



AGENDA

**FORT SMITH BOARD OF DIRECTORS
REGULAR MEETING**

MARCH 16, 2010 ~ 6:00 P.M.

**FORT SMITH PUBLIC SCHOOLS
SERVICE CENTER
3205 JENNY LIND ROAD**

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

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

MAYOR'S ANNOUNCEMENTS AND RECOGNITIONS

APPROVE MINUTES OF THE MARCH 2, 2010 REGULAR MEETING

CITIZENS FORUM ~ Opportunity to present to the Board of Directors any item of business or other matter which is not already scheduled on the agenda

ITEMS OF BUSINESS:

1. Ordinance adopting amendments to the Fort Smith Flood Damage Prevention Ordinance
2. Items relative to contract for Lake Shepherd Springs Project
 - A. Resolution making determinations regarding the contract with Southern Building Services, Inc. with reference to Lake Shepherd Springs Project No. 99-01-C15A, assessing liquidated damages under the provisions of the contract and authorizing the City Administrator and City Attorney to take all actions necessary to conclude the contract
 - B. Resolution authorizing the City Administrator and City Attorney to extend settlement offer

3. Consent Agenda

- A. Resolution accepting completion of and authorizing final payment for the construction of Grand Avenue Overlay, Phase 2, Project No. 09-00-B (\$27,552.25)
- B. Resolution authorizing a change order for the construction of Car-Mart Box Culvert Replacement, Project No. 09-06-B (\$15,804.18)
- C. Resolution accepting completion of and authorizing final payment for the construction of Car-Mart Box Culvert Replacement, Project No. 09-06-B (\$69,571.10)
- D. Resolution of the Board of Directors of the City of Fort Smith authorizing the purchase of computer equipment and software for the implementation of the Virtual Infrastructure Project of the Fort Smith Police Department (\$116,208.08)
- E. Resolution of the Board of Directors of the City of Fort Smith expressing interest to participate in Google's "Fiber for Communities" Project and endorsing the response to a request for information issued by Google, Inc.
- F. Resolution authorizing partial payment to Branco Enterprises, Inc. for construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2 (\$871,759.81)
- G. Resolution authorizing partial payment to Crossland Heavy Contractors for construction of the Lake Fort Smith Water Treatment Plant - Contract 3 (\$1,414,861.81)
- H. Resolution authorizing additional work with Forsgren, Inc. for the Wet Weather Line Capacity Improvements, South "O" Street (\$259,646.00)
- I. Resolution accepting the bid of and authorizing the Mayor to execute a contract with T-N-T, Inc. for the Transmission Line Clearing and Location Project (\$77,871.00)

DIRECTORS FORUM

CITY ADMINISTRATOR'S REPORT

EXECUTIVE SESSION

Appointments: Convention Center Commission (1), Housing Assistance Board (1), Planning Commission (4) and Sebastian County Regional Solid Waste Management Board (1)

ADJOURN

ORDINANCE NO. _____

**AN ORDINANCE ADOPTING AMENDMENTS TO THE FORT SMITH
FLOOD DAMAGE PREVENTION ORDINANCE**

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

SECTION 1: Section 11-1 of the Fort Smith Municipal Code is hereby amended to delete the existing definition for "*New Construction*" and add the following definition.

New Construction shall mean, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements or additions to such structures.

SECTION 2: Section 11-6 of the Fort Smith Municipal Code is hereby amended to read as follows:

The areas of special flood hazard for the City of Fort Smith identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Sebastian County Arkansas," dated May 20, 2010 with effective Flood Insurance Rate Maps (FIRM) dated May 20, 2010 are hereby adopted by reference and declared to be a part of this chapter.

SECTION 3: Section 11-37 of the Fort Smith Municipal Code is hereby amended to add the following:

(11) Obtain accreditation each year as required by A.C.A. §14-268-106 through the State Coordinating Agency, which is the Arkansas Natural Resources Commission.

SECTION 4: Section 11-61 of the Fort Smith Municipal Code is hereby amended to add the following:

(8) A substantial improvement or substantial damage to an existing structure triggers a requirement to bring the entire structure into full compliance with the provisions of this Code. The existing structure, as well as any reconstruction, rehabilitation, addition, or other improvement, must meet the standards of new construction in this Code.

*Approved as to form
JSC
Publish Here*

SECTION 5: Section 11-62 of the Fort Smith Municipal Code is hereby amended to read as follows:

In Zone A areas of special flood hazards, the applicant or the applicant's agent must determine a base flood elevation prior to construction. The base flood elevation must be based on a source or method approved by the Floodplain Administrator.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 11-6, Section 11-37 (8) or Section 11-63 (c), the following provisions are required:

1. **Residential Construction.** New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to 1 foot or more above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection is satisfied.
2. **Nonresidential Construction.** New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to 1 foot or more above the base flood level or together with attendant utility and sanitary facilities, be designed so that below an elevation of 1 foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
3. **Enclosures.** New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b) The bottom of all openings shall be no higher than one foot above grade.
 - c) Openings may be equipped with screens, louvers, valves, or other coverings

or devices provided that they permit the automatic entry and exit of floodwaters.

4. **Manufactured Homes.**

- a) Require that all manufactured homes be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b) Require that manufactured homes that are placed or substantially improved on sites
 - 1. outside of a manufactured home park or subdivision,
 - 2. in a new manufactured home park or subdivision,
 - 3. in an expansion to an existing manufactured home park or subdivision, or
 - 4. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood,

be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to 1 foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of subsection (4) of this section be elevated so that either:
 - 1. The lowest floor of the manufactured home is 1 foot or more above the base flood elevation, or
 - 2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. **Recreational Vehicles.** The placement of recreational vehicles must either:
- a) Be on the site for fewer than 180 consecutive days,
 - b) Be fully licensed and ready for highway use, or
 - c) Meet the permit requirements of Section 11-39(a), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

SECTION 6: EMERGENCY CLAUSE: It is hereby found and determined that an emergency exists by reason of the need for amended and additional regulations of the floodplain within the City of Fort Smith, and that the immediate effectiveness of these amendments to the Fort Smith Flood Damage Prevention Ordinance is necessary because of said emergency. Therefore, for the protection of the health, safety and welfare of the inhabitants of the City, this Ordinance shall be effective, and same is hereby made effective, as of the date of approval of this Ordinance.

PASSED AND APPROVED THIS _____ DAY OF MARCH, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

MEMORANDUM

To: Dennis Kelly, City Administrator
From: Stan Snodgrass, P.E., Director of Engineering *SS*
Subject: Amendments to the Flood Damage Prevention Ordinance
Date: March 11, 2010

The Federal Emergency Management Agency (FEMA) has recently updated the Flood Insurance Rate Maps and Study for the City. The new maps have been converted into digital format and will become effective on May 20, 2010. By that date the City will have to approve an ordinance that complies with the National Flood Insurance Program regulations and adopts the new Flood Insurance Rate Maps and Study.

The proposed changes are based on the model ordinance provided by the state coordinating agency for FEMA (Arkansas Natural Resources Commission) to satisfy the National Flood Insurance Regulations. Failure to adopt the ordinance by May 20, 2010 would result in suspension of the City from the National Flood Insurance Program and no flood insurance would be available to property owners within the City. Also property within the City located in the FEMA 100 year floodplain would be ineligible for most mortgage loans. The City would also be ineligible for certain disaster assistance and mitigation funds.

Included with this memorandum is an outline of the proposed changes to the Flood Damage Prevention Ordinance. The outline identifies the proposed changes as "~~strike-outs~~" where text has been removed or bolded "**additions**" where new text has been added.

Attached is an ordinance to provide for these amendments to the flood damage prevention ordinance. I recommend that the ordinance be adopted by the Board at the next regular meeting.

Enclosure

G:\SSnodgrass\My Documents\FEMA Map Modernization\kelly 030810.wpd

The City of Fort Smith Arkansas
Engineering Department
623 Garrison Avenue • P.O. Box 1908
Fort Smith, Arkansas 72902
Phone: 479-784-2225 • Fax: 479-784-2245

Flood Damage Prevention Ordinance (Chapter 11 of Fort Smith Municipal Code)
Outline of Proposed Changes (March 2010)

Sec. 11-1. Definitions.

Comment. The following definition has been modified as noted below. Where new text has been added it is **“bolded”**.

New construction shall mean, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community **and includes any subsequent improvements or additions to such structures.**

Sec. 11-6. Basis for establishing the areas of special flood hazard.

Comment. The following section has been modified as noted below. Where new text has been added it is **“bolded”**.

The areas of special flood hazard **for the City of Fort Smith** identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for ~~the City of Fort Smith Sebastian County~~ **Arkansas,**" dated ~~August 19, 1986~~ **May 20, 2010** with ~~accompanying effective~~ **Flood Insurance Rate Maps and flood boundary-floodway maps (FIRM and FBFM) dated May 20, 2010** ~~and any revisions thereto~~ are hereby adopted by reference and declared to be a part of this chapter.

Sec. 11-37. Same--Duties and responsibilities.

Comment. The following subsection **“11”** has been added.

(11) Obtain accreditation each year as required by A.C.A. §14-268-106 through the State Coordinating Agency, which is the Arkansas Natural Resources Commission.

Sec. 11-61. General standards.

Comment. The following subsection **“8”** has been added.

(8) A substantial improvement or substantial damage to an existing structure triggers a requirement to bring the entire structure into full compliance with the provisions of this Code. The existing structure, as well as any reconstruction, rehabilitation, addition, or other improvement, must meet the standards of new construction in this Code.

Sec. 11-62. Specific standards.

Comment. The following section and subsections have been modified as noted below. Where new text has been added it is “**bolded**”.

In Zone A areas of special flood hazards, the applicant or the applicant’s agent must determine a base flood elevation prior to construction. The base flood elevation must be based on a source or method approved by the Floodplain Administrator.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 11-6, section 11-37(8) or section 11-63(c), the following provisions are required:

(1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to **or 1 foot or more** above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection is satisfied.

(2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to **or 1 foot or more** above the base flood level or together with attendant utility and sanitary facilities, be designed so that below **an elevation of 1 foot above** the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.

(3) Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one (1) foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) Manufactured homes.

- a. Require that all manufactured homes ~~to be placed within Zone A on a community’s~~

~~FHBM or FIRM shall~~ be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

b. Require that manufactured homes that are placed or substantially improved on sites:

1. Outside of a manufactured home park or subdivision;
2. In a new manufactured home park or subdivision;
3. In an expansion to an existing manufactured home park or subdivision; or
4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood;

be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to ~~or~~ **1 foot or more** above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision ~~within Zones A1-30, AH and AE on the community's FIRM~~ that are not subject to the provisions of subsection (4) of this section be elevated so that either:

1. The lowest floor of the manufactured home is ~~at or~~ **1 foot or more** above the base flood elevation, or
2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) Recreational vehicles. ~~Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:~~ **The placement of recreational vehicles must either:**

- a. Be on the site for fewer than one hundred eighty (180) consecutive days;
- b. Be fully licensed and ready for highway use; or
- c. Meet the permit requirements of section 11-39(a), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

RESOLUTION NO. _____

A RESOLUTION MAKING DETERMINATIONS REGARDING THE CONTRACT WITH SOUTHERN BUILDING SERVICES, INC. WITH REFERENCE TO LAKE SHEPHERD SPRINGS PROJECT 99-01-C15A, ASSESSING LIQUIDATED DAMAGES UNDER THE PROVISIONS OF THE CONTRACT AND AUTHORIZING CITY ADMINISTRATOR AND CITY ATTORNEY TO TAKE ALL ACTIONS NECESSARY TO CONCLUDE THE CONTRACT

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

SECTION 1: It is hereby determined that the construction contract between the City of Fort Smith and Southern Building Services, Inc. for the construction of the Lake Shepherd Springs Recreational Area Pool House, Upper Bath House, Lower Bath House, Marina Office, Day-Use pavilion and Day-Use Restroom Project, Project 99-01-C15A, is accepted as final by the City even though the following elements of work have not been completed:

Pool house roll down shutter, pool house spot lighting, bath house epoxy floors, bath house block wall mortar joint cleaning and resealing, and closeout submittals for a total amount of \$20,000.

Except for the identified uncompleted items, the work under the contract is accepted as final as of the 16th day of March , 2010, subject to the warranty provisions of the contract.

SECTION 2: Pursuant to the terms of the contract, the City of Fort Smith hereby assesses liquidated damages to Southern Building Services, Inc. in the hereinafter identified amounts:

- a) Liquidated damages for day-use restroom from contract date to substantial completion - \$45,000;
- b) Liquidated damages for other contract work from contract date to substantial completion - \$89,250;
- c) Liquidated damages for other contract work to final completion - \$156,600.

SECTION 3: Inasmuch as the cost of completing the uncompleted items identified in Section 1 and the liquidated damages assessed by Section 2 are in excess of retainage and other amounts owed to the contractor, the work under the subject contract is accepted as final without further payment to Southern Building Services, Inc. The City Administrator and the City Attorney are authorized to take any and all necessary actions to collect sums owed to the City by Southern

*Approval as to form
JSE
NO publication required*

Building Services, Inc. pursuant to the provisions of the subject contract and the determinations made by this Resolution.

THIS RESOLUTION adopted this _____ day of March, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING CITY ADMINISTRATOR
AND CITY ATTORNEY TO EXTEND SETTLEMENT OFFER

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

SECTION 1: The City Administrator and the City Attorney are hereby authorized to extend to Southern Building Services, Inc. a compromise resolution of all issues (other than warranty issues) arising from the contract between the City and Southern Building Services, Inc. with reference to the Lake Shepherd Springs Recreational Area Pool House, Upper Bath House, Lower Bath House, Marina Office, Day-Use Pavilion and Day-Use Restroom Project, Project 99-01-C-15A, providing for a payment in the amount of \$94,701.22 to Southern Building Services, Inc. and final acceptance of the contract work as of March 16, 2010 (subject only to the warranty provisions of the subject contract).

SECTION 2: The settlement offer authorized to be extended by Section 1 above shall be subject to acceptance by Southern Building Services, Inc. only until 5:00 p.m. on March 31, 2010.

SECTION 3: In the event the settlement offer extended by Section 1 is accepted by Southern Building Services, Inc. within the time period specified in Section 2, the City Administrator and the City Attorney are authorized to take any and all necessary action to effectuate the settlement agreement.

THIS RESOLUTION adopted this _____ day of March, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: March 9, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Lake Shepherd Springs Recreational Area Pool House,
Upper Bath House, Lower Bath House, Marina Office,
Day-Use Pavilion and Day-Use Restroom
Project Number 99-01-C15A

As you are aware, Southern Building Services (SBS), the contractor for the above captioned project, has indicated that the January 19, 2010, settlement offer regarding contract time and amount you extended was unacceptable. No counteroffer was made by SBS for consideration by your office or review by the Board. The City should now proceed to close out the project according to the terms of the contract. A copy of your January 19 letter and the response from SBS are attached.

There has been a considerable amount of information presented to the Board by both staff and SBS, some of which was prepared by the respective legal counsel for each party, and the issues surrounding the completion of the contract are complex and technical. The following items are key points which must be considered:

- This contract was one of two final projects required to be complete for the opening of the new Lake Fort Smith State Park and thus, it contained specific completion times as anticipated by the Memorandum of Agreement between the City and Arkansas Department of Parks and Tourism (ADPT). SBS did not perform timely and ADPT's planned initial operations and park opening were delayed. The work for the day-use restroom reached substantial completion 180 days beyond the adjusted contract time. The substantial completion of the remaining five buildings was reached 119 days beyond the adjusted contract time. The conditions for achieving final completion of the contract have not yet been satisfied and will be discussed separately.

- The contract between the City and SBS states that the contractor agrees to forfeit and pay liquidated damages for failure to meet the completion dates established therein. A copy of my January 19, 2010, memo regarding the role of liquidated damages within a contract is attached. The calculation of liquidated damages that SBS agreed to forfeit and pay for failing to reach the contract's substantial completion dates is as follows:

- day-use restroom 180 days @ \$250 each day	\$45,000
- five other structures 119 days @ 750 each day	\$89,250
subtotal	\$134,250

Final completion of the contract was to be accomplished within 15 days following the substantial completion set for the five other structures. That date was May 20, 2008.

- The contract states that the contractor agrees to forfeit and pay liquidated damages in the amount of \$200 for each calendar day that expires after the time specified for final completion; which was January 23, 2008. This calculation shows that any remaining balance within the contract would have been exhausted within 248 days; which was September 28, 2008. On April 2, 2009, legal counsel representing SBS provided information stating that if an agreement for liquidated damages could be reached that SBS was willing to consider a separately bonded contract to complete the remaining uncompleted work. April 2, 2009, is 434 days after the specified final completion date of January 23, 2008, and SBS is acknowledging that there is still outstanding work to be completed at that time. Additional settlement offers have been extended by the City and were rejected. It has now been 726 days since the required final completion date of January 23, 2008, to the date of your final settlement offer made on January 19, 2010.
- SBS previously presented information claiming that they were being treated differently as no other contractor performing State Park related projects had not been paid the balance of their contract amounts. That information was not correct. Liquidated damages totaling \$327,276 had been withheld from six of the State Park construction contracts. The State Park projects are designated by a 99-01 project number. A copy of my November 20, 2009, memo addressing that subject is attached.
- At the December 8, 2009, Board study session it was requested that staff provide the contractor with a comprehensive list of items required to be prepared, assembled and submitted for closeout documents as stipulated by the contract documents. That information is presented by the letter prepared by Tim A. Risley & Associates letter of December 21, 2009, and was provided to SBS. A copy of that letter is attached. As this is an all-inclusive list, it obviously will contain items of significance as well as those of lesser significance. While SBS has raised a few points directed toward the provisions of warranties for some of the lesser items, SBS is distracting the attention away from their failure to provide the significant items such as:
 - certificates of inspection and approvals of the work from the State plumbing and electrical divisions.
 - written, documented changes made during the course of the construction shown on contract documents for record purposes and transfer to ADPT for their future facility management.
 - operations manuals and warranty information for the multiple HVAC systems and exhaust equipment installations.

- operations and warranty information for multiple water heaters and plumbing fixtures.
- warranty information on doors and door hardware.
- termite treatment certificates for each of the six buildings.

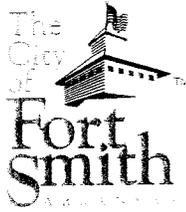
Operations and warranty manuals prepared and provided by several other contractors who have completed improvements as part of the construction of the State Park will be available at the meeting should members of the Board want to see examples of properly submitted closeout documentation. It should be noted that SBS reviewed some of these same documents, and requested copies of selected pages contained within them, while reviewing the files maintained by Mickle Wagner Coleman in January 2009 as part of their Freedom of Information Act request. SBS has knowledge of what is required and what they were to provide.

The previous settlement offers extended by the City have included reductions of the liquidated damages for days when rainfall occurred. SBS had not previously requested additional days due to rain as allowed under the contract until suggested by staff in settlement discussions with SBS's legal counsel. The rain days requested by SBS were accepted and included in a subsequent settlement offer which was rejected. Staff made a further review of the number of days requested by SBS and compared them to rainfall amounts recorded at the project site. That review indicated that additional rain days probably could have been requested by SBS, and although not requested by SBS, additional rain days were included by staff in the city's next settlement offer of reduced liquidated damages which was also rejected. That settlement offer was then adjusted further by you to reduce the amount of the liquidated damages assessment by an additional \$20,000 with the provision that SBS would complete their remaining contract obligations. That offer was also rejected by SBS.

This contract should now be brought to conclusion. Two Resolutions are attached, the first concludes the contract matters within the conditions of the contract and second once again extends your last settlement offer for SBS's consideration through the end of the business day on March 31. Two project summary sheets are also attached, one summarizing the project as provided by the contract terms and the other summarizing the project as provided by the settlement offer. The attached Resolutions are those which department staff, your office and the City Attorney's office recommend be considered by the Board of Directors for the conclusion of this matter.

attachment

pc: Ray Gosack
Jerry Canfield



January 19, 2010

Mr. Brian Puckett
Southern Building Services, Inc.
3711 Newlon Road
Fort Smith, Arkansas 72904

Re: Lake Shepherd Springs Recreational
Area Project 99-01-C15A

Dear Mr. Puckett:

In the interest of concluding the above captioned project, the City is prepared to reduce the liquidated damages amount currently available for assessment under the terms of the contract, as a negotiated settlement, to \$69,000.00. In addition to the liquidated damages, an amount of \$20,000.00 will also be withheld from the contract balance as the City's estimated expense to takeover the completion of all outstanding work with the immediate closeout of the contract with Southern Building Services. This would result in a final payment amount of \$94,701.22. All other terms of the contract related to warranty or performance guarantees for the work performed by Southern Building Services would remain in effect.

Please let me know if this settlement offer is acceptable in principal. If acceptable, the City Attorney will prepare the appropriate and necessary documents to effect the settlement of the contract and staff will recommend to the governing body of the City a contract closeout based upon those terms.

The City's willingness to discuss issues and attempts to reach an eventual resolution is not a waiver of the right of the City to insist on strict adherence to the contract provisions if the City and Southern Building Services are unable to reach an agreement regarding resolution.

I appreciate your attention to this matter.

Sincerely,

Dennis Kelly
City Administrator

pc: Mayor and Board of Directors
Ray Gosack, Deputy City Administrator
Jerry Canfield, City Attorney
Steve Parke, Director of Utilities

**SOUTHERN
BUILDING
SERVICES INC.**

3711 Newlon
Fort Smith, AR 72904
479-494-7776
Fax: 479-494-7779

February 3, 2010

The City of Fort Smith
P. O. Box 1908
623 Garrison Ave.
Fort Smith, Arkansas 72901

City Administrator Kelley:

I am writing to address your letters dated January 19, 2010. First, I address your letter concerning out documentation requested; we have repeatedly provided the information previously requested. You now (many months later) have requested dozens of manufacturer's warranty registration cards for such things as robe hooks, shower rods, and toilet tissue dispensers. I have never, nor have any of the suppliers or manufactures on this project seen such requests for warranty cards on items such as this. I would be willing to work with the City to compile as many of these as I can, however, like all of the items, this is no basis to withhold money from my contract. And, by now, with the possible exception of major mechanical equipment, standard manufacturer's warranties on items such as toilet tissue dispensers would have long since expired.

Included in the above referenced letter there is a one-page document titled: "Uncompleted Work." I want to make sure everyone understands that these items were not on the Final Punch List that was prepared by the Architect and completed by SBS. These items were raised with SBS after Final Punch Out and after a dispute arose over payment. Nothing in the Contract Documents allows the City to withhold money owed based on such warranty items; the items of "Uncompleted Work" are at best warranty issues.

Pool House

Roll-Down Shutter: Months after Final Punch Out, the City raised an issue over the function of one of the latches on the shutter. By email dated April 15, 2009, I advised Mr. Parke that the problems with the latch had been addressed and the paint on the shutter was being touched up. Mr. Parke responded concerning the paint, but raised no further complaint concerning the function of the latch. Until now, I assumed this minor issue had been resolved. The shutter has now been in use for over two years and any warranty is questionable.

Spot Lights: Because of the installation called for on the plans, the back side of the fixtures could be seen. This was not on the Final Punch List. As it is readily visible upon inspection, this is not a proper warranty issue either. Nonetheless, in an effort to satisfy the City, I sent a crew to paint and install backer plates on the fixtures, so one could not see the backside of the fixture as requested. The fixtures were originally installed exactly per specification and for that reason were not on the punch list. Again, this was a desire by the City of work to be done above the requirements of the contract documents and at a later date; it was not on the punch list. This is a minor issue; and once again, the fixtures have been functioning now for more than two years.

Upper Bath House

Men's Side and Women's Side epoxy floors - We had an on-site inspection on October 31, 2008 with City engineer Jack Dillon, MWC engineer Bobby Aldridge, and architect Danny Johnson of Tim Risley & Associates, myself and my attorney Matthew Carter. During this on-site inspection of all structures, the small black divots in the epoxy floors were brought to Mr. Johnson's attention. Mr. Johnson pointed out that these items were not on the Final Punch Lists and further observed that in his opinion the minor issues were caused by cigarettes dropped on the floor by park patrons. I am unaware that the architect has changed his opinion on this issue and to the best of my knowledge this is the very first claim that there are foreign contaminants within the flooring system.

Women's Side block mortar - This was not on a punch list and was not brought to SBS's attention until months after the park was in use by the public. This issue is clearly effervescence of the lime from the block and mortar causing the white milky color to the mortar. Due to no fault of SBS, the automatic shower valves specified by the City created the presence of excessive water inside the block walls; we have previously and repeatedly at our own expensive cleaned, removed and re-installed floors due to these water issues that were created. Water trapped there seeped out causing this appearance and the effects. This is a non-structural cosmetic issue created at no fault of SBS.

In sum, all of these issues are warranty issues, at best. Nowhere do the Contract Documents contractually allow the City to withhold money to cover warranty issues. And the cost estimate of \$20,000 allowance for these items; if repairs or replacement work was applicable, this amount would seem unreasonably high.

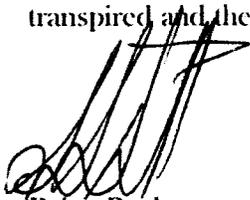
As to the City's settlement offer, I have tried to work with the City to resolve this matter for months; this all goes back to contract close out. During June 2007, I emailed the Engineer requesting exactly what I needed to do to punch out the project and get paid. I was given a substantial punch list and I was told that when SBS completed all these items the Engineer would send me the Final Change Order and Final Pay Estimate/Application. We did everything that was asked of us. Email communications make it clear that everything met the standards of the City and Engineer, and the Engineer was to process final payment. Then, in July 2007, after I resolved every final punch list item (with the exception of product paperwork that as expressed was to be

delivered with final pay documents), Engineer sent me the Final Change Order. I understood per the contract documents that the Final Change Order would make all changes to the contract amount. I was happy to see that City and Engineer were not seeking to impose liquidated damages on SBS. SBS was not holding up the opening of the park, and SBS had worked through a number of issues with the City. I reviewed the contract documents, executed the Final Change Order and delivered it to the Engineer; the Engineer then sent me a Final Pay Estimate/Application showing liquidated damages. This was not only unfair and misleading to SBS, but it was inconsistent with the contract documents and other contract closeout practices.

Since then, I have pointed out where the Contract Documents require the assessment of liquidated damages, if any, in the Final Change Order. Also, I have pointed out to the City how all other LSSRA Contractors were treated differently in contract close out. I do not understand why SBS was treated differently in contract close out, but we were. I cannot accept liquidated damages that are unfair and that were not properly imposed per contract documents. I have lost hundreds of man hours, additional costs of work, attorney's fees, and the interest on monies owed to me.

I can no longer afford to continue to lose money; while the City continues to improperly withhold monies due in addition to the monies that have been in dispute for more than a year. I can not accept anything less than a minimum of the balance past due of my reconciled contract amount.

Again, I thank those of the Directors that attempted to work to better understand what has transpired and the position we find ourselves in.



Brian Puckett
President
Southern Building Services Inc.

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: January 19, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Lake Shepherd Springs Recreational Area
Southern Building Services
Project Number 99-01-C15A

The attached has been prepared in follow up to the January 6, 2010 email from Mr. Brian Puckett, Southern Building Services (SBS). As you will see, in addition to supplying the information he requested we are asking Mr. Puckett to provide us with SBS's position on completing the remaining work and contract obligations. Upon receiving that input we will be able to schedule this matter for the Board's consideration.

I also feel that additional discussion about the role that the provision for liquidated damages serves within the contracting function would be helpful at this time. Liquidated damages do not serve as a penalty to the contractor. The standard Contract that the City uses as part of its construction documents specifically states the following in that regard:

The Contractor agrees to forfeit and pay, as Liquidated Damages for delay (but not as a penalty), the amount of \$_____ for each consecutive calendar day thereafter that expires after the Contract Time specified for Substantial Completion until the Work is Substantially Complete; and the amount of \$_____ for each consecutive calendar day that expires after the time specified for Final Completion until the Work is completed and ready for Final Payment.

Although a bit lengthy to read, it is important that the standard contract terms be understood as they apply to the contract entered into with SBS. The Standard General Conditions within the contract documents define the contract terms for liquidated damages assessment as follows:

It is hereby understood and mutually agreed, by and between the Contractor and Owner, that the date of beginning and the time for completion as specified in the contract of Work to be done hereunder are essential conditions of this contract; and it is further mutually understood and agreed that the Work embraced in this contract shall be commenced on a date to be specified in the Notice to Proceed or on the date on which the Contract Time commences to run, as defined in Article 2 of these Standard General Conditions. The Contractor agrees that said Work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the Work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

If the said Contractor shall neglect, fail or refuse to complete the Work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay the Owner the amount specified in the contract, not as a penalty but as liquidated

damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the Work. The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damage which the Owner would sustain.

When this project was advertised for bids, it was understood that the contract time was set for the work to be completed quickly to enable the new Lake Fort Smith State Park to open in the time frame anticipated by the Memorandum of Agreement between the City and Arkansas Department of Parks and Tourism (ADPT). Therefore, the bids submitted reflected the contractor's obligation to provide additional labor and equipment above that which would normally be supplied for work performed under a more traditional length contract time in order to complete the project within the specified time frame. The City and ADPT were paying a premium so that the project would be completed within a compressed completion schedule.

SBS did not perform timely. Therefore, the City and ADPT would pay a premium for a product that was not delivered. This is where the provision for liquidated damages provides protection to the City in this situation as well as providing a level bidding climate for all contractors. Any contractor who submitted a bid had to factor the burden to meet the shorter contract time into their pricing. As agreed by the contractor and City at the time of entering into the contract, the City is able to recover costs associated with delay through liquidated damages and contractors are discouraged from submitting an artificially low bid in order to win the bid award with the intent of not properly staffing or pursuing the work.

This project included separate substantial completion and final completion dates for the day-use restroom from the remaining five buildings in order to meet the ADPT's desire to open different areas of the park individually. SBS reached substantial completion of the day-use restroom 180 days after the adjusted contract time and final completion 96 days after the time stated for final completion. The substantial completion for all other buildings was reached 119 days after the adjusted contract time and SBS has still yet to meet the contract requirements for final completion. As stated in Mr. Jerry Canfield's letter of December 15, 2008 to Mr. Matthew Carter, the liquidated damages associated with SBS not meeting the contract requirements for final completion continue to accrue.

In addition to the information being provided to Mr. Puckett in response to his January 6, 2009 email, I understand that you will be once again extending a settlement offer, which now also includes the City addressing the uncompleted work, for his consideration. As discussed, it is probably not beneficial to schedule this for additional discussion at a study session, but if the Board feels differently let me know. Otherwise, once we receive Mr. Puckett's responses on these various matters, staff will prepare options to close this contract for the Board's consideration.

Should you have any questions, please let me know.

attachment

pc: Ray Gosack, Deputy City Administrator
Jerry Canfield, City Attorney

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: November 20, 2009

FROM: Steve Parke, Director of Utilities

SUBJECT: Utility Department Managed Construction
Contracts - Liquidated Damages Assessment

Director Maddox recently requested that the utility department provide information showing the various contracts the utility department had assessed liquidated damages and those amounts. As you know, liquidated damages are stated within the contract documents as an amount, agreed to in advance by the contractor as part of their entering into the contract, as a daily amount which will be assessed due to late completion of the work. The attached table shows for the 10-year period between January 1, 1999, through November 16, 2009, there have been nine contracts where liquidated damages have been assessed for a combined total of \$550,176.

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

attachment

pc: Ray Gosack

**Utility Department Managed Construction Contracts
Liquidated Damages Assessed - 01-01-1999 through 11-16-2009**

Project	Project No.	Contractor	Contract Amount	L D Assessed
Lee Creek Water Treatment Plant Improvements	99-08-C1	Van Horn Construction	\$6,826,053	\$67,000
Lake Shepherd Springs Residences & Maintenance Facility	99-01-C4	J. A. Jackson Construction	\$540,757	\$92,800
Lake Shepherd Springs Road Relocation	99-01-C1	Wilson Brothers Construction	\$2,796,497	\$85,000
Contract Water Users Facility Adjustments - Water Lines & Pump Station	99-01-C6	Goodwin & Goodwin	\$1,366,596	\$29,500
Lake Shepherd Springs Recreational Area - Residence No. 3	99-01-C20	Jay-Con Builders	\$224,725	\$5,000
Lake Shepherd Springs Recreational Area - Swimming Pool & Pump House	99-01-C24	Freddy Vans of Arkansas	\$998,000	\$74,250
Lake Shepherd Springs Recreational Area - Paving & Parking Lots	99-01-C17	Forsgren	\$1,072,440	\$40,726
"P" Street WWTP Improvements - Phase 1	00-01-C3	Branco Enterprises	\$16,014,630	\$140,500
Howard Hill Water Transmission Line	06-06-C2	Wilson Brothers Construction	\$1,124,188	\$15,400
Lake Shepherd Springs Recreational Area - Group 3 Buildings	99-01-C15A	Southern Building Services	\$1,698,401	Pending
Subtotal				\$550,176

TIM A. RISLEY & ASSOCIATES
ARCHITECTS AND PLANNERS

December 21, 2009

Mr. Bobby Aldridge
Mickle Wagner Coleman, Inc.
P.O. Box 1507
Fort Smith, AR 72902

RE: Lake Shepherd Springs Recreational Area
Group 3 Structures

Bobby,

As of this date the following closeout documents, per the project manual, remain incomplete.

1. Division 1: Refer to Section 01700, Contract Closeout.
 - A. Project record documents incomplete per requirements of Section 01720, Project Record Documents:
 1. Written, documented changes during the course of the construction process were not posted on record documents, job set drawings or project manual.
 2. The only as-built markings on drawings were plumbing routings. Also need any electrical and hvac routing changes, framing changes, site changes, etc.
 - B. Operation and maintenance manuals not received with exception of one manual for ductless thru-wall heat pumps at pool house office.
 1. Need operating and maintenance manuals as called for in Section 15010, General Provisions, Paragraph 3.07, for mechanical equipment and systems as follows:
 - Air handling units.
 - Condensing unit/coil.
 - Exhaust/supply fans.
 - Plumbing fixtures (including exterior drinking fountain).
 - Domestic water heaters.
 - Piping valves/circulation pumps/flex connectors and specialties.
 2. Need operating and maintenance manuals for all electrical equipment and systems per Section 16010, Basic Electrical Requirements, Paragraph 3.15, for electrical equipment and systems as follows:
 - Lighting fixtures.
 - Miscellaneous starters and control stations.
- C. Project Guarantees/Warranties submittals incomplete. Need complete, fully written warranties and registration cards from all product manufacturers. See listings below under products specific division of project manual.

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D. Need copy of Certificate(s) of all required final inspections/approvals by governing authorities (State Health plumbing certificate) viewed at substantial completion.

E. Need evidence of payments and release of liens per Paragraph 1.07 as follows:

1. Contractor's Affidavit of Payment of Debts and Claims.
2. Contractor's Affidavit of Release of Liens: Use form approved by City of Fort Smith, Arkansas.
 - a. Consent of Surety to Final Payment: Use form approved by City of Fort Smith, Arkansas.
 - b. Contractor's release of waivers of liens for subcontractors, suppliers, and others with lien rights against property of Owner, together with list of those parties.
3. All submittals will be duly executed before delivery.

F. Contractor to provide final statement of accounting to Engineer per Paragraph 1.08.

1. Statement will reflect all adjustments.
 - a. Original Contract Sum.
 - b. Additions and Deductions resulting from:
 1. Previous Change Orders
 2. Cash Allowances
 3. Unit Prices
 4. Other adjustments
 5. Deductions fro uncorrected work
 6. Penalties and bonuses
 7. Deductions for liquidated damages
 8. Deductions for reinspection payments
 - c. Total Contract Sum as adjusted.
 - d. Previous payments.
 - e. Sum remaining due.
2. Engineer will prepare final Change Order, reflecting approved adjustments to Contract Sum not previously made by Change Orders.

G. Contractor to provide final application for payment, per Paragraph 1.09 in accordance with requirements of General and Supplementary Conditions.

2. Division 2:

- Need termite treatment certificate with warranty and applicator's information in binder.

3. Division 4:

- Need approved product submittal information and manufacturers standard fully printed warranty, in binder, for water repellent provided at stone veneer.

4. Division 5:

- Need approved shop drawings and product information, in binder, for railings at bathhouses and pool house gates.

5. Division 7:

- a. Need approved product submittal information, in binder, for the following:
 - Building insulation.
 - Building wrap/moisture barrier.
- b. Need manufacturers standard fully printed warranties, in binder, for the following:
 - Building insulation.
 - Roofing.
 - Roof vents.
 - Flashings.
 - Sealants.

6. Division 8:

- a. Need manufacturers standard fully printed warranties, in binder, for the following:
 - Windows.
 - Door hinges.
 - Door closers.
 - Thresholds, door sweeps and weatherstripping.
 - Floor stops, push/pull plates and kick plates.
 - Locksets and deadbolts.
- b. Needs approved product submittal information and manufacturers standard fully printed warranty, in binder, for obscure glazing.

7. Division 9:

- a. Need ceramic tile and VCT approved product submittal, flooring installers information and manufacturers standard fully printed warranty in binder.
- b. Need manufacturers standard full printed warranty information, in binder, for seamless epoxy flooring.

8. Division 10:

- a. Need manufacturers standard fully printed warranties, in binder, for the following:
 - Toilet compartments/HDPE vanity tops.
 - Identification signs/plaques.
 - Fire extinguishers and cabinets.
 - Toilet accessories (separate warranty for each manufacturer).
 - Baby changing stations.
- b. Need manufacturers warranty registration cards, in binder, for each of the following equipment and accessories:
 1. Pool House:
 - (11) Robe hooks.
 - (4) Toilet tissue dispensers.
 - (3) Sanitary napkin disposals.

- (5) Mirrors.
- (9) Grab bars.
- (2) Custodian shelves.
- (3) Towel dispenser/trash receptacles.
- (3) Soap dispensers.
- (2) Baby changing stations.
- (8) Shower corner shelves.
- (8) Shower curtains and hooks.
- (8) Shower rods.
- (1) Folding shower seat.

2. Lower & Upper Camping Bath Houses:

- (30) Robe hooks.
- (10) Toilet tissue dispensers.
- (6) Sanitary napkin disposals.
- (4) Mirrors.
- (12) Grab bars.
- (2) Custodian shelves.
- (4) Towel dispenser/trash receptacles.
- (8) Soap dispensers.
- (4) Baby changing stations.
- (16) Shower corner shelves.
- (8) Shower curtain and hooks.
- (8) Shower rods.

3. Day-Use Restrooms Building:

- (5) Robe hooks.
- (5) Toilet tissue dispensers.
- (3) Sanitary napkin disposals.
- (2) Mirrors.
- (4) Grab bars.
- (1) Custodian shelf.
- (2) Towel dispenser/trash receptacles.
- (4) Soap dispensers.
- (2) Baby changing stations.

4. Marina Office Building:

- (2) Toilet tissue dispensers.
- (1) Sanitary napkin disposal.
- (2) Mirrors.
- (2) Towel dispenser/trash receptacles.
- (2) Soap dispensers.
- (4) Grab bars.

5. Day-Use Pavilion:

- (4) Bar-B-Q grills.
- (1) Trash receptacle.

c. Need approved product submittal information and manufacturers standard fully printed warranty, in binder, for the following:

- Sanitary wall panels at Marina office.
- Window blinds at Marina office.
- Grills and trash receptacles at D-U pavilion.

9. Division 15:

a. Need manufacturers standard fully printed warranty, in binder, for the following in binder:

- Air handling units.
- Condensing unit/coil.
- Filters.
- Exhaust/supply fans.
- Plumbing fixtures (including exterior drinking fountain).
- Insulation.
- Domestic water heaters.
- Valves/circulation pumps/flex connectors and specialties.
- Grilles and registers.
- Ductwork materials (including duct accessories).
- Piping materials (including valves).
- Piping and duct insulation materials.

b. Need manufacturers warranty registration cards, in binder, for each of the following fixtures and equipment:

1. Pool House:

- (2) Ductless heat pump units (AC-1 & AC-2).
- (1) Condenser (CU-1) for ductless system.
- (3) Exhaust fans (EF-1, EF-2 and EF-3).
- (3) H/C water closets (P-1) including valves.
- (1) Water closet (P-2) including valve.
- (1) H/C urinal (P-3) including valve.
- (5) H/C lavatories (P-4) including faucets.
- (2) H/C showers (P-5) including control valves, shower heads, drains and folding seats.
- (2) Showers (P-6) including control valves, drains and shower heads.
- (1) H/C double compartment sink (P-7) including sink, faucet and garbage disposer.
- (2) Service sinks (P-8) including faucets.
- (7) Floor drains (P-9).
- (2) Clean-outs to grade (P-10).
- (6) Hose bibs (P-11).

- (2) Water heaters (P-12).
 - (1) Drinking fountain (P-13).
 - (1) H/C shower unit (P-14) including control-valves, shower heads, grab bars, folding seat and drain.
2. Lower & Upper Camping Area Bath Houses:
- (2) Air handling units (AHU-1) including thermostats and filter racks.
 - (2) Exhaust fans (EF-1).
 - (4) H/C water closets (P-1) including valves.
 - (6) Water closets (P-2) including valves.
 - (2) H/C urinals (P-3) including valves.
 - (8) H/C lavatories (P-4) including faucets.
 - (4) H/C showers (P-5) including control valves, drains and shower heads.
 - (4) Showers (P-6) including control valves, drains and shower heads.
 - (4) Floor clean-outs (P-7).
 - (2) Service sinks (P-8) including faucets.
 - (4) Floor drains (P-9).
 - (2) Clean-outs to grade (P-10).
 - (4) Hose bibs (P-11).
 - (2) Water heaters (P-12).
 - (2) Drinking fountains (P-13).
 - (4) Wall clean-outs (P-14).
3. Day-Use Restrooms Building:
- (1) Air handling unit (AHU-1) including thermostat and filter rack.
 - (1) Exhaust fan (EF-1).
 - (2) H/C water closets (P-1) including valves.
 - (3) Water closet (P-2) including valves.
 - (1) H/C urinal (P-3) including valve.
 - (4) H/C lavatories (P-4) including faucets.
 - (1) Service sink (P-5) including faucet.
 - (3) Floor drains (P-6).
 - (1) Clean-out to grade (P-7).
 - (1) Hose bib (P-8).
 - (2) Hose bibs (P-9).
 - (2) Wall clean-outs (P-10).
 - (1) Water heater (P-11).
 - (1) Drinking fountain (P-12).
4. Marina Office Building:
- (1) Ductless heat pump unit (HP-1).
 - (1) Condenser (CU-1) for ductless system.
 - (2) Baseboard heaters (BH-1 and BH-2).
 - (2) Exhaust fans (EF-1 and EF-2).

- (2) H/C water closets (P-1) including valves.
- (2) H/C lavatories (P-2) including faucets and carriers.
- (1) Ice maker wall box (P-3).
- (1) Service sink (P-4) including faucet.
- (2) Floor drains (P-5).
- (1) Floor sink drain (P-6).
- (1) Clean-out to grade (P-7).
- (1) Hose bib (P-8).
- (1) Water heater (P-9).
- (1) Wall clean-out (P-10).
- (1) Hose bib (P-11).
- (1) Drinking fountain (P-12).

d. Need approved product submittal information, in binder, for all plumbing fixtures, piping, piping insulation, etc.

10. Division 16:

a. Need manufacturers standard fully written warranty, in binder, for the following:

- Lighting and distribution panelboards.
- Lighting fixtures (provide separate warranty from each manufacturer).
- Wiring devices.
- Conduit and conduit fittings.
- Wire.
- Safety switches and fuses.
- Miscellaneous starters and control stations.

b. Need manufacturers warranty registration cards, in binder, for each of the following fixtures and equipment:

1. Pool House:

- (2) Type "A" fixtures.
- (12) Type "B" fixtures.
- (8) Type "D" fixtures.
- (13) Type "E" fixtures.
- (4) Type "F" fixtures.
- (6) Type "G" fixtures.
- (1) Type "H" fixture.
- (2) Type "H1" fixtures.
- (2) Type "J" fixtures.
- (6) Interior emergency floods fixtures.
- (2) Exit fixtures.
- (3) Exterior emergency floods fixtures.
- (2) Ceiling fans (CF-1).
- (2) Ceiling fans (CF-2).
- (1) Ceiling fan (CF-3).

- (6) Motion sensor switches.
- (4) Motion sensor photocells.
- (1) Photo-electric controller.

2. Lower & Upper Camping Bath Houses:

- (16) Type "A" fixtures.
- (6) Type "B" fixtures.
- (2) Type "D" fixtures.
- (2) Type "E" fixtures.
- (4) Type "F" fixtures.
- (4) Type "G" fixtures.
- (4) Interior emergency flood fixtures.
- (4) Exterior emergency flood fixtures.
- (8) Motion sensor switches.
- (4) Motion sensor photocells.
- (1) Photo-electric controller.

3. Day-Use Restrooms Building:

- (6) Type "A" fixtures.
- (2) Type "B" fixtures.
- (1) Type "D" fixture.
- (2) Type "G" fixtures.
- (2) Interior emergency flood fixtures.
- (1) Exterior emergency flood fixture.
- (2) Motion sensor switches.
- (2) Motion sensor photocells.
- (1) Photo-electric controller.

4. Marina Office Building:

- (2) Type "A" fixtures.
- (2) Type "D" fixtures.
- (1) Type "E" fixture.
- (2) Type "F" fixtures.
- (2) Type "G" fixtures.
- (1) Interior emergency flood fixture.
- (1) Exterior emergency flood fixture.
- (1) "Exit" fixture.
- (2) Motion sensor switches.
- (1) Motion sensor photocell.
- (1) Photo-electric controller.
- (1) Ceiling fan (CF-1).

5. Day-Use Pavilion:

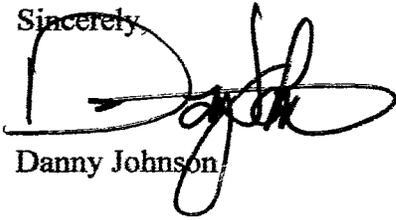
- (3) Type "A" fixtures.

- (2) Ceiling fans (CF-1).
- (2) Motion sensor switches.
- (1) Motion sensor photocell.
- (1) Photo-electric controller.

c. Need approved product submittal information, in binder, for all electrical gear and fixtures.

Please contact me if you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Danny Johnson', written over a horizontal line. The signature is stylized and cursive.

Danny Johnson

**Project Summary
As Provided by Terms of Contract**

City of Fort Smith		Project name:	Lake Shepherd Springs Recreational Area Pool House, Upper
Project Status:	Open	Project number:	99-01-C15A
Today's Date:	March 16, 2010	Engineer/Architect	Mickle-Wagner-Coleman/Tim A. Risley Associates
Staff contact name:	Steve Parke	Project contractor:	Southern Building Services, Inc.
Staff contact phone:	784-2231		
Total contract time (days):	252 (140 for day-use restroom)		
Notice to proceed issued:			

	Dollar Amount	Date	Completion Date
Original at approval	1,683,000.00	4/17/2007	12/25/2007
Change orders:			
1. Additional work + 32 days (5 for day-use restroom & 27 for other work)	15,401.22	7/14/2008	10/01/07 & 1/23/2008
2			
3			
Subtotal:	<u>15,401.22</u>		
Final contract amount:	<u>1,698,401.22</u>		
Payments to date (as negative):	-1,514,700.00	89.2%	
Amount of this payment	0.00		
Contract balance remaining	183,701.22		
Retainage held	0.00		
Amount over (under) original	15,401.22		
As a percentage	100.92%		
Liquidated damages from contract date to substantial completion - day-use RR	45,000	180 days	3/15/2008
Liquidated damages from contract date to substantial completion - all other	89,250	119 days	5/5/2008
Liquidated damages for other contract work to final completion	156,600	783 days	3/16/2010
Adjusted final contract payment	-107,148.78		

**Project Summary
As Provided by Settlement Offer**

City of Fort Smith		Project name:	Lake Shepherd Springs Recreational Area Pool House, Upper
Project Status:	Open	Project number:	99-01-C15A
Today's Date:	March 16, 2010	Engineer/Architect	Mickle-Wagner-Coleman/Tim A. Risley Associates
Staff contact name:	Steve Parke	Project contractor:	Southern Building Services, Inc.
Staff contact phone:	784-2231		
Total contract time (days):	252 (140 for day-use restroom)		

Notice to proceed issued:

	Dollar Amount	Date	Completion Date
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Change orders:			
1. Additional work + 32 days (5 for day-use restroom & 27 for other work)	15,401.22	7/14/2008	10/01/07 & 1/23/2008
2			
3			
Subtotal:	<u>15,401.22</u>		
Final contract amount:	<u><u>1,698,401.22</u></u>		
Payments to date (as negative):	-1,514,700.00	89.2%	
Amount of this payment	0.00		
Contract balance remaining	183,701.22		
Retainage held	0.00		
Amount over (under) original	15,401.22		
As a percentage	100.92%		
Liquidated damages from contract date to substantial completion - day-use RR & final completion	69,000		
Withholding for uncompleted work	20,000		
Adjusted final contract payment	94,701.22		

RESOLUTION _____

**A RESOLUTION ACCEPTING COMPLETION OF AND
AUTHORIZING FINAL PAYMENT FOR THE CONSTRUCTION OF
GRAND AVENUE OVERLAY, PHASE 2
PROJECT NO. 09-00-B**

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 Grand Avenue Overlay, Phase 2, Project No. 09-00-B, as complete.

SECTION 2: Final payment is hereby authorized in the amount \$27,552.25 to the contractor, Forsgren Inc., for the above captioned project.

This Resolution adopted this _____ day of March, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to Form

Jse

- No Publication Required
- Publish _____ Times

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator
FROM: Stan Snodgrass, Director of Engineering *SS*
DATE: March 10, 2010
SUBJECT: Grand Avenue Overlay, Phase 2
Project No. 09-00-B

This project included the resurfacing of Grand Avenue from west of Albert Pike Avenue to North 49th Street as shown on attached map.

The final construction cost is in the amount of \$520,360.41 which is \$38,063.97 (6.8%) under the original contract amount. A project summary sheet is attached.

I recommend approval of the attached Resolution to accept the project as complete and authorize final payment to the contractor.

EXHIBIT

RBR

03/10/10-15:47

VICMap1.dwg

G:\DRAWINGS\CIP\09-00-B GRAND OVERLAY



ARTERIAL OVERLAY - GRAND AVENUE
 ALBERT PIKE TO WALDRON ROAD
 FORT SMITH, ARKANSAS



Project: 09-00-B

Date: MARCH 2010

Scale: NONE

Drawn By: RBR

PROJECT SUMMARY

City of Fort Smith
Project Status: Complete
Today's Date: 3/9/2010
Staff Contact Name: Stan Snodgrass
Staff Contact Phone: 784-2225
Contract Time (no of days): 150
Notice to Proceed Issued: 7/14/2009

Project Name: Grand Avenue Overlay Phase 2
Project Number: 09-00-B
Project Engineer: Hawkins-Weir Engineers
Project Contractor: Forsgren, Inc.

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	\$558,424.38	6/16/2009	12/10/2009
Contract Revisions			
1			
2			
3			
Adjusted contract amount	<u>\$558,424.38</u>		
Payments to date (as negative):	\$492,808.16		
Amount of this payment	\$27,552.25		
Contract balance remaining	\$38,063.97		
Retainage held	0%		
Final payment	\$27,552.25		
Amount under contract amount as a percentage	6.8%		

Final Comments:

RESOLUTION _____

**A RESOLUTION AUTHORIZING A CHANGE ORDER
FOR THE CONSTRUCTION OF
CAR-MART BOX CULVERT REPLACEMENT
PROJECT NO. 09-06-B**

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

SECTION 1: Change Order No. 1 with Brothers Construction which increases the contract amount by \$15,804.18 to an adjusted contract amount \$365,751.18, is hereby approved.

This resolution adopted this _____ day of March, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to Form

J&C

 No Publication Required
 Publish _____ Times

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

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

DATE: March 10, 2010

SUBJECT: Box Culvert Replacement
Project No. 09-06-B
2009 Sales Tax Program

This project included the replacement of approximately 170 feet of a double 8' wide by 5' high box culvert that was collapsing west of Towson Avenue towards Mill Creek. The culvert traverses the Car Mart property located at 4006 Towson Avenue. Car Mart agreed to a cost share agreement approved by the Board of Directors in December 2008 to split the cost equally. An exhibit showing the location is attached.

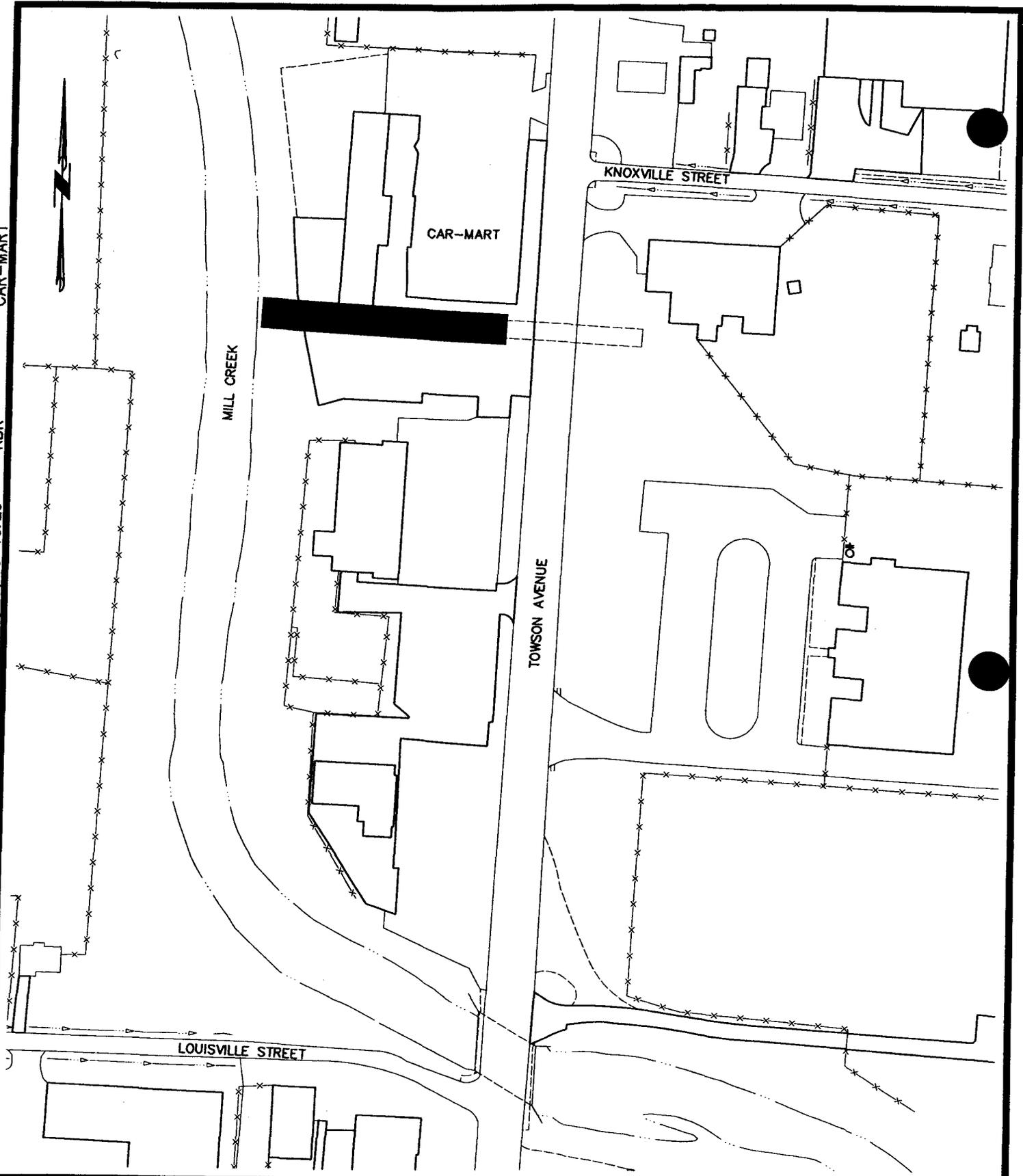
Change Order No.1 increases the contact amount by \$15,804.18 (4.5%) to a total contact amount of \$365,751.18. The increase in the contract amount is mainly due to additional relocation of a 21" sanitary sewer line located in the bottom of the box culvert and relocation of a water service line that was located in the same trench as the box culvert. A project summary sheet is attached.

I recommend approval of the Resolutions to increase the contact amount and to accept the project as complete and authorize final payment to the contractor.

G:\DRAWINGS\CIP\00-00 CIPALL\2009\2009 CIP Drainage.dwg

09/09/09-10:29 RBR

CAR-MART



2009 CAPITAL IMPROVEMENTS PROGRAM
BOX CULVERT REPLACEMENT
4006 TOWSON AVENUE



Project:	09-06-B
Date:	SEPT. 2008
Scale:	NONE
Drawn By:	RBR

PROJECT SUMMARY

City of Fort Smith
 Project Status: Complete
 Today's Date: 3/10/2010
 Staff Contact Name: Stan Snodgrass
 Staff Contact Phone: 784-2225
 Contract Time (no of days): 150
 Notice to Proceed Issued: 10/26/2009

Project Name: Car Mart Culvert Replacement
 Project Number: 09-06-B
 Project Engineer: Philip Leraris
 Project Contractor: Brothers Construction

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	\$349,947.00	9/1/2009	3/25/2010
Change orders:			
1	\$15,804.18		
2			
3			
Adjusted contract amount	<u>\$365,751.18</u>		
Payments to date (as negative):	\$296,180.08		
Amount of this payment	\$69,571.10		
Contract balance remaining	\$0.00		
Retainage held	0%		
Final payment	\$69,571.10		
Amount over original contract amount as a percentage	4.5%		

Final Comments:

Change Order No.1 increases the contact amount by \$15,804.18 (4.5%) to a total contact amount of \$365,751.18. The increase in the contract amount is mainly due to additional relocation of a 21" sanitary sewer line located in the bottom of the box culvert and relocation of a water service line that was located in the same trench as the box culvert.

RESOLUTION _____

**A RESOLUTION ACCEPTING COMPLETION OF
AND AUTHORIZING FINAL PAYMENT
FOR THE CONSTRUCTION OF
CAR-MART BOX CULVERT REPLACEMENT
PROJECT NO. 09-06-B**

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 Car-Mart Box Culvert Replacement, Project No. 09-06-B, as complete.

SECTION 2: Final payment is hereby authorized in the amount of \$69,571.10 to the contractor, Brothers Construction, for the above captioned project.

This resolution adopted this _____ day of March, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to Form



 No Publication Required
 Publish _____ Times

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

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

DATE: March 10, 2010

SUBJECT: Box Culvert Replacement
Project No. 09-06-B
2009 Sales Tax Program

This project included the replacement of approximately 170 feet of a double 8' wide by 5' high box culvert that was collapsing west of Towson Avenue towards Mill Creek. The culvert traverses the Car Mart property located at 4006 Towson Avenue. Car Mart agreed to a cost share agreement approved by the Board of Directors in December 2008 to split the cost equally. An exhibit showing the location is attached.

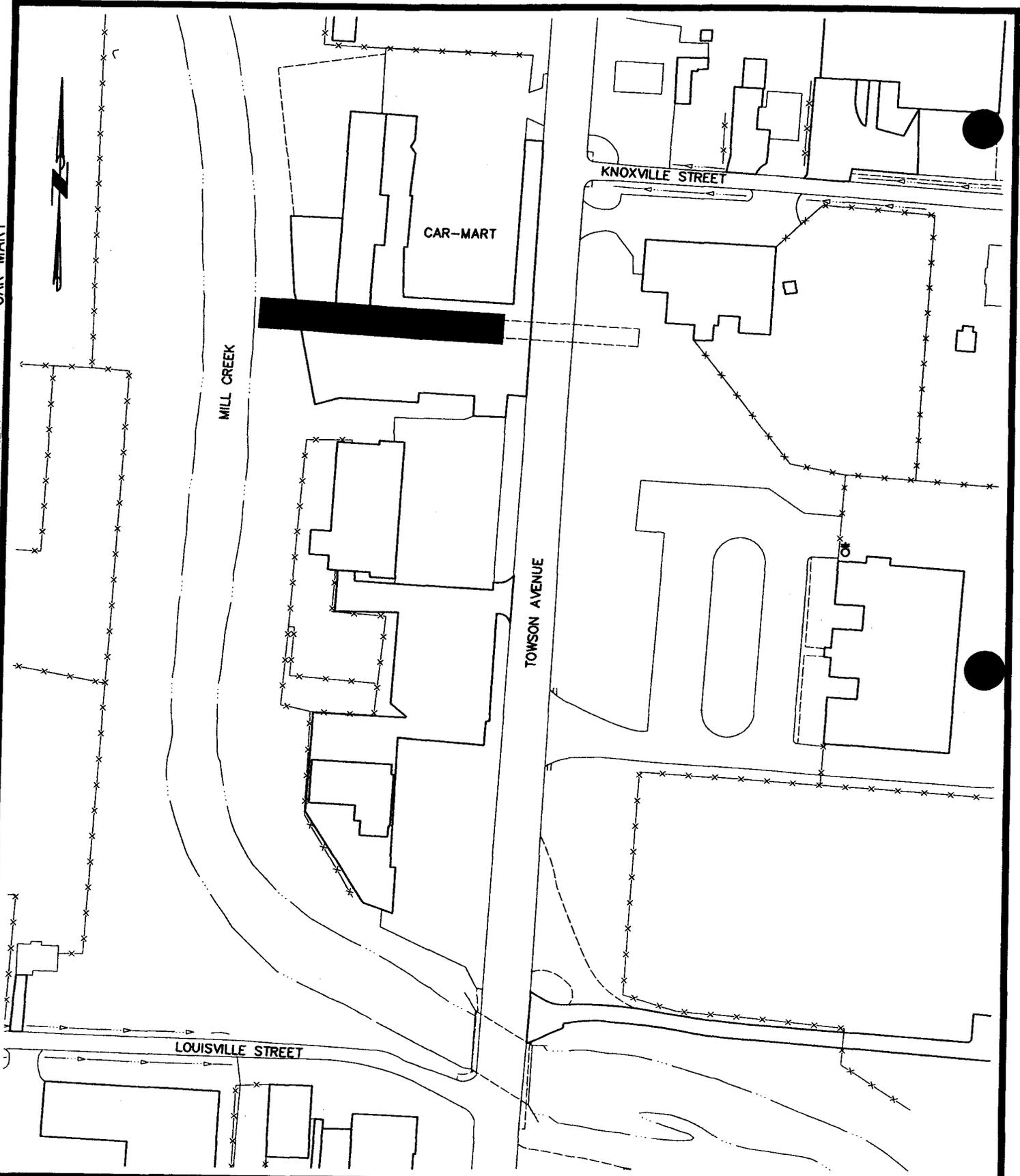
Change Order No.1 increases the contact amount by \$15,804.18 (4.5%) to a total contact amount of \$365,751.18. The increase in the contract amount is mainly due to additional relocation of a 21" sanitary sewer line located in the bottom of the box culvert and relocation of a water service line that was located in the same trench as the box culvert. A project summary sheet is attached.

I recommend approval of the Resolutions to increase the contact amount and to accept the project as complete and authorize final payment to the contractor.

G:\DRAWINGS\CIP\00-00 CIPALL\2009\CIP\2009 CIP Drainage.dwg

09/09/09-10:29 RBR

CAR-MART



2009 CAPITAL IMPROVEMENTS PROGRAM
BOX CULVERT REPLACEMENT
4006 TOWSON AVENUE



Project:	09-06-B
Date:	SEPT. 2008
Scale:	NONE
Drawn By:	RBR

PROJECT SUMMARY

City of Fort Smith
Project Status: Complete
Today's Date: 3/10/2010
Staff Contact Name: Stan Snodgrass
Staff Contact Phone: 784-2225
Contract Time (no of days): 150
Notice to Proceed Issued: 10/26/2009

Project Name: Car Mart Culvert Replacement
Project Number: 09-06-B
Project Engineer: Philip Leraris
Project Contractor: Brothers Construction

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	\$349,947.00	9/1/2009	3/25/2010
Change orders:			
1	\$15,804.18		
2			
3			
Adjusted contract amount	<u>\$365,751.18</u>		
Payments to date (as negative):	\$296,180.08		
Amount of this payment	\$69,571.10		
Contract balance remaining	\$0.00		
Retainage held	0%		
Final payment	\$69,571.10		
Amount over original contract amount as a percentage	4.5%		

Final Comments:

Change Order No.1 increases the contact amount by \$15,804.18 (4.5%) to a total contact amount of \$365,751.18. The increase in the contract amount is mainly due to additional relocation of a 21" sanitary sewer line located in the bottom of the box culvert and relocation of a water service line that was located in the same trench as the box culvert.

RESOLUTION NO. _____

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH
AUTHORIZING THE PURCHASE OF COMPUTER EQUIPMENT AND SOFTWARE
FOR THE IMPLEMENTATION OF THE VIRTUAL INFRASTRUCTURE PROJECT
OF THE FORT SMITH POLICE DEPARTMENT**

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

The expenditure of funds in the sum of \$ 116,208.08 from the Police Department budget for FY 2010 (4702-230) is hereby authorized, with the understanding that this expenditure will be used to purchase equipment from Dynamic Information Systems Company, Inc., which equipment is identified in the form attached hereto, for the implementation of the Virtual Infrastructure Project of the Fort Smith Police Department.

THIS RESOLUTION ADOPTED this _____ day of _____, 2010.

APPROVED:

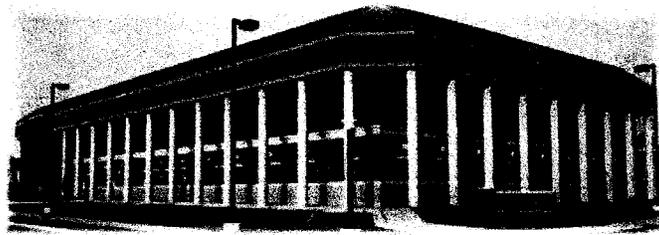
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM





Fort Smith Police Department

Kevin Lindsey, Chief of Police

INTERDEPARTMENTAL MEMORANDUM

To: Dennis Kelly, City Administrator

From: Kevin Lindsey, Chief of Police

Subject: Implementation of Information Technology Virtual Infrastructure

Date: March 10, 2010

A virtual Information Technology infrastructure is a system that will allow a reduction of the number of physical servers needed by running multiple applications on a single server. Typically, most applications require a dedicated server.

Implementation of a virtual infrastructure presents a number of advantages. The most significant of these is a considerable cost savings over time. A reduction of the number of servers required will significantly reduce the needed space and energy consumption compared to our current system. As operations expand, this system will reduce the number of new and replacement servers that must be purchased within the next three years, along with a reduction of maintenance costs. We currently have 30 servers that have to be maintained, and expect to increase that number to 47 within the next three years. Virtualization will reduce the number of needed servers to approximately fifteen. Initial investment in the new Emergency Operations Center will also be reduced by installing virtualized servers, thus reducing the numbers of servers to be purchased, installed and maintained off-site.

Another advantage of a virtual infrastructure provides higher levels of continuity by allowing server maintenance without disruption of service to the users. Since recovery can be made to any machine, this type of system also reduces disaster recovery to a matter of hours rather than days. This system also aids IT staff by allowing rapid server setup and more flexible resource management.

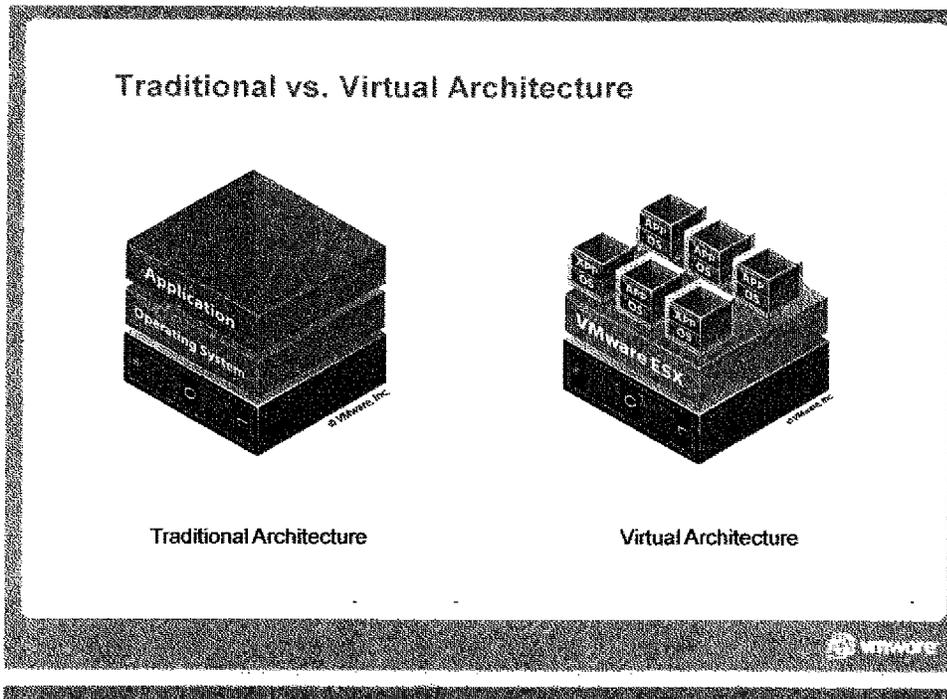
The initial investment to implement the virtual infrastructure is \$116,208.08. We currently have sixteen servers that are out of warranty and due for replacement during the 2010 fiscal year at a cost of approximately \$8,500 each for a total of \$136,000. The result will be a highly cost effective, robust and reliable foundation for meeting our current and future technology requirements. Since the Police Department had already anticipated the

Interdepartmental Memorandum
Implementation of IT Virtual Infrastructure
March 10, 2010

expense of server replacement, funding for this project is within the scope of the current Police Department budget for FY 2010. The total cost for this purchase is \$116,208.08 and will come out of the 4702-230 account.

Introduction

Virtualizing your IT infrastructure lets you reduce IT costs while increasing the efficiency, utilization, and flexibility of your existing assets. Companies of every size benefit from virtualization. Traditional architecture generally requires one server and operating system for each application. Virtualization lets you run multiple virtual machines on a single physical machine, sharing the resources of that single computer across multiple environments.



Top Reasons to Adopt Virtualization

1. *Reduce Costs*
 - a. **Reduce the number of physical servers:** Operate multiple servers on 1 server platform. 8:1 ratio in most cases.
 - b. **Datacenter overhead:** Fewer servers results in reduced space, power, and cooling requirements. Reduce energy costs by as much as 80%. Green your datacenter.
 - c. **Management overhead:** Less server hardware correlates to less time required by IT staff for routine hardware maintenance – freeing time for the staff to focus on projects.
2. *Business Continuity*
 - a. **High Availability:** Reduce planned and unplanned downtimes. The live migration of virtual machines eliminates the need for planned downtime, allowing IT to perform maintenance on physical servers anytime, without user or service disruption.
 - b. **Disaster Recovery:** Let's you recover to any machine, not just specific duplicate hardware. Recover from disasters rapidly – in terms of hours rather than days.
3. *Operation Flexibility*
 - a. **Faster server provisioning:** Within one day, have a new server built and ready for use. No longer wait for delivery of server hardware.
 - b. **Resource management:** Quickly allocate server resources such as storage, processor, and memory.
 - c. **Testing:** Quickly build testing servers for proof-of-concepts, as well as, patch deployments and application upgrades (protecting production servers).

Implementation

The following will be required to implement a Virtual infrastructure for the FSPD:

- (1) SAN @ \$55,428.00
- (1) VCenter server @ \$5,555.25
- (3) VMware ESX host server @ \$21,903.78
- (2) network switches @ \$6,212.30
- (1) VMWare VSphere Advanced software suite @ \$18,224.41

Total expense = \$107,323.74

Taxes = \$8,884.35

Project Total = \$116,208.08

Return on Investment

The FSPD Network team goal is to virtualize 75% of our current server environment, implement virtualization technologies at the EOC, and utilize virtualization on all future servers when applicable. This strategy will produce a significant return on investment as well greatly improve our disaster recovery capability.

- **Year 2010**
 - Servers out of warranty and due to be replaced: 16 servers X \$8,500 avg. = \$136,000
 - New servers purchased for new projects: 2 servers X \$8,500 avg. = \$17,000
 - Server maintenance fees: 14 servers @ \$1,200/yr = \$16,800
 - Power and cooling overhead: 14 servers @ \$500/yr = \$7,000
 - Total estimated savings year one = \$176,800
- **Year 2011**
 - Servers out of warranty and due to be replaced: 5 servers X \$8,500 avg. = \$42,500
 - New servers purchased for new projects: 2 servers X \$8,500 avg. = \$17,000
 - Server maintenance fees: 7 servers @ \$1,200/yr = \$8,400
 - Power and cooling overhead: 7 servers @ \$500/yr = \$3,500
 - Total estimated savings year 2 = \$71,400
- **Year 2012**
 - Servers out of warranty and due to be replaced: 5 servers X \$8,500 avg. = \$42,500
 - New servers purchased for new projects: 2 servers X \$8,500 avg. = \$17,000
 - Server maintenance fees: 7 servers @ \$1,200/yr = \$8,400
 - Power and cooling overhead: 7 servers @ \$500/yr = \$3,500
 - Total estimated savings year 3 = \$71,400

3 year power, warranty, replacement, and new servers	\$319,600.00
911 CAD Server	\$96,000.00
Fire Department support	\$17,000.00
Potential Savings Total	\$432,600.00

Synopsis

By implementing a virtual infrastructure, the FSPD will have a robust and reliable foundation for meeting the current and future technology requirements – at a significantly lower cost than continuing with the traditional Data Center environment. The virtual technology platform is a perfect solution and will reduce the costs associated with the EOC project. With VMware, the FSPD can provide rapid and reliable recovery without requiring identical hardware.

Virtualization is the path that the Information Technology industry is following and provides the best solution for the FSPD to meet their IT requirements now and in the future.

Summary of Key Points:

- 1) The department will spend **\$116,208** to implement the VM project. However, the departments estimated savings over the next three years will be **\$319,600.00**

- 2) Not calculated into the project is virtualizing our 911 CAD server. FSPD 911 CAD server will reach a replacement stage in the next 18 months. A new stratus server will cost the department \$60,000 and the annual support fees are \$12,000. The department stands to save \$96,000 over three years if the 911 CAD server can be supported in a VM environment.
- 3) Given the department can use virtualization on the 911 CAD server cost savings will increase to \$415,600 over the next three years.
- 4) The VM project will be used to support the Fire departments addition to Citrix for hosting their RMS and other public safety applications. Cost saving to the FSPD for two Citrix servers will be \$17,000. Including these projects to the VM deployment will bring the savings to 432,600.00.
- 5) It costs \$500 per year in power to support a server. Eliminating the 31 servers the department will save \$46,500.00 over three years.
- 6) Server maintenance fees on 31 physical servers over next three years will equal a \$33,600 savings.
- 7) Given the department goals the network team forecast over the next three years FSPD will add a minimum of two servers per year to our server farm at a cost of \$8,500 per server. These projects can be deployed using the VM technology saving the department \$51,000 over next three years.
- 8) FSPD currently has 30 physical servers including some servers that run multiple business applications. Once the VM infrastructure is implemented and over the next three years of new projects the network team will be supporting 47 servers. Upon completion of the VM project over the next 2 years we expect to be supporting between 12 - 15 physical servers.
 1. 5 of the 15 servers will be VM servers and the EqualLogic SAN server
 2. 4 of these 15 servers are to support the recording of Radio, 911, and VoIP phone traffic
 3. 2 of the 15 will be Mobile Data servers
 4. 1 is the old SAN server that will eventually be consolidated to the new Equal Logic SAN
 5. 1 will be dedicated to the Email
 6. 1 will be dedicated to the tape backup server

3E

RESOLUTION NO. _____

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH
EXPRESSING INTEREST TO PARTICIPATE IN GOOGLE'S "FIBER FOR COMMUNITIES" PROJECT
AND ENDORSING THE RESPONSE TO A REQUEST FOR INFORMATION ISSUED BY GOOGLE, INC.**

WHEREAS, Google, Inc. plans to test ultra-high speed broadband networks in one or more trial locations across the country. The proposed Google network will deliver Internet speeds more than 100 times faster than what most Americans have access to today over 1 gigabit per second, fiber-to-home connections. The service would be offered at a competitive price to at least 50,000 and potentially up to 500,000 people.

WHEREAS, Google, Inc. is asking local governments and residents to express their interest in their fiber optic trial and to provide information about their respective communities by completing the Request for Information.

WHEREAS the selection process for inclusion in the Fiber for Communities project is competitive. Fort Smith will solicit statements of support from a variety of sources including individual citizens, elected officials, bodies of government, places of learning and businesses throughout the community. Having an endorsement from Fort Smith's Board of Directors may prove beneficial in the attempt to demonstrate community support.

WHEREAS, the citizens of Fort Smith would benefit from participating in Google's "Fiber for Communities" project by having access to this unique utility. This ultra high speed Internet service would be available to homes, businesses, government, and places-of-learning. Having the high-speed Internet access could prove to be a catalyst to uniquely position Fort Smith with regards to economic development, education and overall quality-of-life.

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

The City of Fort Smith Board of Directors endorses, approves and encourages responding to the Google, Inc. Request for Information to participate in the "Fiber for Communities" project.

This resolution adopted this _____ day of March, 2010.

*Approved as to form
He
No publication required*

memo

To: Ray Gosack, Deputy City Administrator

From: Russell Gibson, Director of ITS

RG 3/12/10

Date: 3/12/2010

Re: Google Fiber For Communities Project

Google, Inc. has announced that it plans to select one or more trial locations across the country to test ultra-high speed broadband networks. The selection process will be competitive and I feel it would be beneficial to have an endorsement from the City Board of Directors to include with the response to Google's Request for Information. Several citizens and private businesses have volunteered to help with the application process. In addition to this resolution we hope to have endorsements from the University of Arkansas at Fort Smith, the Fort Smith Chamber of Commerce, Sebastian County as well as area businesses and interested citizens.

Attached for the Board's consideration is a Resolution endorsing the response to Google's Request for Information (RFI).

Enc.

RESOLUTION NO. _____

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

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

Partial payment number twenty to Branco Enterprises, Inc., in the amount \$871,759.81 for the construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2, Project Number 05-14-C1, is hereby approved.

This Resolution adopted this _____ day of March 2010.

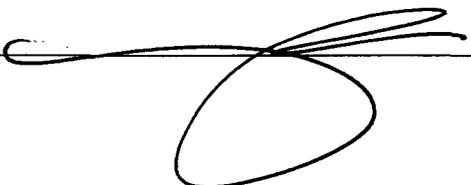
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

 npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: March 3, 2010

FROM: Steve Parke, Director of Utilities

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

Branco Enterprises, Inc., has submitted partial pay request number twenty in the amount of \$871,759.81 for work completed on the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2. Branco is currently behind in some areas of their proposed constructions progress schedule but has made some progress in accelerating those portion of their work since their last payment request. A project summary sheet is attached for your information.

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

attachment

pc: Ray Gosack

Project Summary
 City of Fort Smith
 Utility Department

Today's Date: January 27, 2010

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

Staff contact name: Steve Parke

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

Staff contact phone: 784-2231

Project engineer: Hawkins-Weir Engineers, Inc.

Notice to proceed issued: July 21, 2008

Project contractor: Branco Enterprises, Inc.

Completion date: September 25, 2010

	Dollar Amount	Contract Time (Days)
Original contract	\$31,840,000.00	750
Change orders:		
Number One	\$48,626.00	31
Number Two	\$36,561.14	35
Total change orders	\$85,187.14	<u>66</u>
Adjusted contract	<u>\$31,925,187.14</u>	<u>816</u>
Payments to date (as negative):	\$ (21,984,456.32)	68.9%
Amount of this payment (as negative)	\$ (871,759.81)	2.7%
Retainage held	\$1,596,259.36	
Contract balance remaining	\$9,068,971.01	28.4%
Amount Over (under) as a percentage		0.3%

Final Comments:

3 G

RESOLUTION NO. _____

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

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

Partial payment number six to Crossland Heavy Contractors, Inc., in the amount of \$1,414,861.81, for construction of the Lake Fort Smith Water Treatment Plant - Contract 3, Project Number 07-09-C3, is hereby approved.

This Resolution adopted this _____ day of March 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: March 5, 2010

FROM: Steve Parke, Director of Utilities

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

Crossland Heavy Contractors, Inc., has submitted partial pay request number six in the amount of \$1,414,861.81 for work completed on the Lake Fort Smith Water Treatment Plant Improvements - Contract 3. A project summary sheet is attached for your information. The quality of Crossland's work has been very good and they are on schedule to complete the project by the contract completion date.

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

attachments

pc: Ray Gosack

Project Summary
 City of Fort Smith
 Utility Department

Project Status: underway

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

Today's Date: March 5, 2010

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

Staff contact name: Steve Parke

Project engineer: Burns & McDonnell, Inc.

Staff contact phone: 784-2231

Project contractor: Crossland Heavy Contractors, Inc.

Notice to proceed issued: August 31, 2009

Completion date: October 25, 2011

	Dollar Amount	Contract Time (Days)
Original contract	\$31,641,000.00	785
Change orders:		
Change Order No. 1	\$22,902.00	14
Change Order No. 2	\$89,078.00	49
Total change orders	\$111,980.00	<u>63</u>
Adjusted contract	<u>\$31,752,980.00</u>	<u>848</u>
Payments to date (as negative):	-\$2,448,364.39	7.7% complete
Amount of this payment (as negative)	-\$1,414,861.81	
Retainage held	\$429,247.36	
Contract balance remaining	\$28,319,001.16	
Amount Over as a percentage	1.00%	

Final Comments:

RESOLUTION NO. _____

RESOLUTION AUTHORIZING ADDITIONAL WORK WITH FORSGREN, INC., FOR THE WET WEATHER LINE CAPACITY IMPROVEMENTS SOUTH "O" STREET

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

SECTION 1: Additional work in the amount of \$259,646.00 to the contract with Forsgren, Inc., for the construction of the Wet Weather Line Capacity Improvements South "O" Street, Project Number 09-11-C1, adjusting the contract amount to \$802,459.18, and increasing the contract time by 35 calendar days, is hereby approved.

This Resolution adopted this _____ day of March 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

 npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: March 9, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: South "O" Street Wet Weather Sewer Line Capacity
Improvements Project Number 09-11-C1

The South "O" Street wet weather sewer line capacity project was to replace approximately 1,200 feet of badly deteriorated 12-inch diameter pipe with 18-inch diameter sewer main from the east side of Towson Avenue to the west right-of-way of Wheeler Avenue. The project was awarded to Forsgren Construction for an amount of \$542,813.00 as part of the January 5, 2010, Board meeting. A copy of the project exhibit presented at that meeting is attached.

On January 14 the segment of line under Towson Avenue collapsed and caused a complete blockage of any flow through the pipe requiring by-pass pumping to prevent the sewer from overflowing. An exhibit showing the sewer service area upstream of the sewer collapse is attached. Forsgren was requested to set up by-pass pumping to convey the sewer flow around the line collapse while city maintenance crews and Forsgren's pipe bursting subcontractor spent the next couple of days trying to clear an opening through the collapse to allow gravity sewer flow to resume. That effort was only able to restore a small opening through the collapsed area which was not sufficient to allow the by-pass pumping to be discontinued. Staff determined that it would be necessary to replace the line by boring under Towson Avenue. The design engineer, McGuire Engineering, was asked to design the required changes to the project.

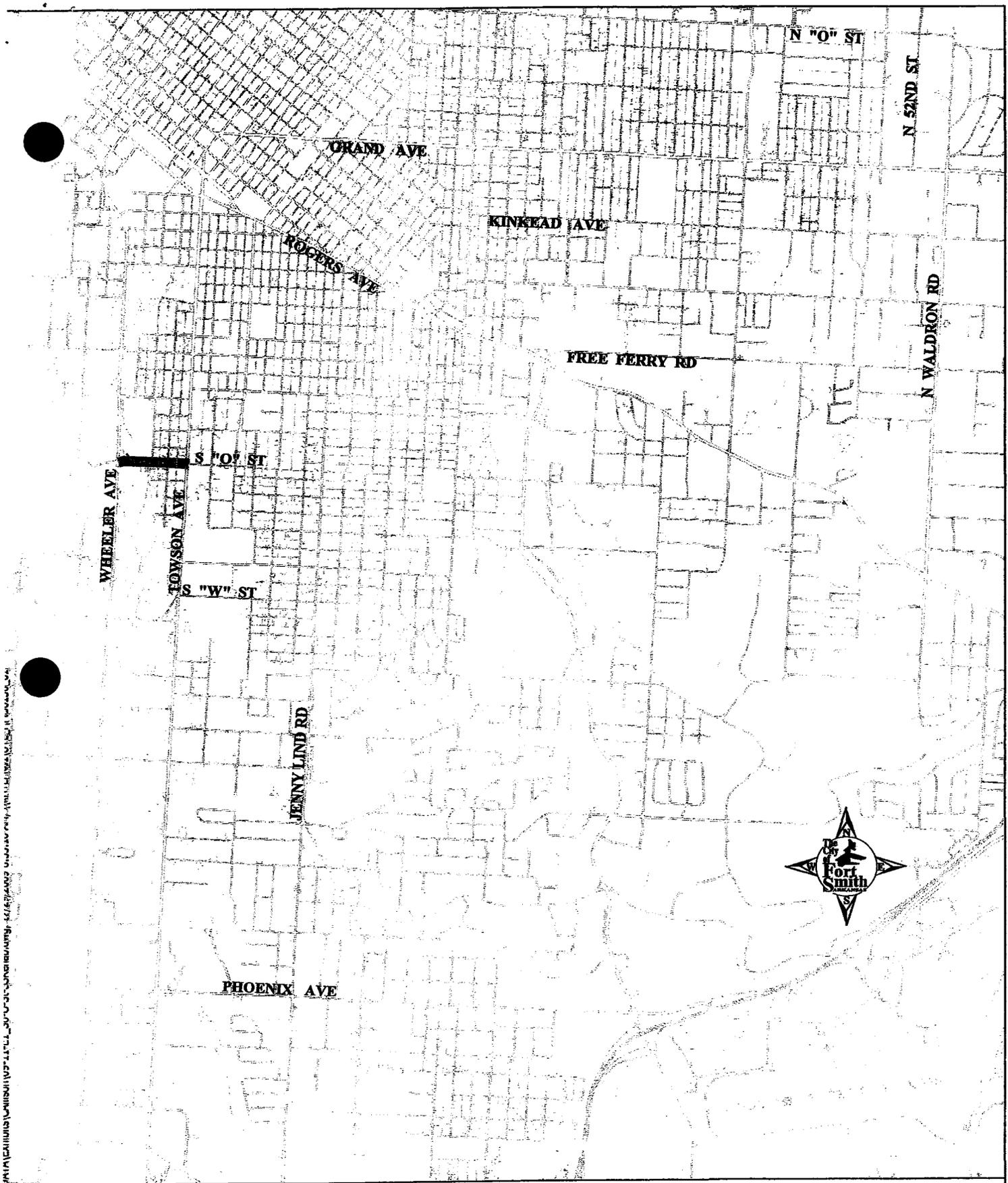
The redesign was completed and submitted to Forsgren to price the additional work while the application for a permit from the Arkansas Highway Department was being sought. The change order pricing was received on February 25 and the highway permit was received the week of March 1. The cost for adding the 30-inch diameter bore under Towson Avenue, street repair, additional manholes, bypass pumping and pressure grouting to fill the old sewer and voids under Towson will add \$259,646.00, which adjusts the total contract amount to \$802,459.00. A contract time extension for an additional 35 calendar days is also being requested.

The attached Resolution authorizes the incorporation of the additional work and time into the current construction contract and is recommended by staff. The addition funds for this work is available from the bonds issued for wet weather sewer improvements.

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

attachment

pc: Ray Gosack



**SOUTH "O" STREET
SEWER LINE IMPROVEMENTS
PROJECT 09-11-E1**



Collapsed Sewer Main

Affected Area

S 9TH ST
S 10TH ST
S 11TH ST
S 12TH ST
S 13TH ST
S 14TH ST
S 15TH ST
S 16TH ST
S 17TH ST
S 18TH ST
S 19TH ST

DODSON AVE
TOWSON AVE
WHEELER AVE
COUNTRY CLUB AVE
ATLANTA ST
BOSTON ST

NAVY BL
S O ST
S P ST
S Q ST
S R ST
S S ST
S T ST
S U ST
S V ST
S W ST

LEXINGTON AVE
LEXINGTON AVE
BLUFF AVE

JENNY LIND RD

SR ST
SY ST
SZ ST

City of Fort Smith
 Project Status: under construction
 Today's Date: 3/16/2010
 Staff contact name:
 Staff contact phone:
 Contract time (no. of days): 145
 Notice to proceed issued: 10-Mar-10

Project name: Wet Weather Line Capacity Improvements South O Street
 Project number: 09-11-C1
 Project engineer: Clint Allison
 Project contractor: Forsgren Inc.

	Dollar Amount	Date	Estimated Completion Date
Original at approval	542,813.00	1/5/2010	8/2/2010
Change orders:			
1	259,646.00	3/16/2010	9/6/2010
2			
3			
Final contract amount:	<u>802,459.00</u>		
Subtotal	<u>259,646.00</u>		
Payments to date (as negative):	0.00		0.0% of Final Contract Amount
Amount of this payment	0.00		
Contract balance remaining	802,459.00		100.0% of Final Contract Amount
Retainage held	0.00		
Amount Over (under) original as a percentage	47.83%		

RESOLUTION NO. _____

RESOLUTION ACCEPTING THE BID OF AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH T-N-T, INC., FOR THE TRANSMISSION LINE CLEARING AND LOCATION PROJECT

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

SECTION 1: The bid of T-N-T, Inc., for the performance of the Transmission Line Clearing and Location, Project Number 10-05-C1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute a contract for an amount of \$77,871.00, for performance of said construction.

This Resolution adopted this _____ day of March 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: March 9, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Transmission Line Clearing and Location
Project Number 10-05-C1

This project is to clear a 20-foot wide corridor and to make pothole excavations at key locations over the 36-inch water transmission line from Lake Fort Smith between Mountainburg and Interstate 40 where the new 48-inch water transmission line will likely be constructed in close proximity. This is needed in order to accurately determine the existing line's location so that the new line route can be determined and easement descriptions prepared. Prior to 1968 the city kept the transmission line easements maintained in a cleared condition. However, since that time period they were allowed to become reforested.

Bids for the project were received and T-N-T, Inc., submitting the low bid in the amount of 77,871. The other bidders and their bid amounts are shown on the attached bid tabulation sheet. The engineer's estimate was \$60,000.

Funds for this work are available within the budget established for the Lake Fort Smith 48-inch water transmission line corridor study made part of the 2007 revenue bond issuance. It is staff's recommendation that the bid of T-N-T be accepted. The attached Resolution authorizes the bid award in the amount of their bid.

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

attachment

pc: Ray Gosack

Tabulation of Bids Received

Page 1 of 1

Project Name

Transmission Line Easement Clearing & Location

Project No. 10-05-C1

Bid Opening

March 4, 2010

2:00 P.M.

Bids Received

T-N-T, Inc.

Van Buren, AR \$ 77,871.00

CCC Construction.

Poteau, OK \$ 79,900.00

Tribuilt Construction Group

Fort Smith, AR \$ Bid withdrawn

Goodwin & Goodwin

Fort Smith, AR \$ 91,150.00

Kraus Construction

Fort Smith, AR \$ 97,450.00

Forsgren, Inc.

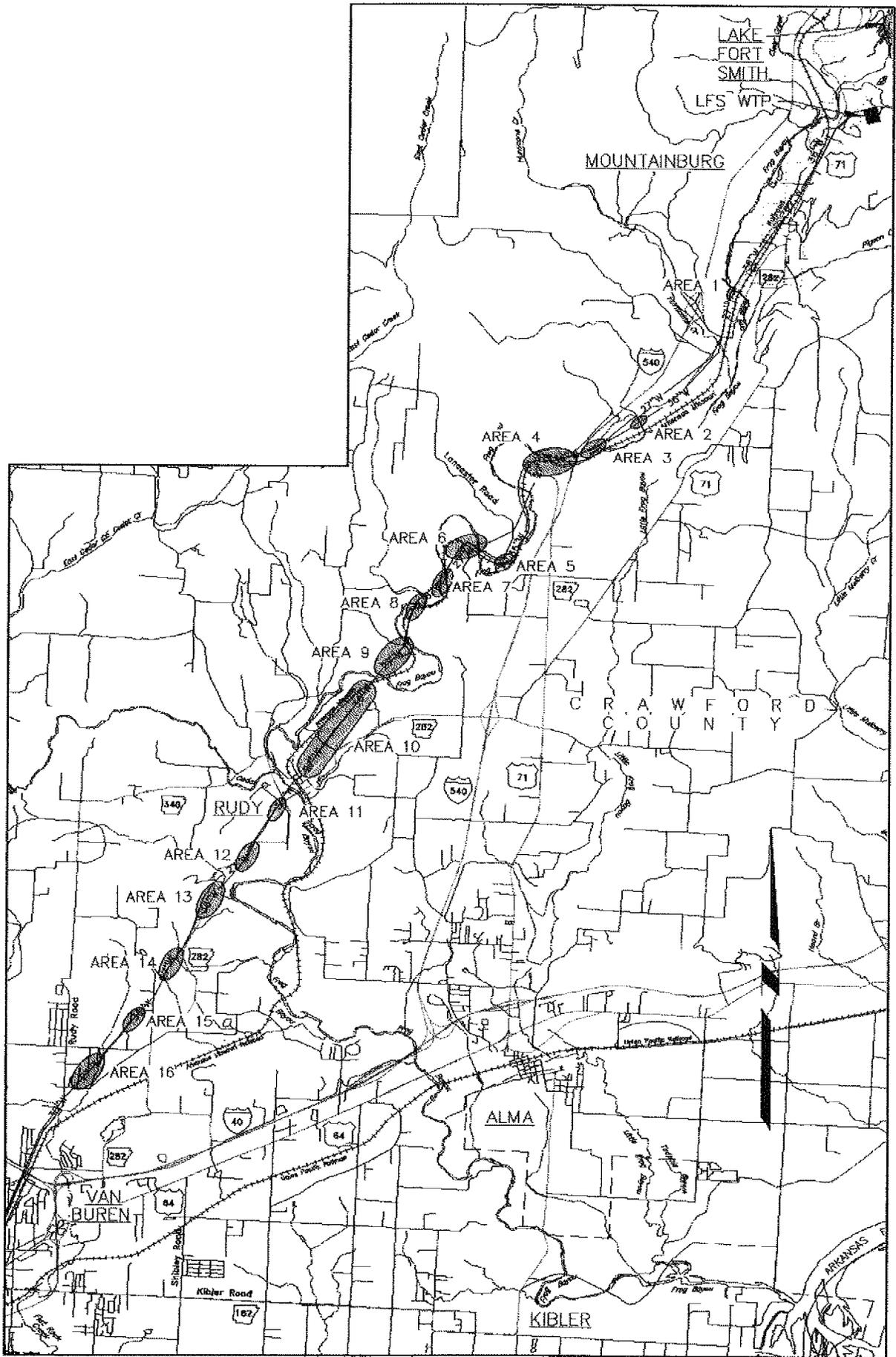
Fort Smith, AR \$ 110,175.00

Silco Construction

Waldron, AR \$ 142,871.00

Crawford Construction

Fort Smith, AR \$ 153,400.00



Area Map
 NOT TO SCALE



MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: March 10, 2010

SUBJECT: Convention Center Commission

Mr. Larry Schwartz of the Convention Center Commission has resigned. This term will expire on August 31, 2010. Since it is only a few months until this term expires the appointment term will be made for August 31, 2015.

The applicants available at this time are:

Jim Kolettis	8732 Brooken Hill Drive
Rebecca Timmons	9808 Kingsley Place
Jennifer Canada	2500 Dallas Circle
Salvatore Salamone	10701 Castleton Street

Appointments are by the Board of Directors. One appointment is needed; the term will expire August 31, 2015.



MEMORANDUM

TO: Mayor and Board of Directors
FROM: Wendy Beshears, Administrative Assistant
DATE: March 11, 2010
SUBJECT: Housing Assistance Board

The terms of Mr. William Oberste, Ms. Wallace, and Ms. Brown will expire April 30, 2010. Mr. Oberste and Ms. Wallace do not want to be reappointed. Ms. Hazel Brown would like to be reappointed.

There are no other applicants available at this time.

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



MEMORANDUM

TO: Mayor and Board of Directors
FROM: Wendy Beshears, Administrative Assistant
DATE: March 11, 2010
SUBJECT: Planning Commission

The terms of Mr. Steve Griffin, Mr. Joe Davis and Ms. Jennifer Parks of the Planning Commission will expire April 30, 2010. Mr. Griffin, Mr. Davis and Ms. Parks would like to be reappointed to this board. Mr. Nolan Storm has resigned his position on the Planning Commission, his vacancy will need to be appointed.

The applicants available at this time are:

Juan G. Martinez	4821 South V Street
Jennifer Canada	2500 Dallas Ln
Brandon Gomez	7000 Lockout Drive
Christine Leimberg	402 South 14 Street
S. Walton Maurras	2801 Charlotte Ln

Appointments are by the Board of Directors. Four appointments are needed; three terms will expire April 30, 2013 and the other will expire April 20, 2012.



MEMORANDUM

TO: Mayor and Board of Directors
FROM: Wendy Beshears, Administrative Assistant
DATE: March 9, 2010
SUBJECT: Sebastian County Regional Solid Waste Management Board

Mr. Randy Hall of the Sebastian County Regional Solid Waste Management Board has resigned. This vacancy will need to be filled.

The applicants available at this time are:

Bruce D. King	1712 Houston Street
Orval Smith	P.O. Box 180136

Appointments are by the **Mayor confirmed by the Board of Directors**. One appointment is needed; the term will expire January 21, 2011.

AGENDA ~ *Summary*

FORT SMITH BOARD OF DIRECTORS REGULAR MEETING

MARCH 16, 2010 ~ 6:00 P.M.

**FORT SMITH PUBLIC SCHOOLS
SERVICE CENTER
3205 JENNY LIND ROAD**

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

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

All present, except Directors Maddox, Campbell and Goodman

NOTE: Director Goodman arrived during discussion of Items 2A & 2B

MAYOR'S ANNOUNCEMENTS AND RECOGNITIONS

APPROVE MINUTES OF THE MARCH 2, 2010 REGULAR MEETING

Unanimously approved as written

CITIZENS FORUM ~ Opportunity to present to the Board of Directors any item of business or other matter which is not already scheduled on the agenda

Information available by viewing rebroadcast of the meeting on City Access Channel 6 or City website

ITEMS OF BUSINESS:

1. Ordinance adopting amendments to the Fort Smith Flood Damage Prevention Ordinance
Approved 5 in favor, 0 opposed / Ordinance No. 8-10
Note: Mayor Baker moved consideration of this item after Items No. 2A & 2B.
2. Items relative to contract for Lake Shepherd Springs Project
 - A. Resolution making determinations regarding the contract with Southern Building Services, Inc. with reference to Lake Shepherd Springs Project No. 99-01-C15A, assessing liquidated damages under the provisions of the

contract and authorizing the City Administrator and City Attorney to take all actions necessary to conclude the contract

Approved 5 in favor, 0 opposed / Resolution No. R-44-10

B. Resolution authorizing the City Administrator and City Attorney to extend settlement offer

Approved 4 in favor, 1 opposed (Hutchings) / Resolution No. R-45-10

3. Consent Agenda

A. Resolution accepting completion of and authorizing final payment for the construction of Grand Avenue Overlay, Phase 2, Project No. 09-00-B (\$27,552.25)

Approved 5 in favor, 0 opposed / Resolution No. R-46-10

B. Resolution authorizing a change order for the construction of Car-Mart Box Culvert Replacement, Project No. 09-06-B (\$15,804.18)

Approved 5 in favor, 0 opposed / Resolution No. R-47-10

C. Resolution accepting completion of and authorizing final payment for the construction of Car-Mart Box Culvert Replacement, Project No. 09-06-B (\$69,571.10)

Approved 5 in favor, 0 opposed / Resolution No. R-48-10

D. Resolution of the Board of Directors of the City of Fort Smith authorizing the purchase of computer equipment and software for the implementation of the Virtual Infrastructure Project of the Fort Smith Police Department (\$116,208.08)

Approved 5 in favor, 0 opposed / Resolution No. R-49-10

E. Resolution of the Board of Directors of the City of Fort Smith expressing interest to participate in Google's "Fiber for Communities" Project and endorsing the response to a request for information issued by Google, Inc.

Approved 5 in favor, 0 opposed / Resolution No. R-50-10

F. Resolution authorizing partial payment to Branco Enterprises, Inc. for construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2 (\$871,759.81)

Approved 5 in favor, 0 opposed / Resolution No. R-51-10

G. Resolution authorizing partial payment to Crossland Heavy Contractors for construction of the Lake Fort Smith Water Treatment Plant - Contract 3 (\$1,414,861.81)

Approved 5 in favor, 0 opposed / Resolution No. R-52-10

H. Resolution authorizing additional work with Forsgren, Inc. for the Wet Weather Line Capacity Improvements, South "O" Street (\$259,646.00)

Approved 5 in favor, 0 opposed / Resolution No. R-53-10

- I. Resolution accepting the bid of and authorizing the Mayor to execute a contract with T-N-T, Inc. for the Transmission Line Clearing and Location Project (\$77,871.00)

Approved 5 in favor, 0 opposed / Resolution No. R-54-10

DIRECTORS FORUM

Information available by viewing rebroadcast of the meeting on City Access Channel 6 or City website

CITY ADMINISTRATOR'S REPORT

Information available by viewing rebroadcast of the meeting on City Access Channel 6 or City website

EXECUTIVE SESSION

Appointments: **Convention Center Commission**

Salvatore Salamone

Term expires August 31, 2015

Housing Assistance Board

Hazel Brown (reappointment)

Term expires April 30, 2012

Planning Commission

Steve Griffin (reappointment)

Jennifer Canada

S. Walton Maurras

Terms expire April 30, 2013

Jennifer Parks *(to fill the unexpired term of Nolan Storm who resigned)*

Term expires April 20, 2012

Sebastian County Regional Solid Waste Management Board

Bruce D. King *(to fill the unexpired term of Randy Hall who resigned)*

Term expires January 21, 2011

ADJOURN

MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ MARCH 16, 2010 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Ray Baker, presiding. Invocation was given by Director Don Hutchings, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, and Kevin Settle; absent - Directors Bill Maddox, Gary Campbell and Cole Goodman. A quorum was declared present. (Director Goodman arrived during discussion of Item No. 2A & 2B.)

Mayor Baker conveyed the following comments:

- ◆ Expressed much appreciation to District Engineer Joe Shipman with the Arkansas Highway and Transportation Department for cleaning the areas noted below:
 1. Overpass located at I-540 and Rogers Avenue
Appreciation also given to Director of Operation Bob Wright.
 2. Underpass at the I-540 bridge over Free Ferry Road
 3. Highway 64/Garrison Avenue bridge
 4. I-540 bridge in the South Boston area
- ◆ Extended much gratitude to citizens who responded to his comments conveyed at the March 2, 2010 regular meeting, as well as to Police Chief Kevin Lindsey and the Police Department for their efforts to address the drug problem in the City.
- ◆ Read an excerpt from a recent letter from the United States Immigration Service which again declines the request of the Fort Smith Police Department to participate in the I.C.E. 287(g) Program, which provides training and authority to enforce immigration issues.

March 16, 2010 Regular Meeting

- ◆ Due to recent allegations that the Board of Directors has increased taxes in Fort Smith, he proclaimed that such allegations are false and clarified that each City tax has been approved by the voters of Fort Smith. He also read a memo from Director of Finance Kara Bushkuhl confirming such.

The minutes of the March 2, 2010 regular meeting were presented for approval. Good, seconded by Settle, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

With regard to the time limit policy for persons wishing to address the Board, Mayor Baker communicated that five (5) minutes per side would be extended on controversial items with three (3) minutes for rebuttal per side. Two (2) minutes will be allotted for consent agenda items and for those participating in the Citizens Forum.

Mayor Baker opened the Citizens Forum with the following individuals present to address the Board:

- Eric Arthur
815 North "B" Street

Re: Expressed discontent with the comments of Mayor Baker at the March 2, 2010 regular meeting.
- Louis Vincent
2001 G.M.C.

Re: Reiterated previous recommendations that companies who hire undocumented workers should be held accountable.
- Tim Willhite
Van Buren, AR

Re: Expressed discontent with employers hiring illegal immigrants and alleged such are doing so to avoid paying employment taxes.

March 16, 2010 Regular Meeting

Police Chief Kevin Lindsey advised the City of Fort Smith Police Department does not maintain the authority to arbitrarily verify individuals immigration status. At the request of Immigration and Customs Enforcement (ICE), the enforcement process is initiated only if an individual is arrested and cannot provide adequate documentation.

- Tammy Trouillon
8000 Holly Avenue

Re: Reiterated her previous request for an ordinance establishing a fence height requirement of six (6) feet for owners of dangerous/vicious dogs. She further alleged Animal Control is not enforcing existing regulations.

- Wilbur Whitmore
17348 Coles Cove, Spiro, OK

Re: Advised he owns property at 3015 North "I" Street and alleged individuals are dumping illegally in the alleyway behind his property. He presented pictures of the alleged dumping and spoke in opposition to the City requiring him to clean the area.

- Paul Speer
27910 Highway 22
Charleston, AR

Re: Spoke in opposition to additional taxes in Fort Smith and demanded the City cease wasteful spending.

- John Hamel
3301 Old Greenwood Road

Re: Alleged Mayor Baker expends \$3,000 per week and inquired who monitors how the budgeted funds are utilized. He urged the Mayor and Board to attract new business to Fort Smith and reduce existing taxes.

- Jerry Hamel
4618 Wheeler Avenue

March 16, 2010 Regular Meeting

Re: Claimed taxes have been increased in Fort Smith in the past ten (10) years and urged the Mayor to resign.

- Jesse Fenwick
8900 Bryn Mawr

Re: Played a guitar and serenaded the Board with a song regarding taxes.

Mayor Baker announced that Item No. 2 would be the first item for consideration, which consisted of the following resolutions relative to a contract for the Lake Shepherd Springs Project:

- A. Resolution making determinations regarding the contract with Southern Building Services, Inc. with reference to Lake Shepherd Springs Project No. 99-01-C15A, assessing liquidated damages under the provisions of the contract and authorizing the City Administrator and City Attorney to take all actions necessary to conclude the contract
- B. Resolution authorizing the City Administrator and City Attorney to extend settlement offer

Administrator Dennis Kelly announced that the City received notification of an impending lawsuit regarding the project; therefore, he requested City Attorney Jerry Canfield brief the Board on the items.

Mr. Canfield advised that Item No. 2A authorizes the conclusion of the contract and assesses liquidated damages for the project. The City of Fort Smith has extended settlement offers to Southern Building Services (SBS) regarding contract time and amount; however, such offers have been rejected by SBS. No counteroffer has been received; therefore, the City should now proceed to close out the project according to the terms of the contract.

Item No. 2B extends the last compromised settlement offer for SBS's consideration

March 16, 2010 Regular Meeting

through March 31, 2010. If SBS again rejects the offer, resolution of the matter will be accomplished via litigation.

Upon approval of Item No. 2A, Director Good questioned the financial obligation of the City.

Mr. Canfield advised that upon approval, the City would have no financial obligation to the contractor. The resolution assesses liquidated damages under the provisions of the contract thereby creating a balance due to the City by the contractor. The resolution also authorizes the City Administrator and City Attorney to take any and all necessary action to collect said sums owed to the City. Such authority was included within the resolution in anticipation of litigation if the matter cannot be resolved. As previously stated by Mr. Kelly, notice of litigation has now been received; therefore, he recommended approval.

Director Settle questioned if any legal ramification would ensue if the Board adopted only Item No. 2B and postponed consideration of Item No. 2A until after the March 31 deadline for acceptance of the compromise settlement.

Mr. Canfield advised of no legal ramification; however, he again recommended approval of Item No. 2A to clearly state the City's official position on the matter.

At this point, Director Goodman arrived at the meeting.

Good, seconded by Tyler, moved adoption of Item No. 2B. Prior to the vote, Administrator Kelly reiterated that litigation has been initiated; therefore, he urged the Board to carefully consider the recommendations of the City Attorney.

Upon approval of Item No. 2A, Director Good questioned the total amount due to the City by the contractor.

March 16, 2010 Regular Meeting

Mr. Canfield noted that if the Board adopts only Item No. 2A, the contract amount would be adjusted by \$107,148.78 and SBS would owe the City of Fort Smith said amount.

Director Hutchings simply conveyed his intent to vote in favor of Item No. 2A.

The motion remaining on the floor for adoption of Item No. 2B, the members voted as follows: ayes - Tyler, Good, Settle and Goodman; nays - Hutchings. The Mayor declared the motion carried and the resolution was adopted and given No. R-45-10.

There was brief discussion regarding the necessity of adopting Item No. 2A whereby Mr. Canfield again recommended approval.

Hutchings, seconded by Tyler, moved adoption of Item No. 2A. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-44-10.

Mayor Baker announced that Item No. 1 would now be considered, the item being an ordinance adopting amendments to the Fort Smith Flood Damage Prevention Ordinance

Director of Engineering Stan Snodgrass briefed the Board on the item advising the Federal Emergency Management Agency (FEMA) recently updated the Flood Insurance Rate Maps and Study for the City to a digital format. The maps were updated by county with Sebastian County's map, encompassing the city of Fort Smith, was finalized in January 2010 and maintains an effective date of May 20, 2010. In order to comply with the National Flood Insurance Program regulations, the City must amend the existing Flood Damage Prevention Ordinance to coincide with the updated maps and study. Failure to

March 16, 2010 Regular Meeting

adopt the proposed ordinance by May 20, 2010 would result in suspension of the City from the National Flood Insurance Program and no flood insurance would be available to property owners within the City. Also, property located in the FEMA 100 year floodplain would be ineligible for most mortgage loans and the City would be ineligible for certain disaster assistance and mitigation funds.

Director Good extended much appreciation to Mr. Snodgrass for including a provision requiring an elevation of one foot or more above the base flood level.

Settle, seconded by Good, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members present all voting affirmatively, the Mayor declared the motion carried. Hutchings, seconded by Settle, moved adoption of Section 6 the emergency clause. The members present all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 8-10.

The Consent Agenda (Item No. 3) was introduced for consideration, the items being as follows:

- A. Resolution accepting completion of and authorizing final payment for the construction of Grand Avenue Overlay, Phase 2, Project No. 09-00-B (\$27,552.25)
- B. Resolution authorizing a change order for the construction of Car-Mart Box Culvert Replacement, Project No. 09-06-B (\$15,804.18)
- C. Resolution accepting completion of and authorizing final payment for the construction of Car-Mart Box Culvert Replacement, Project No. 09-06-B (\$69,571.10)

March 16, 2010 Regular Meeting

- D. Resolution of the Board of Directors of the City of Fort Smith authorizing the purchase of computer equipment and software for the implementation of the Virtual Infrastructure Project of the Fort Smith Police Department (\$116,208.08)
- E. Resolution of the Board of Directors of the City of Fort Smith expressing interest to participate in Google's "Fiber for Communities" Project and endorsing the response to a request for information issued by Google, Inc.
- F. Resolution authorizing partial payment to Branco Enterprises, Inc. for construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2 (\$871,759.81)
- G. Resolution authorizing partial payment to Crossland Heavy Contractors for construction of the Lake Fort Smith Water Treatment Plant - Contract 3 (\$1,414,861.81)
- H. Resolution authorizing additional work with Forsgren, Inc. for the Wet Weather Line Capacity Improvements, South "O" Street (\$259,646.00)
- I. Resolution accepting the bid of and authorizing the Mayor to execute a contract with T-N-T, Inc. for the Transmission Line Clearing and Location Project (\$77,871.00)

With regard to Item No. 3G, Mayor Baker requested a brief progress report on the project. The Mountainburg School maintains an evacuation plan in the event of a break in the dam; therefore, he questioned if the City maintains a plan as well.

Director of Utilities Steve Parke provided a detailed explanation of the contracts advising the water plant is both being expanded and upgraded. With regard to student evacuation, schools must maintain a crisis plan for such an event and confirmed that the City of Fort Smith also maintains an Action Plan.

Settle, seconded by Tyler, moved adoption of all consent agenda items. The

March 16, 2010 Regular Meeting

members present all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-46-10 through R-54-10 respectively.

Mayor Baker opened the Directors Forum with the following directors wishing to comment:

▶ Director Settle

- Re: 1. Due to the numerous utility projects ongoing and so the Board may view the progress, he requested a tour of project locations be scheduled in April or May.
2. Regarding the recent discussion relative to the City's employee health plan, he recommended staff prepare a survey and present to employees to determine their preference.

▶ Director Good

Re: Advised of his attendance, as well as Administrator Kelly and Director Settle, at a neighborhood meeting held on March 15 and extended much appreciation to Director of Information and Technology Services Russell Gibson for his impressive presentation of the City's GIS system.

The Mayor offered the floor to Administrator Kelly for the City Administrator's Report; however, Mr. Kelly had no announcements.

An executive session was held and after reconvening, the Mayor announced the following appointment nominations:

CONVENTION CENTER COMMISSION

Salvatore Salamone

(to fill the unexpired term of Larry Schwartz who resigned)

Term expires August 31, 2015

HOUSING ASSISTANCE BOARD

Hazel Brown (reappointment)

Term expires April 30, 2012

March 16, 2010 Regular Meeting

PLANNING COMMISSION
Steve Griffin (reappointment)
Jennifer Canada
S. Walton Maurras
Terms expire April 30, 2013

Jennifer Parks
(to fill the unexpired term of Nolan Storm who resigned)
Term expires April 20, 2012

SEBASTIAN COUNTY REGIONAL SOLID WASTE MANAGEMENT BOARD
Bruce D. King
(to fill the unexpired term of Randy Hall who resigned)
Term expires January 21, 2011

Hutchings, seconded by Tyler, moved acceptance of the appointment nominations.
The members present all voting aye, the Mayor declared the motion carried.

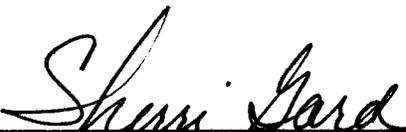
There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Hutchings and the members present all voting aye, the Mayor declared the motion carried, and the meeting stood adjourned.

APPROVED:



MAYOR

ATTEST:



CITY CLERK *Acting*