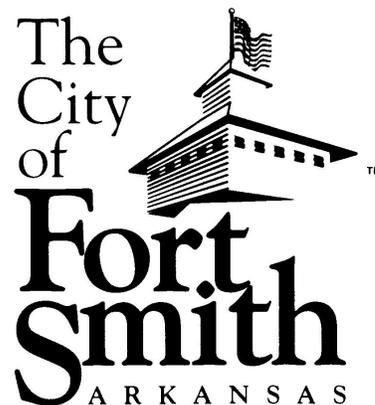
COPY TO: Baridi Nkokheli, Director of Sanitation

FROM: Alie Bahsoon, Purchasing Manager 

SUBJECT: Container Carrier Truck Bid Tabulation

DATE: June 12, 2012

BID TAB: 6303-SF-BA



Attached you will find the bid tabulation for the purchase of a container carrier truck for use by the Commercial Collection Division of the Department of Sanitation (Programs 6303).

The purchase of this truck will replace Asset 4 (1996 Ford F150) and Asset 27 (1998 GMC). It is our intent to sell both of these trucks at the annual City auction.

As noted by the attached memorandum from the Sanitation Department, although the bid received from Truck Centers of Arkansas met the minimum specification requirements and despite being \$3,747.62 less than the second lowest bid, we are recommending that we accept the bid from Carco International instead.

Funding for this truck is available and has been appropriated for in the 2012 Budget in the "Reserve for Sanitation Equipment-Sinking Fund Account" in the amount of \$100,000.

I am recommending that the bid submitted by Carco International for \$94,937.62 and as noted by enclosure on the attached bid tabulation, be accepted and approved by the Board.

Please let me know if you should have any questions.

Tabulation of Bids - City of Fort Smith
Container Carrier Truck
Bid No. 6303-SF-BA

Vendor Description	Carco Intl. Fort Smith	MHC Kenworth	ShIPLEY Motor Fort Smith	Truck Centers of AR	Peterbilt of Fort Smith
Cab & Chassis					
Year	2013	2013	2013	2013	2013
Make	International	Kenworth	HINO	Freightliner	Peterbilt
Model	4300	T370	368	M-2	337
Price	\$63,537.62	\$68,000.00	\$67,725.00	\$59,790.00	\$71,222.00
Body					
Make	Stellar	Stellar	Stellar	Stellar	G & H
Model	ECCR	ECCR	ECCR	ECCR	1800
Price	\$31,400.00	\$31,400.00	\$31,400.00	\$31,400.00	\$24,050.00
Grand Total	\$94,937.62 ✓	\$99,400.00	\$99,125.00	\$91,190.00 *	\$95,272.00
Delivery Terms	120 days	75 days	190 days	120-150 days	75-90 days

Bids Advertised: 05/05 & 06/12

Bids Opened: 05/21/12

* Poor Performance Issues (See Sanitation Dept. Memorandum)

✓ **Recommended Bid Award**



MEMORANDUM

June 8, 2012

To: Ray Gosack, City Administrator
From: T. Baridi Nkokheli, Director
Subject: Container Delivery / Welding Truck Purchase

The Department of Sanitation is currently utilizing two vehicles for the delivery, retrieval, and upkeep of all front and rear loading commercial containers (dumpsters) currently in service and in stock. We plan to replace the two service vehicles with a single delivery vehicle fitted with a portable welding rig.

The 1998 GMC Top Kick container deliver truck (asset 27) currently has 67,950 miles and is in need of major repairs including replacement of the container delivery bed, hydraulic system, and clutch. We have spent in excess of \$7,728.50 on repairs for this unit in the last two years.

The second truck to be replaced, a 1996 Ford F350 welding truck (asset 4) currently has 90,611 miles. This truck suffers from a weak engine and transmission, and requires repair and replacement of the clutch and power steering components. Over \$4,083.89 has been spent on repairs for this unit over the past 12 months.

Bids for the replacement truck were recently solicited. Truck Centers of Arkansas provided the lowest bid with Carco International, Inc. coming in second lowest (\$3,747.62 higher). Even though they were slightly higher, we recommend the bid be awarded to Carco International as we have experienced poor performance from Truck Centers of Arkansas since purchasing a truck from them in 2011. Some of the issues we have encountered are as follows:

- In September of 2010, the Board authorized the purchase of a mechanic/lube service truck (Res. 173-10) from Truck Centers of Arkansas. They agreed to a delivery date of 120-150 days from the date of order and agreed to pay the City liquidated damages of \$100 per day for each day over the agreed delivery date. The truck was ordered on October 1, 2010. It was not delivered until July 2011. Liquidated damages exceeded \$12,000. Truck Centers of Arkansas refused to pay the liquidated damages as agreed. In an attempt to minimize further impact on department services, we negotiated with Truck Centers of Arkansas to deliver the truck and reduced the liquidated damages by 50% to \$6,400.

- Prior to delivery of the truck, we found it very difficult, almost impossible, to communicate with Truck Centers of Arkansas' sales representative, Brian Stewart, and vice president of sales, Scott Manchester. Voicemail messages were left often by staff for both representatives with delayed response and no action to remedy the issues brought to their attention. After delivery of the chassis to the bed manufacturer, TBG Equipment, the communication issues continued. Our fleet and grounds manager, John Barnes, and purchasing manager, Alie Bahsoon, took over the project, ultimately relieving Mr. Stewart of his responsibilities for lack of communication, response, and professionalism. There are still quality issues with the truck bed stemming from poor, or the lack of, communication exhibited by Mr. Stewart with TBG Equipment. TBG Equipment has also been nonresponsive. Shipley Motors has inspected the bed and has provided a quote of \$4,104.71 to correct manufacturing defects (e.g. leaking tanks, crane and jump-starting system defects).

We have received a copy of Mr. Stewart's letter, dated May 25, 2012, protesting the bid on behalf of Truck Centers of Arkansas. We reiterate our recommendation to proceed with the next lowest bidder, Carco International, Inc. for this truck purchase based on our prior experience with Truck Centers of Arkansas.

Please contact me should you have any questions regarding this report or would like additional information.



5-25-2012

Alie Bahsoon
Purchasing Manager City of Fort Smith
623 Garrison Ave Rm 522
Fort Smith, AR 72901

RE: Contest bid award 6303-SF-BA

Dear Mr. Bahsoon,

I understand that bid 6303-SF-BA was awarded to Carco Transportation, the second lowest bidder. It was explained to me that the sanitation department feels I need to pay my dues because of past performance. Here are the facts; the last and only unit TC of AR sold to the Sanitation department was late because of the factory issues on a specialty chassis (Factory 4X4). Truck Centers of Arkansas had no control over this and yet Truck Centers of Arkansas paid monetarily a \$6400.00 penalty. This is real money and a very harsh penalty. You would think it would have been payment enough.

I am assuming the Freightliner product is working outstanding because I have not heard from the sanitation department since we delivered the unit over a year ago.

Finally, I would like to say Truck Centers of Arkansas has sold many units to the City of Fort Smith without fault, and the Freightliner product is performing better than expected. With that being said this is a bid process to which Truck Centers of Arkansas was low bidder by a margin of \$3747.00 (With only 1 exception, no rear shock absorbers, because of heavy duty rear suspension) and we should be awarded this business accordingly.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Brian J. Stewart', is written over the typed name.

Brian J. Stewart
Truck Centers of Arkansas

Truck Centers of Arkansas
1915 Industrial Park Road * Van Buren, AR 72956
Local (479) 474.9900 • Toll Free (800) 799.4551 • Fax (479) 474.9901
www.truckcentersar.com



STELLAR® CONTAINER CARRIER TECHNICAL SPECIFICATION GUIDE

CONTAINER CARRIERS

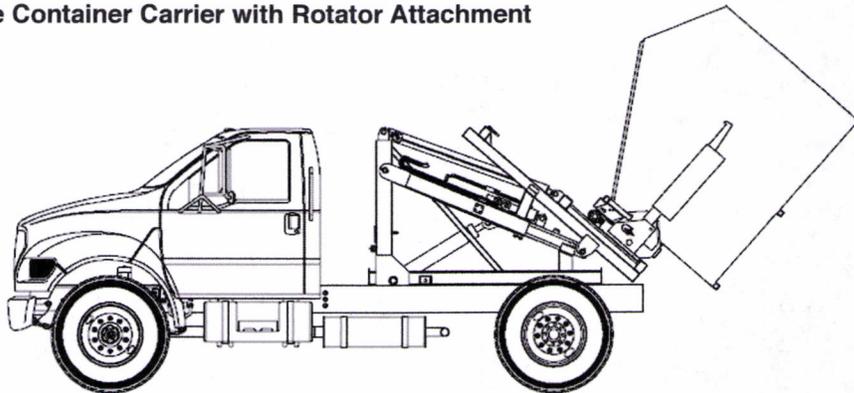
Container Carriers with Optional Rotator Attachment



Our People. Our Products.

■ **The Stellar® Extendable Container Carrier with Rotator Attachment**

Equipped with the hydraulic 360 degree continuous rotator, the container carrier can dump front-load containers in either direction of rotation.



The center of gravity of the ECCR unit is located approximately 11.25" in front of the rear axle. In the stored position, the center of gravity of the container is located approximately 43" behind rear axle.

Model ECCR: Extendable and retractable fork body with rotator

Model CCR: Non-extending with rotator

Model CC: Non-extending, non-rotating

Specifications	ECCR	CCR	CC
Lifting capacity	8,000 lbs (3,629 kg)	8,000 lbs (3,629 kg)	8,000 lbs (3,629 kg)
Dumping capacity*	8,000 lbs (3,629 kg)	8,000 lbs (3,629 kg)	NA
Transporting capacity**	8,000 lbs (3,629 kg)	8,000 lbs (3,629 kg)	8,000 lbs (3,629 kg)
Container sizes	2-10 yd ³	2-10 yd ³	2-10 yd ³
Type of containers	Front and rear load	Front and rear load	Front and rear load
Rotation	Worm/turntable gear bearings	Worm/turntable gear bearings	NA
Stacking capability	2-8 yd ³	2-8 yd ³	2-8 yd ³
Operating pressure	4,500 psi (31 mpa)	4,500 psi (31 mpa)	4,500 psi (31 mpa)
GPM	12 (45 lpm)	12 (45 lpm)	12 (45 lpm)
Hydraulic tank	10-gallon (38 ltr)	10-gallon (38 ltr)	10-gallon (38 ltr)
Recommended CA	84" to 114" (2,134 to 2,896 mm)	84" to 114" (2,134 to 2,896 mm)	84" to 114" (2,134 to 2,896 mm)
Controls	Inside & outside controls	Inside & outside controls	Inside & outside controls
Bushings and zerks	All pivot and rotation points	All pivot and rotation points	All pivot and rotation points
Container bumpers	Molded rubber	Molded rubber	Molded rubber
Hydraulic pump	Bent axis piston type	Bent axis piston type	Bent axis piston type
Valve bank	4-spool cable controlled	3-spool cable controlled	2-spool cable controlled
Min. chassis GVW	26,000 lbs (11.8 mt)	26,000 lbs (11.8 mt)	26,000 lbs (11.8 mt)
C/L of gravity	11.25" forward of rear axle	12.25" behind rear axle	Centered top of rear axle
C/L of payload	43" behind rear axle	65.5" behind rear axle	65.5" behind rear axle
Shipping weight	3,300 lbs (1,497 kg)	3,000 lbs (1,361 kg)	2,300 lbs (1,043 kg)

* Front load only

** Truck chassis manufacturer's specific body and equipment weight and center of gravity limitation must not be exceeded. Stellar® Container Carrier installation will require calculation of CG for compliance with Federal Motor Vehicle Safety Standards.

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 Internet: www.stellarindustries.com
 Email: sales@stellarindustries.com

Patents Pending

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9/11

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING CONCERNING MOBILE DATA SUPPORT BETWEEN THE CITY OF FORT SMITH, ARKANSAS, AND SEBASTIAN COUNTY, ARKANSAS

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

Section 1. The Memorandum of Understanding between the City of Fort Smith and Sebastian County, Arkansas, which shall be substantially in the form attached hereto, is hereby approved and provides for the terms, conditions, and mutual understandings for the operation of mobile data systems between the two parties.

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

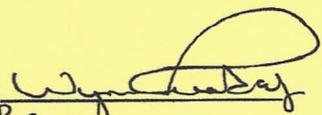
THIS RESOLUTION ADOPTED this _____ day of _____, 2012.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form: 
NPR

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF FORT SMITH, ARKANSAS AND
SEBASTIAN COUNTY, ARKANSAS

This Memorandum of Understanding is made and entered into this ____ day of ___, 2012, by and between the County of Sebastian, acting by and through its governing body, the Quorum Court, hereinafter referred as COUNTY, and City of Fort Smith, AR (City of FS).

WHEREAS, the purpose of this Agreement is to define responsibilities of the Fort Smith Police Department (the Hosting Agency) and Sebastian County Sheriffs Office (the County) concerning use of Mobile Data Computers (MDC) connected to the Fort Smith Police Mobile Data network; and

WHEREAS, the County has entered into all necessary supporting contracts and / or Agreements to effectuate this agreement and will cooperate with any future requirements; and

WHEREAS, the County understands that entering into this agreement will result in certain recurring annual replacement costs and maintenance fees in support of the Mobile Data systems and network infrastructure and that those costs and fees shall be borne entirely by the County;

NOW, THEREFORE, the CITY of FORT SMITH and Sebastian County agree as follows:

Section 1

Administration

1. The Hosting Agency will administer and maintain all MDC and network infrastructure used on the Hosting Agency Mobile Data Network (RVMD);
2. The Hosting Agency Network Manager and staff will administer all MDC equipment and installation of software for the County;
3. All software installation and configuration activities for MDC equipment connected to the Hosting Agency Network Infrastructure will be performed under the direction of the Hosting Agency Network Manager and staff, except as specified below in Section 4 paragraph 1;
4. The Hosting Agency Mobile Data Network Manager will administer all MDC user security accounts for the County;
5. County enforcement personnel using the Hosting Agency Mobile Data Network will abide by all applicable Hosting Agency policies and IT Security Policies, including but not limited to, the Acceptable Use Policy of IT Resources;
6. The County will ensure that only authorized Law Enforcement personnel operate MDCs connected to the Hosting Agency Mobile Data Infrastructure;

7. The County will notify the Hosting Agency Network Manager within 24 hours of a status change concerning the eligibility of any County Law Enforcement personnel to operate a County MDC by reason of separation, suspension, or other status change under this agreement. Such Hosting Agency Network Manager will immediately disable the member's MDC security account;
8. Either the Host Agency or the County can suspend connectivity pending resolution of any issue that may impact the confidentiality, integrity or availability of their respective systems;
9. In the event the County MDC equipment requires service, the County will contact and transport the equipment to the Hosting Agency Network Manager;
10. The Hosting Agency Network Manager will notify a member designated by the County of any planned or discovered un-planned interruption of the Mobile Data services.

Section 2

Arkansas Crime Information Center (ACIC)

1. The County will ensure that only Law Enforcement personnel or staff members currently certified by the Arkansas State Police or ACIC/NCIC access operate MDCs connected to the Hosting Agency Mobile Data Infrastructure;
2. Violation of ACIC/NCIC policies will result in immediate suspension of connectivity.

Section 3

Audits

1. At regular intervals, the Hosting Agency will conduct audits of mobile data message traffic to ensure member compliance with established use policies. Mobile Data message traffic from County Law Enforcement personnel or staff members is subject to review during these audits;
2. If a County member is identified as having violated established Hosting Agency use policies, the Host Agency Chief of Police, or his/her designee, will contact the County Sheriff or his/her designee and make notification of the violation;
3. The Hosting Agency Chief of Police will provide the County Sheriff or a designated member, upon request, audits of County Law Enforcement personnel mobile message traffic, and any other security logs available.

Section 4

Technology Upgrade

1. To maintain the operational efficiency of the Hosting Agency Mobile Data Network, the Hosting Agency Network Manager regularly updates server hardware and software on MDC equipment and network systems. The County agrees to access and install these hardware and software updates and to transport MDC equipment to the Hosting Agency Mobile Data Coordinator for update installation, in instances when updates cannot be efficiently transmitted to MDC equipment wirelessly;
2. To maintain the operational efficiency of the Hosting Agency Mobile Data Network, the Hosting Agency has established a five-year hardware refresh schedule for MDC equipment which includes Mobile Data servers, software, and supporting network equipment. The County agrees to provide to the Hosting Agency the installation date for all County MDC equipment. The Hosting Agency Network Manager will notify a member designated by the County, at least ninety days in advance, that the County equipment is approaching the obsolescence date. No connectivity will be permitted for MDC equipment beyond the equipment obsolescence date. The County will be responsible for acquiring and funding replacement MDC equipment, servers, software and network equipment, specified by the Hosting Agency Network Manager.

Section 5

Regional Mobile Data Federal Grants

By accepting Regional Mobile Data equipment procured by the Fort Smith Police Department using federal grants, the recipient agrees to and understands:

- A. The equipment remains the property of the City of Fort Smith by the terms of the grant.
- B. The recipient is responsible for proper care and maintenance of the equipment while it is in his or her possession. The recipient cannot modify or alter the equipment without prior express written permission of the Fort Smith Police Chief or his designee. This includes removal of any inventory or identification tags.
- C. The recipient may not sell, barter, trade, pawn, loan, dispose of in any way, or otherwise encumber the equipment at any time. The equipment must be returned to the City of Ft. Smith for proper disposition.
- D. The above requirements are the result of federal grant mandates. They are non-negotiable.

Section 6

Fees

1. Year 2008 and each year thereafter total support fees for 23 MDCs will total \$23,920.00

Terms:

- a. The County has requested support for 23 MDCs in 2008 and agrees to pay the Hosting Agency fees associated with the rendering of MDC service as follows:
- b. An internet usage fee of \$240.00 per MDC unit per year totaling \$5,520.00
- c. A support fee of \$800 per MDC unit per year totaling \$18,400.00

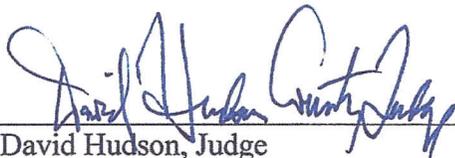
This equates to a total annual fee of \$23,920.00

Section 7

Renewal

- 1. This agreement shall have a term of one year from the date of its enactment and shall be deemed to renew automatically on a yearly basis, provided all parties are in continued agreement. Either party not wishing to renew the agreement shall provide written notice to the respective Chief of Police, Sheriff, or their designee, at least ninety (90) days in advance of the termination date.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

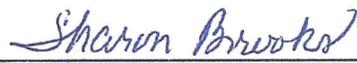


 David Hudson, Judge

COUNTY

DATE: 5-9-12

ATTEST:



 County Clerk

DATE: 5/9/12

APPROVED AS TO LEGAL FORM:



 Prosecuting Attorney

 Sandy Sanders, Mayor

CITY OF FORT SMITH

DATE: _____

ATTEST:

 City Clerk

DATE: _____

APPROVED AS TO LEGAL FORM:

 City Attorney

INTERDEPARTMENTAL MEMORANDUM

To: Ray Gosack, City Administrator
From: Kevin Lindsey, Chief of Police
Subject: Memorandum of Understanding between the City of Fort Smith and Sebastian County, Arkansas
Date: June 13, 2012

The Fort Smith Police Department continues its drive towards becoming a regional leader in communications and information dissemination. As part of this process the Department is able to supply the communication needs of other jurisdictions and receive compensation for those services. Monies received can then be reinvested in the technical infrastructure required to maintain the informational network thus benefiting not only the purchaser of services but also the citizens of Fort Smith.

The Department is proposing that the City renew a Memorandum of Understanding that would allow the Department to collect revenue from Sebastian County, Arkansas for Mobile Data services. This Memorandum of Understanding includes language that will automatically renew on a yearly basis, provided all parties are in continued agreement. If either party desires to discontinue this service they must provide written notice at least ninety days in advance of the termination date. This is one of many such agreements that the Department has been able to enter into and is an important step in continuing the development of the Departments IT and communications goals.

Please contact me if you have questions or need additional information.

RESOLUTION NO. _____

4 I

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT AND AUTHORIZATION NUMBER ONE WITH RJN GROUP, INC., FOR THE DESIGN OF THE BASIN 9 COLLECTION SYSTEM IMPROVEMENTS

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

SECTION 1: An Agreement and Authorization Number One with RJN Group, Inc., for engineering design services for the Basin 9 Collection System Improvements, Project Number 12-08-ED1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute the Agreement and Authorization Number One in the amount of \$197,930.00, for performance of said services..

This Resolution adopted this _____ day of June 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



_____npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: June 11, 2012

FROM: Steve Parke,  Director of Utilities

SUBJECT: Basin 9 Collection System Improvements
Project Number 12-08-ED1

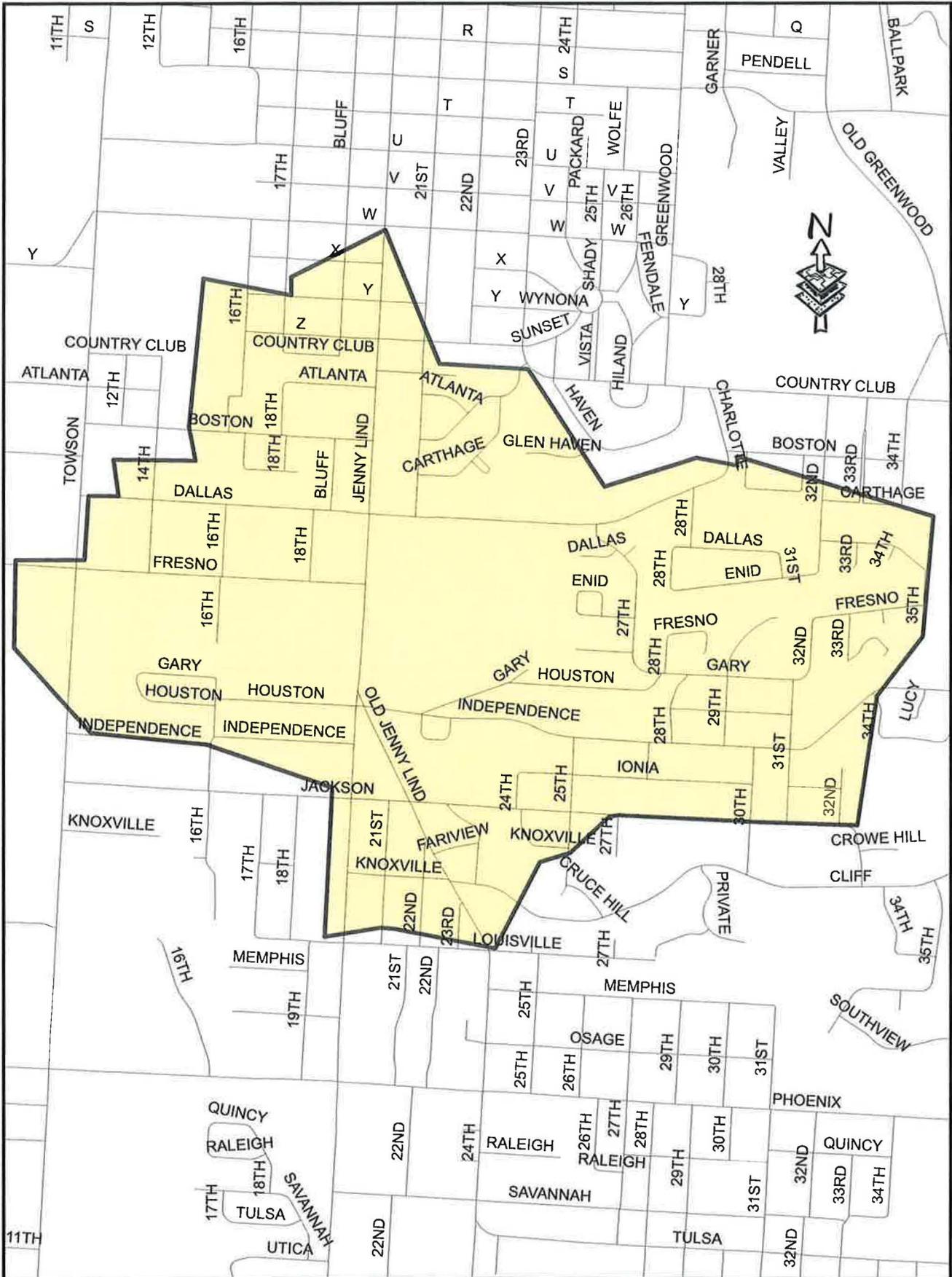
This project is to design the replacement of approximately 11,350 linear feet of sewer collection system within sewer Basin 9. The sewer mains within Basin 9 have had recurring problems with blockages and lack of capacity which causes sewer backups overflows. A project area exhibit is attached.

The attached Resolution authorizes the Agreement and Authorization Number One with RJN Group, Inc., for the design of the Basin 9 Collection System Improvements in the amount of \$197,930.00. The funding for this project is from the 2012 sales and use tax bonds issued for continuation of wet weather sewer improvements.

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

attachment

pc: Jeff Dingman



BASIN 9 COLLECTION SYSTEM IMPROVEMENTS
PROJECT NUMBER 12-08-ED1
CITY OF FORT SMITH, AR

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT AND AUTHORIZATION NUMBER ONE WITH RJN GROUP, INC., FOR ENGINEERING SERVICES FOR THE BASIN 17 COLLECTION SYSTEM IMPROVEMENTS

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

SECTION 1: An Agreement and Authorization Number One with RJN Group, Inc., for engineering design services for Basin 17 Collection System Improvements, Project 12-14-ED1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute the Agreement and Authorization Number One in the amount of \$159,608.95, for performance of said services.

This Resolution adopted this _____ day of June 2012.

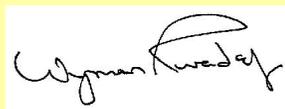
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: June 11, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: Basin 17 Collection System Improvements
Project Number 12-14-ED1

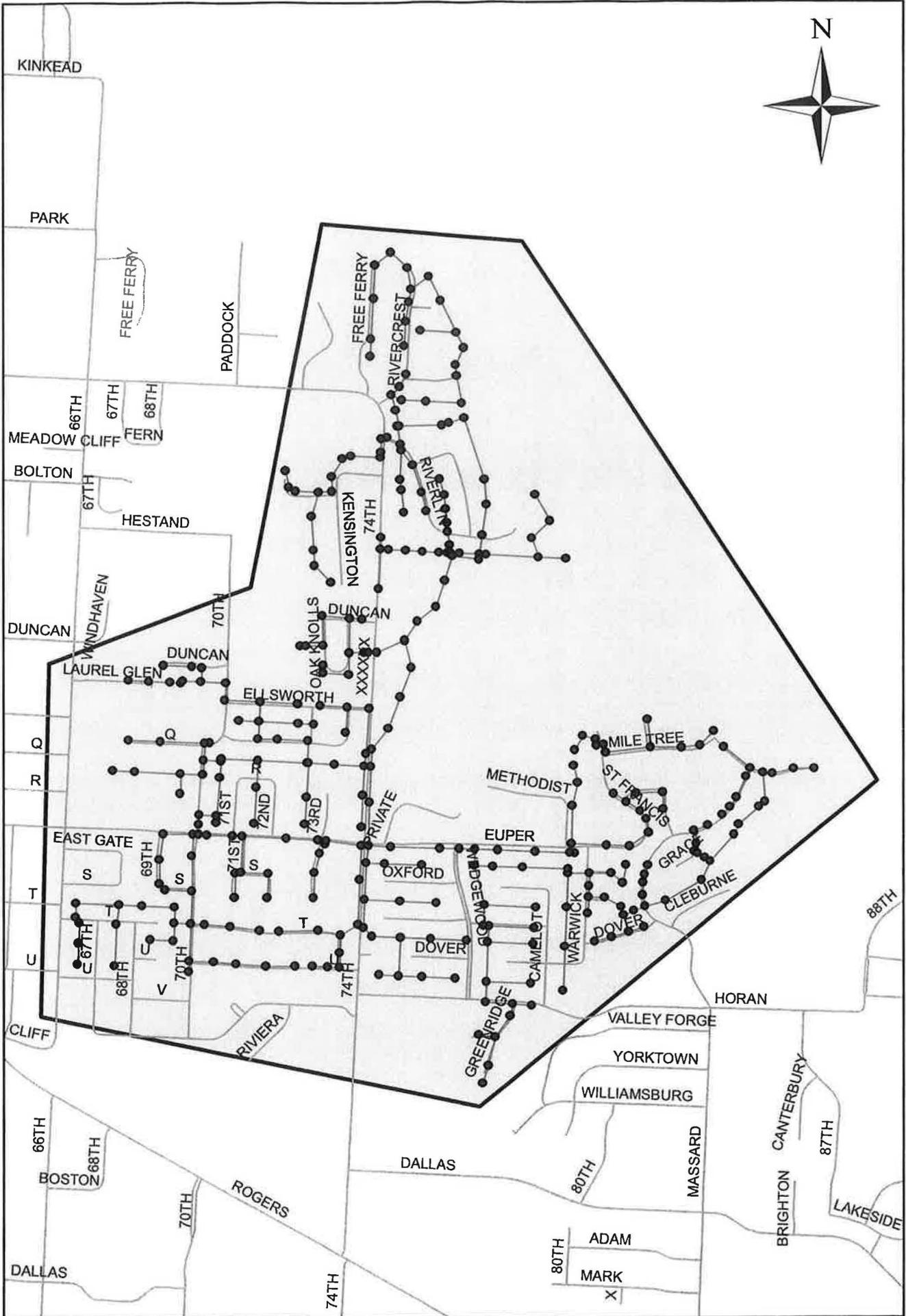
The sewer collection system within Basin 17 contains approximately 61,700 linear feet of sewer main. During heavy rains sanitary sewer backup and overflows frequently occur. Smoke testing, dye testing, and video recording of the sewer mains and manholes will identify and areas needing repair/replacement. RJN Group, Inc., has been selected to provide a sewer system evaluation survey for Basin 17. A project area exhibit is attached.

Attached is a Resolution authorizing an Agreement and Authorization Number One with RJN Group, Inc., to provide hydraulic analysis and condition assessment of the Basin 17 Collection System Improvements in the amount of \$159,608.95. Funding for this work is available from the 2012 sales and use tax bonds issued for continuation of wet weather sewer improvements.

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

attachment

pc: Jeff Dingman



RESOLUTION NO. _____

4 K

RESOLUTION AUTHORIZING AMENDMENT NUMBER ONE TO AUTHORIZATION NUMBER TWO WITH RJN GROUP, INC., FOR ENGINEERING SERVICES FOR THE SOUTH 28TH STREET SEWER REPLACEMENT PROJECT

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

SECTION 1: Amendment Number One to Authorization Number Two under the Agreement with RJN Group, Inc., to provide construction phase services for the South 28th Street Sewer Replacement Project, Project Number 09-20-E2, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute Amendment Number One in the amount of \$20,184.00, for construction phase services, adjusting Authorization Number Two to amount of \$111,094.45.

This Resolution adopted this _____ day of June 2012.

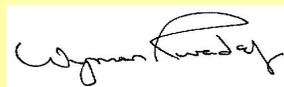
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

RESOLUTION NO. _____

4 L

RESOLUTION AUTHORIZING CHANGE ORDER NUMBER TWO
WITH FORSGREN, INC., FOR THE CONSTRUCTION OF THE
SOUTH 28TH STREET SEWER REPLACEMENT PROJECT

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

Change Order Number Two to the contract with Forsgren, Inc., for the construction of the
South 28th Street Sewer Replacement Project, Project Number 09-20-C1, adding 40 days to the
contract time, is hereby approved.

This Resolution adopted this _____ day of June 2012.

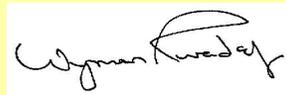
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: June 13, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: South 28th Street Sewer Replacement Project
Project Number 09-20

The South 28th Street sewer replacement project constructed approximately 4,900 feet of 8- through 18-inch diameter sewer main to increase wet weather sewer capacity in the vicinity of the Greenbrier South and Fianna Hills subdivisions. A copy of the project area exhibit is attached. The contractor, Forsgren, has requested that the city grant an extension of the contract time by 40 calendar days due to weather related delays. Staff has reviewed this request and determined that is reasonable.

The additional time to complete the construction work has also created an overrun of the time required by the RJN Group, the city's engineering consultant providing construction observation services. RJN has requested an adjustment to their contract in the amount of \$20,184.00 for this additional time. Staff has reviewed this request and determined that the amount of RJN's request is justified.

Resolutions authorizing Change Order Number Two granting Forsgren an additional 40 calendar days for the contract time and approving Amendment Number One to Authorization Number Two with RJN Group in the amount of \$20,184.00 are attached. Staff recommends their approval.

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

attachment

pc: Jeff Dingman

Project Summary

Project status: Under construction

Project name: South 28th Street Sewer Replacement

Today's date: June 11, 2012

Project number: **09-20-C1**

Staff contact name: Steve Parke

Project engineer: RJN Group, Inc.

Staff contact phone: 479-784-2231

Project contractor: Forsgren, Inc.

Notice to proceed issued: December 5, 2011

Completion date: August 23, 2012

	Dollar Amount	Contract Time (Days)
Original contract	1,012,014.70	180
Change orders:		
Number One	10,445.00	10
Number Two	0.00	40
Total Change Orders	10,445.00	<u>50</u>
Adjusted contract	<u>1,022,459.70</u>	<u>230</u>
Payments to date (as negative):	-672,788.34	
Amount of this payment (as negative)	0.00	
Retainage held	32,715.99	
Liquidated damages	0.00	
Contract balance remaining (under run)	349,671.36	
Amount Over (under) original as a percentage		

Comments:

RESOLUTION NO. _____

4 M

RESOLUTION ACCEPTING CONSENT ADMINISTRATIVE ORDER

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

SECTION 1: The attached Arkansas Department of Environmental Quality Consent Administrative Order is hereby approved and the Mayor and City Administrator are authorized to sign the Order on behalf of the City.

SECTION 2: The Mayor and City Administrator are authorized to expend funds in the amount of \$2,400.00 as payment for the civil penalty required by the Consent Administrative Order.

This Resolution adopted this _____ day of June 2012.

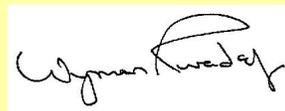
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: June 11, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: Lake Fort Smith Water Treatment Plant Improvements
Consent Administrative Order

As a part of the Contract 3, Lake Fort Smith Water Treatment plant improvements project, Crossland Heavy Contractors performed demolition of the filters for the 1936 treatment plant building to make room for construction of the new carbon contract basin. The contract drawings identified the presence of four-inch diameter asbestos cement pipe wall sleeves that were cast in the lower portion of partition walls of four of the eight filters. The project specifications required that the contractor comply with all applicable regulations concerning the removal and handling of such materials. Crossland completed the demolition and disposal of the filter partition walls, including the four inch asbestos cement pipe sleeves, in early December 2011. Crossland failed to notify ADEQ, submit the required Notice of Intent and to pay the appropriate state fees. Upon learning of this error the city provided a report to ADEQ which detailed Crossland's construction demolition procedures to document that no employee safety concerns or improper disposal methods related to the asbestos materials occurred other than Crossland's failure to provide proper notice.

On June 4, 2012, the city received correspondence from ADEQ that included a proposed Consent Administrative Order. Because Fort Smith ordered demolition of the structure through its contract with Crossland which resulted in a failure to submit a written Notice of Intent, the Consent Administrative Order specifies that in compromise and full settlement, Fort Smith agrees to pay \$2,400.00. Crossland Heavy Contractors has acknowledged their failure to comply with contract requirements regarding compliance with applicable regulations and has agreed to fully reimburse Fort Smith through a final project change order. A copy of ADEQ's proposed Consent Administrative Order is attached.

In fulfillment of the terms of the Consent Administrative Order I have attached a Resolution acknowledging the Board's intent to be bound by the terms of the Order, authorizing the Mayor and City Administrator to sign the Order on behalf of the city, and to expend funds for payment in the amount of \$2,400.00.

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

attachment

pc: Jeff Dingman

ADEQ

ARKANSAS
Department of Environmental Quality

June 4, 2012

**CERTIFIED MAIL 91 7199 9991 7030 4899 2725
RETURN RECEIPT REQUESTED**

City Administrator Ray Gosack
City of Fort Smith
623 Garrison Avenue
3rd Floor, Room 315
Fort Smith, AR 72901

RECEIVED

JUN 07 2012

UTILITY DEPARTMENT

RE: Proposed Consent Administrative Order (CAO)
AFIN: 66-00695 Air Permit Number: N/A

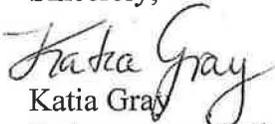
Dear Mr. Parke:

Enclosed, please find the proposed CAO written to address violations of the Arkansas Air Pollution Control Code.

If you agree to the terms of this CAO, please have it executed by the authorized city officials and return the complete ***original embossed*** document to me at the Department letterhead address. When the Director of the Arkansas Department of Environmental Quality has signed the CAO, a copy will be sent to you for your files. Please be advised you have thirty (30) days from the date of this letter to respond in order to preserve your right to formal enforcement under the terms of this CAO. Failure to respond will result in the withdrawal of this CAO and the Department will pursue appropriate enforcement action.

Should you have any questions regarding this matter, you may contact me by phone at 501-683-6977, or via e-mail at gray@adeq.state.ar.us.

Sincerely,


Katia Gray
Enforcement Analyst
Air Division

cc: Steve Parke, Director of Utilities
3900 Kelley Highway
Fort Smith, AR 72904

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

5301 NORTHSHORE DRIVE / NORTH LITTLE ROCK / ARKANSAS 72118-5317 / TELEPHONE 501-682-0744 / FAX 501-682-0880
www.adeq.state.ar.us

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 66-00695

LIS No. _____

CITY OF FORT SMITH
3900 KELLEY HIGHWAY
FORT SMITH, AR 72904-5610

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter “CAO”) is issued pursuant to the authority delegated under the federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, and the federal regulations issued thereunder. In addition, this CAO is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act (hereinafter “the Act”), Ark. Code Ann. § 8-4-101 *et seq.*, the Removal of Asbestos Material Act, Ark. Code Ann. § 20-27-1001 *et seq.*, Arkansas Pollution Control and Ecology Commission (hereinafter “APC&EC”) Regulation 7, APC&EC Regulation 8, and APC&EC Regulation 21.

The issues herein having been settled by agreement of the CITY OF FORT SMITH (hereinafter “Respondent”) and the Director of the Arkansas Department of Environmental Quality (hereinafter “ADEQ”), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. On or after November 16, 2011, Respondent demolished or caused to be demolished the 1936 Filter Building and Head House located at the Lake Fort Smith Water Treatment Plant. The Lake Fort Smith Water Treatment Plant is located at 2036 Lake Fort Smith Road, Mountainburg, Crawford County, Arkansas.

2. The buildings in question constitute a “facility” as defined in APC&EC Regulation 21, § 4.

3. Respondent meets the definition of an “owner or operator of a demolition or renovation activity” as defined in APC&EC Regulation 21, § 4.

4. Following a February 15, 2012 conference call with ADEQ, Burns & McDonnell, on behalf of the Respondent, submitted correspondence dated February 22, 2012. The correspondence provided a summary of the events which occurred during the demolition of the Lake Fort Smith Water Treatment Plant’s 1936 Filter Building and Head House. The correspondence also provided supporting information including a demolition timeline provided by Crossland Heavy Contractors, a site layout, demolition drawings, information regarding the original 1936 filter construction and subsequent filter expansions which occurred in 1942 and 1952.

5. According to the information provided by Burns & McDonnell to ADEQ, a renovation project completed in 2002 indicated that the wall pipes were four inch asbestos cement. The demolition activities were performed by Crossland Heavy Contractors, on behalf of the Respondent, from November 16, 2011 through December 19, 2011.

6. Ark. Code Ann. § 20-27-1007 states, “It shall be unlawful for any person to conduct asbestos response actions, demolitions, or renovations without having first obtained certification from the department when acting as a clearance air monitor, contractor/supervisor, inspector, management planner, project designer, or worker.”

7. Further, it is unlawful for any person “To participate in any response action, demolition, or renovation contrary to the regulations or orders issued under this subchapter or contrary to the Arkansas Water and Air Pollution Control Act, § 8-4-101 *et seq.*, the Arkansas Solid Waste Management Act, § 8-6-201 *et seq.*, and the regulations promulgated thereunder,

whether or not such person is required to have a license or certificate pursuant to this subchapter;” Ark. Code Ann. § 20-27-1007(2).

8. The Respondent failed to conduct or have conducted a thorough asbestos inspection of the affected facility prior to demolition. Such act violates APC&EC Reg.21.501, and therefore violates Ark. Code Ann. § 20-27-1007(4).

9. The Respondent also failed to submit a written Notice of Intent (NOI) and appropriate NOI fee to ADEQ at least ten (10) working days prior to commencing the demolition activity. As noted in paragraph 8 of the Findings of Fact, no asbestos inspection was conducted prior to the demolition activity; therefore, the appropriate fee amount could not be determined at this time. Such act violates APC&EC Reg.21.601, and therefore violates Ark. Code Ann. § 20-27-1007(4).

ORDER AND AGREEMENT

WHEREFORE, Respondent and ADEQ do hereby agree and stipulate as follows:

1. This CAO addresses the violations related to matters noted in paragraph 8 and 9 of the FINDINGS OF FACT.

2. In compromise and full settlement for instances of noncompliance specified in the FINDINGS OF FACT, Respondent agrees to pay the sum of **TWO THOUSAND FOUR HUNDRED DOLLARS (\$2,400.00)**. The total amount shall be made payable to the Arkansas Department of Environmental Quality and mailed to:

ADEQ, Fiscal Division
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317.

3. Unless otherwise notified, in writing, by ADEQ, Respondent shall pay the settlement amount within thirty (30) calendar days after the effective date of this CAO.

4. All applicable submissions required by this CAO are subject to approval by

ADEQ. In the event of any deficiency, Respondent shall, within fifteen (15) calendar days of notification by ADEQ, submit any additional information requested. Failure to adequately respond to the notice of deficiency within fifteen (15) calendar days constitutes a failure to meet a deadline and is subject to the civil penalties established in the following Paragraph.

5. Failure to meet the limits, requirements, or deadlines of this CAO or the applicable approved schedules provided for herein constitutes a violation of said CAO. If Respondent fails to meet any limits, requirements, or deadlines, Respondent consents and agrees to pay, on demand, to ADEQ civil penalties according to the following schedule:

- | | | |
|-----|--|--------------------|
| (a) | First day through the fourteenth day: | \$100.00 per day |
| (b) | Fifteenth day through the thirtieth day: | \$500.00 per day |
| (c) | Each day beyond the thirtieth day: | \$1,000.00 per day |

Stipulated penalties shall be paid within thirty (30) calendar days of receipt of ADEQ's demand to Respondent for such penalties. These stipulated penalties may be imposed for delay in scheduled performance and shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of Respondent's failure to comply with the requirements of this CAO. ADEQ reserves its rights to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

6. If any event, including, but not limited to, an occurrence of nature, causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this CAO, Respondent shall notify ADEQ, in writing, as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates have passed. The notification shall describe in detail the anticipated length of the delay, the precise cause of the delay, the measures being taken and to be taken to minimize the delay, and the timetable by which those measures will be implemented.

7. ADEQ may grant an extension of any provision of this CAO, provided that

Respondent requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period, but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify ADEQ promptly, as provided in the previous Paragraph of the ORDER AND AGREEMENT, shall be grounds for a denial of an extension.

8. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d), and therefore is not effective until thirty (30) days after public notice of the CAO is given. ADEQ retains the right and discretion to rescind this CAO based on comments received within the thirty-day public comment period.

9. As provided by APC&EC Regulation 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this CAO is granted by the Commission.

10. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any other applicable local, state, or federal laws, nor, except as specifically provided herein, shall this CAO be deemed in any way to relieve Respondent of responsibilities contained in the permit.

11. Nothing in this CAO shall be construed as a waiver by ADEQ of its enforcement authority over alleged violations not specifically addressed herein. In addition, this CAO does not exonerate Respondent from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve Respondent of the responsibilities for obtaining any necessary permits.

12. This Order has been reviewed and approved by the Board of Directors of the City of Fort Smith in a duly convened meeting with a quorum present. It is the intention of the Board of Directors to be bound by the terms appearing in the Order.

13. The Board of Directors of the City of Fort Smith has authorized the Mayor and the City Administrator to sign this Order on behalf of the City.

14. The Board of Directors of the City of Fort Smith has authorized the Mayor and City Administrator to expend funds for compliance activities required by this Order including, but not limited to, the payment of a civil penalty in the amount of **TWO THOUSAND FOUR HUNDRED DOLLARS (\$2,400.00)**.

SO ORDERED THIS _____ DAY OF _____, 2012.

TERESA MARKS, DIRECTOR
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

CITY OF FORT SMITH

BY: _____ (Signature)

(Typed or printed name)

TITLE: _____

DATE: _____

BY: _____ (Signature)

(Typed or printed name)

TITLE: _____

DATE: _____

RESOLUTION NO. _____

4 N

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AUTHORIZATION NUMBER TWO TO THE AGREEMENT WITH BRIXEY ENGINEERING & LAND SURVEYING, INC., FOR ENGINEERING SERVICES FOR THE SOUTH 62ND STREET SEWER IMPROVEMENTS - S001

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

SECTION 1: Authorization Number Two with Brixey Engineering & Land Surveying, Inc., for engineering construction phase services associated with the South 62nd Street Sewer Improvements - S001, Project Number 09-05-EC1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute the Authorization Number Two in the amount of \$80,234.00, for performance of said services.

This Resolution adopted this _____ day of June 2012.

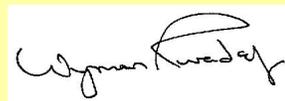
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

RESOLUTION NO. _____

40

RESOLUTION ACCEPTING THE BID OF AND AUTHORIZING THE MAYOR
TO EXECUTE A CONTRACT WITH FORSGREN, INC., FOR THE
SOUTH 62ND STREET SEWER IMPROVEMENTS - S001

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

SECTION 1: The bid of Forsgren, Inc., for the construction of the South 62nd Street
Sewer Improvements - S001, Project Number 09-05-C1, is hereby accepted.

SECTION 2: The Mayor is hereby authorized to execute a contract with Forsgren, Inc.,
for an amount of \$2,134,433.00, for performing said construction.

This Resolution adopted this _____ day of June 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: June 12, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: South 62nd Street Sewer Improvements - S001
Project Number 09-05

This project consists of replacing 8,340 feet of 8 to 12-inch sanitary sewer lines within sub-basin S001 of the Sunnymede sewer basin. These lines have been identified by utility personnel as having high incidents of sanitary sewer overflows. The attached exhibit shows the locations of the improvements.

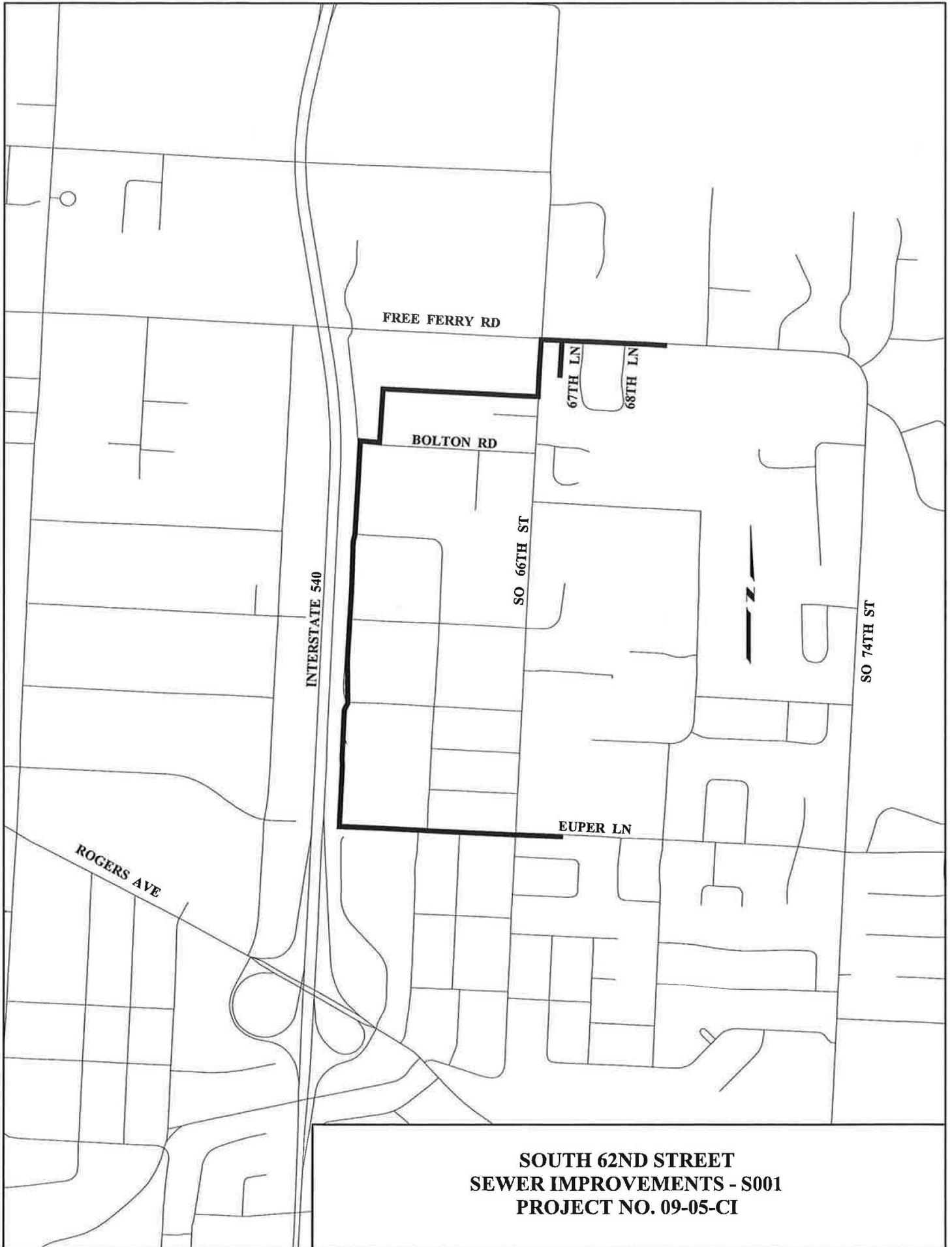
The low bid for the project was submitted by Forsgren, Inc., in the amount of \$2,134,433.00. A bid tabulation showing the bidders and their bid amounts is attached. Construction phase engineering services will be performed through Authorization Number Two with Brixey Engineering and Land Surveying.

Resolutions accepting the bid of Forsgren, Inc., in the amount of \$2,134,433.00 and approving Authorization Number Two with Brixey Engineering and Land Surveying for an amount of \$80,234.00 are attached. Funding for this work is available from the 2009 sales and use tax bonds issued for wet weather sewer improvements.

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

attachment

pc: Jeff Dingman



Bid Tabulation Sheet

Project Name

South 62nd Street Sewer Improvements - S001
Project Number 09-05-C1

Bid Opening

June 12, 2012
2:00 P.M.

Bids Received

Forsgren, Inc. Fort Smith, AR	<u>\$2,134,433.00</u>
T-G Excavating, Inc. Catoosa, OK	<u>\$2,144,444.00</u>
Harris Company Fort Smith, AR	<u>No Bid</u>
Brothers Construction, Inc. Van Buren, AR	<u>No Bid</u>
Underground Solutions, Inc. Paway, CA	<u>No Bid</u>
Goodwin & Goodwin, Inc. Fort Smith, AR	<u>No Bid</u>
Reed Construction Data Norcross, GA	<u>No Bid</u>

RESOLUTION NO. _____

4 P

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AUTHORIZATION NUMBER THREE TO THE AGREEMENT WITH MORRISON SHIPLEY ENGINEERS, INC., FOR ENGINEERING SERVICES FOR THE SUNNYMEDE BASIN NEIGHBORHOOD AND RAMSEY TRIBUTARY SEWER IMPROVEMENTS

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

SECTION 1: Authorization Number Three with Morrison Shipley Engineers, Inc., for engineering construction phase services associated with the Sunnymede Basin Neighborhood Sewer Improvements, Project Number 09-04-EC1, is hereby approved..

SECTION 2: The Mayor is hereby authorized to execute the Authorization Number Three in the amount of \$120,930.00, for performance of said services.

This Resolution adopted this _____ day of June 2012.

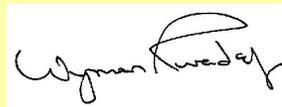
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

RESOLUTION NO. _____

4 Q

RESOLUTION ACCEPTING THE BID OF AND AUTHORIZING THE
MAYOR TO EXECUTE A CONTRACT WITH FORSGREN, INC.,
FOR THE SUNNYMEDE BASIN NEIGHBORHOOD AND
RAMSEY TRIBUTARY SEWER IMPROVEMENTS

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

SECTION 1: The bid of Forsgren, Inc., for the construction of the Sunnymede Basin
Neighborhood and Ramsey Tributary Sewer Improvements, Project Number 09-04-C3, is hereby
accepted.

SECTION 2: The Mayor is hereby authorized to execute a contract with Forsgren, Inc.,
for an amount of \$2,187,107.50, for performing said construction.

This Resolution adopted this _____ day of June 2012.

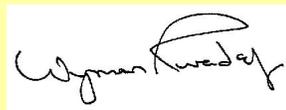
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: June 12, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: Sunnymede Basin Neighborhood and Ramsey
Tributary Sewer Improvements, Project Number 09-04

This project consists of replacing 10,256 feet of 8 to 10-inch sanitary sewer lines within the Sunnymede and Ramsey Tributary sewer basin. These lines have been identified by utility personnel as having high incidents of stoppage and repair work orders. The attached exhibit shows the locations of the improvements.

The low bid for the project was submitted by Forsgren, Inc., in the amount of \$2,187,107.50. A bid tabulation showing the bidders and their bid amounts is attached. Construction phase engineering services will be performed through Authorization Number 3 with Morrison Shipley Engineers, Inc.

Resolutions accepting the bid of Forsgren, Inc., in the amount of \$2,187,107.50 and approving Authorization Number Three with Morrison Shipley Engineers, for an amount of \$120,930.00 are attached. Funding for this work is available from the 2009 sales and use tax bonds issued for wet weather sewer improvements.

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

attachment

pc: Jeff Dingman

Bid Tabulation Sheet

Project Name

Sunnymede Basin Neighborhood and Ramsey Tributary Sewer Improvements
Project Number 09-04-C3

Bid Opening

June 12, 2012
2:30 P.M.

Bids Received

Forsgren, Inc. Fort Smith, AR	<u>\$2,187,107.50</u>
Heller Company Hot Springs, AR	<u>No Bid</u>
Horseshoe Construction, Inc. LaPorte, TX	<u>No Bid</u>
Harris Company Fort Smith, AR	<u>No Bid</u>
B.C. Main Construction, Inc. Fort Smith, AR	<u>No Bid</u>
T-G Excavating, Inc. Catoosa, OK	<u>No Bid</u>
Goodwin & Goodwin, Inc. Fort Smith, AR	<u>No Bid</u>
Reed Construction Data Norcross, GA	<u>No Bid</u>

AN ORDINANCE DECLARING AN EXCEPTIONAL SITUATION WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING AND AUTHORIZING FINAL PAYMENT TO THE BURGESS COMPANY, INC., FOR THE SOUTH 24TH STREET AND ZERO STREET EMERGENCY SEWER REPAIR - Z001

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

WHEREAS, it is necessary to contract for the emergency repairs of the sanitary sewer at South 24th Street and Zero Street; and,

WHEREAS, the emergency sewer repairs precludes the City from meeting the requirements of competitive bidding; and,

WHEREAS, the emergency sewer repair required immediate repair to prevent the possibility of health hazards to the residents of the City of Fort Smith:

NOW THEREFORE, in order to eliminate the possibility of health hazards to the residents of the City of Fort Smith and to begin the necessary repairs as quickly as possible, an exceptional situation exists requiring the waiving of the conditions of competitive bidding, so that the competitive bidding requirements are hereby waived, and final payment to the contractor, The Burgess Company, Inc., in the amount of \$29,599.00, is hereby approved.

PASSED AND APPROVED this _____ day of June 2012.

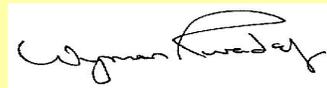
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: June 13, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: South 24th Street and Zero Street
Emergency Sewer Repair (Z001)
Project Number 12-07-C1

On March 5, 2012, our maintenance crews discovered that the 6-Inch sewer which crosses Zero Street at South 24th Street collapsed. It was necessary that a contractor be hired to repair the sewer line by sliplining the existing line to minimize disruption to traffic at this intersection. The Burgess Company had personnel and equipment available for immediate response. Staff negotiated a daily rate for the contractor to provide equipment, materials, and personnel needed for repairs. A copy of my March 13, 2012, email on this matter is attached.

The attached Ordinance waives the competitive bidding requirements for the emergency repair and authorizes final payment to The Burgess Company in the amount of \$29,599.00 for the completed work. Funds for this work are available from the 2009 sales tax bond issue.

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

attachment

pc: Jeff Dingman

Parke, Steve

From: Parke, Steve
Sent: Tuesday, March 13, 2012 12:42 PM
To: Catsavis, George (Board of Directors); Good, Andre (Board of Directors); Hutchings, Don (Board of Directors); Merry, Philip (Board of Directors); Sandy Sanders; Settle, Kevin (Board of Directors); Tyler, Steve (Board of Directors); Weber, Pam (Board of Directors)
Cc: Gosack, Ray; Dingman, Jeff
Subject: Board Information item - Emergency Sewer Repair
Attachments: Emergency SS Replacement.jpg

Mayor and Board:

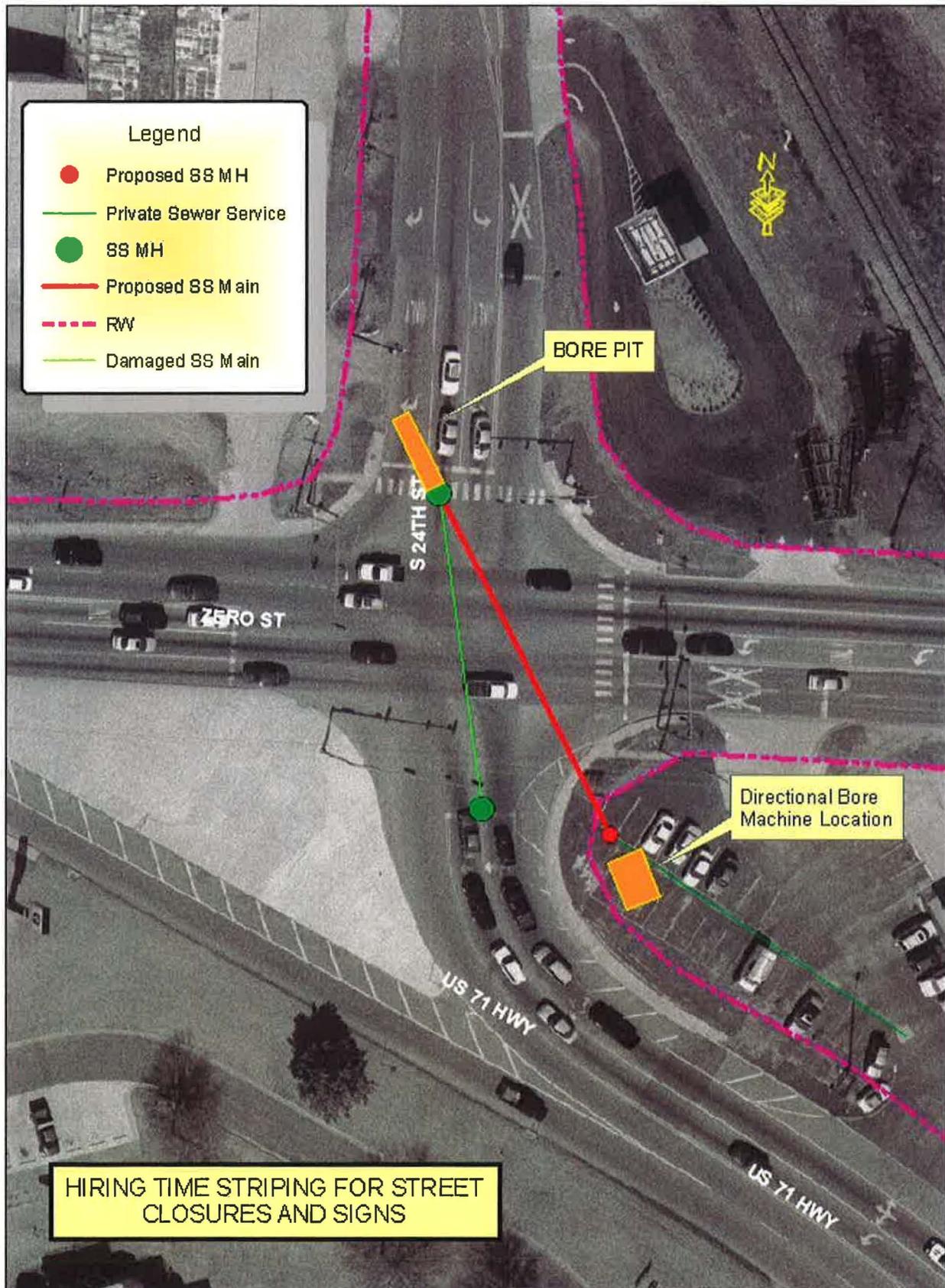
Due to a sewer line failure located under the intersection of Zero Street and South 24th Street we are moving forward with an emergency repair contract using the services of The Burgess Company. The line failure is creating a restricted service condition for the Lewis Family Restaurant which is located at the southeast corner of the intersection. During the course of the maintenance crew's investigations we had to establish road lane closures, which are still in place, and will affect traffic flow until the repairs can be accomplished. An exhibit showing the work area is attached.

The work to be performed by the contractor is estimated at \$27,000. The conditions require immediate attention which prevents the compliance with normal advertising and competitive bidding requirements. Upon completion staff will prepare an Ordinance for the Board's action to waive the bidding requirements and authorize payment for the emergency repair work.

Should there be any questions, please let me know.

Steve Parke

SO. 24TH & HWY 255 (ZERO STREET) EMERGENCY SEWER REPLACEMENT



RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION OF A NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT WITH LTC RESOURCES, Inc.

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

The Mayor, his signature attested by the City Clerk, is hereby authorized to execute the attached Non-Residential Solid Waste Collection and Disposal Permit and Agreement with LTC RESOURCES, INC.

This resolution adopted this _____ day of June, 2012.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



No Publication Required

MEMORANDUM

June 15, 2012

To: Ray Gosack, City Administrator

From: T. Baridi Nkokheli, Director

Subject: Non-Residential Solid Waste Collection and Disposal Permit and Agreement

LTC Resources, Inc. and Wichita Waste Management recently contacted our office expressing a desire to obtain a solid waste permit and agreement with the City of Fort Smith in order to comply with the City of Fort Smith Municipal Code and continue hauling non-residential solid waste within Fort Smith.

Submitted for Board consideration are non-residential solid waste collection and disposal permit and agreements with LTC Resources, Inc. and Wichita Waste Management. Staff is recommending that these agreements be accepted and approved by Resolution.

Please contact me should you have any questions or would like additional information regarding this information.

NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT

THIS AGREEMENT, made and entered on the date set forth below by and between the City of Fort Smith, Arkansas (hereinafter referred to as the "City"), and LTC RESOURCES, INC., an Arkansas corporation.

WITNESSETH:

WHEREAS, the City is a municipal corporation of the first class of the State of Arkansas and, in its governmental capacity, owns and operates the City of Fort Smith Solid Waste Disposal Facility (the "Facility"), which is currently operated as a Class I landfill; and

WHEREAS, the City currently provides solid waste collection and disposal service to residential and non-residential customers within the City; and

WHEREAS, LTC RESOURCES, INC. has the consent of the City to collect and dispose of solid waste for non-residential customers within the corporate limits of the City; and

WHEREAS, the City has evaluated the possibility of exercising its governmental option of providing solid waste collection and disposal services to non-residential customers; and

WHEREAS, LTC RESOURCES, INC. desires to provide non-residential solid waste collection and disposal services for customers located in Sebastian County within and without the corporate limits of the City.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. **Definitions.**

- a. **"Solid Waste,"** when used in this Agreement, shall have the meaning given to it in Section 25-261 of the Fort Smith Code of Ordinance.
- b. **"Residential Customers,"** when used in this Agreement, shall have the meaning given in Section 25-261 of the Fort Smith Code of Ordinances.

2. **Disposal of Waste Generated Within the City.**

- a. **Solid Waste Disposal.** LTC RESOURCES, INC. agrees that all solid waste generated within the City and which is collected by LTC RESOURCES, INC. for disposal shall be hauled by LTC RESOURCES, INC. to the Facility, except as otherwise provided herein. Excepted from this requirement are: (i) any categories of solid waste that the City does not accept for disposal at the Facility; (ii) any customers to which the City may consent in writing executed by the City Administrator to allow to use alternative disposal facilities; and (iii) any recyclables as defined in Section 25-261 of the Fort Smith Code of Ordinances and any other recycling program identified in writing and approved as an exception by the City Administrator. The City will use reasonable efforts to enforce the designation of the Facility against all waste haulers.
- b. **Rates for Disposal.** The rates for disposal of solid waste generated within the City and disposed of at the Facility shall be those rates, established from time to time, by the City for the customers of the Facility (the "Fort Smith Published

Rates”). The City agrees that all waste haulers servicing Non-Residential customers within the City and delivering solid waste to the Facility shall

be charged the same disposal rates (subject to the right of the City to contract for special volume rates).

3. **Disposal of Waste Generated Outside the City.**

4.

a. **Rates for Disposal.** The base rates charged for solid waste generated outside the City and delivered to the Facility by LTC RESOURCES, INC. shall be the Fort Smith published rates.

b. The rates may be adjusted on the anniversary of each year of the term provided for in this paragraph. On each anniversary date, the rates set forth in the Fort Smith Published Rates may be adjusted by the percentage that the Consumer Pricing Index for All Urban Areas (“CPI-U”) for the first calendar month of the preceding contract year was exceeded by the CPI-U at the beginning of the next contract year. (The CPI-U is based on the U.S. Department of Labor, Bureau of Labor and Statistics, Consumer Price Index for all urban customers in the U.S. city average, with all items having been computed based on 1982 - 84 = 100.0.)

c. The rates provided for in this paragraph 3 shall be subject to adjustment by the governing body of the City of Fort Smith upon determination of the governing body that federal or state regulatory agencies have adopted and implemented regulations which have a significant, adverse effect on the rates charged for waste disposal at the Facility (the percentage in change in the rates provided for in paragraph 3 of the Agreement shall not exceed the percentage of rate change published by the City of Fort Smith for waste generated within the City of Fort Smith).

d. Except as provided in subsections (b) and (c) above, the External Rate shall not be subject to any adjustment during the initial three (3) years under this Agreement.

5. **Permit.** This Agreement shall constitute a permit issued by the City to LTC RESOURCES, INC., pursuant to Section 25-321 of the Fort Smith Code of Ordinances.

6. **Billing and Payment.** LTC RESOURCES, INC. shall be subject to the City’s standard billing and payment terms and procedures for customers of the Facility.

7. **Compliance with Laws.** All waste provided by LTC RESOURCES, INC. to the Facility for disposal shall comply with all current and future applicable Arkansas Department of Environmental Quality Regulations, including Regulation 22 and Regulation 23; and all other applicable federal, state and local environmental requirements. In the event that LTC RESOURCES, INC. delivers waste to the Facility that does not conform to the identified regulations and requirements, LTC RESOURCES, INC. shall be responsible for any cost incurred by the City in the treatment and handling of the non-conforming waste.

8. **Vehicles.**

a. **License.** All vehicles utilized by LTC RESOURCES, INC. to deliver solid waste to the Facility pursuant to this Agreement shall have a hauler’s license issued by the Sebastian County Regional Solid Waste Management District.

- b. **Covered Loads.** All solid waste delivered by LTC RESOURCES, INC. to the Facility pursuant to this Agreement, shall be delivered in vehicles in which all loaded solid waste is covered and secured to prevent blowing or dropping on public rights-of-way or City-owned property from point of location to the point of disposal at the Facility.
9. **Inspection of Records.** Both parties shall have access to the governmental and business records of the other party relevant to this Agreement, for the purpose of verifying any information pertinent to this Agreement. Any exercise of such right of inspection shall occur at the normal business office and during the normal business hours of the party who holds the information. LTC RESOURCES, INC. acknowledges that it will comply with reasonable requests of the City for information regarding the types and amounts of solid waste being disposed of at the Facility, as well as the location of the collection of the waste, as relevant to this Agreement
10. **Dispute Resolution.** In the event that either party believes that the other party is in violation of any provision of this Agreement that party shall provide to the other party, in writing, a notice of the alleged breach. Within ten (10) days of receipt of notice, the notified party shall respond to the allegations. If the response does not resolve the issue, either party may request, in writing, that a meeting of the parties and/or their authorized representatives, be held. Such meeting shall be held within thirty (30) days of this request, at the Office of the Fort Smith City Administrator. Except in an emergency situation, neither party may initiate litigation regarding the alleged breach until the dispute resolution provisions, as set forth herein, have been completed. If this meeting does not result in a resolution of the dispute, either party may pursue any appropriate legal or equitable remedies, including rescission, with a court of competent jurisdiction.
11. **Term.** This permit and agreement shall have a term of five (5) years commencing on the first day of the calendar month which begins following the date of execution of this Agreement by the City.
12. **Choice of Law.** This Agreement shall be governed by the laws of the State of Arkansas.
13. **Assignment.** The provisions of this Agreement are not assignable by either party without the prior, written consent to the other party.
14. **Indemnification.** LTC RESOURCES, INC. agrees to indemnify and hold harmless the City from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and reasonable attorneys' fees resulting from LTC RESOURCES, INC. operations hereunder. Provided, however, that LTC RESOURCES, INC. shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses or attorneys' fees solely caused the willful or negligent acts or omissions of the City's employees.
15. **Insurance.** LTC RESOURCES, INC. shall at all times during the term of this Agreement maintain in full force and effect Employer's Liability, Workmen's Compensation, Public Liability, and Property Damage Insurance. Before commencement of work under this Agreement, LTC RESOURCES, INC. agrees to furnish to the City certificates of insurance or other evidence to the effect that such insurance has been procured and is in force. For the purpose of this Agreement, LTC RESOURCES, INC. shall carry the following types of insurance in at least the amounts specified below:

Workmen's Compensation	Statutory
Employer's Liability	\$ 500,000
Bodily Injury Liability (except automobile)	\$ 500,000/occurrence \$1,000,000/aggregate
Property Damage Liability (except automobile)	\$ 500,000/occurrence \$1,000,000/aggregate
Automobile Bodily Injury Liability	\$ 500,000/person \$1,000,000/occurrence
Automobile Property Damage Liability	\$ 500,000/occurrence
Excess Umbrella Liability	\$5,000,000/occurrence

16. **Force Majeure.** Neither party hereto shall be liable for its failure to perform hereunder do to circumstances beyond its reasonable control, including, but not limited to, strikes or other labor disputes, riots, civil disturbances or sabotage, fires, floods, explosions, accidents, weather or acts of God affecting either party hereunder. In the event any of the circumstances listed in the preceding sentence, or if any federal, state or local court or authority takes any action which would (i) close or restrict operations at the Facility, or (ii) limit the quantity or prohibit the disposal of waste at the Facility or limit the ability of or prohibit LTC RESOURCES, INC. from delivering waste to the Facility, LTC RESOURCES, INC. shall have the right, at its option, to reduce, suspend or terminate delivery of waste to the Facility, as set forth hereunder, immediately, without prior notices and without any additional liabilities between the parties.
17. **Severability.** If any provision of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall remain in effect and be construed without regard to such provision.
18. **Entire Agreement.** This Agreement constitutes the entire understanding between the parties, replacing and amending any prior agreements between the parties, and shall be binding upon all parties hereto, their successors, heirs, representatives and approved assigns. Any provision, term or condition in any acknowledgment, purchase order or other response by the City to LTC RESOURCES, INC., or by LTC RESOURCES, INC. to the City, which is in addition to or different from the provisions of this Agreement shall be deemed objected to by the other party and shall be of no effect.
19. **Notices.** Any notice required to be given pursuant to the provisions of this Agreement shall be considered to be validly delivered, if it is sent by U.S. Certified Mail or if it is hand delivered and a signed receipt is obtained. Such notice should be given to the following:

If to the City:

City of Fort Smith
City Administrator
P.O. Box 1908
Fort Smith, AR 72902

If to LTC RESOURCES, INC.:

Gary Klutts
7001 Hwy 271 South
Fort Smith, AR 72908

This Agreement is executed as of this _____ day of _____, by the authorized representatives of the parties.

CITY OF FORT SMITH, ARKANSAS

By: _____
Sandy Sanders, Mayor

ATTEST:

City Clerk

LTC RESOURCES, INC.

By: _____
Gary Klutts

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE EXECUTION OF A NON-RESIDENTIAL
SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT WITH
WICHITA WASTE MANAGEMENT**

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

The Mayor, his signature attested by the City Clerk, is hereby authorized to execute the attached Non-Residential Solid Waste Collection and Disposal Permit and Agreement with Wichita Waste Management.

This resolution adopted this _____ day of June, 2012.

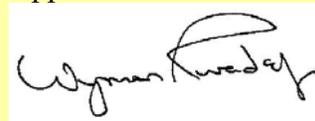
APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



No Publication Required

MEMORANDUM

June 15, 2012

To: Ray Gosack, City Administrator

From: T. Baridi Nkokheli, Director

Subject: Non-Residential Solid Waste Collection and Disposal Permit and Agreement

LTC Resources, Inc. and Wichita Waste Management recently contacted our office expressing a desire to obtain a solid waste permit and agreement with the City of Fort Smith in order to comply with the City of Fort Smith Municipal Code and continue hauling non-residential solid waste within Fort Smith.

Submitted for Board consideration are non-residential solid waste collection and disposal permit and agreements with LTC Resources, Inc. and Wichita Waste Management. Staff is recommending that these agreements be accepted and approved by Resolution.

Please contact me should you have any questions or would like additional information regarding this information.

NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT

THIS AGREEMENT, made and entered on the date set forth below by and between the City of Fort Smith, Arkansas (hereinafter referred to as the "City"), and WICHITA WASTE MANAGEMENT, a Texas corporation.

WITNESSETH:

WHEREAS, the City is a municipal corporation of the first class of the State of Arkansas and, in its governmental capacity, owns and operates the City of Fort Smith Solid Waste Disposal Facility (the "Facility"), which is currently operated as a Class I landfill; and

WHEREAS, the City currently provides solid waste collection and disposal service to residential and non-residential customers within the City; and

WHEREAS, WICHITA WASTE MANAGEMENT has the consent of the City to collect and dispose of solid waste for non-residential customers within the corporate limits of the City; and

WHEREAS, the City has evaluated the possibility of exercising its governmental option of providing solid waste collection and disposal services to non-residential customers; and

WHEREAS, WICHITA WASTE MANAGEMENT desires to provide non-residential solid waste collection and disposal services for customers located in Sebastian County within and without the corporate limits of the City.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. **Definitions.**

- a. **"Solid Waste,"** when used in this Agreement, shall have the meaning given to it in Section 25-261 of the Fort Smith Code of Ordinance.
- b. **"Residential Customers,"** when used in this Agreement, shall have the meaning given in Section 25-261 of the Fort Smith Code of Ordinances.

2. **Disposal of Waste Generated Within the City.**

- a. **Solid Waste Disposal.** WICHITA WASTE MANAGEMENT agrees that all solid waste generated within the City and which is collected by WICHITA WASTE MANAGEMENT for disposal shall be hauled by WICHITA WASTE MANAGEMENT to the Facility, except as otherwise provided herein. Excepted from this requirement are: (i) any categories of solid waste that the City does not accept for disposal at the Facility; (ii) any customers to which the City may consent in writing executed by the City Administrator to allow to use alternative disposal facilities; and (iii) any recyclables as defined in Section 25-261 of the Fort Smith Code of Ordinances and any other recycling program identified in writing and approved as an exception by the City Administrator. The City will use reasonable efforts to enforce the designation of the Facility against all waste haulers.
- b. **Rates for Disposal.** The rates for disposal of solid waste generated within the City and disposed of at the Facility shall be those rates, established from time to

time, by the City for the customers of the Facility (the "Fort Smith Published Rates"). The City agrees that all waste haulers servicing Non-Residential customers within the City and delivering solid waste to the Facility shall be charged the same disposal rates (subject to the right of the City to contract for special volume rates).

3. **Disposal of Waste Generated Outside the City.**

4.

- a. **Rates for Disposal.** The base rates charged for solid waste generated outside the City and delivered to the Facility by WICHITA WASTE MANAGEMENT shall be the Fort Smith published rates.
- b. The rates may be adjusted on the anniversary of each year of the term provided for in this paragraph. On each anniversary date, the rates set forth in the Fort Smith Published Rates may be adjusted by the percentage that the Consumer Pricing Index for All Urban Areas ("CPI-U") for the first calendar month of the preceding contract year was exceeded by the CPI-U at the beginning of the next contract year. (The CPI-U is based on the U.S. Department of Labor, Bureau of Labor and Statistics, Consumer Price Index for all urban customers in the U.S. city average, with all items having been computed based on 1982 - 84 = 100.0.)
- c. The rates provided for in this paragraph 3 shall be subject to adjustment by the governing body of the City of Fort Smith upon determination of the governing body that federal or state regulatory agencies have adopted and implemented regulations which have a significant, adverse effect on the rates charged for waste disposal at the Facility (the percentage in change in the rates provided for in paragraph 3 of the Agreement shall not exceed the percentage of rate change published by the City of Fort Smith for waste generated within the City of Fort Smith).
- d. Except as provided in subsections (b) and (c) above, the External Rate shall not be subject to any adjustment during the initial three (3) years under this Agreement.

5. **Permit.** This Agreement shall constitute a permit issued by the City to WICHITA WASTE MANAGEMENT, pursuant to Section 25-321 of the Fort Smith Code of Ordinances.

6. **Billing and Payment.** WICHITA WASTE MANAGEMENT shall be subject to the City's standard billing and payment terms and procedures for customers of the Facility.

7. **Compliance with Laws.** All waste provided by WICHITA WASTE MANAGEMENT to the Facility for disposal shall comply with all current and future applicable Arkansas Department of Environmental Quality Regulations, including Regulation 22 and Regulation 23; and all other applicable federal, state and local environmental requirements. In the event that WICHITA WASTE MANAGEMENT delivers waste to the Facility that does not conform to the identified regulations and requirements, WICHITA WASTE MANAGEMENT shall be responsible for any cost incurred by the City in the treatment and handling of the non-conforming waste.

8. **Vehicles.**

- a. **License.** All vehicles utilized by WICHITA WASTE MANAGEMENT to deliver solid waste to the Facility pursuant to this Agreement shall have a hauler's

license issued by the Sebastian County Regional Solid Waste Management District.

- b. **Covered Loads.** All solid waste delivered by WICHITA WASTE MANAGEMENT to the Facility pursuant to this Agreement, shall be delivered in vehicles in which all loaded solid waste is covered and secured to prevent blowing or dropping on public rights-of-way or City-owned property from point of location to the point of disposal at the Facility.
9. **Inspection of Records.** Both parties shall have access to the governmental and business records of the other party relevant to this Agreement, for the purpose of verifying any information pertinent to this Agreement. Any exercise of such right of inspection shall occur at the normal business office and during the normal business hours of the party who holds the information. WICHITA WASTE MANAGEMENT acknowledges that it will comply with reasonable requests of the City for information regarding the types and amounts of solid waste being disposed of at the Facility, as well as the location of the collection of the waste, as relevant to this Agreement
10. **Dispute Resolution.** In the event that either party believes that the other party is in violation of any provision of this Agreement that party shall provide to the other party, in writing, a notice of the alleged breach. Within ten (10) days of receipt of notice, the notified party shall respond to the allegations. If the response does not resolve the issue, either party may request, in writing, that a meeting of the parties and/or their authorized representatives, be held. Such meeting shall be held within thirty (30) days of this request, at the Office of the Fort Smith City Administrator. Except in an emergency situation, neither party may initiate litigation regarding the alleged breach until the dispute resolution provisions, as set forth herein, have been completed. If this meeting does not result in a resolution of the dispute, either party may pursue any appropriate legal or equitable remedies, including rescission, with a court of competent jurisdiction.
11. **Term.** This permit and agreement shall have a term of five (5) years commencing on the first day of the calendar month which begins following the date of execution of this Agreement by the City.
12. **Choice of Law.** This Agreement shall be governed by the laws of the State of Arkansas.
13. **Assignment.** The provisions of this Agreement are not assignable by either party without the prior, written consent to the other party.
14. **Indemnification.** WICHITA WASTE MANAGEMENT agrees to indemnify and hold harmless the City from and **against any and** all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and reasonable attorneys' fees resulting from WICHITA WASTE MANAGEMENT operations hereunder. Provided, however, that WICHITA WASTE MANAGEMENT shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses or attorneys' fees solely caused the willful or negligent acts or omissions of the City's employees.
15. **Insurance.** WICHITA WASTE MANAGEMENT shall at all times during the term of this Agreement maintain in full force and effect Employer's Liability, Workmen's Compensation, Public Liability, and Property Damage Insurance. Before commencement of work under this Agreement, WICHITA WASTE MANAGEMENT agrees to furnish to the City certificates of insurance or other evidence to the effect that such insurance has been procured and is in force. For the purpose of this Agreement, WICHITA WASTE MANAGEMENT shall carry the following types of insurance in at least the amounts specified below:

Workmen's Compensation	Statutory
Employer's Liability	\$ 500,000
Bodily Injury Liability (except automobile)	\$ 500,000/occurrence \$1,000,000/aggregate
Property Damage Liability (except automobile)	\$ 500,000/occurrence \$1,000,000/aggregate
Automobile Bodily Injury Liability	\$ 500,000/person \$1,000,000/occurrence
Automobile Property Damage Liability	\$ 500,000/occurrence
Excess Umbrella Liability	\$5,000,000/occurrence

16. **Force Majeure.** Neither party hereto shall be liable for its failure to perform hereunder do to circumstances beyond its reasonable control, including, but not limited to, strikes or other labor disputes, riots, civil disturbances or sabotage, fires, floods, explosions, accidents, weather or acts of God affecting either party hereunder. In the event any of the circumstances listed in the preceding sentence, or if any federal, state or local court or authority takes any action which would (i) close or restrict operations at the Facility, or (ii) limit the quantity or prohibit the disposal of waste at the Facility or limit the ability of or prohibit WICHITA WASTE MANAGEMENT from delivering waste to the Facility, WICHITA WASTE MANAGEMENT shall have the right, at its option, to reduce, suspend or terminate delivery of waste to the Facility, as set forth hereunder, immediately, without prior notices and without any additional liabilities between the parties.
17. **Severability.** If any provision of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall remain in effect and be construed without regard to such provision.
18. **Entire Agreement.** This Agreement constitutes the entire understanding between the parties, replacing and amending any prior agreements between the parties, and shall be binding upon all parties hereto, their successors, heirs, representatives and approved assigns. Any provision, term or condition in any acknowledgment, purchase order or other response by the City to WICHITA WASTE MANAGEMENT, or by WICHITA WASTE MANAGEMENT to the City, which is in addition to or different from the provisions of this Agreement shall be deemed objected to by the other party and shall be of no effect.
19. **Notices.** Any notice required to be given pursuant to the provisions of this Agreement shall be considered to be validly delivered, if it is sent by U.S. Certified Mail or if it is hand delivered and a signed receipt is obtained. Such notice should be given to the following:

If to the City:

City of Fort Smith
City Administrator
P.O. Box 1908
Fort Smith, AR 72902

If to WICHITA WASTE MANAGEMENT: Shawn McCullar
P.O. Box 1795
Wichita Falls, TX 76307

This Agreement is executed as of this _____ day of _____, by the authorized representatives of the parties.

CITY OF FORT SMITH, ARKANSAS

By: _____
Sandy Sanders, Mayor

ATTEST:

City Clerk

WICHITA WASTE MANAGEMENT

By: _____
Shawn McCullar

RESOLUTION NO. _____

**RESOLUTION DIRECTING STAFF TO SOLICIT BID PROPOSALS FOR
RESIDENTIAL MANUAL REFUSE COLLECTION IN ALLEYWAYS**

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

The City of Fort Smith staff is hereby directed to solicit bid proposals for residential manual refuse collection in the City's alleyways.

This resolution adopted this ____ day of _____, 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



No Publication Required



MEMORANDUM

June 15, 2012

TO: Mayor and Board of Directors

FROM: Ray Gosack, City Administrator

SUBJECT: Residential Sanitation Collection

Four board members have requested consideration of a resolution about residential sanitation collection. The resolution would direct the staff to solicit bid proposals for areas with alleyway manual collection to be served by a private contractor. The entire city is currently collected by the city's department of sanitation. This change would affect approximately 4,100 households as shown on the attached map.

We will need to be clear on exactly what the city is soliciting. The request from director Tyler was to solicit bid proposals. There has been some discussion that a particular provider could offer services at the current rate charged by the city. Are we wanting to open sealed bids whereby each bidder would give the city its price (a monthly rate) and describe its collection methods for providing alleyway service? Or, will the city establish the price and then ask for proposals about how each company would provide the required services? Under the former approach, the selection would be based largely on price. Under the latter approach, the selection would be based largely on qualifications and capabilities.

For many decades, most residential areas south of Zero St. were served by a private contractor, Altes Sanitation. In 2010, the city's sanitation employees began serving these areas with automated collection. Attached is the resolution which provided for this change. One of the goals of the change was to provide a uniform and consistent level of service for all residents of the city.

When the southern areas were served by Altes Sanitation, the city routinely received complaints about service. The complaints were about:

- ▶ Missed collections
- ▶ Appearance and conduct of employees (employees would be shirtless, would go through people's refuse)
- ▶ Recyclables were co-mingled with garbage
- ▶ Residents' containers were thrown and damaged by the sanitation workers, and were left blocking driveways and sidewalks
- ▶ Fluids from the collection trucks leaking on streets and leaving stains
- ▶ Slow at collecting storm debris damage

Arkansas law (copy attached) requires municipalities to adequately provide for the collection and disposal of all solid wastes generated within the municipality. Although the city may contract for solid waste collection and disposal, the city is still responsible for the mandate given to us by the state. The best way to ensure compliance is for the city to directly provide the services. This allows for consistent service levels and better planning for the community's solid waste disposal needs. Most or all of the advances in solid waste services in Fort Smith have been initiated by the city's department of sanitation.

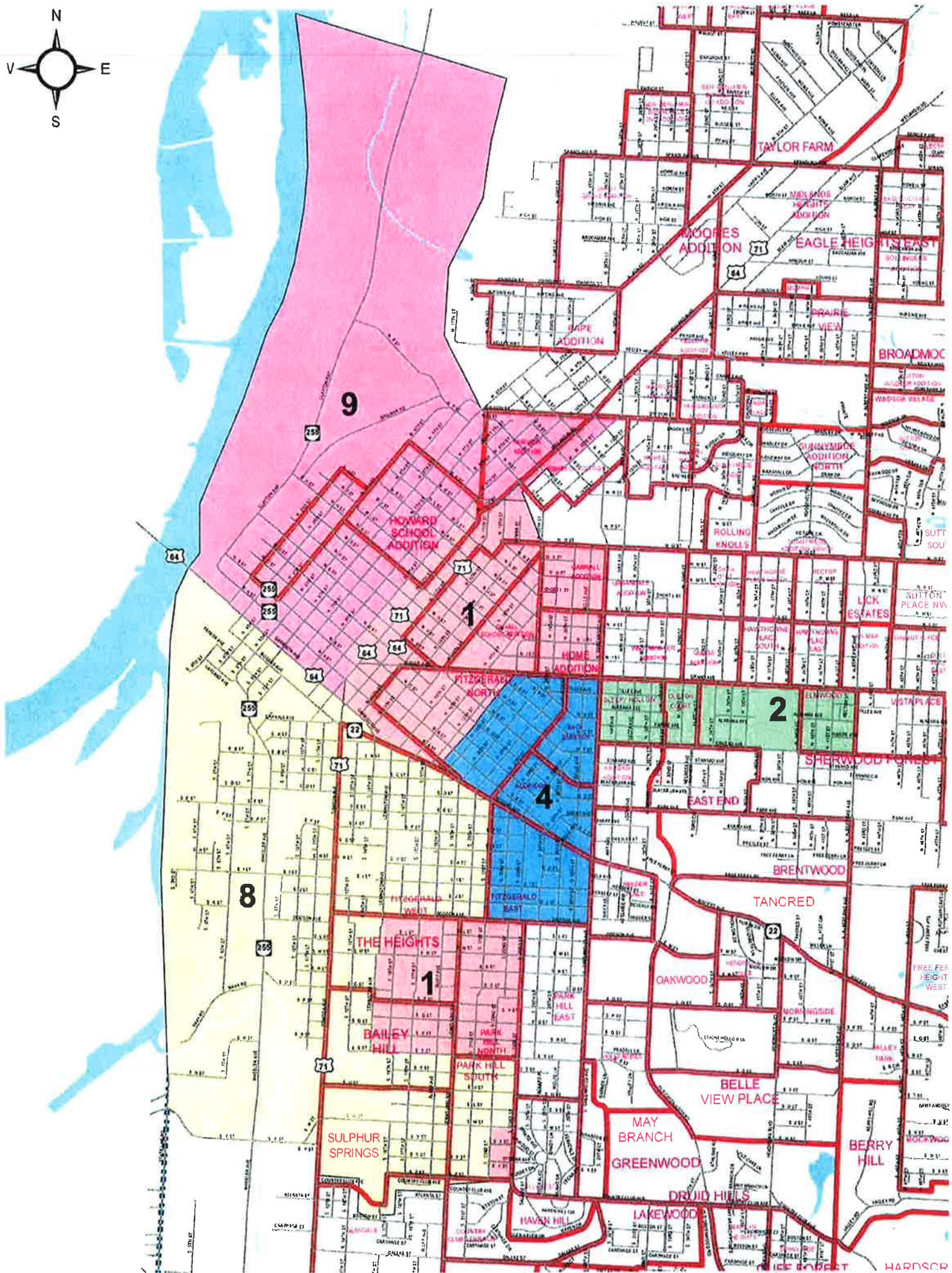
If the board elects to assign the neighborhoods with alleyway service to a private contractor, the staff will prepare a request for bids/proposals and review it with the board at a study session. We would then solicit proposals from private sanitation companies. Once the proposals are received, they will need to be evaluated to determine which firm is best-qualified to serve these neighborhoods. Options for evaluating the proposals include involving the staff, citizens who will be receiving the service, or a combination of these two. Once the best-qualified firm is selected, a franchise agreement will need to be prepared and then approved by the board of directors.

The board may also wish to consider the initiative effort to mandate automated service citywide. If this proposed initiative is approved by voters, it could very likely influence the board's desire to assign residential collection areas to a private contractor. We will know by early September whether or not the initiative will be on the November ballot. The board may find it desirable to learn the outcome of this effort before proceeding with soliciting bids/proposals and entering into a franchise agreement.

If there's any questions or a need for more information, please contact me.

Attachments





RESOLUTION NO. R-250-09

**A RESOLUTION DIRECTING THAT THE
CITY OF FORT SMITH DEPARTMENT OF SANITATION
PROVIDE RESIDENTIAL SOLID WASTE SERVICES
TO THE ENTIRE CITY**

WHEREAS, Arkansas state statute 8-6-211 requires municipalities to adequately provide for the collection and disposal of all solid wastes generated within the municipality; and

WHEREAS, approximately 81% of residential households in Fort Smith receive their solid waste collection services from the City of Fort Smith Department of Sanitation; and

WHEREAS, the remaining 19% of residential households receive their solid waste collection services from Altes Sanitation Services under a franchise issued by the city; and

WHEREAS, said franchise with Altes Sanitation Services expires July 10, 2010; and

WHEREAS, the Board of Directors is desirous of the entire city receiving an identical, consistent level of residential solid waste collection services; and

WHEREAS, the Board of Directors hereby determines that the best method for providing identical, consistent levels of residential solid waste collection services is for the City of Fort Smith Department of Sanitation to serve the entire city;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of Fort Smith, Arkansas that:

Effective July 11, 2010, the City of Fort Smith Department of Sanitation shall provide residential solid waste collection services to all residential areas of Fort Smith, including those areas currently served by Altes Sanitation

*Approved as to form
RPC
No publication required*

Services. The city administrator and his staff are directed to undertake all actions necessary to provide said services citywide beginning July 11, 2010.

This Resolution passed this 3rd day of November, 2009.



Mayor

ATTEST:



City Clerk

FOCUS™ Terms

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 Advanced...[View Tutorial](#)View Full  1 of 4 [Book Browse](#)**A.C.A. § 8-6-211** ([Copy w/ Cite](#))Pages: **3***A.C.A. § 8-6-211*

Arkansas Code of 1987 Annotated Official Edition
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*** Legislation is current through the 2012 Fiscal Session and updates ***
 *** received from the Arkansas Code Revision Commission through ***

*** April 24, 2012. ***

Title 8 Environmental Law
 Chapter 6 Disposal of Solid Wastes and Other Refuse
 Subchapter 2 -- Solid Waste Management Act

A.C.A. § **8-6-211** (2012)

8-6-211. Municipal solid waste management systems.

(a) All municipalities shall provide a solid waste management system which will adequately provide for the collection and disposal of all solid wastes generated or existing within the incorporated limits of the municipality or in the area to be served and in accordance with the rules, regulations, and orders of the Arkansas Pollution Control and Ecology Commission. The governing body of the municipality may enter into agreements with one (1) or more other municipalities, counties, a regional solid waste management district, private persons or trusts, or with any combination thereof, to provide a solid waste management system, or any part of a system, for the municipality, but the agreement shall not relieve the parties of their responsibilities under this subchapter.

(b) (1) The governing body of the municipality shall have the authority to levy and collect such fees and charges and require such licenses as may be appropriate to discharge its responsibility under this subchapter, and the fees, charges, and licenses shall be based on a fee schedule as set forth in an ordinance.

(2) (A) Without limitation on otherwise appropriate collection procedures, a municipality may collect its fees and service charges through either its own system of periodic billing or by entering the fees and service charges on the tax records of the county and then collecting the fees and service charges with the personal property taxes on an annual basis.

(B) Further, any fees and service charges billed periodically by the cities which are more than ninety (90) days delinquent on November 1 of each year may be entered on the tax records of the county as a delinquent periodic fee or service charge and may be collected by the county with personal property taxes.

(3) (A) (i) In counties where the fees are entered on the tax records for yearly collection or if the periodic fees and service charges are more than ninety (90) days delinquent as of November 1, the fees and service charges shall be entered on the tax records of the county by the county clerk and shall be collected by the county collector with the personal property taxes.

(ii) The fees and service charges to be collected shall be certified to the county clerk by December 1 each year by an appropriate municipal official or the mayor.

(iii) No county collector of taxes shall accept payment of any property taxes where annual fees and service charges or delinquent periodic fees and service charges appear on the county tax records of a taxpayer unless the fees and service charges due are also received.

(iv) These funds shall be receipted and deposited into an official account of the county collector, who shall settle the account at least quarterly.

(B) Annual fees and service charges or the delinquent periodic fees and service charges which remain unpaid after the time other property taxes are due shall constitute a lien on the real and personal property of the taxpayer which may be enforced against such property by an action in circuit court.

(C) The amount of any fees and service charges collected shall then be paid to the municipality by the collector, less four percent (4%) to be retained by the collector.

(D) In addition, where the collector maintains a separate tax book for these fees and charges, the collector may charge an additional two dollars and fifty cents (\$2.50) for collection.

(c) Municipalities may accept and disburse funds derived from grants from the federal or state governments, from private sources, or from moneys that may be appropriated from any available funds for the installation and operation of a solid waste management system or any part of a system.

(d) Municipalities are authorized to contract for the purchase of land, facilities, vehicles, and machinery necessary to the installation and operation of a solid waste management system either individually or as a party to a regional or county solid waste authority.

(e) The governing body of a municipality shall have the right to establish policies for and enact laws concerning all phases of the operation of a solid waste management system, including hours of operation, the character and kinds of wastes accepted at the disposal site, the separation of wastes according to type by those generating them prior to collection, the type of container for storage of wastes, the prohibition of the diverting of recyclable materials by persons other than the generator or collector of the recyclable material, the prohibition of burning of wastes, the pretreatment of wastes, and such other rules as may be necessary or appropriate, so long as the laws, policies, and rules are consistent with, in accordance with, and not more restrictive than those adopted by, under, or pursuant to this subchapter or any laws, rules, regulations, or orders adopted by state law or incorporated by reference from federal law, the commission, or the regional solid waste management boards or districts, unless:

(1) There exists a fully implemented comprehensive area-wide zoning plan and corresponding laws or ordinances covering the entire municipality; or

(2) The municipality has made a request to the regional solid waste management board or district to adopt a more restrictive rule, regulation, order, or standard and no public hearing has been held within sixty (60) days or the request has not been acted upon within ninety (90) days.

HISTORY: Acts 1971, No. 237, § 5; A.S.A. 1947, § 82-2705; Acts 1991, No. 1007, § 1; 1993, No. 1280, § 3; 1995, No. 547, § 4; 2001, No. 1720, § 2.

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1 of 4

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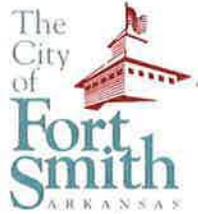


A.C.A. § 8-6-211 (Copy w/ Cite)

Pages: 3

In

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MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: June 11, 2012

SUBJECT: A & P Commission

The term of Mr. Scott Meyer of the A & P commission has resigned effective January, 2012. The A & P Commission has appointed Ronnie Townsend to take his place.

Appointments are **by the A & P Commission confirmed by the Board of Directors.** One appointment is needed; the term will expire December 31, 2014.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(501) 785-2801
Administrative Offices FAX (501) 784-2407

ADVERTISING & PROMOTION COMMISSION

The Advertising and Promotion Commission is authorized to administer and oversee funds received from the three percent Fort Smith lodging tax and is comprised of seven (7) members as follows according to Ark. Code Ann 26-75-605:

Four members of the commission shall be owners or managers of businesses in the tourism industry and shall reside in either Fort Smith or within Sebastian County. At least three (3) of these four (4) members shall be owners or managers of hotels, motels or restaurants and all of them shall staggered terms of four (4) years. Two (2) members of the commission shall be members of the governing body of the City of Fort Smith and selected by the governing body and shall serve at the will of the governing body. One (1) member of the Commission shall be from the public at large who shall reside within Fort Smith or Sebastian County and shall serve for a term of four (4) years. Any vacancy in the four (4) tourism industry positions or the one (1) at large position shall be filled by appointment made by the remaining members of the commission, with the approval of the **Fort Smith Board of Directors**. Meetings are monthly as called and are held at the Fort Smith Visitor Center, 2 North B Street, unless otherwise stated in meeting announcements.

	<u>DATE APPOINTED</u>	<u>TERM EXPIRES</u>
Debra Presson Golden Corral 2422 South N Street 484-1040 debo-goldencorral@sbcglobal.net	09/15/09	12/31/12
Nora Bowman General Manager, Courtyard By Marriott 900 Rogers Avenue (01) 841-9358 nora.bowman@jqh.com	12/20/11	12/31/13
Tom J. Caldarera, Jr. Taliano's Italian Restaurant 211 North 14 Street (01) 785-2292 (w) www.linguinet@aol.com	8/15/95	12/31/14

<p>Scott A. Meyer Manager, Holiday Inn City Center 700 Rogers Avenue (01) 494-3751 (w) <u>Smeyer@dtwarrenplace.com</u></p>	07/19/11	12/31/14
<p>Don Hutchings, City Director 1300 Clover Lane (08) 782-9121 (w)</p>	10/19/10	Indefinite
<p>Mayor Sandy Sanders 1800 Queensbury Way (03) 784-2437 (w)</p>	01/04/11	Indefinite
<p>Robert McCaslin G. M. Candlewood Suites 7501 Madison Avenue (04) 424-3800 (w) Remccaslin.cws@gmail.com</p>	02/03/09	12/31/15



**TO: Wendy Beshears
Administration**

**FROM: Claude Legris, Director
Advertising & Promotion (A & P) Commission**

**COPY: Sandy Sanders, Chairman
A & P Commission**

DATE: May 30, 2012

REGARDING: A & P Commission Appointment

Per the attached minutes of the May 22, 2012 meeting of the A & P, the following name is submitted for appointment to the Advertising and Promotion Commission.

Mr. Ronnie Townsend

Mr. Townsend is the General Manger of the recently opened Fort Smith MovieLounge. As is indicated in the attached letter of interest, Mr. Townsend recently served as a member of the Commission and would be completing the unexpired term of Mr. Scott Meyer who recently left the industry in Fort Smith. The term would expire December 31, 2014.

Please let me know if you have any questions.

Attachments

Minutes
Fort Smith A & P Commission Meeting
May 22, 2012

The May 22, 2012, A & P Commission meeting was called to order by Mayor Sandy Sanders. Commissioners present: Don Hutchings, Robert McCaslin, Debra Presson, and Nora Bowman and Tom Calderera. Commissioners absent: None

A & P Staff Present: Claude Legris, Sherry Scorby, Debra Cossey and Kellie Gutierrez. Absent: Carolyn Joyce

Fort Smith Convention Center Staff Present: COO Tim Seeberg & Pat Geels. Absent: Karin Hobbs

Don Hutchings made a motion to accept the minutes of the April 24, 2012, meeting with a second from Nora Bowman. The Commission passed the motion unanimously.

Financial Report

- The monthly revenue for March, 2012, was \$68,930.00 with an increase of \$7,049.00 compared to the same month in 2011. The total was over monthly budget by \$3,021.00 at 104%. The YTD revenue for March, 2012, was \$183,381.00 over budget by 22,700.00 at 109%. In the 1st Qtr revenue was up 8% in January, 23% in February and 13% in March, averaging out to a 14% increase ahead of 2011. Sandy Sanders asked how long before we could revisit the funds for the events contingency account. Claude Legris stated we would like to get at least thru the 2nd Qtr.
- The monthly expense for March, 2012, was \$51,295.00 under budget by \$35,808.00 at 58%. YTD expenses thru March, 2012, were \$181,396.00, under budget by \$22,797.00 at 87%.
- The A & P Fund Balance as of March 31, 2012, was \$112,235.00. Variance items for March, 2012, were \$4,150.00 in Travel due a combination of timing of payments & trips not taken. Collateral under by \$10,400.00, brochures not printed yet and Marshals badges paid in February. Special Events for \$17,750.00 were timing of payments for Jehovah's Witnesses, Volleyball and Contingency funds.
- Convention Center monthly revenue through April, 2012, was \$51,902.00 an increase of \$49.00 compared to 2011 at .1%. YTD revenue through April, 2012, is ahead 22.3% over 2011, due to more profitable event with less set up expense and the timing of quarterly and annual events.
- Convention Center monthly expenses for April, 2012, were \$8,676.00 under the same period in 2011, an 8.4% decrease. The YTD expenses were \$378,636.00, a decrease of \$8,500 from the same period in 2011, 28.79% of annual budget.

Debra Presson made a motion to accept the financial report with a second from Nora Bowman. The Commission passed the motion unanimously.

Director's Report

Claude Legris reported on the following:

Meetings/Conventions

- Luncheon meeting with Tim Seeberg and David Henderson of the Holiday City Center regarding various mutual issues.

Destination Development

- Attended Board Meeting for Arkansas Travel Council in Little Rock. Also delivered brochure supply to State Parks and Tourism warehouse facility in Little Rock.
- Met with representative from Cranford, Johnson Robinson and Woods ad agency regarding advertising in and review of editorial for Western Arkansas Mountain Frontier Guide.
- Coordinated Movie Lounge welcome reception for members of the State Parks Recreation and Travel Commission – Attended their monthly meeting in Fort Smith.

- Tom Calderera asked what unique visitors were. Those are people who specifically go to our website by their search input. Not those who accidentally come across our pages through some other site. Our reach to other countries increased 192% and that affects our website hits.

Don Hutchings made a motion to accept the Director's Report with a second from Tom Calderera. The Commission passed the motion unanimously.



New Business

- A. Vacant A & P Commission Position – Robert McCaslin made a motion to accept Ronnie Townsend's request to be added to the board with a second from Debra Presson. The Commission passed the motion unanimously.

Old Business

None

Community Comment

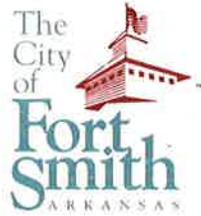
Bill Black at the National Historic Site will be leaving to pursue another position, although it is not known exactly when. Sandy Sanders requested Claude Legris to prepare a letter of appreciation.

Robert McCaslin made a motion with a second from Tom Calderera to adjourn at 4:48pm. The Commission passed the motion unanimously.

The next Board Meeting will be May 22, 2012, at 4:00 p.m.

Respectfully Submitted,

Debra I. Cossey



MEMORANDUM

TO: Mayor and Board of Directors
FROM: Wendy Beshears, Administrative Assistant
DATE: June 12, 2012
SUBJECT: Historic District Commission

The terms of Ms. Patsy Cornelius and Ms. Joan Singleton of the Historic District Commission will expire July 31, 2012. Ms. Cornelius is not interested in being reappointed at this time. Ms. Singleton would like to be reappointed to this commission.

The applicants available at this time are:

Scott Martin	6318 Ironwood Lane
Charles Lane III	1219 Elizabeth Lane
John Huffman	8301 Clover Drive
Sharon Barr	1426 North 52 Street

Appointments are **by the Mayor confirmed by the Board of Directors**. Two appointments are needed; the terms will expire July 31, 2015.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(501) 785-2801
Administrative Offices FAX (501) 784-2407

Historic District Commission

The commission is authorized to make an investigation and report on the historic significance of the buildings, structures, features, sites or surroundings included in any proposed historic district. The commission is also authorized to recommend an area or areas to be included in a historic district or districts and from time to time recommend amendments to established districts or additional districts.

Fort Smith has been designated a Certified Local Government (CLG) by the United States Department of Interior. One of the benefits of being a CLG is to be eligible for various grant funds each year. CLG's are required to attempt to appoint preservation related professionals to their Historic District Commissions, to the extent available in the community.

The commission has five members, who are electors of the city, **appointed by the Mayor** subject to confirmation by the Board of Directors and each serves alternate three-year terms.

Members shall be electors of the City and hold no salaried or municipal office. Regular meetings are the first Thursday of each month at 6:00 p.m. at the Darby Community Center. The study sessions are held the last Thursday of each month at 4:00 p.m., at the Darby Community Center, 220 North 7 Street.

	<u>Date Appointed</u>	<u>Term Expires</u>
Patsy Cornelius Assistant Professor 3100 Canongate Way (08) 646-2616 (h) 788-7831 (w) pcorneli@uafortsmith.edu	06/23/09	07/31/12
Joan Singleton 9300 Jenny Ld (08) 646-7298 (h) mjasinga@msn.com	08/15/06	07/31/12
Joan E. Mawn Real Estate 1005 South 24 Street (01) 785-1300 (w) 782-8759 (h)	02/21/06	07/31/13

Graham Sharum
Intern Architect
715 North 21 St (01)
478-9368 (h)
783-8395 (w)
gragam@archplusinc.net

08/20/02

07/31/14

Clara Jane Rubarth
Professor
717 North E Street (01)
783-5750 (h)
783-8935 (w)
cjrubarth@gmail.com

08/16/05

07/31/14

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 6 7 12
 Name: Joan Singleton Home Telephone: 646 7298
 Home Address: 9300 Jenny Lind Work Telephone: _____
 Zip: 72908 Email: njasinga@msn.com
 Occupation: ret - business owner
 (If retired, please indicate former occupation or profession)
 Education: BA +
 Professional and/or Community Activities: _____

Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes No
 Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
 Yes No
 If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License _____ Date of Birth 
 information will be use to conduct a criminal back ground check of all applicants).

I am interested in serving on the (please check):

- | | |
|---|--|
| <input type="checkbox"/> Audit Committee | <input type="checkbox"/> Library Bd of Trustees |
| <input type="checkbox"/> Advertising & Promoting Commission | <input type="checkbox"/> Mechanical Bd of Adjustments and Appeals |
| <input type="checkbox"/> Airport Commission | <input type="checkbox"/> Oak Cemetery Commission |
| <input type="checkbox"/> Arkansas Fair & Exhibition Facilities Bd | <input type="checkbox"/> Outside Agency Review Panel |
| <input type="checkbox"/> Benevolent Fund Board | <input type="checkbox"/> Parking Authority |
| <input type="checkbox"/> Bldg. Bd. Of Adjustment and Appeals | <input type="checkbox"/> Parks & Recreation Commission |
| <input type="checkbox"/> Central Business Improvement District | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Convention Center Commission | <input type="checkbox"/> Plumbing Advisory Board |
| <input type="checkbox"/> Civil Service Commission | <input type="checkbox"/> Port Authority |
| <input type="checkbox"/> Community Development Advisory Com. | <input type="checkbox"/> Property Owners Appeals Board |
| <input type="checkbox"/> County Equalization Board | <input type="checkbox"/> Sebastian County Reg. Solid Waste Mgmt. Bd. |
| <input type="checkbox"/> Electric Code Board of Appeals & Appeals | <input type="checkbox"/> Sister Cities Committee |
| <input type="checkbox"/> Fire Code Board of Appeals & Adjustments | <input type="checkbox"/> Transit Advisory Commission |
| <input checked="" type="checkbox"/> Historic District Commission | <input type="checkbox"/> Residential Housing Facilities Board |
| <input type="checkbox"/> Housing Assistance Board | |
| <input type="checkbox"/> Housing Authority | |

Historic

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

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Name: Scott Martin Date: 3/22/12
Home Address: 6318 Ironwood Lane Home Telephone: 479-783-1522
Zip: 72916 Work Telephone: 479-471-6589
Email: scottmartin4@att.net
Occupation: Pricing Analyst
Education: BA, History - University of Arkansas

Additional Pertinent Information/References:

Are you a registered voter in the City of Fort Smith? Yes [checked] No
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense? Yes NO [checked]

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License [redacted] Date of Birth [redacted]
information will be [redacted] ground check of all applicants).

I am interested in serving on the (please check):

- () Audit Committee
[X] Advertising & Promoting Commission
() Airport Commission
() Arkansas Fair & Exhibition Facilities Bd
() Benevolent Fund Board
() Bldg. Bd. Of Adjustment and Appeals
() Central Business Improvement District
[X] Convention Center Commission
() Civil Service Commission
() Community Development Advisory Com.
() County Equalization Board
() Electric Code Board of Appeals & Appeals
() Fire Code Board of Appeals & Adjustments
[X] Historic District Commission
() Housing Assistance Board
() Housing Authority
[X] Library Bd of Trustees
() Mechanical Bd of Adjustments and Appeals
() Oak Cemetery Commission
() Outside Agency Review Panel
() Parking Authority
[X] Parks & Recreation Commission
() Planning Commission
() Plumbing Advisory Board
() Port Authority
() Property Owners Appeals Board
() Sebastian County Reg. Solid Waste Mgmt. Bd.
[X] Sister Cities Committee
() Transit Advisory Commission
() Residential Housing Facilities Board

Historic

CITY OF FORT SMITH
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Date: 3/19/2012

Name: CHARLES F. LANE III

Home Telephone: 479 434 2120

Home Address: 1219 ELIZABETH LANE

Work Telephone: 479 471 6680

Zip: 72903

Email: ched.lane@usa-truck.com

Occupation: FINANCE MANAGER
(If retired, please indicate former occupation or profession)

Education: BACHELOR OF SCIENCE ACCOUNTING

Professional and/or Community Activities:

Additional Pertinent Information/References:

Are you a registered voter in the City of Fort Smith? Yes X No
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes NO X

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License [redacted] Date of Birth [redacted]
information will be used for background check of all applicants).

I am interested in serving on the (please check):

- () Audit Committee
() Advertising & Promoting Commission
() Airport Commission
() Arkansas Fair & Exhibition Facilities Bd
() Benevolent Fund Board
() Bldg. Bd. Of Adjustment and Appeals
() Central Business Improvement District
() Convention Center Commission
() Civil Service Commission
() Community Development Advisory Com.
() County Equalization Board
() Electric Code Board of Appeals & Appeals
() Fire Code Board of Appeals & Adjustments
X Historic District Commission
() Housing Assistance Board
() Housing Authority
X Library Bd of Trustees
() Mechanical Bd of Adjustments and Appeals
() Oak Cemetery Commission
() Outside Agency Review Panel
() Parking Authority
() Parks & Recreation Commission
() Planning Commission
() Plumbing Advisory Board
() Port Authority
() Property Owners Appeals Board
() Sebastian County Reg. Solid Waste Mgmt. Bd.
() Sister Cities Committee
() Transit Advisory Commission
() Residential Housing Facilities Board
X RIVERFRONT TRUCK FORCE

Historic

CITY OF FORT SMITH Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 2-17-12

Name: JOHN HUFMANN

Home Telephone: 479-646-4271

Home Address: 8301 CLOVER DRIVE Work Telephone: _____

Zip: 72908

Email: JACKETHELHUF@SBCGLOBAL.NET

Occupation: RETIRED - INDUSTRIAL ENGINEER
(If retired, please indicate former occupation or profession)

Education: B.S. AUBURN UNIVERSITY

Professional and/or Community Activities: SERVED AS DISASTER CHAIRMAN FOR RED CROSS, SERVED ON SEBASTIAN DISASTER TEAM

Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes No _____

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes _____ NO

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License [REDACTED] Date of Birth [REDACTED]
information will be [REDACTED] back ground check of all applicants)

I am interested in serving on the (please check):

- Audit Committee
- Advertising & Promoting Commission
- Airport Commission
- Animal Services Advisory Board
- Arkansas Fair & Exhibition Facilities Bd
- Benevolent Fund Board
- Bldg. Bd. Of Adjustment and Appeals
- Central Business Improvement District
- Convention Center Commission
- Civil Service Commission
- Community Development Advisory Com.
- County Equalization Board
- Electric Code Board of Appeals & Appeals
- Fire Code Board of Appeals & Adjustments
- Historic District Commission
- Housing Assistance Board
- Housing Authority
- Library Bd of Trustees
- Mechanical Bd of Adjustments and Appeals
- Oak Cemetery Commission
- Outside Agency Review Panel
- Parking Authority
- Parks & Recreation Commission
- Planning Commission
- Plumbing Advisory Board
- Port Authority
- Property Owners Appeals Board
- Sebastian County Reg. Solid Waste Mgmt. Bd.
- Sister Cities Committee
- Transit Advisory Commission

Historic District

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 6-6-12

Name: Sharon Barr

Home Telephone: 782-1185 cell

Address: 1426 N 52nd Fort Smith, Ark

Work Telephone: 441-5218 459-2063

Zip: 72904

Email: sbarr@sparks.org

Occupation: Clinical Laboratory Director, Sparks Regional Medical Center

Education: BS in Medical Technology, UT at Galveston

Professional and/or Community Activities: Member of ASCP medical Branch

ACIMA professional societies, Member & Secretary of Day Leadership of Bethel Lutheran Church

Are you a registered voter in the City of Fort Smith? Yes [checked] No

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense? Yes NO [checked]

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License [redacted] Date of Birth [redacted]

I am interested in serving on the (please check):

- () Audit Committee
() Advertising & Promoting Commission
() Airport Commission
() Animal Services Task Force
() Arkansas Fair & Exhibition Facilities Bd
[X] Benevolent Fund Board
() Bldg. Bd. Of Adjustment and Appeals
[X] Central Business Improvement District
() Convention Center Commission
() Civil Service Commission
[X] Community Development Advisory Com.
() County Equalization Board
() Electric Code Board of Appeals & Appeals
() Fire Code Board of Appeals & Adjustments
[X] Historic District Commission
[X] Housing Assistance Board
[X] Housing Authority
[X] Library Bd of Trustees
() Mechanical Bd of Adjustments and Appeals
() Oak Cemetery Commission
[X] Outside Agency Review Panel
() Parking Authority
() Parks & Recreation Commission
() Planning Commission
() Plumbing Advisory Board
() Port Authority
() Property Owners Appeals Board
() Sebastian County Reg. Solid Waste Mgmt. Bd.
() Sister Cities Committee
() Transit Advisory Commission
() Residential Housing Facilities Board

Please return this form to Wendy Beshears, P.O. Box 1908, FSM, AR 72902



MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: June 11, 2012

SUBJECT: Mechanical Board of Adjustments and Appeals

The term of Mr. Michael Blaylock of the Mechanical Board of Adjustments and Appeals will expire July 31, 2012. Mr. Blaylock is interested in being reappointed to this board.

There are no other applicants available at this time.

Appointments are **by the Board of Directors**. One appointment is needed; the term will expire July 31, 2017.

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

Mechanical Board of Adjustments and Appeals

The Mechanical Board of Adjustments and Appeals has the authority to hear appeals of decisions and interpretations of the administrative authority relating to the 1997 Arkansas Mechanical Code.

The Board consists of five members who have knowledge and experience in the mechanical code, such as design professionals, contractors or industry representatives. The Board, following initial staggered terms, will serve five-year terms. In addition, there are two alternate members (one member-at-large from the industry and one member-at-large from the public) who serve one-year terms. A member shall not act in a case in which he had a personal or financial interest. Appointments are made by the Board of Directors.

The Board meets on call.

	<u>Date Appointed</u>	<u>Term Expires</u>
<u>Industry Members:</u>		
Michael Blaylock Blaylock Heating & Air 1530 North Greenwood (01) 783-3420 (h) 782-8940 (w)	07/17/07	07/31/12
Ted Neal Ted's Air Conditioning, Inc. 2215 Bluff Avenue(1) 785-3287 (h) 783-7857 (w) 883-2529 © tedneal@sbcglobal.net	07/20/99	07/31/13
Alan P. Wright Project Manager P.O. Box 23069 Barling, AR 72923 674-2169 (h) 452-5723 (w)	07/20/99	07/31/14

Andy Brown
Civil Engineer
1509 Rutgers Cr (08)
648-0991 (h)
649-8484 (w)
abrown@mwc-engr.com

10/20/09

07/31/14

Ron B. Smith
(Owner) Air Pro Heating & Air
3221 Cliff Drive (03)
646-4478 (h)
646-9699 (w)
airproarron@sbcglobal.net

07/19/11

07/31/16

Alternate - Member-At-Large From Public:

Greg Williams
General Manager of Markham Restaurant Supply
2315 Hendrick Blvd. (01)
434-6012 (h)
782-3233 (w)
greg@markhamrs.com

07/19/11

07/31/13

Alternate - Member-at-large from industry:

William Gary James
Three States Supply Co (retired)
9800 Bridgeford (08)
646-0865 (h)

07/20/99

07/31/13

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 5.9.12
 Name: Mike Blaylock Home Telephone: 479 783.340
 Home Address: 4809 Skywood Dr. Work Telephone: 479.782.8940
 Zip: 72901 Email: BLAYLOCK@BLAYLOCK.HVAC.COM
 Occupation: Mechanical Contractor
 (If retired, please indicate former occupation or profession)
 Education: N.H.S. / W.C.C. (UAFS) U.C.A.
 Professional and/or Community Activities: ACCA MEMBER / HVAC Association

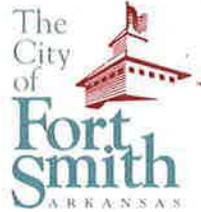
Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes No
 Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
 Yes NO
 If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Birth  Date of _____ information will be use to conduct a criminal back ground check of all app

I am interested in serving on the (please check):

- | | |
|--|--|
| <input type="checkbox"/> Audit Committee | <input type="checkbox"/> Housing Authority |
| <input type="checkbox"/> Advertising & Promoting Commission | <input type="checkbox"/> Library Bd of Trustees |
| <input type="checkbox"/> Airport Commission | <input type="checkbox"/> Mechanical Bd of Adjustments and Appeals |
| <input type="checkbox"/> Animal Services Advisory Board | <input type="checkbox"/> Oak Cemetery Commission |
| <input type="checkbox"/> Arkansas Fair & Exhibition Facilities Bd | <input type="checkbox"/> Outside Agency Review Panel |
| <input type="checkbox"/> Benevolent Fund Board | <input type="checkbox"/> Parking Authority |
| <input type="checkbox"/> Bldg. Bd. Of Adjustment and Appeals | <input type="checkbox"/> Parks & Recreation Commission |
| <input type="checkbox"/> Central Business Improvement District | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Convention Center Commission | <input type="checkbox"/> Plumbing Advisory Board |
| <input type="checkbox"/> Civil Service Commission | <input type="checkbox"/> Port Authority |
| <input type="checkbox"/> Community Development Advisory Com. | <input type="checkbox"/> Property Owners Appeals Board |
| <input type="checkbox"/> County Equalization Board | <input type="checkbox"/> Sebastian County Reg. Solid Waste Mgmt. Bd. |
| <input type="checkbox"/> Electric Code Board of Appeals & Appeals | <input type="checkbox"/> Sister Cities Committee |
| <input type="checkbox"/> Fire Code Board of Appeals & Adjustments | <input type="checkbox"/> Transit Advisory Commission |
| <input type="checkbox"/> Historic District Commission | <input type="checkbox"/> Residential Housing Facilities Board |
| <input type="checkbox"/> Housing Assistance Board <input type="checkbox"/> | |



MEMORANDUM

TO: Mayor and Board of Directors
FROM: Wendy Beshears, Administrative Assistant
DATE: June 13, 2012
SUBJECT: Planning Commission

Mr. Salvatore Salamone of the Planning Commission has resigned his position effective May 1, 2012. His term will need to be filled on this commission.

The applicants available at this time are:

Lorie Robertson	3301 South 96 Street
Richard Spearman	10716 Hunters Point Road
John Huffman	8301 Clover Drive
Kim Kolettis	2732 Brooken Hill Drive

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

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(501) 785-2801
Administrative Offices FAX (501) 784-2407

PLANNING COMMISSION

The purpose of the Planning Commission is to prepare a development plan for the City, to receive and make recommendations on public and private proposals for the development and to prepare and administer planning regulations. The Planning Commission is authorized to prepare and adopt a land use plan, a community facilities plan, a master street plan, and such other plans affecting the general welfare of the City.

The Planning Commission, acting as Board of Zoning Adjustment, hears appeals from the decision of the administrative officers regarding enforcement and application of the zoning ordinances and hears requests for variances from the provisions of the zoning ordinance.

The Planning Commission consists of nine members, appointed by the Board of Directors for a three-year term. Members of the Planning Commission must be owners of or tenants in real property in the City of Fort Smith and be qualified electors of the City. The Planning Commission meets the second Tuesday of each month at 5:30 p.m. in the Rose Room of the Creekmore Community Center.

	<u>DATE APPOINT</u>	<u>TERM EXPIRES</u>
Steve Griffin Arvest Bank P.O. Box 11110 (17) 709-8811 sgriffin@arvest.com	12/16/03	04/30/13
S. Walton Maurras 2801 Charlotte Ln (01) 646-1073 (h) wmaurras@mac.com	03/16/10	04/30/13
Marshall L. Sharpe 2912 South 34 Street (03) 649-7459 (h) 494-6305 (w) Msharpe@okfoods.com	08/17/10	04/30/13
Mike J. Lorenz CEO JML Promotions 4100 Cherokee Circle (03) 648-1696 (h) 651-7001 (w) Mike@rfgp.com	11/18/08	04/30/14

<p>Vicki Newton 2725 Reeder Street (01) 709-9946 (h) 782-4001 (213) Salthefan@gmail.com</p>	03/15/11	04/30/14
<p>Thomas E. Howard Jr. 3121 Jackson (03) 648-9226 (h) 452-2636 (w) r.howard@risley-associates.com</p>	03/15/11	04/30/14
<p>Jennifer Parks Insurance Agent 3412 Coventry Ln (08) 649-8036 (h) 651-6503 (c) jenniferparksfsm@yahoo.com</p>	04/18/06	04/30/15
<p>Salvatore Salamone 10701 Castleton Street (08) 201-5570 (w) 434-6145 (h) salthefan@gmail.com</p>	01/18/11	04/30/15
<p>Brandon Cox 7305 Ellsworth Road (03) 649-8142 (h) 478-7864 (w) bcox@propak.com</p>	03/20/12	04/30/15

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

PERSONAL EMAIL
MARIOADMOM@
YAHOO.COM

Date: 5-15-12

Name: LORIE ROBERTSON

Home Telephone: 452-6985

Home Address: 3301 S. 96th St.

Work Telephone: 242-2167

Zip: 72903-5703

Work Email: LORIE@RIGHTMINDAPS.COM

Occupation: ADVERTISING/MARKETING EXECUTIVE
(If retired, please indicate former occupation or profession)

Education: UNIV. OF AR-FAY (2YRS. MKTG), UAFS- ADDL. COURSES

Professional and/or Community Activities: CITIZENS ACAD (2011), CITIZENS POLICE ACAD (2007), PAINT THE PARK PINK, HABITAT FOR HUMANITY VOLUNTEER, CITY OF FS WATER/SEWER ADVISORY PANEL, UAFS WOMEN IN BUSINESS GROUP

Additional Pertinent Information/References: ALL-AMERICA TEAM (2009), 16YRS AS A MKTG/ADV. PROFESSIONAL, INVOLVED IN ECONOMIC DEVELOPMENT GROUPS (CHAFFEE CROSSING, FS/FAY TRANSPORTATION MEETINGS, CHAMBER GROUPS)

Are you a registered voter in the City of Fort Smith? Yes [X] No

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense? Yes NO [X]

PARTNERS IN EDUCATION VOLUNTEER

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License [redacted] Date of Birth [redacted] information will be use to conduct a criminal back ground check of all applicants).

I am interested in serving on the (please check):

- () Audit Committee
[X] Advertising & Promoting Commission
[X] Airport Commission
() Arkansas Fair & Exhibition Facilities Bd
() Benevolent Fund Board
() Bldg. Bd. Of Adjustment and Appeals
() Central Business Improvement District
() Convention Center Commission
() Civil Service Commission
() Community Development Advisory Com.
() County Equalization Board
() Electric Code Board of Appeals & Appeals
() Fire Code Board of Appeals & Adjustments
() Historic District Commission
() Housing Assistance Board
() Housing Authority

- () Library Bd of Trustees
() Mechanical Bd of Adjustments and Appeals
() Oak Cemetery Commission
() Outside Agency Review Panel
() Parking Authority
[X] Parks & Recreation Commission
[X] Planning Commission
() Plumbing Advisory Board
() Port Authority
() Property Owners Appeals Board
() Sebastian County Reg. Solid Waste Mgmt. Bd.
() Sister Cities Committec
() Transit Advisory Commission
() Residential Housing Facilities Board

Planning com.

CITY OF FORT SMITH Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 5/2/2012

Name: Richard L. Spearman Home Telephone: 479 452 0029

Home Address: 10716 Hunters Point Rd Work Telephone: 479 785 6204

Zip: 72903 Email: rspearman@arkbest.com

Occupation: Attorney - Arkansas Best Corporation
(If retired, please indicate former occupation or profession)

Education: J.D. - University of Arkansas

Professional and/or Community Activities: Board of Directors, Girls, Inc. President 2002-2004
Fort Smith Port Authority 1992-Present

Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes No _____

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes _____ NO

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License _____ Date of Birth _____
information will be used for background check of all applicants.

I am interested in serving on the (please check):

- | | |
|---|--|
| <input type="checkbox"/> Audit Committee | <input type="checkbox"/> Library Bd of Trustees |
| <input type="checkbox"/> Advertising & Promoting Commission | <input type="checkbox"/> Mechanical Bd of Adjustments and Appeals |
| <input checked="" type="checkbox"/> Airport Commission | <input type="checkbox"/> Oak Cemetery Commission |
| <input type="checkbox"/> Arkansas Fair & Exhibition Facilities Bd | <input type="checkbox"/> Outside Agency Review Panel |
| <input type="checkbox"/> Benevolent Fund Board | <input type="checkbox"/> Parking Authority |
| <input type="checkbox"/> Bldg. Bd. Of Adjustment and Appeals | <input type="checkbox"/> Parks & Recreation Commission |
| <input type="checkbox"/> Central Business Improvement District | <input checked="" type="checkbox"/> Planning Commission |
| <input checked="" type="checkbox"/> Convention Center Commission | <input type="checkbox"/> Plumbing Advisory Board |
| <input type="checkbox"/> Civil Service Commission | <input checked="" type="checkbox"/> Port Authority |
| <input type="checkbox"/> Community Development Advisory Com. | <input type="checkbox"/> Property Owners Appeals Board |
| <input type="checkbox"/> County Equalization Board | <input type="checkbox"/> Sebastian County Reg. Solid Waste Mgmt. Bd. |
| <input type="checkbox"/> Electric Code Board of Appeals & Appeals | <input type="checkbox"/> Sister Cities Committee |
| <input type="checkbox"/> Fire Code Board of Appeals & Adjustments | <input type="checkbox"/> Transit Advisory Commission |
| <input type="checkbox"/> Historic District Commission | <input type="checkbox"/> Residential Housing Facilities Board |
| <input type="checkbox"/> Housing Assistance Board | |
| <input checked="" type="checkbox"/> Housing Authority | |

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 2-17-12

Name: JOHN HUFEMAN

Home Telephone: 479-646-4271

Home Address: 8301 CLOVER DRIVE Work Telephone:

Zip: 72908

Email: JACKETHELHUF@SBCG.ODAC.NET

Occupation: RETIRED - INDUSTRIAL ENGINEER
(If retired, please indicate former occupation or profession)

Education: BS AUBURN UNIVERSITY

Professional and/or Community Activities: SERVED AS DISASTER CHAIRMAN FOR RED CROSS, SERVED ON SEBASTIAN DISASTER TEAM

Additional Pertinent Information/References:

Are you a registered voter in the City of Fort Smith? Yes [X] No
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes NO [X]
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.
Drivers License information will [redacted] Date of Birth [redacted]
al back ground check of all applicants

I am interested in serving on the (please check):

- () Audit Committee
() Advertising & Promoting Commission
(x) Airport Commission
() Animal Services Advisory Board
() Arkansas Fair & Exhibition Facilities Bd
() Benevolent Fund Board
() Bldg. Bd. Of Adjustment and Appeals
() Central Business Improvement District
() Convention Center Commission
() Civil Service Commission
(x) Community Development Advisory Com.
() County Equalization Board
() Electric Code Board of Appeals & Appeals
() Fire Code Board of Appeals & Adjustments
(x) Historic District Commission
() Housing Assistance Board
(x) Housing Authority
() Library Bd of Trustees
() Mechanical Bd of Adjustments and Appeals
() Oak Cemetery Commission
() Outside Agency Review Panel
() Parking Authority
(x) Parks & Recreation Commission
(x) Planning Commission
() Plumbing Advisory Board
() Port Authority
() Property Owners Appeals Board
() Sebastian County Reg. Solid Waste Mgmt. Bd.
() Sister Cities Committee
() Transit Advisory Commission

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: August 25, 2011

Name: Jim Kolettis Home Telephone: 479-648-3449

Address: 2732 Brooken Hill Dr Work Telephone: 479-410-2211

Zip: 72908 Email: jimk@cox.net

Occupation: Director Marketing & Sales at Mahar Manufacturing (If retired, please indicate former occupation or profession)

Education: BA Mechanical Engineering

Professional and/or Community Activities and Additional Pertinent Information/References:

Previous Employment: Project Program Manager at Dept. of Defense/ Procurement Technical Assistance Center Present Member of: The Fort Smith Convention Center Commission, City of Fort Smith Citizen's Academy Alumni, National School Supply and Equipment Association/NSSEA, School Supply Industry Group, emarketing Association Network, 280 Group: Product Management & Product Marketing, Christian Professionals, Education Marketing Professionals, eMarketing Association Network, For-Profit Education Industry Group, Future Trends, GreenBiz.com -- Green Business Professionals, Inbound Marketers - For Marketing Professionals, Innovative Marketing-PR-Sales-Word-of-Mouth & Buzz Innovators, International Business, Leadership Think Tank, LEED Accredited Professional, Managing a Multi-Generational Workforce, Marketing Communication, Marketing Executives Group, Sales Playbook!, SalesBlogcast.com, Social Media Marketing, TEN - Top Executives Net

Are you a registered voter in the City of Fort Smith? YES

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense? NO

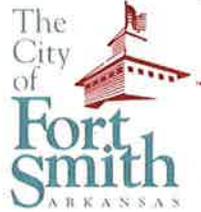
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License (This information is redacted with handwritten signatures)

I am interested in serving on the (please check):

- () Audit Committee
() Housing Authority
() Advertising & Promoting Commission
() Library Bd of Trustees
() Airport Commission
() Mechanical Bd of Adjustments and Appeals
() Animal Services Task Force
() Oak Cemetery Commission
() Arkansas Fair & Exhibition Facilities Bd
() Outside Agency Review Panel
() Benevolent Fund Board
() Parking Authority
() Bldg. Bd. Of Adjustment and Appeals
() Parks & Recreation Commission
() Central Business Improvement District
() Planning Commission
() Convention Center Commission
() Plumbing Advisory Board
() Civil Service Commission
() Port Authority
() Community Development Advisory Com.
() Property Owners Appeals Board
() County Equalization Board
() Sebastian County Reg. Solid Waste Mgmt. Bd.
() Electric Code Board of Appeals & Appeals
() Sister Cities Committee
() Fire Code Board of Appeals & Adjustments
() Transit Advisory Commission
() Historic District Commission
() Residential Housing Facilities Board
() Housing Assistance Board

Please return this form to Wendy Beshears, P.O. Box 1908, FSM, AR 72902



MEMORANDUM

TO: Mayor and Board of Directors
FROM: Wendy Beshears, Administrative Assistant
DATE: June 13, 2012
SUBJECT: Port Authority

The term of Mr. Rick Spearman of the Port Authority will expire July 31, 2012. Mr. Spearman would like to be reappointed to this board.

The applicants available at this time are:

Coby W. Logan	P.O. Box 10478
Burton Weis	2904 Cliff Drive
John Hart	3416 Sturbridge PL.
Jim Kolettis	2732 Brooken Hill Dr.
Jeff Taake	4121 South 34 Street

Appointments are **by the Mayor**. One appointment is needed; the term will expire July 31, 2017.

Port Authority

The Port Authority consists of five qualified electors of the city, appointed by the **Mayor** and each serves alternate five-year terms. The Authority meets on call.

	<u>Date Appointed</u>	<u>Term Expires</u>
Rick Spearman Attorney 3801 Old Greenwood (03) 785-6204 (w) 452-0029 (h) 785-6003 (f) rspearman@arkbest.com	08/04/92	07/31/12
Rick Parrish Rick Parrish Accounting 10809 Barrington Ln (08) 1-877-998-8999 (w) 646-1988 (h) 783-3221 (f) parrish002@centurytel.net	07/21/98	07/31/13
Bob C. Worley 3921 Park Avenue (03) 782-4220 (h) bcwhwt@att.net	06/23/09	07/31/14
Larry J. Combs 3016 Royal Scots Way (08) 648-3747 (h) 788-6343 (w) Larry.combs@apac.comm	06/21/11	07/31/15

Eddie Norman
Sales
3415 South 29 Circle (01)
646-9602 (h)
646-7331 (w)
646-6053 (f)
eddie.norman@ryerson.com

08/21/01

07/31/16

Marty Shell
Five Rivers
P.O. Bx 5606
72956
629-4306

wfreeman@swtimes.com
mtilley@thecitywire.com

200 Navy Road
785-2837

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 5/2/2012

Name: Richard L. Spearman Home Telephone: 479 452 0029

Home Address: 10716 Hunters Point Rd Work Telephone: 479 785 6204

Zip: 72903 Email: rspearman@arkbest.com

Occupation: Attorney - Arkansas Best Corporation
(If retired, please indicate former occupation or profession)

Education: JD - University of Arkansas

Professional and/or Community Activities: Board of Directors, Girls, Inc. President 2002-2004
Fort Smith Post Authority 1992-Present

Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes No _____

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
 Yes _____ NO

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License [REDACTED] Date of Birth [REDACTED]
 information will be u [REDACTED] k ground check of all applicants).

I am interested in serving on the (please check):

- | | |
|---|--|
| <input type="checkbox"/> Audit Committee | <input type="checkbox"/> Library Bd of Trustees |
| <input type="checkbox"/> Advertising & Promoting Commission | <input type="checkbox"/> Mechanical Bd of Adjustments and Appeals |
| <input checked="" type="checkbox"/> Airport Commission | <input type="checkbox"/> Oak Cemetery Commission |
| <input type="checkbox"/> Arkansas Fair & Exhibition Facilities Bd | <input type="checkbox"/> Outside Agency Review Panel |
| <input type="checkbox"/> Benevolent Fund Board | <input type="checkbox"/> Parking Authority |
| <input type="checkbox"/> Bldg. Bd. Of Adjustment and Appeals | <input type="checkbox"/> Parks & Recreation Commission |
| <input type="checkbox"/> Central Business Improvement District | <input checked="" type="checkbox"/> Planning Commission |
| <input checked="" type="checkbox"/> Convention Center Commission | <input type="checkbox"/> Plumbing Advisory Board |
| <input type="checkbox"/> Civil Service Commission | <input checked="" type="checkbox"/> Port Authority |
| <input type="checkbox"/> Community Development Advisory Com. | <input type="checkbox"/> Property Owners Appeals Board |
| <input type="checkbox"/> County Equalization Board | <input type="checkbox"/> Sebastian County Reg. Solid Waste Mgmt. Bd. |
| <input type="checkbox"/> Electric Code Board of Appeals & Appeals | <input type="checkbox"/> Sister Cities Committee |
| <input type="checkbox"/> Fire Code Board of Appeals & Adjustments | <input type="checkbox"/> Transit Advisory Commission |
| <input type="checkbox"/> Historic District Commission | <input type="checkbox"/> Residential Housing Facilities Board |
| <input type="checkbox"/> Housing Assistance Board | |
| <input checked="" type="checkbox"/> Housing Authority | |

Port Authority

CITY OF FORT SMITH Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 4/4/12

Name: Coby W. Logan

Home Telephone: _____

Home Address: PO Box 10475

Work Telephone: (479) 782-8813

Zip: 72917

Email: clogan@rbsclaw.com

Occupation: Attorney
(If retired, please indicate former occupation or profession)

Education: Univ. of Ark. School of Law, Fayetteville

Professional and/or Community Activities: _____

Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes X No _____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes _____ NO X
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License information will be  Date of Birth 
(ground check of all applicants)

I am interested in serving on the (please check):

- Audit Committee
- Advertising & Promoting Commission
- Airport Commission
- Arkansas Fair & Exhibition Facilities Bd
- Benevolent Fund Board
- Bldg. Bd. Of Adjustment and Appeals
- Central Business Improvement District
- Convention Center Commission
- Civil Service Commission
- Community Development Advisory Com.
- County Equalization Board
- Electric Code Board of Appeals & Appeals
- Fire Code Board of Appeals & Adjustments
- Historic District Commission
- Housing Assistance Board
- Housing Authority

- Library Bd of Trustees
- Mechanical Bd of Adjustments and Appeals
- Oak Cemetery Commission
- Outside Agency Review Panel
- Parking Authority
- Parks & Recreation Commission
- Planning Commission
- Plumbing Advisory Board
- Port Authority
- Property Owners Appeals Board
- Sebastian County Reg. Solid Waste Mgmt. Bd.
- Sister Cities Committee
- Transit Advisory Commission
- Residential Housing Facilities Board

Port Authority

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 3-19-2012

Name: BURTON WEIS

Home Telephone: 479-646-0075

Home Address: 2904 CLIFF DR.

Work Telephone: 479-471-2635

Zip: 72901

Email: BURTON.WEIS@USA-TRUCK.COM

Occupation: VICE PRESIDENT HUMAN RESOURCES USA TRUCK
(If retired, please indicate former occupation or profession)

Education: BSBA - TRANSPORTATION AND LOGISTICS (TLOG) U of A.

Professional and/or Community Activities: BOARD MEMBER CENTER FOR BUSINESS AND PROFESSIONAL DEVELOPMENT - UAFS; BOARD OF DIRECTOR UNITED WAY

Additional Pertinent Information/References: MEMBER IMMACULATE CONCEPTION; REF: BOB COOPER; SAM SICARD; JOE DICKINSON; RUSSELL OWENS

Are you a registered voter in the City of Fort Smith? Yes [checked] No

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?

Yes NO [checked]

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License [redacted] Date of Birth [redacted]
information will be used for background check of all applicants

I am interested in serving on the (please check):

- () Audit Committee
() Advertising & Promoting Commission
() Airport Commission
() Arkansas Fair & Exhibition Facilities Bd
() Benevolent Fund Board
() Bldg. Bd. Of Adjustment and Appeals
() Central Business Improvement District
() Convention Center Commission
() Civil Service Commission
() Community Development Advisory Com.
() County Equalization Board
() Electric Code Board of Appeals & Appeals
() Fire Code Board of Appeals & Adjustments
() Historic District Commission
() Housing Assistance Board
() Housing Authority
() Library Bd of Trustees
() Mechanical Bd of Adjustments and Appeals
() Oak Cemetery Commission
() Outside Agency Review Panel
() Parking Authority
() Parks & Recreation Commission
() Planning Commission
() Plumbing Advisory Board
(x) Port Authority
() Property Owners Appeals Board
() Sebastian County Reg. Solid Waste Mgmt. Bd.
() Sister Cities Committee
() Transit Advisory Commission
() Residential Housing Facilities Board
(x) RIVERFRONT TASK FORCE

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 3-20-12

Name: JOHN HART

Home Telephone: 479-484-8225

Home Address: 3416 STURBRIDGE PL
FORT SMITH

Work Telephone: 479-471-3871

Zip: 72903

Email: JOHN.HART@USA-TRUCK.COM

Occupation: NATIONAL SALES MANAGER AT USA TRUCK
(If retired, please indicate former occupation or profession)

Education: BA POLITICAL SCIENCE U OF A FAYETTEVILLE

Professional and/or Community Activities: LINKED IN TRANSPORTATION
PROFESSIONAL GROUPS

Additional Pertinent Information/References: MORE THAN 8 YEARS OF EXPERIENCE WORKING
ON OVER THE ROAD AND INTER-MODAL TRANSPORTATION SOLUTIONS

Are you a registered voter in the City of Fort Smith? Yes No

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes NO

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License information will  Date of Birth  back ground check of all applicants

I am interested in serving on the (please check):

- Audit Committee
- Advertising & Promoting Commission
- Airport Commission
- Arkansas Fair & Exhibition Facilities Bd
- Benevolent Fund Board
- Bldg. Bd. Of Adjustment and Appeals
- Central Business Improvement District
- Convention Center Commission
- Civil Service Commission
- Community Development Advisory Com.
- County Equalization Board
- Electric Code Board of Appeals & Appeals
- Fire Code Board of Appeals & Adjustments
- Historic District Commission
- Housing Assistance Board
- Housing Authority

- Library Bd of Trustees
- Mechanical Bd of Adjustments and Appeals
- Oak Cemetery Commission
- Outside Agency Review Panel
- Parking Authority
- Parks & Recreation Commission
- Planning Commission
- Plumbing Advisory Board
- Port Authority
- Property Owners Appeals Board
- Sebastian County Reg. Solid Waste Mgmt. Bd.
- Sister Cities Committee
- Transit Advisory Commission
- Residential Housing Facilities Board

Port Authority

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: August 25, 2011

Name: Jim Kolettis Home Telephone: 479-648-3449

Address: 2732 Brooken Hill Dr Work Telephone: 479-410-2211

Zip: 72908 Email: jimk@cox.net

Occupation: Director Marketing & Sales at Mahar Manufacturing
(If retired, please indicate former occupation or profession)

Education: BA Mechanical Engineering

Professional and/or Community Activities and Additional Pertinent Information/References:

Previous Employment: Project Program Manager at Dept. of Defense/ Procurement Technical Assistance Center
Present Member of: The Fort Smith Convention Center Commission, City of Fort Smith Citizen's Academy Alumni, National School Supply and Equipment Association/NSSEA, School Supply Industry Group, eMarketing Association Network, 280 Group: Product Management & Product Marketing, Christian Professionals, Education Marketing Professionals, eMarketing Association Network, For-Profit Education Industry Group, Future Trends, GreenBiz.com -- Green Business Professionals, Inbound Marketers - For Marketing Professionals, Innovative Marketing-PR-Sales-Word-of-Mouth & Buzz Innovators, International Business, Leadership Think Tank, LEED Accredited Professional, Managing a Multi-Generational Workforce, Marketing Communication, Marketing Executives Group, Sales Playbook!, SalesBlogcast.com, Social Media Marketing, TEN - Top Executives Net

Are you a registered voter in the City of Fort Smith? YES

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense? NO

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License  Date of Birth 
(This information is for criminal background checks).

I am interested in serving on the (please check):

- | | |
|--|--|
| <input type="checkbox"/> Audit Committee | <input type="checkbox"/> Housing Authority |
| <input checked="" type="checkbox"/> Advertising & Promoting Commission | <input type="checkbox"/> Library Bd of Trustees |
| <input checked="" type="checkbox"/> Airport Commission | <input type="checkbox"/> Mechanical Bd of Adjustments and Appeals |
| <input type="checkbox"/> Animal Services Task Force | <input type="checkbox"/> Oak Cemetery Commission |
| <input checked="" type="checkbox"/> Arkansas Fair & Exhibition Facilities Bd | <input type="checkbox"/> Outside Agency Review Panel |
| <input type="checkbox"/> Benevolent Fund Board | <input type="checkbox"/> Parking Authority |
| <input type="checkbox"/> Bldg. Bd. Of Adjustment and Appeals | <input checked="" type="checkbox"/> Parks & Recreation Commission |
| <input type="checkbox"/> Central Business Improvement District | <input checked="" type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Convention Center Commission | <input type="checkbox"/> Plumbing Advisory Board |
| <input type="checkbox"/> Civil Service Commission | <input checked="" type="checkbox"/> Port Authority |
| <input checked="" type="checkbox"/> Community Development Advisory Com. | <input type="checkbox"/> Property Owners Appeals Board |
| <input type="checkbox"/> County Equalization Board | <input type="checkbox"/> Sebastian County Reg. Solid Waste Mgmt. Bd. |
| <input type="checkbox"/> Electric Code Board of Appeals & Appeals | <input type="checkbox"/> Sister Cities Committee |
| <input type="checkbox"/> Fire Code Board of Appeals & Adjustments | <input type="checkbox"/> Transit Advisory Commission |
| <input type="checkbox"/> Historic District Commission | <input type="checkbox"/> Residential Housing Facilities Board |
| <input type="checkbox"/> Housing Assistance Board | |

Please return this form to Wendy Beshears, P.O. Box 1908, FSM, AR 72902

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: May 11, 2012

Name: Jeff Taake

Home Telephone: 479-646-2718

Home Address: 4121 S. 34th,

Work Telephone: 479-782-0323

Zip: 72903

Email: jtaake@arkindtraffic.com

Occupation: Transportation Consultant
(If retired, please indicate former occupation or profession)

Education: BSBA from University of Arkansas Major - Transportation

Professional and/or Community Activities: Ref: George Moschner, EVP, Risk Management & Compliance Officer, Baldor Electric, Fort Smith, AR 479-646-4711

Additional Pertinent Information/References: Ref: Rick Spellins, Sr. Dir. Commodity Purchasing Tyson Foods, Springdale, AR 1-800-643-3410

Are you a registered voter in the City of Fort Smith? Yes No

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?

Yes NO

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License [REDACTED] Date of Birth [REDACTED]

information will be used for background check of all applicants).

I am interested in serving on the (please check):

- | | |
|---|--|
| <input type="checkbox"/> Audit Committee | <input type="checkbox"/> Library Bd of Trustees |
| <input type="checkbox"/> Advertising & Promoting Commission | <input type="checkbox"/> Mechanical Bd of Adjustments and Appeals |
| <input type="checkbox"/> Airport Commission | <input type="checkbox"/> Oak Cemetery Commission |
| <input type="checkbox"/> Arkansas Fair & Exhibition Facilities Bd | <input type="checkbox"/> Outside Agency Review Panel |
| <input type="checkbox"/> Benevolent Fund Board | <input type="checkbox"/> Parking Authority |
| <input type="checkbox"/> Bldg. Bd. Of Adjustment and Appeals | <input type="checkbox"/> Parks & Recreation Commission |
| <input type="checkbox"/> Central Business Improvement District | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Convention Center Commission | <input type="checkbox"/> Plumbing Advisory Board |
| <input type="checkbox"/> Civil Service Commission | <input checked="" type="checkbox"/> Port Authority |
| <input type="checkbox"/> Community Development Advisory Com. | <input type="checkbox"/> Property Owners Appeals Board |
| <input type="checkbox"/> County Equalization Board | <input type="checkbox"/> Sebastian County Reg. Solid Waste Mgmt. Bd. |
| <input type="checkbox"/> Electric Code Board of Appeals & Appeals | <input type="checkbox"/> Sister Cities Committee |
| <input type="checkbox"/> Fire Code Board of Appeals & Adjustments | <input type="checkbox"/> Transit Advisory Commission |
| <input type="checkbox"/> Historic District Commission | <input type="checkbox"/> Residential Housing Facilities Board |
| <input type="checkbox"/> Housing Assistance Board | |
| <input type="checkbox"/> Housing Authority | |