AGENDA

FORT SMITH BOARD OF DIRECTORS
REGULAR MEETING

May 17, 2011 ~ 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 & 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 MAY 3, 2011 REGULAR MEETING

ITEMS OF BUSINESS:

1. Presentations:

   - Proclamations for Public Works Week (May 15-21, 2011)

   - Recognition of participants in the downtown beautification project

2. Ordinance amending portions of Chapter 25 of the Fort Smith Municipal Code, establishing charges for water and sanitary sewer connections, establishing fees for industrial user permits and vacuum truck discharge permits to the utility systems of the City of Fort Smith, establishing a permit procedure for certain connections to the utility systems of the City, prohibiting unauthorized use of utility easements and rights-of-way; repealing ordinances in conflict herewith and for other purposes

3. Consent Agenda

A. Resolution of the Board of Directors of the City of Fort Smith honoring the 188th Fighter Wing for earning the Air Force Outstanding Unit Award for the period of October 1, 2008 to September 30, 2010

B. Resolution authorizing a partial payment to Forsgren, Inc. for the construction of Chad Colley Blvd. Extension, Project No. 10-00-A ($574,765.15)

C. Resolution accepting bids and authorizing a contract for the renovation and additions to the transit facilities at 6821 Jenny Lind Road Project No. 10-02 ($1,106,935.00)

D. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Waste Way, LLC.

E. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with AAA Roll Off Co., LLC.

F. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Waste Removal Experts, Inc.

G. Resolution authorizing partial payment to Branco Enterprises, Inc. for construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements – Schedule 2 ($ 565,279.74)

H. Resolution authorizing Change Order Number Five with Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant – Contract 3 ($62,859.00)

I. Resolution authorizing partial payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant – Contract 3 ($1,167,874.01)

J. Resolution authorizing an amendment to the agreement with Hawkins-Weir Engineers, Inc. for engineering construction phase services associated with the Sunnymede Wet Weather Flow Management Improvements ($170,000.00)

K. Resolution authorizing Change Order Number Four, project acceptance and final payment to Branco Enterprises, Inc. for construction of the Sunnymede Wet Weather Flow Management ($387,780.35)

L. Resolution authorizing the Mayor to execute an agreement and Authorization Number One with RJN Group, Inc. for providing engineering services associated with the Basin 11-1 Sewer Improvements ($163.521.00)

M. Resolution authorizing the Mayor to execute amendment number one to the agreement with FSM Redevelopment Partners, LLC, for the relocation of sanitary sewer lines

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: Airport Commission (2), Community Development of Advisors Committee (4), Fort Smith Municipal Employees Benevolent Fund Board of Advisors (2) and Outside Agency Review Panel (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

1

(2nd Bullet)

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Fort Smith
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NEWS RELEASE

May 11, 2011

Contact: Jayne Hughes, Downtown Development

784-1001 office, 650-7001 cell

RE: Landscape Donations for Downtown Beautification

A previous news release was sent which unfortunately left off a contributor to this downtown beautification project. Please make a note of all of the organizations and businesses which have made this possible.

You are invited to attend a ground breaking for the installation of 215 double red knockout rose bushes in the landscape knuckles along Garrison Avenue and in the city owned parking lot at North 2nd and Garrison. We will be meeting to kick off this event and wonderful donation on **Saturday, May 14th at 8:00 a.m. in the Varsity Parking Lot**.

The public and private partnership participants who have made this project possible are:

River Valley Botanical Society

Hardscrabble Garden Club

Sebastian Hills Neighborhood Association

Sharum's Garden Center

City of Fort Smith

2

ORDINANCE NO. _____

AN ORDINANCE AMENDING PORTIONS OF CHAPTER 25 OF THE FORT SMITH MUNICIPAL CODE, ESTABLISHING CHARGES FOR WATER AND SANITARY SEWER CONNECTIONS; ESTABLISHING FEES FOR INDUSTRIAL USER PERMITS AND VACUUM TRUCK DISCHARGE PERMITS TO THE UTILITY SYSTEMS OF THE CITY OF FORT SMITH; ESTABLISHING A PERMIT PROCEDURE FOR CERTAIN CONNECTIONS TO THE UTILITY SYSTEMS OF THE CITY; PROHIBITING UNAUTHORIZED USE OF UTILITY EASEMENTS AND RIGHTS-OF-WAY; REPEALING ORDINANCES IN CONFLICT HEREWITH; AND, FOR OTHER PURPOSES

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

SECTION 1: Chapter 25, Article III, Section 25-67 of the Fort Smith Municipal Code is hereby amended to read as follows:

The City Administrator, or his authorized representative, shall have the sole authority to determine the adequacy of existing water system mains and sanitary sewer collection lines for the purpose of making additional service connections thereto. Likewise, the City Administrator, or his authorized representative, shall have the sole authority to determine whether it would be economically feasible for the city itself to extend and/or replace water or sewer lines into additional and/or existing service areas. The City Administrator, or his authorized representative, shall have the authority to issue written permits authorizing the designated permittee to have access to the city's easements and rights-of-way for the installation of water service lines and sanitary sewer service lines, and for extensions to the water and sewer utility systems of the city in circumstances where, pursuant to Resolution R-188-84, the City Administrator, or his authorized representative, has determined that it would not be economically feasible for the city itself to extend or replace water or sewer lines into additional and/or existing service areas or has determined that existing water or sewer lines are not adequate for additional connections.

SECTION 2: Chapter 25, Article III, Section 25-68, subsections (a), (b), (c) and (d) of the Fort Smith Municipal Code are hereby repealed as stated and replaced with the following language:

A. One-Inch and Two-Inch Metered Water Service Installation

(1) All connections of water service lines, up to and including connections two-inches

(2") in diameter, to the public water lines of the city shall be accomplished by city personnel or by a contractor retained by the city. The city shall provide all equipment and labor and all materials to accomplish the connection from the water main to the property or private easement line of the customer being served. The city shall, in its sole discretion, determine the appropriate route for the connection.

(2) The base charge for installation of a water service connection to a water main which is on the same side of any street, alley, or easement to the water main and which does not require the crossing or cutting of any pavement, sidewalk or other type of improved hard surface shall be as follows:

1-inch	$670.00
2-inch	$1,440.00

(3) Any installation of a water service connection to a water main which may be installed utilizing a conduit or encasement passing under and across the full width of a paved street, alley or easement shall result in an additional amount being added to the base charge established in paragraph (2) above which additional amount shall be as follows:

materials and excavation	$50.00

(4) Any installation of a water service connection which requires the open excavation of the partial width of any paved street, alley, easement, or which requires the replacement of any other type of improved hard surface within a public right-of-way or easement, shall result in an additional amount being added to the base charge established in paragraph (2) above in order to compensate for the replacement of the pavement or surface improvement. The additional charge shall be as follows:

16 square feet or less	$95.00
above 16 square feet	$6.00 each square foot

(5) The base charge for installation of a water service connection to a water main which requires the crossing by open excavation of the full width of pavement of any paved street, alley, not to exceed 27-feet of paved width, shall be as follows:

1-inch	$1,315.00
2-inch	$2,020.00

(6) Any installation of a water service connection which requires the crossing by open excavation of any paved street, alley or easement exceeding 27-feet of paved width, or requires replacement of any other type of improved hard surface, shall result in an additional amount being added to the charge established in paragraph (e) above as follows:

16 square feet or less	$95.00
above 16 square feet	$6.00 each square foot

(7) The charge for any installation of a water service accomplished by the city utilizing the services of a contractor to bore under any street, alley or easement shall include the actual cost of said contract services plus the base charge established in paragraph (2) above, as well as any additional amounts required as established in paragraphs (3) and (4) above.

(8) All charges shall be included as part of the initial water billing(s) and shall be paid by the customer and shall be subject to late charges or termination of service if payment becomes delinquent.

B. Greater than Two-Inch Metered Water Service Installation

(1) All connections of water service lines to the city's public water lines, which connections are greater than two-inches (2") in diameter, shall be accomplished by city personnel or by a contractor retained by the city, for the purpose of attaching the tapping sleeve and valve to the water main and for performing water main tapping services. The city shall provide, at the customer's expense, the tapping sleeve and valve and water meter for these connections. All other materials and labor used in the construction of a service line and meter vault shall be in accordance with plans and specifications of the city and shall be the financial responsibility of the customer.

(2) Any installation of a metered water service line that is greater than two inches (2") shall include the following charges:

meter and strainer	actual cost

tapping sleeve and valve - materials	actual cost
tapping sleeve and valve attachment and tapping service - labor	$160.00

C. Temporary Water Service

(1) All connections for temporary water service from a fire hydrant or other supply point on the city's public water lines or from an unmetered private water line shall be metered by the city and the installation of said meters shall be accomplished by city personnel. The city shall provide all equipment and labor and all materials, including the water meter, to accomplish the temporary connection from the water main. The city, in its sole discretion, shall determine the appropriate location for the temporary water service connection.

(2) The base charge for installation of a temporary water service connection shall be $60.00.

(3) The charge for relocation of any temporary water service connection to a subsequent supply point shall be $30.00.

(4) The responsibility for protection from damage or theft shall be the responsibility of the customer.

(5) All installation, relocation and damage repair charges shall be included as part of the water billing(s) and shall be paid by the customer and shall be subject to late charges or termination of service if payment becomes delinquent. Payment of all charges shall be required before the release of any security deposit is made.

SECTION 3: Chapter 25, Article III, Section 25-69, subsections (a), (b), (c) and (d) of the Fort Smith Municipal Code are hereby repealed as stated and replaced with the following language:

A. Sanitary Sewer Service Installation

(1) All connections of sanitary sewer service lines to the city's public sanitary sewer lines, including connections up to and including those four-inches (4") in diameter, shall be accomplished by city personnel or a contractor retained by the city. The city shall provide all equipment, labor and all materials, including a "clean-out" to be placed at the approximate location of the property or private easement line where the customer's private sanitary sewer service line is to

connect to the city's installation. The city, in its sole discretion, shall determine the appropriate route for the connection.

(2) The base charge for installation of a sewer service connection to a sewer main which does not require the crossing or cutting of any pavement, sidewalk or other type of improved hard surface shall be $1,110.00.

(3) The base charge for installation of a sewer service connection to a sewer main which requires the open excavation of any paved street, alley, or easement, not to exceed 27-feet of paved width, shall be $1,800.00.

(4) Any installation of a sewer service connection which requires open excavation of any paved street, alley or easement exceeding 27-feet of paved width, or requires replacement of other type of improved hard surface, shall result in an additional amount being added to the charges established in paragraphs (2) or (3) above as follows:

16 square feet or less	$95.00
above 16 square feet	$6.00 per square foot

(5) Any installation of a sewer service accomplished by the city utilizing the services of a contractor to bore under any street, alley or easement shall result in the actual cost of said contract services being added to the base charges established by paragraph (2) or (3) above, as well as any additional amounts required as established in paragraph (4) above.

(6) Any installation of a sewer service accomplished by the city utilizing the services of a contractor for an aerial pipeline crossing that incorporates support piers or self-supporting pipe shall result in the actual cost of said contract services being added to the base charges established in paragraph (2) or (3) as well as any additional amounts required as established in paragraph (4) above.

(7) If the property for which a sewer service connection is being requested is determined to have been assessed previously and has paid the appropriate sewer tie-on connection fee required for each service connection requested, then an amount of $350.00 shall be deducted from the base charges set by paragraph (2) or (3) above for said connection.

(8) For any connection to the sanitary sewer lines of any sewer improvement district, the charges established by this section shall be in addition to any tie-on fee charged by the district.

(9) All charges shall be included as part of the initial water billing(s), or included as part of the next water billing(s) if a current water customer, and shall be paid by the customer and shall be subject to late charges or termination of service if payment becomes delinquent.

SECTION 4: The last paragraph, consisting of one sentence, of Chapter 25, Article VI, Section 25-187 of the Fort Smith Municipal Code is hereby amended to read as follows:

The septic tank discharge permit fee shall be $2,000.00 per year from date of issuance.

SECTION 5: The last sentence of Chapter 25, Article VI, subsection (c) of Section 25-188 of the Fort Smith Municipal Code is hereby amended to read as follows:

A. The fee for the permit shall be $82.00 per month and sampling and analysis fees per monitoring sample for each Industrial User as follows:

Sampling and analysis fees:

metals digestion	$ 10.00 each sample
metals analysis	$ 20.00 each analyte
BOD_5	$ 30.00 each sample
COD	$ 20.00 each sample
TSS	$ 15.00 each sample
oil & grease	$ 35.00
total Cyanide	$ 40.00
flash point	$ 40.00
pH	$ 9.00
grab collection	$ 10.00
composite collection	$100.00
resampling required by violation	as identified above

B. In the event that the city determines that an outside laboratory should be utilized for the analysis of any parameter identified in paragraph (A) above, the actual cost of analysis by the outside laboratory shall be borne by the Industrial User.

SECTION 6: Repealing Clause. All Ordinances or parts of ordinances in conflict with the

provisions of this Ordinance are hereby repealed.

SECTION 7: This Ordinance shall become effective on the 1st day of July, 2011.

PASSED AND APPROVED this _____ day of May, 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
Publish One Time

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** May 9, 2011

FROM: Steve Parke, Director of Utilities

SUBJECT: Water and Sewer Miscellaneous Fees

The attached Ordinance reflects the adjustments to the water and sewer service connections and pretreatment program charges as discussed at the Board's March 8, 2011, study session. A copy of the material presented at the study session is attached. The proposed Ordinance also incorporates the current administrative procedures used by the city for the installation of larger than 2-inch diameter water service connections and for providing temporary water services. Additionally, the existing control for the use of easements and rights-of-way related to service installations is being amended to allow the City Administrator greater flexibility to issue permits allowing private contractors to work within those areas.

The adjustments to the water and sewer service installation charges are designed to recover the city's direct expenses. The adjustments to the pretreatment programs fees and charges are expected to recover approximately 70-percent of the industrial waste monitoring program budget. As discussed, the charges will be reviewed annually during the budget process to determine if and when additional adjustments should be recommended. The Ordinance sets July 1 as the effective date for the new charges and program fees. A notice will be sent to the plumbers, builders and contractors in our area advising them of these changes so that they may anticipate them in upcoming price quotations or bidding. A separate notice will be sent to our permitted industrial users.

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

attachment

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** March 3, 2011

FROM: Steve Parke, Director of Utilities

SUBJECT: Water and Sewer Miscellaneous Fees

As part of the discussions held during the 2011 budget review meetings staff presented that the miscellaneous fee charges collected for utility service installations and the industrial waste monitoring program had not been adjusted in many years. This has led to services being provided below their actual cost. Staff was requested to review and recommend adjustments to these charges for the Board's consideration. The following presents background and recommendations for each of those services.

Water and Sewer Service Connection Charges

In 1984 the Utility Department began installing new water service connections of 5/8-inch through 2-inch meters and 4-inch sewer service connections. This work, between the time of mid-1930s and 1984, was performed by licensed plumbers hired by the individual seeking utility service. Beginning in the 1980s, the plumbing community no longer wanted to perform this work and petitioned the city to once again perform these installations. Between 1984 and 1987 there were a few adjustments to the city's charges, however, none have been made since that time. The city's current charges do not cover the cost of these new service installations. The cost of the waterworks materials alone exceed the current installation charges. Labor, equipment and street repair required for a service installation further widens the cost recovery gap.

To determine the actual cost to install new services, staff reviewed the cost of parts and materials as well as work order history to determine the average installation time and equipment used. The charges for on-side installations, those which do not require street crossings or affect pavement areas, are set as fixed charges as they are a more predictable expense. The charges for street crossings, either by cut or bore, vary depending on the width of street or amount of pavement repair involved. Estimated costs for street crossing installations provided to customers are adjusted to a final cost based upon actual field measurements once the work is completed. Attachment "A" shows the comparison of the current and proposed charges for water and sewer service installations for both on-side and street crossings based upon a 27-foot pavement width.

Pretreatment Program Charges

As part of the 1982 EPA Consent Decree enforcement action the city was required to establish a sewer pretreatment program. The requirements of a pretreatment program are to establish the appropriate wastewater strength limits for industrial discharges and to provide qualified personnel and resources to monitor and enforce compliance. It is also the intent of EPA's regulations that the pretreatment program would be self-sustaining through the imposition of appropriate fees to recover the program's cost from the regulated entities. The city's program was established in 1984. In 1986 the program's permit fees were adjusted slightly, but have remained unchanged since that time.

The pretreatment program is named Industrial Waste Monitoring - Program 5609 in the operating budget. The 2010 operating budget for that program was $278,486; $231,860 for personnel and $46,626 for operating. During 2010 the permit charges and sampling fees generated $78,337 in revenue, or about 28-percent of the industrial waste monitoring program's budget. Because the difference between the operating budget and current cost recovery is a significant amount, it is recommended to make an incremental adjustment to the program's charges and to move toward a self-sustaining program over time. Attachment "B" shows the comparison of the current and proposed program charges. It is estimated the proposed charges will generate about $187,425, or about 67% of the industrial waste monitoring program's budget. Changing from the fixed monthly sampling and analysis fee to an individual parameter fee structure directs the cost recovery to those requiring specific analyses for monitoring or resampling due to a noncompliant discharge of one or more parameters.

It is also recommended that the proposed fee adjustment eliminate the need for the independent services which industrial users now must use o determine charges for high strength BOD and TSS. That concept was established as part of the original industrial waste monitoring program to eliminate any industrial user's perception that the city's testing results could be manipulated to adjust a billing amount. That concern has been overcome and it is now recommended that the test results produced by the city's compliance monitoring and the user's self-monitoring be used to determine those charges. That has been discussed with several users and they are in agreement with this approach. As their outside monitoring costs are unknown, the amount of the savings to be realized with its elimination cannot be quantified.

The adjustment to the septic hauler's annual fee provides for the recovery of the wastewater volume sewer rate paid by a typical commercial account and based upon the average volume that haulers typically deliver to the treatment plant.

Conclusion

The revenue compared to expenses for new service connections and industrial waste monitoring will be reviewed on an ongoing basis to determine if and when additional adjustments should be considered. These proposed changes will generate about $187,425 compared to the $78,337 currently collected and will shift the recovery of these costs from all water and sewer users to those users who are creating the costs. If the Board concurs with the recommended charges, staff will prepare the necessary ordinances for a meeting in March.

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

attachment

Attachment "A"

Water and Sewer Service Installation Charges

Water Service Installations				
1-Inch Tap		Current	Proposed	Difference
	On-side	$300.00	$670.00	$370.00
	Street crossing - cut	$870.00	$1,315.00	$445.00
	Street crossing - bore (1)	$400.00	$1,405.00	$1,005.00
	Pavement repair - minimum	none	$95.00	$95.00
	Pavement repair - each square foot	none	$6.00	$6.00
2-Inch Tap				
	On-side	$960.00	$1,440.00	$480.00
	Street crossing - cut	$1,650.00	$2,020.00	$370.00
	Street crossing - bore (1)	$1,060.00	$2,210.00	$1,150.00
	Pavement repair - minimum	none	$95.00	$95.00
	Pavement repair - each square foot	none	$6.00	$6.00
Sewer Service Installations				
	On-side (2)	$615.00	$1,110.00	$495.00
	Street crossing - cut (2)	$1,300.00	$1,800.00	$500.00
	Pavement repair - minimum	none	$95.00	$95.00
	Pavement repair - each square foot	none	6.00	$6.00

Notes:

(1) Directional boring is performed under contract and actual cost for service will be made part of connection charges. An estimated amount of $700.00 has been included in the calculation of proposed charges for comparison purposes.

(2) Installation cost calculation includes $350.00 sewer tie-on fee.

Attachment "B"

Monthly Industrial Waste Monitoring Program Charges

Item	Current	Proposed	Difference
Permit fee	$82.00	$82.00	$0.00
Sampling and analysis fee	see table below	see table below	attachment "C"
High strength charge - BOD	$0.1309/pound	$0.1309/pound	$0.00
High strength charge - TSS	$0.0998/pound	$0.0998/pound	$0.00
High strength monitoring provided by customer's outside laboratory	customer selected	eliminate	unknown
Septic tank hauler fee	$500.00/year	$2,000.00/year	$1,500.00/year

Parameter	Current	Proposed	Difference
Sampling & analysis fee	$68.00	by parameter	attachment "C"
Metals digestion/sample	included	$10.00	
Metals analysis/analyte	included	$20.00	
BOD	included	$30.00	
COD	included	$20.00	
TSS	included	$15.00	
Oil & grease (1)	included	actual cost	
Total Cyanide	included	$40.00	
Flash point	included	$40.00	
pH	included	$9.00	
Grab collection	included	$10.00	
Composite collection	included	$100.00	
Resampling required by violation	$0.00	as above	

Notes:

(1) City uses outside contract laboratory for this analysis. Current testing cost for this parameter is $35.00 and has been included in the Attachment "C" cost comparison.

Attachment "C"

Examples of Monthly Industrial User Sampling Events

Conventional Pollutant - Typical Monthly Significant Industrial User Sampling Event

Current Pollutants:		Proposed Pollutants:		Difference
Composite Sampling Fee	-	Composite Sampling Fee	$ 100.00	
Biochemical Oxygen Demand (BOD)	-	Biochemical Oxygen Demand (BOD)	$ 30.00	
Total Suspended Solids (TSS)	-	Total Suspended Solids (TSS)	$ 15.00	
Oil & Grease	-	Oil & Grease	$ 35.00	
pH	-	pH	$ 9.00	
Total - Composite Sampling Event	$68.00	Total - Composite Sampling Event	$ 189.00	$121.00

Categorical Pollutant - Typical Montly Significant Industrial User Sampling Event

Current Pollutants:		Proposed Pollutants:		
Composite Sampling Fee	-	Composite Sampling Fee	$ 100.00	
Metals Digestion/Sample	-	Metals Digestion/Sample	$ 10.00	
Cadmium (Cd)	-	Cadmium (Cd)	$ 20.00	
Chromium (Cr)	-	Chromium (Cr)	$ 20.00	
Copper (Cu)	-	Copper (Cu)	$ 20.00	
Lead (Pb)	-	Lead (Pb)	$ 20.00	
Nickel (Ni)	-	Nickel (Ni)	$ 20.00	
Silver (Ag)	-	Silver (Ag)	$ 20.00	
Zinc (Zn)	-	Zinc (Zn)	$ 20.00	
Cyanide (Total)	-	Cyanide (Total)	$ 40.00	
Biochemical Oxygen Demand (BOD)	-	Biochemical Oxygen Demand (BOD)	$ 30.00	
Total Suspended Solids (TSS)	-	Total Suspended Solids (TSS)	$ 15.00	
Oil & Grease	-	Oil & Grease	$ 35.00	
pH	-	pH	$ 9.00	
Total - Composite Sampling Event	$68.00	Total - Composite Sampling Event	$ 379.00	$311.00

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH HONORING THE 188TH FIGHTER WING FOR EARNING THE AIR FORCE OUTSTANDING UNIT AWARD FOR THE PERIOD OF OCTOBER 1, 2008 TO SEPTEMBER 30, 2010

WHEREAS, during the summer of 2005, the region rallied with the 188th Fighter Wing when the Pentagon recommended through a Base Closure and Realignment Commission (BRAC) action that the Arkansas Air National Guard unit be stripped of its flying mission;

WHEREAS, the unit's stellar performance record since its inception in 1953, along with assistance from local, state, and federal elected officials and private entities compelled the 2005 BRAC commissioners to take unprecedented action and award a new flying mission to the 188th Fighter Wing, known as the "Flying Razorbacks;"

WHEREAS, more than 1,000 airmen and women proved their worthiness of a new flying mission by:

Completing the weapons system conversion from F-16s through two separate A-10 Thunderbolt II "Warthog" upgrades ahead of schedule;

Maintaining a mission capable rate for the A-10 above the Air National Guard average and achieving the highest A-10 unit in the ANG from August 2009 through July 2010;

Acing an Air Combat Command Unit Compliance Inspection in 2009, with an overall mark of 99.4 percent;

Earning the coveted Patriot Team Award as the Air National Guard's top national recruiting office;

Developing an avionics solution for Air Force-wide problems with A-10's, earning the designation as the only unit authorized to do repairs outside the standard repair parameters, saving more than $1.5 million annually;

Deploying 141 members for Expeditionary Combat Support for Operations Enduring Freedom and Iraqi Freedom, as well as other contingency operations worldwide;

Deploying 300 airmen and six A-10s as part of an Air Expeditionary Forces rotation to Kandahar, Afghanistan in 2010;

Logging 2,700 combat hours in Afghanistan without missing a single mission tasking assignment – less than a month after completing the conversion to A-10s.

WHEREAS, all of these accomplishments have earned the 188th Fighter Wing, Arkansas Air National Guard the U.S. Air Force's second highest unit honor, the Air Force Outstanding Unit Award (AFOUA), for its accomplishments from October 1, 2008 to September 30, 2010.

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

The City of Fort Smith offers its congratulations and its appreciation to the 188TH Fighter Wing, Arkansas Air National Guard, the unit's commander, Col. Thomas I. Anderson, and its more than 1,000 citizen members for their dedication to duty and their commitment to doing their day-to-day jobs, despite circumstances beyond their control. The unit continues to inspire citizens and leaders in the Greater Fort Smith Region.

This Resolution passed this _____ day of May, 2011.

APPROVED

_____

Mayor

ATTEST:

_____

City Clerk

APPROVED AS TO FORM

No Publication Required

MEMORANDUM

TO: Ray Gosack, City Administrator

FROM: Tracy Winchell, Communications Manager

SUBJECT: 188th Fighter Wing – AFOUA Resolution

DATE: 4/27/2011

RESOLUTION HONORING THE 188TH FW, ARKANSAS AIR NATIONAL GUARD

Flying Razorbacks Earn the Air Force Outstanding Unit Award (AFOUA) for the period of October 1, 2008 to September 30, 2010

As requested by the Mayor and Board of Directors at a recent regular meeting, attached is a resolution honoring the men and women of the 188th Fighter Wing, Arkansas Air National Guard, for earning the United States Air Force's second highest unit award.

Colonel Tom Anderson, commander of the unit, plans to attend this meeting in person to publicly thank the board for this recognition and to express his appreciation to the City of Fort Smith and its citizens for the ongoing support for the 188th Fighter Wing.

3B

RESOLUTION _____

A RESOLUTION AUTHORIZING PARTIAL PAYMENT TO FORSGREN, INC., FOR THE CONSTRUCTION OF CHAD COLLEY BLVD. EXTENSION
PROJECT NO. 10-00-A

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

Payment in the amount of $574,765.15 for the Periodic Pay Estimate No. 3 to Forsgren, Inc., is hereby approved for the construction of Chad Colley Blvd. Extension, Project No. 10-00-A.

This Resolution adopted this _____ day of May, 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form

_____

☑ No Publication Required
☐ Publish ____ Times

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

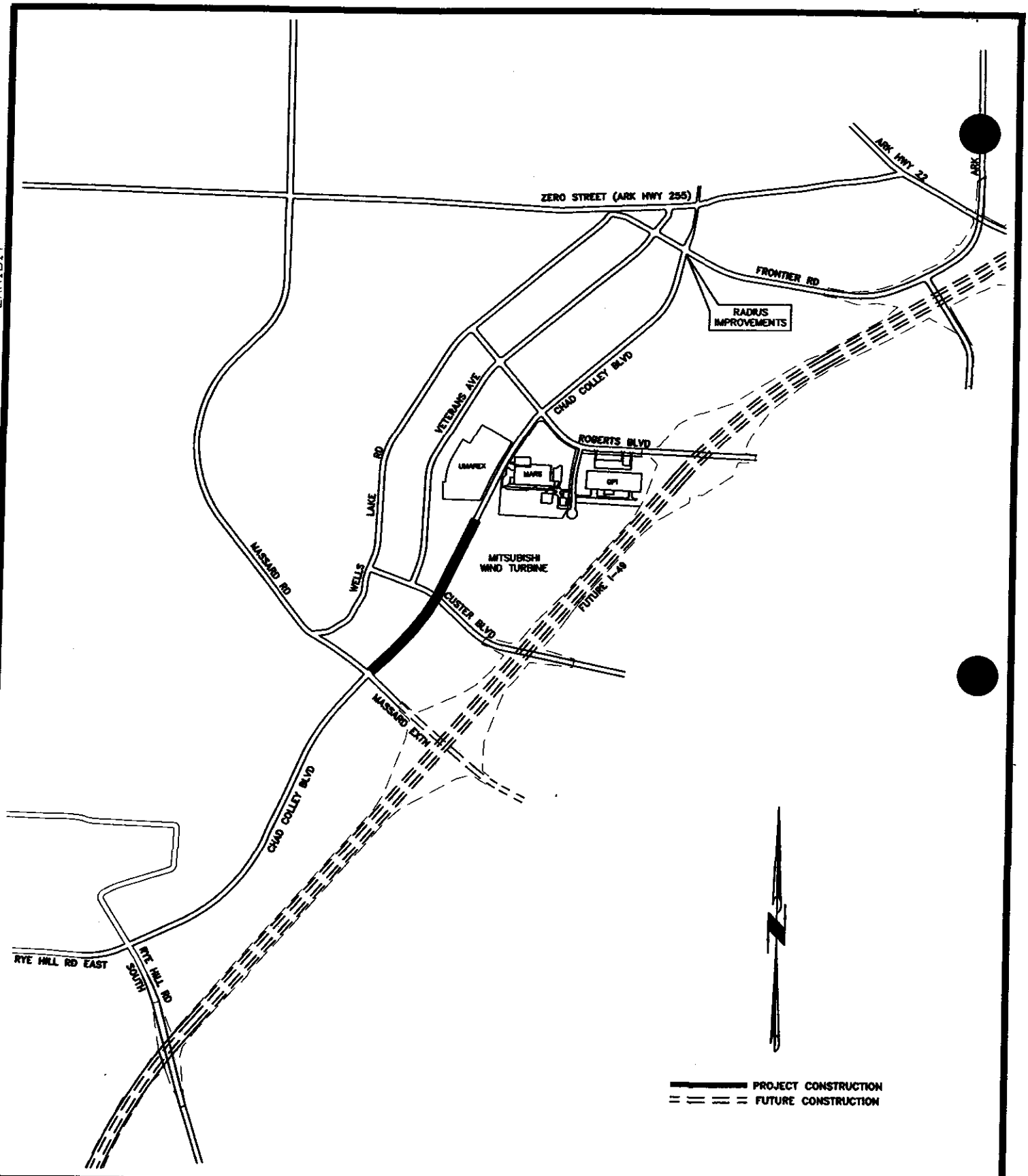
FROM: Stan Snodgrass, P.E., Director of Engineering

DATE: May 12, 2011

SUBJECT: Chad Colley Blvd. Extension
Project No. 10-00-A

This project includes a 2000 foot extension of Chad Colley Boulevard from its current terminus adjacent to Umarex extending to Custer Boulevard along with radius improvements at Frontier Road committed as part of the memorandum of agreement for the Mitsubishi Wind Turbine plant. Also included is another 2000 foot extension of Chad Colley Boulevard between Custer Boulevard and Massard Road. This final extension will provide a direct route along Chad Colley Boulevard extending over 3 ½ miles from its intersection with Rye Hill Road to Zero Street. The project location is shown on the attached map. A project summary sheet is attached.

A City Ordinance requires that all payments in excess of $500,000.00 be approved by the Board of Directors. A Resolution authorizing partial payment is attached. I recommend that this payment be approved. Should you have any questions, please advise.



EXHIBIT

RBR

C:\City of Ft Smith\Engineering\Snodgrass\Chad Colley EXT\ CC-I49-REV6.dwg 12/29/10-09:39

FCRA DEVELOPMENT CHAD COLLEY EXTENSION FORT SMITH, ARKANSAS	The City of Fort Smith ARKANSAS	Project: 10-00-A Date: SEPT 2010 Scale: NONE Drawn By: RBR

SUMMARY SHEET

City of Fort Smith

Project name:	Chad Colley Blvd. Extension	Project number:	10-00-A
Project Status:	56% complete	Project engineer:	Hawkins-Weir Engineers, Inc.
Today's Date:	05/09/2011	Project contractor:	Forsgren, Inc.
Staff contact name:	Stan Snodgrass		
Staff contact phone:	784-2225		
Contract time (no of days):	210		
Notice to proceed issued:	2/14/2011		

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	$3,153,579.65	12/28/2010	9/12/2011
Change orders:			
1			
2			
3			
Adjusted contract amount	$3,153,579.65		
Payments to date (as negative):	$1,001,687.55		
Amount of this payment	$574,765.15		
Contract balance remaining	$1,401,965.54		
Retainage held	$175,161.41 (10%)		
Final payment			
Amount under original as a percentage			

Final Comments:

3C

RESOLUTION NO. _____

A RESOLUTION ACCEPTING BIDS AND AUTHORIZING A CONTRACT FOR THE RENOVATION AND ADDITIONS TO THE TRANSIT FACILITIES LOCATED AT 6821 JENNY LIND ROAD
PROJECT NO. 10-02

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

SECTION 1: The bid of Crawford Construction received April 26, 2011, for the renovation and additions to transit facilities, Project No. 10-02, in the amount of $1,106,935 be accepted.

SECTION 2: The Mayor is hereby authorized to execute a contract with Crawford Construction, subject to the terms set forth in Section 1 above.

This resolution adopted this ____ day of May, 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form
JSC
No publication required

FortSmith TRANSIT

MEMORANDUM
May 9, 2011

To: Ray Gosack, City Administrator

From: Ken Savage, Transit Director

Subject: Transit Facility Renovation

Attached is a resolution accepting bids and authorizing a contract for renovations and additions to the transit facilities on Jenny Lind Road. Also attached is the bid tabulation in which Crawford Construction with a base bid of $1,238,800 was the low bid out of seven bids received. Staff omitted two (2) project tasks as deductive alternates in order to reduce costs bringing the authorized amount to $1,106,935. The improvements are made possible through an Americans Recovery and Reinvestment Act (ARRA) grant the transit department received in 2008.

The renovation project includes a roof replacement in the maintenance facility and miscellaneous repairs to the interior and exterior of the transit office facility. The project also includes new additions such as a 1,500 square foot bus awning that will keep all transit revenue vehicles (buses) out of the weather elements. The awning will provide enhanced lighting for pre-trip and post-trip inspections and electrical outlets for engine block heaters. Other improvements include the installation of an automated bus wash system, a vehicle exhaust system, as well as an in-ground unleaded fuel tank for onsite fueling of all transit vehicles. The combined diesel and unleaded fuel island will be available for other city vehicles near the south side of Fort Smith as well. The renovations and additions will enhance security, improve energy and operating efficiencies and preserve the useful life of the facility.

Funds for the project are encumbered from the 2010 budget. The renovations and additions have been approved by the Federal Transit Administration as viable projects for the use of ARRA funds. If the Board approves the project the next step would involve a notice to proceed. The project completion is specified for 240 days.

Please feel free to contact me for further information.

BID TABULATION
MAHG PROJECT NO. 10-02
RENOVATION & ADDITION TO CITY OF FORT SMITH TRANSIT DEPARTMENT
FORT SMITH, ARKANSAS
April 26, 2011

CONTRACTORS:	CRAWFORD CONST.	SO. BLDG. SERVICES	BESHEARS CONST.	CIRCLE M CONST.	TURN KEY CONST.	A J GREENWOOD	HECKATHORN CONST.	BRADFORD SCRUGGS	GOODWIN & GOODWIN
CONTRACTOR LICENSE #	0012410212	0093000412	0039920811	0135800412	0186310411	0184450312	0023780411	NO BID	NO BID
BASE PROPOSAL:	$ 1,238,800	$ 1,337,700	$ 1,362,000	$ 1,345,156	$ 1,272,000	$ 1,374,935	$ 1,298,930		
BID SECURITY:	5% Emp. Mutual	5% Emp. Mutual	5% Westfield	5% Emp. Mutual	5% Cincinnati	5% Cincinnati	5% Hartford		
ADDENDA REC'D:	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3		
ALTERNATE NO. 1: (Omit Mtl Canopy- Maint Bldg)	($55,300)	($61,000)	($54,000)	($68,015)	($40,162)	($58,127)	($70,000)		
ALTERNATE NO. 2: (Omit Refurbishing Generator)	($10,500)	($9,000)	($9,500)	($11,662)	($4,000)	($4,000)	($10,500)		
ALTERNATE NO. 3: (Omit new finishes at Offices)	($8,200)	($9,000)	($8,500)	($10,413)	($8,696)	($8,216)	($10,400)		
ALTERNATE NO. 4: (Omit New 6" Gravel Drive)	($34,500)	($33,000)	($35,000)	($34,039)	($32,785)	($47,532)	($34,500)		
UNIT PRICE: (Undercut & Fill / cu.yd.)	$ 18.00	$ 15.00	$ 16.00	$ 12.50	$ 12.50	$ 22.50/8.50	$ 20.00		
SUBCONTRACTORS:									
PLUMBING:	Chamberlain	Hutcherson Plmb	Chamberlain	Chamberlain	Hutcherson Plmb	Hutcherson Plmb	S&G Plumbing		
License #	0022280412	0186030411	0022280412	0022280412	0186030411	0186030411	0056930411		
MECHANICAL:	Chamberlain	Wilson H&A	Chamberlain	Chamberlain	Wilson H&A	Wilson H&A	Wilson H&A		
License #	0022280412	0040250412	0022280412	0022280412	0040250412	0040250412	0040250412		
ELECTRICAL:	Bailey Elec.	Bailey Elec.	Bailey Elec.	Bailey Elec.	Bi-State Elec.	Bi-State Elec.	Bailey Elec.		
License #	0194250312	0194250312	0194250312	0194250312	0017870311	0017870311	0194250312		
STANDING SEAM ROOF/ SHEET MTL:	Crawford Const.	SBS	Beshears	Holmes Erection	Turn Key	Mike Mahl	Steel Bldg. Erec		
License #	0012410212	0093000412	0039920811	0040330811	0186310411	0090090112	0046190411		

CERTIFIED TO BE A TRUE COPY By: _____
Galen D. Hunter, AIA

3D

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION OF A NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT WITH WASTE WAY, LLC.

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

The Mayor, his signature attested by the City Clerk, is hereby authorized to execute the attached Non-Residential Solid Waste Collection and Disposal Permit and Agreement with Waste Way, LLC.

This resolution adopted this _____day of May, 2011.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:

_____

☑ No Publication Required
☐ Publish ____ Times

3E

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION OF A NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT WITH AAA ROLL OFF CO., LLC.

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

The Mayor, his signature attested by the City Clerk, is hereby authorized to execute the attached Non-Residential Solid Waste Collection and Disposal Permit and Agreement with AAA Roll Off Co., LLC.

This resolution adopted this _____day of May, 2011.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:
_____
☑ No Publication Required
☐ Publish ____ Times

3F

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION OF A NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT WITH WASTE REMOVAL EXPERTS, INC.

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

The Mayor, his signature attested by the City Clerk, is hereby authorized to execute the attached Non-Residential Solid Waste Collection and Disposal Permit and Agreement with Waste Removal Experts, Inc.

This resolution adopted this _____day of May, 2011.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:

_____

☑ No Publication Required
☐ Publish ____ Times

Responsible Environmental Management

Fort Smith Department of Sanitation

MEMORANDUM

May 13, 2011

To: Ray Gosack, City Administrator

From: Baridi Nkokheli, Director

Subject: Non-Residential Solid Waste Collection and Disposal Permits and Agreements

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On March 18, 2011, letters were sent to six local commercial solid waste haulers that our department determined are in violation of the Fort Smith Municipal Code's requirement for a non-residential solid waste collection and disposal permit and agreement required to collect and dispose of commercial solid waste generated within the city limits of Fort Smith. Five of the six haulers have expired solid waste permits and agreements with the City of Fort Smith. Three of the six haulers responded to our notification and contacted our offices to express a desire to obtain new solid waste permits and agreements in order to comply with the City of Fort Smith Municipal Code and continue hauling non-residential solid waste within Fort Smith.

The Arkansas General Assembly has directed that it is the responsibility of municipalities to provide a system for the collection and disposal of all solid waste generated within its corporate limits to help ensure good health, safety, and welfare of its inhabitants. The city deemed the permits and agreements necessary to facilitate effective solid waste management planning and ensure the long-term capacity of its solid waste disposal facility (i.e. the Fort Smith Landfill) which is obtained through flow control enforcement. Flow control is a legal provision that allows state and local governments to designate the places where municipal solid waste (MSW) is taken for processing, treatment, or disposal. The U.S. Supreme Court has upheld the right of local governments to direct the flow of solid waste to publicly owned waste facilities.

Since 2008, the Fort Smith Landfill has experienced declining solid waste disposal tonnages. We have determined the declines are due in part from the recovering economy. However, we are finding that our declining tonnages are also being impacted by noncompliance of the flow control requirement contained within the non-residential solid waste collection and disposal permits and agreements by certain solid waste haulers operating within the city limits of Fort Smith. Certain haulers are choosing to dispose of the commercial solid waste generated and collected by them in Fort Smith to landfills located in eastern Oklahoma. For instance, the city of Sallisaw landfill's disposal fee is currently $20.25 per ton or $12.16 per ton less than the $32.41 per ton disposal fee at the Fort Smith Regional Landfill. The disparity in disposal rates is due in part to Oklahoma's less stringent environmental regulation and because they are the sole provider of all municipal solid waste collections within the city limits of Sallisaw. By hauling

the solid waste out of the state of Arkansas, the haulers are avoiding local taxes and regulatory fees assessed by the Arkansas Department of Environmental Quality (ADEQ) and the Sebastian County Regional Solid Waste Management District (SCRSWMD). Those fees are used to fund and assist the solid waste districts in planning and overseeing municipal solid waste management programs such as recycling initiatives and services to include electronics, waste tires, batteries, motor oil, and household chemical wastes. The districts also administer recycling grants and waste tire management programs.

The reduced tonnage also drives disposal costs up which ultimately affect our local residents and other stakeholders whom depend on our landfill, thus lowering the economic viability of landfill operations. Our non-residential solid waste collection and disposal permits and agreements provide a degree of accountability on the part of the private hauler to conform to the flow control requirement.

Submitted for Board consideration are non-residential solid waste collection and disposal permits and agreements with Waste Way, LLC, AAA Roll Off Co., LLC, and Waste Removal Experts, Inc. Staff is recommending that the agreements be accepted and approved by Resolution.

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

NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT

THIS AGREEMENT, made and entered on the date set forth below by and between the City of Fort Smith, Arkansas (hereinafter referred to as the "City"), and COMPANY, an Arkansas TYPE OF COMPANY ("ABREVIATED CO. NAME").

WITNESSETH:

WHEREAS, the City is a municipal corporation of the first class of the State of Arkansas and, in its governmental capacity, owns and operates the City of Fort Smith Solid Waste Disposal Facility (the "Facility"), which is currently operated as a Class I landfill; and

WHEREAS, the City currently provides solid waste collection and disposal service to residential and non-residential customers within the City; and

WHEREAS, Waste Way LLC. has the consent of the City to collect and dispose of solid waste for non-residential customers within the corporate limits of the City; and

WHEREAS, the City has evaluated the possibility of exercising its governmental option of providing solid waste collection and disposal services to non-residential customers; and

WHEREAS, Waste Way LLC. desires to provide non-residential solid waste collection and disposal services for customers located in Sebastian County within and without the corporate limits of the City.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. **Definitions.**

   a. **"Solid Waste,"** when used in this Agreement, shall have the meaning given to it in Section 25-261 of the Fort Smith Code of Ordinance.

   b. **"Residential Customers,"** when used in this Agreement, shall have the meaning given in Section 25-261 of the Fort Smith Code of Ordinances.

2. **Disposal of Waste Generated Within the City.**

   a. Solid Waste Disposal. Waste Way LLC. agrees that all solid waste generated within the City and which is collected by Waste Way LLC. for disposal shall be hauled by Waste Way LLC. to the Facility, except as otherwise provided herein. Excepted from this requirement are: (i) any categories of solid waste that the City does not accept for disposal at the Facility; (ii) any customers to which the City may consent in writing executed by the Fort Smith City Administrator to allow to use alternative disposal facilities; and (iii) any recyclables as defined in Section 25-261 of the Fort Smith Code of Ordinances and any other recycling program identified in writing and approved as an exception by the Fort Smith City Administrator. The City will use reasonable efforts to enforce the designation of the Facility against all waste haulers.

   b. Rates for Disposal. The rates for disposal of solid waste generated within the City and disposed of at the Facility shall be those rates, established from time to time, by the City for the customers of the Facility (the "Fort Smith Published

Rates"). The City agrees that all waste haulers servicing Non-Residential customers within the City and delivering solid waste to the Facility shall be charged the same disposal rates (subject to the right of the City to contract for special volume rates).

3. **Disposal of Waste Generated Outside the City.**

   a. Rates for Disposal. The base rates charged for solid waste generated outside the City "External Rate" and delivered to the Facility by Waste Way LLC. shall be the Fort Smith published rates.

   b. The rates may be adjusted on the anniversary of each year of the term provided for in this paragraph. On each anniversary date, the rates set forth in the Fort Smith Published Rates may be adjusted by the percentage that the Consumer Pricing Index for All Urban Areas ("CPI-U") for the first calendar month of the preceding contract year was exceeded by the CPI-U at the beginning of the next contract year. (The CPI-U is based on the U.S. Department of Labor, Bureau of Labor and Statistics, Consumer Price Index for all urban customers in the U.S. city average, with all items having been computed based on 1982 - 84 = 100.0.)

   c. The rates provided for in this paragraph 3 shall be subject to adjustment by the governing body of the City of Fort Smith upon determination of the governing body that federal or state regulatory agencies have adopted and implemented regulations which have a significant, adverse effect on the rates charged for waste disposal at the Facility (the percentage in change in the rates provided for in paragraph 3 of the Agreement shall not exceed the percentage of rate change published by the City of Fort Smith for waste generated within the City of Fort Smith).

   d. Except as provided in subsections (b) and (c) above, the External Rate shall not be subject to any adjustment during the initial three (3) years under this Agreement.

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

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

6. **Compliance with Laws.** All waste provided by Waste Way LLC. to the Facility for disposal shall comply with all current and future applicable Arkansas Department of Environmental Quality Regulations, including Regulation 22 and Regulation 23; and all other applicable federal, state and local environmental requirements. In the event that Waste Way LLC. delivers waste to the Facility that does not conform to the identified regulations and requirements, Waste Way LLC. shall be responsible for any cost incurred by the City in the treatment and handling of the non-conforming waste.

7. **Vehicles.**

   a. License. All vehicles utilized by Waste Way LLC. to deliver solid waste to the Facility pursuant to this Agreement shall have a hauler's license issued by the Sebastian County Regional Solid Waste Management District.

   b. Covered Loads. All solid waste delivered by Waste Way LLC. to the Facility pursuant to this Agreement, shall be delivered in vehicles in which all loaded

solid waste is covered and secured to prevent blowing or dropping on public rights-of-way or City-owned property from point of location to the point of disposal at the Facility.

8. **Inspection of Records.** Both parties shall have access to the governmental and business records of the other party relevant to this Agreement, for the purpose of verifying any information pertinent to this Agreement. Any exercise of such right of inspection shall occur at the normal business office and during the normal business hours of the party who holds the information. Waste Way LLC. acknowledges that it will comply with reasonable requests of the City for information regarding the types and amounts of solid waste being disposed of at the Facility, as well as the location of the collection of the waste, as relevant to this Agreement

9. **Dispute Resolution.** In the event that either party believes that the other party is in violation of any provision of this Agreement that party shall provide to the other party, in writing, a notice of the alleged breach. Within ten (10) days of receipt of notice, the notified party shall respond to the allegations. If the response does not resolve the issue, either party may request, in writing, that a meeting of the parties and/or their authorized representatives, be held. Such meeting shall be held within thirty (30) days of this request, at the Office of the Fort Smith City Administrator. Except in an emergency situation, neither party may initiate litigation regarding the alleged breach until the dispute resolution provisions, as set forth herein, have been completed. If this meeting does not result in a resolution of the dispute, either party may pursue any appropriate legal or equitable remedies, including rescission, with a court of competent jurisdiction.

10. **Term.** This permit and agreement shall have a term of five (5) years commencing on the first day of the calendar month which begins following the date of execution of this Agreement by the City.

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

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

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

14. **Indemnification.** Waste Way LLC. agrees to indemnify and hold harmless the City from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and reasonable attorneys' fees resulting from Waste Way LLC. operations hereunder. Provided, however, that Waste Way LLC. shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses or attorneys' fees solely caused the willful or negligent acts or omissions of the City's employees.

15. **Insurance.** Waste Way LLC. shall at all times during the term of this Agreement maintain in full force and effect Employer's Liability, Workmen's Compensation, Public Liability, and Property Damage Insurance. Before commencement of work under this Agreement, Waste Way LLC. agrees to furnish to the City certificates of insurance or other evidence to the effect that such insurance has been procured and is in force. For the purpose of this Agreement, Waste Way LLC. shall carry the following types of insurance in at least the amounts specified below:

Workmen's Compensation	Statutory
Employer's Liability	$ 500,000
Bodily Injury Liability (except automobile)	$ 500,000/occurrence $1,000,000/aggregate
Property Damage Liability (except automobile)	$ 500,000/occurrence $1,000,000/aggregate
Automobile Bodily Injury Liability	$ 500,000/person $1,000,000/occurrence
Automobile Property Damage Liability	$ 500,000/occurrence
Excess Umbrella Liability	$5,000,000/occurrence

16. **Force Majeure.** Neither party hereto shall be liable for its failure to perform hereunder do to circumstances beyond its reasonable control, including, but not limited to, strikes or other labor disputes, riots, civil disturbances or sabotage, fires, floods, explosions, accidents, weather or acts of God affecting either party hereunder. In the event any of the circumstances listed in the preceding sentence, or if any federal, state or local court or authority takes any action which would (i) close or restrict operations at the Facility, or (ii) limit the quantity or prohibit the disposal of waste at the Facility or limit the ability of or prohibit Waste Way LLC from delivering waste to the Facility, Waste Way LLC. shall have the right, at its option, to reduce, suspend or terminate delivery of waste to the Facility, as set forth hereunder, immediately, without prior notices and without any additional liabilities between the parties.

17. **Severability.** If any provision of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall remain in effect and be construed without regard to such provision.

18. **Entire Agreement.** This Agreement constitutes the entire understanding between the parties, replacing and amending any prior agreements between the parties, and shall be binding upon all parties hereto, their successors, heirs, representatives and approved assigns. Any provision, term or condition in any acknowledgment, purchase order or other response by the City to Waste Way LLC., or by Waste Way LLC. to the City, which is in addition to or different from the provisions of this Agreement shall be deemed objected to by the other party and shall be of no effect.

19. **Notices.** Any notice required to be given pursuant to the provisions of this Agreement shall be considered to be validly delivered, if it is sent by U.S. Certified Mail or if it is hand delivered and a signed receipt is obtained. Such notice should be given to the following:

If to the City:
City of Fort Smith
City Administrator
P.O. Box 1908
Fort Smith, AR 72902

If to Waste Way LLC:
Adam Daily
2018 Mt. Grove Rd.
Van Buren, AR 72921

This Agreement is executed as of this _____ day of _____, by the authorized representatives of the parties.

CITY OF FORT SMITH, ARKANSAS

By: _____
Sandy Sanders, Mayor

ATTEST:

_____
City Clerk

Waste Way LLC.

By: _____
Adam Daily

NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT

THIS AGREEMENT, made and entered on the date set forth below by and between the City of Fort Smith, Arkansas (hereinafter referred to as the "City"), and COMPANY, an Arkansas TYPE OF COMPANY ("ABREVIATED CO. NAME").

WITNESSETH:

WHEREAS, the City is a municipal corporation of the first class of the State of Arkansas and, in its governmental capacity, owns and operates the City of Fort Smith Solid Waste Disposal Facility (the "Facility"), which is currently operated as a Class I landfill; and

WHEREAS, the City currently provides solid waste collection and disposal service to residential and non-residential customers within the City; and

WHEREAS, AAA Roll Off Co. LLC has the consent of the City to collect and dispose of solid waste for non-residential customers within the corporate limits of the City; and

WHEREAS, the City has evaluated the possibility of exercising its governmental option of providing solid waste collection and disposal services to non-residential customers; and

WHEREAS, AAA Roll Off Co. LLC desires to provide non-residential solid waste collection and disposal services for customers located in Sebastian County within and without the corporate limits of the City.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. **Definitions.**

   a. **"Solid Waste,"** when used in this Agreement, shall have the meaning given to it in Section 25-261 of the Fort Smith Code of Ordinance.

   b. **"Residential Customers,"** when used in this Agreement, shall have the meaning given in Section 25-261 of the Fort Smith Code of Ordinances.

2. **Disposal of Waste Generated Within the City.**

   a. Solid Waste Disposal. AAA Roll Off Co. LLC agrees that all solid waste generated within the City and which is collected by AAA Roll Off Co. LLC for disposal shall be hauled by AAA Roll Off Co. LLC to the Facility, except as otherwise provided herein. Excepted from this requirement are: (i) any categories of solid waste that the City does not accept for disposal at the Facility; (ii) any customers to which the City may consent in writing executed by the Fort Smith City Administrator to allow to use alternative disposal facilities; and (iii) any recyclables as defined in Section 25-261 of the Fort Smith Code of Ordinances and any other recycling program identified in writing and approved as an exception by the Fort Smith City Administrator. The City will use reasonable efforts to enforce the designation of the Facility against all waste haulers.

   b. Rates for Disposal. The rates for disposal of solid waste generated within the City and disposed of at the Facility shall be those rates, established from time to time, by the City for the customers of the Facility (the "Fort Smith Published

Rates"). The City agrees that all waste haulers servicing Non-Residential customers within the City and delivering solid waste to the Facility shall be charged the same disposal rates (subject to the right of the City to contract for special volume rates).

3. **Disposal of Waste Generated Outside the City.**

   a. Rates for Disposal. The base rates charged for solid waste generated outside the City "External Rate" and delivered to the Facility by AAA Roll Off Co. LLC shall be the Fort Smith published rates.

   b. The rates may be adjusted on the anniversary of each year of the term provided for in this paragraph. On each anniversary date, the rates set forth in the Fort Smith Published Rates may be adjusted by the percentage that the Consumer Pricing Index for All Urban Areas ("CPI-U") for the first calendar month of the preceding contract year was exceeded by the CPI-U at the beginning of the next contract year. (The CPI-U is based on the U.S. Department of Labor, Bureau of Labor and Statistics, Consumer Price Index for all urban customers in the U.S. city average, with all items having been computed based on 1982 - 84 = 100.0.)

   c. The rates provided for in this paragraph 3 shall be subject to adjustment by the governing body of the City of Fort Smith upon determination of the governing body that federal or state regulatory agencies have adopted and implemented regulations which have a significant, adverse effect on the rates charged for waste disposal at the Facility (the percentage in change in the rates provided for in paragraph 3 of the Agreement shall not exceed the percentage of rate change published by the City of Fort Smith for waste generated within the City of Fort Smith).

   d. Except as provided in subsections (b) and (c) above, the External Rate shall not be subject to any adjustment during the initial three (3) years under this Agreement.

4. **Permit.** This Agreement shall constitute a permit issued by the City to AAA Roll Off Co. LLC, pursuant to Section 25-321 of the Fort Smith Code of Ordinances.

5. **Billing and Payment.** AAA Roll Off Co. LLC shall be subject to the City's standard billing and payment terms and procedures for customers of the Facility.

6. **Compliance with Laws.** All waste provided by AAA Roll Off Co. LLC to the Facility for disposal shall comply with all current and future applicable Arkansas Department of Environmental Quality Regulations, including Regulation 22 and Regulation 23; and all other applicable federal, state and local environmental requirements. In the event that AAA Roll Off Co. LLC delivers waste to the Facility that does not conform to the identified regulations and requirements, AAA Roll Off Co. LLC shall be responsible for any cost incurred by the City in the treatment and handling of the non-conforming waste.

7. **Vehicles.**

   a. License. All vehicles utilized by AAA Roll Off Co. LLC to deliver solid waste to the Facility pursuant to this Agreement shall have a hauler's license issued by the Sebastian County Regional Solid Waste Management District.

   b. Covered Loads. All solid waste delivered by AAA Roll Off Co. LLC to the Facility pursuant to this Agreement, shall be delivered in vehicles in which all loaded

solid waste is covered and secured to prevent blowing or dropping on public rights-of-way or City-owned property from point of location to the point of disposal at the Facility.

8. **Inspection of Records.** Both parties shall have access to the governmental and business records of the other party relevant to this Agreement, for the purpose of verifying any information pertinent to this Agreement. Any exercise of such right of inspection shall occur at the normal business office and during the normal business hours of the party who holds the information. AAA Roll Off Co. LLC acknowledges that it will comply with reasonable requests of the City for information regarding the types and amounts of solid waste being disposed of at the Facility, as well as the location of the collection of the waste, as relevant to this Agreement

9. **Dispute Resolution.** In the event that either party believes that the other party is in violation of any provision of this Agreement that party shall provide to the other party, in writing, a notice of the alleged breach. Within ten (10) days of receipt of notice, the notified party shall respond to the allegations. If the response does not resolve the issue, either party may request, in writing, that a meeting of the parties and/or their authorized representatives, be held. Such meeting shall be held within thirty (30) days of this request, at the Office of the Fort Smith City Administrator. Except in an emergency situation, neither party may initiate litigation regarding the alleged breach until the dispute resolution provisions, as set forth herein, have been completed. If this meeting does not result in a resolution of the dispute, either party may pursue any appropriate legal or equitable remedies, including rescission, with a court of competent jurisdiction.

10. **Term.** This permit and agreement shall have a term of five (5) years commencing on the first day of the calendar month which begins following the date of execution of this Agreement by the City.

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

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

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

14. **Indemnification.** AAA Roll Off Co. LLC agrees to indemnify and hold harmless the City from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and reasonable attorneys' fees resulting from AAA Roll Off Co. LLC operations hereunder. Provided, however, that AAA Roll Off Co. LLC shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses or attorneys' fees solely caused the willful or negligent acts or omissions of the City's employees.

15. **Insurance.** AAA Roll Off Co. LLC shall at all times during the term of this Agreement maintain in full force and effect Employer's Liability, Workmen's Compensation, Public Liability, and Property Damage Insurance. Before commencement of work under this Agreement, AAA Roll Off Co. LLC agrees to furnish to the City certificates of insurance or other evidence to the effect that such insurance has been procured and is in force. For the purpose of this Agreement, AAA Roll Off Co. LLC shall carry the following types of insurance in at least the amounts specified below:

Workmen's Compensation	Statutory
Employer's Liability	$ 500,000
Bodily Injury Liability (except automobile)	$ 500,000/occurrence $1,000,000/aggregate
Property Damage Liability (except automobile)	$ 500,000/occurrence $1,000,000/aggregate
Automobile Bodily Injury Liability	$ 500,000/person $1,000,000/occurrence
Automobile Property Damage Liability	$ 500,000/occurrence
Excess Umbrella Liability	$5,000,000/occurrence

16. **Force Majeure**. Neither party hereto shall be liable for its failure to perform hereunder do to circumstances beyond its reasonable control, *including, but not limited to, strikes or* other labor disputes, riots, civil disturbances or sabotage, fires, floods, explosions, accidents, weather or acts of God affecting either party hereunder. In the event any of the circumstances listed in the preceding sentence, or if any federal, state or local court or authority takes any action which would (i) close or restrict operations at the Facility, or (ii) limit the quantity or prohibit the disposal of waste at the Facility or limit the ability of or prohibit AAA Roll Off Co. LLC from delivering waste to the Facility, AAA Roll Off Co. LLC shall have the right, at its option, to reduce, suspend or terminate delivery of waste to the Facility, as set forth hereunder, immediately, without prior notices and without any additional liabilities between the parties.

17. **Severability**. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall remain in effect and be construed without regard to such provision.

18. **Entire Agreement**. This Agreement constitutes the entire understanding between the parties, replacing and amending any prior agreements between the parties, and shall be binding upon all parties hereto, their successors, heirs, representatives and approved assigns. Any provision, term or condition in any acknowledgment, purchase order or other response by the City to AAA Roll Off Co. LLC, or by AAA Roll Off Co. LLC to the City, which is in addition to or different from the provisions of this Agreement shall be deemed objected to by the other party and shall be of no effect.

19. **Notices**. Any notice required to be given pursuant to the provisions of this Agreement shall be considered to be validly delivered, if it is sent by U.S. Certified Mail or if it is hand delivered and a signed receipt is obtained. Such notice should be given to the following:

If to the City:	City of Fort Smith City Administrator P.O. Box 1908 Fort Smith, AR 72902
If to AAA Roll Off Co. LLC:	Larry D. Breeden P.O. Box 664 Van Buren, AR 72957

This Agreement is executed as of this _____ day of _____, by the authorized representatives of the parties.

CITY OF FORT SMITH, ARKANSAS

By: _____
Sandy Sanders, Mayor

ATTEST:

_____
City Clerk

AAA Roll Off Co. LLC

By: _____
Larry D. Breeden

NON-RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL PERMIT AND AGREEMENT

THIS AGREEMENT, made and entered on the date set forth below by and between the City of Fort Smith, Arkansas (hereinafter referred to as the "City"), and COMPANY, an Arkansas TYPE OF COMPANY ("ABREVIATED CO. NAME").

WITNESSETH:

WHEREAS, the City is a municipal corporation of the first class of the State of Arkansas and, in its governmental capacity, owns and operates the City of Fort Smith Solid Waste Disposal Facility (the "Facility"), which is currently operated as a Class I landfill; and

WHEREAS, the City currently provides solid waste collection and disposal service to residential and non-residential customers within the City; and

WHEREAS, Waste Removal Experts, Inc. has the consent of the City to collect and dispose of solid waste for non-residential customers within the corporate limits of the City; and

WHEREAS, the City has evaluated the possibility of exercising its governmental option of providing solid waste collection and disposal services to non-residential customers; and

WHEREAS, Waste Removal Experts, Inc. desires to provide non-residential solid waste collection and disposal services for customers located in Sebastian County within and without the corporate limits of the City.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. **Definitions.**

   a. **"Solid Waste,"** when used in this Agreement, shall have the meaning given to it in Section 25-261 of the Fort Smith Code of Ordinance.

   b. **"Residential Customers,"** when used in this Agreement, shall have the meaning given in Section 25-261 of the Fort Smith Code of Ordinances.

2. **Disposal of Waste Generated Within the City.**

   a. Solid Waste Disposal. Waste Removal Experts, Inc. agrees that all solid waste generated within the City and which is collected by Waste Removal Experts, Inc. for disposal shall be hauled by Waste Removal Experts, Inc. to the Facility, except as otherwise provided herein. Excepted from this requirement are: (i) any categories of solid waste that the City does not accept for disposal at the Facility; (ii) any customers to which the City may consent in writing executed by the Fort Smith City Administrator to allow to use alternative disposal facilities; and (iii) any recyclables as defined in Section 25-261 of the Fort Smith Code of Ordinances and any other recycling program identified in writing and approved as an exception by the Fort Smith City Administrator. The City will use reasonable efforts to enforce the designation of the Facility against all waste haulers.

   b. Rates for Disposal. The rates for disposal of solid waste generated within the City and disposed of at the Facility shall be those rates, established from time to time, by the City for the customers of the Facility (the "Fort Smith Published

Rates"). The City agrees that all waste haulers servicing Non-Residential customers within the City and delivering solid waste to the Facility shall be charged the same disposal rates (subject to the right of the City to contract for special volume rates).

3. **Disposal of Waste Generated Outside the City.**

a. Rates for Disposal. The base rates charged for solid waste generated outside the City "External Rate" and delivered to the Facility by Waste Removal Experts, Inc. shall be the Fort Smith published rates.

b. The rates may be adjusted on the anniversary of each year of the term provided for in this paragraph. On each anniversary date, the rates set forth in the Fort Smith Published Rates may be adjusted by the percentage that the Consumer Pricing Index for All Urban Areas ("CPI-U") for the first calendar month of the preceding contract year was exceeded by the CPI-U at the beginning of the next contract year. (The CPI-U is based on the U.S. Department of Labor, Bureau of Labor and Statistics, Consumer Price Index for all urban customers in the U.S. city average, with all items having been computed based on 1982 - 84 = 100.0.)

c. The rates provided for in this paragraph 3 shall be subject to adjustment by the governing body of the City of Fort Smith upon determination of the governing body that federal or state regulatory agencies have adopted and implemented regulations which have a significant, adverse effect on the rates charged for waste disposal at the Facility (the percentage in change in the rates provided for in paragraph 3 of the Agreement shall not exceed the percentage of rate change published by the City of Fort Smith for waste generated within the City of Fort Smith).

d. Except as provided in subsections (b) and (c) above, the External Rate shall not be subject to any adjustment during the initial three (3) years under this Agreement.

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

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

6. **Compliance with Laws.** All waste provided by Waste Removal Experts, Inc. to the Facility for disposal shall comply with all current and future applicable Arkansas Department of Environmental Quality Regulations, including Regulation 22 and Regulation 23; and all other applicable federal, state and local environmental requirements. In the event that Waste Removal Experts, Inc. delivers waste to the Facility that does not conform to the identified regulations and requirements, Waste Removal Experts, Inc. shall be responsible for any cost incurred by the City in the treatment and handling of the non-conforming waste.

7. **Vehicles.**

a. License. All vehicles utilized by Waste Removal Experts, Inc. to deliver solid waste to the Facility pursuant to this Agreement shall have a hauler's license issued by the Sebastian County Regional Solid Waste Management District.

b. Covered Loads. All solid waste delivered by Waste Removal Experts, Inc. to the

Facility pursuant to this Agreement, shall be delivered in vehicles in which all loaded solid waste is covered and secured to prevent blowing or dropping on public rights-of-way or City-owned property from point of location to the point of disposal at the Facility.

8. **Inspection of Records.** Both parties shall have access to the governmental and business records of the other party relevant to this Agreement, for the purpose of verifying any information pertinent to this Agreement. Any exercise of such right of inspection shall occur at the normal business office and during the normal business hours of the party who holds the information. Waste Removal Experts, Inc. acknowledges that it will comply with reasonable requests of the City for information regarding the types and amounts of solid waste being disposed of at the Facility, as well as the location of the collection of the waste, as relevant to this Agreement

9. **Dispute Resolution.** In the event that either party believes that the other party is in violation of any provision of this Agreement that party shall provide to the other party, in writing, a notice of the alleged breach. Within ten (10) days of receipt of notice, the notified party shall respond to the allegations. If the response does not resolve the issue, either party may request, in writing, that a meeting of the parties and/or their authorized representatives, be held. Such meeting shall be held within thirty (30) days of this request, at the Office of the Fort Smith City Administrator. Except in an emergency situation, neither party may initiate litigation regarding the alleged breach until the dispute resolution provisions, as set forth herein, have been completed. If this meeting does not result in a resolution of the dispute, either party may pursue any appropriate legal or equitable remedies, including rescission, with a court of competent jurisdiction.

10. **Term.** This permit and agreement shall have a term of five (5) years commencing on the first day of the calendar month which begins following the date of execution of this Agreement by the City.

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

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

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

14. **Indemnification.** Waste Removal Experts, Inc. agrees to indemnify and hold harmless the City from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and reasonable attorneys' fees resulting from Waste Removal Experts, Inc. operations hereunder. Provided, however, that Waste Removal Experts, Inc. shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses or attorneys' fees solely caused the willful or negligent acts or omissions of the City's employees.

15. **Insurance.** Waste Removal Experts, Inc. shall at all times during the term of this Agreement maintain in full force and effect Employer's Liability, Workmen's Compensation, Public Liability, and Property Damage Insurance. Before commencement of work under this Agreement, Waste Removal Experts, Inc. agrees to furnish to the City certificates of insurance or other evidence to the effect that such insurance has been procured and is in force. For the purpose of this Agreement, Waste Removal Experts,

Inc. shall carry the following types of insurance in at least the amounts specified below:

Workmen's Compensation	Statutory
Employer's Liability	$ 500,000
Bodily Injury Liability (except automobile)	$ 500,000/occurrence $1,000,000/aggregate
Property Damage Liability (except automobile)	$ 500,000/occurrence $1,000,000/aggregate
Automobile Bodily Injury Liability	$ 500,000/person $1,000,000/occurrence
Automobile Property Damage Liability	$ 500,000/occurrence
Excess Umbrella Liability	$5,000,000/occurrence

16. **Force Majeure.** Neither party hereto shall be liable for its failure to perform hereunder do to circumstances beyond its reasonable control, including, but not limited to, strikes or other labor disputes, riots, civil disturbances or sabotage, fires, floods, explosions, accidents, weather or acts of God affecting either party hereunder. In the event any of the circumstances listed in the preceding sentence, or if any federal, state or local court or authority takes any action which would (i) close or restrict operations at the Facility, or (ii) limit the quantity or prohibit the disposal of waste at the Facility or limit the ability of or prohibit Waste Removal Experts, Inc. from delivering waste to the Facility, Waste Removal Experts, Inc. shall have the right, at its option, to reduce, suspend or terminate delivery of waste to the Facility, as set forth hereunder, immediately, without prior notices and without any additional liabilities between the parties.

17. **Severability.** If any provision of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall remain in effect and be construed without regard to such provision.

18. **Entire Agreement.** This Agreement constitutes the entire understanding between the parties, replacing and amending any prior agreements between the parties, and shall be binding upon all parties hereto, their successors, heirs, representatives and approved assigns. Any provision, term or condition in any acknowledgment , purchase order or other response by the City to Waste Removal Experts, Inc., or by Waste Removal Experts, Inc. to the City, which is in addition to or different from the provisions of this Agreement shall be deemed objected to by the other party and shall be of no effect.

19. **Notices.** Any notice required to be given pursuant to the provisions of this Agreement shall be considered to be validly delivered, if it is sent by U.S. Certified Mail or if it is hand delivered and a signed receipt is obtained. Such notice should be given to the following:

If to the City:
City of Fort Smith
City Administrator
P.O. Box 1908
Fort Smith, AR 72902

If to Waste Removal Experts, Inc.:
Donna Minette
6741 Alma Highway
Van Buren, AR 72956

This Agreement is executed as of this _____ day of _____, by the authorized representatives of the parties.

CITY OF FORT SMITH, ARKANSAS

By: _____
Sandy Sanders, Mayor

ATTEST:

_____
City Clerk

Waste Removal Experts, Inc.

By: Waste Removal Experts, Inc.
Donna Minette

3 G

RESOLUTION NO. _____

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

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

Partial payment number Thirty-four to Branco Enterprises, Inc., in the amount $565,279.74 for the construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2, Project Number 05-14-C1, is hereby approved.

This Resolution adopted this _____ day of May 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** May 9, 2011

FROM: Steve Parker, Director of Utilities

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

Branco Enterprises, Inc., has submitted partial pay request number thirty-four in the amount of $565,279.74 for work completed on the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements - Schedule 2. A project summary sheet is attached for your information.

Branco has completed construction of all treatment plant process units and is nearing substantial completion. Major items of work remaining are site paving and restoration. Additional days to adjust for rain delays will need to be added to the contract time once all work is completed. Projecting that time allowance shows that Branco is currently 59 days beyond an adjusted contract time.

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

attachment

Project Summary

Today's date: May 9, 2011

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

Staff contact name: Steve Parke

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

Staff contact phone: 784-2231

Project engineer: Hawkins-Weir Engineers, Inc.

Notice to proceed issued: July 21, 2008

Project contractor: Branco Enterprises, Inc.

Completion date: September 25, 2010

	Dollar Amount		Contract Time (Days)
Original contract	$31,840,000.00		750
Change orders:			
Number one	$48,626.00		31
Number two	$36,561.14		35
Total change orders	$85,187.14		66
Adjusted contract	$31,925,187.14		816
Payments to date (as negative):	$ (29,242,550.11)	91.6%	
Amount of this payment (as negative)	$ (565,279.74)	1.8%	
Retainage held	$1,592,000.00		
Contract balance remaining	$2,117,357.29	6.6%	
Amount over ~~(under)~~ as a percentage	0.3%		

Final comments:

3 H

RESOLUTION NO. _____

RESOLUTION AUTHORIZING CHANGE ORDER NUMBER FIVE WITH CROSSLAND HEAVY CONTRACTORS, INC., FOR CONSTRUCTION OF THE LAKE FORT SMITH WATER TREATMENT PLANT - CONTRACT 3

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

Change Order Number Five, Project Number 07-09-C3, with Crossland Heavy Contractors, Inc., in the amount of $62,859.00, adjusting the contract amount to $31,866,902.00 and adding 9 calendar days to the contract time, is hereby approved.

This Resolution adopted this _____ day of May 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** May 6, 2011

FROM: Steve Parke, Director of Utilities

SUBJECT: Lake Fort Smith Water Treatment Plant Improvements
Contract 3, Project Number 07-09-C3
Change Order No. 5

I have attached a Resolution authorizing Change Order Number Five to the contract with Crossland Heavy Contractors, Inc., for additional work on the Lake Fort Smith Water Treatment Plant Improvements - Contract 3. The change order adds $62,859.00 to the contract amount and 9 calendar days to the contract time. A project summary sheet is also attached for your information.

Change Order Number Five addresses a number of issues regarding conflicts with existing facilities, changed or unknown conditions, constructability issues, and project enhancements. The issues are summarized as follows:

1. Contractor was asked to remove an existing 14' x 8' x 8" thick concrete pad located within the basement of the east filter building prior to installation of new equipment and electrical controls. Removal of concrete pad improves access to new equipment. Addition of $1,554.

2. Removal and abatement of floor tile found to contain asbestos in the east filter building. Addition of $4,187.

3. Repairs to concrete floor within basement area of east filter building damaged by past exposure to ferric sulfate leakage from bulk storage tank. Addition of $3,920.

4. The existing backwash pump station building was converted to a plant service water pump station. Plans called for the contractor to furnish and install new, skid mounted pumps and controls. Following installation of the new pumps and piping it was determined that their location created a technical violation of the electrical code as there was not sufficient room to fully open one of the access doors of the motor control center switchgear. Following an examination of the cause for this issue it was determined that multiple factors were at play. Plan dimensions taken from as-built drawings had not been confirmed for the location of the existing, floor penetrating water line to which the new pump system connected. Also, the pump skid furnished by the contractor's equipment supplier was longer than indicated on manufacturer's drawings that were furnished to the engineer during project design. This required the contractor to add a spool piece to lengthen the piping in order to connect to the existing water line. The contractor initially submitted a price of $8,840 for correcting the problem. After further review the contractor has agreed to accept $4,661. That amount represents only those portions of the

cost necessary to modify pump skid had error in plan piping dimensions been caught prior to its installation.

5. It was determined that four exterior doors on three existing buildings were not included in the hardware schedule to receive new hardware and locking system compatible with the remainder of the plant. The contractor provided an initial cost proposal totaling $6,783 for the new replacement hardware. Further evaluation of options reduced this cost to $2,004.

6. The construction plans did not include a through-the-wall drain for the potential discharge release from the backflow preventers within the chlorine building as a part of the chlorine system upgrades. Although the potential discharge from a backflow preventer may be managed with an interior building floor drain, it is not desirable. The cost for this work is an additional $3,574.

7. The contract specifications require supports for the various interior piping systems located within the new west filter building pipe gallery. Locations and types of supports were designated on the drawings for the majority of the piping to be installed. Upon review of the contractor's shop drawings for the filter gallery piping it was determined that additional pipe supports would be required at several locations. These additional pipe supports were not shown by the drawings and will add $42,347.

8. During the remodel of the existing east filter building it was determined that the cutting a doorway opening should include a metal lintel to improve support of the existing block wall. The additional cost is $612.

Funding for the change order is available from the bonds issued to finance the improvements to the Lake Fort Smith water treatment plant. Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

Project Summary

Project Status: Underway

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

Today's date: May 6, 2011

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

Staff contact name: Steve Parke

Project engineer: Burns & McDonnell, Inc.

Staff contact phone: 784-2231

Project contractor: Crossland Heavy Contractors, Inc.

Notice to proceed issued: August 31, 2009

Final completion date: February 10, 2012

	Dollar Amount	Contract Time (Days)
Original contract	$31,641,000.00	785
Change orders:		
Change Order No. 1	$22,902.00	14
Change Order No. 2	$89,078.00	49
Change Order No. 3	$-19,174.00	
Change Order No. 4	$70,237.00	
Change Order No. 5 (pending)	$62,859.00	9
Total change orders	$225,902.00	72
Adjusted contract	$31,866,902.00	857
Payments to date (as negative):	$-23,037,768.16	
Amount of this payment (as negative)	$-1,167,874.01	
Retainage held	$1,590,202.15	
Contract balance remaining	$7,661,259.83	
Amount Over as a percentage	0.70%	

Final Comments:

Contractor has completed 73% of the work. 72% of the contract time has expired.

3 I

RESOLUTION NO. _____

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

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

Partial payment number twenty to Crossland Heavy Contractors, Inc., in the amount of $1,167,874.01, for construction of the Lake Fort Smith Water Treatment Plant - Contract 3, Project Number 07-09-C3, is hereby approved.

This Resolution adopted this _____ day of May 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: May 6, 2011

FROM: Steve Parker, Director of Utilities

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

Crossland Heavy Contractors, Inc., has submitted partial pay request number twenty in the amount of $1,167,874.01 for work completed on the Lake Fort Smith Water Treatment Plant Improvements - Contract 3. A project summary sheet covering work completed to date is attached for your information. Major items of work completed during the time period covered by this pay request are as follows:

- Demolition (62% complete)
- Site Concrete (22% complete)
- Main Electrical Building (100% complete)
- Chlorine Building (76% complete)
- West Filter Building (31% complete)
- East Filter Building (75% complete)

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

attachment

Project Summary

Project Status: Underway

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

Today's date: May 6, 2011

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

Staff contact name: Steve Parke

Project engineer: Burns & McDonnell, Inc.

Staff contact phone: 784-2231

Project contractor: Crossland Heavy Contractors, Inc.

Notice to proceed issued: August 31, 2009

Final completion date: February 10, 2012

	Dollar Amount	Contract Time (Days)
Original contract	$31,641,000.00	785
Change orders:		
Change Order No. 1	$22,902.00	14
Change Order No. 2	$89,078.00	49
Change Order No. 3	$-19,174.00	
Change Order No. 4	$70,237.00	
Change Order No. 5 (pending)	$62,859.00	9
Total change orders	$225,902.00	72
Adjusted contract	$31,866,902.00	857
Payments to date (as negative):	$-23,037,768.16	
Amount of this payment (as negative)	$-1,167,874.01	
Retainage held	$1,590,202.15	
Contract balance remaining	$7,661,259.83	
Amount Over as a percentage	0.70%	

Final Comments:

Contractor has completed 73% of the work. 72% of the contract time has expired.

RESOLUTION NO. _____ 3 J

RESOLUTION AUTHORIZING AN AMENDMENT TO THE AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC., FOR ENGINEERING CONSTRUCTION PHASE SERVICES ASSOCIATED WITH THE SUNNYMEDE WET WEATHER FLOW MANAGEMENT IMPROVEMENTS

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

SECTION 1: Amendment Number Four to the Agreement with Hawkins-Weir Engineers, Inc., providing engineering construction phase services for the Sunnymede Wet Weather Flow Management and associated Sunnymede Walking Trail, Project 06-04-E3, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute Amendment Number Four to the Agreement, for an amount of $170,000.00 and adjusting the Agreement to $1,425,456.00, for performance of said services.

This Resolution adopted this ____ day of May 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ JSC _____ npr

RESOLUTION NO. _____ 3 K

RESOLUTION AUTHORIZING CHANGE ORDER NUMBER FOUR, PROJECT ACCEPTANCE AND FINAL PAYMENT TO BRANCO ENTERPRISES, INC., FOR CONSTRUCTION OF THE SUNNYMEDE WET WEATHER FLOW MANAGEMENT

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

Section 1: Change Order Number Four adding 55 days to the contract time and reducing the contract amount by $101,234.90, adjusting the total contract amount to $14,508,470.10, is hereby approved .

SECTION 2: The construction of the Sunnymede Wet Weather Flow Management, Project Number 06-04-C1, is accepted for final payment.

Section 3: Final payment to Branco Enterprises, Inc., in the amount of $387,780.35, is hereby approved.

This Resolution adopted this ____day of May 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

JSC
NO publication required
_____npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** May 17, 2011

FROM: Steve Parke, Director of Utilities

SUBJECT: Sunnymede Wet Weather Flow Management Final Payment
Project Number 06-04-C1 & 06-04-E3

Two Resolutions related to the Sunnymede Wet Weather Flow Management Improvements are attached. The first authorizes Change Order Number 4, acceptance of the project and the final payment to Branco Enterprises, Inc. The second authorizes Amendment 4 to the construction management services agreement with Hawkins-Weir Engineers.

Branco's work has been good quality and was performed timely through the completion of the major components of the work. However, after the project reached approximately 85-percent completion there was a noticeable lack of attention to finishing. The work did suffer weather related delays and over the course of the contract period 123 calendar days have been added to the contract time. This adjusts the contract from its original 600 days to 723 calendar days. However, after the addition of weather days, Branco has used an additional 360 calendar days through March 2011 and portions of the work still remain uncompleted.

It is proposed that the Utility Department concludes the contract with Branco and complete the remaining items of the project. A proposed settlement with Branco is made part of Change Order Number 4. It deducts $77,566.00 from their contract for the value of uncompleted work and $10,805.90 for purchase of spare parts which were to have been furnished under the contract. Additionally, the change order deducts $32,400.00 to pay for the added time and effort by Hawkins-Weir that will be needed for them to manage the completion of tasks to finish the project. After these withholdings and adjustments to contract quantities, Change Order Number 4 provides a net reduction to the contract amount of $101,234.90. Due to the delay in completing the project on the part of the contractor liquidated damages in an amount of $277,000.00 is also being assessed in accordance with the contract documents. The final payment to Branco will be $387,780.35 making the total payments to contractor $14,231,470.10.

Amendment 4 to the construction phase services with Hawkins-Weir modifies the scope-of-work to add tasks to coordinate the acquisition of spare parts, completion of operations and maintenance manuals, control system programming and assist with the project warranty issues through December 2011. The Amendment adds $170,000 and adjusts the total cost for construction phase engineering services to $1,425,456.00. This additional cost is recovered through the contract withholdings and liquidated damages assessment.

It is my recommendation that both Resolutions are approved. Should you or members of the Board have any questions or need additional information, please let me know.

attachment

Project Summary

Project status: Complete

Today's date: 04/02/2011

Staff name: Steve Parke

Staff contact phone: 784-2231

Notice to proceed issued: March 17, 2008

Contract completion date: March 17, 2008

Project name: Sunnymede Wet Weather Flow Management

Project number: **06-04-C1**

Project engineer: Hawkins-Weir Engineering, Inc.

Project contractor: Branco Enterprises, Inc.

	Dollar Amount	Date	Contract Days
Original contract:	14,368,000.00	2/19/2008	600
Change orders:			
1	166,513.00	5/5/2009	
2	22,431.00	8/21/2009	32
3	52,761.00	1/8/2010	36
4	-101,234.90	5/2/2011	55
Total change orders:	140,470.10		123
Adjusted contract:	14,508,470.10		723
Payments to date (as negative)	-13,843,689.75		
(as percentage)			
Liquidated damages	-277,000.00		
Amount of final payment	387,780.35		
Contract balance remaining	0.00		
Retainage held	0.00		
Amount over original as a percentage	1.00%		

Final comments:

3 L

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT AND AUTHORIZATION NUMBER ONE WITH RJN GROUP, INC., FOR PROVIDING ENGINEERING SERVICES ASSOCIATED WITH THE BASIN 11-1 SEWER IMPROVEMENTS

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

SECTION 1: An Agreement with RJN Group, Inc., for providing engineering services associated with the Basin 11-1 Sewer Improvements, is hereby approved.

SECTION 2: Authorization Number One to the Agreement providing surveys, preliminary and final design, and bidding phase services, said services identified as Project Number 11-09-E1, is hereby approved.

SECTION 3: The Mayor is hereby authorized to execute an Agreement for professional engineering services and to execute Authorization Number One to said Agreement, in the amount of $163,521.00.

This Resolution adopted this _____ day of May 2011.

APPROVED:

_____
Mayor

ATTEST:

_____

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** May 9, 2011

FROM: Steve Parke, Director of Utilities

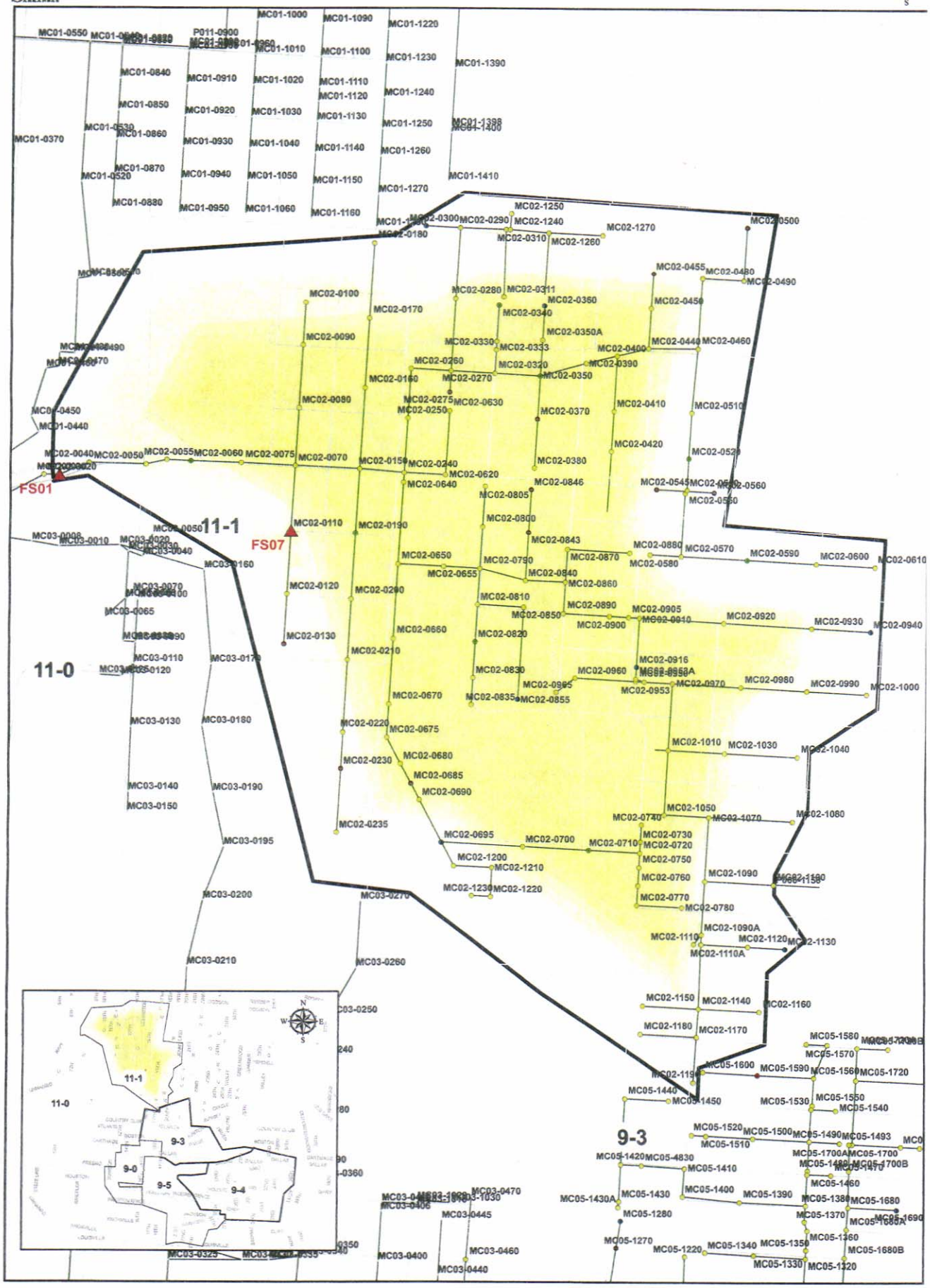
SUBJECT: Basin 11-1 Sewer Improvements
Project Number 11-09-E1

I have attached a Resolution authorizing the Mayor to execute an Agreement and Authorization Number One with RJN Group for design and bidding phase services for Basin 11-1 Sewer Improvements. Design and bidding phase services under Authorization Number One shall not exceed $163,521. These services will produce construction plans, specifications and contract documents for rehabilitation or replacement of 9,500 linear feet of 8-inch and 10-inch sewer lines and 103 manholes identified as defective in a wastewater collection system flow monitoring and evaluation study report prepared by RJN for Basins 9 and 11-1. These repairs are necessary for the elimination of manhole overflows occurring within Basin 11-1 during periods of heavy rainfall. I have attached an exhibit showing the project boundary. Funding for these services is available from the Sales and Use Tax Construction Fund.

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

attachment

City of Fort Smith, AR



rjngroup
Excellence through Ownership

Sewerlines
Streets
11-1
Buried
Not Found
Inspected
Surcharged
Inaccessible
Flow Meter Site

Manhole Investigation Basin 11-1
18-2356-00
Exhibit: 6

RESOLUTION NO. _____ 3 M

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NUMBER ONE TO THE AGREEMENT WITH FSM REDEVELOPMENT PARTNERS, LLC, FOR THE RELOCATION OF SANITARY SEWER LINES

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

The Mayor is authorized to execute the attached Amendment Number One to the Agreement between FSM Redevelopment Partners, LLC, a limited liability corporation, and the City of Fort Smith to provide for the relocation of certain sanitary sewer lines located within the Phoenix Village Mall Subdivision.

This Resolution adopted this _____ day of May 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** May 12, 2011

FROM: Steve Parke, Director of Utilities

SUBJECT: Sanitary Sewer Relocations for
Phoenix Village Mall Subdivision Lots 1 - 9
Amendment Number One

As part of the September 5, 2010, Board meeting an Agreement with FSM Redevelopment Partners was approved for the relocation of a portion of sanitary sewer mains crossing the Phoenix Village Mall property. The agreement provides for a cost sharing basis between the city and the owners to eliminate the encroachments of structures over and within easement areas held by the city for existing sanitary sewers. A copy of the September 2, 2010, supporting memo for that Board action is attached.

FSM Redevelopment Partners recently contacted the city indicating that they wished to add a segment of sewer to the relocation effort to allow them an opportunity to combine two lots into one larger development area. They have agreed that the additional cost associated with the increased length of sewer to accomplish the proposed reroute should be their full expense. The attached Amendment Number One provides for the needed adjustments to easements, assigns the additional cost for the increased length of sewer to the owner and adjusts the owner's maximum share from $125,000 to $145,000.

Staff recommends the approval of the attached Resolution authorizing the proposed Amendment Number One. Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: September 2, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Sanitary Sewer Relocations for
Phoenix Village Mall Subdivision Lots 1 - 9

The original construction of the buildings as part of the Phoenix Village Square and subsequent construction of the Phoenix Village Mall placed structures over and within easement areas held by the city for existing sanitary sewer lines. Over the years the city has claimed dominant easement rights related to its ability to maintain, repair or replace these sewers. The mall property has historically be owned by one owner. The new owner of the Phoenix Village Mall desires to subdivide the current property into 9 individual lots. The subdivision of the property now requires the city to take additional action at this time to clarify its position related to the easement rights and necessary actions for the sewer line relocations.

A Covenant has been negotiated with the current owner of the Phoenix Village Mall property, FSM Redevelopment Partners, LLC, which puts in place mutually agreed to terms for the resolution of the sanitary sewer line and building conflicts. A copy of the Covenant is attached. Some of the key points provided by the Covenant are as follows:

- The owner will provide, at no cost, the necessary easements for the relocation of the sanitary sewers.

- The city will use its best efforts to initiate the construction for the sewer relocations within 12 months.

- The city is responsible for the design cost and construction management of the sewer relocation work.

- The owner and city will equally share the cost of the sewer relocation up to a stated maximum responsibility of the owner's share at $125,000.00. The total cost of the relocations is estimated at $235,275.70; and the estimated cost to the owner and city is about $117,637 each.

The approval of the Covenant is required for the city to release the proposed final plat for the Phoenix Village Mall Subdivision - Lots 1 through 9. A Resolution authorizing the Mayor to execute the Covenant with FSM Redevelopment Partners is attached. Staff recommends its approval.

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

attachment

pc: Mr. Lance Beaty, FSM Redevelopment Partners, LLC
Mr. Jeb Joyce, Attorney

TO COVENANT WITH REFERENCE TO REAL PROPERTY

AMENDMENT NUMBER ONE

This Amendment Number One dated this _____ day of March 2011 is made to amend the Covenant With Reference To Real Property made September 7, 2010, and filed of record with the Fort Smith District of Sebastian County, Arkansas, on September 24, 2010, in Book 2010F-15722, by FSM Redevelopment Partners, LLC, an Arkansas limited liability company ("Owner"), and City of Fort smith, Arkansas ("City"), hereby supersedes and replaces portions of said Covenant as stated below, leaving all other portions of the above stated Covenant to remain in full force and effect :

WITNESSETH

1. Paragraph 5 is replaced in its entirety with the following:

5. The parties agree the City shall use its best efforts to perform the Relocation Work within twelve (12) months from the date of this Agreement (the "Relocation Date"). The City shall consult with Owner regarding scheduling of the Relocation Work, and the parties shall use their best efforts to allow the Relocation Work to be performed on a mutually agreeable timetable.

The parties further agree that all design and engineering work with respect to the Relocation Work shall be performed by the City, at the City's sole cost and expense. The City shall receive bids on the Relocation Work, and the City agrees, if possible, to bid the Relocation Work as part of a larger construction contract, in order to minimize the

construction cost of the Relocation Work. The City shall cause the Relocation Work to be performed.

The parties agree the estimated cost of the Relocation Work is set forth on the attached **Exhibit "C"**. Owner shall reimburse the City for fifty percent (50%) of the Relocation Work, except for a 175-foot length between manholes MC04-0250 and MC04-0230 which cost will be paid one hundred percent (100%) by Owner, but in no event shall the Owner's contribution of the Relocation Work exceed One Hundred Forty-Five Thousand and No/100 United States Dollars ($145,000.00) ("Owner's Maximum Share"). The Owner shall pay the City for fifty percent (50%) of each draw request during performance of the Relocation Work, except for the 175-foot length between manholes MC04-0250 and MC04-0230 which Owner shall pay City one hundred percent (100%), within ten (10) days of presentation from the City of a draw request by the contractor performing the Relocation Work.

2. Exhibit "A" is hereby replaced in its entirety with Exhibit "A" attached hereto:

   See attached Exhibit "A"

3. Exhibit "B" is hereby replaced in its entirety with Exhibit "B" attached hereto:

   See attached Exhibit "B"

4. Exhibit "C" is hereby replaced in its entirety with Exhibit "C" attached hereto:

   See attached Exhibit "C"

5. This Amendment Number One expresses the entire understanding of the parties in all negotiations resulting in the execution of the Amendment Number One are merged herein. This Amendment Number One shall not be altered except in writing mutually agreed upon by the City and Owner.

IN WITNESS WHEREOF this Amendment Number One has been duly executed and made effective by the parties on this _____ day of March 2011.

FSM REDEVELOPMENT PARTNERS, LLC,
an Arkansas limited liability company

By: _____

Name: _____

Title: _____

CHAMBERS BANK

By: _____

Name: _____

Title: _____

THE CITY OF FORT SMITH, ARKANSAS
a municipal subdivision of the State of Arkansas

By: _____

Name: _____

Title: _____

STATE OF ARKANSAS)
)
COUNTY OF _____)

ACKNOWLEDGMENT

On this day, before me, a Notary Public, duly commissioned, qualified and acting, with and for said County and State, appeared in person the within named **Lance Beaty,** to me well known, who stated that he is Managing Member of **FSM REDEVELOPMENT PARTNERS, LLC**, an Arkansas limited liability company, and was duly authorized in that capacity to execute the foregoing instrument for and in the name and on behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

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

_____
Notary Public

My Commission Expires:

_____
(SEAL)

STATE OF ARKANSAS)
)
COUNTY OF _____)

ACKNOWLEDGMENT

On this day, before me, a Notary Public, duly commissioned, qualified and acting, with and for said County and State, appeared in person the within named _____, the _____ of the **CHAMBERS BANK**, to me personally well known as the person whose name appears upon the above and foregoing and states that he/she is authorized in his/her capacity to execute the same for the consideration and purpose therein mentioned and set forth, and I do hereby so certify.

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

_____
Notary Public

My Commission Expires:

_____
(SEAL)

STATE OF ARKANSAS)
)
COUNTY OF _____)

ACKNOWLEDGMENT

On this day, before me, a Notary Public, duly commissioned, qualified and acting, with and for said County and State, appeared in person _____ and _____ to me well known, who stated that they were the Mayor and City Clerk of **THE CITY OF FORT SMITH, ARKANSAS**, a municipal subdivision of the State of Arkansas, and are duly authorized in that capacity to execute the foregoing instrument for and in the name and on behalf of said municipal subdivision, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

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

_____
Notary Public

My Commission Expires:

_____

(S E A L)

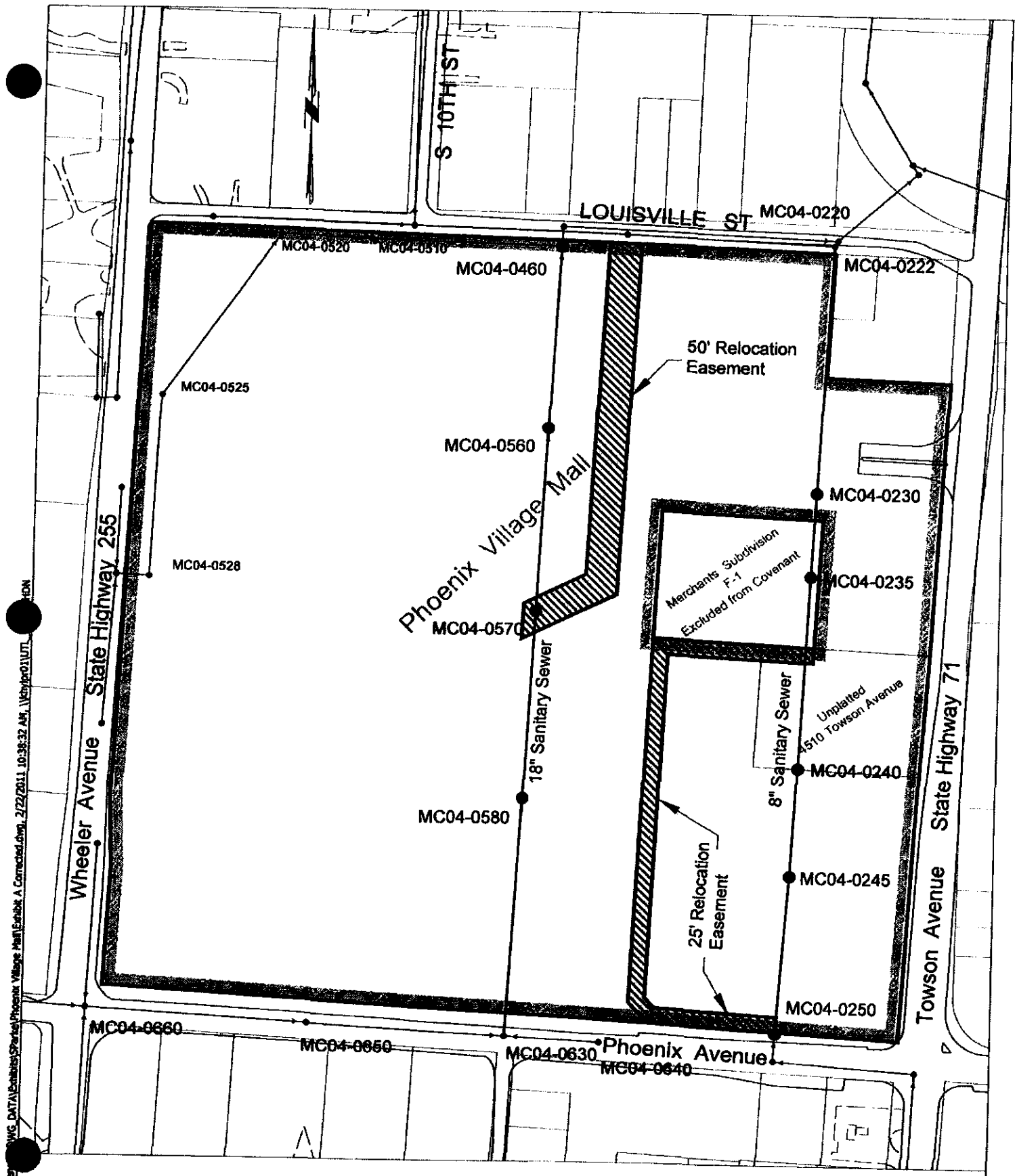

S 10TH ST
LOUISVILLE ST
MC04-0220
MC04-0520
MC04-0510
MC04-0460
MC04-0222
50' Relocation Easement
MC04-0525
MC04-0560
Phoenix Village Mall
MC04-0230
Merchants Subdivision F-1 Excluded from Covenant
MC04-0235
MC04-0528
State Highway 255
MC04-0570
18" Sanitary Sewer
8" Sanitary Sewer
Unplatted 4510 Towson Avenue
MC04-0240
MC04-0580
Wheeler Avenue
25' Relocation Easement
MC04-0245
Towson Avenue
State Highway 71
MC04-0250
MC04-0660
MC04-0650
MC04-0630
Phoenix Avenue
MC04-0640

EXHIBIT "A"

Exhibit "B"

A 50 foot wide sanitary sewer easement lying 25 feet either side of a line under and upon the following described land situated in the City of Fort Smith, Sebastian County, Arkansas to wit:

A part of Phoenix Village Mall Subdivision to the City of Fort Smith, Arkansas and a part of the Northeast Quarter of the Northeast Quarter, Section 32, Township 8 North, Range 32 West, Fort Smith, Sebastian County, Arkansas more particularly described as follows:

Commencing at a point marking the Northeast Corner of the Northeast Quarter of the Northeast Quarter of said Section 32, thence along the north line of said forty, North 88 degrees 05 minutes 39 seconds West 237.58 feet, thence leaving said north line, South 02 degrees 58 minutes 21 seconds West 25 feet to an existing p/k nail on the south right of way of Louisville Street, thence North 88 degrees 05 minutes 39 seconds West, 336.5 feet to point of beginning and center line of said 50 foot wide sanitary sewer easement, thence South 04 degrees 46 minutes 21 seconds west along said center line 555.20 feet to a point, thence South 77 degrees 57 minutes 21 seconds West along said center line 102.50 feet to the point of terminus.

ALSO,

A 25 foot wide sanitary sewer easement lying 12.5 feet either side of a line under and upon the following described land situated in the City of Fort Smith, Sebastian County, Arkansas, to wit:

A part of Phoenix Village Mall Subdivision to the City of Fort Smith, Arkansas and a part of the Northeast Quarter of the Northeast Quarter, Section 32, Township 8 North, Range 32 West, Fort Smith, Sebastian County, Arkansas more particularly described as follows:

Commencing at the Northwest corner of Tract F-1 Merchants Subdivision, a subdivision in the City of Fort Smith, Arkansas, thence South 03 degrees 02 minutes 21 seconds West 208.70 feet, thence South 87 degrees 24 minutes 39 seconds East 256.05 feet to an existing rebar, thence South 02 degrees 43 minutes 09 seconds West, 12.5 feet to the point of beginning and center line of said 25 foot wide sanitary sewer easement, thence North 87 degrees 25 minutes 50 seconds West 243.55 feet to a point, thence South 03 degrees 02 minutes 21 seconds west 523.48 feet to a point, said point also being 62.5 feet from the north right-of-way line of Phoenix Avenue, thence South 41 degrees 57 minutes 39 seconds East 70.71 feet said point being 12.5 feet from the north right-of-way line of Phoenix Avenue, thence South 86 degrees 49 minutes 39 seconds East 193.27 feet to the point of terminus also lying 12.5 feet from the north right-of-way line of Phoenix Avenue.

EXHIBIT "C"

Cost Estimation for
Phoenix Village Mall Subdivision Sanitary Sewer Relocations

Line One

Quantity	Unit	Unit Price	Description	Total
City and Owner Cost Shared - 50%				
866	LF	36.00	14-inch PVC Sewer Pipe	31,176.00
866	LF	25.00	Trenching & Backfill	21,650.00
4	EA	2,400.00	Manhole	9,600.00
1	EA	700.00	Remove or Abandon Manhole	700.00
166	CY	23.00	Granular Backfill	3,818.00
320	CY	70.00	Flowable Fill	22,400.00
105	TN	155.00	Asphalt	16,275.00
960	SY	5.00	Remove Asphalt	4,800.00
Subtotal				110,419.00
Contingency (10%)				11,041.90
Total				121,460.90
Owner Cost - 100%				
175	LF	36.00	14-inch PVC Sewer Pipe	6,300.00
175	LF	25.00	Trenching & Backfill	4,375.00
2	EA	2,400.00	Manhole	4,800.00
34	CY	23.00	Granular Backfill	782.00
Subtotal				16,257.00
Contingency (10%)				1,625.70
Total				17,882.70
Line One Total				139,343.60

Line Two

Quantity	Unit	Unit Price	Description	Total
City and Owner Cost Shared - 50%				
660	LF	44.00	18-inch PVC Sewer Pipe	29,040.00
660	LF	35.00	Trenching & Backfill	23,100.00
4	EA	3,000.00	Manhole	12,000.00
3	EA	700.00	Remove or Abandon Manhole	2,100.00
176	CY	23.00	Granular Backfill	4,048.00
244	CY	70.00	Flowable Fill	17,080.00
80	TN	155.00	Asphalt	12,400.00
740	SY	5.00	Remove Asphalt	3,700.00
Subtotal				103,468.00
Contingency (10%)				1.10
Total				113,814.80
Grand Total				**253,158.40**
Owner Participation				**135,520.55**
City Participation				**117,637.85**

The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: May 12, 2011

SUBJECT: Airport Commission

The terms of Mr. Larry A. Devero and Mr. Ryan Carter of the Airport Commission will expire June 30, 2011. Mr. Devero and Mr. Carter would like to be reappointed.

The applicants available at this time are:

Rusty Henderson	8812 Royal Ridge Drive
Thomas Gage	1115 South Waldron
Dr. Gary Edwards, Jr.	3327 Crow Hill Circle
Dr. James E. Kelly III	5500 Painter Lane
Joshua Carson	109 No. 3 Street
Larry Schiffner	2313 Camelot Drive

Appointments are **by the Mayor and confirmed by the Board of Directors.** Two appointments are needed; the terms will expire June 30, 2016.

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

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: May 12, 2011

SUBJECT: Community Development Advisory Committee

The terms of Ms. Kerri Norman, Mr. George Willis, Ms. Rebecca Timmons and Ms. Genia Smith of the Community Development Advisory Committee will expire June 30, 2011. Ms. Norman, Mr. Willis, Ms. Timmons and Ms. Smith would like to be reappointed.

The applicant available at this time is:

Joshua Carson 109 No. 3 Street

Appointments are **by the Board of Directors.** Four appointments are needed; the terms will expire June 30, 2014.

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

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The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: May 13, 2011

SUBJECT: Municipal Employees Benevolent Fund Board of Advisors

The terms of Ms. Audra Nguyen, Ms. Marcie Salamone and Mr. Larry Murry of the Fort Smith Municipal Fund Board of Advisors will expire June 30, 2011. Mr. Murry would like to be reappointed. Ms. Nguyen is not interested in reappointment and Ms. Salamone has been unreachable at this time.

The applicant available at this time is:

Sonya Elliott 604 Jessie Drive

Appointments are **by the Board of Directors.** Two appointments are needed; the terms will expire June 30, 2014.

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

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The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: May 13, 2011

SUBJECT: Outside Agency Review Panel

The term of Mr. Steve Rinke of the Outside Agency Review Panel has expired March 31, 2011. This position needs to be filled at this time.

The applicant available at this time is:

Amy Manley 114 North 25 Street

Appointments are **by the Board of Directors.** One appointments is needed; the term will expire March 31, 2013.

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

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AGENDA ~ Summary ~

FORT SMITH BOARD OF DIRECTORS
REGULAR MEETING

May 17, 2011 ~ 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 & 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 MAY 3, 2011 REGULAR MEETING
Unanimously approved as written

ITEMS OF BUSINESS:

1. Presentations:

Item 3A Resolution of the Board of Directors of the City of Fort Smith honoring the 188th Fighter Wing for earning the Air Force Outstanding Unit Award for the period of October 1, 2008 to September 30, 2010
Removed from the consent agenda to be voted on separately.
Approved 7 in favor, 0 opposed / Resolution No. R-84-11

- Proclamations for Public Works Week (May 15-21, 2011)

- Recognition of participants in the downtown beautification project

2. Ordinance amending portions of Chapter 25 of the Fort Smith Municipal Code, establishing charges for water and sanitary sewer connections, establishing fees

for industrial user permits and vacuum truck discharge permits to the utility systems of the City of Fort Smith, establishing a permit procedure for certain connections to the utility systems of the City, prohibiting unauthorized use of utility easements and rights-of-way; repealing ordinances in conflict herewith and for other purposes

By vote of 7 in favor, 0 opposed to table consideration for 60 days to allow further dialogue between Utilities Department and the Home Builders Association.

3. Consent Agenda

A. Resolution of the Board of Directors of the City of Fort Smith honoring the 188th Fighter Wing for earning the Air Force Outstanding Unit Award for the period of October 1, 2008 to September 30, 2010

Removed from the consent agenda to be voted on separately

B. Resolution authorizing a partial payment to Forsgren, Inc. for the construction of Chad Colley Blvd. Extension, Project No. 10-00-A ($574,765.15)

Approved 7 in favor, 0 opposed / Resolution No. R-85-11

C. Resolution accepting bids and authorizing a contract for the renovation and additions to the transit facilities at 6821 Jenny Lind Road Project No. 10-02 ($1,106,935.00)

Approved 7 in favor, 0 opposed / Resolution No. R-86-11

D. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Waste Way, LLC.

Approved 7 in favor, 0 opposed / Resolution No. R-87-11

E. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with AAA Roll Off Co., LLC.

Approved 7 in favor, 0 opposed / Resolution No. R-88-11

F. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Waste Removal Experts, Inc.

Approved 7 in favor, 0 opposed / Resolution No. R-89-11

G. Resolution authorizing partial payment to Branco Enterprises, Inc. for construction of the Phase II “P” Street Wastewater Treatment Plant Wet Weather Improvements – Schedule 2 ($ 565,279.74)

Approved 7 in favor, 0 opposed / Resolution No. R-90-11

H. Resolution authorizing Change Order Number Five with Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant – Contract 3 ($62,859.00)
Approved 7 in favor, 0 opposed / Resolution No. R-91-11

I. Resolution authorizing partial payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant – Contract 3 ($1,167,874.01)
Approved 7 in favor, 0 opposed / Resolution No. R-92-11

J. Resolution authorizing an amendment to the agreement with Hawkins-Weir Engineers, Inc. for engineering construction phase services associated with the Sunnymede Wet Weather Flow Management Improvements ($170,000.00)
Approved 7 in favor, 0 opposed / Resolution No. R-93-11

K. Resolution authorizing Change Order Number Four, project acceptance and final payment to Branco Enterprises, Inc. for construction of the Sunnymede Wet Weather Flow Management ($387,780.35)
Approved 7 in favor, 0 opposed / Resolution No. R-94-11

L. Resolution authorizing the Mayor to execute an agreement and Authorization Number One with RJN Group, Inc. for providing engineering services associated with the Basin 11-1 Sewer Improvements ($163.521.00)
Approved 7 in favor, 0 opposed / Resolution No. R-95-11

M. Resolution authorizing the Mayor to execute amendment number one to the agreement with FSM Redevelopment Partners, LLC, for the relocation of sanitary sewer lines
Approved 7 in favor, 0 opposed / Resolution No. R-96-11

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:

AIRPORT COMMISSION
Larry Devero (reappointed)
Ryan Carter (reappointed)
Terms expire June 30, 2016

COMMUNITY DEVELOPMENT OF ADVISORS COMMITTEE
Kerri Norman (reappointed)
George Willis (reappointed)
Genia Smith (reappointed)
Joshua Carson
Terms expire June 30, 2014

FORT SMITH MUNICIPAL EMPLOYEES BENEVOLENT FUND BOARD OF ADVISORS
Larry Murry (reappointed)
Sonya Elliott
Terms expire June 30, 2014

OUTSIDE AGENCY REVIEW PANEL
Amy Manley
Term expires March 31, 2013

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
7:09 P.M.

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ MAY 17, 2011 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Director Don Hutchings, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, George Catsavis, Pam Weber, Kevin Settle and Phillip H. Merry, Jr. The Mayor declared a quorum present.

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

Mayor Sanders urged all those who wish to address the Board of Directors during the meeting to promptly complete a speakers card and submit to the City Clerk. He further advised of the time limit policy for persons wishing to address the Board, the Mayor communicated that five (5) minutes per side would be extended on controversial items with three (3) minutes for rebuttal per side. Two (2) minutes will be allotted for consent agenda items and for those participating in the citizens forum.

The minutes of the May 3, 2011 regular meeting were presented for approval. Settle, seconded by Hutchings, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

With Board concurrence, Mayor Sanders removed Item No. 3A from the consent agenda to be voted on separately.

Item No. 3A was a resolution of the Board of Directors of the City of Fort Smith honoring the 188th Fighter Wing for earning the Air Force Outstanding Unit Award for

the period of October 1, 2008 to September 30, 2010.

Weber, seconded by Merry, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-84-11.

Regarding the previously approved resolution, Mayor Sanders presented a proclamation recognizing same to Colonel Tom Anderson, Air Commander of the 188th Fighter Wing. The Mayor further provided a briefing of the outstanding service and accomplishments provided by the 188th Fighter Wing, as well as their instrumental role within the Fort Smith economy.

Colonel Tom Anderson addressed the Board and citizens and extended much appreciation and gratitude to the community for the unwavering support given to the 188th Fighter Wing through the years.

Item No. 1 was presentations as follows:

- Proclamations for Public Works Week (May 15 – 21, 2011)

  On behalf of the Board of Directors, Mayor Sanders presented proclamations to Director of Engineering Stan Snodgrass, Director of Transit Ken Savage, Director of Sanitation Baridi Nkokheli, Director of Operation's Bob Wright, Director of Parks and Recreation Mike Alsup, and Director of Utilities Steve Parke, whom accepted the proclamations on behalf of their entire departments. The Mayor noted the City of Fort Smith would not be able to progress and move forward without the stated departments and commended each for the good job they do.

- Recognition of participants in the downtown beautification project

  Director Weber expressed gratitude to Mayor Sanders for his commitment and help with a recent down town beautification project. Director Weber requested participants in the downtown beautification project to come forward as she advised Saturday May 14, 2011 two

hundred and fifteen (215) roses were planted in the downtown streetscapes. Director Weber expressed appreciation to Mike Alsup Director of Parks and Recreation, LeAnn with the Sebastian Hills Property Owners Association and Hazel with the River Valley Botanical Society for their participation and or donations to make the project a success. Hardscrabble Garden Club and Sharum's Garden Center were also noted as contributors in the beautification project.

Mayor Sanders recognized Director Weber for her essential role in getting this project started and for its success, noting beautification projects such as this are imperative to the growth of the City.

Item No. 2 was an ordinance amending portions of Chapter 25 of the Fort Smith Municipal Code, establishing charges for water and sanitary sewer connections, establishing fees for industrial user permits and vacuum truck discharge permits to the utility systems of the City of Fort Smith, establishing a permit procedure for certain connections to the utility systems of the City, prohibiting unauthorized use of utility easements and rights-of-way; repealing ordinances in conflict herewith and for other purposes.

Director of Utilities Steve Parke briefed the Board on the item as discussed at the Board of Directors March 8, 2011 study session. Miscellaneous water and sewer fees have not been adjusted since the mid 1980's and per the Board of Directors direction, fees have been reviewed and brought up to date to ensure the cost of providing service is recovered. The proposed ordinance reflects adjustments to the water and sewer service connection fees, pretreatment program charges, as well as incorporates the City's current administrative procedures as it relates to various installations. Such also includes an amendment for the use of easements and

right-of-way to provide flexibility in issuing permits, which will allow private contractors to work within said areas.

The following individuals were present to address the Board:

- Dave Hughes, Executive Director of the Greater Fort Smith Association of Home Builders
  5111 Rogers Ave
  Fort Smith, Arkansas

  Re: Expressed discontent that the Association was not contacted for input with regard to the proposed fee adjustments citing such has been done in the past for various other municipal modifications. The input from the Association is merely to ensure proposed amendments are fair for both the City as well as developers. He alleged the percentage of increase is drastic whereby he suggested, if increases are inevitable, a gradual approach would be more feasible.

To ensure industry is better informed as to the necessity of the adjustments Director Weber conveyed no objection to tabling the matter to allow the Greater Fort Smith Association of Home Builders to meet with the Utilities Department for discussion and education on proposed adjustments. Mr. Hughes voices Association appreciation of purposed meeting.

Weber, seconded by Hutchings, moved to table consideration of the ordinance for up to 60 days to allow dialogue between Utilities Department and the Home Builders Association.

Pryor to the vote, Director Merry conveyed desire to allow remaining speakers to address the board if they so desire.

The remaining individuals addressed the board.

- David Harris
  Fort Smith, Arkansas

  Re: The increases are extensive due to decades of stagnant fee adjustments; therefore, he expressed concern that the cost will be deferred to the citizens if the proposed ordinance is defeated.

- Buddy Coleman
  3110 Brighten Place
  Fort Smith, Arkansas

  Re: Spoke in opposition to the proposed ordinance citing the industry already faces economic challenges.

- David Edwards, Edwards Construction
  Fort Smith, Arkansas

  Re: Simply spoke in opposition to the proposed ordinance; however, he conveyed much appreciation for the motion to table consideration to allow the opportunity for additional input.

Director Settle clarified the proposed ordinance addresses connection fees, not water and sewer rates.

Since fee increases are naturally anticipated, Director Tyler spoke in favor of implementing software that will calculate the necessary adjustments on an incremental basis when needed. Such will prevent the necessity for drastic increases from being an issue in the future.

The motion remaining on the floor and all members voting affirmatively, the Mayor declared the motion carried.

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

A. Resolution of the Board of Directors of the City of Fort Smith honoring the 188th Fighter Wing for earning the Air Force Outstanding Unit Award for the period of October 1, 2008 to September 30, 2010

B. Resolution authorizing a partial payment to Forsgren, Inc. for the construction of Chad Colley Blvd. Extension, Project No. 10-00-A ($574,765.15)

C. Resolution accepting bids and authorizing a contract for the renovation and additions to the transit facilities at 6821 Jenny Lind Road, Project No. 10-02 ($1,106,935.00)

D. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Waste Way, LLC.

E. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with AAA Roll Off Co., LLC.

F. Resolution authorizing the execution of a non-residential solid waste collection and disposal permit and agreement with Waste Removal Experts, Inc.

G. Resolution authorizing partial payment to Branco Enterprises, Inc. for construction of the Phase II "P" Street Wastewater Treatment Plant Wet Weather Improvements – Schedule 2 ($ 565,279.74)

H. Resolution authorizing Change Order Number Five with Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant – Contract 3 ($62,859.00)

I. Resolution authorizing partial payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant – Contract 3 ($1,167,874.01)

J. Resolution authorizing an amendment to the agreement with Hawkins-Weir Engineers, Inc. for engineering construction phase services associated with the Sunnymede Wet Weather Flow Management Improvements ($170,000.00)

K. Resolution authorizing Change Order Number Four, project acceptance and final payment to Branco Enterprises, Inc. for construction of the Sunnymede Wet Weather Flow Management ($387,780.35)

L. Resolution authorizing the Mayor to execute an agreement and Authorization Number One with RJN Group, Inc. for providing engineering services associated with the Basin 11-1 Sewer Improvements ($163.521.00)

M. Resolution authorizing the Mayor to execute Amendment Number One to the agreement with FSM Redevelopment Partners, LLC, for the relocation of sanitary sewer lines

Hutchings, seconded by Good, moved adoption of all consent agenda items. The members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and numbered R-85-11 through R-96-11 respectively.

Mayor Sanders opened the Officials Forum with the following comments offered:

- Director Weber

  Re: Recognized Director of Engineering Stan Snodgrass and his department on their diligent work to ensure cost effective measures are taken to address drainage issues. She's received numerous calls regarding excessive water due to the frequent storms and has received good feedback from citizens dealing with the Engineering Department.

- Director Merry

  Re: Extended appreciation to Administrator Gosack for scheduling the trip to Washington, D.C., which allowed the Board of Directors to speak with various legislators. The legislators are very informed of important projects in Fort Smith and noted "the trip was a success."

- Administrator Gosack

Re: 1. Reminded all of the second Board of Directors Retreat, which will be held at 5:00 p.m., Monday, May 23, 2011 at Lake Fort Smith State Park Visitors Center.

2. Regarding the recent trip to Washington D.C., he advised the City received positive responses from the Arkansas legislator, as well as federal agencies regarding important projects in Fort Smith such as Interstate 49 and deepening of the Arkansas River to increase the capacity for barge traffic. Approval was also received to accelerate the Maybranch Drainage Project, which will allow the City's share to be used to initiate the project and when the federal monies become available, such will be utilized for costs in the latter phases of the project.

3. The recent heavy rains have been determined to be a 25-year storm event and the Engineering staff is currently evaluating eleven (11) reports of structure flooding from such. Possible cost effective solutions to lessen the occurrence of said flooding will be considered and presented for consideration in the coming weeks. Other solutions to fully address the issue will be considered for inclusion in the 2012 Budget.

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

AIRPORT COMMISSION
Larry Devero (reappointment)
Ryan Carter (reappointment)
Terms expire June 30, 2016

COMMUNITY DEVELOPMENT ADVISORY COMMITTEE
Kerri Norman (reappointment)
George Willis (reappointment)
Genia Smith (reappointment)
Joshua Carson
Terms expire June 30, 2014

FORT SMITH MUNICIPAL EMPLOYEES BENEVOLENT FUND BOARD OF ADVISORS

Larry Murry (reappointment) (citizen)
Sonya Elliott (city employee)
Terms expire June 30, 2014

OUTSIDE AGENCY REVIEW PANEL

Amy Manley
Term expires March 31, 2013

Hutchings, seconded by Tyler, moved acceptance of all appointment nominations. The members all voting aye, with the exception to Director Merry who abstained on the Airport Commission, the Mayor declared the motion carried.

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

- Eric Arthur
  Fort Smith, Arkansas

  Re: Due to an assertion that he seems negative when he addresses the Board of Directors, he offered an apology to the Board of Directors citing his harshness is associated to his desire to see more action by the Board and his desire to see the City flourish. He further welcomed the Board of Directors to come visit his building renovation at 1115 Garrison Avenue.

- Elizabeth Mayo
  Fort Smith, Arkansas

  Re: Expressed discontent that her home almost flooded during the recent storms. She conveyed opposition to the recently discussed animal ordinances, as well as any and all fee increases proposed by the City.

May 17, 2011 Regular Meeting

There being no further business to come before the Board, Merry moved that the meeting adjourn. The motion was seconded by Hutchings and the members all voting affirmatively, the Mayor declared the motion carried and the meeting stood adjourned at 7:09 p.m.

APPROVED:

Mayor

ATTEST:

City Clerk