Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith D. Lau
Ward 2 – Andre' Good
Ward 3 – Mike Lorenz
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
Study Session
May 14, 2013 ~ 12:00 Noon
Fort Smith Public Library Community Room
3201 Rogers Avenue

1. Review regulations pertaining to residential sanitation services at multiplexes *~ Director Merry requested at the March 12, 2013 study session ~*

2. Discuss construction delivery method for aquatic center at Ben Geren Regional Park

3. Review preliminary agenda for the May 21, 2013 regular meeting

MEMORANDUM

May 10, 2013

To: Ray Gosack, City Administrator

From: T. Baridi Nkokheli, Director

Subject: Residential Sanitation Services at Multiplexes

In October 2012, department staff performed a citywide audit of residential solid waste collection routes to assure compliance with City of Fort Smith Ordinance R-250-09, which states, "the City of Fort Smith Department of Sanitation shall provide residential solid waste collection services to all residential areas of Fort Smith". The audit was completed as a result of a complaint received after a local property owner was denied a commercial container at a residential dwelling. Fort Smith Municipal Code Section 25-261 provides the following definitions:

- ***Commercial customer*** shall mean any customer whose use of a premises owned, leased, occupied or managed by such customer is for a purpose other than residential or is a residential use consisting of more than four (4) residential living units for which solid waste is collected and billed to a single customer. Each owner or agent of a multi-family structure of over four (4) units shall have the option of being charged under commercial collection rates, provided that a suitable container as provided for in the definition above is available.

- ***Residential customer*** shall mean any customer whose use of premises owned, leased, occupied or managed is for a residential purpose in a single-family structure, duplex structure or multi-family structure with no more than four (4) living units.

The findings of our review revealed that approximately 120 single and multi-family properties were allowed to utilize commercial containers (dumpsters), provided by the Department of Sanitation or a third party, for residential purposes; however, per municipal code they should have been provided curbside residential collections. These containers were in place prior to my arrival in 2005 and most were in place for over a decade. The decision was made to leave the existing stationary containers in place until the citywide expansion of automated refuse collections was completed in order to help reduce confusion on collection days as routes adjusted.

Commercial containers (dumpsters) utilized in residential areas pose a number of concerns for citizens living in the immediate vicinity around them. The primary purpose of the municipal code relating to commercial containers is to keep commercial containers out of residential areas as much as possible due to a number of factors:

- Commercial containers are prone to litter due to overfilling and/or lids being left open. Users tend to place items on the ground around the containers when they are at capacity resulting in blowing debris.

- Certain "residential" solid waste items are prohibited from being placed in commercial containers. Items such as tree debris, grass clippings, Freon bearing appliances, paint, tires, and batteries require special handling.

- The collection process of commercial containers is loud and often results in noise complaints from residents living in the vicinity.

- Use of the commercial containers by persons not authorized to use them.

- Commercial containers are often not secured or maintained in a sanitary manner by their users resulting in odorous and/or rank smells.

- The presence of commercial containers in residential areas can be unsightly.

To correct this issue, written notice was provided to each of the identified property owners of our intention to migrate their properties to residential collections along with a copy of the pertinent section of the municipal code. Once the transition was underway, we identified several of the properties which proved difficult to convert due to 1) the layout of the property and the ability of the collection vehicles to enter and leave the property, 2) numerous living units on a single property with insufficient space to accommodate carts, and/or 3) the large number of carts required for some multiplexes detract from the aesthetics of the property and the surrounding neighborhood.

The majority of the solid waste definitions listed in Section 25-261 of the municipal code were established in 1976. It is evident that the definitions require updating to accommodate contemporary multifamily structure designs and current solid waste collection services. Department staff recommends amending the language of the definitions as follows:

- ***Commercial customer*** shall mean any customer whose use of a premises owned, leased, occupied or managed by such customer is for a purpose other than residential use or is a residential use consisting of more than four (4) residential living units per building structure for which solid waste is collected ~~and billed to a single customer~~. Each owner or agent of a multi-family building structure of over four (4) units shall have the option of being charged under residential or commercial collection rates, provided that a suitable container as provided for in the definition above is available.

- ***Residential customer*** shall mean any customer whose use of premises owned, leased, occupied or managed is for a residential purpose in a single-family building structure or ~~duplex structure or~~ multi-family building complexes with no more than four (4) living units per building structure.

- ***Residential use*** shall mean any structure used principally as a place of habitation with facilities for living, sleeping, eating, cooking, and parking, whether owned or rented by the occupants thereof, and shall include any single family house as one (1) unit, any duplex as two (2) units, any triplex as three (3) units, and any quadplex as four (4) units. Any individual family unit within a multiplex shall be included as one (1) unit.

Residential trash carts will be the default method for solid waste collections, however, staff believes that the Department of Sanitation should have the discretion to determine the collection method best suited for each property on a case-by-case basis, with consideration given to concerns posed by the property owners with regards to the type of collection method selected. As stated previously, the layout of the properties and the ability of the collection vehicles to enter and leave the property, numerous living units on a single property with insufficient space to accommodate carts, and/or the large number of carts required for some multiplexes detract from the aesthetics of the property and the surrounding neighborhood create obstacles for residential collections. Exceptions will be considered for unique circumstances.

If the Board is interested in the concept presented, a residential multiplex, "per living unit", rate will be established. The rate will be uniform regardless of the collection method employed. The rate for multiplexes will be less than the current "per household" rate for single family dwellings due to the nature of the services utilized by the occupants. Multiplexes generally produce less solid waste than single family households. Additionally, residents of multiplexes tend not to or don't have the ability to take advantage of the full range of services provided due to the transitory nature of rental properties. Once the multiplex rate is determined, staff will submit it to the Board for review and approval.

Currently, citizens living in multiplexes are deriving some benefits for which they are not contributing (e.g. citywide cleanup) because they are utilizing commercial services, either via the Department of Sanitation or a third party provider. The benefits of the requested amendments allow citizens living in multiplexes to receive the same level of solid waste collection services as citizens living in single-family households while supporting those services as well. These services include:

- Garbage collection via carts or stationary containers.
- Recyclables collection.
- Yard waste collection.
- Trouble Shooter services.
- Semi-annual citywide cleanup.
- Dial-A-Truck (bulky item) collection.
- Storm debris collection.

Dial-A-Truck services are currently restricted to three bulky items per month for multiplexes. The restriction will be amended to remove the three item restriction and change the collection frequency from once per month to twelve (12) times per calendar year. We believe this would help reduce trash accumulations around stationary containers at multiplexes.

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

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MEMORANDUM

May 10, 2013

TO: Mayor and Board of Directors

FROM : Ray Gosack, City Administrator

SUBJECT: Ben Geren Park Aquatic Center

The recent approval of $8.0 million in funding for the aquatic center means that design work needs to continue so that construction may begin by early 2014 and the facility open on Memorial Day weekend 2015. There's been a desire to include amenities which the architect estimates will add $800,000 to the project budget. Concern about the project cost is creating a dilemma for the project planning.

- When do we determine how much we're willing to spend?
- What will we get for that investment?
- Do we expend funds designing a facility which may cost more to build than is available?
- When will we know the project cost?

There are options for the project delivery method. Attached is a memo from the project architect which discusses the most viable options, provides project cost estimates, and includes project schedules for each delivery method.

I recommend that for the aquatic center project, we use the ***construction manager at risk*** method for the following reasons:

- We will have a maximum guaranteed price when approximately 60% of the design work is completed. This will allow us to decide in a more deliberate way what features we want included in the project for the money we're willing to spend on it.

- The architect can complete the design work with the assistance of the contractor who will be building the project. This allows the contractor to suggest designs

that will save us money and give greater assurance that the project will be completed on time.

- This method will avoid additional design fees. Those fees can be used to construct a better facility.

The quorum court will be discussing the project delivery methods at a meeting on the evening of May 14th. If both the city board and quorum court agree with using the construction manager at risk delivery method, we will present a resolution confirming this decision at the May 21st meeting. We will then undertake the process to select a construction manager as quickly as possible. The contract with a construction manager must be approved by the city board and the county. If both governing bodies don't agree with the use of construction management at risk, we will proceed with the traditional design, bid, build method for delivering the aquatic center.

Please let me know if there's any questions or a need for more information.

Attachment

cc: David Hudson, Sebastian County Judge
Andy Smith, Larkin Aquatics

LARKIN AQUATICS
9200 Ward Parkway, Suite 200
Kansas City, Missouri 64114-3350
Phone: 816-361-0440
Fax 816-361-0045

MEMO

To: **Judge David Hudson, Ray Gosack**

From: **Andy Smith**

CC:

Date: **May 10, 2013**

Re: **Construction Contract Delivery Methods; Ben Geren Aquatic Center**

With the approval of project funding by the County Quorum Court last month, the City and County are ready to have the architect/engineer (AE) team proceed with final design and construction documents of the Ben Geren Aquatic Center. At this point, it must be decided whether the construction contract will be awarded based on a competitive bid process (Design-bid-build or DBB) or whether a construction manager at risk (CMR) will be used. The purpose of this memo is to describe these delivery options and to explain the pros and cons of each option as they affect this particular project.

The key points of this memo are:

- ✓ The estimated cost of the most desired concept does not match the current budget. The project may exceed budget if measures are not put in place to manage this risk.
- ✓ The DBB process is limited in controlling this risk. The worst case scenario is the DBB process may result in all bids exceeding budget limits, requiring re-design and re-bidding of the project, and putting a Memorial Day 2015 opening at risk.
- ✓ CMR provides more flexibility during the design process to assure a final design meets budget.

<u>Background</u>

In March, the latest concept (Attachment 1), including a dive well and a 600 foot long lazy river, was presented to the City Board of Directors and County Quorum Court. The AE team's opinion of probable cost for this concept is $8.8M, exceeding the $8.0M budget by 10%. The previous concept presented at the City/County Joint meeting in February (Attachment 2) met the $8.0M budget, based on AE team's opinion of probable cost, but received public criticism at that meeting. As budget allows, the City and County want to provide a facility of similar scale and features to the concept shown in the original feasibility study.

The project schedule can be summarized as follows: Design and construction documents will be produced this year. A construction contract will be awarded no later than end of this year, construction will start in 2014 and will be completed in spring 2015 in time for a Memorial Day 2015 opening. This schedule is unaffected by which delivery method is chosen. Although there

are some differences in the timing of interim milestones, either method of DBB or CM will provide a Memorial Day 2015 opening.

Design-Bid-Build Approach

Design-bid-build (DBB) is the traditional approach. The AE team would be asked to finalize design and construction documents for a particular concept. With DBB, the City/County relies on the AE team's opinion of probable cost to define the scope of project all of the way through the entire design process until the project is bid. The AE team's opinion of probable cost would be refined through the design process as details and quantities of construction are better defined. The AE team applies the best available cost information, derived in part from recent project bid results for similar projects. Contingencies are added to this cost to account for unpredictable factors such as inflation, costs for materials and fuel, and economic and market forces. Firm quotes from contractors and material suppliers are not provided until the project is completely designed and bids are received. It is then, at the end of the design process, that AE team's opinion of probable cost is verified and actual cost of construction is known.

Deductive alternates are often used in competitive bids (DBB) to manage the potential risk that all bids received could exceed the project budget. Deductive alternates are defined in the construction documents and the bidders are asked to provide cost savings for these deductive alternates along with their base bid. In the event the bids exceed budget, the Owner has the option to select the deductive alternates to change the construction scope and reduce the bid price.

Deductive alternates can be as simple and straightforward as substitutions for finishes or equipment. Or they can be more complex requiring additional design effort. If the base bid for this project is the latest concept (Attachment 1), then it is prudent to include deductive alternates with an estimated value of at least the projected over-run of the currently approved budget of $800,000. The only feasible alternate that could reduce the bid price by this much is a different design of one or more of the pools. An example of this would be to use the larger lazy river/activity pool shown in Attachment 1 as part of the base bid and include a deductive alternate of the smaller lazy river/activity pool shown in Attachment 2. The construction drawings would include plans, sections, and details for both pools. Other work would also be affected, including the layout and design of the concrete deck around the pool, the design and layout of piping, sizing and configuration of equipment, and layout of the pump/filter building. Drawings reflecting these items would be generated twice, first to reflect the base bid and second to reflect the deductive alternate.

Ideally, there should be several deductive alternates. Consider the example above; if the lowest acceptable base bid were $200,000 over the budget, then it might be better to use other deductive alternates to reduce cost instead of opting for the smaller lazy river and no dive well. In this case, it might be better to have some other deductive alternates such as a more economical roof system for the buildings, fewer shade structures, a smaller children's play structure, or one fewer waterslides. These items could cover the budget over-run of the base bid and some of them could be installed later if more construction funds became available.

Unfortunately, State regulations limit flexibility in the selection of alternates. For publicly bid projects, the owner must list in priority the alternates to be considered and, if alternates are selected, they must be selected following the priority list. In other words, the owner cannot select

bid alternate 3 without selecting bid alternates 1 and 2. So, in the scenario previously discussed, the bid sheet could include price request for the following items:

- Base bid (including larger lazy river and dive well)
- Alternate 1; smaller river and no dive well
- Alternate 2; delete speed slide (fiberglass slide could be added later)
- Alternate 3; Provide smaller play structure
- Alternate 4; delete some of the shade structures
- Alternate 5; replace standing seam metal roof with composite shingle

These alternates are listed in order from most cost savings to least cost savings. Even if the lowest acceptable base bid is only $200,000 over budget, the City/County is still required to choose the first alternate, the smaller river and no dive well (estimated at $800,000 in value). If the order of the alternates is reversed, least cost savings to most cost savings, and the lowest acceptable bid is $800,000 over the budget, then all of the smaller alternates would have to be selected before the smaller river and no dive well alternate could be selected.

In the event that all bids exceed budget, the only other options besides deductive alternates are to negotiate a change order or to modify the design and re-bid the project. Regulations limit the use of change orders. Redesigning and rebidding the project could jeopardize the schedule for a 2015 opening.

Construction Manager at Risk Approach

The delivery process for Construction Manager at Risk (CMR) is described as follows. While the AE team begins the final design and construction document process, the City/County would solicit statements of qualification from prospective construction firms. The City/County would review SOQs, shortlist for interview and select the best qualified Construction team. This selection would be complete in time for City Board of Directors and County Quorum Court to consider for approval the award of contract in July. The agreement between CMR and the City/County would not include a Guaranteed Maximum Price (GMP) for construction. The GMP comes later.

By the time the CMR is on board in July, AE team would have completed design to about the 30% level. The CMR would begin working with the AE team to understand the scope of construction and review the AE team's opinion of probable cost. Moving forward, the CMR would assume responsibility for cost estimating and would collaborate in design review with the City/County and AE design team to assist in design decisions, value engineer and identify opportunities for cost savings. During the cost estimating phase the CM would work with subcontractors as well as utilizing their own database from previous projects in the development of their estimates. Since these estimates are based on incomplete design documents assumptions will have to be made about the scope of each trade involved in the project. These estimates will carry a number identified as contingency to cover things not yet shown on the plans. If a budget over-run is identified by the CMR, the AE team would still have adequate time and AE budget available for making necessary construction document changes to reduce the cost to within budget.

However, the owner must be willing to make changes in the scope or design of the project necessary to bring the project back within budget before the design team moves forward to

complete the design documents. The advantage of handling changes to the project at this point relates to the owners ability to choose ala carte from a menu of cost savings items developed by the design team and CMR. This allows the owner to tailor the change in scope to the amount of the budget overrun. In the DBB scenario the order of the deductive alternates will have to be established prior to the owner knowing the magnitude of the overrun. These alternate bids would have to be taken in the order established on the bid documents.

Once the design documents are complete the CM will solicit bids from subcontractors for the work contained in the design documents. If the CM wishes to self-perform any of the work himself, he must submit a sealed bid for that work prior to receiving bids from subcontractors. Once all bids are received the CM will present the bids to the owner and design team for review. If the project is over budget but within 20% of the funds available the CM may negotiate changes with the subcontractors subject to approval by the owner and design team. At this point the CM will present the owner with a GMP.

The selected CMR could be a general contractor with pool building experience or could be a general contractor with a pool builder as a subcontractor. Either way, for the City/County to realize the full benefits of the CMR process, the AE team needs to collaborate with the CM/pool builder during the design process. Pool building is a specialty construction and there are various construction methods for pool building that can be accommodated in the construction plans. By working with the CM/pool builder during the design phase, the design team can identify the methods that are most commonly used and are most cost effective in the Fort Smith area.

<u>Other Comparisons and Considerations</u>

- ✓ Both DBB and CMR allow for open competitive bidding.
- ✓ CMR allows the opportunity for the general contractor to be selected based on experience and a proven track record of dependability and quality. In the DBB process, the general contractor will be selected based on price only. The AE team recommends all prospective pool builders are qualified; that bids only be received from pool builders who demonstrate minimum qualifications of experience and good reputation.
- ✓ CMR provides real-time cost estimating so design decisions are made with the best available cost information. CMR will provide insights regarding labor and materials availability, work sequencing, constructability, and other construction related factors to beneficially impact design decisions and reduce construction times and costs. DBB offers none of these opportunities.
- ✓ With the CMR process, the design team will not proceed past 30% design until the CMR confirms or revises the AE team's opinion of probable cost. Therefore the design does not advance past 30% until August. It is important that the City and County are willing to make timely decisions to reduce scope or increase budget so that the design can be finalized this fall.
- ✓ The project schedule does not allow adequate time for the project to be re-designed and bid a second time and still meet a Memorial Day 2015 opening. Therefore, if DBB is the selected method, there must be adequate measures in place to assure a qualified bid

meeting the approved budget is received. The AE team recommends the construction documents be prepared with two versions of the lazy river/activity pool/dive well complex as discussed above. This will require additional AE fees to cover this additional design and drawing production. These fees are estimated at $60,000.

Recommendations

It is crucial that this project is completed within the schedules promised to the community and for cost matching available budgets. It is equally important that the end product meet the needs and expectations of the community. The CMR process provides collaboration between the construction team and the design team. It allows for design decisions supported by real-time cost analysis. The CMR process avoids some of the potential pitfalls of cost control that can plague the DBB process. Therefore, Larkin Aquatics recommends the CMR process for the design and construction of the Ben Geren Aquatic Center.

Attachment 1
Concept Presented March 18, 2013

not to scale

Buildings	
Bathhouse, Breezeways & Porches, Concessions, Mechanical Building, & Party Shelter	$1,555,000
Site Development	
Parking/Drives (300 Spaces), Water main extension, Sanitary Service, Storm Drainage/Detention	$857,000
Pools & Deck	
Pools, Decks, & Appurtenances	$4,680,000
Waterslides & Waterplay	$1,230,000
Sub-Total	$8,322,000
5% Contingency	$416,000
Hard Cost Total	$8,738,000
Soft Costs	
Professional Services, Furnishings, Testing	$620,000
Total (n/inc. In-kind services)	$9,358,000
In-kind services	
Water & Sewer by City	-$135,000
Parking Lot by County	-$450,000
Total Project Cost	$8,773,000

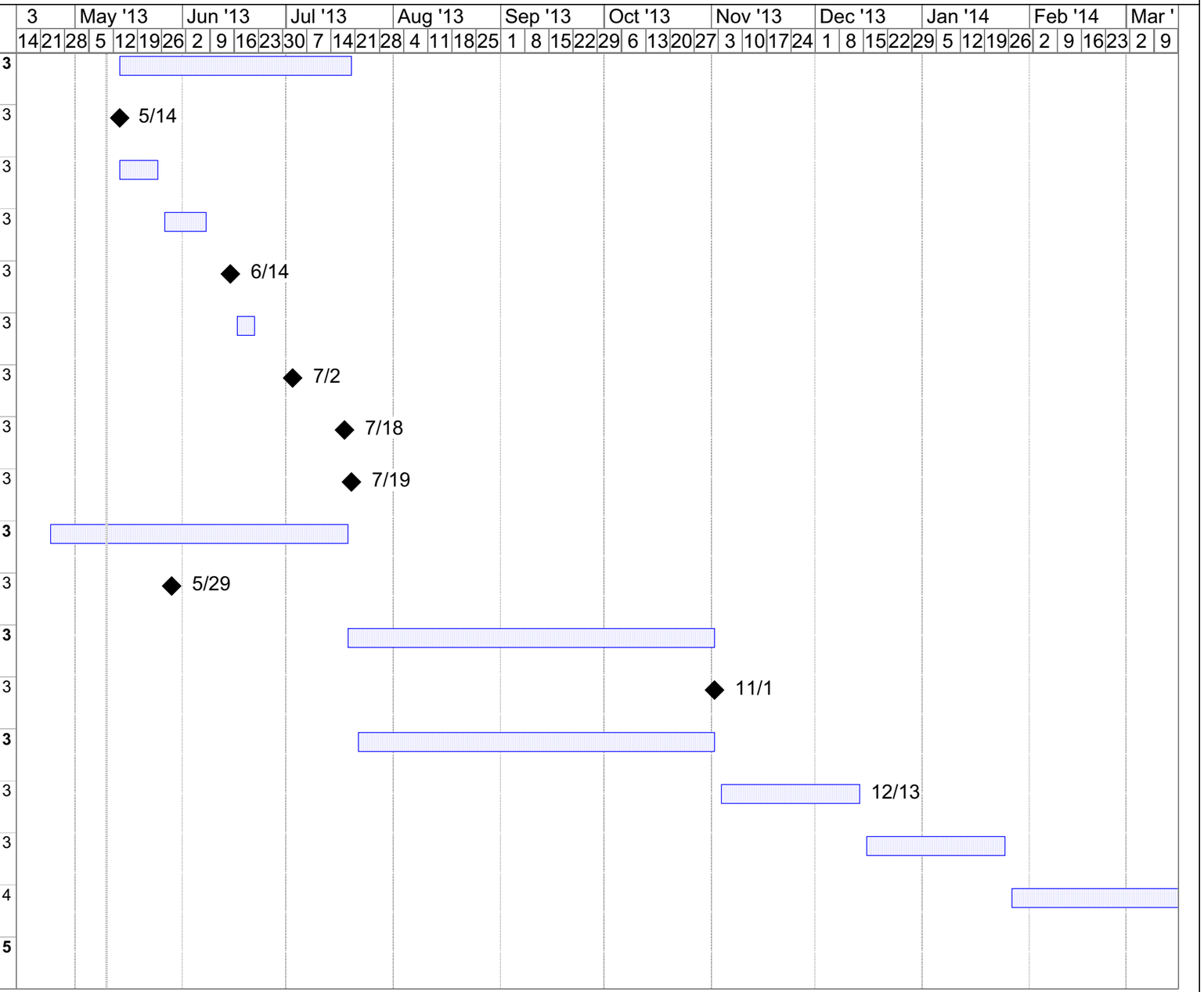
Attachment 2
Concept Presented at Joint Meeting, February 12, 2013

not to scale

Buildings	
Bathhouse, Breezeways & Porches, Concessions, Mechanical Building, & Party Shelter	$1,454,000
Site Development	
Parking/Drives (300 Spaces), Water main extension, Sanitary Service, Storm Drainage/Detention	$857,000
Pools & Deck	
Pools, Decks, & Appurtenances	$3,991,000
Waterslides & Waterplay	$1,230,000
Sub-Total	$7,532,000
5% Contingency	$377,000
Hard Cost Total	$7,909,000
Soft Costs	
Professional Services, Furnishings, Testing	$620,000
Total (n/inc. In-kind services)	$8,529,000
In-kind services	
Water & Sewer by City	-$135,000
Parking Lot by County	-$450,000
Total Project Cost	$7,944,000

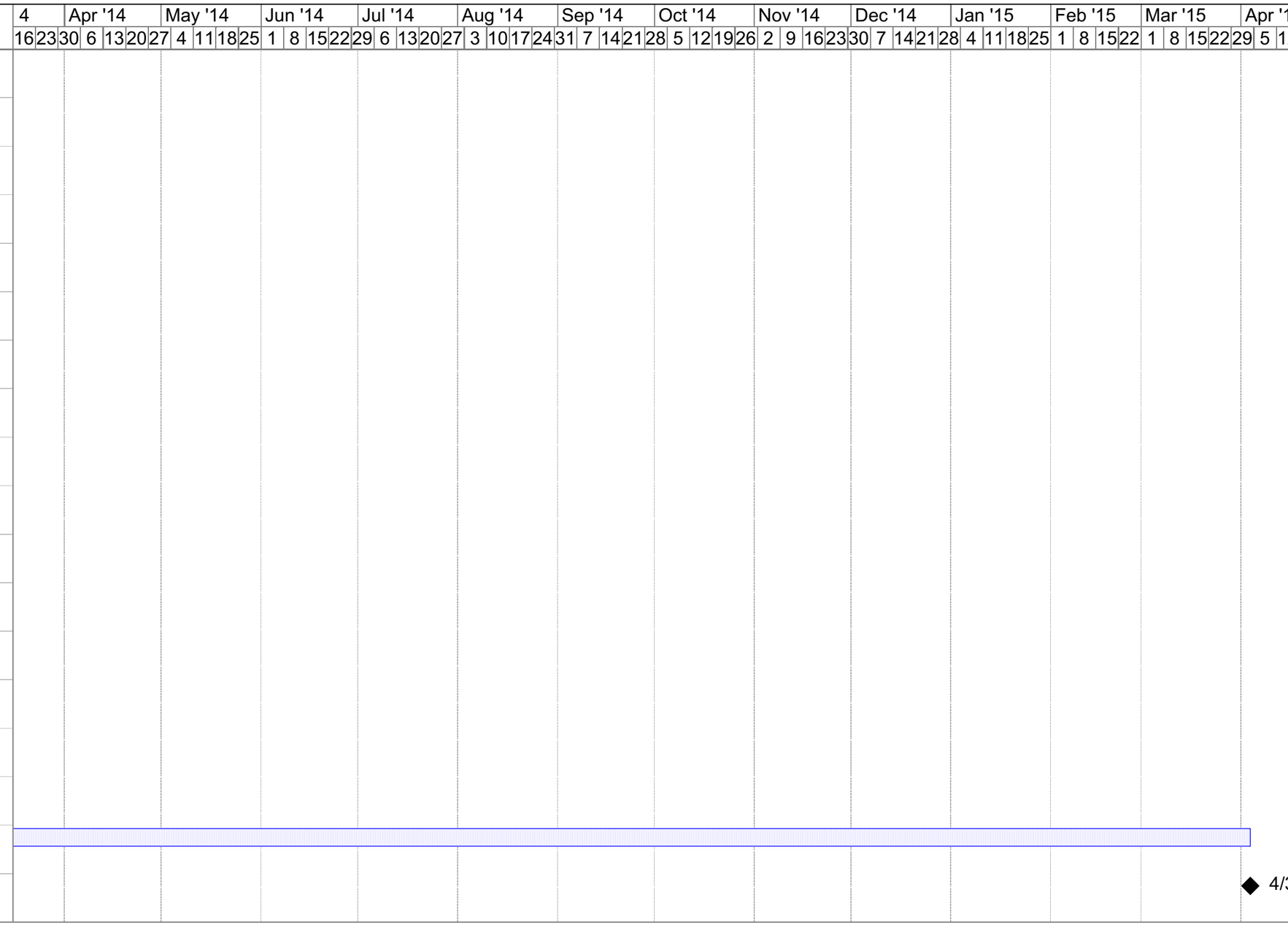
Design/Construction Schedule
Ben Geren Aquatic Center
Construction Manager Approach
Fri 5/10/13

ID	Task Name	Duration	Start
1	**CMR Selection process**	**49 days?**	**Tue 5/14/13**
2	CM process approved by Board of Directors	0 days	Tue 5/14/13
3	Prepare CM RFQ	9 days	Tue 5/14/13
4	Advertise CM RFQ	10 days?	Mon 5/27/13
5	Receive CM RFQ	0 days	Fri 6/14/13
6	Review CM RFQ & invite to invterview	5 days	Mon 6/17/13
7	CM Interviews	0 days	Tue 7/2/13
8	City/County Elected approval of selection	0 days	Thu 7/18/13
9	CM Notice to proceed with contract	0 days	Fri 7/19/13
10	**Design Development (30% design)**	**62 days?**	**Wed 4/24/13**
22	Pre-design Coordination Meeting, Ark DOH	0 days	Wed 5/29/13
23	**Construction Document Development**	**76 days**	**Fri 7/19/13**
34	Construction Documents Complete	0 days	Fri 11/1/13
35	**Design and Cost Estimating Services by CMR**	**75 days?**	**Mon 7/22/13**
42	CMR Receives final bids and offers GMP	6 wks	Mon 11/4/13
43	Construction Contracting and Preliminary work	6 wks	Mon 12/16/13
44	**Construction**	**62 wks**	Mon 1/27/14
45	**Final Completion CM**	**0 days**	**Fri 4/3/15**



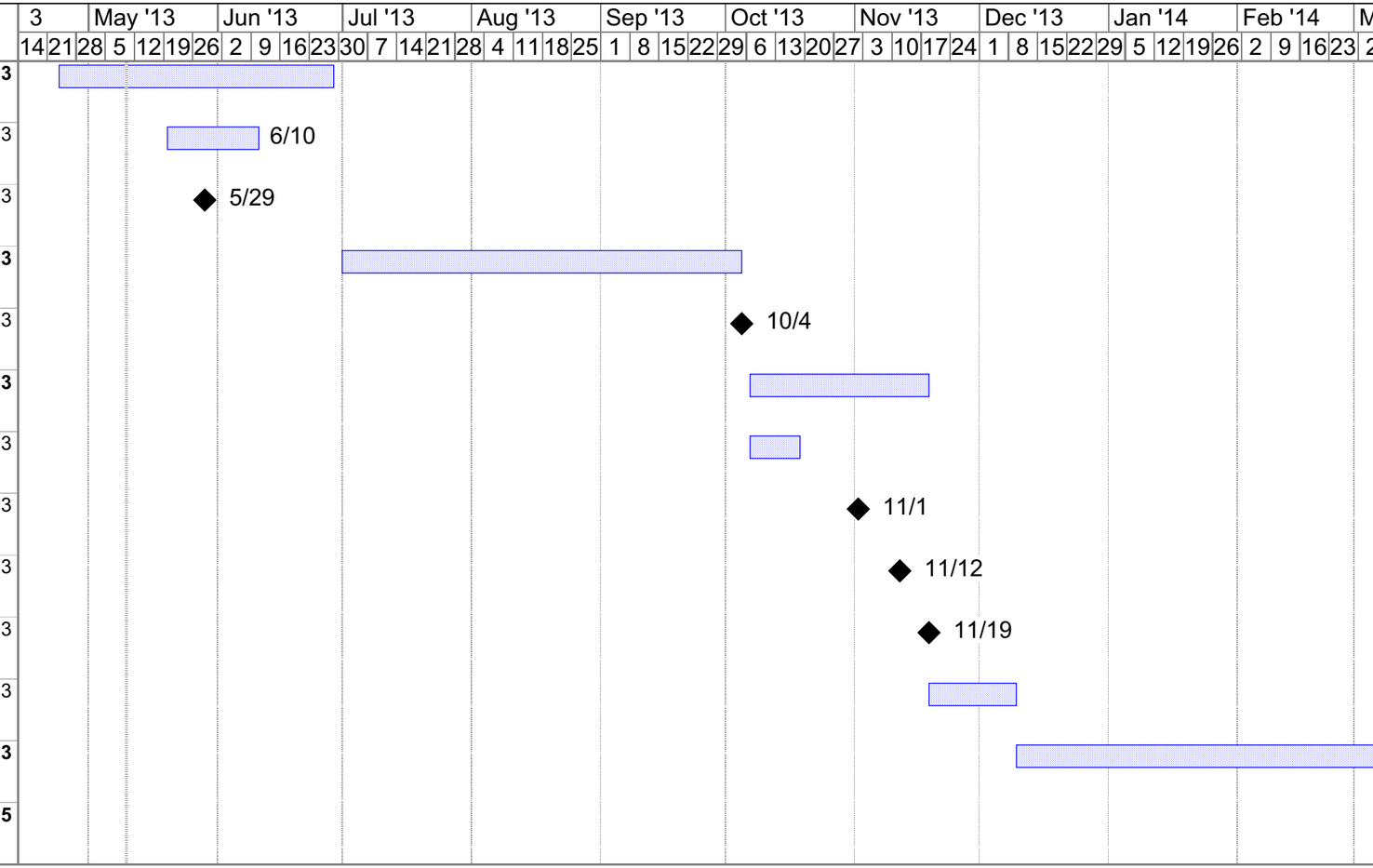
Design/Construction Schedule
Ben Geren Aquatic Center
Construction Manager Approach
Fri 5/10/13

ID	Task Name
1	**CMR Selection process**
2	CM process approved by Board of Directors
3	Prepare CM RFQ
4	Advertise CM RFQ
5	Receive CM RFQ
6	Review CM RFQ & invite to invterview
7	CM Interviews
8	City/County Elected approval of selection
9	CM Notice to proceed with contract
10	**Design Development (30% design)**
22	Pre-design Coordination Meeting, Ark DOH
23	**Construction Document Development**
34	Construction Documents Complete
35	**Design and Cost Estimating Services by CMR**
42	CMR Receives final bids and offers GMP
43	Construction Contracting and Preliminary work
44	**Construction**
45	**Final Completion CM**



Design/Construction Schedule
Ben Geren Aquatic Center
Design Bid Build Approach
Fri 5/10/13

ID	Task Name	Duration	Start
1	**Design Development**	**48 days?**	**Wed 4/24/13**
10	Direction from City/County on Project Scope	16 days?	Mon 5/20/13
11	Pre-design Coordination Meeting, Ark DOH	0 days	Wed 5/29/13
12	**Construction Document Development**	**70 days**	**Mon 7/1/13**
23	Construction Documents Complete	0 days	Fri 10/4/13
24	**Bidding Phase (Alternate 2)**	**31 days**	**Mon 10/7/13**
25	Advertise bids	10 days	Mon 10/7/13
26	Receive bids	0 days	Fri 11/1/13
27	Recommend award to City/County	0 days	Tue 11/12/13
28	County/City Elected to Approve Award	0 days	Tue 11/19/13
29	Execute Contract Documents	15 days	Tue 11/19/13
30	**Construction**	**68 wks**	**Tue 12/10/13**
31	**Final Completion**	**0 days**	**Mon 3/30/15**



Design/Construction Schedule
Ben Geren Aquatic Center
Design Bid Build Approach
Fri 5/10/13

ID	Task Name
1	**Design Development**
10	Direction from City/County on Project Scope
11	Pre-design Coordination Meeting, Ark DOH
12	**Construction Document Development**
23	Construction Documents Complete
24	**Bidding Phase (Alternate 2)**
25	Advertise bids
26	Receive bids
27	Recommend award to City/County
28	County/City Elected to Approve Award
29	Execute Contract Documents
30	**Construction**
31	**Final Completion**

The City of Fort Smith ARKANSAS

May 8, 2013

TO: Members of the Board of Directors
Members of the Transit Advisory Commission

RE: Appointments:

The terms of Randy Burress and Charles Poole of the Transit Advisory Commission will expire July 15, 2013. 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.

Please submit applications to the city administrator's office no later than the close of business on June 12, 2013. 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 and click on boards and commissions.

Sincerely,

Ray Gosack

Ray Gosack
City Administrator

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