



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**  
**September 18, 2012 ~ 6:00 P.M.**  
**Fort Smith Public Schools Service Center**  
**3205 Jenny Lind Road**

***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 SEPTEMBER 4, 2012 REGULAR MEETING**

**ITEMS OF BUSINESS:**

1. Public hearing and ordinance to close and vacate and abandon a portion of street right-of-way located in Jefferson Place, an addition to the city of Fort Smith, Arkansas *(portion of undeveloped North “J” Street)*
2. Ordinance amending Chapter 2, Article III of the Fort Smith Municipal Code regarding Initiative and Referendum ~ *Hutchings/Settle placed on agenda at the September 11, 2012 study session ~*
3. Consent
  - A. Resolution adopting annual audit requirements and retaining BKD, LLP as external auditors

- B. Resolution authorizing the Mayor to execute an electric utility easement to Arkansas Valley Electric Cooperative
- C. Resolution approving an architectural service agreement with MAHG Architecture, Inc. for architectural services related to improvements in the City's ten (10) existing fire stations (\$81,515.00 / Fire Department / Budgeted – 2012 Sales Tax Bonds)
- D. Resolution accepting the bid for the replacement of rail crossing on Navy Road and South 7<sup>th</sup> Street (\$86,625.00 / Engineering Department / Budgeted – Sales Tax Program Contingency Fund)
- E. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with Morrison Shipley Engineers to design the replacements for Lift Stations 15, 16 and 17 (\$90,000.00 / Utility Department / Budgeted - 2012 Sales Tax Bonds)
- F. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Axioo Construction, Inc. for the Zero Street Pump Station Wet Weather Improvements – Site Remediation (\$635,408.00 / Utility Department / Budgeted – 2012 Sales Tax Bonds)

**OFFICIALS FORUM ~ presentation of information requiring no official action**

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

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

**ADJOURN**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ENTITLED, AN ORDINANCE TO CLOSE AND VACATE AND ABANDON A PORTION OF STREET RIGHT-OF-WAY LOCATED IN JEFFERSON PLACE, AN ADDITION TO THE CITY OF FORT SMITH, ARKANSAS**

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**WHEREAS**, a petition was duly filed with the Board of Directors of the City of Fort Smith, Arkansas, August 24, 2012, asking the Board of Directors to vacate and abandon a portion of street right-of-way located between Jefferson Place, Block 2 and Jefferson Place, Block 3, an addition to the City of Fort Smith, Arkansas, more particularly described as follows:

North J Street lying east of the east right-of-way line of North 31<sup>st</sup> Street and west of the west right-of-way line of North 32<sup>nd</sup> Street

**WHEREAS**, after notice as required by law, the Board of Directors has at the time and place mentioned in the notice duly published as required by law, heard all persons as desiring to be heard on the questions, and has ascertained that the said street right-of-way as described above has heretofore been dedicated to the public use as a street right-of-way and at this time is no longer required for the corporate purposes, and that said portion of street right-of-way is of no practical purpose or general purpose to the citizens of Fort Smith and it is in the best interest of the citizens of Fort Smith that the street right-of-way be closed; and that the public interest and welfare will not be adversely affected by the abandonment of the said street right-of-way.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:**

**SECTION 1:** The City of Fort Smith hereby releases, vacates and abandons all of its rights, title and interest, together with the right of the public generally, in and to the street right-of-way designated as follows:

North J Street lying east of the east right-of-way line of North 31<sup>st</sup> Street and west of the west right-of-way line of North 32<sup>nd</sup> Street

**SECTION 2:** A copy of this Ordinance duly certified by the City Clerk shall be filed in the Office of the County for the Fort Smith District of Sebastian County, Arkansas, and recorded in the deed records of said county.

**SECTION 3:** This Ordinance shall take effect and be in effect from and after its passage.

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF SEPTEMBER 2012.**

**APPROVED:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**City Clerk**

Approved as to form  
Publish 1 time



# Memo

To: Ray Gosack, City Administrator  
From: Wally Bailey, Director of Development Services  
Date: 9/14/2012  
Re: Petition to Abandon a Portion of North J Street Right-of- Way in  
Jefferson Place

We received a petition from Andy Knox, owner and agent for Ronald S. Brasuell and David and Gale Beckman to vacate a portion of the undeveloped North J Street right-of-way between North 31<sup>st</sup> Street and North 32<sup>nd</sup> Street as shown on Exhibit A. A vicinity map is also enclosed.

The requested right-of-way abandonment will allow the property owners to fence the area and utilize it in connection with a future business at 1213 North 32<sup>nd</sup> Street.

In response to the petition, the Planning Department staff contacted property owners within 300 feet of the proposed abandonment, appropriate city departments, and franchise utility companies. We received no objections to the request.

In keeping with the Board's policy, a Memorandum of Understanding (MOU) has been signed by the petitioners. (Exhibit B.) The MOU stipulates that the property owners, their successors or assigns will not make any claim for compensation in the event the city exercises the power of eminent domain to reclaim the abandoned right-of-way.

Enclosed for the board's consideration is an ordinance authorizing the abandonment of the street right-of-way. If you have any questions regarding this matter, please do not hesitate to contact me.

Enc.

**CITY OF FORT SMITH, ARKANSAS  
REQUEST FOR ABANDONMENT OF PUBLIC RIGHT-OF-WAY, ALLEY OR PUBLIC  
EASEMENT**

**City Clerk**

FILED 8/24/12  
S. Gard

APPLICATION:

Indicate one contact person for application:  Applicant  Representative

*Applicant (owner)*

*Representative (engineer, attorney, realtor, etc)*

Name: Andy Knox

Name: \_\_\_\_\_

Address: 1213 N 32nd Street  
Fort Smith, AR 72901

Address: \_\_\_\_\_

Telephone Number: 651-5582

Telephone Number: \_\_\_\_\_

E-Mail: asapinvestments@cox.net

E-Mail: \_\_\_\_\_

Site Address/Location: 1213 N 32nd (North "J")

Legal Description of area to be vacated (attach separate sheet if necessary): \_\_\_\_\_

SEE ATTACHED SHEET

Assessor's Parcel Number for Subject Property: N/A

Reason for Request: We would like to fence off the area proposed  
for abandonment and use the area for vehicles and maneuvering and security  
related to our future business at this location

Current Status of Right-of-Way/Easement: UNDEVELOPED

**APPLICANT/REPRESENTATIVE:** I certify under penalty of perjury that the foregoing statements and answers herein made, all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval.

I understand that if it is determined following review of the application by city staff that ongoing utility interests must be protected through easement dedications, the applicant or his authorized agent shall be required to develop and submit a fully executed easement. Additionally, I understand that the applicant or agent will be required to execute a Memorandum of Understanding regarding any right-of-way abandonments and understand that no action will be taken by the Board of Directors on an abandonment request until said utility easement, if determined by staff is necessary, and Memorandum of Understanding are on file with the city.

I understand that I shall bear the expense of publication of notice given by the City in addition to the expense of publication of the ordinance after adoption by the Board of Directors.

Name: (printed) Andy L. Kjosx

Signature: [Handwritten Signature] Date: 8/23/12

**Property Owner(s)/Authorized Agent:** *I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is subject of this application and that I/we have read this application and consent to its filing.*

**Note:** If application is signed by authorized agent, all owners must sign and submit "Authorization of Agent" form.

**Application Checklist:**

- A list from the Sebastian County Assessor's Office showing all property owners within 300 feet of all perimeter points of the tract being considered for abandonment. (*County Assessor is located in Room 107 of the Sebastian County Courthouse*).
- Abstractor's Certificate of Ownership stating names of all owners of property abutting the property to be vacated
- Petition with signatures of all abutting property owners
- Metes and Bounds legal description of the area to be vacated (Provide hard copy and CD containing legal description in MS Word)
- Hard copy and PDF of survey of the site depicting the perimeter property lines and area within the property to be vacated
- Application Fee of \$150.00. This fee is non-refundable.

The Planning Department will post a sign like the one shown below at area proposed for vacation. Once the sign is posted, it must be left in place until the vacation is approved by the Board of Directors. The planning staff will remove the sign the following day after by the Board of Directors meeting.



**Legal Description of area to be vacated:** Street right-of-way located between Jefferson Place, Block 3 and Jefferson Place, Block 2 additions to the City of Fort Smith. More particularly described as North of J Street lying East of the East right-of-way line of North 31<sup>st</sup> Street and West of the West right-of-way line of North 32<sup>nd</sup> Street.

PETITION TO VACATE

PETITION TO VACATE portion of North "J" Street right-of-way LOCATED between Jefferson Place, Block 3 and Jefferson Place, Block 2, CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS.

TO: Fort Smith Board of Directors

We, the undersigned, being all of the owners of real estate abutting the right-of-way herein sought to be abandoned and vacated, lying between Jefferson Place, Block 3 and Jefferson Place, Block 2, CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS, a municipal corporation, petition to vacate right-of-way which is described as follows:

North "J" Street lying east of the east right-of-way line of North 31<sup>st</sup> Street and west of the west right-of-way line of North 32<sup>nd</sup> Street

That the abutting real estate affected by said abandonment of the right-of-way located between Jefferson Place, Block 3 and Jefferson Place, Block 2 has not been used by the public for a period of years, and that the public interest and welfare would not be adversely affected by the abandonment of the above-described right-of-way.

The petitioners pray that the City of Fort Smith, Arkansas, abandon and vacate the above-described real estate, subject to existing public utility easements, water line easements, sewer easements, or drainage easements as required, and that the above-described real estate be used for the respective benefit and purpose as now approved by law.

The petitions further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREAS, the undersigned petitioners respectfully pray that the governing body of the City of Fort Smith, Arkansas, abandon and vacate the above-described real estate, subject to existing public utility easements, water line easements, sewer easements, or drainage easements as required, and that title to said real estate sought to be abandoned be vested in the abutting owners as provided by law.

Dated this 23<sup>rd</sup> day of August, 2012

Andy L. Knox

Printed Name

[Signature]

Signature

Ronald S. Braswell

Printed Name

[Signature]

Signature

DAVID Beckman

Printed Name

[Signature]

Signature

GALE Beckman

Printed Name

[Signature]

Signature

**AUTHORIZATION OF AGENT**

If an agent is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

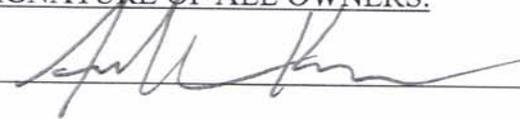
We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Andy L. Knox to act as our agent in the matter.  
(Print Name of Agent)

(Type or clearly print)

NAME & ADDRESS OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

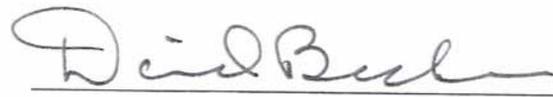
1. Andy L. Knox  
12409 Windy Acres, Lane  
Ft. Smith, AR 72916



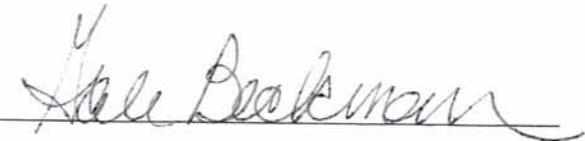
2. Ronald S. Braswell  
204 N 57th Street  
Ft. Smith, AR 72903

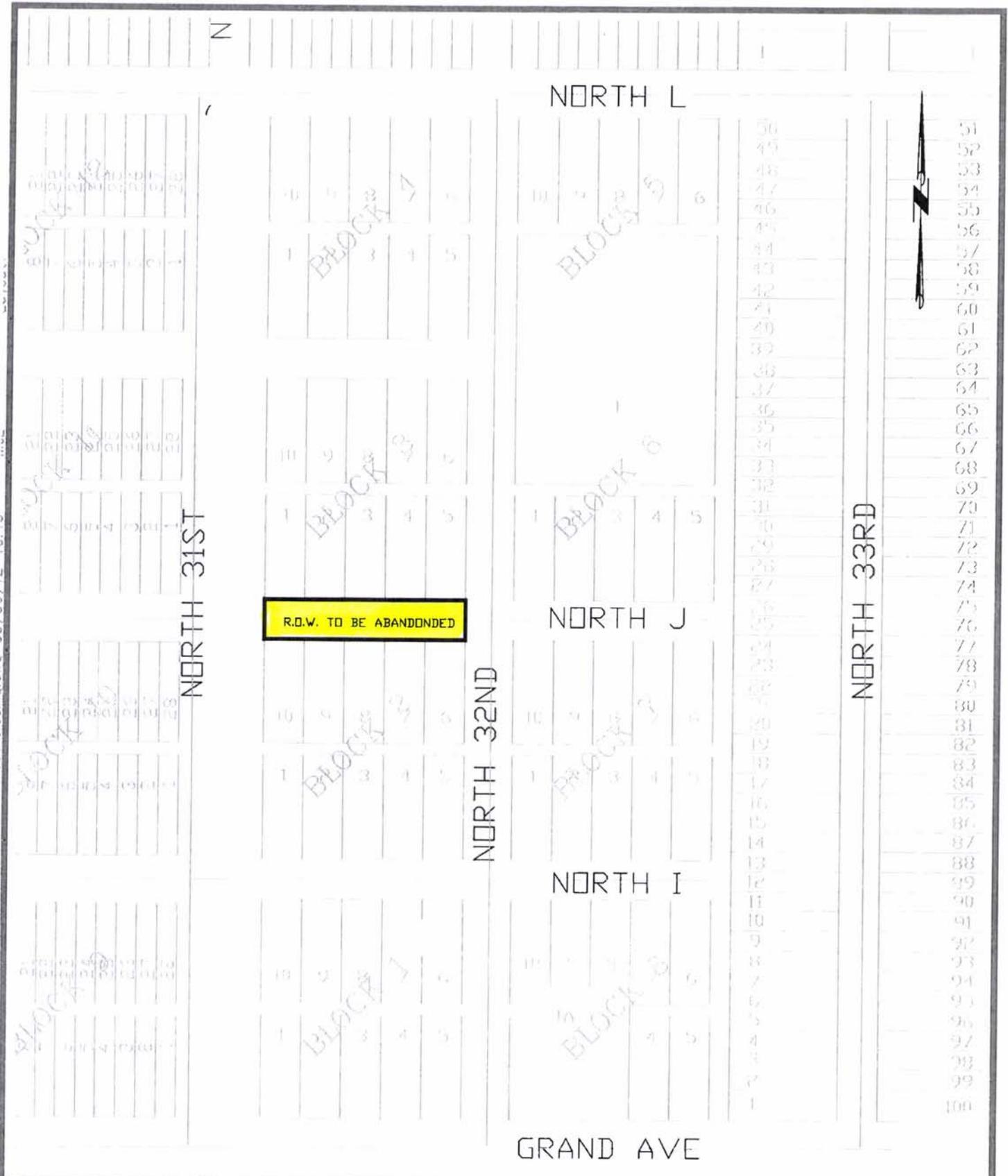


3. DAVID Beckman  
6 North 58 Terrace Drive  
Ft. Smith, AR 72904



4. GALE Beckman  
6 North 58 Terrace Drive  
Ft. Smith, AR 72904





JEFFERSON PLACE  
 NORTH J STREET R.O.W. ABANDONMENT  
 NO 31ST TO NO 32ND STREET



# Vicinity Map

## Proposed R.O.W. Closing - North J Street



2009 City of Fort Smith, AR. Printed on Mon Aug 27 2012 01:30:27 PM.

**MEMORANDUM OF UNDERSTANDING**

On September 18, 2012, the Board of Directors of the City of Fort Smith passed Ordinance No. \_\_\_\_\_ closing, vacating and abandoning a portion of street right-of-way located between Jefferson Place, Block 2 and Jefferson Place, Block 3, an addition to the City of Fort Smith, Sebastian County, Arkansas, more particularly described as follows:

North J Street lying east of the east right-of-way line of North 31<sup>st</sup> Street  
and west of the west right-of-way line of North 32<sup>nd</sup> Street

For good and valuable consideration, the receipt of which is hereby acknowledged, ASAP Investment Properties, LLC and David and Gale Beckman, agree that in the event the City of Fort Smith, condemns all or a portion of the lands and buildings contiguous to said street right-of-way and owned by ASAP Investment Properties, LLC and David and Gale Beckman, their successors or assigns, under the power of eminent domain, that the property owners, their successors or assigns, will make no claim to compensation for the value of the abandoned street right-of-way described above. Nothing contained herein shall preclude ASAP Investment Properties, LLC and David and Gale Beckman, or their successors or assigns from claiming compensation for improvements situated on the abandoned street right-of-way in the event of condemnation. By way of example, and example only, if the City condemns the ASAP Investment Properties, LLC and David and Gale Beckman property and the total land condemned is 100,000 square feet and the abandoned street right-of-way constitutes 10,000 square feet of that total, then the value of the land shall be reduced by 10% for condemnation compensation purposes.

This Memorandum of Understanding shall be binding on ASAP Investment Properties, LLC and David and Gale Beckman, and their successors or assigns.

In witness whereof, this document is executed this 13<sup>th</sup> day of September, 2012.

**ASAP INVESTMENT PROPERTIES, LLC**

BY: [Signature]  
Andrew L. Knox, managing member

[Signature]  
Ronald S. Brasuell, managing member

[Signature]  
David Beckman

[Signature]  
Gale Beckman

**ACKNOWLEDGMENT**

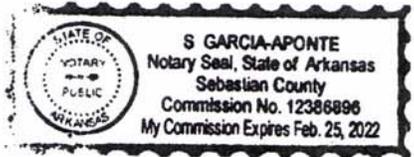
STATE OF ARKANSAS )  
                                  )SS  
COUNTY OF SEBASTIAN )

On this 13<sup>th</sup> day of September, 2012, before me, a Notary Public within and for the aforesaid county and state, duly commissioned and acting, appeared, Andrew L. Knox and Ronald S. Brasuell, to me personally well known as, or proven to be, the persons whose names appear upon the within and foregoing document and stated that they were the managing members of ASAP Investment Properties, LLC, and were duly authorized to execute the foregoing conveyance for and on its behalf and they respectively acknowledged to me that they had executed the same for the consideration and purposes therein mentioned and set forth, and I do so certify.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of office as such Notary Public at the County and State aforesaid on this 13<sup>th</sup> day of September 2012.

[Signature]  
Notary Public

My Commission Expires:  
Feb 25, 2022



ACKNOWLEDGMENT

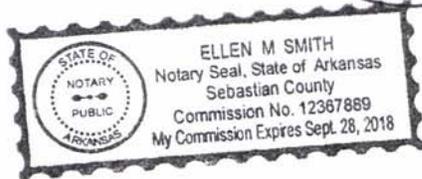
STATE OF ARKANSAS    )  
  )SS  
COUNTY OF SEBASTIAN )

On this 13th day of September, 2012, before me, the undersigned officer, personally appeared David and Gale Beckman, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledge that they executed the same for the purposes therein contained.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of office as such Notary Public at the County and State aforesaid on this 13th day of September 2012.

*Ellen M. Smith*  
\_\_\_\_\_  
Notary Public

My Commission Expires:  
9/28/2018



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 2, ARTICLE III  
OF THE FORT SMITH MUNICIPAL CODE  
REGARDING INITIATIVE AND REFERENDUM**

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

**SECTION 1:** Chapter 2, Article III, Section 2-67 of the Fort Smith Municipal Code is hereby amended to read as follows:

All initiative petitions shall be addressed to the city clerk and shall contain the title and text of the measure proposed. All initiative petitions shall be filed with the city clerk at least ninety (90) days before the next regular election, either state, congressional or municipal, at which the proposed measure is to be voted upon.

**SECTION 2:** Chapter 2, Article III, Section 2-68 of the Fort Smith Municipal Code is hereby amended to read as follows:

All referendum petitions shall be addressed to the city clerk and each petition shall identify the measure sought to be referred by stating at least the number, date of passage and full title of the measure sought to be referred. Additionally, a full and correct copy of the exact text of the measure sought to be referred shall be attached to the petition and to any separately circulated part of the petition during the time that the petition is being circulated. All referendum petitions shall be filed with the city clerk on or before 5:00 p.m. on the thirty-first (31<sup>st</sup>) day after the date of passage of the measure sought to be referred. If the thirty-first (31<sup>st</sup>) day occurs on a Saturday, Sunday, or holiday recognized by the City of Fort Smith, or on any other day when city offices are officially closed, the petition and ballot title may be filed by 5:00 p.m. on the following business day.

**SECTION 3:** Chapter 2, Article III, Section 2-69 of the Fort Smith Municipal Code is hereby amended to read as follows:

At the time of filing either an initiative petition or a referendum petition with the city clerk, the exact title to be used on the ballot shall be submitted by the petitioners separately from the petition and separately from the text of the proposed referred or initiated matter.

**SECTION 4:** Chapter 2, Article III, Section 2-71 of the Fort Smith Municipal Code

is hereby amended to read as follows:

After receipt of an initiative petition or referendum petition, the city clerk shall within thirty (30) days determine the sufficiency of the petition. The city clerk may make all necessary factual investigations and may request the counsel of the qualified and licensed attorneys-at-law contracted to provide legal services pursuant to Sections 2-111 -- 2-113 of this Code in reaching a determination as to the sufficiency of the petition. The city clerk may, after giving notice by publication for one (1) insertion in a local newspaper, hold a public hearing at which time the clerk shall hear all persons who wish to be heard on the question of whether such petition is sufficient. Only the signatures of legally registered voters shall be counted upon petitions. If the city clerk determines that the petition is sufficient, the city clerk shall certify that determination in writing to the sponsors of such petition and to the board of directors. If the city clerk shall decide any petition or ballot title to be insufficient, the city clerk shall without delay notify the sponsors of such petition and the board of directors, and permit the sponsors of the petition ten (10) days for correction or amendment. After expiration of the ten (10) day period or upon submission of any correction or amendment, whichever occurs first, the city clerk shall issue a final certification, whether of sufficiency or insufficiency, in writing to the sponsors and shall notify the board of directors. The decision of the city clerk shall be final unless suit is brought in the Circuit Court of Sebastian County, Fort Smith District, within thirty (30) days of the date of the clerk's certification of either insufficiency or sufficiency.

**SECTION 5:** Chapter 2, Article III, Section 2-72 of the Fort Smith Municipal Code

is hereby amended to read as follows:

- (a) In the case of an initiative petition, the city clerk shall, upon certification of the sufficiency of the petition and of the ballot title, notify the county board of election commissioners and the board of directors that the measure should be placed on the ballot at the next regular election, either state, congressional or municipal, and the city clerk shall submit a copy of the ballot title for the initiated matter to the county board of election commissioners.
- (b) In the case of a referendum petition, the city clerk shall, upon certification of the sufficiency of the petition and of the ballot title, notify the county board of election commissioners and the board of directors that the measure should be placed on the ballot at the next regular state, congressional or municipal election unless the petition expressly calls for a special election

or, absent a call for a special election in the petition itself, the board of directors orders a special election. If the petition expressly calls for a special election, the board of directors shall fix the date for the special election on the referendum measure. Whether pursuant to petition or order of the board of directors, the date of the special election shall be set no more than one hundred twenty (120) days after the date of certification of the petition's sufficiency by the city clerk. The city clerk shall submit a copy of the ballot title to the county board of election commissioners and advise the county board of election commissioners of the date of any special election determined by the board of directors.

**SECTION 6:** Emergency Clause. In order to comply with the requirements of the Arkansas Constitution as it relates to providing a mechanism by which voters may, by referendum or initiative, submit an issue to the vote of the citizens, the Board of Directors determines that there is an immediate need for the effectiveness of these proposed Code changes, and thus an emergency is declared to exist and this Ordinance will be in full force and effect from this date.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

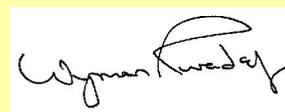
**APPROVED:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**City Clerk**

Approved as to form



Publish 1 time

## MEMORANDUM

To: Ray Gosack, City Administrator  
From: Sherri Gard, City Clerk  
Date: September 14, 2012  
Re: Initiative and Referendum

As discussed at the September 11, 2012 study session, Chapter 2, Article III of the Fort Smith Municipal Code regarding Initiative and Referendum has been thoroughly reviewed.

Several amendments are proposed whereby most are merely to ensure language is consistent with the Arkansas Constitution and applicable state statutes. The most significant amendments relate to extending the filing deadline when such deadline falls on a weekend or holiday; clarifying that the ballot title must be submitted as a separate document along with the petition; and, as requested by Director Settle at the September 4, 2012 regular meeting, eliminate any requirement for board action on petitions determined to be sufficient by the City Clerk for placement on a municipal election ballot. No Board action will be required to formally place an initiated or referendum measure on the ballot; however, in the event that a special election is required, the Board of Directors may be called upon to merely set the date for the special election.

The proposed amendments are specifically identified in the attached document and the proposed ordinance authorizing same has been prepared for Board consideration.

If you or members of the Board have any questions, please let me know.

### **Chapter 2, Article III, Section 2-67 of the Fort Smith Municipal Code**

All initiative petitions shall be addressed to the city clerk and shall contain the title and **full** text of the measure proposed. All initiative petitions shall be filed with the city clerk at least ninety (90) days before the **next** regular **municipal** election, **either state, congressional or municipal**, at which the proposed measure is to be voted upon.

### **Chapter 2, Article III, Section 2-68 of the Fort Smith Municipal Code**

All referendum petitions shall be addressed to the city clerk and **each petition** shall identify the measure sought to be referred by stating at least the number, date of passage and full title of the measure sought to be referred. **Additionally**, a full and correct copy of the **title and exact** text of the measure sought to be referred shall be attached to the petition and to any separately circulated part of the petition during the time that the petition is being circulated. All referendum petitions shall be filed with the city clerk ~~within thirty (30) days~~ **on or before 5:00 p.m. on the thirty-first (31<sup>st</sup>) day** after the date of passage of the measure sought to be referred. **If the thirty-first (31<sup>st</sup>) day occurs on a Saturday, Sunday, or holiday recognized by the City of Fort Smith, or on any other day when city offices are officially closed, the petition and ballot title may be filed by 5:00 p.m. on the following business day.**

### **Chapter 2, Article III, Section 2-69 of the Fort Smith Municipal Code**

At the time of filing **both either an** initiative **and petition or a** referendum ~~petitions~~ **petition with the city clerk**, the exact title to be used on the ballot shall be submitted **with the petition by the petitioner** **by the petitioners separately from the petition and separately from the text of the proposed referred or initiated matter.**

### **Chapter 2, Article III, Section 2-71 of the Fort Smith Municipal Code**

After receipt of an initiative **petition** or referendum petition, the city clerk shall within thirty (30) days determine the sufficiency of the petition. The city clerk may make all necessary factual investigations and may request the counsel of the qualified and licensed attorneys-at-law contracted to provide legal services pursuant to Sections 2-111 -- 2-113 of this Code in reaching a determination as to the sufficiency of the petition. The city clerk may, after giving notice by publication for one (1) insertion in a local newspaper, hold a public hearing at which time the clerk shall hear all persons who wish to be heard on the question of whether such petition is sufficient. **Only the signatures of legally registered voters shall be counted upon petitions.** If the city clerk determines that the petition is sufficient, the city clerk shall ~~so~~ certify that determination in writing to **the sponsors of such petition and to** the board of directors. **If the city clerk shall decide any petition or ballot title to be insufficient, the city clerk shall without delay notify the sponsors of such petition and the board of directors, and permit the sponsors of the petition ten (10) days for correction or amendment. After expiration of the ten (10) day period or upon submission of any correctin or amendment, whichever occurs first, the city clerk shall issue a final certification, whether of sufficiency or insufficiency, in writing to the sponsors and shall notify the board of directors.** The decision of the city clerk shall be final unless suit is brought in the **Chancery Circuit** Court of Sebastian County, Fort Smith District, within thirty (30) days of the date of the clerk's certification ~~to the board of directors~~ **of either insufficiency or sufficiency.**

## **Chapter 2, Article III, Section 2-72 of the Fort Smith Municipal Code**

- (a) In the case of an initiative petition, ~~after receipt of the clerk's certification, the board of directors shall, at its next regular meeting, or at an earlier special meeting;~~ the city clerk shall, upon certification of the sufficiency of the petition and of the ballot title, notify the county board of election commissioners and the board of directors, that the measure has been initiated and should be placed on the ballot at the next regular ~~municipal~~ election, either state, congressional or municipal, and the ~~board city clerk~~ shall submit a copy of the ballot title for the initiated matter to the county board of election commissioners.
- (b) In the case of a referendum petition, ~~after receipt of the certification from the clerk; the board of directors shall, at its next regular meeting, or at an earlier special meeting, establish a date for a special election, which date may be the same as the date for the next regular municipal election if such election is to be held within one hundred twenty (120) days; shall notify the county board of election commissioners that the measure has been referred to the vote of the people and shall submit a copy of the ballot title to the county board of election commissioners;~~ the city clerk shall, upon certification of the sufficiency of the petition and of the ballot title, notify the county board of election commissioners and the board of directors that the measure should be placed on the ballot at the next regular state, congressional or municipal election unless the petition expressly calls for a special election or, absent a call for a special election in the petition itself, the board of directors orders a special election. If the petition expressly calls for a special election, the board of directors shall fix the date for the special election on the referendum measure. Whether pursuant to petition or order of the board of directors, the date of the special election shall be set no more than one hundred twenty (120) days after the date of certification of the petition's sufficiency by the city clerk. The city clerk shall submit a copy of the ballot title to the county board of election commissioners and advise the county board of election commissioners of the date of any special election determined by the board of directors.

RESOLUTION NO. \_\_\_\_\_  
A RESOLUTION ADOPTING ANNUAL AUDIT REQUIREMENTS  
And RETAINING BKD, LLP as EXTERNAL AUDITORS

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

SECTION 1: The annual audit examination for the City of Fort Smith for the year ending December 31, 2012 shall be performed by an independent accounting firm in accordance with accounting standards generally accepted in the United States of America. Such standards shall include those promulgated by the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants and the United States Government Accounting Office, as applicable.

SECTION 2: BKD, LLP shall perform the annual audit examination for the year ending December 31, 2012 in accordance with Section 1 of this resolution.

THIS RESOLUTION ADOPTED THIS 18 DAY OF September, 2012.

APPROVED:

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MAYOR

ATTEST:

-----  
CITY CLERK

Approved as to form:





## *MEMORANDUM*

September 7, 2012

**TO:** Ray Gosack, City Administrator

**FROM:** Kara Bushkuhl, Director of Finance 

**SUBJECT:** Annual Audit Requirements

In accordance with state law, the City must adopt its annual audit requirements. The City selects and independent accounting firm to prepare its annual audit examination in accordance with standards generally accepted in the United States.

Also, the Audit Advisory Committee recommended that the services of BKD, LLP be retained to perform the audit for the year ending December 31, 2012. The total cost, including document production and printing, was \$139,000 for the 2011 audit. A similar rate is anticipated for the 2012 audit.

If you have any questions or require more information, please let me know.

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN ELECTRIC  
UTILITY EASEMENT TO ARKANSAS VALLEY ELECTRIC COOPERATIVE**

---

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

The Mayor is hereby authorized to execute the attached easement extending to Arkansas Valley Electric Cooperative an electrical utility easement for the upgrading of electric services in south Fort Smith across the former Fort Smith Landfill property located off of Old Highway 271 in exchange for a payment by Arkansas Valley Electric Cooperative in the amount of \$1,030.00.

This resolution adopted this \_\_\_\_\_ day of September, 2012.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

Approved as to form:



No Publication Required

## MEMORANDUM

September 14, 2012

To: Ray Gosack, City Administrator

From: T. Baridi Nkokheli, Director



Subject: Electrical Utility Easement

---

An Arkansas Valley Electric Cooperative representative recently met with department staff to discuss installing new underground electrical utilities across a small portion of the City of Fort Smith's old landfill site located near 802 Old Highway 271. Copies of the proposed 1,448 foot easement and a map showing its location are attached. The proposed electrical utility easement is located on the eastern edge of the property near existing utility lines and should never interfere with the City's previous solid waste disposal site. Additionally, there are no anticipated uses of the property where the proposed utility line crosses other than entry and exit via the existing road.

Arkansas Valley Electric Cooperative is offering \$1,030 for this easement. Department staff recommends that the easement be executed and approved by the attached Resolution at the next Board of Director's meeting.

Please let me know should you have any questions or require additional information.

## RIGHT-OF-WAY EASEMENT

### KNOW ALL MEN BY THESE PRESENTS:

That the City of Fort Smith, Arkansas, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and quitclaim unto Arkansas Valley Electric Cooperative Corporation (“Arkansas Valley”), whose address is P.O. Box 47, Ozark, AR 72949, and unto its successors and assigns, a twenty foot (20') wide non-exclusive utility easement for the construction, operation and maintenance of a buried electric utility line in the south half of the southeast quarter of fractional Section 17, Township 7 North, Range 32 West, Sebastian County, Arkansas, said utility easement being located 10' on either side of a buried electric utility line located as follows, to wit:

Commencing at the Southeast Corner of said Fractional Section 17, thence along the south line of said Fractional Section 17, North 88 degrees, 36 minutes, 13 seconds West, 1537.07 feet, Thence North 01 degree, 43 minutes, 56 seconds East, 50 feet, Thence North 88 degrees, 36 minutes 33 seconds West to the Point of Beginning; thence North 29 degrees, 45 minutes 42 seconds East approximately 1398 feet; thence N 90 degrees East, approximately 50 feet to the grantor's east property line.

In addition to the buried electric utility line, Arkansas Valley shall have the right to install and maintain two above ground pedestals and the right to cut and/or trim trees and shrubbery to the extent necessary to install and maintain said buried electric utility line and two pedestals.

The City of Fort Smith reserves the right to grant access to the easement area to other persons or entities for the location and operation of public utilities or any other purpose which does not unreasonably interfere with the electric system installed by Arkansas Valley. The City of Fort Smith reserves full use of the surface, areas above and areas below the easement not inconsistent with the rights quit claimed to Arkansas Valley.

The right extended to Arkansas Valley shall continue so long as it utilizes the easement area for the authorized electric utility line purpose; however, upon abandonment of said line or the non-use of said line for the utility purposes of Arkansas Valley for a period of one year, this right of way easement shall expire of its own terms and without any further action required by the City of Fort Smith, Arkansas.

IN WITNESS WHEREOF, the undersigned have set their hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2012.

CITY OF FORT SMITH, ARKANSAS

BY: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ACKNOWLEDGMENT**

STATE OF ARKANSAS     )  
  )ss.  
COUNTY OF SEBASTIAN )

On this \_\_\_\_ day of \_\_\_\_\_, 2012, before me, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, to me personally well known, who stated that they were the Mayor and City Clerk of the City of Fort Smith, Arkansas, and were duly authorized in their respective capacities to execute the foregoing instrument for an in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

Hwy 271  
AVECC

C8 - 30-5



Cement Plant

CITY OF FT  
SMITH PROP.  
(PASTARO GUN  
CLUB)

PVT PROP.

PROPOSED  
JUNCTION  
BOX

PROPOSED U.G.  
EASEMENT

PROP. LINE

AVECC  
BEVERLY  
SUBSTATION

PROP. LINE

SCAN # 00229

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING AN ARCHITECTURAL SERVICE AGREEMENT WITH MAHG ARCHITECTURE, INC. FOR ARCHITURAL SERVICES RELATED TO IMPROVEMENTS IN THE CITY'S TEN (10) EXISTING FIRE STATIONS

---

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

The Mayor is hereby authorized to execute, his signature being attested by the City Clerk, the attached architectural service agreement with MAHG Architecture, Inc. related to the design and administration of building improvements to the City's existing ten (10) fire stations for a fixed fee of \$81,515.00 based on a construction estimate of \$1,164,500.00.

This Resolution adopted this \_\_\_\_\_ of September, 2012.

APPROVED:

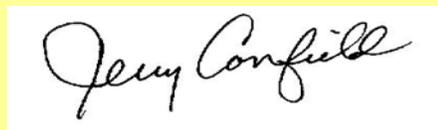
\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk





# 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:** September 10, 2012  
**Re:** Architectural Services Agreement for Fire Station Improvements

The Fort Smith Fire Department is ready to proceed with the improvements and upgrades to our ten (10) existing fire stations. We have reached an agreement for the scope of work and negotiated a fixed fee with MAHG Architecture, Inc. for the architectural and engineering services to take the project through the Contract Administration (Construction) Phase

The fire department is recommending approval of the proposed resolution authorizing the Mayor to execute the architectural services agreement with MAHG Architecture, Inc. for the fire station improvements for a fixed fee amount of \$81,515. The fee is based on a construction amount of \$1,164,500. With Board approval of this resolution, the design phase will begin immediately followed by the implementation of the improvements. All phases of the project will follow the design-bid-build method of construction.

The total project cost will be funded through revenue bonds financed from the  $\frac{3}{4}$  cent sales tax approved by the voters of Fort Smith on March 13, 2012. This project will include the upgrades as listed in Attachment "A" of the Architectural Services Agreement.

Attachment

**ADMIN**

REMODEL FRONT ENTRANCE  
FLOORS - (REMOVE VCT TILE, POLISH & STAIN CONCRETE  
IN FRONT & HALLWAY)  
REPLACE REMAINING FLOOR COVERING  
REMODEL BATHROOM  
SECURITY SYSTEM

**STATION ONE - 200 NORTH 5TH STREET**

FLOORS - (REMOVE VCT TILE, POLISH & STAIN CONCRETE)  
KITCHEN: COUNTERTOPS (STAINLESS STEEL)  
BATH TILE FLOORS AND WALLS  
BATHROOM FIXTURES/PARTITIONS (1500 PER )  
SHOWER REMODEL  
GENERATOR  
SECURITY SYSTEM

**STATION TWO - 1127 NORTH  
GREENWOOD**

ENTIRE ROOF  
FLOORS (REMOVE VCT TILE, POLISH & STAIN CONCRETE)  
KITCHEN CABINETS W/ COUNTERTOPS  
BATHROOM  
FIXTURES/PARTITIONS  
GENERATOR  
SECURITY SYSTEM

**STATION THREE - 2020 NORTH 6TH**

FLOORS (REMOVE VCT TILE, POLISH & STAIN CONCRETE)  
KITCHEN CABINETS W/ COUNTERTOPS  
BATHROOM FIXTURES/  
PARTITIONS  
GENERATOR  
SECURITY SYSTEM

**STATION FOUR - 2128 TOWSON AVENUE**

KITCHEN CABINETS W/ COUNTERTOPS  
GENERATOR  
SECURITY SYSTEM

**STATION FIVE - 4123 SPRADLING**

ROOF  
FLOORS (REMOVE VCT TILE, POLISH & STAIN CONCRETE)  
KITCHEN CABINETS W/ COUNTERTOPS  
BATHROOM FIXTURES/  
PARTITIONS  
GENERATOR  
SECURITY SYSTEM

**STATION SIX - 3124 MASSARD**

FLOORS (REMOVE VCT TILE, POLISH & STAIN CONCRETE)  
KITCHEN CABINETS W/ COUNTERTOPS  
BATHROOM FIXTURES/  
PARTITIONS  
GENERATOR  
SECURITY SYSTEM

**STATION SEVEN - 5411 EUPER LANE**

HIGH ROOF (ENGINE BAY)  
KITCHEN COUNTERTOPS (STAINLESS STEEL)  
FLOORS (REMOVE VCT TILE, POLISH & STAIN CONCRETE)  
GENERATOR  
SECURITY SYSTEM

**STATION EIGHT - 2318 SOUTH PHOENIX**

ENTIRE ROOF  
FLOORS (REMOVE VCT TILE, POLISH & STAIN CONCRETE)  
KITCHEN CABINETS W/ COUNTERTOPS  
BATHROOM FIXTURES/  
PARTITIONS  
GENERATOR  
SECURITY SYSTEM

**STATION NINE - 1500 CAVANAUGH**

ENTIRE ROOF  
FLOORS (REMOVE VCT TILE, POLISH & STAIN CONCRETE)  
KITCHEN CABINETS W/ COUNTERTOPS  
BATHROOM FIXTURES/  
PARTITIONS  
GENERATOR  
SECURITY SYSTEM

**STATION TEN - 4401 BURROUGH ROAD**

FLOORS (REMOVE VCT TILE, POLISH & STAIN CONCRETE)  
KITCHEN COUNTERTOPS (STAINLESS STEEL)  
GENERATOR  
SECURITY SYSTEM

# 3D

## Interoffice Memorandum

**TO:** Ray Gosack, City Administrator

**FROM:** Alie Bahsoon, Purchasing Manager 

**SUBJECT:** Request for Removal of Consent  
Agenda Item 3D

**DATE:** September 14, 2012



---

I am requesting that item 3D (*Resolution accepting bid for the replacement of rail crossing on Navy Road and South 7th Street*) be removed from the consent agenda for the Board meeting scheduled for Tuesday, September 18, 2012.

Per the recommendations of Mr. Jerry Canfield, City Attorney, this item will have to be formally bid due to the state law not allowing competitive bids to be waived for emergency contracting services for public works projects for non-state agencies. A resolution for the approval of the bids will be presented to the Board at the October 16<sup>th</sup> board meeting.

Please let me know should you have any questions or need additional information.

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT AND AUTHORIZATION NUMBER ONE WITH MORRISON SHIPLEY ENGINEERS TO DESIGN THE REPLACEMENTS FOR LIFT STATIONS 15, 16, AND 17

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 Morrison Shipley Engineers, for engineering design services associated with the Replacements for Lift Stations 15 (HP01), 16 (D001), and 17 (HR01), Project Number 12-15-ED1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute an Agreement and Authorization Number One in the amount of \$90,000.00, for performance of said services.

This Resolution adopted this \_\_\_\_\_ day of September 2012.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:



No publication required

## INTER-OFFICE MEMO

**TO:** Ray Gosack, City Administrator

**DATE:** September 10, 2012

**FROM:** Steve Parke,  Director of Utilities

**SUBJECT:** Lift Stations 15 (HP01), 16 (D001), and 17 (HR01) Replacement  
Project Number 12-15-ED1

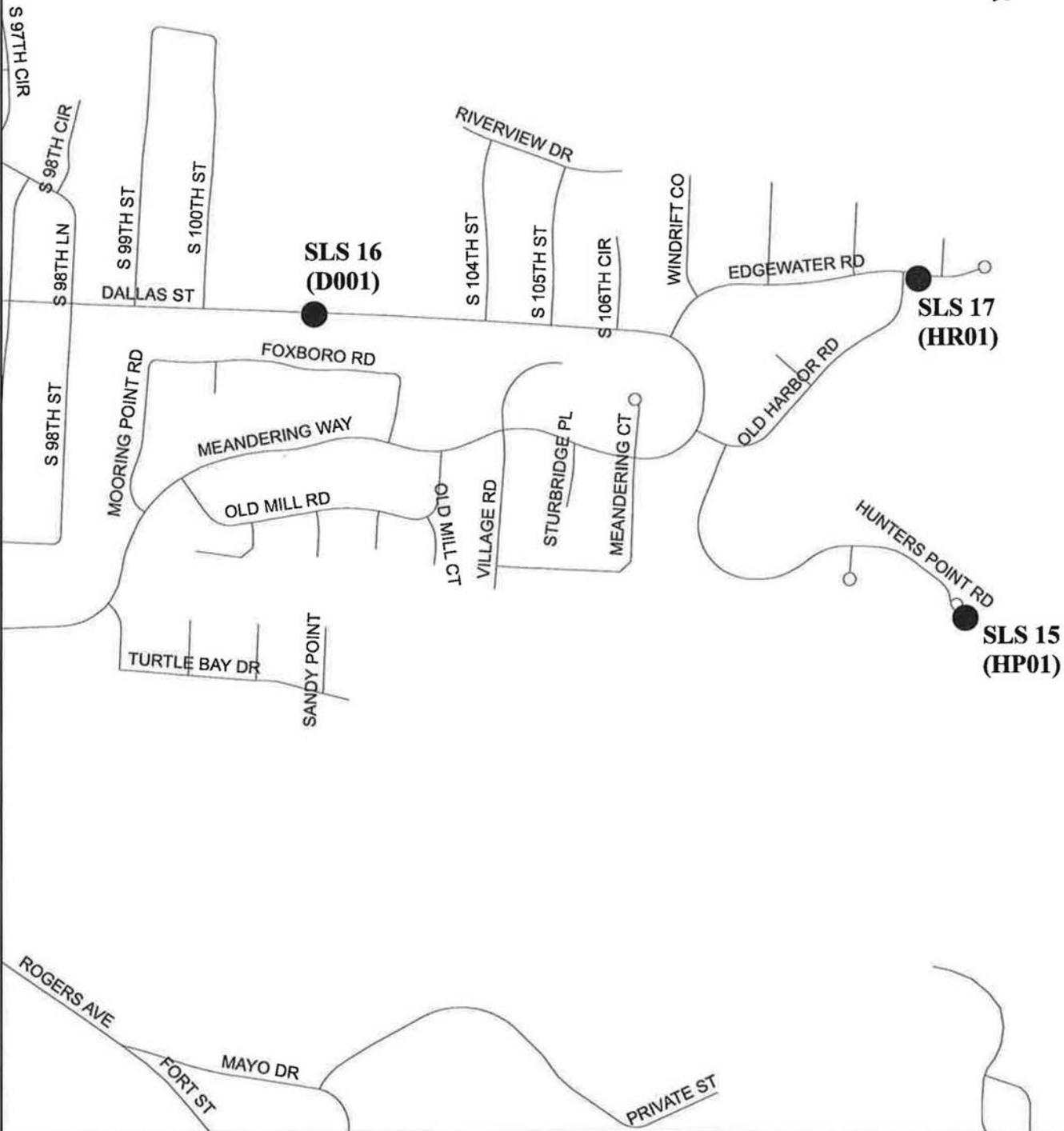
This project consists of designing the replacement facilities for three below grade sewer lift stations at the locations shown on the attached exhibit. All of the stations consist of a concrete wet well and a below grade, metal dry well which contains duplex pumps and associated controls. These lift stations were installed in the early 1970s as part of the Village Harbor subdivision development. Because of their age and deterioration, together with the problems related to confined space entry during routine maintenance, the lift stations will be replaced by submersible lift stations. Submersible lift stations allow for the removal of all equipment by access from the surface and do not require entry by personnel.

After reviewing the qualification statements on file at the City Clerk's office, staff selected Morrison Shipley Engineers to provide the engineering services for this design project. Attached is a Resolution authorizing the Mayor to execute an Agreement for professional engineering services and Authorization Number One in the amount of \$90,000.00. 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



**Lift Stations 15 (HP01), 16 (D001), & 17 (HR01) Replacement  
Fort Smith, Arkansas  
Project Number 12-15-ED1**

RESOLUTION ACCEPTING THE BID OF AND AUTHORIZING  
THE MAYOR TO EXECUTE A CONTRACT WITH AXIOO  
CONSTRUCTION, INC., FOR ZERO STREET PUMP STATION WET  
WEATHER IMPROVEMENTS - SITE REMEDIATION

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

SECTION 1: The bid of Axioo Construction, Inc., for the construction of the Zero Street  
Pump Station Wet Weather Improvements - Site Remediation, Project Number 09-17-C1, is  
hereby accepted.

SECTION 2: The Mayor is hereby authorized to execute a contract with Axioo  
Construction, Inc., for an amount of \$635,408.00, for performing said construction.

This Resolution adopted this \_\_\_\_\_ day of September 2012.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:



No publication required

**INTER-OFFICE MEMO**

**TO:** Ray Gosack, City Administrator

**DATE:** September 12, 2012

**FROM:** Steve Parke, Director of Utilities

**SUBJECT:** Zero Street Pump Station Wet Weather Improvements  
Site Remediation - Project Number 09-17-C1

The city's Wet Weather Management Plan identified that capacity improvements were required within the Zero Street sewer basin to reduce sewer collection system overflows. The recommended improvements included the upgrading of the Zero Street pump station capacity along with flow equalization storage. The site acquired for the new pump station and equalization storage is the old smelter site at 5100 Jenny Lind Road. The site is registered under the Arkansas Brownsfield Program with the Arkansas Department of Environmental Quality and contains approximately 14.59 acres. The additional land area not used for the pump station and equalization improvements may have a future use for recreational improvements.

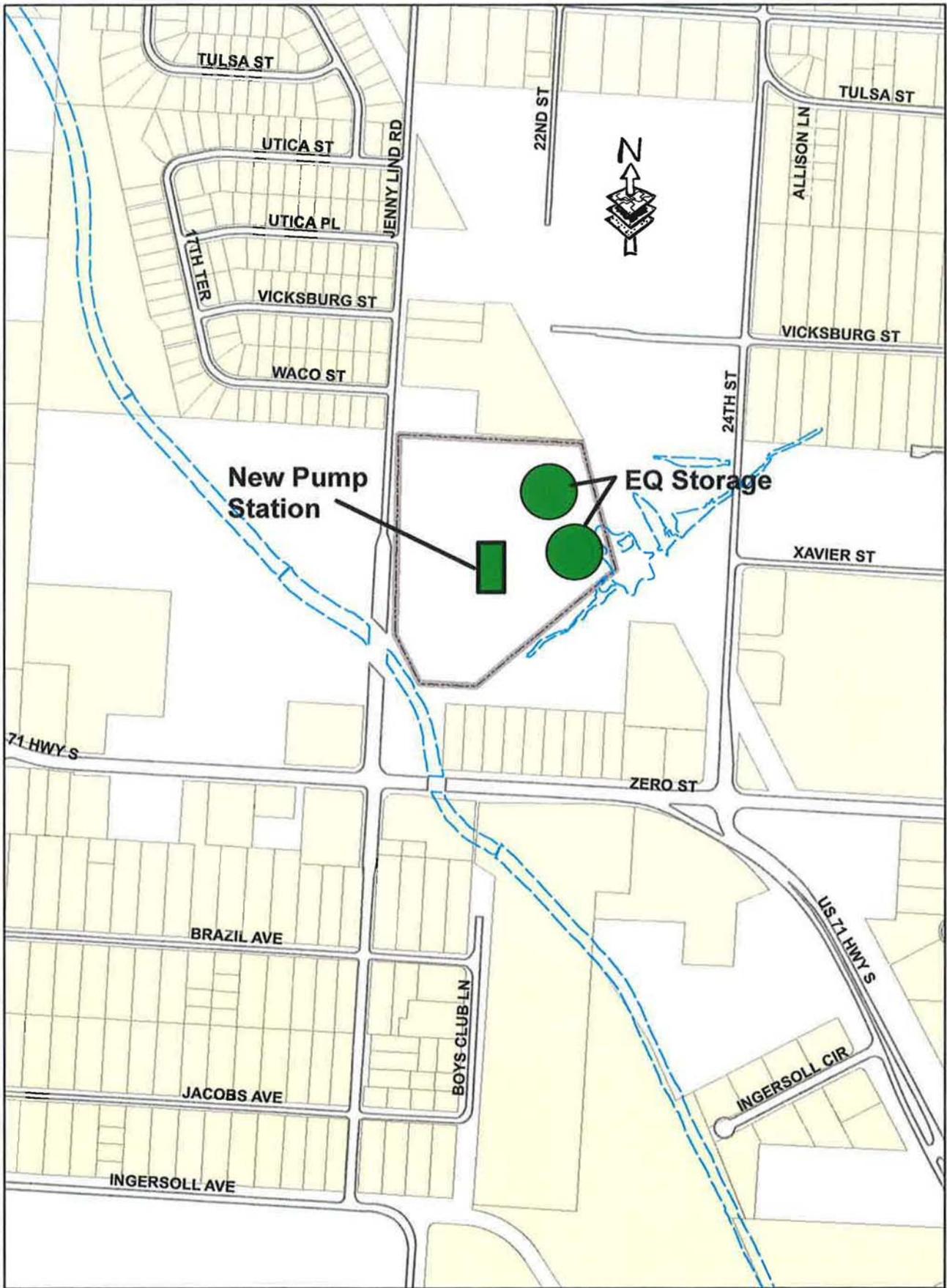
This site remediation project is the first of two construction contracts for the construction of the Zero Street wet weather improvements. The first contract is to accomplish the required disposal of the contaminated soils from the former smelter operations and establish the initial grading for the second construction contract for the pump station and equalization tanks. An exhibit showing the first contract site remediation area and second contract improvements is attached.

The low bid for the site remediation, first project, was submitted by Axioo Construction, Inc., in the amount of \$635,408.00. A bid tabulation showing the bidders and their bid amounts is attached. Also attached is a Resolution accepting the bid of Axioo Construction, Inc., in the amount of \$635,408.00. Funding for this work is available from the 2012 sales tax 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



Zero Street Pump Station Wet Weather Improvements  
Site Remediation  
Project No. 09-17-C1

**Bid Tabulation Sheet**

**Project Name**

Zero Street Pump Station Wet Weather Improvements - Site Remediation  
Project Number 09-17-C1

**Bid Opening**

September 11, 2012  
10:00 A.M.

**Bids Received**

Axioo Mulberry, AR	\$ <u>635,408.00</u>
Hudson Excavation, Inc. Van Buren, AR	\$ <u>677,967.60</u>
Kraus Construction Fort Smith, AR	\$ <u>1,083,400.00</u>
Goodwin & Goodwin Fort Smith, AR	\$ <u>1,320,940.00</u>
Forsgren, Inc. Fort Smith, AR	\$ <u>1,343,484.00</u>



September 10, 2012

TO: Members of the Board of Directors  
Members of the Audit Committee

RE: Appointments:

The terms of Director Tyler, Mr. Moschner and Mr. Watts of the Audit Committee will expire effective November 30, 2012. In accordance with Ordinance No. 2926 applications for these prospective vacancies are now being received. Applicants must be residents and registered voters in the City of Fort Smith.

The board may also want to give thought to the position held by Director Hutchings. Although his audit committee term doesn't expire until November 2013, the position will become vacant when his term on the board ends on December 31st.

Please submit applications to the city administrators office no later than the close of business on October 4, 2012. A list will be compiled for review by the Board of Directors. Applications are available on the City of Fort Smith website. Go to [www.fortsmithar.gov](http://www.fortsmithar.gov) and click on boards and commissions.

Sincerely,

A handwritten signature in blue ink that reads "Ray Gosack".

Ray Gosack  
City Administrator

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