AGENDA

FORT SMITH BOARD OF DIRECTORS
REGULAR MEETING

SEPTEMBER 21, 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

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING
(Section 2-37 of Ordinance No. 24-10)

APPROVE MINUTES OF THE SEPTEMBER 7, 2010 REGULAR MEETING

ITEMS OF BUSINESS:

1. Consent Agenda

   A. Resolution adopting annual audit requirements

   B. Resolution authorizing the Mayor or Vice Mayor to execute and deliver all bond documents authorized by Ordinance No. 38-10 and the performance of all obligations of the City thereunder

   C. Resolution to provide directions to City of Fort Smith staff and board representatives during any negotiations for the establishment of regional organizations

   D. Resolution accepting bid for the purchase of a mechanic lube/service truck ($146,527.00)

   E. Resolution setting public hearing date on petition to vacate street right-of-way located in Mead's Addition, Block A, an addition to the city of Fort Smith, Arkansas

F. Resolution authorizing a time extension, accepting completion of and authorizing final payment for the construction of Chad Colley Extension, Project No. 08-00-C ($6,782.92)

G. Resolution authorizing the Mayor to enter into a lease agreement with the Sebastian County Aquatics Association for the diving well pool at Creekmore Park

H. Resolution authorizing the Mayor to execute a trail easement with Boley R. Powers for the river water trail

I. Resolution authorizing the Mayor to execute a recreational trail easement with Boley R. Powers for the river water trail

J. Resolution authorizing acquisition of real property interests for the Sunnymede Basin Sewer Improvement Project ($17,559.00)

K. Resolution authorizing final payment to Kraus Construction Company, LLC, for construction of the Rye Hill Sewer Outfall Phase Two ($51,516.00)

OFFICIALS FORUM ~ presentation of information requiring no official action
(Section 2-36 of Ordinance No. 24-10)

A. Mayor

B. Directors

C. City Administrator

EXECUTIVE SESSION

Appointments: City's voting delegates to National League of Cities (2)
Fire Code Board of Appeals & Adjustments (1)

CITIZENS FORUM ~ presentation of information by citizens ~ an opportunity for citizens to present matters to the Mayor and Board of Directors which involve the city government and are not directly related to items considered on the agenda for this meeting. ***Presentations are limited to 2 minutes for each citizen***
(Section 2-44(b) of Ordinance No. 24-10)

ADJOURN

1A.

RESOLUTION NO._____

A RESOLUTION ADOPTING ANNUAL AUDIT REQUIREMENTS

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

The annual audit examination for the City of Fort Smith for the year ended December 31, 2010 shall be performed by an independent accounting firm in accordance with accounting standards generally accepted in the United States of America. Such standards shall include those promulgated by the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants and the United States Government Accounting Office, as applicable.

THIS RESOLUTION ADOPTED THIS 21 DAY OF September, 2010.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form
JSC
No publication required

The City of Fort Smith ARKANSAS

MEMORANDUM

September 21, 2010

TO: Dennis Kelly, City Administrator

FROM : Kara Bushkuhl, Director of Finance

SUBJECT: Municipal Audit Requirements

As you are aware, the City's annual audit is prepared by an independent accounting firm in accordance with accounting standards generally accepted in the United States of America. This is a requirement of the City's outstanding revenue bonds. Act 499 of 2005 requires each city to indicate the type of annual examination it will undertake each year.

The City should continue to allow for an audit that meets the guidelines and format prescribed by the Governmental Accounting Standards Board (GASB), the American Institute of Certified Public Accountants (AICPA), and the United States Government Accounting Office, if applicable. The attached resolution provides for this adoption and I recommend approval of it.

If you have any questions or require more information, please advise.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR OR VICE MAYOR TO EXECUTE AND DELIVER ALL BOND DOCUMENTS AUTHORIZED BY ORDINANCE NO. 38-10 AND THE PERFORMANCE OF ALL OBLIGATIONS OF THE CITY THEREUNDER.

WHEREAS, in accordance with the Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 to 224, the Board of Directors (the "**Board**") of the City of Fort Smith, Arkansas (the "**City**") has agreed to issue industrial development revenue bonds designated "City of Fort Smith, Arkansas Tax Exempt Recovery Zone Facility Bonds (Mitsubishi Power Systems Americas Project), Series 2010," in the principal amount of not to exceed $50,000,000 (the "**Bonds**") payable from revenues derived from a substantial industrial project consisting of the acquisition of land, construction of buildings and improvements, and acquisition and installation of equipment for the manufacture and assembly of wind turbine nacelles, all located at 8201 Chad Colley Boulevard, Fort Smith, Sebastian County, Arkansas 72916 (the "**Project**"), to be utilized by Mitsubishi Power Systems Americas, Inc. (the "**Company**") as manufacturing facilities for wind turbine nacelles, related facilities, and corporate offices; and

WHEREAS, the necessary arrangements have been made to lease the Project to the Company pursuant to the terms of a Lease Agreement, to be dated as of September 30, 2010 (the "**Lease Agreement**"), for a term of 30 years for the real property, improvements, personal property and equipment comprising the Project; and

WHEREAS, to induce the City to proceed with the issuance of the Bonds for the purpose indicated, which will inure to the benefit of the Company, the City has agreed to enter into a Payment in Lieu of Taxes Agreement ("**PILOT Agreement**") with the Company; and

WHEREAS, the Bonds will be sold to BNY Mellon Capital Markets, LLC (the "**Underwriter**") pursuant to a Bond Purchase Agreement (the "**Purchase Agreement**") among the City, the Company, and the Underwriter; and

WHEREAS, On August 17, 2010 the Board of the City adopted Ordinance No. 38-10 (the "**Ordinance**") authorizing and directing the following, among other things:

(a) The issuance of the Bonds in the principal amount of not to exceed $50,000,000 and the sale of the Bonds to the Purchaser for a price of not to exceed $50,000,000 upon the terms and conditions set forth in the Bond Purchase Agreement.

(b) The execution and delivery of the PILOT Agreement by the Mayor and City Clerk on behalf of the City, with such changes as shall be approved by the City Attorney and City Administrator, its execution to constitute conclusive evidence of such approval, an executed copy of which shall be filed in the office of the City Clerk.

(c) The acquisition, construction, and equipping of the Project, and, in connection therewith, the execution of any necessary architectural, engineering, or construction contracts or the acceptance of an assignment of any such contracts previously executed by the Company for the construction and equipping of the Project.

(d) The performance of all obligations of the City under the Lease Agreement pertaining to the acquisition, construction, and equipping of the Project.

(e) The execution and delivery of the Lease Agreement by the Mayor and City Clerk on behalf of the City, with such changes as shall be approved by the City Attorney and City Administrator, its execution to constitute conclusive evidence of such approval, an executed copy of which shall be filed in the office of the City Clerk.

(f) The execution and delivery of the Indenture of Trust (the "**Indenture**") to prescribe the terms and conditions upon which the Bonds are to be executed, authenticated, issued, accepted, held and secured by the Mayor and City Clerk on behalf of the City, with such changes as shall be approved by the City Attorney and City Administrator, its execution to constitute conclusive evidence of such approval, an executed copy of which shall be filed in the office of the City Clerk; and

WHEREAS, the Board of Directors of the City now desire to provide authority to the City's Mayor or, in the alternative, to the City's Vice Mayor to execute, on behalf of the City, the Lease Agreement, the Indenture, the Purchase Agreement, the PILOT Agreement, and all other documents contemplated by the Ordinance.

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

Section 1. There is hereby authorized and directed the City's Mayor or, in the alternative, the City's Vice Mayor to execute, on behalf of the City, the Lease Agreement, the Indenture, the Purchase Agreement, the PILOT Agreement, and all other documents executed in connection therewith or otherwise contemplated by the Ordinance (the "**Bond Documents**"), with such changes as shall be approved by the City Attorney and City Administrator, and the City Attorney and City Administrator are hereby authorized to confer with the Company and others in order to complete the Bond Documents in the form approved by the Ordinance, with such changes as shall be approved by them, the execution by the Mayor or Vice Mayor, either one, to constitute conclusive evidence of such approval.

Section 2. The Mayor or Vice Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Bond Documents and the performance of all obligations of the City thereunder, with the assistance of the City Attorney and City Administrator, as needed, the issuance, execution, sale and delivery of the Bonds, and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by the Ordinance. The Mayor or Vice Mayor and City Clerk are hereby further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 3. All actions heretofore taken by the City, including by its representatives, the Mayor and Vice Mayor, the Company, and the Purchaser in connection with the offer and sale of the Bonds are hereby in all respects ratified and

approved.

Section 4. All ordinances or resolutions of the City in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: _____, 2010

ATTEST:

_____

Cindy Remler, City Clerk

APPROVED:

By: _____

Name: _____

Title: _____

APPROVED AS TO LEGAL FORM:

_____

Jerry Canfield, City Attorney

No publication required

1528745.2

The City of Fort Smith ARKANSAS

MEMORANDUM

September 15, 2010

TO: Dennis Kelly, City Administrator

FROM: Ray Gosack, Deputy City Administrator

SUBJECT: Mitsubishi Industrial Revenue Bonds

Last month, the Board of Directors passed an ordinance authorizing the issuance of industrial revenue/recovery zone facility bonds for Mitsubishi Power Systems Americas. The bond closing is planned for September 30th.

Attached for the board's consideration is a resolution which authorizes either the mayor or vice mayor to execute the various bond documents on behalf of the city. This flexibility will ensure that signatures can be obtained without any delays that would jeopardize the bond closing. The staff recommends approval of the resolution.

-Ray

Attachment

cc: Jonathan Wang, Mitsubishi Power Systems Americas
Jill Drewyor, Mitchell Williams (bond counsel)
Cheryl Garner, Fort Smith Regional Chamber of Commerce

RESOLUTION NO. _____

1C

A RESOLUTION TO PROVIDE DIRECTIONS TO CITY OF FORT SMITH STAFF AND BOARD REPRESENTATIVES DURING ANY NEGOTIATIONS FOR THE ESTABLISHMENT OF REGIONAL ORGANIZATIONS

WHEREAS, the City of Fort Smith, Arkansas ("City"), may, from time to time, choose to participate in organizations, authorities, programs, or other concepts involving other governmental units or private entities, with the goal of promoting a regional concept; and,

WHEREAS, each participant in each such creation may desire an equal voting voice in such creation; and,

WHEREAS, there may be financial costs and expenses incurred in the creation of, continuation of, or promotion of such regional creation;

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

The City Administrator and any and all city staff, as well as any and all Board of Directors' representatives, who may participate in negotiations involving such regional creations, are instructed and directed that, if participating entities, including the City of Fort Smith, desire an equal vote in the created regional entity, then each participant should equally share in any costs or expenses incurred on behalf of the regional creation; alternatively, if a participant in the regional creation does not wish to share equally in the costs and expenses, then each participant's vote should be based on its pro rata financial contribution to the costs and expenses of the regional creation.

This Resolution adopted this ____ day of _____, 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form:

_____
City Attorney
No Publication Required

MEMORANDUM

TO: The Honorable Mayor and Board of Directors

CC: Department Directors, Candidates List

FROM: Dennis W. Kelly, City Administrator

SUBJECT: Participation in Regional Organizations-Request for Guidance

DATE: August 27, 2010

Reference the Times Record news article of August 23, 2010 (copy attached) regarding ". . .Transportation Groups' Power." In the course of forming the Regional Intermodal Transportation Authority (RITA), the representatives from the City of Fort Smith were challenged with the establishment of By-Laws that would reflect as much parity as possible among the participants forming the RITA. One of the points that garnered most of the discussion was the establishment of voting rights. Should the voting rights be equal in number for each participant or should they be weighted based on an agreed to criteria (e.g. population, tax effort, budget size, etc.)? This was a very emotional and highly charged issue such that one participant threatened to withdraw if the votes were not equal.

The City of Fort Smith's (City) concern was being the largest government organization in population and budget among the four local governments participating that it would be called upon to bear the larger burden of costs should RITA need funding in the future from the participants. The final compromise was what is in the RITA By-Laws today: As long as there is an equal or parity vote among the participants there will be equal or parity cost sharing for any future contributions. In other words, for example, if there is a cost for $100,000.00, that cost would be split evenly, four ways, so that each governmental body would be responsible for paying $25,000.00 apiece.

During the course of negotiations, the three representatives from Fort Smith felt comfortable with what we were negotiating, but were never sure if we were reflecting the Boards position at the time. Because there are many efforts going on around the region and the State to form agencies and programs on a regional basis and because we are the largest jurisdiction in the area on which many of those future regional agencies and programs would depend, staff is requesting guidance and recommending the attached resolution to provide the necessary direction for future negotiations. Should you have questions or need to discuss this matter more fully, please feel free to call or e-mail us. Thank you.

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

Printed on 100% Recycled Paper

Backers Debate Transportation Groups' Power

By Rob Moritz
ARKANSAS NEWS BUREAU
RMORITZ@ARKANSASNEWS.COM

LITTLE ROCK — The Legislature authorized creation of regional transportation groups to give local governments more leeway to address area transportation issues, but backers are divided over whether the groups should have taxing authority.

Some members of a special panel developing possible new sources for highway funding think the Legislature should consider giving the groups taxing authority next year. But some lawmakers and even members of the state's only regional group, located in Northwest Arkansas, are not so sure now is the time to give any group more authority to raise taxes.

"I think, in general, the voter out here is not going to like that idea at all," said Rep. Jonathan Barnett, R-Siloam Springs, who was on the Arkansas Highway Commission in 2005 and 2007 when the General Assembly adopted legislation creating Regional Mobility Authorities.

"Right now, I don't think it would work because nobody wants to raise taxes," added Rep. Donna Hutchinson, R-Bella Vista, a supporter of regional authorities.

Lawmakers considered giving the groups the power to go directly to voters rather than depending on county quorum courts or city councils to call an election when they approved the creation of RMAs, but the idea died for lack of support, Barnett said.

"Probably the original Regional Mobility legislation would not have passed" had the provision survived, he said.

Last week, member Jim McKenzie raised the idea again during a meeting of the Blue Ribbon Committee on Highway Finance. He said giving the authorities taxing power would give regions of the state some ability to address road and highway needs without state assistance.

"We need to have the ability to raise money locally to address those local priority needs that maybe don't rise to the level of the high priority at the state level," McKenzie said after the meeting.

SEE GROUPS PAGE 3A

GROUPS: Panel To Discuss Funding In October

CONTINUED FROM PAGE 1A

"Some folks may not do it, they don't want to tax themselves, and that's okay. That's what democracy is all about. But for those areas of the state that do feel growth pressure, that do need the roads and are willing to tax themselves, they ought to have a way for them to do that."

McKenzie said he hopes the highway funding panel supports his suggestion and includes it in road funding recommendations it is preparing for the Legislature and governor.

The committee is scheduled to meet again in October to continue discussing possible new funding sources for an estimated $19 billion in highway needs over the next decade. The panel plans to submit its final recommendations by Dec. 1.

The state constitution limits taxing authority to the Legislature and cities and counties. While a Regional Mobility Authority can enter into construction contracts and issue bonds, the entity must go to a quorum court or city council in the affected region to get a tax increase proposal on the ballot.

Just one authority has emerged under the regional mobility law, the Northwest Arkansas Regional Mobility Authority, and it is still in its infancy.

The authority covers Benton and Washington counties and its membership includes the county judges of the two counties and the mayors of each of the first-class cities in the two counties. It has been promoting transportation issues, like the Bella Vista bypass, but has not yet issued bonds or entered into contracts.

However, several projects are under consideration, said Jeff Hawkins, executive director of the Northwest Arkansas Regional Planning Commission, which assists the transportation authority.

"The RMA is intended to be used as a supplement to, not a substitute for, state and federal funding," Hawkins said. "Ours is still in its infancy. We're in the process right now of hiring an engineering consulting firm to help develop implementation plans for various projects."

Some of those projects include widening and interchange improvements to Interstate 540, construction of a U.S. 412 bypass around Springdale and creation of another north-south corridor between Fayetteville, Rogers and Bella Vista.

Springdale Mayor Doug Sprouse, president of the Northwest Arkansas RMA, said he likes the idea of the region working together on transportation issues.

"There are a lot of things that need to be done to help our region grow that can't be taken on by individual cities, the projects are just too large and important," Sprouse said. "I think we are taking the right approach by looking at these things regionally and trying to come together and prioritize these projects. That means a lot for the whole region."

As for taxing authority, Sprouse said taxes are a difficult subject right now.

"It's tough to talk taxes right now," he said. "I think whatever happens, I assume would be dependent on the vote of the people."

Mike Malone, executive director of Northwest Arkansas Council, which also assists the Regional Mobility Authority, agrees.

"I think the more tools for the RMAs to make it more viable the better," Malone said. "In this corner of the state, the projects the RMA would look at are multi-county projects, so the county is going to have to be on board with other projects the RMA puts forward in practical and political terms."

McKenzie, of Little Rock, said Faulkner County is trying to create a regional authority and the idea has been considered by Saline and Pulaski counties.

He said the idea has not gained traction in Pulaski and Saline counties, however, because city and county officials have more pressing issues and other ideas on how they would like to use any possible tax increases.

MONDAY, AUG. 23, 2010

TIMES RECORD

A Stephens Media LLC Newspaper Serving Fort Smith, Western Arkansas and Eastern Oklahoma

1D

RESOLUTION NO. _____

A RESOLUTION ACCEPTING BID FOR THE PURCHASE OF A MECHANIC LUBE/SERVICE TRUCK

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

The bid, as indicated by enclosure for the purchase of a mechanic lube/service truck for the Department of Sanitation from Truck Centers of Arkansas for $146,527.00, is accepted.

This Resolution adopted this _____ day of September, 2010.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:

_____

☑ No Publication Required

☐ Publish ____ Times

Inter office Memorandum

TO: Dennis Kelly, City Administrator

COPY TO: Baridi Nkokheli, Director of Sanitation

FROM: Alie Bahsoon, Purchasing Manager AB

SUBJECT: Mechanic Lube/Service Truck Bid Tabulation

DATE: September 17, 2010

BID TAB: 6304-SF-BA

The City of Fort Smith ARKANSAS

Attached you will find the bid tabulation for the purchase of a mechanic lube/service truck for use by the Department of Sanitation, Fleet & Grounds Maintenance Division.

As indicated in the enclosed memorandum from Mr. Nkokheli, this truck will be replacing two existing units: Assets 583 (1992 International 4700 lube truck) and Asset 3 (1996 Ford F250 service truck). Because of their age and condition, both trucks will be scheduled to be sold at the next City of Fort Smith auction.

Funding for this truck is available and has been appropriated for in the 2010 Budget out of the "Reserve for Sanitation Equipment-Sinking Fund Account" in the amount of $110,000. The additional funding needed for this truck will be supplemented by available funds from other operating fund accounts as detailed in the attached memorandum from Mr. Nkokheli.

I am recommending that the bid submitted by Truck Centers of Arkansas for $146,527 and as noted by enclosure on the attached bid tabulation, be accepted and approved by the Board.

Please let me know if you should have any questions.

Tabulation of Bids - City of Fort Smith Mechanic Lube/Service Truck Bid Tab #6304-SF-BA						
Description **VENDOR**	**Truck Year**	**Truck Make**	**Truck Model**	**Shipping**	**Total Cost**	**Delivery Terms**
Curry Supply Co. Curryville, PA	2011	Freightliner	M2-106	$1,920.00	$153,333.00	180 days
Truck Centers of AR Van Buren, AR	**2011**	**Freightliner**	**M2-106**	**$0.00**	**$146,527.00 ✔**	**120-150 days**
MHC Kenworth Van Buren, AR	2011	Kenworth	T370	$1,750.00	$155,747.01	120-150 days

Bids Advertised: **09/03/10**
Bids Opened: **09/14/10**

✔ **Awarded Bid**

Responsible Environmental Management

Fort Smith Department of Sanitation

MEMORANDUM

September 17, 2010

To: Dennis Kelly, City Administrator

From: T. Baridi Nkokheli, Director

Subject: Lube/Service Truck Purchase

The Department of Sanitation is currently utilizing two trucks for its preventive maintenance and service of our heavy landfill equipment and our solid waste collection vehicles while in the field.

The 1992 International 4700 lube truck (asset 583) requires a complete engine and transmission rebuild with estimated costs for the repairs approaching $15,000. In addition, the chassis is in need of a complete electrical overhaul throughout. Most importantly, the fluid containers on the lube bed are rusted and allow condensation (water) into the compartments resulting in contamination to the engines and components of our heavy equipment thus diminishing the effectiveness of our preventive maintenance program.

The 1996 Ford F250 service truck (asset 3) also suffers from an underpowered engine and requires major repairs to the steering sector, including replacement of the front axle and steering column. Additionally, the flat bed is not conducive to equipment repair work for lack of a crane and tool storage. (This truck is not allowed to leave the landfill property due to its condition.)

Both the 1992 International and the 1996 Ford are two wheel drive trucks creating a hindrance of access to our equipment on the landfill during inclement weather. Furthermore, neither vehicle contains a technician's crane for repair use, altering our ability to service the equipment in the field.

Our 2010 budget earmarked funding for the purchase of a two-ton diesel dual-purpose truck in the fleet and grounds maintenance division (program 6304) and bids were recently solicited by the Purchasing Department for this truck. The new truck will be four-wheel drive since the majority of its use will be off-road and will be outfitted with a dual-purpose lube/service bed allowing replacement of both trucks and resolving the previously mentioned issues. We originally included this piece of equipment in our 2009 budget but ultimately had to exclude it due to budgetary constraints.

The enclosed bid tabulation is to recommend award to Truck Centers of Arkansas for $146,527. We erroneously included the price we were quoted two years ago in our 2010 budget. Since 2008, there have been two Environmental Protection Agency (EPA) mandates on emissions that

have increased the price of the truck by $12,000, as well as three model year increases ($2,500 per year) and materials, shipping, and other miscellaneous increases (2-3%).

Funding for this truck is available and has been appropriated for in the 2010 Budget out of the "Reserve for Sanitation Equipment-Sinking Fund Account" in the amount of $110,000. The additional funding needed for this truck will be supplemented by available funds from the following operating accounts within our fleet and grounds maintenance programs:

6304-202	Small Equipment	$ 6,000
6304-203	Fuel, Oil, Lube	15,000
6304-208	Repair of Buildings	6,627
6304-215	Travel	6,500
6304-216	Educ., Memb., Subscrip	2,400
		$ 36,527

Upon receipt of the new truck, it is our intent to remove the two trucks from our fleet in anticipation of selling both of them in the next City of Fort Smith auction.

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

CITY OF FORT SMITH

Submit Bids to:
Purchasing Department
P.O. Box 1908
623 Garrison Avenue, Suite 522
Fort Smith, AR 72902-1908

Bid No. 6304-SF-BA

INVITATION TO BID

Closing Date:
September 14, 2010 @ 2:00 p.m.

BID ITEM: **Mechanic/Lube Service Truck**

QUANTITY: **1 (ONE)**

Company _____

Name _____
[PRINT OR TYPE]

Federal Tax I.D. No. _____

Signature* _____

Street Address _____

Title _____

City _____

Date _____

State _____ Zip Code _____

Authorized Signature: The signer declares under penalty of perjury that he/she is authorized to sign this document and bind the company or organization to the terms of this bid document.

Tel. No. _____ Fax No. _____

E-Mail _____

SUBMITTED BIDS MUST HAVE AN ORIGINAL SIGNATURE.

FOR CONSIDERATION AS A RESPONSIVE BID, THE FOLLOWING IS REQUIRED:

1. **Bid must be submitted on this official City bid document; submit to the address above.**
2. **Bid must be in a sealed envelope with bid number clearly marked on envelope.**
3. **This cover page must be signed with an original signature.**
4. **Bid must be submitted on or before the exact closing date and time. Bids received after the exact closing date and time will NOT be opened nor considered.**

For Further Information Concerning This Bid, Please Contact:

ALIE BAHSOON, Purchasing Manager

Phone: (479) 784-2267 Fax: (479) 784-2484 Email: abahsoon@FortSmithAR.gov

It is the intent of the City of Fort Smith, Arkansas, to solicit bids for **One (1) Mechanic Lube/Service Truck ("Truck")** per the enclosed specifications, suitable for use by the City of Fort Smith Department of Sanitation ("City.") Any manufacturer's name, trade name, brand name, or catalog number referenced within these specifications are for the purpose of describing and establishing a general quality levels. Such references are not intended to be restrictive but are to be considered minimum specifications. Bids will be considered for any brand which meets or exceeds the quality of the specifications listed for any item and determined to be equal by the City. The Truck shall be bid **FOB Fort Smith, Arkansas,** and delivered to **5900 Commerce Road, Fort Smith, Arkansas 72916.**

Detailed specifications of the Truck shall accompany the bid at the time of opening. Any and all standard equipment, supplies, parts and/or attachments not specifically mentioned but necessary to furnish a complete unit shall be included and installed by the successful bidder. Where any major unit other than specified by trade name is proposed to be furnished, the bidder must furnish specification comparisons of such units with that called for. All bids are subject to Staff analysis. The City of Fort Smith reserves the right to accept the best bid for the City, and is not required to accept the lowest priced bid. The items noted will be taken into consideration when analyzing the bid proposals and shall not be limited to the following: the availability of replacement parts, warranty services, customer service field support, and pricing. **Please note the servicing shop shall be no more than 50 miles from Fort Smith.**

The Truck shall be ready for immediate use and delivered within 30 days or less (unless noted otherwise) to the Department of Sanitation, located at 5900 Commerce Road, Fort Smith, Arkansas. **Any questions regarding TECHNICAL specifications shall be directed to Mr. John Barnes, Fleet & Grounds Manager, at (479) 288-1228 or at jbarnes@fortsmithar.gov.**

The truck and equipment listed herein shall comply with applicable Federal and State safety, emission and pollution control requirements in effect at time of delivery. Standard manufacturer's warranty shall be furnished. Minimum warranty period shall be no less than 1 year.

Field demonstrations of currently operational units which are offered as a substitute, variation, or deviation may be required as part of Staff analysis at the option of City Staff. Properly documented referrals may be required of vendors which allow field evaluation of units in a comparable operational area.

These specifications are to describe a minimum MECHANIC LUBE/SERVICE TRUCK for purchase by the City of Fort Smith Landfill Department. All bids submitted shall include descriptive literature of the unit being bid. The truck bid shall be new, manufactured the same year or succeeding year of the bid, of currently advertised and production model as commercially available. Standard features/options as published in the manufacturer's published literature shall

be included in bid unless otherwise noted. One copy of the manufacturer's published specification shall be included with the bid. The City of Fort Smith reserves the right to reject any or all bids received. Awards will be made on the best value offered. The quality of the articles to be supplied, their conformity with the specifications, their suitability to requirements, delivery terms, warranty, and customer service agreement thresholds/costs shall be taken into consideration. The City, in addition to the right to reject any or all bids, reserves the right to waive any informality in bids, to accept in whole or part such bid or bids as may be deemed in the best interest of the City.

The truck offered shall be equal to or better than the 2010 M2 106 Freightliner Conventional Cab with Factory Installed 4 wheel-drive. Truck shall have 168" wheel base. This truck will be a LUBE/SERVICE unit. The primary use is for lube, oil and fueling of equipment on and off road.

Though not anticipated, in the event that an addendum to this solicitation is necessary, it will be posted no later than 3 (three) days prior to the bid opening date on the City of Fort Smith website (www.fsark.com), under the Purchasing Department found under the "*Department and Services*" heading. It shall be the bidder's responsibility to check the website and to ensure that the bidder has a complete and up-to-date package.

NOTE: Do not add any sales tax to this bid. Section GR-34 (E), of the Arkansas Sales & Use Tax Regulations exempts the City of Ft. Smith from paying taxes on such units **(see also Arkansas Code 26-52-410 a))**

- Indicate compliance with checking either a YES or NO answer.
- A "YES" answer indicates 100% compliance with the entire statement. Manufacturer's bid is allowed to meet, or exceed, stated specifications, unless otherwise quantified.
- Explain all "NO" answers in detail on the "Exceptions Page" (Page 10), and clearly reference the relevance to the non-conforming item(s) by section and item number.

YEAR, MAKE AND MODEL BID: _____

PROPOSED BID PRICE: $ _____

FREIGHT: $ _____

TOTAL BID: $ _____

Guaranteed delivery date after purchase order is issued shall be _____. If delivery date is not met, liquidated damages shall be assessed at the rate of $100.00 per day for each day past the delivery due date.

Acknowledgment of bidder of liquidated damages provision

_____ ***Initials of bidder***

TRUCK MINIMUM SPECIFICATIONS

A. ENGINE:

1. Four-stroke cycle, six cylinder diesel minimum block heater, and engine speed control and cruise control so engine speed can be controlled for crane ☐ Yes ☐ No
   EXCEPTION: _____
2. 220 HP net minimum ☐ Yes ☐ No
   EXCEPTION: _____
3. Direct-injection fuel system ☐ Yes ☐ No
   EXCEPTION: _____
4. Gear driven oil pump ☐ Yes ☐ No
   EXCEPTION: _____
5. Belt driven water pump ☐ Yes ☐ No
   EXCEPTION: _____
6. Conventional core radiator with large diameter fan ☐ Yes ☐ No
   EXCEPTION: _____
7. Dry type air cleaner with primary and secondary elements ☐ Yes ☐ No
   EXCEPTION: _____
8. 115-amp alternator ☐ Yes ☐ No
   EXCEPTION: _____
9. Glow plugs or pre-heater ☐ Yes ☐ No
   EXCEPTION: _____
10. Vertically mounted, spin-on oil and fuel filters ☐ Yes ☐ No
    EXCEPTION: _____
11. Environmental drain package ☐ Yes ☐ No
    EXCEPTION: _____

B. TRANSMISSION

1. 6 speed Allison automatic with retarder ☐ Yes ☐ No
   EXCEPTION: _____

C. BRAKING:

1. Shall have air brakes ☐ Yes ☐ No
   EXCEPTION: _____

2. Shall have power steering ☐ Yes ☐ No
   EXCEPTION: _____

3. Front springs, multi-leaf rated at 14,000 lbs. ☐ Yes ☐ No
   EXCEPTION: _____

4. Rear springs, multi-leaf rated at 21,000 lbs. ☐ Yes ☐ No
   EXCEPTION: _____

5. Shall have extra rear leaf on crane side and must be level upon delivery
   ☐ Yes ☐ No
   EXCEPTION: _____

D. TIRES AND WHEELS:

1. 10R22.5G (14 ply) front and rear, Michelin XDE all terrain or equal
   ☐ Yes ☐ No
   EXCEPTION: _____

2. Wheels shall be 22.5 x 7.5 10 (ten) hole steel disc ☐ Yes ☐ No
   EXCEPTION: _____

3. Fuel tanks shall be 50 gallon steel with fuel heater, and shall include step on both sides
   ☐ Yes ☐ No
   EXCEPTION: _____

4. Shock absorbers shall be double acting telescoping, front and rear
   ☐ Yes ☐ No
   EXCEPTION: _____

5. Front bumper shall be full width heavy duty with pull hooks
   ☐ Yes ☐ No
   EXCEPTION: _____

6. Mirrors shall be stainless steel, western style with auxiliary convex mirror (102" arm)
   ☐ Yes ☐ No
   EXCEPTION: _____

E. ELECTRICAL:

1. 12 volt system with 115 amp alternator ☐ Yes ☐ No
   EXCEPTION: _____

2. 2-12 volt 1100 CCA, maintenance free batteries with disconnect switch mounted in cab of truck ☐ Yes ☐ No
   EXCEPTION: _____

3. Gauges, illuminated, dash mounted showing engine coolant temperature, engine oil pressure, transmission oil temperature, fuel level, trip odometer, tachometer, volt-meter and indicator lights ☐ Yes ☐ No
   EXCEPTION: _____

F. INTERIOR FEATURES:

1. Door trim shall be color-keyed molded with grab handles and reflector, hard arm rest and upper vinyl insert ☐ Yes ☐ No
   EXCEPTION: _____

2. Shall have 2 dash mounted auxiliary power points ☐ Yes ☐ No
   EXCEPTION: _____

3. Shall have frame mounted tow hooks front and back ☐ Yes ☐ No
   EXCEPTION: _____

4. Shall have 5 roof clearance lights ☐ Yes ☐ No
   EXCEPTION: _____

5. Hood shall be tilt and fender assembly type, with sealed beam halogen dual beam headlights ☐ Yes ☐ No
   EXCEPTION: _____

G. CAB:

1. Cab shall be sound suppression type, fully enclosed, ROPS of all steel construction with tinted safety glass, with black vinyl floor mats with diesel engine insulation package ☐ Yes ☐ No
   EXCEPTION: _____

2. Cab shall have key lock doors ☐ Yes ☐ No
   EXCEPTION: _____

3. Cab shall be equipped with air conditioning, heater with defroster, front wipers, am/fm radio, contour vinyl air ride seat with arm rests and seat belt ☐ Yes ☐ No
   EXCEPTION: _____

4. Shall have halogen driving lights, two each ☐ Yes ☐ No
   EXCEPTION: _____

5. Cab shall have a 10lb rechargeable fire extinguisher and triangles
   ☐ Yes ☐ No
   EXCEPTION: _____

6. Exhaust shall be vertical mounted chrome (to resist corrosion), right side
   ☐ Yes ☐ No
   EXCEPTION: _____

7. Vehicle color to be metallic blue and cab maroon to match fleet colors
   ☐ Yes ☐ No
   EXCEPTION: _____

H. OTHER ITEMS:

1. Shall have Back-up alarm and back up camera ☐ Yes ☐ No
   EXCEPTION: _____

2. Heavy duty bottom guard to protect front differential, engine and transmission
   ☐ Yes ☐ No
   EXCEPTION: _____

3. Front differential shall have 4 wheel drive with automatic locking hubs, Factory Installed
   ☐ Yes ☐ No
   EXCEPTION: _____

4. Truck shall 12 to 24 volt jump start capability on exterior with quick connects
   ☐ Yes ☐ No
   EXCEPTION: _____

5. Service/lube bed shall be IMT, Maintainer, RKI or equal. Bed to have key locks on all doors, stainless steel 3 point twist latches and compartments, lights and switch inside all compartments, 6 halogen work lights mounted 2 rear, 2 left and 2 right.
   ☐ Yes ☐ No
   EXCEPTION: _____

6. Shall have 12 volt plug in with portable hand held light with magnetic base. Bed shall have manual in and out, and up and down outriggers. Body shall be constructed from 14 gauge galvannel steel or better. Rear bumper shall be 24" work style heavy duty bumper, with storage compartment. Compartments shall be 94" high 44" wide and 20" deep with slide out drawers. Unit shall have a compartment for a 50lb grease keg with 50' hose and grease gun (air operated) □ Yes □ No
   EXCEPTION: _____

7. Shall have a 6,000 lb hydraulic proportional controlled crane mounted on the right rear corner of the bed. Crane shall have a rating of 36,000 foot pounds and a lifting capacity of 6,000 lbs at 6 feet. Boom shall have manual extension for the boom Crane shall have 370 degree power rotation with positive locking and 95' of 3/8" aircraft quality cable, swivel blocks and automatic overload protection □ Yes □ No
   EXCEPTION: _____

8. Bed shall have two fluid tanks; one for used oil and one for antifreeze. 5 (five) 150 gallon tanks for new fuel, antifreeze, hydraulic oil, transmission oil, engine oil
   □ Yes □ No
   EXCEPTION: _____

9. Platform shall have a hydraulic driven air compressor mounted on it, with a capacity of 37.5 cu. ft. per min. Compressor to be Stellar, Curtis, RKI or IMT. 30 gallon air tank to be mounted between frame behind rear axle under bed □ Yes □ No
   EXCEPTION: _____

10. Bed shall have electronic hand metering valves for oil fill and air operated oil fill pumps
    □ Yes □ No
    EXCEPTION: _____

11. Mount a hose reel with 50' of 1/2" hose in the curbside rear vertical with hose going thru the rear of compartment with a four way roller and bumper. Include the filter, regulator and lubricator in the compartment. Include a hose reel with 50' of 1" hose. Location to be determined at the time of award of bid □ Yes □ No
    EXCEPTION: _____

12. Mount 5" Wilton mechanic's vise on curbside rear on bumper
    □ Yes □ No
    EXCEPTION: _____

13. Tow hooks on back with pintle hook recessed □ Yes □ No
    EXCEPTION: _____

14. Transmission mounted PTO with electronic on/off operation

☐ Yes ☐ No

EXCEPTION: _____

I. SUPPORT:

1. Operator and maintenance training shall be supplied at time of delivery

☐ Yes ☐ No

EXCEPTION: _____

2. Bidder agrees to stock standard parts for the unit and shall have parts available within 2 working days after purchase order issued by the City or part will be free

☐ Yes ☐ No

EXCEPTION: _____

3. Bidder agrees to furnish fully trained maintenance personnel for repair of unit bid within 24 hours of repair request ☐ Yes ☐ No

EXCEPTION: _____

J. WARRANTY:

1. Bidder agrees to warranty the truck body for 36 months or the manufacturer's standard warranty whichever is longer, against defective material or workmanship that fails under normal use ☐ Yes ☐ No

EXCEPTION: _____

2. Power train shall be warranted for a minimum of 36 months or 50,000 miles

☐ Yes ☐ No

EXCEPTION: _____

3. Warranty shall include all parts, labor ☐ Yes ☐ No

EXCEPTION: _____

M. MANUAL AND PARTS BOOKS:

1. Two copies of each of the following shall be furnished: Operator Manual; Service Manual; and Parts List and CD version. ☐ Yes ☐ No

EXCEPTION: _____

EXCEPTIONS PAGE:

Explain all "NO" answers in detail on this page, and clearly reference the relevance to the non-conforming item(s) by section and item number. If needed, please use plain paper for any additional exceptions.

SECTION & ITEM #

SECTION & ITEM #

SECTION & ITEM #

SECTION & ITEM #

SECTION & ITEM #

SECTION & ITEM #

SECTION & ITEM #

SECTION & ITEM #

SECTION & ITEM #

Conditions for Bidding

1. Submit bid on this bid form in compliance with all conditions listed.
2. Address bids to: City of Ft. Smith Purchasing, PO Box 1908, 623 Garrison Ave # 522, Ft. Smith, AR 72902.
3. Do not include Federal Excise Tax in bid.
4. State Manufacturer, Brand Name, Model, etc. for each item where applicable.
5. Samples of items, when required, must be furnished free, and, if not called for within 30 days from date of bid opening will be disposed of by City.
6. Bids received after stated date and time will not be considered.
7. Be sure to read all conditions and verify amounts before submitting bids.
8. Guarantees and warranties should be attached as a part of the bid as they may be a consideration in awarding a contract.
9. Delivery and contract completion dates are to be shown as these dates may, where time is of the essence, determine the contract award. The City may nullify a contract award for non-compliance.
10. SIGNATURE REQUIRED. This bid MUST be signed with the firm name and by an authorized officer, employee, or agent.
11. Deviations from specifications and alternate bids must be clearly shown with complete information. They may or may not be considered.
12. Freight and other delivery charges to destination at designated City facility must be included in bid. Charges may not be added after the bid is opened.
13. DISCOUNTS. Show rate, total amount, and latest day any discount will be allowed after receipt of article and invoice; otherwise City will deduct allowed discount when payment is made.
14. If unit prices and extensions thereof do not coincide, the City will accept the unit price.
15. All prices quoted will remain firm for at least 90 days after date of the bid opening, unless otherwise specified by the City or bidder.
16. In the event of two or more identical low bids, the contract may be awarded arbitrarily or for any reason to any of such bidders or split in any proportion between said two or more bidders at discretion of City.
17. Any ambiguity in any bid as the result of omission, error, lack of clarity or non-compliance by the bidder with specifications, instructions, and all conditions of bidding shall be construed in the light most favorable to the City.
18. **"All or None"** bid must be considered only when bidder states on bid form. "All or None" bidding is considered an "alternate".
19. All contracts shall produce NEW commodities, fresh stock, latest model and design. Re-conditioned or re-manufactured items will not be accepted.
20. Latest specifications, drawings, sketches or other descriptive literature containing detailed information as to design, construction and operation shall be included.
21. All necessary parts, accessories and tools for satisfactory operations of the units shall be furnished whether or not they specifically mentioned in these specifications. Bidder shall submit a list of tools and equipment they propose to furnish.
22. Any protest of specifications or bidding process must be received in writing by the Purchasing Department at least five (5) days prior to the specified bid opening date.
23. Any protest of bid award must be in writing and received by the Purchasing Department no later than three (3) days after notice of intent to award has been made. If said item requires Board of Directors approval, written protest must be received by the Purchasing Department no later than five (5) days prior to the next Board of Directors meeting at which the recommended bid award will be considered.
24. The City will not be responsible for lost or misplaced bids due to vendor omission of bid item and/or bid opening date information on the outside of the sealed bid envelope. Failure by vendor to note said information on the bid envelope may result in the bid not being considered.

THE CITY RESERVES THE RIGHT TO ACCEPT PART OR ALL OF ANY SPECIFIC BID OR BIDS AND TO ACCEPT ANY BID OR BIDS WITH OR WITHOUT TRADE-IN. THE CITY FURTHER RESERVES THE RIGHT TO REJECT ALL BIDS, OR PART OR ALL OF ANY SPECIFIC BID OR BIDS.

1E,

RESOLUTION NO. _____

RESOLUTION SETTING PUBLIC HEARING DATE ON PETITION TO VACATE STREET RIGHT-OF-WAY LOCATED IN MEAD'S ADDITION, BLOCK A AN ADDITION TO THE CITY OF FORT SMITH, ARKANSAS

WHEREAS, a petition to vacate a portion of street right-of-way located in Mead's Addition, Block A has been filed with the Office of the City Clerk in the manner and form as provided by law.

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

Said petition is hereby set for hearing on the 5th day of October 2010, at 6:00 p.m. at the regular meeting of the Board of Directors of the City of Fort Smith, and the city clerk is hereby directed to give notice of said meeting by publication once a week for two (2) consecutive weeks in a newspaper of general circulation in the City of Fort Smith, Arkansas.

THIS RESOLUTION ADOPTED THIS _____ DAY OF SEPTEMBER 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form
JSL
No publication required

Memo

To: Dennis Kelly, City Administrator

From: Wally Bailey, Director of Development Services

Date: 9/17/2010

Re: Resolution Setting a Public Hearing Date for a Petition to Close a Portion of Street Right-of-Way on South May Avenue – Dwayne Bell, 1108 Adelaide Avenue

We have received a petition from Mr. Dwayne Bell of 1108 Adelaide Avenue to abandon a portion of the street right of way on South May Avenue. The purpose of the request is to allow construction of a detached garage on the Bell's property.

Mr. Bell's application requesting the abandonment and his survey are enclosed. These documents show the area proposed for abandonment and his proposed garage.

In accordance with Arkansas law, the Board of Directors are required to set a public hearing on the proposed abandonment. The staff recommends that the Board of Directors set a public hearing date for October 5, 2010, for the purpose of reviewing this matter. A resolution setting the public hearing for October 5th has been prepared and will be placed on the September 21, 2010, agenda.

In response to the petition, the Planning Departments staff is in the process of contacting appropriate City Departments and all franchise utility companies relative to any ongoing or future interests that they may have within the right-of-way. We will also notify all property owners within 300 feet of the proposed street right-of-way abandonment.

If you have any questions regarding this matter, please do not hesitate to contact me.

Enc.

City Clerk
FILED 9-14-10
Kemler

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

APPLICATION:

Indicate one contact person for application: ✓ Applicant _____ Representative

Applicant (owner)

Name: Dwayne Bell

Address: 1108 Adelaide
Ft Smith, AR 72904

Telephone Number: (479) 242-3333

E-Mail: dwayne777@gmail.com

Representative (engineer, attorney, realtor, etc)

Name: _____

Address: _____

Telephone Number: _____

E-Mail: _____

Site Address/Location: 1108 Adelaide, Ft Smith, AR 72901

Legal Description of area to be vacated (attach separate sheet if necessary): See Attached

Assessor's Parcel Number for Subject Property: #15104-0008-0001-00

Reason for Request: All other buildings on this street are on this line and it would look funny for our garage ~~fence~~ to be different. Also there are no utility reasons not to do it.

Current Status of Right-of-Way Development: Being used.

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

I understand that if it is determined following review of the application by city staff that ongoing utility interests must be protected through easement dedications, the applicant or his authorized agent shall be required to develop and submit a fully executed easement. No action will be taken by the Board of Directors on an abandonment request until said easement is on file with the city or until staff and/or franchisees have determined that no utility easement is necessary.

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

Name: (printed) Billy Dwayne Bell

Signature: Dwayne Bell Date: Sept 9, 2010

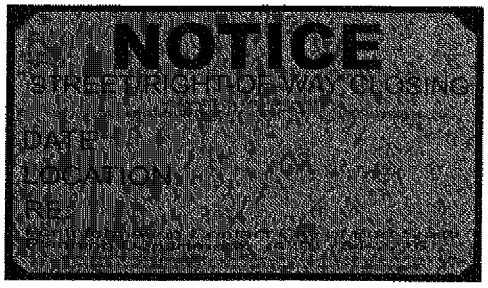
Property Owner(s)/Authorized Agent: *I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is subject of this application and that I/we have read this application and consent to its filing.*

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

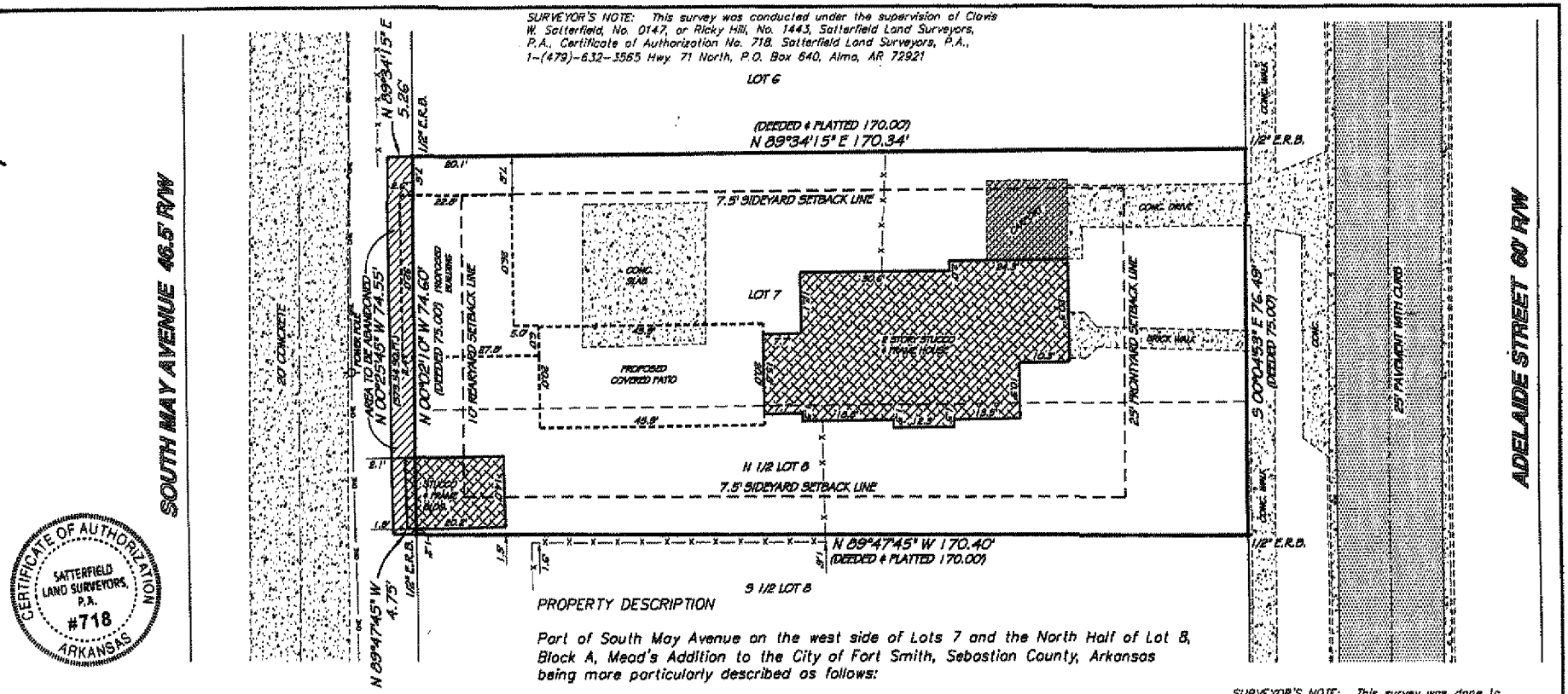
Application Checklist:

- [x] A list from the Sebastian County Assessor's Office showing all property owners within 300 feet of all perimeter points of the tract being considered for abandonment. ***(County Assessor is located in Room 107 of the Sebastian County Courthouse).***
- [x] N/A Abstractor's Certificate of Ownership stating names of all owners of property abutting the property to be vacated
- [ ] Petition with signatures of all abutting property owners
- [x] Metes and Bounds legal description of the area to be vacated (Provide hard copy and CD containing legal description in MS Word) 9 Sep 2010 Rick Sutterfield
- [x] Hard copy and PDF of survey of the site depicting the perimeter property lines and area within the property to be vacated 9 Sep 2010 R.S.
- [ ] Application Fee of $150.00. This fee is non-refundable.

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



SURVEYOR'S NOTE: This survey was conducted under the supervision of Clovis W. Satterfield, No. 0147, or Ricky Hill, No. 1443, Satterfield Land Surveyors, P.A., Certificate of Authorization No. 718. Satterfield Land Surveyors, P.A., 1-(479)-632-3565 Hwy. 71 North, P.O. Box 640, Alma, AR 72921



CERTIFICATE OF AUTHORIZATION
SATTERFIELD LAND SURVEYORS, P.A.
#718
ARKANSAS

PROPERTY DESCRIPTION

Part of South May Avenue on the west side of Lots 7 and the North Half of Lot 8, Block A, Mead's Addition to the City of Fort Smith, Sebastian County, Arkansas being more particularly described as follows:

Beginning at a 1/2 inch existing rebar marking the Northwest Corner of Lot 7. Thence along the west line of Lot 7 and 8, South 00 degrees 02 minutes 10 seconds East, 74.60 feet to a 1/2 inch existing rebar. Thence leaving said west line, North 89 degrees 47 minutes 45 seconds West, 4.75 feet. Thence North 00 degrees 25 minutes 45 seconds West, 74.55 feet. Thence North 89 degrees 34 minutes 15 seconds East, 5.26 feet to the Point of Beginning, containing 373.54 square feet and subject to any Easements of Record.

9/10/10: ADDED AREA OF R/W TO BE RELEASED BY THE CITY OF FORT SMITH, AR.
6/17/10: ADDED PROPOSED COVERED PATIO

SURVEYOR'S NOTE: This survey was done to mark the corners on the ground and to show observed structures. Utilities located if Requested according to utility company records, and or above ground inspection. This survey was done from description furnished to us or instruction from the person(s) named on this plat. Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts which an accurate and current title search my disclose.

Satterfield Land Surveyors P.A., Copyright 2010

This plat is copyright material and is provided solely for the use of the person(s) named on this plat and may not be used or distributed to any other person(s) or company for their benefit. No license has been created, expressed or implied to copy the survey without the written consent of Satterfield Land Surveyors, P.A.. No one including the person(s) named, may reproduce this plat. Only authentic copies that appear with the surveyor's seal in red may be used. Any copies used without this red seal are considered unauthorized copies and are considered a copyright infringement.

30' 15' 0 GRAPHIC SCALE 30' 60'

REFERENCE DEED

SURVEY REFERENCES

BASIS OF BEARING: ASSUMED N 89°34'15" E ON NORTH LINE OF PROPERTY

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS
NO. 1443
SIGNATURE
RICKY W. HILL
9-10-10

LEGEND.

- S.R.B. = SET 1/2" REBAR W/ CAP
- S.P./R.N. = SET P/K NAIL
- S.R.R.S. = SET RAILROAD SPIKE
- S.N. = SET NAIL
- E.R.B. = EXISTING REBAR
- E.I.R. = EXISTING IRON RIV
- E.P./R.N. = EXISTING P/K NAIL
- E.R.R.S. = EXISTING RAILROAD SPIKE
- E.N. = EXISTING NAIL
- = EXISTING GOVERNMENT MONUMENT
- = EXISTING STONE
- = EXISTING STATE MONUMENT
- = EXISTING R/W MARKER
- = EXISTING FENCE
- = COMPUTED POINT
- F.C. = FENCE CORNER

SURVEYORS DISCLAIMER AND STATEMENT OF USE

This survey was conducted by the written or verbal authorization of the person named as the buyer and/or Use by as shown on this plat. No one has the authority to use the data or legal description from this survey except those named or their agents and the survey is only certified to the date shown on this plat. This plat is protected by copyright and any person other than those named using or relying upon this plat will be held responsible. Satterfield Land Surveyors, P.A. will not be responsible or have any liability to any other person or company who uses this plat without written authorization.

SEBASTIAN COUNTY, ARKANSAS
SURVEY OF

LOT 7 & N 1/2 OF LOT 8, BLOCK A, MEAD'S ADDITION TO THE CITY OF FORT SMITH, ARKANSAS

FOR USE BY: DWAYNE BELL

DRAWN BY:	D.E.R.
SCALE:	1" = 20'
DATE:	6-14-10
JOB NO.	37,337

Satterfield Land Surveyors P.A.
REG. ARK. & OKLA.
1029 HWY. 71 NORTH, ALMA, ARK. - PHONE No. (479) 632-3565
FAX (479) 632-5002 - WEBSITE: http://www.slsurveying.com

1F

RESOLUTION _____

RESOLUTION AUTHORIZING A TIME EXTENSION, ACCEPTING COMPLETION OF AND AUTHORIZING FINAL PAYMENT FOR THE CONSTRUCTION OF CHAD COLLEY EXTENSION
PROJECT NO. 08-00-C

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

SECTION 1: The Mayor is authorized to execute a time extension with Steve Beam Construction, Inc., for the above project, which increases the contract time by 70 calendar days.

SECTION 2: The City of Fort Smith hereby accepts the construction of the Chad Colley Extension, Project No. 08-00-C, as complete.

SECTION 3: Final payment is hereby authorized in the amount of $6,782.92 to the contractor, Steve Beam Construction, Inc., for the Chad Colley Extension, Project No. 08-00-C.

This Resolution adopted this _____ day of September, 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, Director of Engineering SS

DATE: September 17, 2010

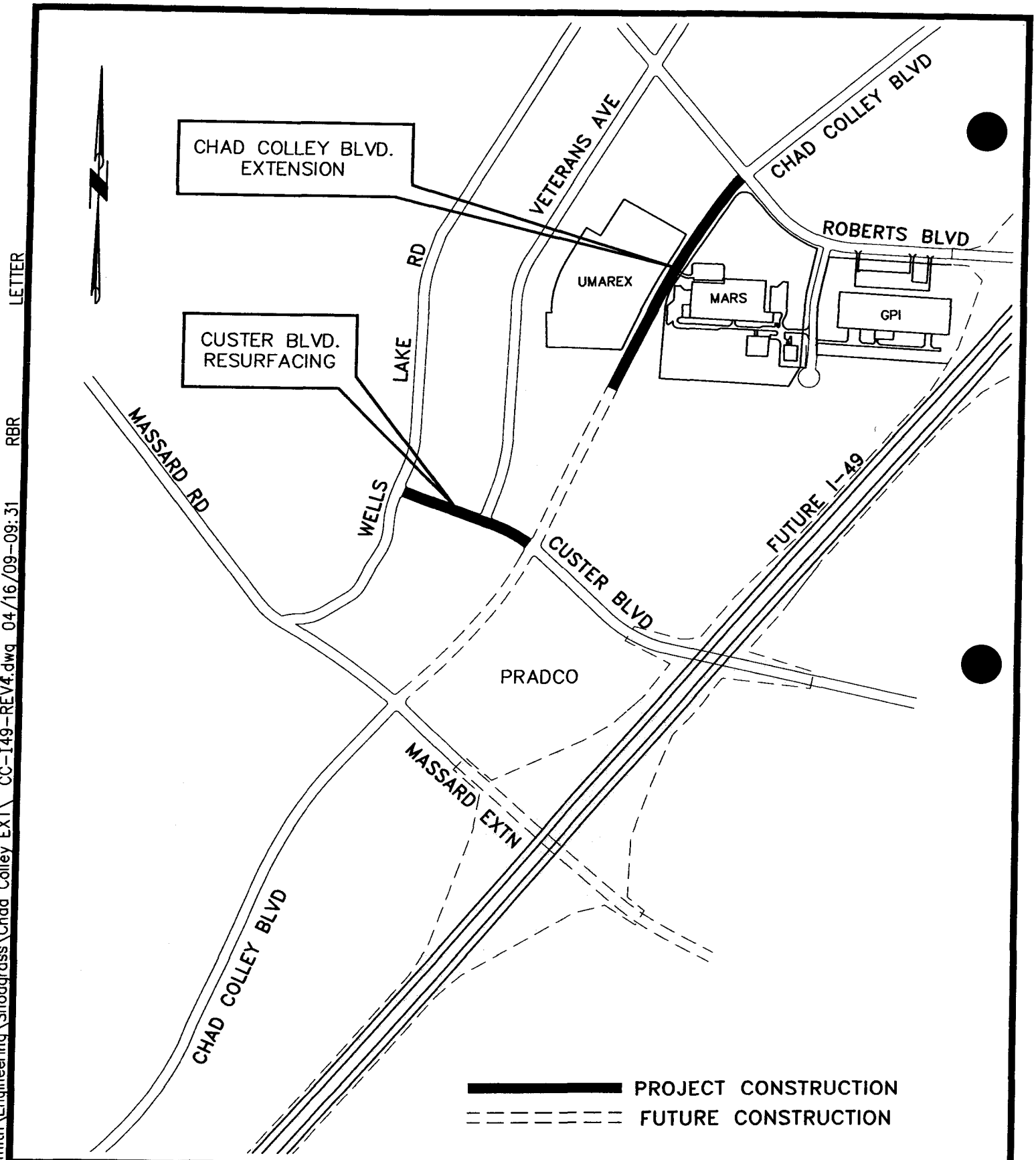
SUBJECT: Chad Colley Extension
Project No. 08-00-C

This project included the extension of Chad Colley Boulevard from Roberts Boulevard to a point approximately 2,000 feet to the south to provide access to the Umarex development site. This project also included the resurfacing of Custer Boulevard from Wells Lake Road to Chad Colley Boulevard associated with the Pradco development site. The project location is shown on the attached map.

The project was substantially complete on January 15, 2010. The contractor requested an additional 70 days beyond the November 6, 2009 contract completion date due to significant weather delays, waterline issues, and coordination with Mars Petcare. Staff concurs that the 70 days are warranted.

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

Enclosures



C:\City of Ft Smith\Engineering\Snodgrass\Chad Colley EXT\ CC-I49-REV4.dwg 04/16/09-09:31 RBR LETTER

CHAD COLLEY EXTENSION
FORT SMITH, ARKANSAS

The City of Fort Smith Arkansas

Project:	08-00-C
Date:	APRIL 2009
Scale:	NONE
Drawn By:	RBR

SUMMARY SHEET

City of Fort Smith
Project Status: Complete
Today's Date: 09/13/10
Staff contact name: Stan Snodgrass
Staff contact phone: 784-2225
Contract time (no of days): 180
Notice to proceed issued: 5/11/2009

Project name: Chad Colley Extension
Project number: 08-00-C
Consultant engineer: Mickle-Wagner-Coleman, Inc.
Project contractor: Steve Beam Construction, Inc.

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	$1,703,045.00	4/15/2009	11/6/2009
Change orders:			
1			
2			
3			
Adjusted contract amount	$1,703,045.00		
Payments to date (as negative):	$1,356,584.51		
Amount of this payment	$6,782.92		
Contract balance remaining	$339,677.57		
Retainage held	0%		
Final payment	$6,782.92		
Amount under original contract as a percentage	19.9%		

Final Comments:

The project was substantially complete on January 15, 2010. The contractor requested an additional 70 days beyond the November 6, 2009 contract completion date due to significant weather delays, waterline issues, and coordination with Mars Petcare. Staff concurs that the 70 days are warranted.

1G

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE SEBASTIAN COUNTY AQUATICS ASSOCIATION FOR THE DIVING WELL POOL AT CREEKMORE PARK

WHEREAS, Sebastian County Aquatics Association (SCAA), Fort Smith, Arkansas has requested to lease the swimming pool at Creekmore Park, and;

WHEREAS, the City of Fort Smith Parks and Recreation Commission recommends the approval of the lease agreement with SCAA for use of the swimming pool at Creekmore Park;

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

Section 1: The Mayor is hereby authorized to execute an agreement with SCAA for a period of approximately nine (9) months as outlined in the attached agreement.

This Resolution passed this _____ day of September, 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM

_____ npr

3301 South M Street / Fort Smith, Arkansas 72903 / 479.784.2368 / FAX 479.784.2480 / www.fsark.com/Parks

PARKS
RECREATION
FORT SMITH

Memo:

September 16, 2010

To: Dennis Kelly, City Administrator
From: Mike Alsup, Director of Parks and Recreation Mike Alsup
Re: Resolution authorizing approval of the lease agreement with Sebastian County Aquatics Association for use of the pool at Creekmore Park

The Parks and Recreation Commission recommends that the agreement with Sebastian County Aquatics Association (SCAA) to use the diving well at Creekmore Pool during the non-summer months be extended another three (3) years. SCAA is the parent organization of the Tideriders Swim Team. The swim team uses Creekmore Pool as its training facility and for competitive meets in the summer.

SCAA, at their expense, purchased an air supported structure, water heaters, and other equipment and installs the structure over the diving well after the regular swim season. The last day of the regular swim season is Labor Day. The structure will be installed each year after Labor Day and removed each year before the Memorial Day weekend.

SCAA assumes responsibility of operating the diving well during the non-summer months. Operation of the facility includes meeting the Health Department's rules and regulations, balancing the chemicals, keeping the premises clean, paying the gas bill, and scheduling. SCAA's insurance covers the team and its functions; it does not cover any other activities. Any other use of the facility would have to schedule with SCAA and provide liability insurance and indemnify SCAA and the City. It is anticipated that the Red Cross will hold lifeguard training at the facility. SCAA's activities will include Tideriders swim team training, high school swim training, and possibly a high school swim meet.

The agreement assigns responsibility for utilities and the purchase of chemicals. As proposed SCAA will pay the gas bill and pay for the chemicals. The City will pay the electric bill. This will not substantially increase the City's budget. The pumps run through the winter and heat is left on in the dressing rooms; there should be a minimal increase for electricity.

I recommend the approval of this agreement with SCAA. It provides an opportunity to increase utilization of the aquatics facility which will enhance the quality of place. Please contact me if you have any questions regarding this matter.

Please contact me if you have any questions regarding this matter.

attachment

LEASE AGREEMENT

This Lease Agreement made and entered into this _____ day of September, 2010, by and between the City of Fort Smith, Arkansas, hereinafter referred to as "City," and Sebastian County Aquatics Association, hereinafter referred to as "SCAA," regarding SCAA's use of the diving well pool at Creekmore Park during Creekmore Park pool's non-summer period.

WITNESSETH:

For and in consideration of the covenants and agreements hereinafter contained, the City does hereby lease the diving well pool located at Creekmore Park to SCAA and SCAA does hereby accept the lease thereof under the following described terms and conditions.

1. The City is the owner of the Creekmore Park pool which includes a diving well pool. The diving well pool (and associated ingress and egress space with bathroom facilities) is the subject of this Lease, is identified on the attached Exhibit "1" and is sometimes referred to as the "leased premises."

2. TERM & RENEWAL:

The initial term of this lease is for three (3) seasons of the approximate nine month period beginning two (2) weeks following the closing of Creekmore Park Pool at the end of Labor Day Weekend and continuing until two (2) weeks prior to the opening of Creekmore Park Pool on Memorial Day weekend, the three seasons being 2010-11, 2011-12, and 2012-13. SCAA has an option to renew the lease for up to three (3) additional seasons, the last of which would end on two (2) weeks prior to the opening of Creekmore Park Pool on Memorial Day weekend in 2016, subject to written approval of the governing bodies of each party.

3. RENT:

SCAA agrees, at its sole expense, to provide and install at the diving well pool a dome structure and a pool heater allowing cold weather use of the diving well pool. Based on the capital expenditures for the dome and pool heater by SCAA, the City acknowledges that no further rent shall be due during the initial and renewal terms. The dome and heater will be removed by SCAA at the end of the lease term, and the dome and heater will remain the property of SCAA. SCAA will reasonably restore the leased premises to their prior condition, ordinary wear and tear excepted, and provided, further, all foundation and other permanent fixtures (except the dome and pool heater referred to above) necessary for the installation of the dome shall, at the end of the lease term, become the property of the City and shall not be removed by SCAA.

4. SCAA AND CITY RESPONSIBILITIES AND DUTIES:

SCAA will be responsible, during the lease term, for operating and running the leased premises which will include vacuuming and keeping the pool clean and in compliance with safety, health code and park regulations, applying the necessary chemicals into the pool, keeping the proper chemical balance in the pool, and maintaining and cleaning the bathrooms and premises in and around the leased premises. The City will be responsible for all costs of repair of the diving well pool and other pre-existing facilities and SCAA will be responsible for all costs of repair of the dome and pool heater installed by SCAA. The parties agree that a separate gas meter will be installed for the diving well pool and SCAA will be responsible for the gas bill for the diving well pool during the lease term only. SCAA will be responsible for the cost of all chemicals for the leased area. All other utilities will be paid for by the City.

5. SCHEDULING:

SCAA shall have the right to schedule all activities, events and pool usage during the lease term. SCAA will keep the City informed of all events, all activities and all diving well pool usage during the term of the lease. At the request of the City, SCAA will provide advance notice of all scheduled events and usage. At all times the pool is not scheduled for use by SCAA, the City may request from SCAA the right to use the pool after first arranging for payment of heating costs to SCAA. Any such request is deemed denied unless approval is issued in writing executed by an officer of SCAA.

6. INSPECTIONS AND MAINTENANCE:

At the beginning of the lease term, SCAA will make the diving well pool and the dome covering the pool available for City inspection with a representative of SCAA present. The City may inspect the pool and dome at any other reasonable time. Any written report of such inspection(s) shall be recorded, retained for reference, and forwarded to both parties as confirmation of the inspection(s). The City has the right of access at all reasonable times for maintenance purposes.

7. SAFETY:

SCAA shall immediately correct any unsafe practice or condition which comes to its attention or if notified of such by the City. SCAA will keep the diving well pool in compliance with all state and city safety and health codes and will abide by all park regulations.

8. DOME:

SCAA shall be responsible for and shall bear all expenses of installing, maintaining, keeping the dome in compliance with all state and city safety regulations, load codes and other reasonable requirements of the City.

9. REVENUES:

All revenues derived from the operation, use, activities and events at the diving well pool during the lease term will be the property of SCAA (except for City events in writing approved by SCAA).

10. INSURANCE:

SCAA shall maintain liability insurance through USA Swimming which covers and insures all competitive swimmers who are members of the Fort Smith Tiderider swim team during the team's use of the diving well pool. All high school swimmers permitted by SCAA to use the pool shall be insured through their respective schools. SCAA shall indemnify and hold the City harmless from all claims, liens, actions, and judgments, including reasonable legal fees and costs incurred with reference thereto, caused by the fault, negligence, breach of contract, or violation of law by SCAA with reference to this Agreement.

The City shall maintain fire, storm, premises and other casualty insurance on the leased premises and all equipment in amounts determined by the City. The City may insure the dome. Any such insurance policy shall designate the City as the named insured under the policy. All insurance proceeds shall be utilized to repair or replace damaged structures, equipment and/or improvements unless a different use for the proceeds is designated, at the City's sole discretion. To the extent it desires insurance, SCAA will insure its own personal properties and may insure the dome it owns.

11. INDEPENDENT CONTRACTOR:

It is acknowledged and agreed that SCAA is acting as an independent contractor and that no employee, agent or volunteer of SCAA shall be considered an employee or agent of the City.

12. SIGNS:

SCAA shall not post additional, permanent signs at the pool or improvements thereon, unless prior approval is obtained from the City. SCAA may post temporary signs, banners, and the like to promote special activities and to allow publicity for sponsors of the various activities at the pool.

13. NONDISCRIMINATION:

SCAA shall conduct activities on a non-discriminatory basis with regard to race, national origin, religion, disability or gender. The provisions of this sub-paragraph shall not prevent SCAA from establishing recreational activities according to the ages and skill level of the participants in the activities.

14. CLOSURE:

If the governing body of the City does not appropriate sufficient funds to operate the pool as a park facility, this contract is subject to the absolute right of the City to discontinue use of the pool upon three months notice. In such event, SCAA shall have no legal rights pursuant to this lease. SCAA acknowledges that the City has the authority to temporarily or permanently close the pool if the City determines that the conditions require closure or the remediation of such conditions is too costly.

15. ADDRESSES:

Any notice required or permitted/required to be given pursuant to this Agreement shall be provided to the other party at the address as indicated:

City of Fort Smith
Parks and Recreation Director
3301 South M Street
Fort Smith, AR 72903

SCAA, President
PO Box 3466
Fort Smith, AR 72913

16. DISAGREEMENTS OR BREACH:

Either party to this Agreement may provide notice, in writing, to the other party at the address indicated in the preceding paragraph number 15. of any disagreement or breach.

16.01 Notice and Response:

The notice shall specify the nature of the alleged violation and its corresponding provision in this Agreement. Within seven (7) days, the other party shall respond in writing regarding the alleged violation of the Agreement. If the alleged violation has been cured, the response shall so note. If, after the exchange of notice of violation and response, either party considers the issue to be unresolved, that party shall notify the other of the date, time and place of a meeting (to be held within the City of Fort Smith no sooner than seven (7) days nor later than fourteen (14) days from the date of said notice of meeting at which representatives of the parties shall discuss the alleged violation and the response thereto.

16.02 Termination:

In the event the meeting of the parties pursuant to the procedures in sub-paragraph 16.01 above does not resolve the alleged violation, the City reserves the right to terminate the Agreement after ten (10) days written notice to SCAA. Said ten (10) day notice period shall run from receipt of the notice by SCAA evidenced by a signed receipt of certified mailing or by hand delivery by the City to an officer of SCAA. Either party may pursue any available judicial remedy.

16.03 Hazards:

Irrespective of the Notice and Response provision, in the event the City determines that any condition at the diving well pool constitutes an imminent health hazard to any member of the public, the City shall have the right to take immediate action to correct such condition. In such event, the City shall notify a representative of SCAA by telephone, facsimile or other method deemed to provide expedient notice to SCAA. Expenses associated with curative action shall be borne by the party responsible for maintenance that would have prevented such condition under this Agreement. If SCAA does not subsequently agree to pay the expense of any curative action so charged, the City has the right under this Agreement to petition a court of competent jurisdiction to

declare the rights of the parties an, if it is declared that the expense was the obligation of SCAA under this Agreement, SCAA shall immediately pay the expense to the City after exhausting judicial remedies regarding that issue. Any failure of SCAA to comply with the provisions of this sub-paragraph shall be a basis for the City, in its sole discretion, to terminate this Agreement after ten (10) days written notice delivered as indicated in 16.02 above.

16.04 Right of Entry:

Should SCAA fail, after thirty (30) days notice from the City of the need to perform its required routine obligations under the lease, the City in addition to all other available remedies may, but shall not be obligated to, exercise its Right of Entry and perform SCAA's failed obligations, using any equipment or materials on the premises suitable for such purposes. SCAA shall reimburse the City on demand for its costs in performing SCAA's obligations. In addition, the City shall have the right to step in and perform SCAA's obligations under this contract while any litigation is pending.

17. DEFINITIONS:

References to actions or notices to or from the City in this Agreement shall be construed to refer to the City Administrator and his authorized representatives. Any authorization or permission required or authorized under this Agreement shall be valid only if issued by the City Administrator or his authorized representative. Renewal is subject to approval of the governing body of the City.

18. BINDING EFFECT:

This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective agents, servants, legal representative, heirs and assigns, except as expressly limited otherwise herein.

IN WITNESS WHEREOF the parties have hereunto set their hands this ____ day of September, 2010.

CITY OF FORT SMITH, ARKANSAS

_____
Mayor

ATTEST.

_____
City Clerk

SEBASTIAN COUNTY AQUATICS ASSOCIATION

Jim Lawrence ODJ
By:

1H

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A TRAIL EASEMENT WITH BOLEY R. POWERS FOR THE RIVER WATER TRAIL

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

The Mayor is hereby authorized to execute an easement with Boley R. Powers for access to the River Water Trail along the Arkansas River from the Rice Carden Levee Walking Trail.

This Resolution adopted this _____ day of September, 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM

_____ npr

3301 South M Street / Fort Smith, Arkansas 72903 / 479.784.2368 / FAX 479.784.2480 / www.fsark.com/Parks

PARKS
RECREATION
FORT SMITH

Memo:

September 16, 2010

To: Dennis Kelly, City Administrator
From: Mike Alsup, Director of Parks and Recreation Mike Alsup
Re: Resolution for execution of a water trail easement

The Parks and Recreation Commission recommends approval of an easement with Boley R. Powers to access the Arkansas River beyond the parking lot at the Rice Carden Levee Walking Trail please see Exhibit "A". The (50') wide easement will extend from the City's current property line west of the levee to the river's edge. The River Valley Chapter of the Arkansas Canoe Club plans to apply for a grant and raise funds for improvements providing a good access to the river for canoes and kayaks. This access is a key component of the proposed water trail on the Arkansas River from the Poteau River to Lock and Dam 13.

The City's Comprehensive Plan states that the "... river frontage has been an underutilized community asset." Two of the policies concerning the riverfront are to "comprehensively plan access and development along Clayton Expressway to reflect passive and active recreation, pedestrian, bicycle and tourist activities" and to "provide recreation activities and access to the Arkansas River while preserving and protecting the natural environment, watershed and critical wildlife habitats." The Plan recognizes that there are floodway and flood plain issues and opportunities. Trails of various types along the river are a good use of the riverfront to provide access to the river for wildlife viewing, nature walks, and exercise. Pedestrian, cycling, equestrian, and water trails that are well planned and developed can be a significant asset to the City for tourism and citizen use.

A water trail, like the Mississippi River Water Trail (www.greatriverwatertrail.org), encourages safe paddling opportunities with rest areas and facilities for recreational opportunities. Water trails are a popular outdoor recreation sport. According to the Outdoor Foundation's 2008 Outdoor Recreation Participation Report, the outdoor recreation industry includes activities like cycling, camping, hunting, hiking, and canoeing and is estimated to generate $730 billion annually to our nation's economy. An organized water trail will add to the City's outdoor recreation offerings by encouraging the use of the Arkansas River, one of our greatest natural resources. The water trail will be of interest to citizens and tourists alike and will give opportunity for entrepreneurship.

The canoe club plans to pursue extending the drive to the west side of the levee for access to the river and constructing an input site for canoes and kayaks. It is hoped that canoe clubs along the river will join in this effort and expand the trail system.

Please contact me if you have any questions regarding this matter.

attachments

TRAIL EASEMENT AGREEMENT

This Trail Easement Agreement This "Agreement" effective as of this 4TH day of August, 2010, is entered into by and between Boley R. Powers (the "Owner") and the City of Fort Smith, Arkansas (the "Holder").

ARTICLE I
Background

1.01 Property. The Owner owns all of or an undivided interest in the surface estate of the real property marked in "blue" on the map attached as Exhibit "A" (the "Easement Area").

1.02 Easement Purposes and Uses. The purpose of this Agreement is to create a 50' wide easement to be used by the general public for access to (and from) the Arkansas River (the "River") from (and to) the Holder's easement for the "Rice Carden" trail (the "Trail"). In addition to access to the River, the activities for which the Easement Area is intended also include but are not limited to the construction, maintenance and use of (i) steps or ramps on the bank of the River, (ii) a trail, (iii) a picnic area and (iv) bird or other wildlife observation platforms.

1.03 Consideration. The Owner acknowledges receipt of the sum of $1.00 in consideration of the grant of easement to Holder under this Agreement.

ARTICLE II
Grant of Easement

2.01 Grant of Easement and Right-of-Way. Subject to the reserved rights of the Owner set forth in Section 2.05 and the limitations on activities and use set forth in Sections 2.02 and 2.03, the Owner, intending to be legally bound, hereby grants, bargains, sales, transfers and conveys to Holder an exclusive 50' easement and right-of-way in, over and across the Easement Area in perpetuity for the above described purposes and uses.

2.02 Limitation on Activities and Use.

(a) Holder's Regulations.

Access to and use of the Easement Area by the general public shall be subject to the rules, regulations or limitations established by Holder. The Holder shall prohibit the use of motorized vehicles on the Easement Area, except (i) in the case of an emergency; (ii) in connection with the construction, maintenance, repair or patrol of an improvement (as hereinafter defined); or (iii) by persons who need to use motor-driven wheelchairs.

(b) Permits.

Prior to the Holder's construction or installation of a trail, ramp, step, picnic area, wildlife observatory platform, birdhouse, table, bench, sign, waste receptacle or other improvement on the Easement Area (hereinafter collectively referred to as an "improvement"), the Holder shall obtain, at Holder's sole cost and expense, all permits and approvals for said construction or installation required by any applicable governmental authority.

(c) Applicable Statutes.

The Holder shall be responsible, at its sole cost and expense, for complying with any federal, state or local statutes, regulations or ordinances that govern or apply to the Holder's use of the Easement Area or the construction, use, maintenance or repair of an improvement.

2.03 Reserved Rights of Owner. The Owner expressly reserves for himself and his heirs, successors and assigns the right (but not the obligation):

(a) Owner's Use.

To use the Easement Area for any purpose so long as the Owner's activity or operation does not interfere with the use and purposes for which the easement was granted.

(b) Owner's Revocation.

To revoke and terminate the easement granted herein at any time and for any reason upon ninety (90) days written notice to the Holder.

(c) Owner's Enforcement.

To take any action permitted under law to remove from the Easement Area persons or property whose use of or presence on the Easement Area does not comply with the purposes and uses for which this easement has been granted.

ARTICLE III
Other Legal Matters

3.01 Holder's Enforcement. If Holder determines that this Agreement or its rights hereunder are being or has been violated by a third party then Holder may, in addition to other remedies available at law or in equity, do any one or more of the following:

(a) Injunctive Relief.

Seek injunctive relief to specifically enforce the terms of this Agreement; to restrain the present or future violations of this Agreement; or to compel restoration of or seek damages for an improvement damaged, destroyed or altered by any third party.

(b) Self Help.

Enter upon the Easement Area and remove any barrier to the access provided under the easement and do such other things as are reasonably necessary to protect and preserve the rights of Holder in and to the easement.

3.02 No Duty or Expense by Owner. Owner is not, and shall not at any time in the future, be responsible or liable for:

(a) The construction, maintenance, repair or inspection of the Easement Area or an improvement;

(b) Any defect or unsafe condition in or on the Easement Area or an improvement;

(c) The safety or security of any person using the Easement Area or an improvement; or

(d) Warning (or failing to warn) any person using the Easement Area or an improvement of any dangerous (or potentially dangerous) condition or situation associated with the Arkansas River, the Easement Area or an improvement.

3.03 No Charge for Access. Neither the Holder nor any other person shall charge a fee for access to or use of the Easement Area or an improvement.

3.04 Immunity under Applicable Law. Nothing in this Agreement shall limit or effect whatsoever the protections and immunities available to the Owner or Holder, or any of their respective employees, contractors or volunteers, under any applicable federal, state or local law, including but not limited to the Arkansas Recreational Use Act, (A.C.A. 18-11-301, et seq.) (as it may be amended from time to time).

3.05 Abandonment. The Holder may at anytime abandon the easement and relinquish the easement granted herein upon ninety (90) days written notice to the Owner, or his heirs, successor or assigns.

ARTICLE IV
Miscellaneous

4.01 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Arkansas. The parties agree that the sole venue for any litigation arising under this Agreement shall be a court of competent jurisdiction in Sebastian County, Arkansas.

4.02 Agreement. This Agreement is a servitude running with the land, binding upon the Owner and all subsequent owners of the Easement Area or any portion thereof. All subsequent owners shall be bound by the terms of this Agreement, whether or not the subsequent owner had actual notice of this Agreement and whether or not the deed of transfer to the subsequent owner, specifically refers to this Agreement or the easement created hereby. This Agreement binds and benefits Owner and Holder and all of their respective successors and assigns.

4.03 Incorporation by Reference. Each exhibit referred to in this Agreement is incorporated into this Agreement by this reference.

4.04 Amendments; Waivers. No amendment or waiver of any provision of this Agreement is effective unless the amendment or waiver is in writing signed by both parties. Any amendment or waiver must be recorded in the Public Records of Sebastian County.

4.05 Severability. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement remain valid, binding, and enforceable. To the extent permitted by applicable law, the parties waive any provision of applicable law that renders any provision of this Agreement invalid, illegal or unenforceable in any respect.

4.06 Counterparts. This Agreement may be signed in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement.

4.07 Entire Agreement. This is the entire agreement of Owner and Holder pertaining to the subject matter of this Agreement. The terms of this Agreement supersede all statements and writings between Owner and Holder pertaining to the subject matter of this Agreement.

4.08 Other Rights and Obligations. Nothing contained herein shall in anyway effect the rights, duties or obligations of any of the parties, or their successors or assigns under any current or future federal, state or local statute, rule, regulation or ordinance.

INTENDING TO BE LEGALLY BOUND, the undersigned Owner and Holder, by their respective duly authorized representatives, have signed and delivered this Agreement as of the Agreement Date.

OWNER:

By: Boley R. Powers
Its: _____

HOLDER:

CITY OF FORT SMITH, ARKANSAS

By: _____
Its: _____

ACKNOWLEDGMENT

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 2010, before me, the undersigned Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within-named _____ in his capacity as _____ of City of Fort Smith, to me personally well known and duly authorized in his respective capacity to execute the foregoing Agreement for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2010.

_____
Notary Public

MY COMMISSION EXPIRES:

_____

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) SS.
COUNTY OF SEBASTIAN)

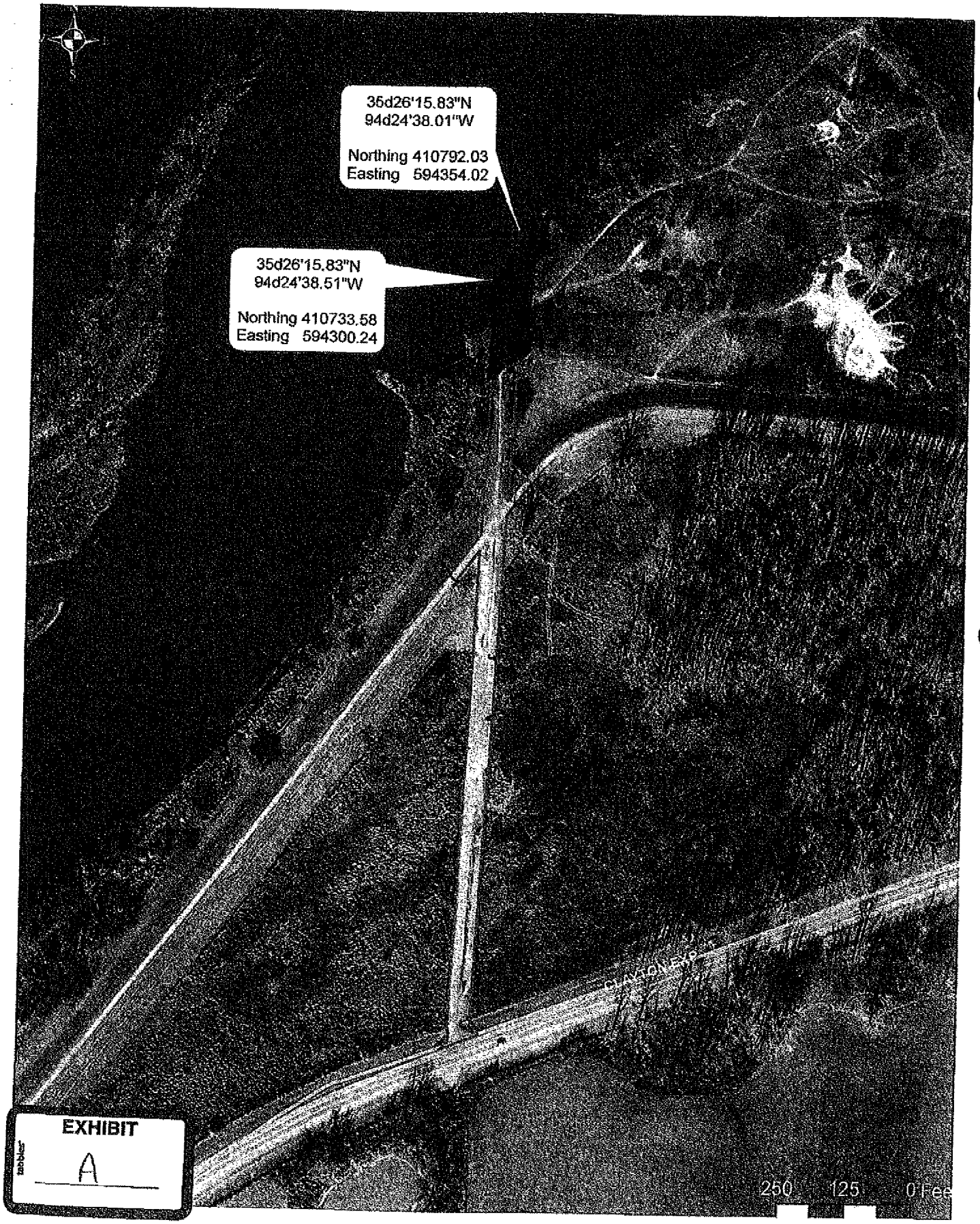
On this 4th day of August, 2010 before me, the undersigned officer, personally appeared Boley R. Powers to be the persons whose name is subscribed to the within document and acknowledged that he executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Marilyn L. Alley
Notary Public

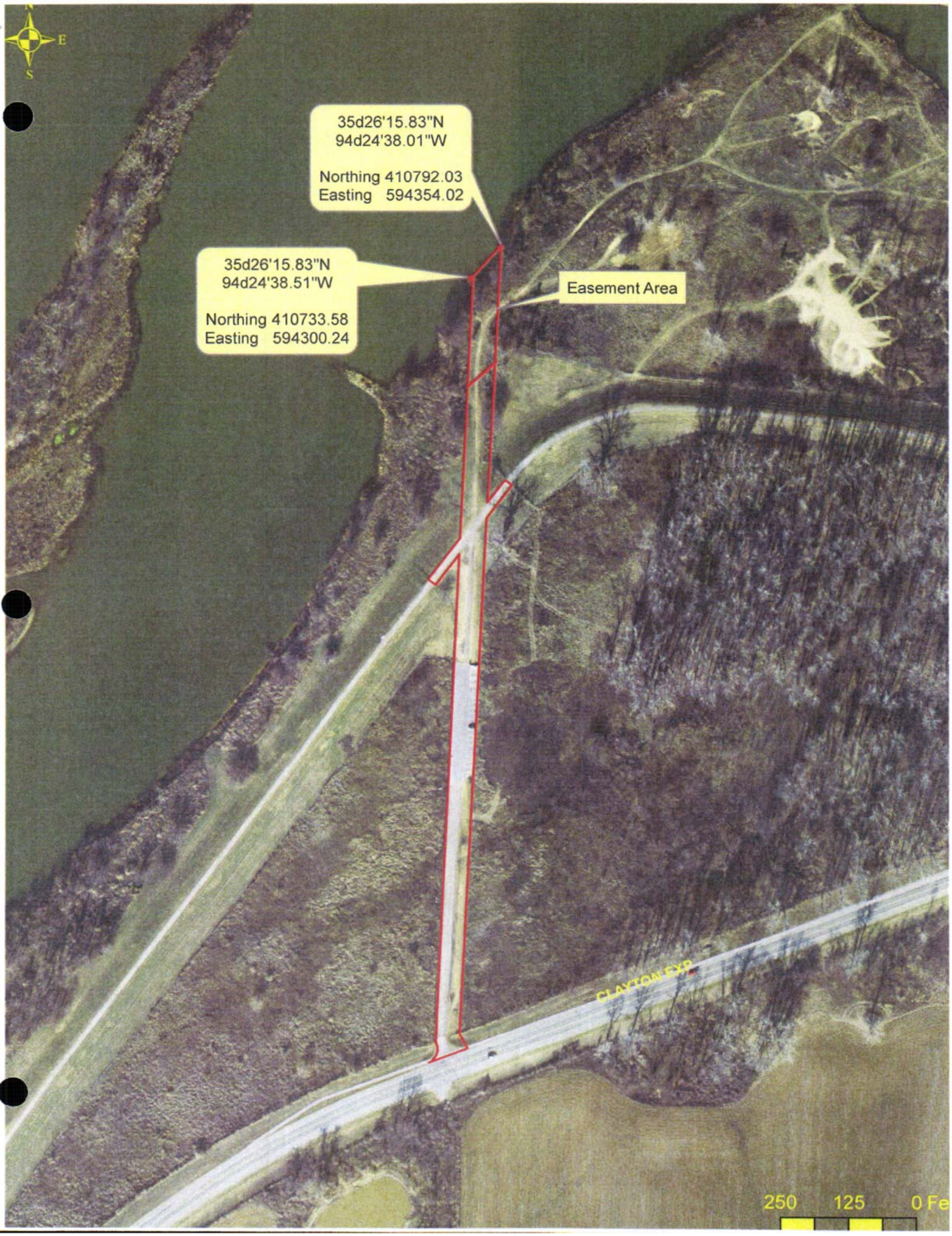
My Commission Expires:

MARILYN L. ALLEY
MY COMMISSION # 12374679
EXPIRES: February 1, 2020
Sebastian County


35d26'15.83"N
94d24'38.01"W
Northing 410792.03
Easting 594354.02
35d26'15.83"N
94d24'38.51"W
Northing 410733.58
Easting 594300.24
250 125 0 Feet

EXHIBIT

A


N
E
S
35d26'15.83"N
94d24'38.01"W
Northing 410792.03
Easting 594354.02
35d26'15.83"N
94d24'38.51"W
Northing 410733.58
Easting 594300.24
Easement Area
CLAYTON EXP
250
125
0 Fe

1I

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RECREATIONAL TRAIL EASEMENT WITH BOLEY R. POWERS FOR THE RIVER WATER TRAIL

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

The Mayor is hereby authorized to execute an easement with Boley R. Powers for a recreational easement for the River Water Trail for the islands along the Arkansas River near the Rice Carden Levee Walking Trail as indicated on Exhibit A of the easement.

This Resolution adopted this _____ day of September, 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM

_____npr

3301 South M Street / Fort Smith, Arkansas 72903 / 479.784.2368 / FAX 479.784.2480 / www.fsark.com/Parks

PARKS
RECREATION
FORT SMITH

Memo:

September 16, 2010

To: Dennis Kelly, City Administrator
From: Mike Alsup, Director of Parks and Recreation Mike Alsup
Re: Resolution for execution of a recreational easement for the water trail

The Parks and Recreation Commission recommends approval of a recreational easement with Boley R. Powers for use of the islands west of the Rice Carden Levee Walking Trail along the Arkansas River, please see Exhibit "A". The recreational easement grants "...use by the general public for hiking, biking, camping, wildlife observation, wildlife education, and other recreational purposes." The River Valley Chapter of the Arkansas Canoe Club plans to develop a water trail for canoes and kayaks along the Arkansas River within the Fort Smith area. This easement will allow access to the islands for paddlers as they travel down the river.

The City's Comprehensive Plan states that the "... river frontage has been an underutilized community asset." Two of the policies concerning the riverfront are to "comprehensively plan access and development along Clayton Expressway to reflect passive and active recreation, pedestrian, bicycle and tourist activities" and to "provide recreation activities and access to the Arkansas River while preserving and protecting the natural environment, watershed and critical wildlife habitats." The Plan recognizes that there are floodway and flood plain issues and opportunities. Trails of various types along the river are a good use of the riverfront to provide access to the river for wildlife viewing, nature walks, and exercise. Pedestrian, cycling, equestrian, and water trails that are well planned and developed can be a significant asset to the City for tourism and citizen use.

A water trail, like the Mississippi River Water Trail (www.greatriverwatertrail.org), encourages safe paddling opportunities with rest areas and facilities for recreational opportunities. Water trails are a popular outdoor recreation sport. According to the Outdoor Foundation's 2008 Outdoor Recreation Participation Report, the outdoor recreation industry includes activities like cycling, camping, hunting, hiking, and canoeing and is estimated to generate $730 billion annually to our nation's economy. An organized water trail will add to the City's outdoor recreation offerings by encouraging the use of the Arkansas River, one of our greatest natural resources. The water trail will be of interest to citizens and tourists alike and will give opportunity for entrepreneurship.

The canoe club met with a representative of the Mississippi River, St. Louis District of the Corp of Engineers concerning the development of a water trail. The club will coordinate the development of the trail with the Corp of Engineers and other interested groups and individuals. The club plans to maintain the area by removing litter and trash and provide general oversight of the use of the area. It is hoped that canoe clubs along the river will join in this effort and expand the trail system.

Please contact me if you have any questions regarding this matter.

attachments

RECREATIONAL EASEMENT AGREEMENT

This Recreational Easement Agreement (this "Agreement") effective as of this 4TH day of August, 2010, is entered into by and between Boley R. Powers (the "Owner") and the City of Fort Smith, Arkansas (the "Holder").

ARTICLE I
Background

1.01 Property. The Owner owns all of or an undivided interest in the surface of the parcels of real property outlined in "blue" on the map which is attached as Exhibit "A" (the "Easement Area"). The Easement Area is located on several islands in the Arkansas River.

1.02 Easement Purposes and Uses. The purpose of this Agreement is to grant an easement for use by the general public for hiking, biking, camping, wildlife observation, wildlife education and other recreational purposes. The activities that shall be permitted on the Easement Area include but are not limited to the construction, maintenance and use of (i) steps or ramps on the bank of the Arkansas River for canoes, kayaks and other watercraft; (ii) hiking or bicycle trails (the "trails"); (iii) picnic areas; (iv) primitive campsites; and (v) bird and other wildlife observation platforms.

1.03 Consideration. The Owner acknowledges receipt of the sum of $1.00 in consideration of the grant of easement to Holder under this Agreement.

ARTICLE II
Grant of Easement

2.01 Grant of Easement and Right-of-Way. The Owner, intending to be legally bound, and intending to comply with the Arkansas Conservation Easement Act (A.C.A. § 15-20-401 et seq.) hereby grants, bargains, sales, transfers and conveys to Holder an exclusive easement in, over and across the Easement Area in perpetuity for the above-described purposes and uses (the "easement"). The forgoing grant of easement shall be subject to the reserved rights of the Owner set forth in Section 2.05 and the limitations on activities and use set forth in Sections 2.02 and 2.03.

2.02 Limitation on Activities and Use.

(a) Holder's Regulations.

Access to and use of the Easement Area by the general public shall be subject to the rules, regulations or limitations established by Holder. The Holder shall prohibit the use of motorized vehicles on the Easement Area, except (i) in the case of an emergency; (ii) in connection with the construction, maintenance, repair or patrol of an improvement (as hereinafter defined); or (iii) by persons who need to use motor-driven wheelchairs.

(b) Permits.

Prior to construction or installation of a trail, ramp, step, picnic area, campsite, wildlife observatory platform, birdhouse, cooking grill, table, bench, sign, waste receptacle or other improvement on the Easement Area (hereinafter collectively referred to as an "improvement"), the Holder shall obtain, at Holder's sole cost and expense, all permits and approvals for said construction or installation required by any applicable governmental authority.

(c) Applicable Statutes.

The Holder shall be responsible, at its sole cost and expense, for complying with any federal, state or local statutes, regulations or ordinances that govern or apply to the Holder's use of the Easement Area or the construction, use, maintenance or repair of an improvement.

2.03 Reserved Rights of Owner. The Owner expressly reserves for himself and his heirs, successors and assigns the right (but not the obligation):

(a) Owner's Use.

To use the Easement Area for any purpose so long as the Owner's activity or operation does not interfere with the use and purposes for which the easement was granted.

(b) Owner's Revocation.

To revoke and terminate the easement granted herein at any time and for any reason upon ninety (90) days written notice to the Holder.

(c) Owner's Enforcement.

To take any action permitted under law to remove from the Easement Area persons or property whose use of or presence on the Easement Area does not comply with the purposes and uses for which this easement has been granted.

ARTICLE III
Other Legal Matters

3.01 Holder's Enforcement. If Holder determines that this Agreement or its rights hereunder are being or has been violated by a third party then Holder may, in addition to other remedies available at law or in equity, do any one or more of the following:

(a) Injunctive Relief.

Seek injunctive relief to specifically enforce the terms of this Agreement; to restrain the present or future violations of this Agreement; or to compel restoration of or seek damages for an improvement damaged, destroyed or altered by any third party.

(b) Self Help.

Enter upon the Easement Area and remove any barrier to the access provided under the easement and do such other things as are reasonably necessary to protect and preserve the rights of Holder in and to the easement.

3.02 No Duty or Expense by Owner. Owner is not, and shall not at any time in the future, be responsible or liable for:

(a) The construction, maintenance, repair or inspection of the Easement Area or an improvement;

(b) Any defect or unsafe condition in or on the Easement Area or an improvement;

(c) The safety or security of any person using the Easement Area or an improvement; or

(d) Warning (or failing to warn) any person using the Easement Area or an improvement of any dangerous (or potentially dangerous) condition or situation associated with the Arkansas River, the Easement Area or an improvement.

3.03 No Charge for Access. Neither the Holder nor any other person shall charge a fee for access to or use of the Easement Area or an improvement.

3.04 Immunity under Applicable Law. Nothing in this Agreement shall limit or effect whatsoever the protections and immunities available to the Owner or Holder, or any of their respective employees, contractors or volunteers, under any applicable federal, state or local law, including but not limited to the Arkansas

Recreational Use Act, (A.C.A. 18-11-301, et seq.) (as it may be amended from time to time).

3.05 Abandonment. The Holder may at anytime abandon the easement and relinquish the easement granted herein upon ninety (90) days written notice to the Owner, or his heirs, successor or assigns.

ARTICLE IV
Miscellaneous

4.01 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Arkansas. The parties agree that the sole venue for any litigation arising under this Agreement shall be a court of competent jurisdiction in Sebastian County, Arkansas.

4.02 Agreement. This Agreement is a servitude running with the land, binding upon the Owner and all subsequent owners of the Easement Area or any portion thereof. All subsequent owners shall be bound by the terms of this Agreement, whether or not the subsequent owner had actual notice of this Agreement and whether or not the deed of transfer to the subsequent owner, specifically refers to this Agreement or the easement created hereby. This Agreement binds and benefits Owner and Holder and all of their respective successors and assigns.

4.03 Incorporation by Reference. Each exhibit referred to in this Agreement is incorporated into this Agreement by this reference.

4.04 Amendments; Waivers. No amendment or waiver of any provision of this Agreement is effective unless the amendment or waiver is in writing signed by both parties. Any amendment or waiver must be recorded in the Public Records of Sebastian County.

4.05 Severability. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement remain valid, binding, and enforceable. To the extent permitted by applicable law, the parties waive any provision of applicable law that renders any provision of this Agreement invalid, illegal or unenforceable in any respect.

4.06 Counterparts. This Agreement may be signed in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement.

4.07 Entire Agreement. This is the entire agreement of Owner and Holder pertaining to the subject matter of this Agreement. The terms of this Agreement supersede all statements and writings between Owner and Holder pertaining to the subject matter of this Agreement.

4.08 Other Rights and Obligations. Nothing contained herein shall in anyway effect the rights, duties or obligations of any of the parties, or their successors or assigns under any current or future federal, state or local statute, rule, regulation or ordinance.

INTENDING TO BE LEGALLY BOUND, the undersigned Owner and Holder, by their respective duly authorized representatives, have signed and delivered this Agreement as of the Agreement Date.

OWNER:

By: Boley R. Powers
Its: _____

HOLDER:

CITY OF FORT SMITH, ARKANSAS

_____
By: _____
Its: _____

ACKNOWLEDGMENT

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 2010, before me, the undersigned Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within-named _____ in his capacity as _____ of City of Fort Smith, Arkansas, to me personally well known, who affirmed that, on behalf of the City of Fort Smith, Arkansas, he had executed the foregoing Agreement for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2010.

_____
Notary Public

MY COMMISSION EXPIRES:

_____

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) SS.
COUNTY OF SEBASTIAN)

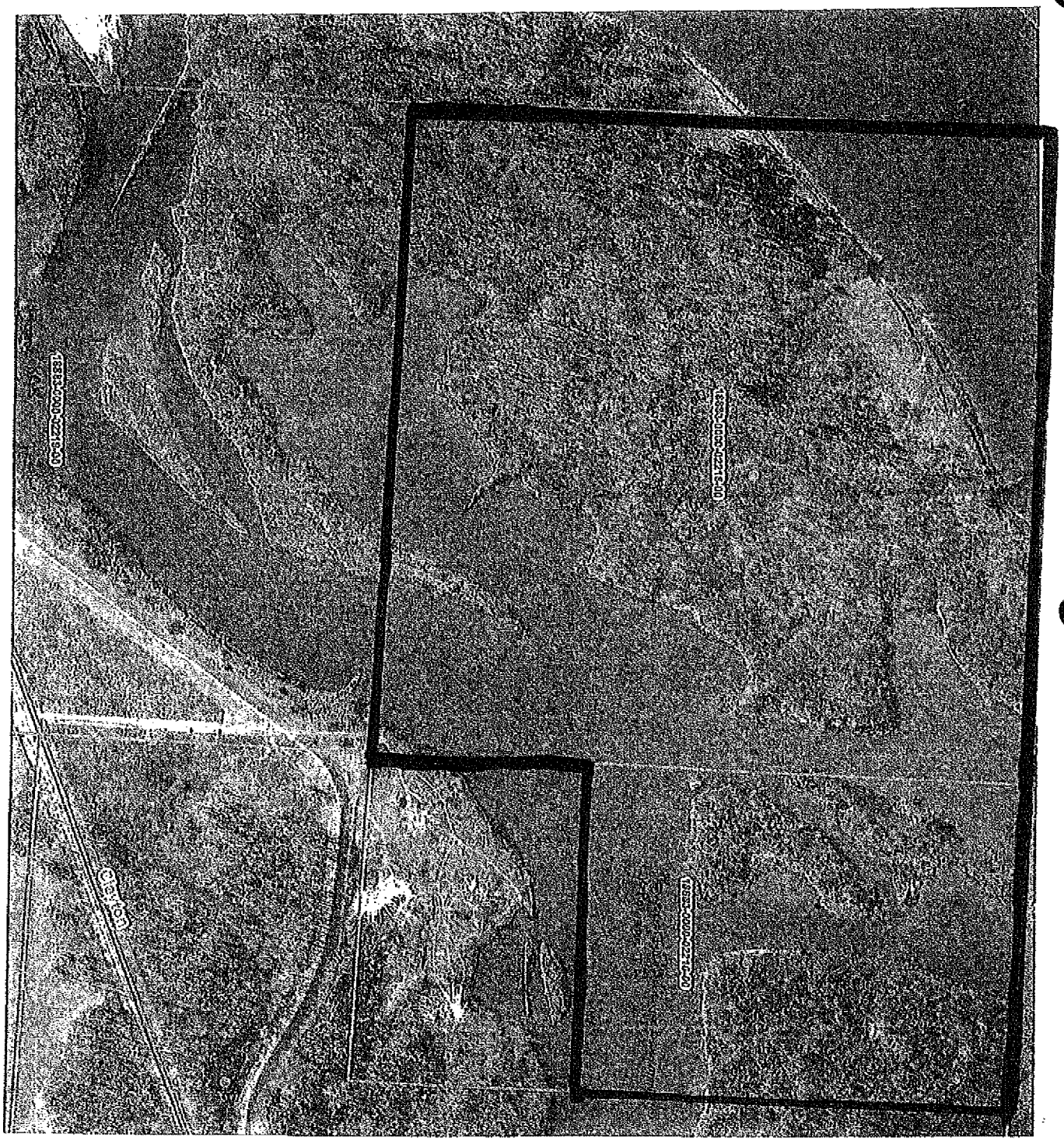
On this 4th day of August, 2010, before me, the undersigned Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person Boley R. Powers, to me personally well know, who affirmed that he had executed the foregoing Agreement for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 4th day of August, 2010.

Marilyn L. Alley
Notary Public

MY COMMISSION EXPIRES:

MARILYN L. ALLEY
MY COMMISSION # 12374679
EXPIRES: February 1, 2020
Sebastian County



EXHIBIT

tabbies

A

N
E
S
Recreational Easement Area
CLAYTON EXP

1 J

RESOLUTION NO. _____

RESOLUTION AUTHORIZING ACQUISITION OF RÉAL PROPERTY INTERESTS
FOR THE SUNNYMEDE BASIN SEWER IMPROVEMENTS PROJECT

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

The City Administrator and the City Attorney are hereby authorized to acquire by the exercise of the City's power of eminent domain, if necessary, a sanitary sewer easement on the following properties for the Sunnymede Basin 0001 Sewer Improvement, Project Number 09-05-E1:

Tract No.	Property Owner	Appraised Value
49	Johnny M. James	$ 2,778.00
63	E. C. Gilbreath & Barbara J. Gilbreath	$10,981.00
66	Melissa Ann Parker	$ 2,000.00
67	Donna R. Pape Living Trust	$ 1,800.00

Until acquisition by the City, authorization set forth in Resolution R-101-10 and Property Acquisition Policy Resolution R-40-05 of May 17, 2005 are continued in effect in the event the property owner desires to agree to acquisition at the appraised value set forth in the resolution.

This Resolution adopted this _____ day of September 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED:

_____ npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator **DATE:** September 17, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Sunnymede Basin Sanitary Sewer Improvements Project S001
Project 09-05-E1

As part of the Sunnymede relief sewer improvements the city must construct a new sanitary sewer line to replace existing undersized sewer lines. The new lines will vary in diameter from 14 to 16-inches, and replace the old sewer line of varying diameter from 10 to 12-inches. This new line will be part of the collection system upgrades which will provide greater flow capacity to the new Sunnymede pump station and equalization basin currently under construction near the east end of Grand Avenue and will contribute to the elimination of manhole overflows that occur during periods of heavy rainfall. This portion of that work will extend from a point on Euper Lane, east of I-540, and proceed northerly with I-540 along 62nd Street to a point on Free Ferry Road. A vicinity map of the project area is attached.

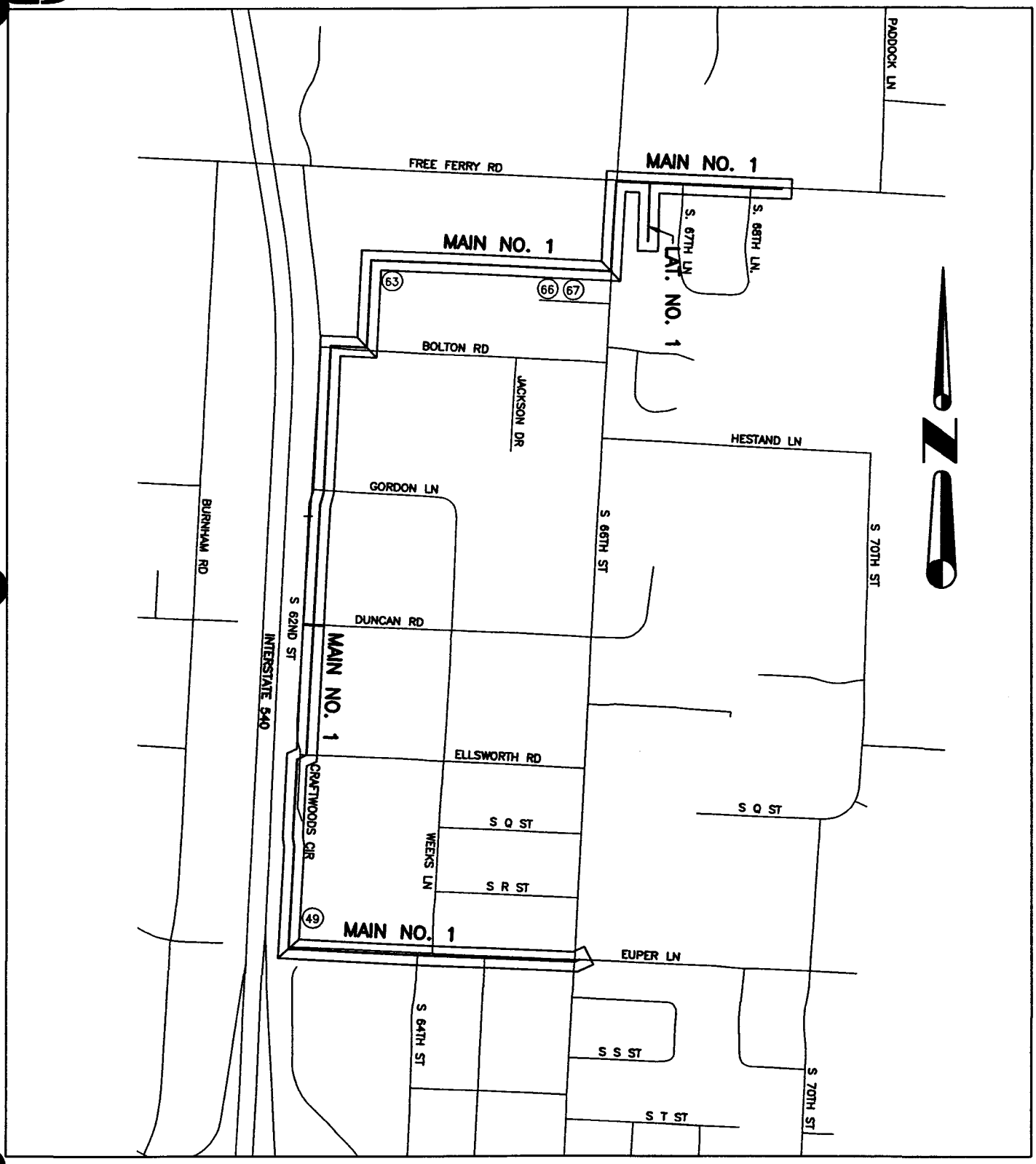
The project required the acquisition of 19 sewer easements, 15 of which have been acquired for the appraised values established by Calmo Realty Services, the city's appraiser for this project. In spite of multiple contacts by City staff and efforts to address property owner concerns, the four property owners listed on the resolution have declined the city's offer or otherwise not signed the easement.

Because of the project's scheduling, staff recommends that the attached Resolution be submitted to the Board for their approval at its next scheduled meeting. As always, representatives of the city will continue to negotiate with the property owner in an effort to reach a mutually agreeable settlement.

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

attachment

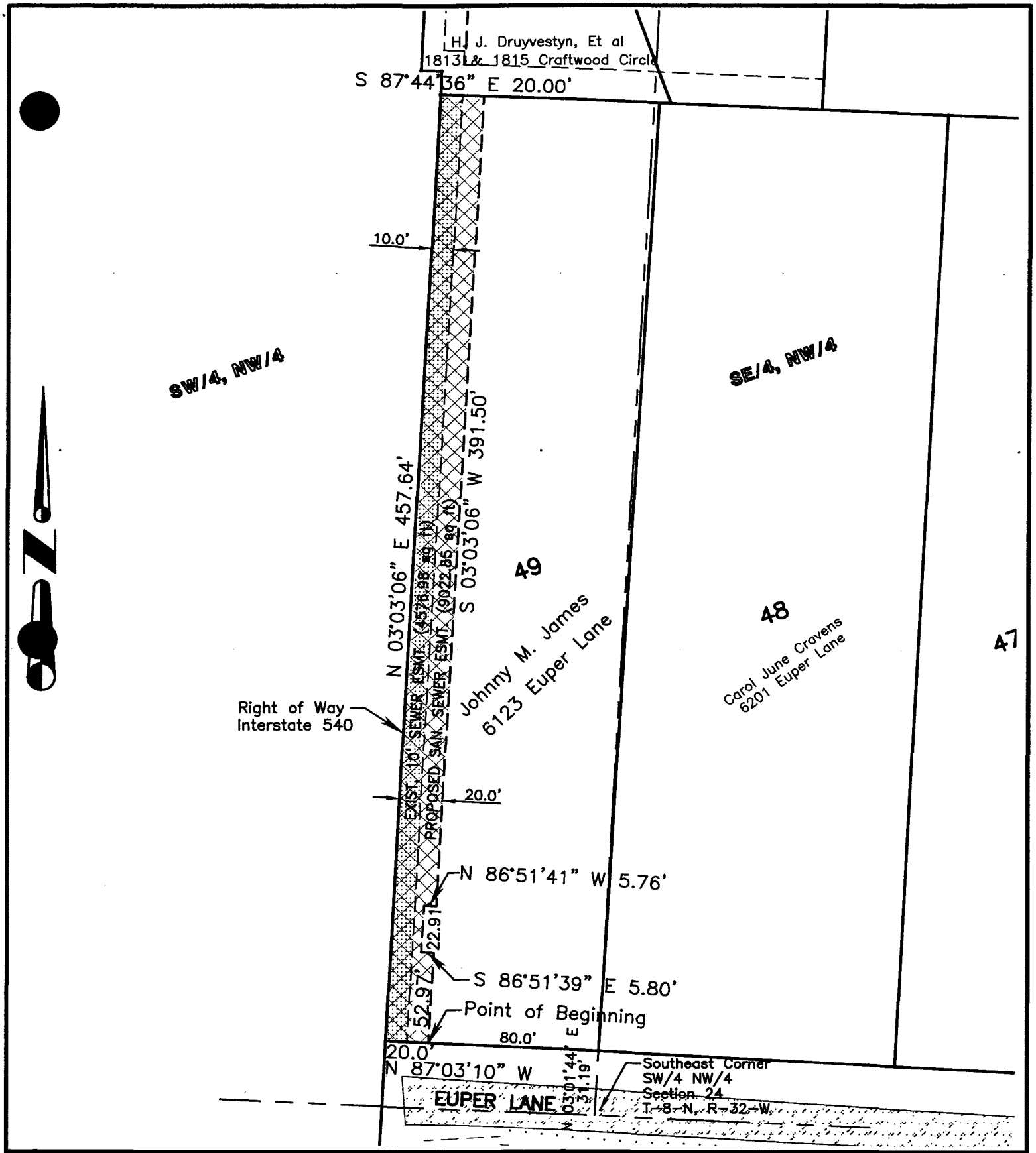
Brixey Engineering & Land Surveying, Inc.
Land Surveyors – Consulting Engineers
P.O. Box 6180 Ft. Smith, Ark. 72906 (479)646-6394



VICINITY MAP

SUNNYMEDE SEWER
PROJECT NO. 09-05-E1
FORT SMITH, ARKANSAS

Prepared For: City of Fort Smith



BRIXEY ENGINEERING & LAND SURVEYING, INC.

CONSULTING ENGINEERS -- LAND SURVEYORS

5223 East Highway 45 (479) 646-6394

P.O. Box 6180 Fort Smith, Arkansas 72906

EXHIBIT "A" – TRACT 49
PROPOSED SAN. SEWER EASEMENT
SUNNYMEDE BASIN – S01
PROJECT NO. 09-05-E1
FORT SMITH, ARKANSAS

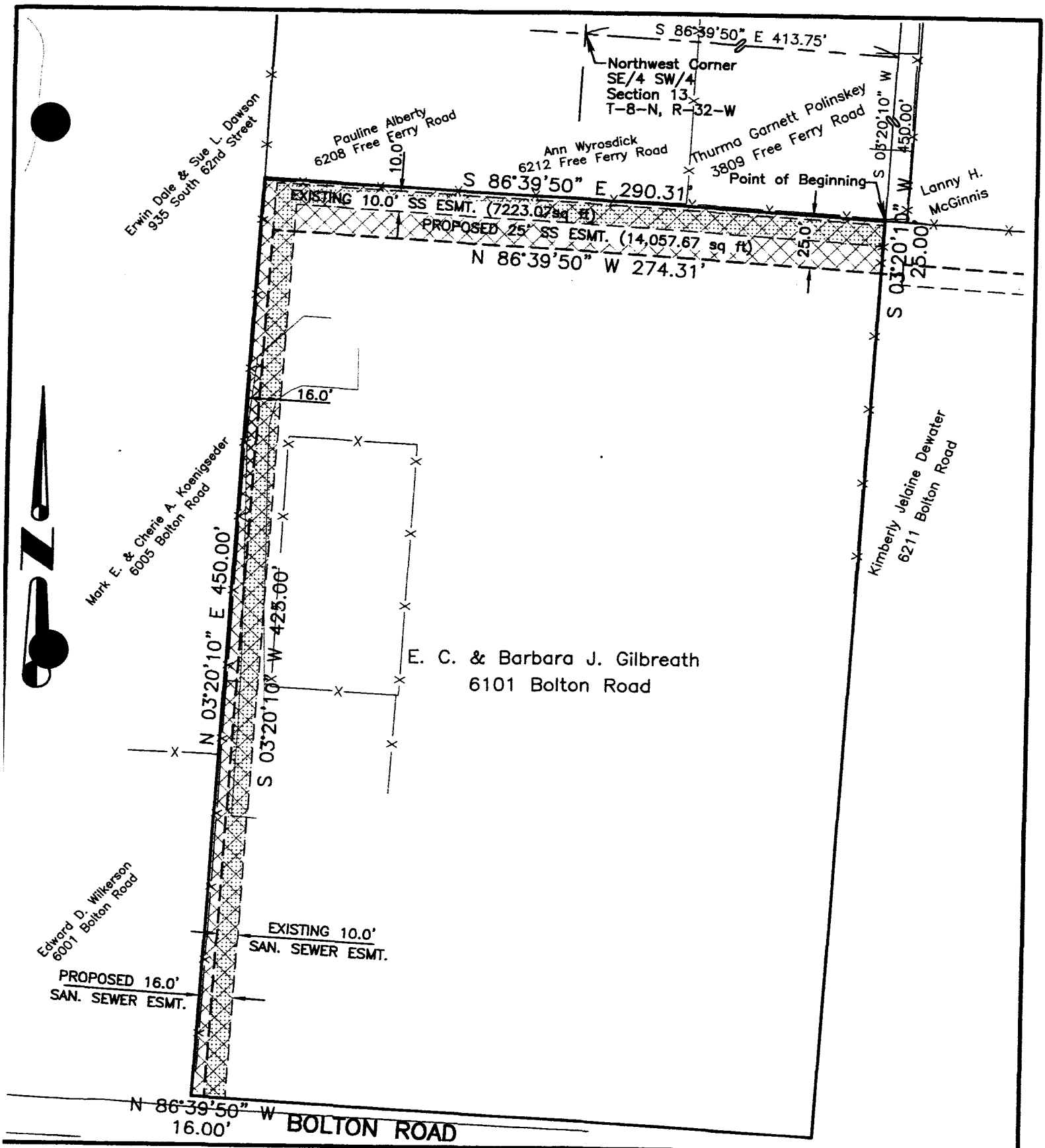
Prepared For: City of Fort Smith

Scale: 1" = 60'

Date: 05/03/2010

Drawn By: RJH

Job No. 09-0319



BRIXEY ENGINEERING & LAND SURVEYING, INC.

CONSULTING ENGINEERS -- LAND SURVEYORS

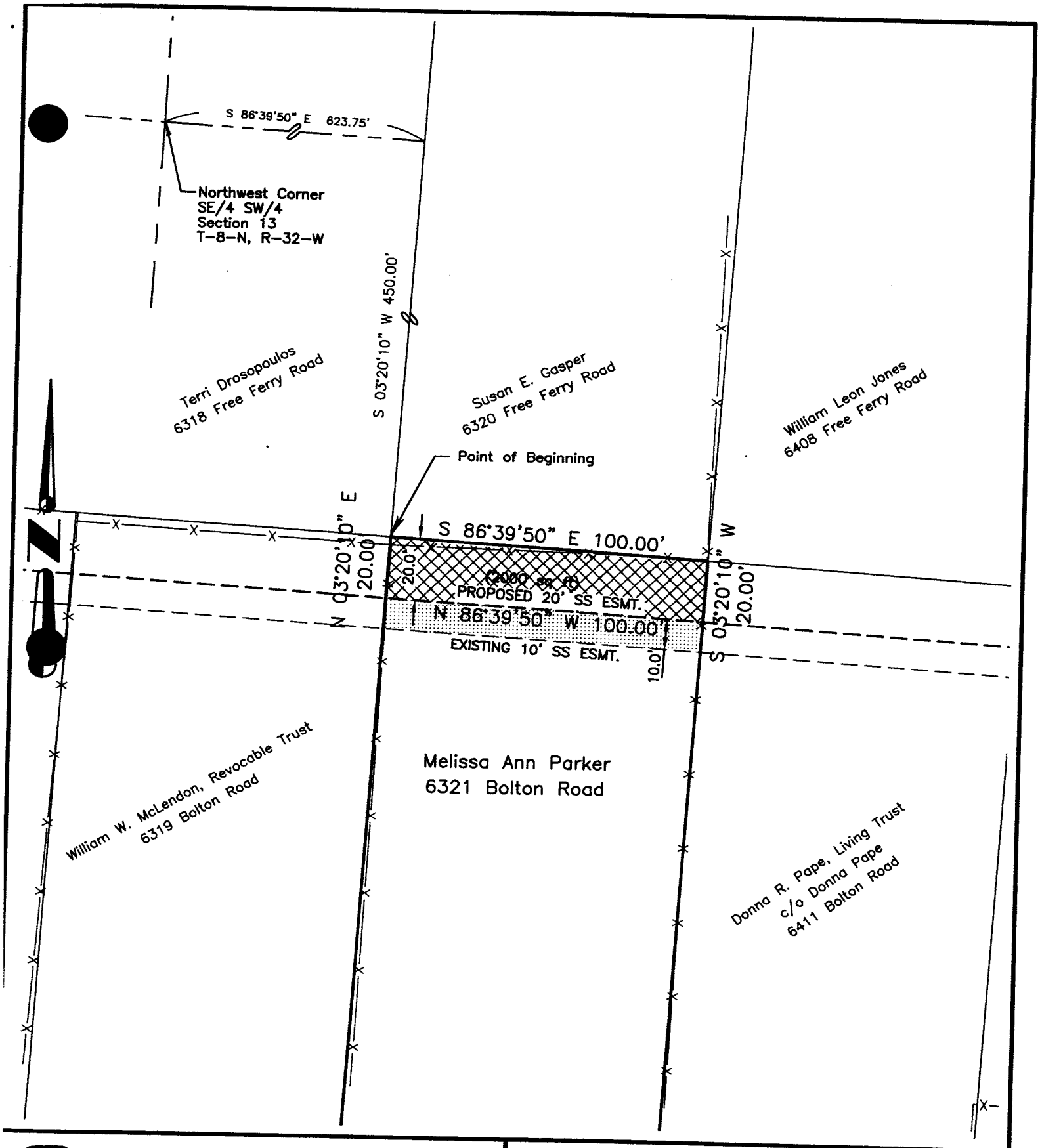
5223 East Highway 45 (479) 646-6394

P.O. Box 6180 Fort Smith, Arkansas 72906

EXHIBIT "A" – TRACT 63
PROPOSED SAN. SEWER EASEMENT
SUNNYMEDE BASIN – S01
PROJECT NO. 09-05-E1
FORT SMITH, ARKANSAS

Prepared For: City of Fort Smith

Scale: 1" = 60'
Date: 05/03/2010
Drawn By: RJH
Job No. 09-0319



BRIXEY ENGINEERING & LAND SURVEYING, INC.

CONSULTING ENGINEERS -- LAND SURVEYORS

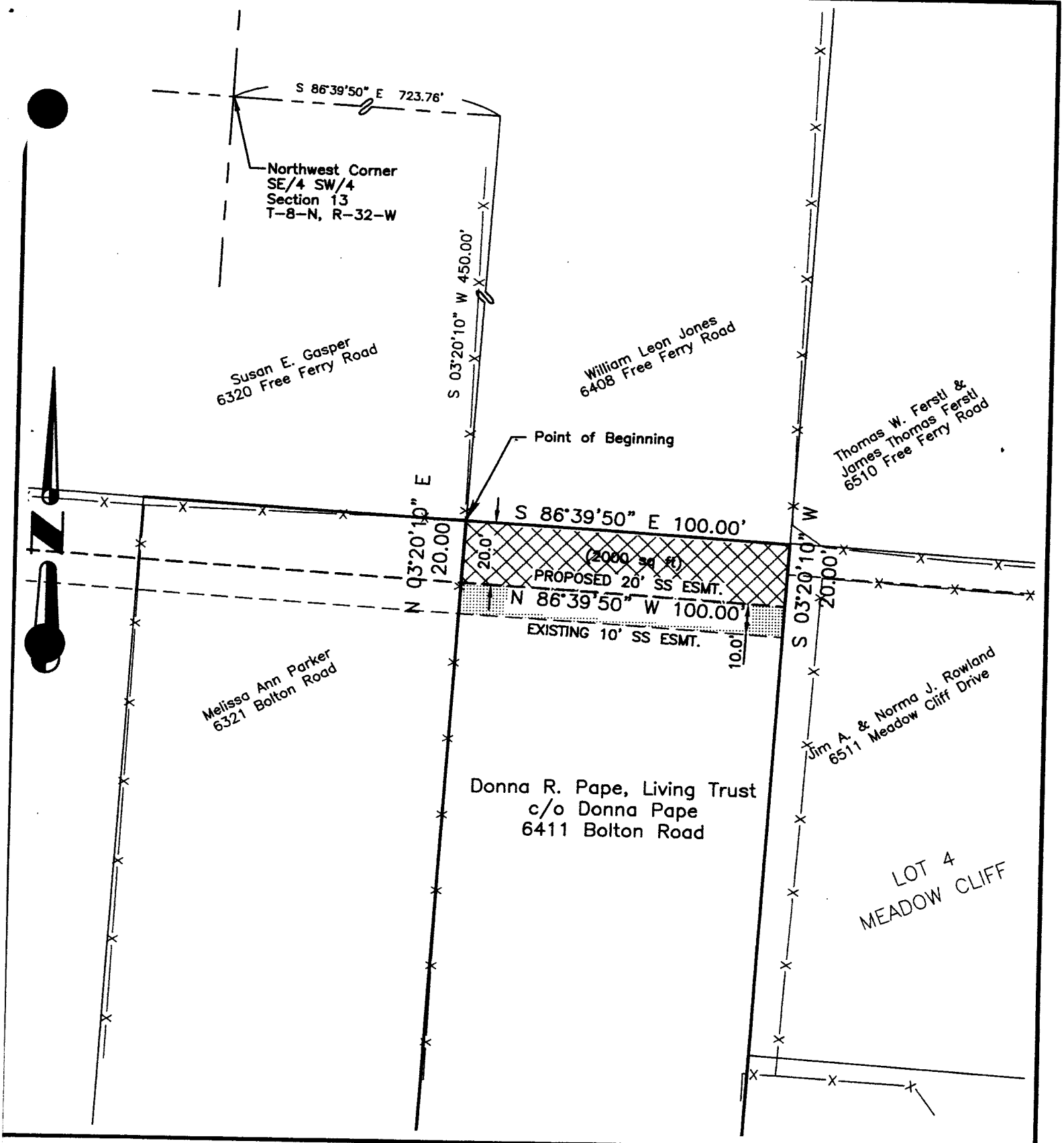
5223 East Highway 45 (479) 646-6384

P.O. Box 6190 Fort Smith, Arkansas 72906

EXHIBIT "A" – TRACT 66
PROPOSED 20' SEWER EASEMENT
SUNNYMEDE BASIN – S01
PROJECT NO. 09-05-E1
FORT SMITH, ARKANSAS

Prepared For: City of Fort Smith

Scale: 1" = 40'
Date: 02/16/2010
Drawn By: RJH
Job No. 09-0319



BRIXEY ENGINEERING & LAND SURVEYING, INC.

CONSULTING ENGINEERS — LAND SURVEYORS

5223 East Highway 45 (479) 646-6394
P.O. Box 6180 Fort Smith, Arkansas 72906

EXHIBIT "A" — TRACT 67
PROPOSED 20' SEWER EASEMENT
SUNNYMEDE BASIN — S01
PROJECT NO. 09-05-E1
FORT SMITH, ARKANSAS

Prepared For: City of Fort Smith

Scale: 1" = 40'
Date: 05/03/2010
Drawn By: RJH
Job No. 09-0319

1 K

RESOLUTION NO. _____

RESOLUTION AUTHORIZING FINAL PAYMENT TO KRAUS CONSTRUCTION COMPANY, LLC, FOR CONSTRUCTION OF THE RYE HILL SEWER OUTFALL PHASE TWO

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

SECTION 1: The construction of the Rye Hill Sewer Outfall Phase Two, Project Number 08-08-C2, is hereby accepted as complete.

SECTION 2: Final payment to Kraus Construction Company, LLC, in the amount of $51,516.00, is hereby approved.

This Resolution adopted this _____ day of September 2010.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator **DATE:** September 13, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Rye Hill Sewer Outfall Phase Two
Project Number 08-08-C2

On August 4, 2009, the Board authorized a contract with Kraus Construction Company, LLC, for construction of the Rye Hill Sewer Outfall Phase Two, Project Number 08-08-C2, in the amount of $1,409,181.00. This project was for the installation of 6,374 liner feet of 30-inch, 1,923 linear feet of 24-inch, and 1,108 linear feet of 15-inch sanitary sewer outfall line through Chaffee Crossing. This project was the second of four phases of sewer improvements designed to serve both residential and industrial construction within Chaffee Crossing as well as Fort Smith's southern growth area beyond. On July 20, 2010, the Board authorized Change Order Number One in the amount of $31,430.50 plus an additional 120 days for completion, adjusting plan quantities and adding a 15-inch sanitary sewer extension across the Mitsubishi site.

Kraus Construction has now completed all work on the project and submitted their tenth and final pay request. I have attached a Resolution accepting the project as complete and authorizing final payment in the amount of $51,516.00. I have also included a project summary. Funds for this final payment are available from the Water and Wastewater Capital Improvements Fund.

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

attachment

Project Summary

Project status: Complete

Project name: Rye Hill Sewer Outfall - Phase Two

Today's date: September 13, 2010

Project number: 08-08-C2

Staff contact name: Steve Parke

Project engineer: Mickle Wagner Coleman, Inc.

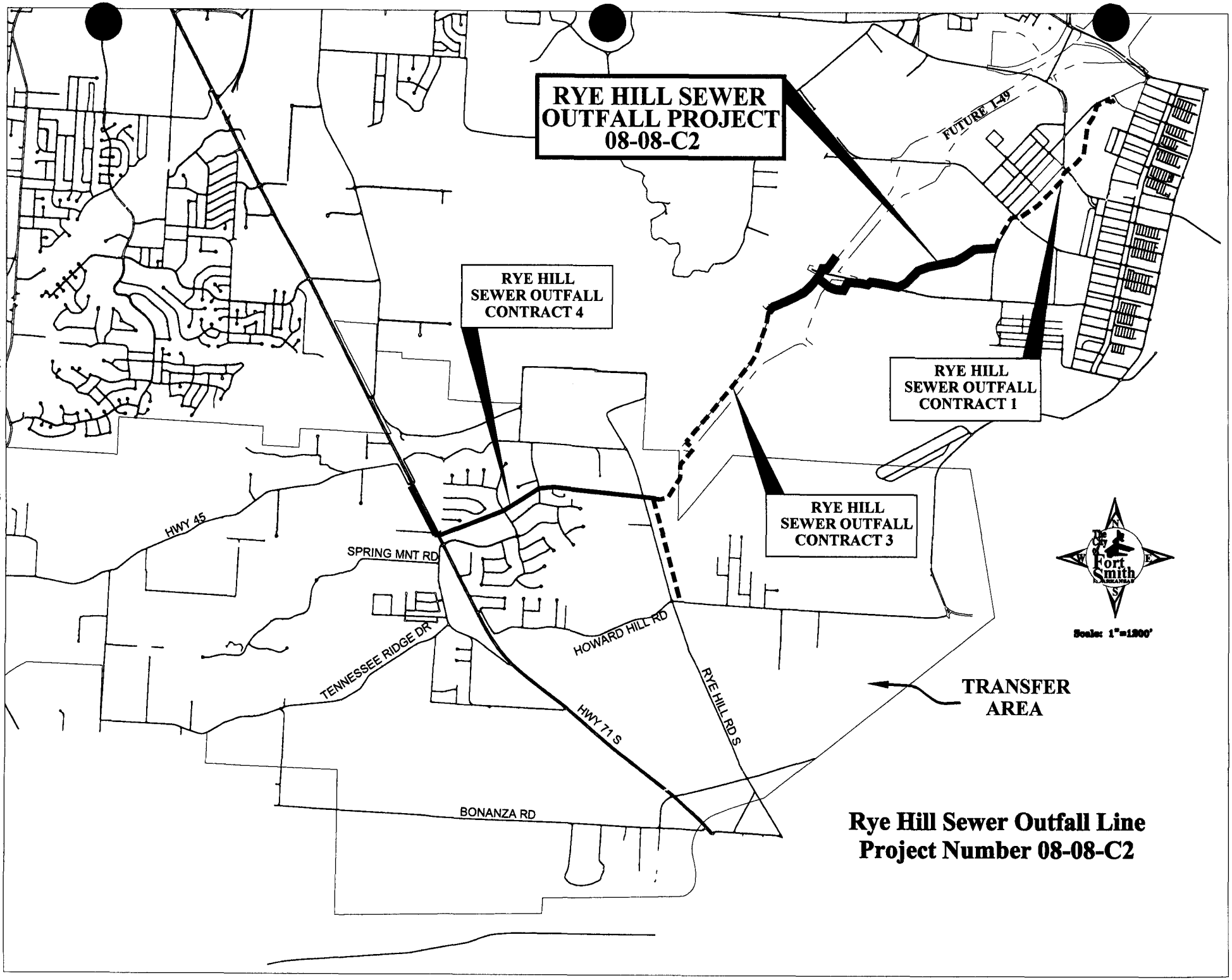
Staff contact phone: 784-2231

Project contractor: Kraus Construction Co, LLC

Notice to proceed issued: August 31, 2009

	Dollar Amount	Contract Time (Days)
Original contract	$1,409,181.00	150
Change orders: Change Order No. 1	$31,430.50	120
Total change orders	$31,430.50	120
Adjusted contract	$1,440,611.50	270
Payments to date (as negative):	$-1,389,015.50	98% complete
Amount of this payment (as negative)	$-51,516.00	100% complete
Retainage held	$0.00	
Contract balance remaining	$0.00	
Amount Under as a percentage	0.0%	

Final Comments:



O:\UtilityDept_General\DWG_DATA\Exhibits\SParke\RyeHill-Development_Outfall_08-08-C2_7142010.dwg, 7/15/2010 8:12:04 AM, \\khylpr01\UTL_HP5550HDN

MEMORANDUM
September 16, 2010

TO: Mayor and Board of Directors

FROM: Cindy Remler, City Clerk CR

RE: Voting Delegates to National League of Cities Conference

The NLC annual business meeting will be held on Saturday, December 4th at the conclusion of the Congress of Cities and Exposition in Denver, Colorado.

Fort Smith has two votes. Once the delegates are chosen, I will complete the enclosed credentials form and fax to NLC as well as provide copies to the designated delegates.

To strengthen and promote cities as centers of opportunity, leadership, and governance.

National League of Cities

1301 Pennsylvania Ave., N.W.
Washington, D.C. 20004-1763
202-626-3000
Fax: 202-626-3043
www.nlc.org

2010 Officers

President
Ronald O. Loveridge
Mayor
Riverside, California

First Vice President
James E. Mitchell, Jr.
Council Member
Charlotte, North Carolina

Second Vice President
Lester J. "Les" Heitke
Mayor
Willmar, Minnesota

Immediate Past President
James C. Hunt
Councilmember
Clarksburg, West Virginia

Executive Director
Donald J. Borut

August 20, 2010

Ms. Cindy Remler
City Clerk
City of Fort Smith
PO Box 1908
Fort Smith, AR 72902-1908

Dear Ms. Remler:

The National League of Cities (NLC) Annual Business Meeting will be held on Saturday, December 4, 2010, at the conclusion of the Congress of Cities and Exposition in Denver, CO. As a direct member city, your city is entitled to vote at this meeting. Based on the population as of the 2000 Census, each member city casts between one and twenty votes. The number of votes for each population range can be found on the table on the reverse of the credentials form.

To be eligible to cast a city's vote, a voting delegate and alternate must be officially designated by the city using the enclosed credentials form. This form will be forwarded to NLC Credentials Committee. NLC bylaws expressly prohibit voting by proxy. City elected officials should be made aware of this request so that decisions can be made as to who will be the voting delegate and alternate(s).

At the Congress of Cities, the voting delegate must pick up the city's voting card at the Credentials Booth before the Annual Business Meeting and must be present at the Annual Business Meeting to cast the city's vote. The Credentials Booth will be open during scheduled times throughout the Congress of Cities.

Please return the completed form to NLC by fax 202-626-3109 on or before October 30, 2010. If you have any questions, please contact Tata Sidibe, sidibe@nlc.org or 202-626-3188 or Mae Davis, mdavis@nlc.org, 202-626-3150.

Thank you,

Donald J. Borut
Executive Director

Past Presidents: **John DeStefano, Jr.**, Mayor, New Haven, Connecticut • **Brian J. O'Neill**, Councilman, Philadelphia, Pennsylvania *Directors:* **Ulysses Z. Addison, Jr.**, Councilmember, Baton Rouge, Louisian **David Baker**, Mayor, Kenmore, Washington • **Geoffrey C. Beckwith**, Executive Director, Massachusetts Municipal Association • **M. Margaret Bates**, Commissioner, Lauderhill, Florida • **Charles A. Blan** Alderman, New Haven, Connecticut • **William G. "Bill" Brooks**, Mayor, Belle Isle, Florida • **Kenneth H. Bullock**, Executive Director, Utah League of Cities and Towns • **Jim Byard, Jr.**, Mayor, Prattville, Alabam **Gary W. Campbell**, City Director/Vice Mayor, Fort Smith, Arkansas • **Sheri Capehart**, Councilmember, Arlington, Texas • **Nancy G. Carter**, Council Member, Charlotte, North Carolina • **Brad Cole**, Ma Carbondale, Illinois • **Sandra Colvin-Roy**, Council Member, Minneapolis, Minnesota • **John F. Cook**, Mayor, El Paso, Texas • **Mildred C. Crump**, Council President, Newark, New Jersey • **Joe Davis, Sr.**, Alderm Milwaukee, Wisconsin • **Gretchen Driskell**, Mayor, Saline, Michigan • **Larry G. Frang**, Executive Director, Illinois Municipal League • **Dan Furtado**, Councilmember, Campbell, California • **John A. Garner**, Executive Director, Pennsylvania League of Cities and Municipalities • **Paul M. Gresham**, Councilmember, Centerville, Ohio • **Miriam Hair**, Executive Director, Municipal Association of South Carolina • **F Hankins**, Council Member, Trotwood, Ohio • **Terry B. Henderson**, Mayor Pro Tem, La Quinta, California • **Edna Branch Jackson**, Mayor Pro-Tem/Alderman at-Large, Savannah, Georgia • **Dennis Kavanau** Councilmember, Mesa, Arizona • **Greg Lemke**, Council Member, Moorhead, Minnesota • **George Lewis**, Executive Director, Mississippi Municipal League • **Myron Lowery**, Council Member, Memp Tennessee • **Michael McCauley**, Executive Director, League of Oregon Cities • **James F. Miller**, Executive Director, League of Minnesota Cities • **Mark Mitchell**, Councilmember, Tempe, Arizona • **Game Nancolas**, Mayor, Caldwell, Idaho • **Ron Natinsky**, Councilmember, Dallas, Texas • **Laura W. Padgett**, Councilmember, Wilmington, North Carolina • **Randall W. B. Purvis**, Council Member, Colorado Sprir

NATIONAL LEAGUE of CITIES

CREDENTIALS FORM

NATIONAL LEAGUE OF CITIES · 2010 CONGRESS OF CITIES · DENVER, COLORADO

At the Annual Business Meeting on Saturday, December 4, 2010, each direct member city of NLC is entitled to cast from one to 20 votes based upon the city's population per the 2000 census, through its designated voting delegate. Please indicate below your city and state, voting delegate and alternate(s), and sign and date the form. The form should be faxed to NLC at 202-626-3109, by the October 30, 2010, deadline.

The official voting delegate and alternate(s) for the city/town of:

City of Fort Smith AR 80268 (2)

_____

(type or print the name of your city/town and state)

FOR OFFICE USE ONLY
(DO NOT WRITE IN THIS SPACE)
Voting card issued to:

_____
(signature)

Votes: _____

1 _____ 2 _____ 3 _____

VOTING DELEGATE:

1. _____
NAME

_____
TITLE

ALTERNATE VOTING DELEGATE(S):

2. _____ _____
NAME TITLE

3. _____ _____
NAME TITLE

PLEASE SIGN AND FAX THIS FORM TO NLC BY OCTOBER 30, 2010
ATTENTION: TATA SIDIBE, MEMBERSHIP RELATIONS ASSISTANT
FAX: 202-626-3109

Signature (city representative): _____

NATIONAL LEAGUE of CITIES

NATIONAL LEAGUE OF CITIES
2010 CONGRESS OF CITIES
DENVER, COLORADO

Number of Votes – Annual Business Meeting

Direct Member Cities

Article IV, Section 2 of the National League of Cities bylaws specifies the number of votes that each NLC direct member city is entitled to cast at the Annual Business Meeting at the Congress of Cities. Member cities are required by the bylaws to cast unanimous votes.

CITY POPULATION (per 2000 Census)	NUMBER OF VOTES
Under 50,000	1 vote
50,000 – 99,999	2 votes
100,000 – 199,999	4 votes
200,000 – 299,999	6 votes
300,000 – 399,999	8 votes
400,000 – 499,999	10 votes
500,000 – 599,999	12 votes
600,000 – 699,999	14 votes
700,000 – 799,999	16 votes
800,000 – 899,999	18 votes
900,000 and above	20 votes

The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: September 15, 2010

SUBJECT: Fire Code Board of Appeals and Adjustments

The term of Mr. Gene Nelson of the Fire Code Board of Appeals and Adjustments will expire October 31, 2010. Mr. Nelson would like to be reappointed to this board.

There are no other applicants available at this time.

Appointments are **by the Board of Directors.** One appointment is needed; one term will expire October 31, 2014.

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

Printed on 100% Recycled Paper

The City of Fort Smith ARKANSAS

September 7, 2010

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

RE: Appointments:

The terms of Director Don Hutchings, Director Settle, Mr. Lavon Morton and Mr. Ken Pyle of the Audit Committee will expire November 30, 2010. (Director Settle's term will expire December 31, 2010) In accordance with Ordinance No. 2926 nominations for this prospective vacancy are now being received.

Please submit nominations to the city administrators office no later than the close of business on September 30th, 2010. A list will be compiled for review by the Board of Directors. Applications are available on the City of Fort Smith website. Go to www.fortsmithar.gov and click on boards and commissions.

Sincerely,

Dennis Kelly
City Administrator

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

Printed on 100% Recycled Paper

The City of Fort Smith ARKANSAS

September 16, 2010

TO: Members of the Board of Directors
Members of the Building Board of Adjustments and Appeals

RE: Appointments:

The terms of David Edwards and Evan Fleming of the Building Board of the Building Board of Adjust will expire November 30, 2010. (Director Settle's term will expire December 31, 2010) In accordance with Ordinance No. 2926 nominations for this prospective vacancy are now being received.

Please submit nominations to the city administrators office no later than the close of business on September 30th, 2010. A list will be compiled for review by the Board of Directors. Applications are available on the City of Fort Smith website. Go to www.fortsmithar.gov and click on boards and commissions.

Sincerely,

Dennis Kelly
City Administrator

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

Printed on 100% Recycled Paper

AGENDA ~ Summary

FORT SMITH BOARD OF DIRECTORS
REGULAR MEETING

SEPTEMBER 21, 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

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING
(Section 2-37 of Ordinance No. 24-10)
Information available by viewing rebroadcast of the meeting on City Access Channel 6 or City website

APPROVE MINUTES OF THE SEPTEMBER 7, 2010 REGULAR MEETING
Unanimously approved as written

ITEMS OF BUSINESS:

1. Consent Agenda

   A. Resolution adopting annual audit requirements
   Approved 7 in favor, 0 opposed / Resolution No. R-170-10

   B. Resolution authorizing the Mayor or Vice Mayor to execute and deliver all bond documents authorized by Ordinance No. 38-10 and the performance of all obligations of the City thereunder
   Approved 7 in favor, 0 opposed / Resolution No. R-171-10

   C. Resolution to provide directions to City of Fort Smith staff and board representatives during any negotiations for the establishment of regional organizations
   Approved 7 in favor, 0 opposed / Resolution No. R-172-10

D. Resolution accepting bid for the purchase of a mechanic lube/service truck ($146,527.00)
Approved 7 in favor, 0 opposed / Resolution No. R-173-10

E. Resolution setting public hearing date on petition to vacate street right-of-way located in Mead's Addition, Block A, an addition to the city of Fort Smith, Arkansas
Approved 7 in favor, 0 opposed / Resolution No. R-174-10

F. Resolution authorizing a time extension, accepting completion of and authorizing final payment for the construction of Chad Colley Extension, Project No. 08-00-C ($6,782.92)
Approved 7 in favor, 0 opposed / Resolution No. R-175-10

G. Resolution authorizing the Mayor to enter into a lease agreement with the Sebastian County Aquatics Association for the diving well pool at Creekmore Park
Approved 7 in favor, 0 opposed / Resolution No. R-176-10

H. Resolution authorizing the Mayor to execute a trail easement with Boley R. Powers for the river water trail
Approved 7 in favor, 0 opposed / Resolution No. R-177-10

I. Resolution authorizing the Mayor to execute a recreational trail easement with Boley R. Powers for the river water trail
Approved 7 in favor, 0 opposed / Resolution No. R-178-10

J. Resolution authorizing acquisition of real property interests for the Sunnymede Basin Sewer Improvement Project ($17,559.00)
Approved 7 in favor, 0 opposed / Resolution No. R-179-10

K. Resolution authorizing final payment to Kraus Construction Company, LLC, for construction of the Rye Hill Sewer Outfall Phase Two ($51,516.00)
Approved 7 in favor, 0 opposed / Resolution No. R-180-10

OFFICIALS FORUM ~ presentation of information requiring no official action
(Section 2-36 of Ordinance No. 24-10)

A. Mayor

B. Directors

C. City Administrator

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

EXECUTIVE SESSION

Appointments: **City's voting delegates to National League of Cities**
Director Gary Campbell
Director Steve Tyler

Fire Code Board of Appeals & Adjustments
Gene Nelson (reappointment)
Term expires October 31, 2014

CITIZENS FORUM ~ presentation of information by citizens ~ an opportunity for citizens to present matters to the Mayor and Board of Directors which involve the city government and are not directly related to items considered on the agenda for this meeting. ***Presentations are limited to 2 minutes for each citizen***
(Section 2-44(b) of Ordinance No. 24-10)
Information available by viewing rebroadcast of the meeting on City Access Channel 6 or City website

ADJOURN

MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ SEPTEMBER 21, 2010 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Vice-Mayor Gary Campbell, presiding in the absence of Mayor Ray Baker. Invocation was given by Director Steve Tyler, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre Good, Don Hutchings, Bill Maddox, Gary Campbell, Kevin Settle, and Cole Goodman. A quorum was declared present.

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

The minutes of the September 7, 2010 regular meeting were presented for approval. Settle, seconded by Maddox, moved approval of the minutes as written. The members present all voting aye, the Vice-Mayor declared the motion carried.

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

The Consent Agenda (Item No. 1) was introduced for consideration, the items being as follows:

A. Resolution adopting annual audit requirements

B. Resolution authorizing the Mayor or Vice-Mayor to execute and deliver all bond documents authorized by Ordinance No. 38-10 and the performance of all obligations of the City thereunder

C. Resolution to provide directions to City of Fort Smith staff and board representatives during any negotiations for the establishment of regional organizations

D. Resolution accepting bid for the purchase of a mechanic lube/service truck ($146,527.00)

E. Resolution setting public hearing date on petition to vacate street right-of-way located in Mead's Addition, Block A, an addition to the city of Fort Smith, Arkansas

F. Resolution authorizing a time extension, accepting completion of and authorizing final payment for the construction of Chad Colley Extension, Project No. 08-00C ($6,782.92)

G. Resolution authorizing the Mayor to enter into a lease agreement with the Sebastian County Aquatics Association for the diving well pool at Creekmore Park

H. Resolution authorizing the Mayor to execute a trial easement with Boley R. Powers for the river water trail

I. Resolution authorizing the Mayor to execute a recreational trail easement with Boley R. Powers for the river water trail

J. Resolution authorizing acquisition of real property interests for the Sunnymede Basin Sewer Improvement Project ($17,559.00)

K. Resolution authorizing final payment to Kraus Construction Company, LLC, for construction of the Rye Hill Sewer Outfall Phase Two ($51,516.00)

Regarding items H and I, Director Settle requested a brief overview of both items.

Parks & Recreation Director Mike Alsup advised that item H will provide an access to the Arkansas River beyond the parking lot at the Rice Carden Levee Walking Trail. The River Valley Chapter of the Arkansas Canoe Club plans to apply for a grant and raise funds for improvements providing a good access to the river for canoes and kayaks. This access is a key component of the proposed water trail on the Arkansas River from the Poteau River to Lock and Dam 13. Mr. Alsup advised that item I will provide for use of the islands west of the Rice Carden Levee Walking Trail along the Arkansas River. The River Valley Chapter of the Arkansas Canoe Club plans to develop a water trail for canoes and kayaks along the Arkansas River within the Fort Smith area. The easement will allow access to

the islands for paddlers as they travel down the river. Water trails are a popular outdoor recreation sport.

Director Tyler expressed appreciation to the River Valley Chapter, and volunteers with Parks Partners for their involvement with these projects as well as others.

Hutchings, seconded by Maddox, moved adoption of all consent agenda items. The members all voting affirmatively, the Vice-Mayor declared the motion carried, and the resolutions were adopted and numbered R-170-10 through R-180-10 respectively.

Vice-Mayor Campbell opened the Officials Forum with the following comments offered:

- Vice-Mayor Campbell reminded of the election today for school board members, and that the voting precincts are open until 7:30 p.m.

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

City Voting Delegates ~ National League of Cities
Directors Steve Tyler and Gary Campbell

Fire Code Board of Appeals
reappointed Gene Nelson
term expires October 31, 2014

Hutchings, seconded by Good, moved acceptance of the nominations. The members all voting aye, the Vice-Mayor declared the motion carried.

With regard to the time limit policy for persons wishing to address the Board in Citizens Forum, Vice-Mayor Campbell communicated that two (2) minutes will be allotted to each person wishing to speak.

Vice-Mayor Campbell opened the Citizens Forum with the following individuals present to address the Board;

- Eric Arthur
  815 North B Street

  Suggested that the Marshal's Museum temporarily occupy a vacant building near *21 West End.* Good location with a lot of activities already going on that bring people downtown. The museum would benefit from this.

- John Hamel
  9200 Rogers Avenue and 3301 Old Greenwood Road

  1. Addressed bond issues and inquired if the City was considering refinancing to save money.

  2. Does not like the automated sanitation containers, stating they're too big/too heavy.

- Paul Speer
  Charleston, Arkansas

  Addressed refinancing of city bonds, noting that the Charleston School District had recently done so to save money.

  In response to the bond refinancing, Deputy Administrator Gosack advised that there are several factors involved in determining whether it's economically feasible to refinance bonds. The City regularly reviews its debt portfolio to see if there are opportunities to save money from bond refinancing. The last such review was in January of this year. One bond was not eligible due to IRS regulations; the others already had low interest rates or the maturity of the bond was so short that the savings from refinancing would not overcome the cost of reissuing. It would be more costly to taxpayers to refinance.

- Jerry Hamel
  4618 Wheeler Avenue

  1. Sanitation containers need to be smaller for the convenience of senior citizens.

  2. Congratulated the Board on the positive manner in which the meetings have been conducted over the past year.

- Tammy Trouillon
  8000 Holly Avenue

Recommended that the City establish an animal services advisory board. She advised that the City of Fayetteville established such a board in 2009, working directly with animal control, the city council, and citizens to address animal issues. Information is available on that city's website.

- Sharon Selig
  401 South 17th Street

  Expressed much concern for excessive speeding and other issues in the neighborhood. She is worried about the safety of children in the neighborhood, and also advised that several cats, mostly strays, have been hit by speeding motorists. . Ms. Selig noted that she has spent a considerable amount in veterinary bills to get the cats altered in order to find them homes. She also advised that persons are loitering in the alley behind her home, not sure what they're up to. Ms. Selig indicated that she has made calls to the City but the problems continue.

  Police Chief Kevin Lindsey advised Ms. Selig that he would be glad to meet with her to address the issues raised.

- Liz Berry-Armstrong
  141 North 51st Street

  Addressed issues concerning Rose Lawn Cemetery (a privately owned cemetery located at North O Street & Waldron). She spoke of overgrown conditions and free standing water between Rose Lawn and the adjoining Holy Cross (Catholic) Cemetery. The state cemetery board has been contacted not only about this situation but other matters concerning the cemetery that are not within the City's control; however, the cemetery board has advised that the City is not prohibited from enforcing any ordinances it has regarding care of property within Fort Smith city limits.

  Administrator Kelly acknowledged recent emails received from Ms. Berry-Armstrong, advising that the appropriate City staff had been contacted to respond, and that he would be getting back with her very soon.

- Carolyn Plank
  1014 North 12th Street

Extended appreciation for involvement by Board members who have attended neighborhood coalition meetings, and their concerns for neighborhood issues.

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

APPROVED:

VICE-MAYOR

ATTEST:

Emily Rembler

CITY CLERK