Mayor – Sandy Sanders

Acting City Administrator – Jeff Dingman

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith Lau
Ward 2 – Andre' Good
Ward 3 – Mike Lorenz
Ward 4 – George Catsavis
At Large Position 5 – Tracy Pennartz
At Large Position 6 – Kevin Settle
At Large Position 7 – Don Hutchings

AGENDA

Fort Smith Board of Directors
REGULAR MEETING
December 15, 2015 ~ 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 214 AND ONLINE AT http://www.ustream.tv/channel/city-of-fort-smith-board-of-directors-meetings

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 DECEMBER 1, 2015 REGULAR MEETING

ITEMS OF BUSINESS:

1. Ordinance amending the Fort Smith Municipal Code to add a section to Chapter 4 to make it unlawful to offer any live animal as an incentive to buy an item, or to offer any live animal as a prize in a contest, raffle, game of chance, or auction; and providing an exemption for livestock (horses, mules, cattle, bison, sheep, goats, swine, camelids), goldfish less than four (4) inches in length, and for any FFA or 4-H related animal activity and for any federally recognized 501(c)(3) organization *~ Good/Settle placed on agenda at the December 8, 2015 study session ~*

2. Ordinance amending the 2015 Operating Budget

3. Resolution authorizing the Mayor to execute an agreement with Hawkins Weir Engineers, Inc. for providing engineering services for the Waste Water Pump Station / Force Main Evaluations *($1,820,740.00 / Utility Department / Budgeted – 2014 Sales and Use Tax Bonds & upcoming 2015 Water and Sewer Revenue Bonds)* ♦

4. Resolution authorizing the Mayor to execute Authorization No. 2 to the agreement with Morrison Shipley Engineers, Inc. for engineering services for the replacement of Lift Stations 15, 16, 17 & 23 *($198,000.00 / Utility Department / Budgeted – 2014 Sales and Use Tax Bonds)* ♦

5. Consent Agenda

   A. Resolution adopting the 2016 Audit Plan

   B. Resolution authorizing a time extension for the construction of 2014 Street Overlay / Reconstruction, Phase C, Project No. 14-03-C *(134 days)*

   C. Resolution accepting completion of and authorizing final payment for the construction of 2014 Street Overlay / Reconstruction, Phase C, Project No. 14-03-C *($114,111.69 / Engineering Department / Budgeted – Sales Tax Program Fund)*

   D. Resolution authorizing an amendment to the engineering services agreement for the South 46th Street Drainage Improvements, Project No. 12-06-B *($20,000.00 / Engineering Department / Budgeted – Sales Tax Program Fund)*

   E. Resolution authorizing engineering services agreements for the design of five (5) projects in the 2016 Sales Tax Program *($621,278.00 / Engineering Department / Budgeted – Sales Tax Program Fund)*

   F. Resolution approving specific excess insurance and aggregate excess insurance for the City's employee health coverage

   G. Resolution approving claim service, specific excess insurance and aggregate excess insurance for the City's workers' compensation coverage

   H. Resolution accepting the bid and authorizing a contract with Crawford Construction for the construction of the ball field improvements at Martin Luther King Jr. Park *($248,142.00 / Parks Department / 1/8% Sales and Use Tax, and Arkansas Parks and Tourism Grant)*

   I. Resolution authorizing the Mayor to execute supplemented Sebastian County Parks Department trail easement

J. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with JEF Enterprises, Inc.

K. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Miller Truck Lines, LLC

L. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with American Composting Inc.

M. Resolution authorizing the agreement between the City of Fort Smith, Arkansas and Baldor Electric Company to jointly design, construct and fund intersection and radius improvements along R.S. Boreham Jr. Street at its intersection with Highway 271, Project No. 16-09-B *($200,000.00 / Engineering Department / Not Budgeted – Sales Tax Program Fund)*

OFFICIALS FORUM ~ presentation of information requiring no official action

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

- Mayor
- Directors
- City Administrator

EXECUTIVE SESSION

Appointments: Fire Code Board of Appeals (1) and Sebastian County Regional Solid Waste Management Board (2)

ADJOURN

1

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FORT SMITH MUNICIPAL CODE TO ADD A SECTION TO CHAPTER 4 TO MAKE IT UNLAWFUL TO OFFER ANY LIVE ANIMAL AS AN INCENTIVE TO BUY AN ITEM, OR TO OFFER ANY LIVE ANIMAL AS A PRIZE IN A CONTEST, RAFFLE, GAME OF CHANCE, OR AUCTION; AND PROVIDING AN EXEMPTION FOR LIVESTOCK (HORSES, MULES, CATTLE, BISON, SHEEP, GOATS, SWINE, CAMELIDS), GOLDFISH LESS THAN FOUR (4) INCHES IN LENGTH, AND FOR ANY FFA OR 4-H RELATED ANIMAL ACTIVITY AND FOR ANY FEDERALLY RECOGNIZED 501(c)3 ORGANIZATION

WHEREAS, the Animal Service Advisory Board has recommended to the Board of Directors of the City of Fort Smith, Arkansas, a certain additional regulation providing for the protection of domestic animals, and the Board of Directors, having determined that such additional regulation is necessary,

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

Section 1: A section should be added to Chapter 4 (Animals) of the Fort Smith Municipal Code to read as follows:

> It is unlawful to offer any live animal as an incentive to buy an item, or to offer any live animal as a prize in a contest, raffle, game of chance, or auction. This shall not apply, however, to livestock (horses, mules, cattle, bison, sheep, goats, swine, camelids), goldfish less than four (4) inches in length, or to any FFA (Future Farmers of America) or 4-H related animal activity, or to any federally recognized 501(c)3 organization.

Section 2: The codifier at its discretion shall place this in an appropriate place in Chapter 4 (Animals) of the Fort Smith Municipal Code.

PASSED AND APPROVED THIS _____ DAY OF _____, 2015.

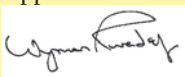
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:



_____
City Attorney
Publish 1 Time

1

Fort Smith Police Department

Kevin Lindsey, Chief of Police

INTERDEPARTMENTAL MEMORANDUM

To: **Jeff Dingman, Acting City Administrator**

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

Subject: **Animal Services Advisory Board Ordinance to Restrict Animals Being Offered as Prizes Under Certain Circumstances**

Date: **December 9, 2015**

The purpose of this memorandum is to provide City Directors with information concerning a proposed ordinance from members of the Animal Services Advisory Board (ASAB). At their quarterly meeting held on November 4, 2015, wording was finalized for the proposed ordinance which serves to ban the practice of offering animals as prizes, or as an incentive to buy any item. The ASAB previously offered a similar proposal several months ago, however that proposal was denied by the city's Board of Directors. The reason given was that it would negatively impact charitable organizations that routinely hold raffles in which an animal is offered as a prize. This new proposal specifically seeks to exempt any 501 (C) (3) charitable organization as well as any animal activity related to a 4-H or Future Farmers of America organization. The concern conveyed by the ASAB is that often when an animal is offered as a prize, the animal grows, and the animal's owner loses interest in the animal, thereby increasing the likelihood the animal may suffer from neglect as a result. Therefore, the ASAB offers this proposed ordinance for the consideration of the Board of Directors.

At the December 8, 2015 Board of Directors Study Session, Dr. John Remer, Chair of the Animal Services Advisory Board, spoke about the proposed ordinance. There was consensus among Directors to place the Ordinance on the December 15, 2015 regular meeting agenda.

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

2

ORDINANCE NO._____

AN ORDINANCE AMENDING THE 2015 BUDGET

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

Section 1: The revised 2015 revenue estimates as listed for the General Fund on Exhibit 1 and the Street Maintenance Fund on Exhibit 2 are hereby approved.

PASSED AND APPROVED THIS_____DAY OF DECEMBER 2015.

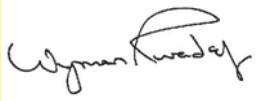
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:



_____
NPR

General Fund **Exhibit 1**

Revenue Comparisons **12/10/15**

2015

	Budget FY 15	Estimated FY 15
Intergovernmental		
State Turnback - General	$ 1,284,514	$ 1,182,531
Transit Reimbursement	1,698,800	1,660,000
Airport Security Reimbursement	120,000	118,500
State Act 833 Fire Funds	99,000	97,950
Taxes and Assessments		
Franchise	6,796,600	6,458,000
Ad Valorem	6,991,700	6,925,000
County Sales Tax	15,895,000	16,028,000
1/4% City Sales Tax - Fire & Parks	4,965,076	5,078,000
Gasoline Tax Refund - Transit	12,000	11,100
Court Fines and Forfeitures	2,225,000	2,150,000
Licenses and Permits		
Privilege	18,000	15,000
Construction	690,000	820,000
Alcohol	668,050	570,000
Other	86,350	75,500
Service Charges and Fees		
Community Centers	32,500	31,000
Fire Protection Contracts	60,843	62,000
Port Authority	25,000	20,700
Parks and Aquatics	185,000	180,000
Oak Cemetery	83,000	84,000
Animal Control	500	240
False Alarm Fees	20,000	30,000
Mobile Data Support Fees	49,280	19,000
Transit System	207,500	228,000
Miscellaneous		
Reimbursement from Airport	3,163	3,163
Interest Earned	25,000	23,000
Sebastian County Participation	584,706	450,000
Reimbursement from 911 Fund	255,000	255,250
Reimbursement from FSPS for SROs	116,000	117,456
Other	92,200	60,000
Transfers		
Sales Tax Fund	2,698,000	2,698,000
A & P Fund	21,480	21,480
Street Maintenance Fund	90,610	90,610
Water & Sewer Operating Fund	90,610	90,610
Sanitation Operating Fund	90,610	90,610
Total	$ 46,281,092	$ 45,744,700

Street Maintenance Fund **Exhibit 2**

Revenue Comparisons

2015

	Budget FY 15	Estimated FY 15
Intergovernmental		
State Turnback - Gasoline Tax	$ 4,013,029	$ 3,800,000
State Turnback - Highway Sales Tax	1,535,562	1,540,000
Taxes and Assessments		
Ad Valorem	2,097,120	2,060,000
Licenses and Permits		
Sidewalk Permit Assessment	165,000	135,000
Miscellaneous		
Interest Earned	3,500	3,900
Other	5,000	22,125
Transfers		
W/S Operating Fund	-	-
Total	$ 7,819,211	$ 7,561,025

2

MEMORANDUM

December 10, 2015

TO: Jeff Dingman, Acting City Administrator

FROM: Jennifer Walker, Finance Director

SUBJECT: 2015 Budget Amendments

Each year the city is required to adjust the General Fund and the Street maintenance fund revenues during the current budget year. This is due to governmental accounting standards. The two exhibits attached to the accompanying ordinance have been adjusted from the revenue schedules presented in the 2016 Proposed Budget. The General Fund revenues have been adjusted for actual revenues received in 2015. General Fund reductions are due primarily to lower than estimated revenues in State Turnback, Franchise Fees, and Ad Valorem. Also, the impact of the large city sales tax credit reported in November is reflected in this amendment. The total General fund budget reduction is approximately 1%. Street Maintenance Fund Ad Valorem and Gasoline Turnback revenues have been adjusted to reflect actual revenues received in 2015. The net impact of these changes to the Street Maintenance Fund for 2015 is a reduction of approx. $250,000 (3%).

In order to adjust the 2015 Budget appropriations to the required levels, there are some supplemental appropriations that are necessary. With the exception of the city sales tax credit reflected in November, all of these amendments to the 2015 budget were taken into consideration when the 2015 estimates were presented in the 2016 Proposed Budget.

I recommend approval of the ordinance to amend the 2015 Budget.

Jennifer Walker

RESOLUTION NO._____ 3

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH HAWKINS WEIR ENGINEERS, INC., FOR PROVIDING ENGINEERING SERVICES FOR THE WASTEWATER PUMP STATION/FORCE MAIN EVALUATIONS

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

SECTION 1: An Agreement with Hawkins Weir Engineers, Inc., for providing engineering services associated with the Wastewater Pump Station/Force Main Evaluations, Project Number 15-19-ED1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute an Agreement for professional engineering services in the amount of $1,820,740.00.

This Resolution adopted this _____ day of December 2015.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____npr

INTER-OFFICE MEMO

TO: Jeff Dingman, Acting City Administrator **DATE:** December 10, 2015

FROM: Steve Parke, Director of Utilities

SUBJECT: Wastewater Pump Station/Force Main Evaluations
Project 15-19

Following the October 6, 2015, Board of Directors meeting, staff requested CDM Smith to make a thorough examination of the requirements stated by Section V, Article Three of the Consent Decree, the city's Request for Proposal, Hawkins-Weir Engineers' scope-of-work prepared in response to the city's request and the level of effort (hours and types of work) detailed by Hawkins-Weir. CDM Smith has found that all meet the strict requirements of the Consent Decree and that the level of effort submitted by Hawkins-Weir is appropriate to meet the requirements of the Consent Decree. Copies of CDM Smith's October 30 and December 3 letter reports are attached for your review.

CDM Smith's December 3 letter lists five items of work, which they still consider critical to the performance of the project, but could be separated into an "as needed" category or listed as "additional services" within the engineering services agreement. Actual field conditions found, or experienced, during the course of the work would dictate whether all or part of the scope identified for those items were needed. If separated out of the initial scope-of-work as "additional services" the contract amount could be stated at $180,000 lower and, if needed, added back into the work under contract amendments approved by the Board. If left within the scope-of-work and designated "as needed", the contract amount would be stated as a higher amount but expected to underrun by $180,000 unless the work defined by an as needed item was found necessary by actual field conditions. Administratively, it could be reported to the Board of the occurrence requiring the need to include all or part of an "as needed" work item. CDM Smith's December 3 report identifies that there are some risks associated with the removal of the items from the initial scope-of-work which the city should recognize, but that risk could be minimized by prompt consideration and authorization if any of the additional services are needed.

Staff feels that the appropriate engineering agreement format is to place the items of work outlined by CDM Smith into the category of additional services and to request the Board's concurrence should all or part of those work items become necessary. Hawkins-Weir agrees with that determination and the contract amount will be reduced by $180,000. Additionally, Hawkins-Weir has offered to reduce their fee by another $87,680 by removing costs associated with administrative support and the markup on reimbursable expenses. A copy of their December 9 letter extending that offer is attached. This results in a revised contract amount of $1,820,740 and represents a reduction of $267,680 from the original proposal.

Resolution authorizing an agreement with Hawkins-Weir Engineers in the amount of $1,820,740 is attached for the Board's consideration. Funding for this work is available from the 2014 sales and use tax bonds and 2015 revenue bonds to be closed on December 22.

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

attachment

CDM Smith

100 Throckmorton Street, Suite 600
Fort Worth, Texas 76102
tel: 817 332-8727
fax: 817 820-0450

October 30, 2015

Mr. Steve Parke
City of Fort Smith
3900 Kelley Highway
Fort Smith, AR 72904

Subject: Wastewater Pump Station/Force Main Evaluations Project No. 15-19

Dear Mr. Parke:

CDM Smith was requested to examine the City's Consent Decree requirements related to the above captioned project. As part of this assignment, CDM Smith's review team performed an initial examination of the project's Request for Proposal (RFP) prepared by the City and Scope of Services prepared by Hawkins Weir Engineers in response to the RFP. CDM Smith finds that the RFP and the Scope of Services outlines the requirements of Article Three relating to the preparation and submittal of the Pump Station and Force Main Evaluation Report.

CDM Smith has been assigned a subsequent task to review the Scope of Services to determine if there are efficiencies that can be found within the Scope of Services as currently proposed by Hawkins Weir Engineers. In order to perform this task, the CDM Smith review team must understand in more detail the physical facilities proposed to be addressed, conduct a comprehensive review of the level of currently available information, and hold detailed interviews with Hawkins Weir Engineers staff on the approach and details of the work proposed for completing the work outlined. CDM Smith has initiated work on this task.

Very truly yours,

Brian Williams, P.E.
Program Manager
CDM Smith Inc.

CDM Smith

100 Throckmorton Street, Suite 600
Fort Worth, Texas 76102
tel: 817 332-8727
fax: 817 820-0450

December 3, 2015

Mr. Steve Parke
City of Fort Smith
3900 Kelley Highway
Fort Smith, AR 72904

Subject: Wastewater Pump Station/Force Main Evaluations Project No. 15-19-ED1

Dear Mr. Parke:

In mid-October the City requested CDM Smith to perform a review of Hawkins Weir Engineers' proposed contract for the Wastewater Pump Station and Force Main Evaluation project. This contract is required under the terms for compliance with the City's Consent Decree per Section V, Article Three. CDM Smith was given the direction to review Hawkins Weir's Scope of Services and budget as currently proposed to determine if any efficiencies could be found. In October CDM Smith performed an initial examination of the project's Request for Proposal (RFP) prepared by the City and Scope of Services prepared by Hawkins Weir in response to that RFP. We found that both the RFP and Hawkins Weir's Scope of Services outline the requirements of Article Three relating to the preparation and submittal of the Pump Station and Force Main Evaluation Report.

As a follow up CDM Smith completed a more thorough assessment of the Scope of Services as they relate to the Consent Decree requirements. Over the last several weeks CDM Smith was able to research currently available project information (construction drawings, reports, technical data, etc.), inspect site locations of the physical facilities to be addressed and conduct detailed interviews with Hawkins Weir staff to gain a better understanding of their approach for performing work as outlined by their scope.

CDM Smith found that the City's data collection and record keeping processes for repair, replacement and maintenance for pumping facilities and their appurtenances have improved significantly over the last several years. However, it should be noted that our review of record information for all 22 assets, some dating back to 1965, discovered significant data gaps critical to the project's success. Hawkins Weir's scope focusses on the means and method for generating all required technical data and updating existing information as needed. Their scope is also sensitive to the inherent risks for fulfilling all aspects of Article Three's requirements within the designated time line under the Consent Decree. Since completion of the project is schedule driven, Hawkins Weir made the reasonable assumption that their work should encompass the complete regimen of field tests, inventory gathering, document review and reporting as described in Article Three, Paragraphs 20 through 23, for each asset. This approach helps ensures that minimal impact would be realized, as it relates to any potential work stoppage, in the event additional scope were required for negotiation and/or approval in order to complete a thorough assessment for an asset's evaluation.

Working with Hawkins Weir, in an attempt to weigh risk for potential schedule impact to possible reduction of scope, we were able to identify specific work items that, while they would still be considered critical to the performance of this project, could be separated into an "as needed" category:

- Limiting the property research to available County Tax Assessor records, foregoing the use of an Abstract Company for preparation of property rights-of-entry forms and associated exhibits, estimated budget $40,000
- Reducing the duration of flow monitoring from 90 to 75 days for fourteen (14) of the twenty-two (22) pump stations under the assumption that normal rainfall patterns will occur during the designated monitoring effort, estimated budget $23,000
- Reducing the number of Broadband Electromagnetic (BEM) force main inspections from 12 to 10, which could also reduce Contractor's work to a single mobilization, estimated budget $40,000
- Reducing testing for corrosive soils to only those cast iron pipe force mains that are found to not incorporate polyethylene encasement, estimated budget $2,000
- In lieu performing detailed evaluations to support a reduction for installation of CD required components (existing instrumentation controls, SCADA, primary and alternative power supplies, and lightning strike protection), Hawkins Weir would employ a check list approach noting whether CD components actually exist at each of the 22 assets. Since CD required components do not presently exist at many of the assets, the originally proposed evaluations were designed to develop a defense reasoning for a non-installation going forward, estimated budget $75,000

These items mentioned above represent $180,000.00 in potential budget recovery. Keeping in mind of the inherent risks involved, at the Owner's discretion, these scope items could either be removed entirely or remain in the contract under an "Owner Authorized" Scope of Services clause, thus allowing their costs to remain in the overall not-to-exceed contract price. Owner authorized scope could quickly be granted approval, either in part or as a whole, by the Owner in the event the need for these services arises.

We appreciate your involving us for review of this project's scope effort and look forward to our continued assistance with the City's Consent Decree Program. Please don't hesitate to contact us for any further assistance.

Very truly yours,

Brian Williams
Program Manager
CDM Smith Inc.

Cc:

J. Sun	CDM Smith
W. Miles	CDM Smith

HAWKINS • WEIR
ENGINEERS, INC.
Engineering Client Success

December 9, 2015

Mr. Steve Parke
Director of Utilities
City of Fort Smith Utility Department
3900 Kelley Highway
Fort Smith, Arkansas 72904

Re: Wastewater Pump Station/Force Main Evaluations
Project No. 15-19-ED1

Dear Mr. Parke:

Following the October 6th City Board of Directors' meeting, we internally evaluated possible strategies to further reduce engineering fees and reimbursable expenses associated with the referenced project. This letter and the enclosed Fee Proposal Matrix will summarize our proposed revisions. First, we propose to eliminate all administrative support costs from our fee proposal for a savings of $47,080. Secondly, we propose to eliminate the markup on reimbursable expenses, thus reducing it from the original 7% to 0%, for an additional savings of $40,600.

Working with CDM Smith, in an attempt to weigh risk for the potential impact on schedule associated with the possible further reduction of scope, the following specific work items were identified that, while still considered critical to the performance of this project, could be separated into an "as needed" category, and therefore be removed from the scope of services:

- Limiting the property research to available County Tax Assessor records, and foregoing the use of an Abstract Company for the preparation of property right-of-entry forms and associated exhibits, estimated savings of $40,000
- Reducing the duration of flow monitoring from 90 to 75 days for fourteen (14) of the twenty-two (22) pump stations under the assumption that normal rainfall patterns will occur during the designated monitoring effort, estimated savings of $23,000
- Reducing the number of Broadband Electromagnetic (BEM) force main inspections from 12 to 10, which could also reduce the Sub-Consultant's work to a single mobilization, estimated savings of $40,000
- Reducing testing for corrosive soils to only those existing cast iron pipe force mains that are found to not incorporate polyethylene encasement, estimated savings of $2,000
- In lieu of performing a detailed evaluation to support a reduction for installation of CD required components (existing instrumentation controls, SCADA, primary and alternative power supplies, and lightning strike protection), Hawkins-Weir would employ a checklist approach noting whether CD components actually exist at each of the 22 assets. Since CD required components do not presently exist at many of the assets, the originally proposed evaluations were designed to develop a defense reasoning for a non-installation going forward, estimated savings of $75,000

110 So. 7th Street • P.O. Box 648 • Van Buren, AR 72957 • Ph: (479) 474-1227 • (479) 474-8531
211 Natural Resources Drive • Little Rock, AR 72205 • Ph: (501) 374-4846 • Fax: (501) 374-4886
www.hawkins-weir.com

15-19-ED1\SP120915BP.docx

The work items identified by CDM Smith represent $180,000 in potential further savings. Keeping in mind of the inherent risks involved, we propose to remove these scope items from our basic services and reimbursable expenses, and therefore reduce our not to exceed (NTE) fee by an additional $180,000.

The net result of all of these proposed revisions reduces our NTE fee by ($267,680) from $2,088,420 to **$1,820,740**.

As always for the City of Fort Smith, our proposed contract method of payment is based on our current hourly billing rates with a NTE fee amount. That way, any further savings identified during the execution of the wastewater pump station/force main evaluations will be passed onto the City. We, as a firm, need this project from a workload perspective and presently have both the qualified and experienced staff available to meet the milestone deadlines identified in the Consent Decree. Hopefully, our revised proposal for professional engineering services will satisfy the Board's previously expressed concerns and meet with their approval.

If you have any questions, comments, or would like to meet to further discuss our proposed revisions, please do not hesitate to call.

Sincerely,

HAWKINS-WEIR ENGINEERS, INC.

Brett D. Peters

Brett D. Peters, P.E.

BDP/gch
Enclosures: Fee Proposal Matrix

cc: Mr. Jack L. Dillon, Jr., P.E.

Scope of Services and Fee Proposal Matrix
Wastewater Pump Station/Force Main Evaluations
City of Fort Smith, Arkansas
Project No. 15-19-ED1
December 9, 2015

Pump Station	Task 1	Task 2	Task 3	Task 4		Task 5				
	Pump Station/ Force Main Technical Data	Pump Station Evaluation	Force Main Evaluation	Remedial Measures	Sub-Total	Report and Remedial Measures Plan	Hawkins-Weir[1] Total	Proposed Hawkins-Weir Savings	Proposed CDM Smith Savings	Net Total
Group 1, PS #1, "P" Street	$8,100	$4,680	$0	$5,580	$18,360					
Group 1, PS #2, Mill Creek	$8,220	$4,680	$0	$5,580	$18,480					
Group 1, PS #3, Massard	$13,000	$9,340	$0	$14,360	$36,700					
Group 1, PS #4, Sunnymede	$9,780	$4,680	$56,060	$5,580	$76,100					
Group 1, PS #5, Walnut	$16,420	$13,570	$50,360	$22,160	$102,510					
Group 1, PS #6, Riverfront	$16,420	$13,570	$50,460	$22,160	$102,610					
Group 1, PS #8, Riverlyn	$11,320	$9,010	$48,840	$14,740	$83,910					
Group 1, PS #10, Plum	$10,390	$9,010	$0	$11,620	$31,020					
Group 1, PS #13, Zero St.	$9,660	$5,130	$46,560	$5,580	$66,930					
Group 1, PS #15, Hunters Point	$11,080	$9,130	$30,140	$14,740	$65,090					
Group 1, PS #17, Edgewater	$8,730	$6,930	$14,480	$6,260	$36,400					
Group 1, PS #19, Candlestick	$10,450	$9,610	$0	$14,740	$34,800					
Group 1, PS #23, 104th Street	$12,010	$10,810	$27,920	$14,740	$65,480					
Group 1, PS #26, South Field	$10,450	$9,610	$0	$14,740	$34,800					
Group 1, PS #27, North Pointe	$10,450	$8,650	$0	$14,740	$33,840					
Group 2, PS #9, South "I" & 4th	$8,340	$7,530	$14,760	$6,680	$37,310					
Group 2, PS #18, Ball Road	$11,890	$13,570	$33,340	$14,740	$73,540					
Group 2, PS #20, Fort Smith Park	$11,890	$13,570	$31,220	$14,740	$71,420					
Group 2, PS #21, Riverbend	$11,890	$13,570	$33,580	$14,740	$73,780					
Group 2, PS #22, Riley Farms	$11,890	$13,750	$47,960	$14,740	$88,340					
Group 2, PS #24, Canterbury	$11,890	$13,570	$33,040	$14,740	$73,240					
Group 2, PS #25, Lakeview Point	$11,890	$13,570	$31,480	$14,740	$71,680					
Hawkins-Weir Totals	**$246,160**	**$217,540**	**$550,200**	**$282,440**	**$1,296,340**	**$171,480**	**$1,467,820**	($47,080) [2]	($67,000) [4]	**$1,353,740**
Reimbursable Expenses										
Reproduction & Printing							$7,800			$7,800
RJN Group							$149,000		($23,000) [5]	$126,000
Broadband Electromagnetic (BEM) Force Main Inspection							$76,400		($40,000) [6]	$36,400
CUES Solid FX Lidar Force Main Inspection							$42,600			$42,600
McBrayer Engineering							$140,000		($30,000) [7]	$110,000
Utility Contractor							$110,000			$110,000
Abstract Company (360 TRACTS at $50/TRACT)							$18,000		($18,000) [8]	$0
ARKUPS (400 HOURS at $78 PER HOUR)							$31,200			$31,200
Soils Testing							$5,000		($2,000) [9]	$3,000
Sub-Total							$580,000			$467,000
Reimbursable Markup (7% Per Contract)							$40,600	($40,600) [3]		$0
Total Estimated Reimbursable Expenses							$620,600			$467,000
TOTAL ENGINEERING FEE & REIMBURSABLE EXPENSES							**$2,088,420** [1]	**($87,680)**	**($180,000)**	**$1,820,740**

[1] Original Proposal submitted to the City of Fort Smith Board of Directors on September 15, 2015
[2] Elimination of administrative support costs
[3] Elimination of markup on Reimbursable Expenses, reducing it from 7% to 0%
[4] Limiting property research ($22,000), plus performing a less detailed evaluation of electrical and instrumentation components ($45,000), or ($67,000) total
[5] Reducing the duration of flow monitoring from 90 to 75 days
[6] Reducing the number of BEM force main inspections from 12 to 10, and performing a single mobilization
[7] Performing a less detailed evaluation of electrical and instrumentation components
[8] Foregoing the use of an Abstract Company for property research
[9] Reducing scope of soils testing for corrosivity

15-19-ED1\Proposal\Fee Proposal Matrix 120915

Comprehensive Plan Goal Supported
By Wastewater Projects

- Ensure adequate, well-maintained infrastructure, public safety, and public facilities for all development and prevent development ahead of infrastructure and service provision. (FLU-1.4)

- Continue to ensure that customers within Fort Smith have access to reliable water, sewer, drainage, solid waste services by reducing or eliminating deficiencies and gaps in infrastructure systems (TI-5.1)

- Implement an infrastructure Asset Management Program as a tool for management of the utility department's water and sewer systems and to track, manage, and schedule necessary facility upgrades and improvements. (TI-5.1.1)

- Ensure that utility and infrastructure systems can meet the city's long-term needs. (TI-5.2)

- Coordinate land use planning and capital programming to ensure infrastructure improvements and extensions are phased to support the future land use pattern. (TI-5.2.1)

- Adopt criteria for prioritizing funding to infrastructure-related capital improvement projects. (TI-5.2.4)

- Provide new facilities in a manner that protects investments in existing facilities and promotes orderly growth. (PFS-4.2)

RESOLUTION NO. _____ 4

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AUTHORIZATION NUMBER TWO TO THE AGREEMENT WITH MORRISON-SHIPLEY ENGINEERS, INC., FOR ENGINEERING SERVICES FOR THE REPLACEMENT OF LIFT STATIONS 15, 16, 17 AND 23

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

SECTION 1: Authorization Number Two with Morrison-Shipley Engineers, Inc., for engineering construction phase services associated with the Replacement of Lift Stations 15, 16, 17 & 23, Project Number 12-15-EC1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute the Authorization Number Two in the amount of $198,000.00, for performance of said services.

This Resolution adopted this _____ day of December 2015.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____npr

INTER-OFFICE MEMO

TO: Jeff Dingman, Acting City Administrator **DATE:** December 8, 2015

FROM: Steve Parke, Director of Utilities

SUBJECT: Replacement of Lift Stations 15, 16, 17 and 23
Project 12-15

As part of the December 1 meeting the Board approved the Resolution to award the construction contract for the above to KJACKS Contractors. The companion Resolution for the construction phase engineering services with Morrison-Shipley Engineers was not approved. The discussions related to the construction phase engineering services centered around whether the inspection hours represented full-time, or something less than full-time, inspection. A copy of the December 1 Board meeting information is attached for reference.

The scope of the project is to construct approximately 2,400 feet of gravity sewer line, three new lift stations and abandon a lift station, all being performed at different locations. The inspection services are to be divided between these six work locations and none will be a full-time assignment. To help clarify the anticipated application of the hours within the construction phase engineering services, Morrison-Shipley has provided the following percentages of how they feel the construction observation time will likely be divided among the work locations:

- Lift Station 15 (decommission and reconstruct)	33% or 660 hours
- Lift Station 17 (decommission and reconstruct)	25% or 500 hours
- Lift Station 23 (decommission and reconstruct)	20% or 400 hours
- Lift Station 16 (decommission only)	2% or 40 hours
- Sanitary Sewer Line for Lift Station 17	5% or 100 hours
- Sanitary Sewer Line for Lift Station 23	15% or 300 hours

These hourly budgets are based upon a not-to-exceed services agreement and under normal circumstances we expect them to end lower than identified. Also, if the contractor performs timely, the time related to the contingency for the potential need to establish temporary standby power at the pump stations will not be needed providing a reduction.

Hopefully, the above discussion addresses the Board's concerns. Staff recommends that the attached Resolution approving the construction phase services with Morrison-Shipley Engineers be submitted to the Board for their consideration at their upcoming meeting. Funding for this work is identified in the 2014 sales and use tax bonds issued for continuation of sewer system improvements.

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

attachment

INTER-OFFICE MEMO

TO: Jeff Dingman, Acting City Administrator **DATE:** November 23, 2015

FROM: Steve Parke, Director of Utilities

SUBJECT: Replacement of Lift Stations 15, 16, 17 and 23
Project 12-15

The city has funded a project to replace Lift Station 15, 16, 17 & 23 in the area of the Village Harbor and Harbor Landing subdivisions by reconstructing three and decommissioning one (combining stations 16 and 23). Three of these four lift stations are metal, in-ground can-type structures that were installed in the early 1970s and are beyond their useful life. Lift Station 23 was constructed as part of the Harbor Landing Subdivision in the early 1980s as a below grade concrete wet well utilizing submersible pumps. Lift Stations 15, 17 and 23 will be reconstructed as below grade submersible pump stations and provided with on-site standby power generators. Submersible lift stations allow for the removal of all equipment by access from the surface and do not require entry by personnel. Lift Station 16, located along Dallas Street, is to be decommissioned with the sewer flow it receives redirected to Lift Station 23. The addition of standby power for all of the city's wastewater lift stations is now part of the Consent Decree requirements. The Consent Decree established a deadline to install standby power at these stations by the end of Year 2016. The replacement facility locations for the sewer lift stations are shown on the attached exhibit.

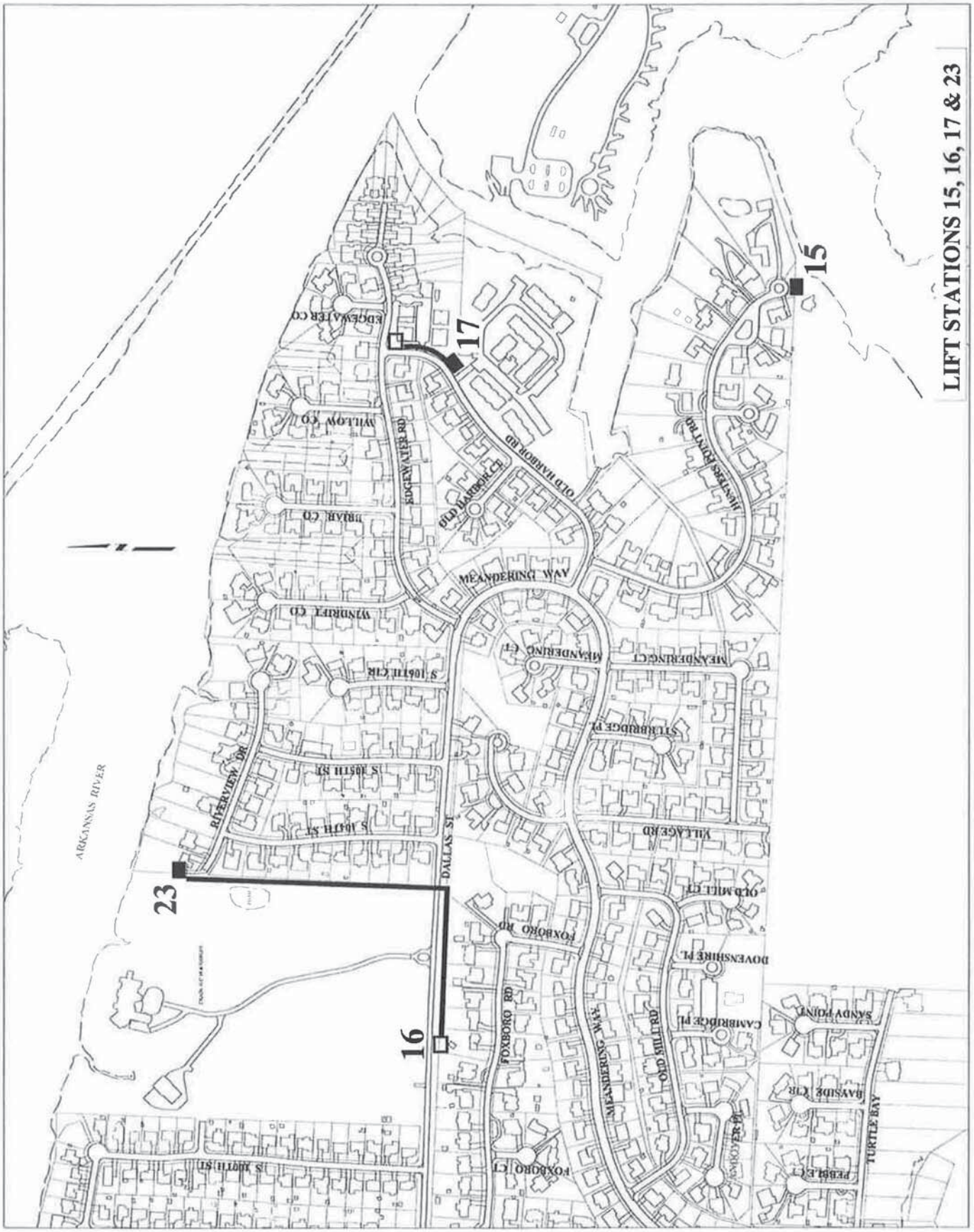
The low bid for the project was submitted by KAJACS Contractors, Inc., in the amount of $1,507,605.00. A bid tabulation showing the bidders and their bid amounts is attached. The engineer's construction estimate was $1,194,733.00. A Resolution accepting the bid of and authorizing the Mayor to execute a contract with KAJACS Contractors is attached. A Resolution authorizing the Mayor to execute Authorization Number Two to the Agreement for engineering services with Morrison-Shipley Engineers for construction observation is also attached. The not-to-exceed amount for the engineering services is $198,000.00. Morrison-Shipley has indicated that they could not provide the construction phase services on a maximum not-to-exceed basis with fewer hours. As outlined by the attached letter from Morrison-Shipley Engineers, the observation proposal is based on a 360 calendar day construction contract time and includes functions such as managing the preconstruction meeting and other meetings with contractor, attending meetings with CDM Smith program manager related to Consent Decree performance, performing submittal reviews, construction observation, contract administration, witnessing and certifying quality assurance tests, post construction surveys and preparation of record drawings. The Arkansas Department of Health requires the performance of most of these items as a condition of approval for the project.

It should be noted that the construction observation hours do contain a contingency related to the contractor's obligation to provide temporary standby power for up to four of the pump stations should their construction not have the permanent standby power generators in service by October 31, 2016. This performance obligation of the contractor in the construction contract is necessary to assure that the city is not exposed to a potential penalty under the Consent Decree for not having operational standby power at these pump stations by the required date. If the contractor has the

permanent standby power operational by the October 31 date and avoids the need to install the temporary standby power, the construction observation contingency hours will not be required and the services will be reduced by $10,000. This reduction is accomplished by avoiding submittal reviews, electrical inspection and startup testing associated with the temporary standby power installations. A summary sheet of proposed engineering fees based upon the maximum not-to-exceed amount is attached with Morrison-Shipley's letter.

Funding for this work is available from the 2014 sales and use tax bonds issued for continuation of sewer system improvements. Should you or members of the Board have any questions or desire additional information, please let me know.

attachment


LIFT STATIONS 15, 16, 17 & 23
15
17
16
23
ARKANSAS RIVER
RIVERVIEW DR
S 10TH ST
S 10TH ST
S 10TH ST
S 10TH ST
S 10TH CIR
DALLAS ST
EDGEWATER CO
WILLOW CO
WINDRIFT CO
EDGEWATER RD
OLD HARBOR CT
OLD HARBOR RD
MEANDERING WAY
MEANDERING CT
MEANDERING CT
HUNTERS POINT TRL
SILVERRIDGE PL
VILLAGE RD
OLD MILL CT
FOXBORO RD
FOXBORO RD
FOXBORO CT
MEANDERING WAY
OLD MILL RD
DOVENSHIRE PL
CAMBRIDGE PL
SANDY POINT
BAYSIDE CIR
TURTLE BAY
PEBBLE CT

MORRISON
SHIPLEY
ENGINEERS • SURVEYORS

November 24, 2015

(Via E-mail)

Mr. Jimmie Johnson, P.E.
Fort Smith Utilities Department
3900 Kelley Highway
Fort Smith, Arkansas 72904

RE: Proposal for Engineering Services
Replacement of Lift Stations 15, 16, 17 and 23
(Project No. 12-15-C1)

Dear Jimmie:

Attached, please find a tabulation of our estimate of professional fees to support a contract amendment request for the subject project for construction phase services. Based on previous projects, the scope of this proposal is anticipated to include:

1. Attending a preconstruction conference and other meetings as required
2. Construction observation
3. Contract administration
4. Witnessing and certifying quality assurance tests
5. Preparation of record drawings
6. Consultation and negotiations with Contractor and Owner as required
7. Review and approve material and equipment submittals
8. Preform pre-construction video/photo of project sites

This proposal is based on a 360 calendar day construction contract time. As shown on the attached summary, the "not-to-exceed" limit is based on our current effective hourly billing rates (also attached) and totals ***$198,000***.

Items 2 through 5 are the minimum services required by the Arkansas Department of Health as a condition of approval for the project. The other items are best done by the design engineer and are necessary in our opinion to protect the interests of the City of Fort Smith.

As shown on the summary, construction observation makes up most of the proposed fee. As always, MSE only bills for time expended in this role, and we usually underrun the limit. We believe that the observation budget is representative of the unique nature of this project and the challenges it presents including:

1. The project consists of three distinct subareas that will be constructed simultaneously. In other words, there will be two or more crews working most of the time.

2. Assuring the contractor's compliance with the conditions associated with the Crain property settlement.

3. A majority of the work is related to the three lift stations. This increases the overall complexity of the project since it involves not only heavy construction, but also tradesmen, equipment suppliers and other specialty subcontractors.

4. The project areas are in close proximity to established residential areas. MSE's role in this regard will be to assist City staff as a liaison between the Contractor and residents and to help minimize the inevitable inconvenience that the construction activities will cause.

5. A contingency amount of $10,000.00 related to the contractor's obligation to install temporary standby power generators for the four pump stations should they fail to perform timely and fail to meet the contract milestones. If the milestones are met and this work and the associated fees shall be deducted from the scope of this amendment.

Thank you for your consideration of this request. If you should have any questions, comments or need additional information, please feel free to give me a call.

Sincerely,
Morrison-Shipley Engineers, Inc.

Neal T. Morrison, P.E.

Attachment

SUMMARY of PROPOSED ENGINEERING FEES
Replacement of Lift Stations 15, 16, 17 and 23
Project No. 12-15-C1
November 23, 2015

Construction Phase:

Tasks	Principal Engineer ($160/hr.)	Construction Observer ($78/hr.)	CAD Designer ($80/hr.)	Prof. Land Surv. ($100/hr.)	2-Man Survey Crew ($135/hr.)	Total Fee Construction Phase
Preparation of Contract Authorization	2					
Pre-Construction Preparation, Meeting & Notes	4	4				
Review/Coordinate Material Submittals	16	4				
Contract Admin./Site Visits/Meetings/Const. Issues	180					
Construction Observation (360 calendar day contract)		2000				
Record Drawings Preparation	4	8	40			
Pre-Construction Video/Photos of Project Sites		4				
Post-Construction Surveying for Surface Features			2	8	16	
Set Survey Control for Contractor if Necessary			1		8	
Total MSE Hours Construction Phase:	**206**	**2020**	**43**	**8**	**24**	
Total MSE Fee per Employee Classification:	**$ 32,960.00**	**$ 157,560.00**	**$ 3,440.00**	**$ 800.00**	**$ 3,240.00**	
Total Fee - Construction Phase						**$ 198,000.00**

Comprehensive Plan Goal Supported
By Wastewater Projects

- Ensure adequate, well-maintained infrastructure, public safety, and public facilities for all development and prevent development ahead of infrastructure and service provision. (FLU-1.4)

- Continue to ensure that customers within Fort Smith have access to reliable water, sewer, drainage, solid waste services by reducing or eliminating deficiencies and gaps in infrastructure systems (TI-5.1)

- Implement an infrastructure Asset Management Program as a tool for management of the utility department's water and sewer systems and to track, manage, and schedule necessary facility upgrades and improvements. (TI-5.1.1)

- Ensure that utility and infrastructure systems can meet the city's long-term needs. (TI-5.2)

- Coordinate land use planning and capital programming to ensure infrastructure improvements and extensions are phased to support the future land use pattern. (TI-5.2.1)

- Adopt criteria for prioritizing funding to infrastructure-related capital improvement projects. (TI-5.2.4)

- Provide new facilities in a manner that protects investments in existing facilities and promotes orderly growth. (PFS-4.2)

5A

RESOLUTION NO. _____

RESOLUTION ADOPTING THE 2016 AUDIT PLAN

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

SECTION 1: The action taken by the Board of Directors at the December 15, 2015 meeting adopting the 2016 Audit Plan, a copy of which is attached hereto, is hereby confirmed. The Audit Plan encompasses financial, operations and compliance issues as set forth in the City of Fort Smith's Internal Audit Charter.

SECTION 2: During 2016, other auditable areas that have been identified and addressed of any risk or potential risk due to certain circumstances arising may be added to the 2016 audit plan.

Passed and Approved this _____ day of December, 2015.

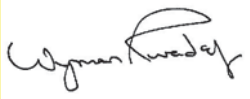
APPROVED

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:



_____
City Attorney

MEMORANDUM

DATE: **December 15, 2015**
TO: **Mayor, Board of Directors**
FROM: **Tracey Shockley, City of Fort Smith Internal Auditor**
SUBJECT: **2016 Internal Audit Plan**

The City of Fort Smith Internal Audit Department is providing the 2016 Internal Audit Plan to the Mayor and Board of Directors for approval.

The 2016 Internal Audit Plan was based upon Audit Advisory Committee's input. It covers areas within the Consent Decree, as well as items addressed in the 2015 Board Meetings that could potentially impact the City financially and operationally.

Due to the severity of the Consent Decree and the millions of dollars that the City will have to spend in the upcoming years to implement the Wastewater Management Plan, the approach and planned projects for 2016 is to perform a full assessment in those specific areas. In addition, several other areas identified throughout the year in Finance and Sanitation will be reviewed.

Process walkthroughs will be documented as well as flowcharts that address the risk and controls in each of those significant areas. This will allow for the City to identify and address any risk or potential risk as the City implements each requirement of the Consent Decree.

The selected line items were presented in the summary of identified projects as planned and potential projects to be executed during 2016.

Internal Audit will update the planned projects and provide the updates to the Board of Directors, the City Administrator, and the Audit Advisory Committee throughout the year.

City of Fort Smith 2016 Internal Audit Plan

The City of Fort Smith is a unified team committed to consistently providing citizen-focused services for the advancement of a thriving community

December 15, 2016

Table of Contents

2016 Internal Audit Planning and Approach	3
Summary of Identified Projects	4
Appendix A – Audit Project Descriptions	6

Internal Audit Defined

Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

Source: The Institute of Internal Auditors Professional Standards

2016 Internal Audit Planning and Approach

To create the 2016 Internal Audit Plan, IA has gathered information to understand the primary strategies, objectives, and risks for the City of Fort Smith. In addition, IA attended 2015 Board Meetings to also assess the items that were addressed throughout the year that could potentially impact the City financially and operationally.

Internal Audit also considered Audit Advisory Committee members input, and areas within the Consent Decree that will impact the City for the next twelve years. Projects were then selected for the 2016 Internal Audit Plan based primarily upon the degree to which the projects might address key risks identified during the risk assessment and planning process.

Due to severity of the Consent Decree and the millions of dollars that the City will have to spend in the coming years to implement the Wastewater Management Plan, the approach and planned projects for 2016 is to perform a full assessment in those specific areas. As well as, several other areas identified throughout the year in Finance and Sanitation.

Process walkthroughs will be documented as well as flowcharts that address the risk and controls in each of those significant areas. This will allow for the City to identify and address any risk or potential risk as the City implements each requirement of the Consent Decree.

Internal Audit will update the planned projects and provide the updated planned projects to the Board of Directors, the City Administrator, and the Audit Advisory Committee throughout the year.

Summary of Identified Projects

Based upon the risks identified, IA has classified the planned and potential projects included in the following table. IA estimates it will perform them between January 2016 and December 2016, depending on the scope of projects selected. "*Planned Projects*" represent those projects that IA is planning to execute during 2016. "*Other Potential Projects*" may be executed some time in 2016, if risk conditions or other factors do not dictate a change. Detailed descriptions of the projects listed below are provided in Appendix A – Audit Project Descriptions.

Department/Segment	Project - Planned Audit	Other Potential Audit
Utility – W&WW Line Maintenance	Water Line & Sewer Line	
Utility – W&WW Line Maintenance	Water Stationary Equipment	
Utility - Maintenance	Construction	
Utility – W&WW Treatment	Lab Service/Industrial Waste Monitoring	
Utility – W&WW Treatment	Treatment Centers	
Finance	Disbursements	
Sanitation	Environmental Reporting	
Sanitation	Residential, Commercial, and Roll-Off Industrial Collections	

APPENDIX A – AUDIT PROJECT DESCRIPTIONS

Project	Project Description	Segment	
Water & Sewer Line Maintenance	Perform process and controls review of the City's Water and Sewer Line Maintenance and contracting activities including asset transfers and disposals, sourcing, security over assets, asset usages, and auctioning of the City' to include: • Review existing documentation (policies and procedures, consent decree requirements, etc.) • Process Flowchart • Identify opportunities for improvement and control gaps And any other areas identified during the process review.	Utility – W&WW Line Maintenance	
Water Stationary Equipment	To perform process and control review of the City's Water Stationary Equipment. Review existing documentation, document walkthrough and flowchart the process along with the risk and controls. To include the ability to maintain adequate backup power sources to prevent the discharge of untreated or inadequately treated wastes during electrical power failures. And any other areas identified during the review process.	Utility – W&WW Line Maintenance	
Construction	Document process walkthroughs as well as flowcharting the risk and controls. Review existing documentation, the design and construction of Publicly Owned Treatment Works improvements which includes upgrading of both Wastewater Treatment Plants, and construction of certain interceptor sewers. Also the construction of the Sunnymede wet weather pump station and equalization storage facility, and any other areas identified during the review process.	Utility - Maintenance	
Lab Service/Industrial Waste Monitoring	Review existing documentation (policies and procedures, consent decree requirements, etc..) and conduct walkthroughs of the process. As well as performing process flowcharts that identify the risk and controls. Perform process and controls of the City's Waste Monitoring to include the discharging of untreated sewage in the form of sanitary sewer overflows from its Wastewater Collection and Transmission Systems. And any other areas identified during the review process.	Utility – W&WW Treatment	

Project	Project Description	Segment	
Treatment Centers	Review the overall process, risks and controls for the upgrading of both Wastewater Treatment Plants. Including the following: • Review existing documentation (policies and procedures, consent decree requirements, etc.) • Process Flowchart • Identify opportunities for improvement and control gaps And any other areas identified during the process review.	Utility – W&WW Treatment	
Disbursements	Perform an overall process and controls review of disbursements, to include Purchase Orders (PO's) and Request for Pay (RFP). Additional purposes for this review is to assess the current policy and procedures that are in place, and identify opportunities for improvement and control gaps. Testing will also be included the review. And any other areas identified during the process review.	Finance/AP	
Residential, Commercial, and Roll-Off Industrial Collections	Review the overall process, risks and controls for the three different areas of collections which may impact any compliances, revenues and/or future revenues to the City . To include documenting process flowcharts, conduct interviews with personnel to understand the current process and known issues, and identify opportunities for improvement and control gaps. Any other areas identified during the process review.	Sanitation	

RESOLUTION _____

A RESOLUTION AUTHORIZING A TIME EXTENSION FOR THE CONSTRUCTION OF 2014 STREET OVERLAY/RECONSTRUCTION PHASE C
PROJECT NO. 14-03-C

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

SECTION 1: A time extension with Forsgren, Inc., for the construction of 2014 Street Overlay/Reconstruction Phase C, Project 14-03-C, which increases the contract time by 134 calendar days, is hereby approved.

This resolution adopted this _____ day of December, 2015.

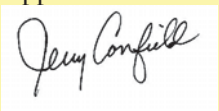
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form



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No Publication Required

RESOLUTION _____

A RESOLUTION ACCEPTING COMPLETION OF AND AUTHORIZING FINAL PAYMENT FOR THE CONSTRUCTION OF 2014 STREET OVERLAY/RECONSTRUCTION PHASE C
PROJECT NO. 14-03-C

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 2014 Street Overlay/Reconstruction Phase C, as complete.

SECTION 2: Final payment is hereby authorized in the amount of $114,111.69 to the contractor, Forsgren, Inc., for the 2014 Street Overlay/Reconstruction Phase C, Project No. 14-03-C.

This Resolution adopted this _____ day of December, 2015.

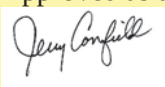
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form



_____
No Publication Required

INTER-OFFICE MEMO

TO: Jeff Dingman, Acting City Administrator

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

DATE: December 10, 2015

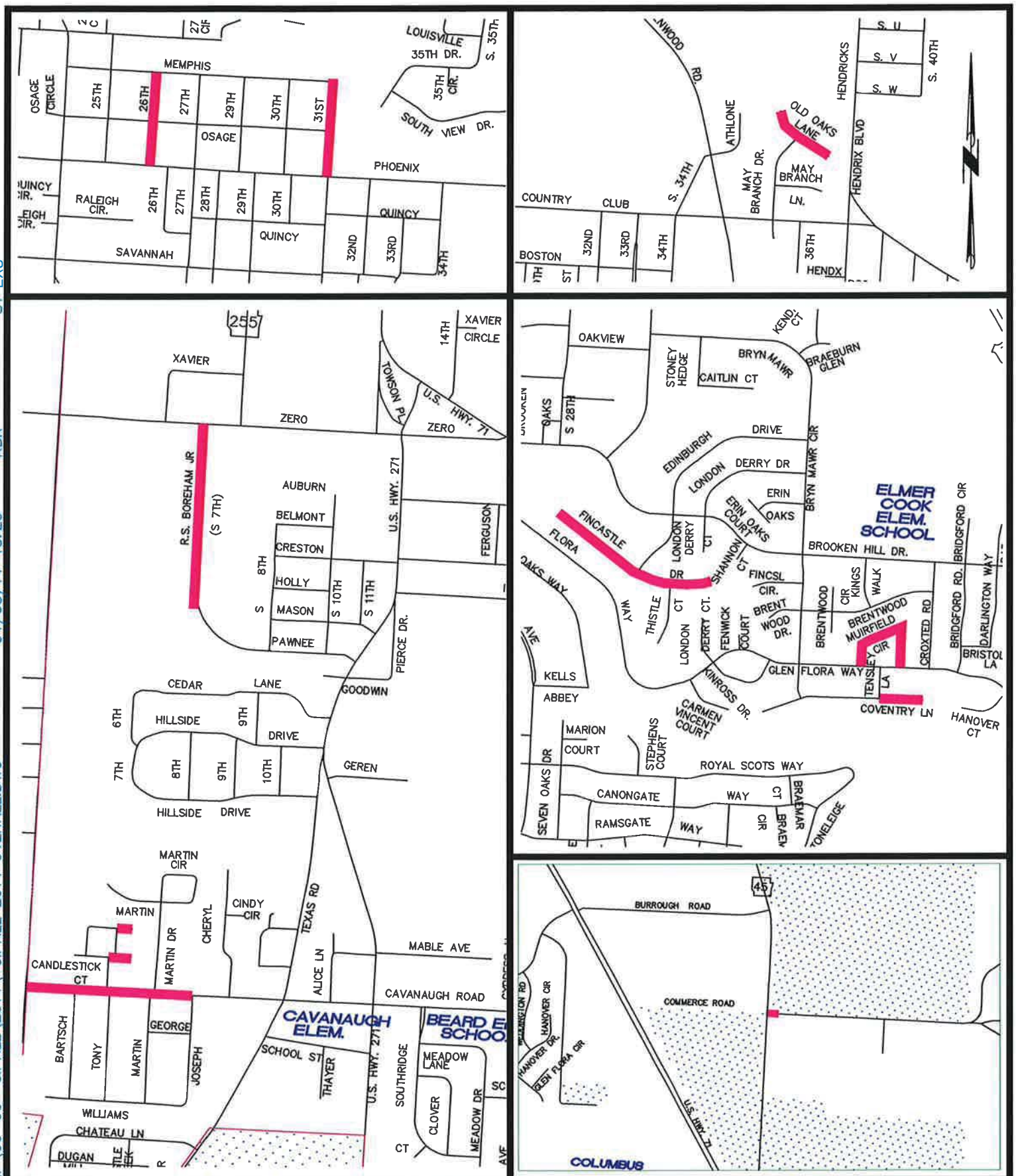
SUBJECT: Street Overlays/Reconstruction
Project No. 14-03-C

The above subject project consisted of asphalt street overlays, reconstruction and minor drainage improvements as shown on the attached exhibit. The total length of streets that were improved was approximately 1.8 miles. A project summary sheet is also attached.

The project was substantially complete on October 30, 2015 which is 134 days beyond the June 18, 2015 contract completion date. The additional time beyond the contract completion date was due to the city postponing the start of work on R.S. Boreham, Jr. Street until July 1, 2015 which allowed for adjoining work by Baldor to be completed prior to our street work. There were also 40 weather days on this project.

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

Attachments



2014 CAPITAL IMPROVEMENTS PROGRAM

STREET OVERLAYS/RECONSTRUCTION

The City of Fort Smith ARKANSAS

Project:	14-03-C
Date:	OCT. 2013
Scale:	NONE
Drawn By:	RBR

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SUMMARY SHEET

City of Fort Smith

Project Status	Complete	Project Name:	2014 Street Overlays/Reconstruct Ph C
Today's Date:	12/10/2015	Project Number:	14-03-C
Staff contact name:	Stan Snodgrass	Consultant Engineer:	EDM Consultants, Inc.
Staff contact phone:	784-2225	Project Contractor:	Forsgren, Inc.
Contract time (no of days):	270		
Notice to proceed issued:	9/22/2014		

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	$2,024,864.75	7/8/2014	6/18/2015
Contract Revisions:			
1 Time Extension of 134 days			10/30/2015
2			
3			
Adjusted contract amount	$2,024,864.75		
Payments to date (as negative):	$1,733,725.02		
Amount of this payment	$114,111.69		
Contract balance remaining	$177,028.04		
Retainage held	0%		
Final payment	$114,111.69		
Amount under original as a percentage	8.7%		

Final Comments:

The project was substantially complete on October 30, 2015 which is 134 days beyond the June 18, 2015 contract completion date. The additional time beyond the contract completion date was due to the city postponing the start of work on R.S. Boreham, Jr. Street until July 1, 2015 which allowed for adjoining work by Baldor to be completed prior to our street work. There were also 40 weather days on this project.

RESOLUTION _____

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE ENGINEERING SERVICES AGREEMENT FOR THE SOUTH 46TH STREET DRAINAGE IMPROVEMENTS PROJECT NO. 12-06-B

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

SECTION 1: Amendment No. 1 to the engineering services agreement with Morrison Shipley Engineers, Inc., for the South 46th Street Drainage Improvements, Project 12-06-B which increases the contract amount by $20,000.00 to an adjusted contract amount of $167,090.00, is hereby approved.

SECTION 2: Payment for engineering services authorized by Section 1 is hereby authorized from the Sales Tax Fund (1105).

This resolution adopted this _____ day of December, 2015.

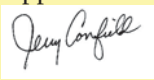
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form



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No Publication Required

INTER-OFFICE MEMO

TO: Jeff Dingman, Acting City Administrator

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

DATE: December 10, 2015

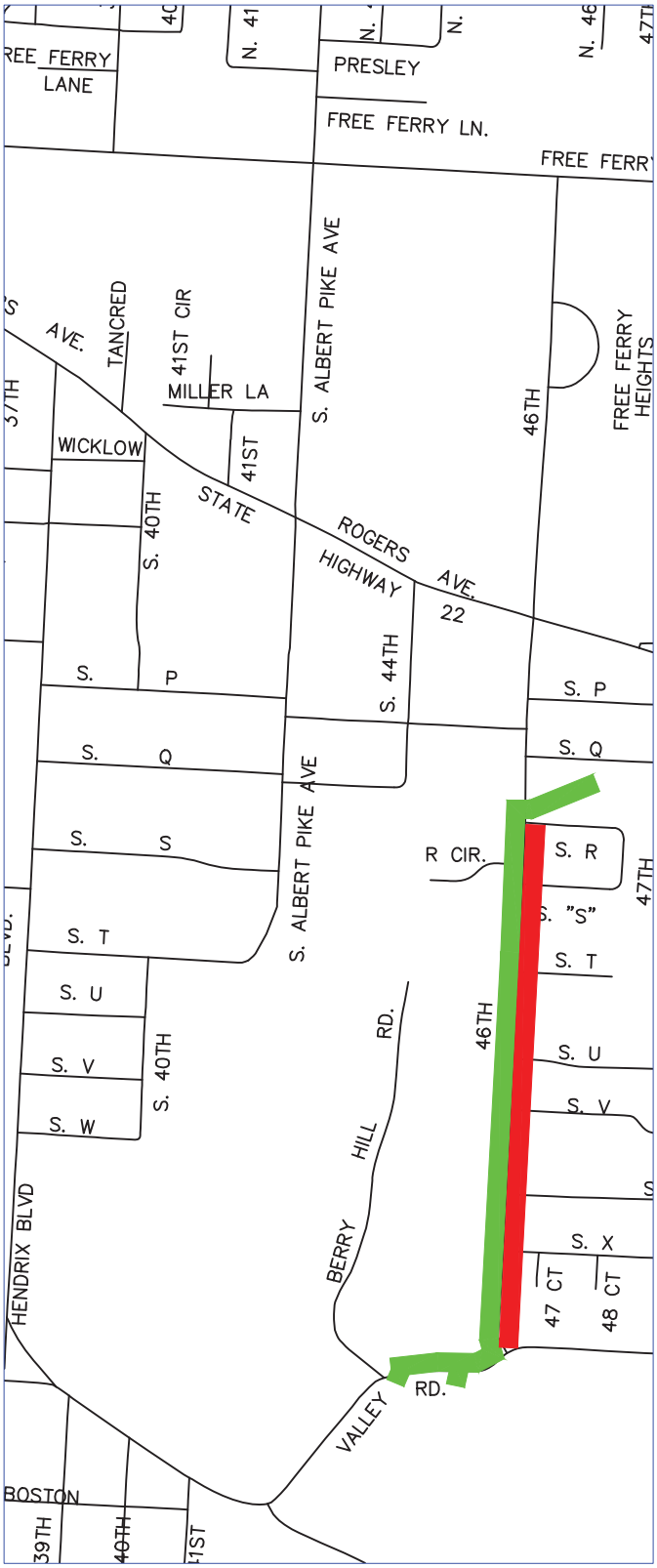
SUBJECT: South 46th Street Drainage Improvements
Engineering Services Contract
Project No. 12-06-B

The South 46th Street Drainage Improvements, Project No. 12-06-B, are associated with the reduction of flooding in the neighborhoods located east of South 46th Street. Underground drainage improvements will be constructed along the west side of South 46th Street from East Valley Road to South "R" Street with additional improvements along South "R" Street and East Valley Road. The location of the proposed improvements are shown on the attached exhibit.

Early during project design, it was determined that significant improvements would have to be constructed within a FEMA regulated floodplain. In order to construct these improvements, the City had to obtain approval from FEMA for a Conditional Letter of Map Revision. The project scope was also expanded to include preparation of street overlay plans for South 46th Street. As a result of this change in scope, a contract amendment in the amount of $20,000 is necessary. A letter from Morrison Shipley is attached which provides detailed information about these changes.

Attached is a resolution to increase the engineering services contract by $20,000 to a total amount of $167,090. I recommend approval of the Resolution to accomplish this amendment. Funds are available in the Sales Tax Program (1105) for this work.

Attachments



SOUTH 46TH STREET

DRAINAGE IMPROVEMENTS

The City of Fort Smith ARKANSAS

Project:	12-06-B
Date:	DEC. 2015
Scale:	NONE
Drawn By:	RBR

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MORRISON SHIPLEY
ENGINEERS • SURVEYORS

December 7, 2015

Mr. Matt Meeker, P.E.
Fort Smith Engineering Department
P.O. Box 1908
Fort Smith, Arkansas 72902

RE: Contract Amendment for Engineering Services
46th Street Drainage Improvements
(CFSU Project No. 12-06-B)

Dear Matt:

It is my understanding you are currently in the process of obtaining easements for the construction of the above referenced project. During the course of the design process, the scope of the project has expanded from the original contract. Some of the changes are as noted:

- Expanded the overall length of the project to include improvements to the undersized concrete channel on the downstream end of the project. This channel is regulated by FEMA and requires coordination with them to complete improvements.

- Prepare and submit a Conditional Letter of Map Revision (CLOMR) application to FEMA for the portion of the regulated channel on the downstream end of the project. This application required additional field work and design services to prepare the CLOMR application and construction plans for the regulated channel.

- Complete overlay plans for repair of 46th street to be completed in conjunction with this project.

Based on the revised scope of services we are requesting a contract amendment for **$20,000.00**. This generally includes completing plans in preparation for bidding, franchised utility coordination, bidding preparation, and construction phase services. It also includes work already completed to get the plans to the current stage but not yet invoiced to the City.

The total amount of the amendment is generally broken down as follows: previously completed work not yet invoiced to the City $9,200.00, additional $5,800.00 to complete the plans and $5,000.00 for bidding and construction phase services.

We appreciate your consideration of this request. If you should have any questions, comments or need additional information, please feel free to give me a call.

Sincerely,
Morrison-Shipley Engineers, Inc.

Travis Brisendine, P.E.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING ENGINEERING SERVICES AGREEMENTS FOR THE DESIGN OF FIVE PROJECTS IN THE 2016 SALES TAX PROGRAM

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

SECTION 1: The Mayor is authorized to execute engineering services agreements for the design of the following projects in the 2016 Sales Tax Program utilizing the one cent sales tax proceeds.

Project No.	Description	Engineering Firm	Maximum Fee
16-03-A	Street Overlays / Reconstruction, Phase A	McGuire Engineering Fort Smith, AR	$82,500.00
16-06-A	Neighborhood Drainage, Phase A	Philip J. Leraris, P.E., L.S. Fort Smith, AR	$214,540.00
16-06-B	Neighborhood Drainage, Phase B	Mickle Wagner Coleman Fort Smith, AR	$99,538.00
16-06-C	Neighborhood Drainage, Phase C	Hawkins-Weir Engineers Van Buren, AR	$87,700.00
16-12-A	Drainage Study – Mill Creek Tributary	Morrison Shipley Fort Smith, AR	$137,000.00

SECTION 2: Payment for engineering services authorized by Section 1 is hereby authorized from the Sales Tax Fund (1105).

This Resolution adopted this _____ day of December, 2015.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form

_____
No Publication Required

INTER-OFFICE MEMO

TO: Jeff Dingman, Acting City Administrator

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

DATE: December 10, 2015

SUBJECT: 2016 Sales Tax Program
Design Engineering Services Agreements

The attached Resolution authorizes the Mayor to execute engineering services agreements for the design of five projects in the 2016 Sales Tax Program for streets, bridges and related drainage improvements.

The professional services qualifications on file with the City Clerk's office were reviewed and a summary of the selected firms is attached. The cost for the engineering services is set at a maximum not to exceed fee as noted on the resolution.

A summary of the estimated construction and engineering design costs for each project is shown below. Location exhibits and a brief description of the projects are also attached.

Project 16-03-A, Street Overlays / Reconstruction, Phase A
Design Engineer: McGuire Engineering, Fort Smith, AR
Estimated Construction Cost $2.34 million, Engineering Design Cost $82,500

Project 16-06-A, Neighborhood Drainage, Phase A
Philip J. Leraris, P.E., L.S., Fort Smith, AR
Estimated Construction Cost $2.75 million, Engineering Design Cost $214,540

Project 16-06-B, Neighborhood Drainage, Phase B
Design Engineer: Mickle Wagner Coleman, Fort Smith, AR
Estimated Construction Cost $1.35 million, Engineering Design Cost $99,538

Project 16-06-C, Neighborhood Drainage, Phase C
Design Engineer: Hawkins-Weir Engineers, Van Buren, AR
Estimated Construction Cost $1.72 million, Engineering Design Cost $87,700

Project 16-12-A, Drainage Study – Mill Creek Tributary
Design Engineer: Morrison Shipley, Fort Smith, AR
Estimated Construction Cost to be determined, Engineering Design Cost $137,000

I recommend that the Resolution be adopted by the Board at the next regular meeting.

Attachments

ENGINEERING CONSULTANT SELECTION - 2016 CAPITAL IMPROVEMENTS PROGRAM

Project No.	Description	Selected Firm	Qualified Firm	Qualified Firm
16-03-A	Street Overlays / Reconstruction, Phase A	McGuire	Brixey	EDM
16-06-A	Neighborhood Drainage - Phase A	Leraris	Morrison Shipley	Hawkins Weir
16-06-B	Neighborhood Drainage - Phase B	Mickle Wagner Coleman	Hawkins Weir	Morrison Shipley
16-06-C	Neighborhood Drainage - Phase C	Hawkins Weir	Morrison Shipley	Leraris
16-12-A	Drainage Study - Mill Creek Tributary	Morrison Shipley	Mickle Wagner Coleman	Hawkins Weir

Determination of the selected firm based upon review of consultant qualifications statements on file in the City Clerk's office, considering experience with respect to the type of services required, capacity and capability to perform the work, past record of performance and familiarity with the area in which the project is located.

Matt Meeker

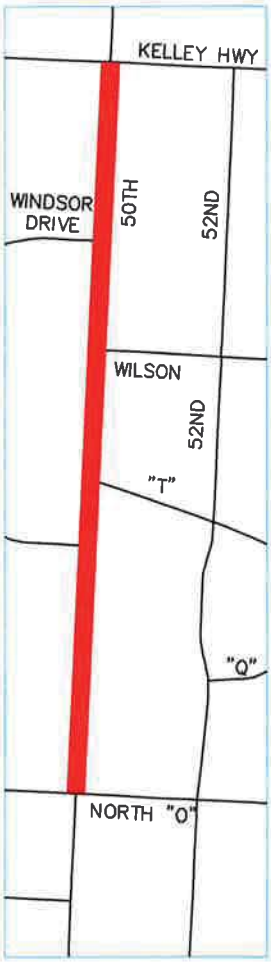
Name

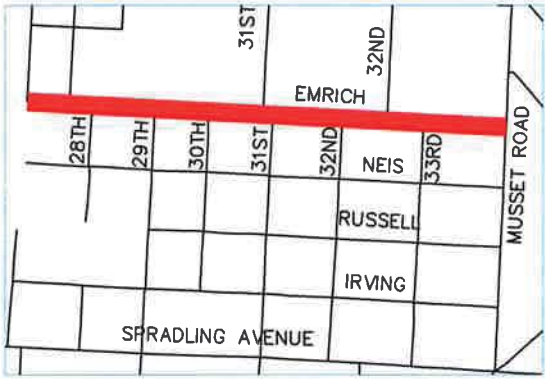
Alan Snodgrass

Name

Brian Waldrip

Name





2016 CAPITAL IMPROVEMENTS PROGRAM

STREET OVERLAYS/RECONSTRUCTION

The City of Fort Smith Arkansas

Project:	16-03-A
Date:	OCT. 2015
Scale:	NONE
Drawn By:	RBR

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2016 CAPITAL IMPROVEMENTS PROGRAM

DRAINAGE IMPROVEMENTS

The City of Fort Smith ARKANSAS

Project:	16-06-A1
Date:	OCT. 2015
Scale:	NONE
Drawn By:	RBR

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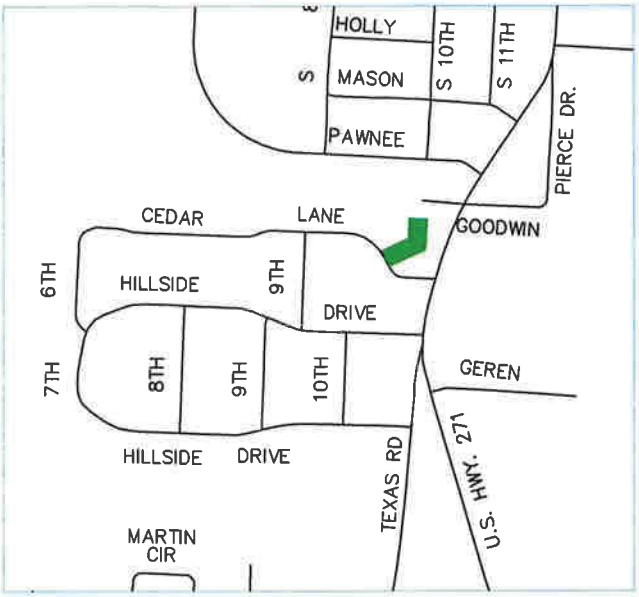

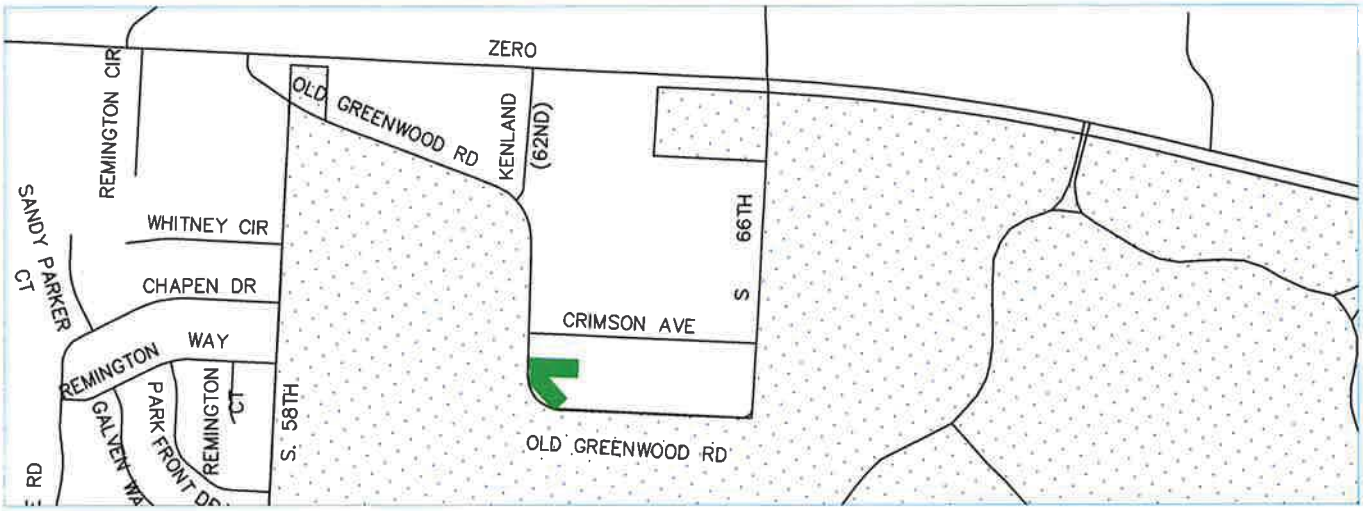

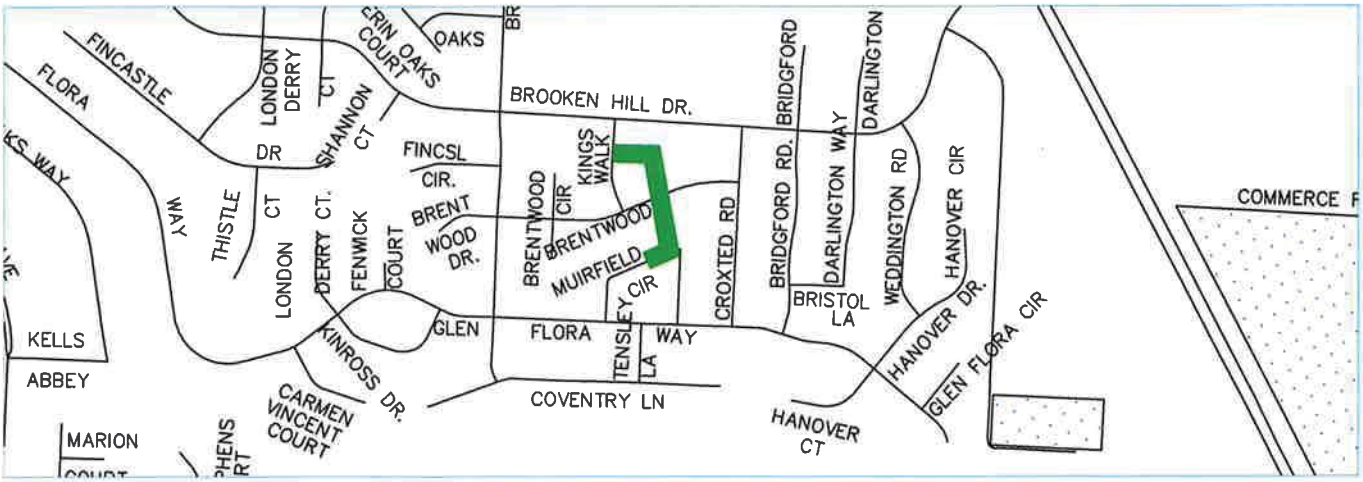

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2016 CAPITAL IMPROVEMENTS PROGRAM

DRAINAGE IMPROVEMENTS

The City of Fort Smith Arkansas

Project:	16-06-A2
Date:	OCT. 2015
Scale:	NONE
Drawn By:	RBR

Project No. 16-06-A
Neighborhood Drainage, Phase A

3900 Block MacArthur Drive
This project will add storm drain to intercept runoff. One house is experiencing flooding in this area, and severe street and yard flooding is also occurring.

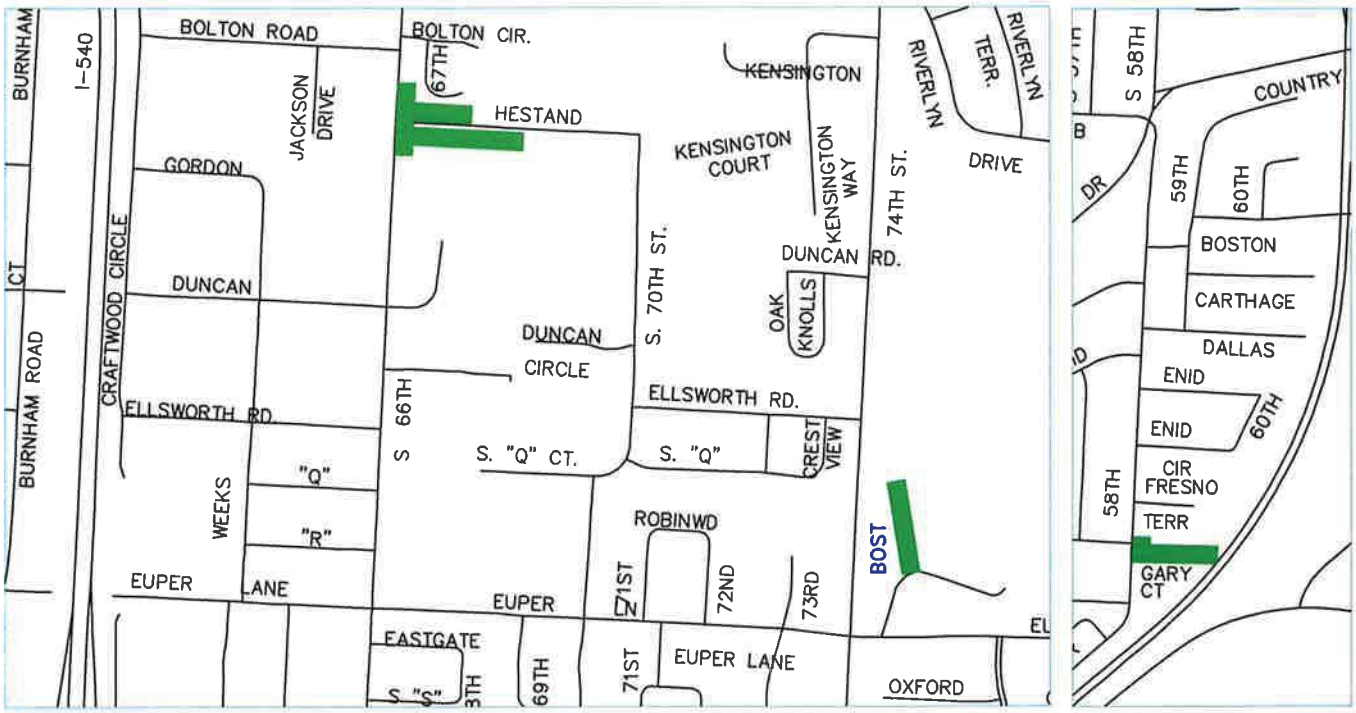
3600 Kinkead Avenue, Parkview Apartments
This project will add concrete channel improvements and replace an undersized box culvert. Two units in the apartment complex are experiencing flooding, and severe street flooding is also occurring. The flooding at this location is also causing a life safety issue due to the depth and velocity of the storm water.

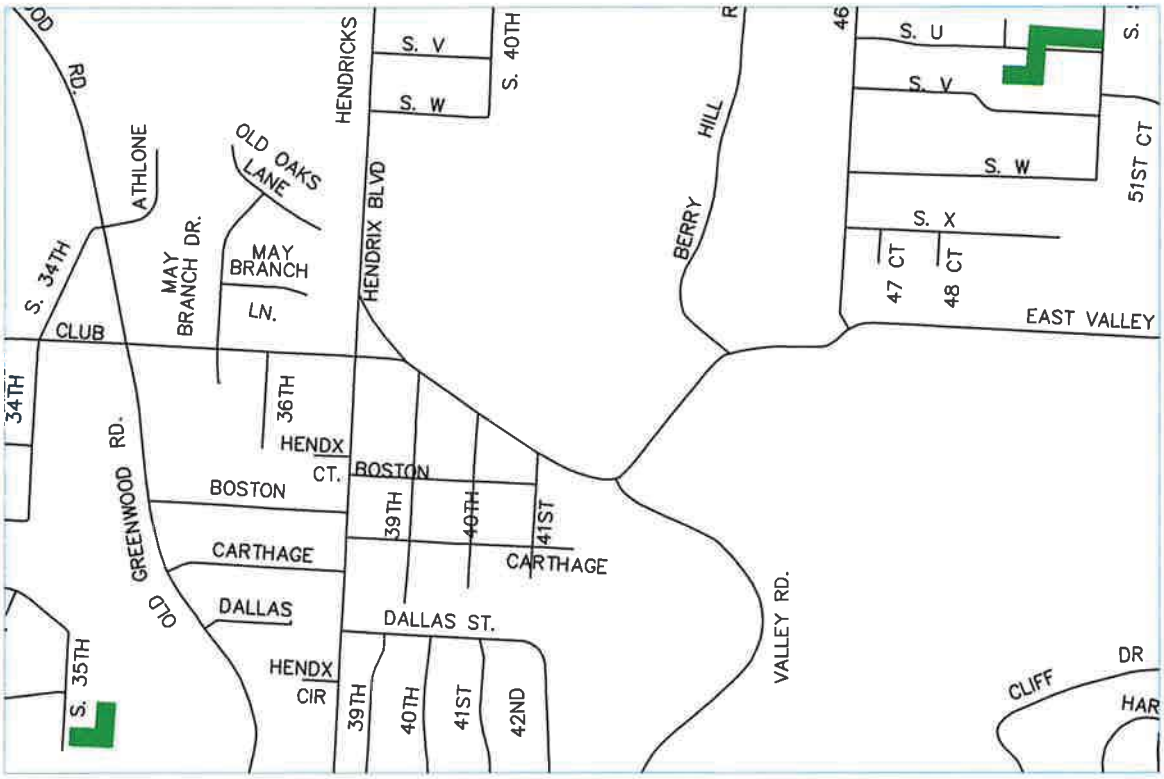
3600 Block Jenny Lind Road (PRADCO)
This project will add a concrete channel, concrete wall, and storm drains to intercept and redirect storm drainage around PRADCO. PRADCO is experiencing flooding in the back half of their building.

6600 Block Highway 271 (Cedar Lane)
This project will add a concrete wall and a concrete swale to intercept and redirect runoff. One house is experiencing flooding in this area, and severe yard flooding is also occurring.

6200 Block Old Greenwood
This project will add storm drains and overflow swales to intercept runoff. Three houses are experiencing flooding in this area, and severe street and yard flooding are also occurring.

Brentwood Drive/Muirfield Cricle Area
This project will replace undersized sections of a storm drain system and add overflow swales. Two houses are experiencing flooding in this area, and severe street and yard flooding are also occurring.





2016 CAPITAL IMPROVEMENTS PROGRAM DRAINAGE IMPROVEMENTS	The City of Fort Smith Arkansas	Project: 16-06-B Date: OCT. 2015 Scale: NONE Drawn By: RBR

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Project No. 16-06-B
Neighborhood Drainage, Phase B

1100 Block South 67th Street (South 66th Street & Hestand Lane)
This project will add a concrete wall and ditch paving and will replace and extend an existing storm drain in order to intercept and redirect runoff. One duplex is experiencing flooding at this location, and severe yard flooding is also occurring.

1800 Block South 74th Street (BOST)
This project will add a concrete wall and a concrete swale to intercept runoff from the hillside behind Bost. Several rooms on the back side of Bost experience flooding, and severe yard flooding is also occurring.

Gary Court Area
This project will add storm drains and overflow swales to intercept runoff. Three houses are experiencing flooding in this area, and severe street and yard flooding are also occurring.

4800 Block South "U" Street
This project will add storm drains and overflow swales to intercept runoff. One duplex is experiencing flooding in this area, and severe yard flooding is also occurring.

3300 Block South 35th Street
This project will extend an existing concrete channel and add concrete walls and swales to intercept runoff. One house is experiencing flooding at this location, nd severe yard flooding is also occurring.

2016 CAPITAL IMPROVEMENTS PROGRAM DRAINAGE IMPROVEMENTS	The City of Fort Smith Arkansas	Project: 16-06-C Date: OCT. 2015 Scale: NONE Drawn By: RBR

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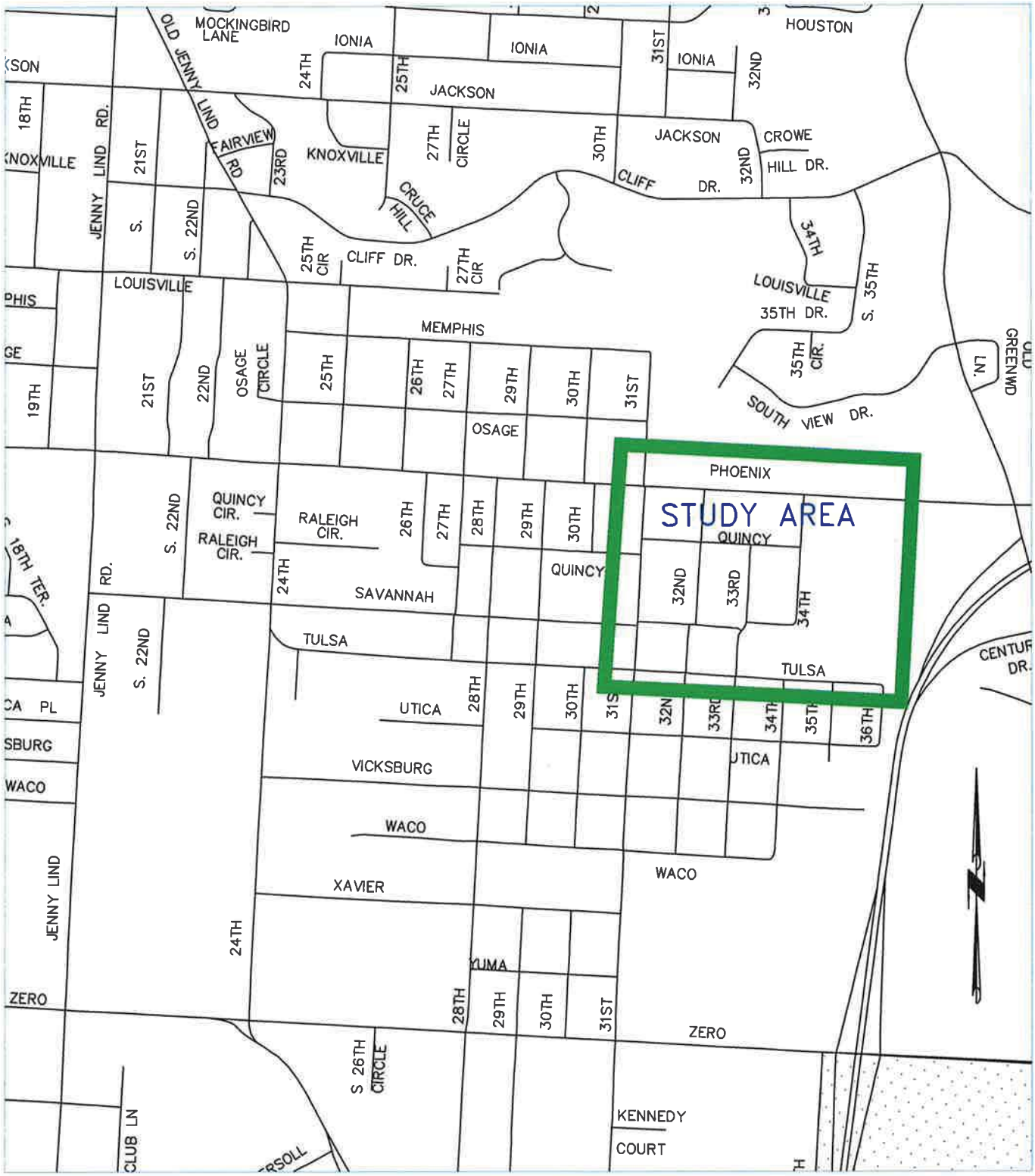
Project No. 16-06-C
Neighborhood Drainage, Phase C

Country Club Avenue/Carthage Street/South 66th Street Area

This project will add storm drains on Country Club Avenue, South 65th Street, and Carthage Street to intercept runoff. Three houses are experiencing flooding in this area, and severe street and yard flooding are also occurring. This project will also replace a severely eroded earthen ditch located between Carthage Street and Phoenix Avenue with a concrete channel. The existing eroded channel is becoming a danger to structures and residents and is also a major maintenance issue. This project also includes the overlay/reconstruction of the following streets: South 62nd Street between Boston Street and Fresno Street; South 65th Street between Country Club Avenue and Carthage Street.



2016 CAPITAL IMPROVEMENTS PROGRAM

DRAINAGE IMPROVEMENTS

The City of Fort Smith ARKANSAS

Project:	16-12-A
Date:	OCT. 2015
Scale:	NONE
Drawn By:	RBR

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Project No. 16-12-A
Drainage Study - Mill Creek Tributary

South 32nd Street/South 33rd Street/South 34th Street Area (Drainage Study)
The purpose of this study is to evaluate the existing storm drainage system to determine solutions to the ongoing flooding problems in this area. The study will also involve downstream areas located within the FEMA regulated flood plain. At least eight residences are experiencing flooding in this area, and others are suspected of flooding. Severe street and yard flooding are also occurring.

5F

RESOLUTION NO. _____

A RESOLUTION APPROVING SPECIFIC EXCESS INSURANCE AND AGGREGATE EXCESS INSURANCE FOR THE CITY'S EMPLOYEE HEALTH COVERAGE

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

Section 1: The Agreement with Aetna Insurance Company to provide Specific Excess Insurance and Aggregate Insurance for the year 2016 for the Self-Funded Health Coverage program for employees of the City of Fort Smith, Arkansas is accepted.

Section 2: The City Administrator, or designee, is hereby authorized to execute all documents necessary to bind coverage and secure the claims service.

THIS RESOLUTION PASSED THIS _____ DAY OF December, 2015.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
No Publication Required

5F

Memo

To: Honorable Mayor & Members of the Board of Directors

From: Jeff Dingman, Acting City Administrator

Date: 12/10/2015

Re: Self-funded Health Coverage Reinsurance

Included on your December 15 regular meeting is a resolution authorizing the specific and aggregate stop loss coverage for the city's Self-funded Health Coverage.

The estimated cost for stop loss coverage is decreasing from $570,623 (provided by Voya Insurance Company and based on 908 covered employees & dependents) in 2015, to $456,869 (provided by Aetna Insurance Company and based on 825 covered employees & dependents) for 2016. This is a $113,754 savings in stop-loss premium (19.9%).

Comparing the 2015 rates to the 825 employees versus the 908, this equal comparison of rates would be a decrease in cost to the city of $69,204 (13.2%). Achieving this savings is a result of the efforts of our benefits consultant, Gallagher Benefit Services, to competitively shop our reinsurance for the year.

This fixed stop loss cost was aided by Aetna specifically identifying two potential large claims and lasering each at a higher specific coverage amount than the specified $200,000 applicable to the group.

The City's current rates and typical stop loss experience is well below the expected benchmarks for an organization our size. This experience should be attributed to the high percentage of wellness program participation and the number of early detection screenings among our group of covered lives.

Staff recommends approval of the attached resolution. Please contact me if you have questions.

City of Fort Smith

Stop Loss Market Analysis

Effective January 1, 2016

This analysis contains a financial cost summary and an outline of key policy provisions. Although cost is an important factor in placing coverage with a stop loss carrier, key policy provisions are also critical to the selection process as they may represent additional financial liability. A stop loss policy that supercedes a client's plan document language could have a negative financial impact on the Plan. For example, if the client's plan document has a different definition of experimental than the definition contained in the stop loss policy, it could have a financial impact on the plan. Although most stop loss carriers will agree to cover medically necessary and generally accepted practices and procedures, there may be other limitations which should be considered prior to policy acceptance.

The "Analysis of Key Stop Loss Policy Provisions" section includes key coverage limitations / exclusions provisions. It contains a comparison of your SPD and the carriers proposed stop loss provisions.

The intent of this analysis is to provide you with general information regarding the status of, and/or potential concerns related to your current employee benefits environment. It does not necessarily fully address all of your specific issues. It should not be construed as, nor is it intended to, provide legal advice. Questions regarding specific issues should be addressed by your general counsel or an attorney who specializes in this practice area.

Presented by Gallagher Benefit Services, Inc.

December 1, 2015

k:\product specialty\stop loss\bid analysis.xls

City of Fort Smith
Estimate of Stop-Loss Renewal Effective January 1, 2016

Specific Stop-Loss	Voya Current	Voya Renewal	Aetna	Highmark	Sun Life	HCC
	$200,000	$200,000	$200,000	$200,000	$200,000	$200,000
	Paid	Paid	24/12	24/12	24/12	24/12
Lasers		*$360K Randell*	*$300K Randell*	*$400K Haney*		
		$360K Haney	*$300K Haney*			
Monthly Premium Rates						
Employee	$27.25	$27.25	$24.09	$26.54	$31.59	$28.34
Family	$73.95	$73.95	$64.08	$71.19	$84.06	$87.35
Annual Premium	**$497,858**	**$497,858**	**$433,802**	**$480,817**	**$569,004**	**$568,771**
Percent Increase		0.0%	-12.9%	-3.4%	14.3%	14.2%
Additional Premium		$0	($64,056)	($17,041)	$71,147	$70,913

Aggregate Stop-Loss	Voya Current	Voya Renewal	Aetna	Highmark	Sun Life	HCC
Annual Premium	$28,215	$28,215	$23,067	$26,037	$27,819	$38,907
Percent Increase		0.0%	-18.2%	-7.7%	-1.4%	37.9%
Attachment Factor - Single	$845.63	$909.55	$501.11	$555.08	$996.99	$533.43
Attachment Factor - Family	$845.63	$909.55	$1,316.46	$1,332.19	$996.99	$1,289.89
Attachment Point	$8,371,737	$9,004,545	$8,943,158	$9,290,697	$9,870,201	$8,975,508
Percent Increase		7.6%	6.8%	11.0%	17.9%	7.2%
TOTAL FIXED STOP LOSS COSTS	**$526,073**	**$526,073**	**$456,869**	**$506,854**	**$596,823**	**$607,678**
Percent Increase		**0.0%**	**-13.2%**	**-3.7%**	**13.4%**	**15.5%**

Based on:

418	**Single**
407	**Family**
825	

This analysis contains a financial cost summary as well as an outline of key policy provisions which may represent additional financial liability. It is intended to provide you with a detailed illustration of both cost and potential liability. We urge you to carefully review this material prior to making a final determination.

While GBS does not guarantee the financial viability of any health insurance carrier or market, it is an area we recommend that clients closely scrutinize when selecting a health insurance carrier or HMO. There are a number of rating agencies that can be referred to including, A.M. Best, Fitch, Moody's, Standard & Poor's, and Weiss Ratings (TheStreet.com). Generally, agencies that provide ratings of U.S. Health Insurers, including traditional insurance companies and other managed care (e.g., HMO) organizations, reflects their opinion based on a comprehensive quantitative and qualitative evaluation of a company's financial strength, operating performance and market profile. However, these ratings are not a warranty of an insurer's current or future ability to meet its contractual obligations.

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5G

RESOLUTION NO. _____

A RESOLUTION APPROVING CLAIM SERVICE, SPECIFIC EXCESS INSURANCE AND AGGREGATE EXCESS INSURANCE FOR THE CITY'S WORKERS' COMPENSATION COVERAGE

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

Section 1: The renewal agreement with Central Adjustment Corporation, Inc. to provide Claims Administration and the agreement with Regions Insurance to provide Specific Excess Insurance and Aggregate Insurance for the year 2016 for the Self-Insured Workers' Compensation program for employees of the City of Fort Smith, Arkansas is accepted.

Section 2: The City Administrator, or designee, is hereby authorized to execute all documents necessary to bind coverage and secure the claims service.

THIS RESOLUTION PASSED THIS _____ DAY OF December, 2015.

APPROVED:

_____

Mayor

ATTEST:

_____

City Clerk

APPROVED AS TO FORM:

_____

No Publication Required

5G

Memo

To: Honorable Mayor & Members of the Board of Directors

From: Jeff Dingman, Acting City Administrator

Date: 12/10/2015

Re: Self-funded Workers Compensation Reinsurance

Included on your December 15 regular meeting is a resolution authorizing the specific and aggregate reinsurance for the city's self-funded workers' compensation coverage program for 2016.

The total fixed cost for the program in 2016 will be approximately $165,460. This includes the broker/consultant fee, claims administration, and the purchase of specific and aggregate excess insurance and is a reduction from $169,887 in 2015. This reduction in cost to the city is a result of changing the program from a $500,000 retention factor to a program that includes $600,000 retention specific to police/fire employees and $550,000 retention for all other employees. Recent history of these costs are 2014 - $150,641; 2013 – 131,693; 2012 – 128,344; and 2011 – 119,282.

Cost for reinsurance for self-funded workers' compensation coverage programs have been steadily increasing for the last few years. In addition, our city payroll has increased over that time due to the addition of several employees in higher risk categories like fire and street maintenance. If the city were fully insured, the estimated standard premium would be $1,052,078 for 2016. We would have to wait for the insurer to return some or none of the standard premium depending on how the claims matured over many years. Self-funding our workers' compensation program is the most effective way to manage this cost.

The city's comprehensive management of our workers' compensation program is essential to keeping costs as low as possible. Our program currently includes the following parts:

- Prevention by all city departments
- Triage done telephonically by an organization called Company Nurse
- Claims handled by Central Adjustment Company, Inc. ($41,513.58, year 2 of 2-year agreement), which includes submission of all documents required by the State of Arkansas
- Regions Insurance to secure (for broker's fee of $11,000) specific and aggregate excess insurance with Safety National Casualty Corporation (premium of $101,946um)
- Dr. Holder and Dr. Clark to provide occupational medicine services through Cooper Clinic
- Claims review, repricing, and case management done by Corvell Corporation; and
- Legal services provided by the city attorney

Lastly, the City of Fort Smith received an Outstanding Performance Award from the State of Arkansas for earning a perfect score under rule 099.39, which means all required documents were submitted timely to the state for 2014.

Staff recommends approval of the resolution. Please contact me if you have questions.

~PREMIUM SUMMARY~

COVERAGE	ESTIMATED ANNUAL PREMIUM 15-16 Safety National	ESTIMATED ANNUAL PREMIUM 16-17 Safety National		Option 2 ESTIMATED ANNUAL PREMIUM 16-17
EXCESS WORKERS COMPENSATION	$106,373.00 (Rate 9.69%) Payroll $41,285,715 Estimated Standard Premium $1,097,759 $500,000 Retention	$113,624.00 (Rate 10.80%) Payroll $41,285,715 Estimated Standard Premium $1,052,078 $500,000 Retention		$101,946.00 (Rate 9.69%) $41,285,715 Estimated Standard Premium $1,052,078 $550,000 AO/ $600,000 P&F Retention
BROKER'S FEE	$11,000.00	$11,000.00		$11,000.00
TOTAL	$117,373.00	$124,624.00		$112,946.00

Recap

Rate changes are based on payroll rates.
Expiring rate of 9.69% of standard premium is a 4.2% rate decrease based on payroll rate.
This is due to the manual rates changing resulting in the standard premium decreasing slightly.
For that same reason you will see a small increase in the loss fund percentage from 170% to 180%
Payrolls in the higher hazard class codes-Firefighters, Street & Road,
Sewer construction and Sanitation which is 40% of total payroll.

DISCLAIMER – The included forms are provided for illustration purposes only. These forms do not replace, supplement, alter, or amend the terms and conditions of your insurance policy. You should read your policy carefully since it's written terms and conditions specify the rights and duties of both you and the insurance company.

CITYF1

ACORD™ INSURANCE BINDER

DATE 11/30/15

THIS BINDER IS A TEMPORARY INSURANCE CONTRACT, SUBJECT TO THE CONDITIONS SHOWN ON THE REVERSE SIDE OF THIS FORM.

PRODUCER
Regions Ins. Inc - Fort Smith
620 South 21st St.
Fort Smith, AR 72901

PHONE (A/C, No, Ext): 479-785-5222
FAX (A/C, No):

COMPANY: Safety National Casualty Corporatio

BINDER #: AGC4052076

EFFECTIVE DATE	EFFECTIVE TIME		EXPIRATION DATE	EXPIRATION TIME	
01/01/16	12:01	X AM / PM	01/01/17	X 12:01 AM / NOON	

X THIS BINDER IS ISSUED TO EXTEND COVERAGE IN THE ABOVE NAMED COMPANY PER EXPIRING POLICY #:

CODE: SUB CODE:

AGENCY CUSTOMER ID: 83218

INSURED
City of Fort Smith
623 Garrison Avenue
P.O. Box 1908
Ft. Smith, AR 72902-0000

DESCRIPTION OF OPERATIONS/VEHICLES/PROPERTY (Including Location)
Municipality various locations
Fort Smith, AR

COVERAGES

TYPE OF INSURANCE	COVERAGE/FORMS	LIMITS: DEDUCTIBLE	COINS %	AMOUNT
PROPERTY — CAUSES OF LOSS: BASIC / BROAD / SPEC				
GENERAL LIABILITY — COMMERCIAL GENERAL LIABILITY; CLAIMS MADE / OCCUR	RETRO DATE FOR CLAIMS MADE:	EACH OCCURRENCE		$
		DAMAGE TO RENTED PREMISES		$
		MED EXP (Any one person)		$
		PERSONAL & ADV INJURY		$
		GENERAL AGGREGATE		$
		PRODUCTS - COMP/OP AGG		$
AUTOMOBILE LIABILITY — ANY AUTO; ALL OWNED AUTOS; SCHEDULED AUTOS; HIRED AUTOS; NON-OWNED AUTOS		COMBINED SINGLE LIMIT		$
		BODILY INJURY (Per person)		$
		BODILY INJURY (Per accident)		$
		PROPERTY DAMAGE		$
		MEDICAL PAYMENTS		$
		PERSONAL INJURY PROT		$
		UNINSURED MOTORIST		$
				$
AUTO PHYSICAL DAMAGE — DEDUCTIBLE; COLLISION: ; OTHER THAN COL:	ALL VEHICLES / SCHEDULED VEHICLES	ACTUAL CASH VALUE		
		STATED AMOUNT		$
		OTHER		
GARAGE LIABILITY — ANY AUTO		AUTO ONLY - EA ACCIDENT		$
		OTHER THAN AUTO ONLY:		
		EACH ACCIDENT		$
		AGGREGATE		$
EXCESS LIABILITY — UMBRELLA FORM; OTHER THAN UMBRELLA FORM	RETRO DATE FOR CLAIMS MADE:	EACH OCCURRENCE		$
		AGGREGATE		$
		SELF-INSURED RETENTION		$
WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY		WC STATUTORY LIMITS		
		E.L. EACH ACCIDENT		$
		E.L. DISEASE - EA EMPLOYEE		$
		E.L. DISEASE - POLICY LIMIT		$
SPECIAL CONDITIONS/ OTHER COVERAGES: Excess Work Comp Self-Insured Retention Police & Firefighters $600,000 (See attached Spec Conditions/Other Covs page.)		FEES		$
		TAXES		$
		ESTIMATED TOTAL PREMIUM		$

NAME & ADDRESS

MORTGAGEE / LOSS PAYEE / ADDITIONAL INSURED

LOAN #

AUTHORIZED REPRESENTATIVE

CONDITIONS

This Company binds the kind(s) of insurance stipulated on the reverse side. The Insurance is subject to the terms, conditions and limitations of the policy(ies) in current use by the Company.

This binder may be cancelled by the Insured by surrender of this binder or by written notice to the Company stating when cancellation will be effective. This binder may be cancelled by the Company by notice to the Insured in accordance with the policy conditions. This binder is cancelled when replaced by a policy. If this binder is not replaced by a policy, the Company is entitled to charge a premium for the binder according to the Rules and Rates in use by the Company.

Applicable in California

When this form is used to provide insurance in the amount of one million dollars ($1,000,000) or more, the title of the form is changed from "Insurance Binder" to "Cover Note".

Applicable in Delaware

The mortgagee or Obligee of any mortgage or other instrument given for the purpose of creating a lien on real property shall accept as evidence of insurance a written binder issued by an authorized insurer or its agent if the binder includes or is accompanied by: the name and address of the borrower; the name and address of the lender as loss payee; a description of the insured real property; a provision that the binder may not be canceled within the term of the binder unless the lender and the insured borrower receive written notice of the cancellation at least ten (10) days prior to the cancellation; except in the case of a renewal of a policy subsequent to the closing of the loan, a paid receipt of the full amount of the applicable premium, and the amount of insurance coverage.

Chapter 21 Title 25 Paragraph 2119

Applicable in Florida

Except for Auto Insurance coverage, no notice of cancellation or nonrenewal of a binder is required unless the duration of the binder exceeds 60 days. For auto insurance, the insurer must give 5 days prior notice, unless the binder is replaced by a policy or another binder in the same company.

Applicable in Nevada

Any person who refuses to accept a binder which provides coverage of less than $1,000,000.00 when proof is required: (A) Shall be fined not more than $500.00, and (B) is liable to the party presenting the binder as proof of insurance for actual damages sustained therefrom.

SPECIAL CONDITIONS/OTHER COVERAGES (Cont. from page 1)

All other retention $550,000.
Max Limit of Indemnity $1,000,000 per Occurrence, Statutory.

1832 Schuetz Road
St Louis, MO 63146-3540
Telephone (888) 995-5300
(314) 995-5300
Fax (314) 995-3843

A member of the Tokio Marine Group

CERTIFICATE OF INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY LISTED BELOW.

NAME AND ADDRESS OF CERTIFICATE HOLDER:
State of Arkansas
Workers' Compensation Commission, Self-Insured Division
Mike Baker
324 Spring Street
PO Box 950
Little Rock, AR 72203-0950

This is to certify that the policy of insurance listed below has been issued to the insured named below and is in force at this time. Notwithstanding any requirement, term or condition of any contract or any other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions and conditions of such policy. Should any of the policy described herein be canceled before expiration date thereof the CORPORATION will endeavor to mail sixty (60) days written notice to the above named certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the CORPORATION.

NAME INSURED EMPLOYER:	CITY OF FORT SMITH
ADDRESS:	P.O. BOX 1908, FORT SMITH, AR 72902
POLICY NUMBER:	AGC4054107
TYPE OF INSURANCE:	Specific Excess and Aggregate Excess Workers' Compensation and Employers' Liability Insurance
LOCATION(S):	ARKANSAS
POLICY LIABILITY PERIOD:	January 01, 2016 through January 01, 2017
POLICY PAYROLL REPORTING PERIOD:	January 01, 2016 through January 01, 2017

Specific Excess Insurance

Self-Insured Retention Per Occurrence for Police Officers	$ 600,000
Self-Insured Retention Per Occurrence for Firefighters	$ 600,000
Self-Insured Retention Per Occurrence for All Other	$ 550,000
Maximum Limit of Indemnity Per Occurrence	Statutory
Employers' Liability Maximum Limit of Indemnity Per Occurrence	$ 1,000,000

Aggregate Excess Insurance

Loss Limitation	$ 500,000
Loss Fund Percentage for the Liability Period	180.00 %
Minimum Loss Fund for the Liability Period	$ 1,893,740
Maximum Limit of Indemnity of the CORPORATION for the Liability Period	$ 1,000,000

SAFETY NATIONAL CASUALTY CORPORATION

By: Seth A. Smith
Senior Vice President Workers' Compensation Underwriting
Date: December 01, 2015

This is an interactive form. Please type directly on the form and click the Submit button to return it to Safety National via email. If you have problems sending the form, please save it and send it as an attachment to map@safetynational.com.

Contact Permission Form

By completing and submitting this form, you, the broker, are giving Safety National permission to contact the policyholder directly regarding Safety National services, with the understanding that you will be included on all correspondence *only if* your contact information is submitted on this form.

Retail Broker/Producer Information:

First Name: Judy **Email:** Judy.Englehart@Regions.com

Last Name: Englehart **Phone #:** (479) 785-5222

Brokerage: Regions Insurance

Wholesale Broker/Producer Information (if applicable):

First Name: _____ **Email:** _____

Last Name: _____ **Phone #:** _____

Brokerage: _____

Policyholder Information:

Account Name: City of Fort Smith

Main Contact:

First Name: Wanda

Last Name: McBride

Email: WMcbride@fortsmithar.gov

Phone #: (479) 784-2223

Check the title that best describes the main contact:

- ○ CEO
- ○ CFO
- ○ COO
- ○ Employee Health Representative
- ○ Human Resource Manager
- ○ Risk Manager
- ◉ Other: HR Coordinator

Risk Control Contact:

First Name: Lindsey

Last Name: Kaelin

Email: L.Kaelin@fortsmithar.gov

Phone #: (479) 784-2222

Check the title that best describes the RC contact:

- ○ CEO
- ○ Claims Coordinator
- ○ Employee Health Representative
- ◉ Human Resource Manager
- ○ Risk Manager
- ○ Safety Manager
- ○ Other: _____

Submit | Reset Form

If you have questions regarding this form, please contact map@safetynational.com.

Excess 12/10

SAFETY NATIONAL CASUALTY CORPORATION
EXCESS WORKERS COMPENSATION INSURANCE BINDER

NAME INSURED EMPLOYER:	CITY OF FORT SMITH
ADDRESS:	P.O. BOX 1908, FORT SMITH, AR 72902
POLICY NUMBER:	AGC4054107
TYPE OF INSURANCE:	Specific Excess and Aggregate Excess Workers' Compensation and Employers' Liability Insurance
LOCATION(S):	ARKANSAS
POLICY LIABILITY PERIOD:	January 01, 2016 through January 01, 2017
POLICY PAYROLL REPORTING PERIOD:	January 01, 2016 through January 01, 2017

This is to certify that the above named Insured Employer is covered by Specific Excess and Aggregate Excess Workers' Compensation and Employers' Liability Insurance by the CORPORATION.

Specific Excess Insurance

Self-Insured Retention Per Occurrence for Police Officers	$ 600,000
Self-Insured Retention Per Occurrence for Firefighters	$ 600,000
Self-Insured Retention Per Occurrence for All Other	$ 550,000
Maximum Limit of Indemnity Per Occurrence	Statutory
Employers' Liability Maximum Limit of Indemnity Per Occurrence	$ 1,000,000

Aggregate Excess Insurance

Loss Limitation	$ 500,000
Loss Fund Percentage for the Liability Period	180.00 %
Minimum Loss Fund for the Liability Period	$ 1,893,740
Maximum Limit of Indemnity of the CORPORATION for the Liability Period	$ 1,000,000

Other Terms

Premium Rate	9.69 % of Annual Standard Premium
Minimum Premium for the Liability Period	$ 96,849
Deposit Premium for the Payroll Reporting Period	$ 101,946

This binder is effective January 01, 2016 to policy issuance and is subject to all the terms and conditions of, and shall be automatically terminated and superseded by, the Excess Workers' Compensation Agreement and Employers' Liability Insurance Agreement when issued.

Issued at St. Louis, Missouri, on December 01, 2015.

SAFETY NATIONAL CASUALTY CORPORATION

By: Seth A. Smith
Senior Vice President Workers' Compensation Underwriting
Date: December 01, 2015

1832 Schuetz Road St. Louis MO 63146-3540 314-995-5300 fax 314-995-3843

Arkansas Workers' Compensation Commission

OUTSTANDING PERFORMANCE AWARD PRESENTED TO:

City of Fort Smith

In appreciation of their dedication and professionalism by earning a perfect score under Commission Rule 099.39 for the year 2014.

Scotty Dale Douthit, Chairman

Karen H. McKinney, Commissioner

Philip A. Hood, Commissioner

Workers' Compensation Fund (1119)

Statement of Revenues, Expenses and Changes in Fund Net Assets
For the Period Ended October 31, 2015

	2015 MONTH TO-DATE	2015 YEAR TO-DATE	2014 YEAR TO-DATE
Revenue			
City Contributions	$ -	$ 629,820	$ 817,000
Interest Earned	161	3,057	2,605
Reinsured /recovery	-	-	-
Transfer From Other Funds	-	-	-
Total Revenue	$ 161	$ 632,877	$ 819,605
Expenses			
Insurance Premiums	$ -	$ 28,273	$ 140,314
Administrative	-	-	-
Transfer to Claims Account	54,160	314,399	240,929
Transfer to Other Funds	-	-	-
Self Insurer Tax	-	36,282	36,298
Total Expenses	$ 54,160	$ 378,955	$ 417,540
Change in Net Assets	$ (53,999)	253,923	402,064
Net Assets, January 1, 2015		297,636	17,205
Net Assets, October 31, 2015		$ 551,559	$ 419,269

Composition of Net Assets	
Cash	$ -
Interest Receivable	-
Accounts Receivable	-
Due from Investment Fund	1,164,360
Prepaid Payable	-
Deposits - Paying Agent Checking Account	15,989
Vouchers Payable	-
Claims Payable	(628,790)
Net Assets, October 31, 2015	$ 551,559

CENTRAL ADJUSTMENT COMPANY, INC.

SERVICE AGREEMENT FOR ADMINISTRATION OF A WORKERS COMPENSATION SELF-INSURANCE PROGRAM

AGREEMENT entered into this 1st day of January 1, 2015, Central Adjustment Company, Inc. (CAC) and City of Fort Smith (CLIENT). This agreement supersedes any and all prior agreements, whether written or oral, between parties. All prior agreements are void.

RECITALS

1. CLIENT self-insures its workers compensation risk and desires to have CAC provide specific services in connection with such self insurance program.

2. CAC is willing to provide such services on the terms and conditions hereinafter stated

AGREEMENT

1. Services to Be Performed by CAC: CAC agrees to perform the following services:

   A. With regard to CLAIMS ADMINISTRATION CAC shall:

      (1) Review all claim and loss reports received from CLIENT during the term of this Agreement and process each such claim or loss report in accordance with applicable statutory and administrative regulations;

      (2) Conduct an investigation of each reported claim or loss under subparagraph (1) above (hereinafter referred to as a "qualified claim or loss") to the extent deemed necessary by CAC in the performance of its obligations hereunder;

(3) Arrange for independent investigators or medical or other experts to the extent deemed necessary by CAC in connection with the processing of any qualified claim or loss;

(4) Pay medical and death benefits, temporary or permanent disability compensation and other losses and expenses, but only with prior approval of CLIENT;

(5) Perform reasonable and necessary administrative and clerical work in connection with qualified claims or losses including the preparation of checks bearing the name of the CLIENT and drawn on the accounts established pursuant to Paragraph 2F below;

(6) Maintain a file for each qualified claim or loss which shall become property of CLIENT and which shall be available for review by CLIENT at any reasonable time;

(7) Notify excess insurors of all qualified claims or losses with values that may exceed CLIENT'S retention, and, if requested by CLIENT in writing, provide such insurors with necessary information on the current status of those claims or losses unless relieved of this obligation by CLIENT pursuant to paragraph 2A;

(8) Assist in connection with CLIENT'S selection of counsel to defend qualified claims or losses, if requested by CLIENT;

(9) Assist CLIENT'S counsel, if requested, in preparing the defense of litigated cases, negotiating settlements and pursuing subrogation or contribution actions;

(10) Monitor the treatment programs recommended for employees by physicians, specialists and other health care providers by reviewing all reports prepared by them and maintaining such contact with these providers as may be appropriate in the judgment of CAC;

(11) As CLIENT directs, assist in interpreting medical reports to consider the circumstances under which an ill or injured employee who desires to do so could return to work in the shortest period of time;

(12) Assist CLIENT in arranging for rehabilitation or retraining of employees in appropriate cases;

(13) Maintain a current estimate of the expected total cost of each qualified claim or loss;

(14) Use computer programs to furnish to CLIENT selected loss and information reports either monthly, quarterly, or annually which are entitled;

(a) Claim and Expense Report (quarterly)
(b) Transaction Register (monthly)
(c) Claim Cost Analysis (quarterly)
(d) State Reports (as needed)
(e) Large Claim Status Report (quarterly)

These reports shall contain such information as incident date, condensed incident description, other identifiers, payments made, estimated future costs and total expected costs or claims or losses as well as summary and other data deemed relevant by CAC; but not IBNR (incurred but not reported) claims or actuarially developed loss values;

(15) Annually report federal, state, and local 1099 information under CLIENT'S tax identification numbers, when CLIENT has provided all required IRS authorizations, for vendor payments issued by CAC on bank accounts owned by CLIENT, but not for payment authorizations when CAC does not issue the checks;

(16) Provide narrative reports of major or litigated claims, if requested by CLIENT;

(17) Provide claims forms and other forms believed by CAC to be appropriate for the efficient operation of the self-insurance program.

(18) Return to CLIENT all claim files that have been closed for over five years; or CAC will have the files and their contents confidentially destroyed.

B. With regard to MEDICAL CONTROL, CAC shall:

1. Assist CLIENT, where State rules and regulations permit, in the selection of a panel of physicians or other providers of health care to initially treat employees and a panel of medical specialists to provide long term or specialty care;

2. Consult with CLIENT in order to develop ways to use any in-house dispensary or other medical facility more effectively.

C. With regard to EMPLOYEE COUNSELING, CAC shall:

(1) Assist CLIENT directs, provide information to ill or injured employees regarding the benefits available under the self-insurance program and counsel and such employees who wish to obtain the assistance of third parties in dealing with the problems arising out of work-relates illness or injuries;

(2) If CLIENT requests, consult with employee groups in regard to specific aspects of the self-insurance program

(3) Assist CLIENT in developing policies and procedures to ensure that an employee's return to work or reassignment is not inconsistent with any findings of an appropriate state administrative agency.

D. With regard to PROGRAM DEVELOPMENT, CAC shall, upon CLIENT'S request:

(1) Consult with key personnel of CLIENT on the establishment of and coordination of necessary procedures and practices to meet any applicable state requirements and the needs of CLIENT;

(2) Participate in the orientation of CLIENT personnel who are directly or indirectly involved in the processing of qualified claims or losses;

(3) Provide information from time to time on changes or proposed changes in certain legislation, regulations or rules affecting the responsibility of CLIENT;

(4) Review the development of the self-insured program periodically with representatives of CLIENT in order to identify problems and recommend corrective action.

E. CAC shall also furnish appropriate renewal applications and, upon CLIENT's request, shall file all periodic reports and renewal applications required by state administrative agencies to maintain the self-insured program.

F. CAC shall not provide any risk control services.

2. OBLIGATIONS OF CLIENT

A. CLIENT shall provide CAC with excess insurance information for the policy years necessary for proper notification of applicable claims to such insurers by CAC.

B. CLIENT shall provide to CAC a service fee which, in the initial period of this Agreement, shall be computed and payable as follows:

Flat annual fee of $41,513.58, payable in two (2) semi-annual installments of $20,756.79. This includes one (1) online access to CAC claims management system for CLIENT.

C. Should CLIENT close, discontinue, remove from program or otherwise dispose of any of its facilities included in this agreement CAC and CLIENT shall agree on service fees for continuing the processing and management of existing and new claims received from such facilities. If agreement cannot be reached, all claims from such facilities will be returned immediately to CLIENT and CAC shall have no further responsibility for them.

D. Subject to the provision of section 5 below, the amount and schedule for payment of the service fee to be paid to CAC in any subsequent period shall be specified in accordance with section 10 of the Agreement.

E. CLIENT shall at all times provide funds adequate for the payment of qualified claims or losses and of allocated loss expenses. For purposes of this Agreement, allocated loss expenses shall mean all costs, charges or expenses of third parties incurred by CAC, its agents or its employees which are properly chargeable to a qualified claim or loss, including, court costs, fees and expenses of attorneys, investigators, experts and witnesses, and fees for obtaining diagrams, reports, documents and photographs.

F. CLIENT shall deposit such funds in a bank account or accounts established by and belonging to CLIENT. CLIENT shall have full responsibility for the care, custody and control of such account or accounts, but shall arrange for CAC to write checks on the account or accounts for use in the payment of CLIENT'S qualified claims and losses. Such funds shall be provided at the inception of the self-insurance program and replenished promptly from time to time thereafter.

G. CAC shall have full discretion to make any individual discretionary payment of up to $0 on any qualified claim or loss and shall not need the approval of CLIENT to make such payments. This amount may be changed at any time by CLIENT upon ten (10) days prior written notice to CAC. It is agreed that CAC shall have full authority and control in all matters pertaining to the payment, processing, investigation and administration of qualified claims or losses within the limit established by this paragraph.

H. CAC shall have full discretion to redeem compromise or settle any qualified claim or loss for an amount not to exceed $0 on any qualified claim or loss and shall not need the approval of CLIENT to consummate such settlements. This amount may be changed at any time upon ten (10) days prior written notice to CAC. Failure of CAC to settle a qualified claim or loss within such limit, however, shall not subject CAC to any liability whatsoever in the event of an adverse judgment entered by any court or the settlement of such claim or loss for an excess of such limit.

I. It is expressly understood that CAC shall not be required to advance its own funds to pay losses or allocated loss expenses hereunder. It is further understood that if CLIENT fails to provide funds sufficient to allow required payments to be made timely, CAC will have no obligation to perform any further services and may terminate this Agreement upon three (3) days written notice.

J. Should CLIENT fail to make timely payments of the service fees due CAC or in any other way breach this Agreement, and such failure to pay or breach continues more than twenty (20) days following notice of such failure or breach, CAC shall then have the right to refuse to perform any further services. If CAC elects to exercise its rights under this paragraph, in addition to all other legal remedies, CAC will have the right to its full minimum fee, if any, as well as other fees for which CAC may be eligible.

3. DISCONTINUANCE OF OPERATIONS:

Should CLIENT discontinue its business for any reason, all fees due CAC shall be paid immediately. CAC shall have no further obligation to continue to provide the services called for in this Agreement and this Agreement shall be considered terminated as of the date CLIENT ceases operations or files for bankruptcy.

4. GEOGRAPHIC LIMITATIONS:

This Agreement shall cover operations of CLIENT in the State of Arkansas, with locations in Fort Smith, Arkansas.

5. TERM OF AGREEMENT AND CANCELLATION.

A. The term of this Agreement shall be for a period commencing on January 1, 2015, and ending on December 31, 2016, and thereafter shall be renewed for successive twelve month periods, unless cancelled in accordance with paragraph 5B.

B. This agreement may be cancelled by either party at the end of the initial term or any successive twelve (12) month periods thereafter provided that written notice of such cancellation is received by the other party not less than sixty (60) days prior to the anniversary date of this Agreement.

C. If requested by CLIENT, CAC will continue to process any qualified claims or losses remaining open at the cancellation of this Agreement and any claims that reopen after such cancellation plus any other claims received that have occurrence dates that fall within the period or periods of this Agreement, provided that the CLIENT shall continue to make adequate funds available for the payment of such qualified claims or losses and any allocated loss expenses connected with qualified claims or losses. The additional fee for this service shall be negotiated and agreed upon prior to the effective date of cancellation.

D. Upon cancellation of this Agreement, CAC shall deliver, at CLIENT'S sole cost, the files CAC has maintained for qualified claims or losses except those CAC will continue to process (but not including any computer hardware, firmware, software, or other proprietary information of CAC). If CLIENT does not agree to accept these files, they will be retained or destroyed at CAC's option and CLIENT shall have no recourse against CAC for failure to retain them.

6. PRACTICE OF LAW:

It is understood and agreed that CAC will not perform, and CLIENT will not request performance of, any services which may constitute the unauthorized practice of law.

7. INDEMNIFICATION:

A. CAC agrees to indemnify, hold harmless, and defend CLIENT, its directors, officers, members, employees and agents from and against any and all liabilities, loss, or damage that they may suffer as a result of any claim, demand, cost or judgment against them arising out of the acts of omissions of CAC, its employees, agents or servants in connection with this Agreement, provided that such acts or omissions do not arise out of or relate to compliance by CAC with instructions, procedures or forms supplied by CLIENT or any of its members.

8. **NOTICES:**

Any notice required to be given under this Agreement shall be sent by certified or registered mail, postage prepaid, to David McCullough in the case of Central Adjustment Company, P. O. Box 25068, Little Rock, Arkansas 72221-5068, and For City of Fort Smith: Mr. Richard Jones-Director of Human Resources, City of Fort Smith, P. O. Box 1908, Fort Smith, AR 72202.

9. **SUCCESSORS:**

This Agreement shall be binding upon and shall inure to the benefit of all transferees, assigns and successors in interest of any kind of the parties hereto, but no transfer or assignment may be made without the prior written permission of the other party.

10. **ENTIRE AGREEMENT AND MODIFICATION OR AMENDMENT:**

This Agreement represents the full and final understanding of the parties with respect to all subject matter described herein and superseded any and all prior agreements or understandings, written or oral, express or implied. Except as otherwise provided in paragraphs 2G and 2H (not used for voucher accounts), this Agreement may be modified or amended only by a written statement signed by both parties.

11. **APPLICABLE LAW:**

The terms and conditions of this Agreement shall be governed by the laws of the State of Arkansas.

12. **HEADINGS:**

Headings herein are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

13. **CONFIDENTIAL INFORMATION:**

Any payroll information or other technical or business information (information) furnished or disclosed hereunder, is the property of CLIENT and shall be deemed confidential to CLIENT and shall be returned to CLIENT at the conclusion of this Agreement or shall be destroyed. CAC shall be obligated to keep confidential all such information unless such information is generally known to the public, is subsequently made known to the public or is necessary to be disclosed in the performance of this Agreement in which event CAC is free from any obligation to keep such information confidential.

14. RELATIONSHIP:

CAC shall exercise full control and direction over the subcontractors and employees of CAC performing the work covered by this Agreement. Neither CAC nor its employees, agents or subcontractors shall be employees of CLIENT. It is understood that CAC is an independent contractor for all purposes and at all times CAC is wholly responsible for withholding and payment of all federal, state and local income and other payroll taxes with respect to its employees.

15. NON-DISCRIMINATION:

CAC shall comply at its own expense with the provisions of all applicable state and municipal requirements and with all the state and federal laws and regulations applicable to the service provided hereunder and to RCM as an employer of labor. CAC agrees not to discriminate against any employer or applicant for employment because of race, color, religion, sex, age, national origin or handicap.

16. AUDIT:

CLIENT shall have the right to audit any of its claim files in the possession of CAC at any time during normal business hours.

17. MEDICARE SETASIDE REPORTING

A third party vendor currently provides this service to the CLIENT.

Fees and consideration for this service are not included or described in this contract.

IN WITNESS WHEREOF, The parties hereto have caused this Agreement executed on the date first above written.

CENTRAL ADJUSTMENT COMPANY, INC.

By: _____

Title: Director of Human Resources

Date: 3/20/2015

By: John D. McCullough

Title: Pres.

Date: March 11, 2015

5H

RESOLUTION NO. _____

A RESOLUTION ACCEPTING BID AND AUTHORIZING
A CONTRACT WITH CRAWFORD CONSTRUCTION
FOR THE CONSTRUCTION OF THE BALLFIELD
IMPROVEMENTS AT MARTIN LUTHER KING JR PARK

_____

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

SECTION 1: The bid of Crawford Construction for construction of the ballfield improvements at Martin Luther King Jr. Park is hereby accepted.

Section 2: The Mayor is hereby authorized to execute a contract with Crawford Construction for an amount not to exceed $248,142.00, for construction of the ballfield improvements at Martin Luther King Jr Park.

This Resolution adopted this _____ day of December, 2015.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM

_____npr

PARKS RECREATION
FORT SMITH

Memo:

December 11, 2015

To: Jeff Dingman, Acting City Administrator
From: Doug Reinert, Director of Parks and Recreation DSR
Re: Martin Luther King Softball field Improvements

Martin Luther King Park Softball fields have been designed and put out for bid. Sealed bids were opened November 19 for the construction of the field improvement. The lowest bid received was from Crawford Construction in the amount of $248,142. The sealed bids for the press box, concession stand and dugouts were opened separately on December 1 with the lowest bid received from Rodebush Construction in the amount of $122,250. There is a deductive alternate in the contract that would eliminate the press box and concession bringing the contract down to $45,825. The City of Fort Smith has obligated $150,000 from the CIP 1/8 sales tax and received $135,000 grant funding from the Arkansas Department of Parks and Tourism. The total amount of $285,000 will cover the construction of the fields and satisfy the state grant requirements; attached is a spreadsheet showing the breakdown.

The Northside Alumni Association have stated that they have approximately $10,000 raised to date, which will cover the remainder of the required expenses, however they plan to continue to raise funds for the concession and press box so that the full contract can be awarded after the first of the year.

This softball field will not only be the home of the Northside Grizzly Softball Team, but used for Boys and Girls Club baseball games. This field has been highly anticipated and will become a jewel of Martin Luther King Park.

This project is in alignment with the goals of the Comprehensive Plan policy NCR-1.3, NCR-1.5 and NCR-4. I recommend approval of the resolution and ordinance allowing for the appropriation and development of the MLK Softball Field. If you have any questions regarding the field please feel free to contact me.

MLK Softball Improvements
Contract Amounts & Funding

	Dedicated Funds	Contract Amount	Deductive Alternate	Revised Amount
Amount budgeted from 1/8 cent sales tax	150,000			
ADPT - Outdoor Recreation Grant funds	135,000			
	285,000			
MLK Field Improvement Contract		248,142		248,142
MLK Pressbox, Concession & Dugout Contract		122,250	-76,425	45,825
		370,392		293,967

Total dedicated funds	285,000
Total contract amounts	-370,392
Funds needed for full award of contracts	85,392
Deductive alternate	-76,425
Funds needed if pressbox and concession removed	8,967
Funds raised to date from Northside Alumni	10,000
	1,033

REVENUE, BID RESULTS AND DONATIONS SUMMARY
SOFTBALL FIELD AT MARTIN LUTHER KING PARK
Fort Smith, Arkansas

December 10, 2015

REVENUES AVAILABLE:

City of Fort Smith, Arkansas:	$150,000.00
State Parks and Tourism:	$135,000.00
*Senator Bruce Holland Discretionary Fund:	$10,000.00
TOTAL REVENUES:	**$295,000.00**

*Needs to be confirmed.

BID RESULTS:

FIELD, FENCING AND SITE IMPROVEMENTS: Bids opened publically on November 19, 2015.

Base Bid:	$248,142.00
Alternate Proposal No. 1:	($3,125.00) – DEDUCT
Alternate Proposal No. 2:	($11,400.00) - DEDUCT

Crawford Construction was the low bidder.

PRESS BOX AND DUGOUTS: Bids opened publically on December 1, 2015. Bid Validity is 90 days.

Base Bid:	$122,250.00
Alternate Proposal No. 1:	($76,425.00) – DEDUCT

Rodebush Construction was the low bidder.

DONATIONS SECURED and VALUE of SAME:

Architectural services including Mechanical, Electrical and Structural Engineering donated by Studio 6 Architects, William C. Hathaway, PE and HSA Consulting Engineering Consulting Services, Inc. for the Press Box / Concession Stand and the Dugouts:	$13,000.00
Engineering services including civil, surveying and structural engineering For the earthwork, fencing and site improvements:	$29,500.00

The following is a Summary of donations secured and deducted from the base value of the Press Box / Concession Building and Dugouts through the bidding process by Rock Rodebush for in kind materials and/or labor:

ITEM:	DONOR:	VALUE:
Cabinetry	Rodebush	$1,262.00
Drywall Materials	Cherokee	$1,300.00
Electrical	Blaylock	$8,899.00
HVAC	Blaylock	$7,499.00
Plumbing	Blaylock	$14,999.00
Paint	Pittsburg Paints	$1,350.00
Steel Stair	Crawford Construction	$6,000.00
Windows (Upper Level)	Harry G. Barr	$6,000.00
Building Permit	City of Fort Smith	$3,808.00
*Material Taxes		$600.00
*Overhead and General Conditions		$11,000.00
Profit	Rodebush	$7,500.00

*Reduction in taxes and overhead for donated materials.

In addition to the above:

Mike Blaylock has donated the complete field irrigation system.	TBD
Scoreboard	Donated
The Fort Smith Public School System is providing and installing carpet tile on the upper level.	$700.00
The Fort Smith School System has made available free labor from the NHS Construction Technology classes.	TBD
Donations of labor and material and cash Continue to be sought and some minor design changes are under consideration for savings.	

MICKLE WAGNER COLEMAN
ENGINEERS - SURVEYORS

Patrick J. Mickle, P.E.
Neal B. Wagner, PLS
Randell C. Coleman, P.E.
Andrew J. Dibble, P.E.

December 8, 2015

Mr. Doug Reinert
City of Fort Smith
Parks and Recreation
3301 South M Street
Fort Smith, Arkansas 72903

Re: Martin Luther King Park
Ballfield Improvements

Dear Mr. Reinert:

As you are aware, the City accepted bids for the site work contract for the Martin Luther King Ballfield Improvements. Attached is a tabulation of the four bids received. The low bidder was Crawford Construction with the prices totaling $248,142.

In the contract documents we indicated that the contractor was to have at least 5 years of experience in the construction of athletic field installation. Attached is the statement submitted by the low bidder addressing this requirement. We are familiar with this contractor and feel he will do a good job on this project. You may note he has done significant work for the Van Buren athletic groups.

We recommend award of the site work contract to the low bidder, Crawford Construction.

If you have any questions please don't hesitate to call.

Sincerely,

Patrick J. Mickle, P.E.

PJM/rlb

Attachments

f:\doc\letters\MLK ballfield – low bidder recommendation

MICKLE WAGNER COLEMAN, INC.
3434 Country Club Avenue 72903 • P O Box 1507 72902 • Fort Smith, Arkansas • (479) 649-8484 • Fax (479) 649-8486
info@mwc-engr.com

Bid Tabulation

PROJECT: ***Martin Luther King Park Ballfield Improvements***
OWNER: ***City of Fort Smith***
BID DATE: ***November 19, 2015 1:30 p.m.***

Certified Correct By:

Mickle Wagner Coleman, Inc.

Item No.	Qty.	Unit	Description	Crawford Construction Company Unit Price	Crawford Construction Company Total Amount	Legacy Links II, LLC Unit Price	AJ Greenwood Plumbing & Excavation Unit Price	Steve Beam Construction, Inc. Unit Price	Beshears Construction, Inc. Unit Price	Engineer's Estimate Unit Price	Engineer's Estimate Total Amount
1.	1	LS	**Site Preparation** Work includes, but is not limited to, work defined in Specification Sections 101 thru 141, 200, 201, & 202, such as mobilization, erosion control, safety fencing, removal/disposals, clearing & grubbing, and parking stripe grinding	$16,793.00	$16,793.00	$29,586.00	$19,470.00	$40,320.00	$51,965.00	$25,100.00	$25,100.00
2.	1	LS	**Grading and Surface Restoration** Work includes, but is not limited to, work defined in Specification Sections 203, 210, & 290. Specifically included is: a) topsoil stripping, stockpiling, placing, as well as, removing excesstopsoil on the entire project site; b) excavation to subgrade of all areas except the infield (non-grassed area); c) subgrade preparation of excavated areas; d) placement of topsoil in both the outfield & graded areas outside the playing field fence; e) outfield sodding (tifway 419 Bermuda); and f) outside the fence, sodding & surface restoration	$62,390.00	$62,390.00	$60,350.00	$83,338.00	$110,100.00	$151,183.00	$77,200.00	$77,200.00
3.	1	LS	**Infield Grading, Fill, and Surfacing** Work includes, but is not limited to, elements of Specification Sections 203, 290, 950, and the Special Conditions 802-11. Specifically included is excavation of the infield to subgrade elevation, subgrade preparation, furnishing, installing, placing & compacting infield sand-clay fill, close tolerance finished grading, furnishing & placing athletic equipment, furnishing & placing the infield top coat & soil reinforcing at the pitching mound	$41,877.00	$41,877.00	$35,700.00	$53,623.25	$66,630.00	$28,927.00	$39,400.00	$39,400.00
4.	1	LS	**Concrete** Work includes, but is not limited to, work described in Specification Sections 401, 420, 440, 840, and 860. Specifically included is the concrete flatwork in the plaza area, including the concrete curb at the backstop, the concrete sidewalks, the concrete repair of the handicap parking spaces, restriping of the handicap spaces, & signs for same	$48,049.00	$48,049.00	$60,624.00	$58,124.00	$70,410.00	$53,911.00	$74,720.00	$74,720.00
5.	1	LS	**Fencing** Work includes, but is not limited to, work described in Specification Sections 907 and 950. Specifically included is a backstop with hood, playing field fencing & gates, plaza area fencing & gates, dugout fencing, furnishing & installing foul poles, as well as, windscreen for the entire perimeter of the field & plaza, and outfield fence guard topping	$71,781.00	$71,781.00	$73,877.00	$72,464.00	$61,020.00	$72,267.00	$70,200.00	$70,200.00

NHS Softball (left)

Bid Tabulation

Item No.	Qty.	Unit	Description	Crawford Construction Company Unit Price	Crawford Construction Company Total Amount	Legacy Links II, LLC Unit Price	AJ Greenwood Plumbing & Excavation Unit Price	Steve Beam Construction, Inc. Unit Price	Beshears Construction, Inc. Unit Price	Engineer's Estimate Unit Price	Engineer's Estimate Total Amount
6.	1	LS	**Electrical** Work includes the following elements: a) relocation of the field lighting conductors from LP-3 to LP-4; b) furnishing & installing new metal halide field lamps (34 total); and c) installing electrical conduit with pull boxes from the press box to the future scoreboard	$7,252.00	$7,252.00	$8,700.00	$8,280.00	$7,920.00	$6,859.00	$10,000.00	$10,000.00
			TOTAL BASE BID AMOUNT (Items 1 thru 6)		**$248,142.00**	**$268,837.00**	**$295,299.25**	**$356,400.00**	**$365,112.00**		**$296,620.00**
DEDUCTIVE ALTERNATES											
1.	1	LS	As to Bid Item #6 - ELECTRICAL, delete the furnishing and installation of the 34 metal halide field lamps	$3,125.00	$3,125.00	$1,000.00	$1,548.00	$1,548.00	$3,000.00	$3,400.00	$3,400.00
2.	1	LS	As to Bid Item # 4 - CONCRETE, delete 98 SY of 4" plaza area concrete & 167 SY of 5" plaza area reinforced concrete as depicted on plan sheet C4, leaving a keyed edge along the plaza edge exposed by this deletion, & install permanent stabilization including topsoil, seed, fertilizer, & mulch in its place in accordance with Special Conditions 00802-9	$11,400.00	$11,400.00	$8,000.00	$5,500.00	$9,796.00	$4,000.00	$14,900.00	$14,900.00
			TOTAL BID AMOUNT (Less Deductive Alternate 1)		**$245,017.00**	**$267,837.00**	**$293,751.25**	**$354,852.00**	**$362,112.00**		**$293,220.00**
			TOTAL BID AMOUNT (Less Deductive Alternates 1 & 2)		**$233,617.00** ✱	**$259,837.00**	**$288,251.25**	**$345,056.00**	**$358,112.00**		**$278,320.00**

✱ Denotes mathematical error & corrected total

f:\doc\bidtab\CFS - MLK Ballfield Improvements - 2015

CRAWFORD
CONSTRUCTION
COMPANY

November 23, 2015

Mr. Pat Mickle, PA
Mickle Wagner Coleman, Inc.
3434 Country Club Avenue
PO Box 1507
Fort Smith, AR 72902

RE: Ballfield Improvements
Martin Luther King Park

Mr. Mickle,

In response to your request that we provide our history/experience of having constructed or reconstructed athletic fields, please accept the following:

Over the past four decades, Crawford Construction Company has performed field reconstruction at numerous sites: In Van Buren, AR: Hank Hayes Baseball Field, Van Buren Boys and Girls Club fields, Crawford County Softball Fields on Kibler Road and the Field of Dreams softball and baseball fields. In Ozark, AR: The High School baseball field and the High School football field in preparation for the placement of artificial turf by others. In Fort Smith: the Evans Boys and Girls Club baseball field, the UAFS baseball field and the Fort Smith (Union) Christian practice football field.

Greg Crawford is a member of the Board of Directors for the Van Buren Softball Association and has been instrumental in guiding the City of Van Buren and Crawford Construction Company in the recent reconstruction of flood damaged baseball and softball fields at the City's Field of Dreams complex.

Should you require additional information, please contact our office.

Regards,

Rich Rapin

Rich Rapin
Project Manager

1103 South 28th Street
Van Buren, AR 72956

479-474-9955
Fax 479-474-2390

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE SUPPLEMENTED SEBASTIAN COUNTY PARKS DEPARTMENT TRAIL EASEMENT

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

WHEREAS, on October 15, 2013, the City of Fort Smith and Sebastian County executed a Sebastian County Parks Department Trail Easement ("Trail Easement") between Sebastian County, Arkansas and the City of Fort Smith, Arkansas, which Trail Easement was recorded in the Sebastian County real property records on October 21, 2013;

WHEREAS, the Trail Easement anticipated the necessity of approval by the United States Department of Health and Human Services ("HHS");

WHEREAS, after application to HHS, HHS has indicated consent to the grant of the Trail Easement by the City to Sebastian County subject to approval of a supplement to the Trail Easement indicating that the Trail Easement is subject to the terms and conditions of the Quit Claim Deed dated September 2, 2002, by which the subject real property was conveyed by the United States to the City of Fort Smith.

NOW, THEREFORE, the Mayor is authorized to execute, his signature being attested by the City Clerk, the attached Supplemented Sebastian County Parks Department Trail Easement confirming the extension to Sebastian County, Arkansas, of an easement for walking trail improvements across Fort Smith landfill property in consideration of the public park benefits accruing to the citizens of Fort Smith and Sebastian County. The City Administrator and the City Attorney are hereby authorized to apply for the consent of the United States to the Supplemented Sebastian County Parks Department Trail Easement and to record the Supplemented Sebastian County Parks Department Trail Easement.

THIS RESOLUTION ADOPTED this _____ day of December, 2015.

APPROVED:

_____

Mayor

ATTEST:

_____

City Clerk

APPROVED AS TO FORM:

_____

No Publication Required

5I

Memo

To: Honorable Mayor & Members of the Board of Directors

From: Jeff Dingman, Acting City Administrator

Date: 12/10/2015

Re: Supplemented Sebastian County Parks Department Trail Easement

---

Included on your December 15 regular meeting is a resolution authorizing the Mayor to execute the supplemented Sebastian County Parks Department Trail Easement.

As you may recall, the City of Fort Smith and Sebastian County executed an easement in 2013 that would allow the county's parks department to put a biking/walking trail across small corner of landfill property as part of the network of trails the county has built in the vicinity of Ben Geren Regional Park. This particular trail provides access to Torraine Lake (aka "Stick Lake") that is owned by the County.

The city attorney has been working through some technicalities with the easement related the conveyance of the property from the United States to the city for landfill purposes. The United States Department of Health and Human Services (HHS) is required to consent to the easement, which they have indicated they will do. The previous easement needs to be supplemented with the provision that approval from HHS is required.

The attached letter from the Jerry Canfield provides a bit more history and detail. Staff recommends approval of the attached resolution.

Please contact me if you have questions.

DAILY & WOODS

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

JERRY L. CANFIELD, P.A.
THOMAS A. DAILY, P.A.
WYMAN R. WADE, JR., P.A.
DOUGLAS M. CARSON, P.A.
C. MICHAEL DAILY, P.A. † •
COLBY T. ROE, P.A.
MICHAEL A. LAFRENIERE

† Also Licensed in Oklahoma
• Also Licensed in Wyoming & North Dakota

KMW BUILDING
58 SOUTH SIXTH STREET
P.O. BOX 1446
FORT SMITH, AR 72902
TELEPHONE (479) 782-0361
FAX (479) 782-6160

www.dailywoods.com

JAMES E. WEST
OF COUNSEL

HARRY P. DAILY (1886-1965)
JOHN P. WOODS (1886-1976)
JOHN S. DAILY (1912-1987)
BEN CORE (1924-2007)

WRITER'S E-MAIL ADDRESS
JCanfield@DailyWoods.com

November 20, 2015

Mr. Jeff Dingman
Acting City Administrator
City of Fort Smith
623 Garrison Avenue, 3rd Floor
Fort Smith, AR 72901

Mr. Dan Shue
Sebastian County Prosecuting Attorney
Sebastian County Courts Complex
Fort Smith, AR 72901

Re: Sebastian County Parks Department Trail Easement

Dear Mr. Dingman and Mr. Shue:

Sebastian County requested a trail easement across the southeast corner of the City's landfill property for the construction and operation of a walking trail in conjunction with trail improvements the County is constructing on adjacent County property. By Resolution R-125-13, adopted on August 20, 2013, the Board of Directors of the City authorized the execution and delivery of a Sebastian County Parks Department Trail Easement ("Easement"). The Resolution was adopted, the Easement was executed by both the City and the County, and the Easement was placed of record on October 20, 2013.

The Easement expressly notes that it is subject to approval by the United States Department of Health and Human Services (HHS) acting on behalf of the United States. The City made application for consent of HHS to the transaction. I am attaching an e-mail received on November 18, 2015, from a representative of HHS indicating that the United States would consent to the Easement upon amendment of the Easement indicating that the Easement is subject to the terms and conditions of the Quitclaim Deed dated September 5, 2002, between the United States and the City by which the property was conveyed to the City.

In order to satisfy that requirement, I have prepared a resolution noting the foregoing history and authorizing the Mayor and the City Clerk to execute a Supplement to the Easement. I have also prepared a Supplemented Easement document. The documents are enclosed.

After approval of the Supplemented Easement by the Board of Directors and by the County, perhaps we will receive the consent of the United States by the end of the year or shortly thereafter.

Dan, if you have any questions, please advise. I would appreciate your submitting the Supplemented Easement to the County for approval.

Litigation between the City of Fort Smith and Arkansas Valley Electric Cooperative Corporation regarding this property is pending, and we do not wish to disturb the prior recording of the Easement. Thus, the existing trail easement is being supplemented and not replaced.

Thank you for your attention to this matter.

Very truly yours,

Jerry L. Canfield
cmm

Enclosures

Supplemented
Sebastian County Parks Department Trail Easement
Between
SEBASTIAN COUNTY, ARKANSAS
and
THE CITY OF FORT SMITH, ARKANSAS

For and in consideration of the sum of One dollar(s) ($1.00), cash in hand paid, and the hereby acknowledged receipt of other good and valuable considerations, **The City of Fort Smith, Arkansas** (hereafter called Grantor) does hereby grant, bargain, sell and convey to **The County of Sebastian, Arkansas** (hereafter called the Grantee), a permanent trail easement on the hereinafter described real property located in the Fort Smith District of Sebastian County, Arkansas, to wit:
Description:

Part of Government Lot 2 of the Northwest Quarter of Section 18, Township 7 North, Range 31 West, Fort Smith District, Sebastian County, Arkansas, being more particularly described as follows: Commencing at an existing 2" brass cap stamped FC 178 at the Southeast Corner of said Government Lot 2 of the Northwest Quarter; Thence N03°16'30"E, 74.86 feet to the southeast corner of the Fort Smith landfill property, and the Point of Beginning; Thence along the south line of said property, N85°53'39"W, 139.84 feet; Thence leaving said south line, N05°33'00"E, 71.00 feet; Thence N28°01'27"E, 131.57 feet; Thence N05°10'10"E, 52.86 feet; Thence N12°04'58"E, 84.23 feet; Thence N69°52'21"E, 167.97 feet to the easterly line of said Fort Smith Landfill property; Thence along said easterly line, S33°42'46"W, 177.44 feet; Thence continuing along said easterly line, S02°33'42"W, 242.28 feet to the Point of Beginning. Containing 0.89 acres, more or less.

Grantor and Grantee both agree that the trail easement conveyed is to be used for the construction and operation of a trail for the benefit of the public at large to promote health and well being as well as interpretive environmental interaction. Except as otherwise agreed in writing by the parties, it is mutually agreed that, if the Grantee ceases to use the property described for the specific public park purposes as described herein, then the Grantee's easement interest shall automatically revert to the Grantor.

It is understood and agreed this permanent easement is granted for the purpose of doing all acts

necessary for constructing inspecting, maintaining, and repairing a trail and associated trail appurtenances upon the surface of the real property described above.

It is understood and agreed that the trail is being constructed for the benefit of public health and interpretive opportunities and is open to public. The use of the property and the existing bridge has value as part of the regional trail system and will serve the public of the City and County. This facility will be controlled and maintained in accordance with the policies set forth by The Sebastian County Parks and Recreation Department. Sebastian County accepts the obligations of routine maintenance of the described real property and reasonable care and maintenance of the associated bridge.

It is understood that Grantee has the rights of grading, conditioning, and installing drainage facilities, seeding, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of the described trail area. Grantee shall have the right to erect on the described real property, signage for navigation and public safety for use of the trail but not otherwise.

The Sebastian County Parks Department Trail Easement dated October 15, 2013 and filed in the records of the County Clerk and Recorder on October 21, 2013, and the permanent easement granted and supplemented by this document are subject to the terms and conditions of the Quitclaim Deed dated September 5, 2002, between the United States and the City of Fort Smith, Arkansas.

It is further understood and agreed that the consideration mentioned above shall be in full settlement of all rights which are affected by this instrument, which constitutes the entire agreement between Grantor and Grantee, there being no oral agreements of representations of any kind made between Grantor and Grantee.

Grantor herein reserves all oil, gas and other minerals in, on and under the described real estate. Grantor reserves the right of access to and use of the real property subject to the trail easement, so long as Grantor's use does not destroy or substantially affect the rights granted hereby to Grantee.

WITNESS OUR SIGNATURES on this ___ day of _____, 2015.

CITY OF FORT SMITH, ARKANSAS

By: _____
Mayor

Attest: _____
City Clerk

SEBASTIAN COUNTY, ARKANSAS

By: _____
County Judge

Attest: _____
County Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) SS
County of Sebastian)

On this _____ day of _____, 2015 before me, a Notary Public, duly commissioned, qualified and acting within and for the County of Sebastian, Arkansas, appeared in person _____ and _____ to me personally well known, who stated that they were the Mayor and Clerk of the City of Fort Smith, Arkansas, a municipal corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said city, and further stated and acknowledged that they had executed the same for the consideration, uses and purposes therein mentioned and set forth, and I do hereby so certify.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ___ day of _____, 2015.

_____

My Commission Expires:

_____

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) SS
County of Sebastian)

On this _____ day of _____, 2015 before me, a Notary Public, duly commissioned, qualified and acting within and for the County of Sebastian, Arkansas, appeared in person _____ and _____ to me personally well known, who stated that they were the County Judge and Clerk of Sebastian County, Arkansas, a municipal corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said county, and further stated and acknowledged that they had executed the same for the consideration, uses and purposes therein mentioned and set forth, and I do hereby so certify.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ___ day of _____, 2015.

_____

My Commission Expires:

_____

Jerry Canfield

From: Ramirez, Telesforo (PSC/REL/RMS) [Telesforo.Ramirez@PSC.hhs.gov]
Sent: Wednesday, November 18, 2015 12:24 PM
To: Jerry Canfield
Cc: Dingman, Jeff (JDingman@FortSmithAR.gov); Hopper, Joseph; Cholla Miller
Subject: RE: City of Fort Smith/Walking Trail Easement in Favor of Sebastian County

Mr. Canfield:

I've reviewed the executed and recorded walking trail easement and determined that the easement only need be amended to reflect that the easement is subject to the terms and conditions of the Quitclaim Deed dated September 5, 2002, between the United States and the City of Fort Smith, AR. Upon receipt of an executed and recorded amendment, this Department will provide its consent. Should you have any questions/concerns, I can be contacted by reply or on (301) 443-2603.

v/r,

Telesforo Ramirez III, J.D., M.S.
Realty Specialist, Real Property Management Services
Program Support Center
U.S. Department of Health and Human Services

Office: (301) 443-2603

www.psc.gov
Got a minute? Please tell us about your customer experience.

From: Cholla Miller [mailto:cmiller@dailywoods.com]
Sent: Monday, August 03, 2015 2:52 PM
To: Ramirez, Telesforo (PSC/REL/RMS)
Cc: Dingman, Jeff (JDingman@FortSmithAR.gov); Hopper, Joseph
Subject: City of Fort Smith/Walking Trail Easement in Favor of Sebastian County

Dear Mr. Ramirez:

This will acknowledge receipt of your e-mail inquiry of July 28, 2015.

I believe we provided previously the existing agreement between Sebastian County and the City of Fort Smith for the walking trail. I am attaching copies of Resolution R-125-13 and the Sebastian County Parks Department Trail Easement between Sebastian County, Arkansas and the City of Fort Smith, Arkansas. As indicated in the trail easement document, the transaction was undertaken with the understanding that HHS might have further requirements.

As noted on the enclosed copy, the Easement has been recorded. As such, the Easement has time priority over the Arkansas Valley Electric eminent domain action. We hope to keep the recorded Easement as a valid document, subject to extending to HHS whatever assurances are needed.

The City respectfully suggests the execution of a Consent Instrument as enclosed or as you may amend on review. I drafted the Consent Instrument from documents you previously submitted for use with reference to Arkansas Valley Electric.

Please let us know if this is an acceptable method of resolving the trail easement issue.

Thank you for your attention to this matter.

Jerry Canfield

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RESOLUTION NO. R-125-13

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE PARKS' TRAIL EASEMENT TO SEBASTIAN COUNTY, ARKANSAS.

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 Sebastian County Parks Department Trail Easement extending to Sebastian County, Arkansas an easement for walking trail improvements across Fort Smith Landfill property in consideration of public park benefits accruing to the citizens of Fort Smith and Sebastian County.

This resolution adopted this 20th day of August, 2013.

APPROVED:

Sandy Sanders

MAYOR

ATTEST:

Sherri Gard

CITY CLERK

Approved as to form:

Jerry Crafford

☑ No Publication Required
☐ Publish ___ Times

2013F-16725 5
2013F-16725
Certificate of Record
FORT SMITH DISTRICT
SEBASTIAN COUNTY, ARKANSAS
SHARON BROOKS, CO CLERK & RECORDER
10/21/2013 09:04:39AM
Fee: 0.00 Pages: 5

Sebastian County Arkansas
County Judges Office
35 South 6th Street
Fort Smith, Arkansas 72901

Sebastian County Parks Department Trail Easement

Between

SEBASTIAN COUNTY, ARKANSAS

and

THE CITY OF FORT SMITH, ARKANSAS

For and in consideration of the sum of One dollar(s) ($1.00), cash in hand paid, and the hereby acknowledged receipt of other good and valuable considerations, **The City of Fort Smith, Arkansas** (hereafter called the GRANTOR) does hereby grant, bargain, sell and convey to **The County of Sebastian, Arkansas** (hereafter called the GRANTEE), a permanent trail easement on the hereinafter described real property located in the Fort Smith District of Sebastian County, Arkansas, to wit:
Description:

Part of Government Lot 2 of the Northwest Quarter of Section 18, Township 7 North, Range 31 West, Fort Smith District, Sebastian County, Arkansas, being more particularly described as follows:
Commencing at an existing 2" brass cap stamped FC 178 at the Southeast Corner of said Government Lot 2 of the Northwest Quarter; Thence N03°16'30"E, 74.86 feet to the southeast corner of the Fort Smith Landfill property, and the Point of Beginning; Thence along the south line of said property, N85°53'39"W, 139.84 feet; Thence leaving said south line, N05°33'00"E, 71.00 feet; Thence N28°01'27"E, 131.57 feet; Thence N05°10'10"E, 52.86 feet; Thence N12°04'58"E, 84.23 feet; Thence N69°52'21"E, 167.97 feet to the easterly line of said Fort Smith Landfill property; Thence along said easterly line, S33°42'46"W, 177.44 feet; Thence continuing along said easterly line, S02°33'42"W, 242.28 feet to the Point of Beginning. Containing 0.89 acres, more or less.

Grantor and Grantee both agree that the trail easement conveyed is to be used for the construction and operation of a trail, for the benefit of the public at large to promote health and well being, as well as interpretive environmental interaction. Except as otherwise agreed in writing by the parties, it is mutually agreed that, if the grantee ceases to use the property described for the specific public park purposes as described herein, then the Grantee's possession shall automatically revert to the Grantor.

It is understood and agreed this permanent easement is granted for the purpose of doing all acts necessary for constructing, inspecting, maintaining, and repairing a trail and associated trail appurtenances upon the surface of the real property described above.

It is understood and agreed that the trail is being constructed for the benefit of public health and interpretive opportunities and is open to public. The use of the property and the existing bridge has value as part of the regional trail system and will serve the public of the City and County. This facility will be controlled and maintained in accordance with the policies set forth by The Sebastian County Parks and Recreation Department. Sebastian County accepts the obligations of routine maintenance of the described real property and reasonable care and maintenance of the associated bridge.

It is understood that Grantee has the rights of grading, conditioning, installing drainage facilities, seeding, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of the described trail area. Grantee shall have the right to erect on the described real property, signage for navigation and public safety for use of the trail but not otherwise.

It is understood the United States Department of Health and Human Services has the right to reject this transaction.

It is further understood and agreed that the consideration mentioned above shall be in full settlement of all rights which are affected by this instrument, which constitutes the entire agreement between GRANTOR and GRANTEE, there being no oral agreements of representations of any kind made between GRANTOR and GRANTEE.

GRANTOR herein reserves all oil, gas and other minerals in, on and under the described real estate. Grantor reserves the right of access to and use of the real property subject to the trail easement, so long as Grantor's use does not destroy or substantially affect the rights granted hereby to Grantee.

WITNESS OUR SIGNATURES on this the 15th day of October, 2013

CITY OF FORT SMITH, ARKANSAS

By: Sandy Sanders
Mayor

Attest: Sherri Gard
City Clerk

SEBASTIAN COUNTY, ARKANSAS

By: David Hudson County Judge
County Judge

Attest: Sharon Brooks
County Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS)

) SS

County of Sebastian)

On this 15 day of October, 2013 before me, a Notary Public, duly commissioned, qualified and acting, within and for the County of Sebastian, Arkansas, appeared in person Sandy Sanders and Sherri Gard to me personally well known, who stated that they were the Mayor and Clerk of the City of Fort Smith, Arkansas, a municipal corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said city, and further stated and acknowledged that they had executed the same for the consideration, uses and purposes therein mentioned and set forth, and I do hereby so certify.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 15 day of October, 2013.

HEATHER JAMES
COMMISSION # 12371645
NOTARY PUBLIC
EXPIRES: 6-5-2019
SEBASTIAN COUNTY, ARKANSAS

Heather James

My Commission Expires:

6-5-2019

ACKNOWLEDGMENT

STATE OF ARKANSAS)

) SS

County of Sebastian)

On this 16th day of October, 2013 before me, a Notary Public, duly commissioned, qualified and acting, within and for the County of Sebastian, Arkansas, appeared in person David Hudson and Sharon Brooks to me personally well known, who stated that they were the County Judge and Clerk of Sebastian County, Arkansas, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said city, and further stated and acknowledged that they had executed the same for the consideration, uses and purposes therein mentioned and set forth, and I do hereby so certify.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 16th day of October, 2013.

JEAN R. WRIGHT
Notary Public-Arkansas
Sebastian County
My Commission Expires 05-22-2022
Commission # 12388134

Jean R. Wright

My Commission Expires:

05/22/2022

Contract Number _____

CONSENT INSTRUMENT

WHEREAS, by Quitclaim Deed recorded as Document 7085434 in the records of Sebastian County, Arkansas (the "412.30 acre Quitclaim Deed"), a certain parcel of land consisting of 412.30 acres, was conveyed by the United States of America ("Grantor"), to the City of Fort Smith, Arkansas ("Grantee"), for the purposes specified in Grantee's application dated the 5th day of August, 1999 and amended on the 20th day of September, 1999; and,

WHEREAS, the 412.30 acre Quitclaim Deed contained certain conditions and restrictions including a prohibition against the sale, lease, mortgage, encumbrance or other disposal of any portion of the property thereby conveyed or any interest therein without the consent of the Grantor; and,

WHEREAS, the Grantee has requested consent to grant a Sebastian County Parks Department Trail Easement to Sebastian County, Arkansas ("Sebastian County") for the construction, operation and maintenance of a public walking trail to promote health and wellbeing on a portion of the 412.30 acre property consisting of 0.89 acres more or less, which trail would benefit the Grantee, Sebastian County and the public; and,

WHEREAS, notice of the proposed action to be taken has been given to the Secretary of Health and Human Services, Division of Health Facilities Planning, Public Health Services of the Department of Health and Human Services in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended ("Act"), and it has not interposed objection thereto (or concurred if appropriate);

NOW, THEREFORE, in consideration of the premises, the observance and performance by the Grantee of the covenants and conditions hereinafter contained, and other good and valuable consideration, receipt of which is hereby acknowledged, the Grantor, acting by and through the Secretary of Health and Human Services, by his duly designated officers and employees of the U.S. Department of Health and Human Services, under and pursuant to the Authority contained in the Act, does hereby grant its consent to the execution by the Grantee of the described Trail Easement to Sebastian County, its successors and assigns, for access to the following described real property:

SEBASTIAN COUNTY PARKS DEPARTMENT TRAIL EASEMENT

Part of Government Lot 2 of the Northwest Quarter of Section 18, Township 7 North, Range 31 West, Fort Smith District, Sebastian County, Arkansas, being more particularly described as follows: Commencing at an existing 2" brass cap stamped FC 178 at the Southeast Corner of

said Government Lot 2 of the Northwest Quarter; thence N03°16'30" E, 74.86 feet to the southeast corner of the Fort Smith Landfill property, and the Point of Beginning; Thence along the south line of said property, N85°53'39" W, 139.84 feet; thence leaving said south line, N05°33'00" E, 71.00 feet; Thence N28°01'27" E, 131.57 feet; Thence N05°10'10"E, 52.86 feet; Thence N12°04'58"E, 84.23 feet; thence N69°52'21"E, 167.97 feet to the easterly line of said Fort Smith Landfill property; Thence along said easterly line, S33°42'46"W, 177.44 feet; Thence continuing along said easterly line, S02°33'42"W, 242.28 feet to the Point of Beginning. Containing 0.89 acres, more or less.

The consent granted hereby is subject to the following conditions:

(1) that use of the access will not unduly interfere with the uses for which the aforesaid real property was transferred to the Grantee;

(2) that this consent shall not be deemed a waiver or relinquishment of any of the conditions, restrictions, reservations, rights or remedies provided for in the said deed hereinabove referred to insofar as those conditions, restrictions, reservations, rights and remedies relate to those portions of the property in which the access is not located; and

(3) that the said easement be terminated upon abandonment or disuse.

IN WITNESS WHEREOF, the United States of America, acting by and through the Secretary, Department of Health and Human Services, has caused this instrument to be executed on (date).

UNITED STATES OF AMERICA
Acting by and through the Secretary
of Health and Human Services

By: _____

Theresa M. Ritta
Real Property Disposal
Real Property Management Services
Program Support Center

ACKNOWLEDGMENT

STATE OF MARYLAND)
COUNTY OF MONTGOMERY)

On this ____ day of _____, 2015, before me the undersigned officer, personally appeared Theresa M. Ritta, known to me to be the Chief, Real Property Branch, Division of Property Management, Program Support Center, Department of Health and Human Services, and known to me to be the person who executed the foregoing instrument on behalf of the Secretary of Health and Human Services, for the United States of America, and acknowledged to me that she subscribed to the said instrument in the name of the Secretary of Health and Human Services and on behalf of the United States of America.

Witness my hand and official seal.

(SEAL)

_____
Notary Public

My commission expires _____

ACCEPTANCE

The City of Fort Smith, Arkansas, accepts this Consent Instrument and thereby accepts and agrees to all the terms, covenants, conditions and restrictions contained therein.

By _____
Mayor

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF SEBASTIAN)

On this day of , 20 , before me, a Notary Public in and for the County of Sebastian, State of Arkansas, personally appeared Sandy Sanders, known to me to be the Mayor, and known to me to be the person who executed the foregoing instrument on behalf of the City of Fort Smith, Arkansas, and acknowledged to be that he executed the same as the free act.

Witness my hand and official seal.

(SEAL)

_____
Notary Public

My commission expires _____

5J

RESOLUTION NO. _____

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

This resolution adopted this _____day of December, 2015.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:

_____
No Publication Required

5K

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION OF A NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT WITH MILLER TRUCK LINES, LLC

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 Miller Truck Lines, LLC

This resolution adopted this _____day of December, 2015.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:

_____
No Publication Required

5L

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION OF A NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT WITH AMERICAN COMPOSTING 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 American Composting Inc.

This resolution adopted this _____day of December, 2015.

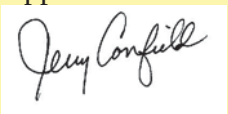
APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:



_____
No Publication Required

Responsible Environmental Management

Fort Smith Department of Sanitation

MEMORANDUM

December 11, 2015

To: Jeff Dingman, Acting City Administrator

From: Stacy Vanourny, Superintendent

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

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On Tuesday, December 1, 2015, three companies 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. The companies are JEF Enterprises, Inc., Miller Truck Lines, LLC and American Composting Inc.

Submitted for Board consideration are the non-residential solid waste collection and disposal permit and agreements with JEF Enterprises, Inc., Miller Truck Lines, LLC and American Composting Inc. 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 JEF Enterprises, Inc. an Arkansas corporation.

W I T N E S S E T H:

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, JEF Enterprises, 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, JEF Enterprises, 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. JEF Enterprises, Inc. agrees that all solid waste generated within the City and which is collected by JEF Enterprises, Inc. for disposal shall be hauled by JEF Enterprises, 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 Fort Smith 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 Fort Smith 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.**

   a. Rates for Disposal. The base rates charged for solid waste generated outside the City "External Rate" and delivered to the Facility by JEF Enterprises, 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.

4. **Permit.** This Agreement shall constitute a permit issued by the City to JEF Enterprises, Inc., pursuant to Section 25-321 of the Fort Smith Code of Ordinances.

5. **Billing and Payment.** JEF Enterprises, Inc. shall be subject to the City's standard billing and payment terms and procedures for customers of the Facility.

6. **Compliance with Laws.** All waste provided by JEF Enterprises, 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 JEF Enterprises, Inc. delivers waste to the Facility that does not conform to the identified regulations and requirements, JEF Enterprises, Inc. shall be responsible for any cost incurred by the City in the treatment and handling of the non-conforming waste.

7. **Vehicles.**

   a. License. All vehicles utilized by JEF Enterprises, 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 JEF Enterprises, 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.

8. **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. JEF Enterprises, Inc. acknowledges that it will comply with reasonable requests of the City for information regarding the types, amounts, and locations of the collection of solid waste being disposed of at the Facility, as well as the types, amounts, and locations of collection of solid waste being disposed by JEF Enterprises, Inc. at alternate locations.

9. **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.

10. **Term.** This permit and agreement shall have a term of two (2) years commencing on the first day of the calendar month which begins following the date of execution of this Agreement by the City.

11. **Choice of Law.** This Agreement shall be governed by the laws of the State of Arkansas.

12. **Assignment.** The provisions of this Agreement are not assignable by either party without the prior, written consent to the other party.

13. **Cancellation.** This permit and agreement shall be cancellable upon ten (10) days notice by the City when, in the opinion of the designated agent of the Fort Smith City Administrator, the work being performed by JEF Enterprises, Inc. is being performed in such a manner as to constitute a public menace or nuisance or to be detrimental to the health, safety, and welfare of the citizens of the City.

14. **Indemnification.** JEF Enterprises, 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 JEF Enterprises, Inc. operations hereunder. Provided, however, that JEF Enterprises, Inc. shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses or attorneys' fees solely caused by the willful or negligent acts or omissions of the City's employees.

15. **Insurance.** JEF Enterprises, 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, JEF Enterprises, 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, JEF Enterprises, 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 JEF Enterprises, Inc. from delivering waste to the Facility, JEF Enterprises, 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 JEF Enterprises, Inc., or by JEF Enterprises, 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 JEF Enterprises, Inc.:

JEF Enterprises, Inc.
Attn: Rob Johnson
PO Box 547
Huntsville, AR 72740

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

JEF Enterprises, Inc.

By: _____
Rob Johnson

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 Miller Truck Lines, LLC an Oklahoma 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, Miller Truck Lines, LLC 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, Miller Truck Lines, LLC 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. Miller Truck Lines, LLC agrees that all solid waste generated within the City and which is collected by Miller Truck Lines, LLC for disposal shall be hauled by Miller Truck Lines, LLC 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 Fort Smith 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 Fort Smith 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.**

   a. Rates for Disposal. The base rates charged for solid waste generated outside the City "External Rate" and delivered to the Facility by Miller Truck Lines, LLC 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.

4. **Permit.** This Agreement shall constitute a permit issued by the City to Miller Truck Lines, LLC, pursuant to Section 25-321 of the Fort Smith Code of Ordinances.

5. **Billing and Payment.** Miller Truck Lines, LLC shall be subject to the City's standard billing and payment terms and procedures for customers of the Facility.

6. **Compliance with Laws.** All waste provided by Miller Truck Lines, LLC 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 Miller Truck Lines, LLC delivers waste to the Facility that does not conform to the identified regulations and requirements, Miller Truck Lines, LLC shall be responsible for any cost incurred by the City in the treatment and handling of the non-conforming waste.

7. **Vehicles.**

   a. License. All vehicles utilized by Miller Truck Lines, LLC 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 Miller Truck Lines, LLC 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.

8. **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. Miller Truck Lines, LLC acknowledges that it will comply with reasonable requests of the City for information regarding the types, amounts, and locations of the collection of solid waste being disposed of at the Facility, as well as the types, amounts, and locations of collection of solid waste being disposed by Miller Truck Lines, LLC at alternate locations.

9. **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.

10. **Term.** This permit and agreement shall have a term of two (2) years commencing on the first day of the calendar month which begins following the date of execution of this Agreement by the City.

11. **Choice of Law.** This Agreement shall be governed by the laws of the State of Arkansas.

12. **Assignment.** The provisions of this Agreement are not assignable by either party without the prior, written consent to the other party.

13. **Cancellation.** This permit and agreement shall be cancellable upon ten (10) days notice by the City when, in the opinion of the designated agent of the Fort Smith City Administrator, the work being performed by Miller Truck Lines, LLC is being performed in such a manner as to constitute a public menace or nuisance or to be detrimental to the health, safety, and welfare of the citizens of the City.

14. **Indemnification.** Miller Truck Lines, LLC 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 Miller Truck Lines, LLC operations hereunder. Provided, however, that Miller Truck Lines, LLC shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses or attorneys' fees solely caused by the willful or negligent acts or omissions of the City's employees.

15. **Insurance.** Miller Truck Lines, LLC 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, Miller Truck Lines, LLC 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, Miller Truck Lines, LLC 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 Miller Truck Lines, LLC from delivering waste to the Facility, Miller Truck Lines, LLC 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 Miller Truck Lines, LLC, or by Miller Truck Lines, LLC 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 Miller Truck Lines, LLC:

Miller Truck Lines, LLC
Attn: Mike McDonald
PO Box 665
Stroud, OK 74079

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

Miller Truck Lines, LLC

By: _____
Mike McDonald

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 American Composting 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, American Composting 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, American Composting 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. American Composting Inc. agrees that all solid waste generated within the City and which is collected by American Composting Inc. for disposal shall be hauled by American Composting 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 Fort Smith 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 Fort Smith 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.**

   a. Rates for Disposal. The base rates charged for solid waste generated outside the City "External Rate" and delivered to the Facility by American Composting 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.

4. **Permit.** This Agreement shall constitute a permit issued by the City to American Composting Inc., pursuant to Section 25-321 of the Fort Smith Code of Ordinances.

5. **Billing and Payment.** American Composting Inc. shall be subject to the City's standard billing and payment terms and procedures for customers of the Facility.

6. **Compliance with Laws.** All waste provided by American Composting 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 American Composting Inc. delivers waste to the Facility that does not conform to the identified regulations and requirements, American Composting Inc. shall be responsible for any cost incurred by the City in the treatment and handling of the non-conforming waste.

7. **Vehicles.**

   a. License. All vehicles utilized by American Composting 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 American Composting 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.

8. **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. American Composting Inc. acknowledges that it will comply with reasonable requests of the City for information regarding the types, amounts, and locations of the collection of solid waste being disposed of at the Facility, as well as the types, amounts, and locations of collection of solid waste being disposed by American Composting Inc. at alternate locations.

9. **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.

10. **Term.** This permit and agreement shall have a term of two (2) years commencing on the first day of the calendar month which begins following the date of execution of this Agreement by the City.

11. **Choice of Law.** This Agreement shall be governed by the laws of the State of Arkansas.

12. **Assignment.** The provisions of this Agreement are not assignable by either party without the prior, written consent to the other party.

13. **Cancellation.** This permit and agreement shall be cancellable upon ten (10) days notice by the City when, in the opinion of the designated agent of the Fort Smith City Administrator, the work being performed by American Composting Inc. is being performed in such a manner as to constitute a public menace or nuisance or to be detrimental to the health, safety, and welfare of the citizens of the City.

14. **Indemnification.** American Composting 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 American Composting Inc. operations hereunder. Provided, however, that American Composting Inc. shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses or attorneys' fees solely caused by the willful or negligent acts or omissions of the City's employees.

15. **Insurance.** American Composting 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, American Composting 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, American Composting 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 American Composting Inc. from delivering waste to the Facility, American Composting 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 American Composting Inc., or by American Composting 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 American Composting Inc.:

American Composting Inc.
Attn: Jim Willits
11911 Faukiner Lake
North Little Rock, AR 72117

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

American Composting Inc.

By: _____
Jim Willits

RESOLUTION _____

A RESOLUTION AUTHORIZING THE AGREEMENT BETWEEN THE CITY OF FORT SMITH, ARKANSAS AND BALDOR ELECTRIC COMPANY TO JOINTLY DESIGN, CONSTRUCT, AND FUND INTERSECTION AND RADIUS IMPROVEMENTS ALONG R.S. BOREHAM JR. STREET AT ITS INTERSECTION WITH HIGHWAY 271, PROJECT NO. 16-09-B

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

SECTION 1: There is hereby approved an Agreement with Baldor Electric Company ("Baldor") providing for the sharing of costs for the design and construction of intersection and radius improvements along R.S. Boreham Jr. Street at its intersection with Highway 271, whereby Baldor will provide without cost to the City and dedicate to the public all right-of-way required for the project and will pay one-half of the costs up to a maximum of $150,000.00 as set forth in the Briefing Report dated December 11, 2015, a copy of which is attached hereto.

SECTION 2: The Mayor, his signature being attested by the City Clerk, is authorized to execute an Agreement with Baldor setting forth the terms approved by Section 1 of this Resolution.

THIS RESOLUTION ADOPTED this ____ day of December, 2015.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:

_____
No Publication Required

INTER-OFFICE MEMO

TO: Jeff Dingman, Acting City Administrator

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

DATE: December 11, 2015

SUBJECT: Intersection and Radius Improvements for
R.S. Boreham Jr. Street at Highway 271, Project 16-09-B
Cost Share Agreement with Baldor Electric Company

Baldor Electric Company is requesting to cost share with the City to provide intersection improvements along R.S. Boreham Jr. Street at Highway 271. Due to safety concerns from the nearly 100 tractor-trailer trucks that serve Baldor daily and the approximately 850 employees that cross R.S. Boreham Jr. Street, Baldor is proposing to shift their truck access from the intersection of Zero/Boreham Street to Highway 271/Boreham Street. More detailed information is provided in the attached letter from Baldor. A project exhibit is also attached which shows the location of the proposed intersection improvements.

The project will include intersection and radius improvements along R.S. Boreham Jr. Street at Highway 271 to accommodate the large truck turning movements from the tractor-trailer trucks that serve Baldor. The estimated cost of these improvements is $350,000 and Baldor has agreed to pay one-half of these costs up to a maximum contribution of $150,000. Baldor has also agreed to donate the public right of way for these improvements. The City's share of the project ($200,000) will be funded from the street sales tax program.

Attached is a Resolution which authorizes the Mayor to execute the cost sharing agreement for this project. I recommend that the Resolution be adopted by the Board of Directors at the next regular meeting.

Attachments

BALDOR®
A MEMBER OF THE ABB GROUP

George E. Moschner
Executive Vice President
Baldor Electric Company
5711 R. S. Boreham, Jr. Street
Fort Smith, AR 72901
479-648-5957
www.baldor.com

December 10, 2015

Honorable Mayor Sandy Sanders
Fort Smith City Board of Directors
Fort Smith, AR

Dear Mayor Sanders and Directors:

Providing a safe work environment at Baldor Electric Company is one of our highest priorities. Since January 2011, the level of traffic activity and number of employees at the Fort Smith headquarters has steadily grown as a result of an acquisition and operational changes.

There are approximately 100 semi-tractor-trailer rigs that enter R. S. Boreham, Jr. Street ("Boreham Street") off Zero Street everyday, and are traveling to the southern part of our campus while approximately 850 employees are also trying to cross this street. The intersection of Boreham and Zero Streets is a very narrow opening, which requires constant cooperation for those entering and exiting this intersection. Recently, we created, prominently marked and installed warning signals for all pedestrian crosswalks along Boreham Street but we believe that we can improve employee safety if the semi-truck traffic was re-routed to enter and exit from the south off of Hwy 271.

Consequently, we purchased the property on the north west corner of Hwy 271 and Boreham Street so that it could be used to facilitate improvements to this intersection and create safe semi-truck traffic. Boreham Street is a public street that connects Hwy 271 on the south to Zero Street on the north and runs through the middle of the Baldor campus.

We are willing to help pay for these improvements and will execute an Agreement for the Development and Construction of Public Street Intersection Improvements with the City of Fort Smith and respectfully request that our request for financial assistance be approved by the Fort Smith City Board of Directors.

Please let me know if there are any questions and thank you in advance for considering our request.

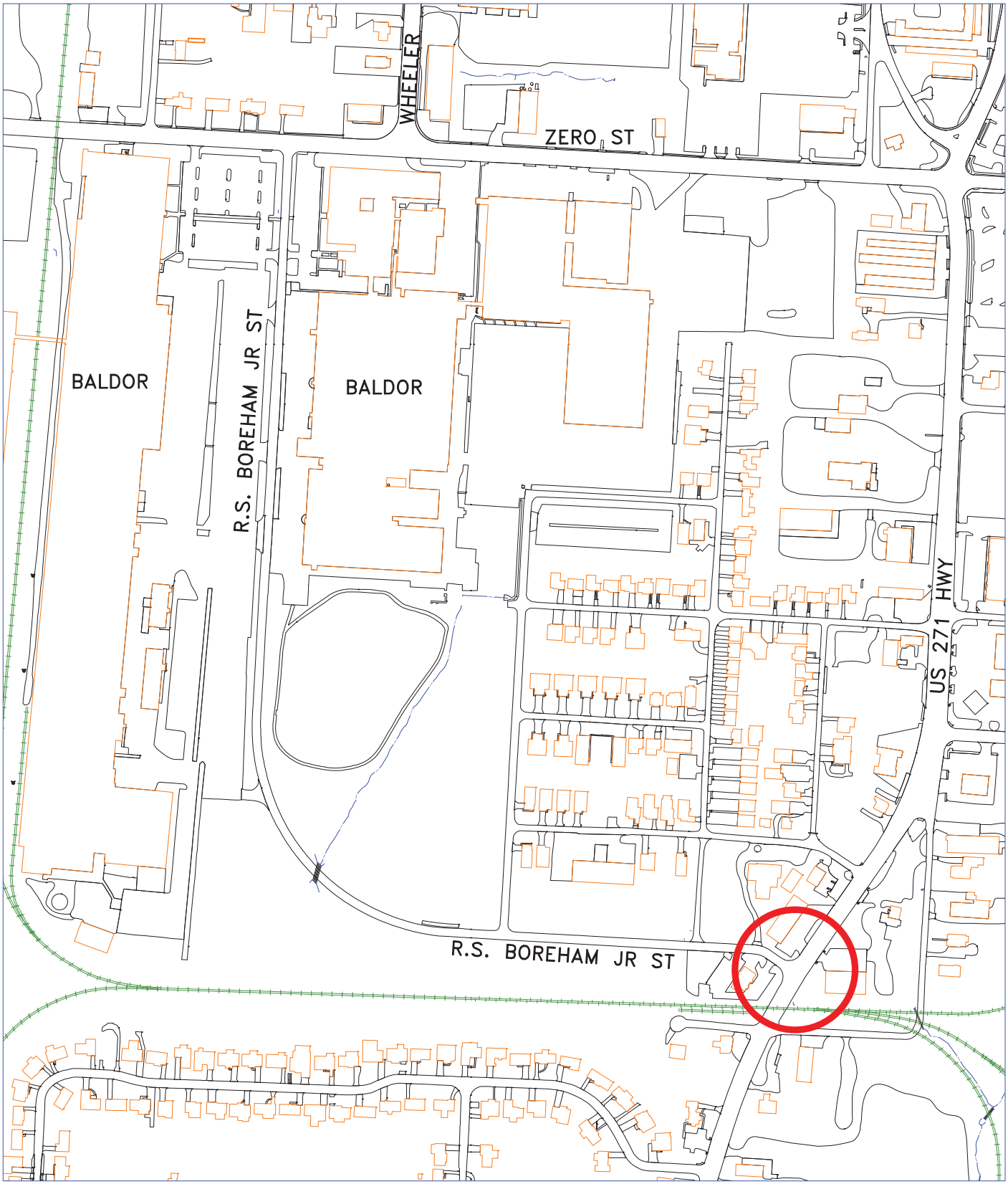
Sincerely,

George E. Moschner

George E. Moschner
Executive Vice President
Risk Management and Compliance

BALDOR • RELIANCE® DODGE® BALDOR GENERATORS MASKA

"To be the best as determined by our customers"



INTERSECTION IMPROVEMENTS
R.S. BOREHAM JR STREET
AT HIGHWAY 271
FORT SMITH, ARKANSAS

The City of Fort Smith ARKANSAS

Project:	16-09-B
Date:	DEC. 2015
Scale:	NONE
Drawn By:	RBR

G:\DRAWINGS\CIP\00-00 CIPALL\2016\ 16-09-B INTERSECTION.dwg 12/11/15-08:43 RBR EXHIBIT

The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Mathis, Administrative Assistant

DATE: December 8th, 2015

SUBJECT: Fire Code Board of Appeals

The term of Mr. Leo Patterson of the Fire Code Board of Appeals and Adjustments has expired October 30th, 2015. Mr. Patterson is not interested in reappointment.

The applicant available is:

Andrea Mooneyham 2230 South S Street

Appointments are **by the Board of Directors,** one appointment is needed. The term will expire October 30th, 2019.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 785-2801
www.fortsmithar.gov

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Fire Code Board of Appeals and Adjustments

The Fire Code Board of Appeals and Adjustments hears appeals of fire codes. The appeals shall be made in writing to the Fire Chief, who will forward them to the chairman. The chairman will notify board members and set up an appeals hearing. Every decision the Board makes shall be final, in writing, and indicate the vote.

The Board is composed of five members appointed by the Board of Directors. After initial staggered terms, the Board members will serve four-year terms. The Fire Chief is an ex-officio member and acts as secretary (he has no vote). The Board meets on call at Fire Station 1.

	Date Appointed	Term Expires
C. Leo Patterson Retired 4300 South 89 Street (03) 883-9923 (h) caliban@cox.net	10/18/11	10/30/15
Mike Schluterman 2411 South Waldron Rd (04) 452-8539 (h) 484-7211 (w) cpamike@sbcglobal.net	11/19/96	10/30/17
Gene Nelson Nelson Insurance Agency P O Box 2270 (02) 782-8718 782-3861 (f) gene@nelsonins.com	10/01/85	10/30/18
Karl Lee Sutherland 2700 South 87 Dr (03) 452-0084 (h) 788-6461 (w) 459-1702 (c) lsutherland@goodyear.com	10/19/99	10/30/19
James M. Reddick 602 Garrison Avenue Suite 800 (01) 782-4085 (w) jreddick@guestreddick.com	10/20/87	10/30/19

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: 11/19/15

Name: Andrea Mooneyham

Home Telephone: (417) 576-4506

Home Address: 2230 South S Street

Work Telephone: (479) 973-4801

Zip: 72901

Email: amooneyh1@yahoo.com

Occupation: Firefighter- City of Fayetteville
(If retired, please indicate former occupation or profession)

Education: Bachelors of Science, various fire courses

Professional and/or Community Activities:

Additional Pertinent Information/References: Tara Muck (479) 420-8989

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 consider[illegible]

Drivers License [redacted] Date of Birt[redacted] his information will be [redacted] ground check of all applicant[redacted]

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
( ) Comprehensive Plan Imp. Committee
( ) Convention Center Commission
( ) Civil Service Commission
( ) CIP Committee (Streets, Bridges, & Drainage)
( ) Community Development Advisory Com.
( ) County Equalization Board
( ) Electric Code Board of Appeals
(X) Fire Code Board of Appeals & Adjustments
( ) Historic District Commission
( ) Housing Assistance Bd.
( ) 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

Please return this form to Wendy Mathis, P.O. Box 1908, FSM, AR 72902
wmathis@fortsmithar.gov

The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Mathis, Administrative Assistant

DATE: December 8th, 2015

SUBJECT: Sebastian County Regional Solid Waste Management Board

The terms of Mr. Carl Davis and Director Mike Lorenz of the Sebastian County Solid Waste Management Board will expire January 21st, 2016. Mr. Davis wishes to be reappointed.

There are no other applicants available at this time.

Appointments are **by the Mayor confirmed by the Board of Directors,** two appointments are needed. The terms will expire January 21st, 2019.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 785-2801
www.fortsmithar.gov

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Sebastian County Regional Solid Waste Management Board

The purpose of the District is the protection of the public health and the state's environmental quality through the development and maintenance of a solid waste district for Sebastian County and the municipalities of Barling, Bonanza, Central City, Fort Smith, Greenwood, Hackett, Hartford, Huntington, Mansfield, Midland, and Lavaca. Further, the District shall serve to address local agencies, needs and other requirements as are more clearly defined in Act 752 of 1991.

City appointments are by the Mayor subject to confirmation by the Board of Directors, for three-year terms. One city appointment shall consist of a representative of Fort Chaffee. County appointments are by the County Judge subject to confirmation of the Quorum Court. Meetings are quarterly on call.

	Date Appointed	Term Expires
CITY APPOINTMENTS:		
Carl Davis Davis Iron & Metal P.O. Box 2796 (13-2796) 783-8931 (w) Fax: 783-0097	02/04/97	01/21/16
Director Mike Lorenz P.O. Box 1908 (02) 651-7001 DirectorLorenz@hotmail.com	01/06/15	01/21/16
Bruce D. King 1712 Houston Street (01) 806-5386 (h) (479) 573-2809 (w) BDKing@wacotitle.com	03/16/10	01/21/17
Andrew Galbach 9901 Butterfield Landing (03) 414-4988 (h) 649-0894 (w) andy@apfab.net	02/21/12	01/21/18
Andre Good P.O. Box 1908 (02) 285-4932 Good4Ward2@gmail.com	01/06/15	01/21/18

	Date Appointed	Term Expires
COUNTY APPOINTMENTS:		
Judge David Hudson Sebastian County Courthouse (1) 783-6139	01/21/98	01/21/16
Hugh Hardgrave, Mayor P.O. Box 3 Lavaca, AR 72941 806-6471	11/20/11	01/21/17
Ron Smith 101 Kelly Circle Lavaca, AR 72941 674-2947	02/18/14	01/21/17
FORT CHAFFEE REPRESENTATIVE:		
Lt. Col. Michael Stansky US Army Garrison ATZR-ZF Fort Chaffee, AR 72905-5000 484-3165	01/17/06	01/21/17

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: 11-23-15

Name: C. CARL DAVIS

Home Telephone: 479 452-8383

Home Address: 3917 South 27th circle

Work Telephone: 479 783-8931

Zip: FS 72901

Email: CARLC DAVIS IRONMETAL. COM

Occupation: President - DAVIS IRON & Metal
(If retired, please indicate former occupation or profession)

Education: LONGVIEW HIGH SCHOOL - KILGORE COLLEGE - U. of TEXAS

Professional and/or Community Activities: CHAIRMAN - SEBASTIAN COUNTY Reg. Solid WASTE BOARD, UAFS - foundation, Mercy Hospital - foundation BOARD, US MARSHALL'S foundation BOARD HCC BOARD, Institute of Scrap Recycling BOARD

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 consid[illegible]

Drivers License [illegible] Date of Bi[illegible] This information will [illegible] ck ground check of all applica[illegible]

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
( ) Comprehensive Plan Imp. Committee
( ) Convention Center Commission
( ) Civil Service Commission
( ) CIP Committee (Streets, Bridges, & Drainage)
( ) Community Development Advisory Com.
( ) County Equalization Board
( ) Electric Code Board of Appeals
( ) Fire Code Board of Appeals & Adjustments
( ) Historic District Commission
( ) Housing Assistance Bd.
( ) 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
(X) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board

Please return this form to Wendy Mathis, P.O. Box 1908, FSM, AR 72902
wmathis@fortsmithar.gov