

Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Steve Tyler

Ward 2 – Andre’ Good

Ward 3 – Don Hutchings

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA
Fort Smith Board of Directors
Regular Meeting
December 4, 2012 ~ 6:00 P.M.
Fort Smith Public Schools Service Center
3205 Jenny Lind Road

THIS MEETING IS BEING TELECAST LIVE ON THE GOVERNMENT ACCESS CHANNEL 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 NOVEMBER 20, 2012 REGULAR MEETING

ITEMS OF BUSINESS:

1. Presentation: S.R.C.A. Christmas cards to Board of Directors
2. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan - General Commercial to Residential Detached; Rezoning - Commercial Heavy (C-5) and Commercial Heavy Special (C-5-SPL) to Residential Single-Family Medium High Density (RS-3) by extension located at 8750 South 36th Terrace*) ~ Tabled at the November 6, 2012 regular meeting ~
3. Ordinance rezoning identified property and amending the zoning map (*from Industrial Light (I-1) to Residential Single-Family Duplex High Density (RSD-4) by classification located at 2910-3026 North 6th Street and 2718-2722 North 27th Street*)

4. Ordinance amending the 2012 Operating Budget
5. Public hearing and ordinance to adopt the fiscal year 2013 Operating Budget and to provide other matters relating thereto
6. Ordinance establishing salaries and benefits and related procedures for City employees
7. Ordinance to close the Sidewalk Construction Fund
8. Ordinance amending designated provisions of Chapter 2, Article V of the Fort Smith Municipal Code concerning the City Administrator's authority ~ *Tyler/Good placed on agenda at the November 27, 2012 study session ~*
9. Ordinance amending Section 2-182 of the Fort Smith Municipal Code regarding professional services ~ *Tyler/Good placed on agenda at the November 27, 2012 study session ~*
10. Ordinance repealing Ordinance No. 86-12 and amending Section 2-26 of the Fort Smith Municipal Code setting the date, time and location for regular meetings of the Board of Directors for 2013
11. Ordinance amending Section 2-40(a) of the Fort Smith Municipal Code to increase the Mayor's compensation effective January 1, 2015 ~ *Hutchings/Good placed on agenda at the November 27, 2012 study session ~*
12. Resolution accepting bid for uniform rental services (3 year bid / Various City Departments / Budgeted - General, Street, Water & Sewer, and Sanitation Operating Funds) ~ *Tabled at the November 20, 2012 regular board meeting ~*
13. Consent Agenda
 - A. Ordinance to abandon water line easements located in Cavanaugh Meadows, Lot 2, an addition to the City of Fort Smith, Sebastian County, Arkansas
 - B. Resolution authorizing the Mayor to submit a letter to the Arkansas Energy Office concerning the adoption of the 2011 Arkansas Energy Code ~ *Settle/Hutchings placed on agenda at the November 27, 2012 study session ~*
 - C. Resolution approving an agreement with Daily & Woods, P.L.L.C. for general legal services for 2013
 - D. Resolution approving specific excess insurance and aggregate excess insurance for the City's employee health coverage

- E. Resolution approving claim service, specific excess insurance and aggregate excess insurance for City's workers' compensation coverage
- F. Resolution supporting legislation to improve sales tax collection information from the Arkansas Department of Finance and Administration
- G. Resolution adopting the 2013 Audit Plan
- H. Resolution authorizing the Mayor to execute a memorandum of understanding with the National Park Service - Fort Smith National Historic Site to provide police protection on lands within the park's boundaries
- I. Resolution accepting the project as complete and authorizing final payment to Goodwin & Goodwin, Inc. for construction of the Highway 71 Interchange 12-Inch Water Line Relocation (\$281,446.61 / Utility Department / Budgeted - 2008 Revenue Bonds)
- J. Ordinance declaring an exceptional situation waiving the requirements of competitive bidding and authorizing the purchase of equipment from Flowserve for the "P" Street Wastewater Treatment Plant Effluent Pump Station Upgrade (\$153,792.32 / Utility Department / Budgeted - 2008 Revenue Bonds)

OFFICIALS FORUM ~ presentation of information requiring no official action

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

- Mayor
- Directors
- City Administrator

ADJOURN

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE MASTER LAND USE PLAN MAP AND
REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP**

WHEREAS, the City Planning Commission has held a public hearing to consider a request to amend the Master Land Use Plan Map relative to property described in Section 1 of this ordinance, and, having considered the request, recommended on October 9, 2012, that said change be made; and,

WHEREAS, the Planning Commission determined the change to the Master Land Use Plan Map does conform to the goals and objectives of the Comprehensive Plan.

WHEREAS, the City Planning Commission has heretofore held a public hearing to consider request No. 15-7-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on October 9, 2012, that said change be made;

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

SECTION 1: The hereinafter described property is hereby reclassified on the Master Land Use Plan Map from General Commercial to Residential Detached and the Master Land Use Plan Map is hereby amended to reflect said amendment to-wit:

PART OF THE WEST HALF (W ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 32 WEST, CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET ½” REBAR MARKING THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (NW ¼) OF SAID SE ¼ OF SECTION 10, SAID POINT ALSO MARKING THE SOUTHEAST CORNER OF KINGSWOOD SOUTH, PHASE II, AN ADDITION TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS; THENCE N03°17'57”E, ALONG THE WEST LINE OF SAID NW ¼ SE ¼ OF SECTION 10 AND SAID EAST LINE OF KINGSWOOD SOUTH, PHASE II, 331.97 FEET TO AN EXISTING REBAR (RLS #773) MARKING THE SOUTHWEST CORNER OF COMMERCIAL PARK SOUTH, PHASE II, AN ADDITION TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS; THENCE S86°42'03”E, LEAVING SAID WEST LINE OF NW ¼ SE ¼ OF SECTION 10 AND ALONG THE SOUTH LINE OF SAID COMMERCIAL PARK SOUTH, PHASE II, 700.00 FEET TO A SET ½” REBAR; THENCE S03°11'03”W, LEAVING SAID SOUTH LINE OF COMMERCIAL PARK SOUTH, PHASE II, 500.00 FEET TO A SET ½” REBAR; THENCE S32°34'53”E 540.04 FEET TO A SET ½” REBAR; THENCE S03°11'03”W 730.00 FEET TO A SET ½” REBAR ON THE SOUTH LINE OF THE SOUTHWEST QUARTER (SW ¼) OF SAID SE ¼ OF SECTION 10 AND THE NORTH LINE OF ELMER H. COOK SCHOOL SUBDIVISION, AN ADDITION TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS; THENCE N86°14'25”W, ALONG SAID NORTH LINE OF ELMER H. COOK SCHOOL SUBDIVISION, 1016.35 FEET TO A SET ½” REBAR MARKING THE SOUTHWEST CORNER OF SAID SW ¼ SE ¼ OF SECTION 10 AND THE NORTHWEST CORNER OF SAID ELMER H. COOK SCHOOL SUBDIVISION, SAID POINT ALSO BEING LOCATED ON THE EAST LINE OF SAID REPLAT FIANNA HILLS I; THENCE N03°11'03”E, ALONG SAID WEST LINE OF SW ¼ SE ¼ OF SECTION 10 AND SAID EAST LINE OF REPLAT FIANNA HILLS I, 1327.42 FEET TO THE POINT OF BEGINNING, CONTAINING 33.59 ACRES, MORE OR LESS, BEING SUBJECT TO PUBLIC ROAD RIGHTS-OF-WAY AND ANY EASEMENTS OF RECORD.

more commonly known as 8750 South 36th Terrace.

SECTION 2: The hereinafter described property is hereby rezoned from Commercial Heavy (C-5) and Commercial Heavy Special (C-5-SPL) to Residential Single Family Medium/High Density (RS-3) by Extension.

PART OF THE WEST HALF (W ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 32 WEST, CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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The zoning map of the City of Fort Smith is hereby amended to reflect said rezoning.

PASSED AND APPROVED THIS _____ DAY OF _____, 2012.

APPROVED:

Mayor

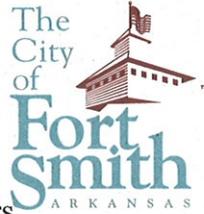
ATTEST:

City Clerk

Approved as to form:



Publish 1 Time



October 29, 2012

Honorable Mayor and Board of Directors
City of Fort Smith, Arkansas

Re: A request by Pat Mickle, agent, for a Master Land Use Plan Amendment from General Commercial to Residential Detached and a zone change from Commercial Heavy (C-5) and Commercial Heavy Special (C-5-SPL) to Residential Single Family Medium High Density (RS-3) by Extension located at 8750 South 36th Terrace.

On October 9, 2012, the City Planning Commission held a public hearing to consider the above rezoning request.

Mr. Wally Bailey read the staff reports indicating that the purpose of these requests is to facilitate the development of a 108 lot single family subdivision.

Mr. Pat Mickle and Mr. Rob Coleman was present to speak on behalf of these requests. Mr. Coleman stated that they are requesting a lower density and asking for a variance in order to provide larger homes in the proposed subdivision.

Mr. David Harris, 2025 South "V", questioned the Commission as to whether a particular residential zoning district such as R-4 can have wider lots with fewer houses.

Chairman Griffin stated that he felt from a marketability standpoint, it makes sense since it gives a potential buyer flexibility as to what can be put on the lot. Mr. Griffin noted that he felt this was a reasonable request.

No one was present to speak in opposition to this request.

Chairman Griffin called for the vote on the Master Land Use Plan Amendment and the rezoning request. The vote on the Master Land Use Plan Amendment was 8 in favor, 0 opposed and 1 abstention (Griffin). The vote on the rezoning request was 8 in favor, 0 opposed and 1 abstention (Griffin).

The Planning Commission hereby certifies this zoning map amendment to the Board of Directors in accordance with A.C.A. 14-56-422.

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/lp

cc: File
City Administrator

623 Garrison Avenue
P.O. Box 1908
FORT SMITH, ARKANSAS 72902
(479) 784-2216
FAX (479) 784-2462

Master Land Use Map Amendment: From General Commercial to Residential Detached

8750 South 36th Terrace



Rezoning #15-7-12: From Commercial Heavy (C-5) and Commercial Heavy Special (C-5-SSPL) to Residential Single Family Medium/High Density (RS-3)

8750 South 36th Terrace



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Memo

To: City Planning Commission
From: Planning Staff
Date: September 18, 2012
Subject: Proposed Master Land Use Plan Amendment at 8750 South 36th Terrace from General Commercial to Residential Detached

The Planning Department is in receipt of an application from Pat Mickle, agent for Stephen's Production Company, to amend the *Master Land Use Plan* from General Commercial to Residential Detached to accommodate a proposed Residential Single Family Medium/High Density (RS-3) zoning designation. The subject property is located east of Bryn Mawr Circle, south of South 36th Terrace and north of Cook Elementary School on Brooken Hill Drive. The site contains approximately 33.81 acres and is proposed as a 108-lot single-family subdivision with minimum lot widths at building line ranging from approximately 65' to 70'.

The existing zoning of the site is Commercial Heavy (C-5) and Commercial Heavy SPL (C-5-Special). Companion application (items #3, #4, and #14) proposes a change in the zoning classification to Residential Single Family Medium/High Density (RS-3) by extension, a subdivision variance from street connectivity, and a variance from 7.5 feet to 5 feet side yard setback. The *Master Land Use Plan* is a guide to zoning and development and must be considered with the companion application.

ADJACENT LAND USE CLASSIFICATIONS AND USES

Land use classification and uses contiguous to the subject lot are as follows:

The areas to the north are classified as General Commercial and are is a dental office and undeveloped.

The area to the south is classified as Public Institutional and is developed as Cook Elementary School.

The area to the east is classified as General Commercial and is undeveloped.

The area to the west is classified as Residential Detached and is developed as single family homes.

The proposed land use classification of Residential Detached is described as follows:

IA

Purpose: To create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values.

Characteristics and Use: Single-family residential development from zero lot line developments up to one unit per acre.

Criteria for Designation:

Compliance Noted

- | | |
|---|------|
| • Located within stable, predominantly single-family neighborhood | Yes |
| • Adjacent to low impact industry and commercial developments | Yes* |

*Subdivision is within proximity of U.S. Highway 71 South

MASTER STREET PLAN CLASSIFICATIONS

The Master Street Plan classifies South 36th Terrace, Braeburn Glen, and Edinburgh Road as a Local Roads.

STAFF COMMENTS

The proposed Residential Detached classification would facilitate the requested Residential Single Family Medium/High Density (RS-3) zone. Staff recommends approval contingent upon approval of the companion items.

113

Application Type

Minor Amendment **Standard Amendment** **Major Amendment**
(See Section 27-328-5 C. (Criteria))

Request to Amend Map **Request to Amend Text**

Applicant Name: Pat Mickle

Firm Name: Mickle Wagner Coleman, Inc.

Address: P.O. Box 1507, Fort Smith, AR. 72902

Phone # (day): 479-649-8484 Phone # (cell): Fax #: 479-649-8486

Owner Name: Stephens Production Company

Owner Address: 623 Garrison Avenue, Fort Smith, AR 72901

Phone # (day): 479-782-4191 Phone # (cell): Fax #:

Property Address (subject property): 8750 South 36th Terrace

Subject Property

Current Land Use: Undeveloped, pasture

Existing MLUP Classification: General Commercial

Proposed MLUP Classification: Residential Detached

Existing Zoning Classification: C-5 and C-5-Special

Proposed Zoning Classification: RS-3

Surrounding Property

Current Land Use: north- Park South Commercial Park – professional offices/motel/bank

south- Cook Elementary School

east- Undeveloped, pasture

west- Single Family Residential

Existing MLUP Classification: north: General Commercial

south: Public/Institutional

east: General Commercial

west: Residential Detached

Existing Zoning Classification: north: C-5 and C-5 Special

south: R3MF

east: C-5

west: R3SF and R3MF

Pre-Application Meeting Date:

1C

For a Minor, Standard or Major Master Land Use Plan Amendment, please attach the following information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

1. A legal description of the subject property that is to be amended (reclassified).
Attachment #1
2. A map of the property which includes the scaled distance, legal description, and general vicinity map inset showing the property's location.
Attachment #2 – Preliminary Subdivision Layout (11 x 17)
3. The area dimensions of the property in square feet or acres.
33.59 acres
4. Describe existing road conditions and new roads to be included in the development and the effect of the proposed development on existing roads and traffic conditions:

A 37' asphalt, curb and gutter street serves the property on its northern side. A new street will be extended to the west to the intersection of Bryn Mawr and Edinburgh, both of which are 27' wide curb and guttered asphalt streets. All internal streets will be 27' wide, curb and guttered. It is anticipated that 75% of the traffic generated by the development will use South 36th Terrace for ingress & egress. From South 36th Terrace, either Grinnell to the east and its traffic at Hwy 71 can be accessed, or Grinnell to the west and South 28th Street can be accessed. About 25% of the traffic (ADT270) will utilize Edinburgh / Bryn Mawr intersection.

5. Describe the existing public utility services and infrastructure (such as water, sewer, fire/police) which are available to the property and the source/method of providing additional utilities and infrastructure to the property if necessary:

A storm drain system and sewer system serve the property at its northwestern corner. Water service is provided by an 8-inch line at the north boundary and by a 20-inch line along the south and part of the west sides. The nearest fire station is on Burrough Road approximately 1 mile away. No additional offsite utilities should be needed.

6. Provide a statement of the proposed build-out density and maximum potential build-out density (units per acre) permitted by the proposed land use classification:

The development plan calls for 108 single family dwelling units on 33.6 acres; this is 3.2 dwelling units per acre. Maximum density by code for RS-3 is 6.7 DU/acre.

.1D

7. Identify any known or anticipated environmental concerns:

None known.

For a Standard or Major Master Land Use Plan Amendment only, please attach the following additional information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

8. An analysis of the impact of the amendment on surrounding properties and plans in terms of:

a. Describe potential changes to development patterns in terms of local and regional impacts:

This amendment does not have an impact on the regional development pattern. It is simply an adjustment of the boundary between the commercial and residential land uses.

b. Describe the consistency in zoning between existing and planned uses:

The subject site is vacant land. It sits on the boundary between a detached single family development and regional commercial zoned, but undeveloped, property. The expansion of the RS-3, and reduction in C-5, is consistent with the designated land uses and zones.

c. Provide explanation of the need for and demand in the proposed uses:

After a lull of four years, the market for new homes is increasing. Very little property in this area is available for a single family development of this size.

JE

9. Provide an analysis of the long term development plan for the area (10-20 years) which incorporates a review of the land use, transportation, and infrastructure impact to both the City of Fort Smith and the property owner:

It is anticipated that the property to the east of subject property will develop commercially within the next 10-20 year period. That traffic will be principally handled by Hwy 71 which runs along its eastern boundary. The basic infrastructure for both the subject property and the commercial property to the east has been in place for over fifteen years.

For a Comprehensive Plan-Text Amendment only, please attach the following information. Provide answers on a separate sheet and attach it to this application:

1. A typewritten copy of the proposed changes to the text in underline/strikeout (also known as "track changes") format.
2. A description of the reasons supporting the amendment and the special circumstances requiring the change:

IF

Memo

To: City Planning Commission

From: Planning Staff

Date: September 18, 2012

Subject: Rezoning #15-7-12; A request by Pat Mickle, agent for Stephens Production Company, for Planning Commission consideration of a zone change from Commercial Heavy (C-5) and Commercial Heavy Special (C-5-SPL) to Residential Single Family Medium/High Density (RS-3) by extension at 8750 South 36th Terrace

LOT LOCATION AND SIZE

The subject property is located east of Bryn Mawr Circle, south of South 36th Terrace and north of Cook Elementary School on Brooken Hill Drive. The site contains approximately 33.81 acres.

EXISTING ZONING

The property is currently zoned Commercial Heavy (C-5) and Commercial Heavy Special (C-5-SPL).

REQUESTED ZONING

The requested zoning on this tract is Residential Single Family Medium/High Density (RS-3). Characteristics of this zone are as follows:

Purpose:

To provide for medium-to-high density, compact single family detached development on new sites or as infill construction. Adequate public services and facilities shall be available with sufficient capacity to serve the proposed development. This zoning district is intended to serve as a transition between the lower density single family-duplex districts and the multi-family or commercial districts. The RS-3 zoning district is appropriate in the Residential Detached classification of the Master Land Use Plan.

Permitted Uses: Single family and family group-home.

Conditional Uses: Commercial communication towers, amateur radio transmitting towers, utility substations, and country clubs.

2A

Bulk & Area Regulations:

Minimum Lot Size – 6,500 s.f.
Maximum Density – 6.7 Dwelling Units/Acre
Front Yard Setback - 25 feet
Side Yard on Street Side of Corner Lot - 25 feet
Side Yard Setback – 7.5 feet
Rear Yard Setback - 10 feet
Minimum Lot Width at Building Line – 60 feet
Minimum Street Frontage – 20 feet
Distance between Buildings - 10 feet
Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 60%

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Commercial Heavy (C-5) and C-5 SPL and is undeveloped.

The area to the south is zoned Residential Multifamily Medium Density (RM-3) and developed as an elementary school.

The area to the west is zoned Residential Single Family Medium/High Density (RS-3) and Residential Multifamily Medium Density (RM-3) and developed as single family homes.

The area to the east is zoned Commercial Heavy (C-5) and is undeveloped.

PROPOSED REZONING

The proposed zoning will facilitate the development of a 108-lot single-family subdivision.

LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies this property as General Commercial. A companion Master Land Use Plan Amendment application requests a classification change to Residential Detached (companion item #2).

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies South 36th Terrace, Braeburn Glen, and Edinburgh Road as a Local Roads.

2B

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held July 31, 5:30 p.m., at the Guesthouse Inn meeting room, located at 3600 Grinnell Avenue. Three neighboring property owners attended the meeting. Pat Mickle facilitated the meeting and described the proposed residential development and the purpose of the subdivision variance. Mr. Mickle answered questions regarding drainage and traffic. A copy of the meeting minutes and attendance records are attached.

Staff recommends approval of the rezoning contingent upon the following:

1. Approval of the companion item Master Land Use Plan.
2. Approval of the companion item for the Subdivision Variance (Item # 3-8-12)
3. Approval of the companion item for the Variance (Item #24-8-12).
4. The rezoning is conditioned upon the preliminary plat/development plan. The density or number of lots can vary by 5% from the submitted plan.

ZC

Neighborhood Meeting Minutes
Park Meadow
July 31, 2012 5:30 PM
Guesthouse Inn Meeting Room
3600 Grinnell Avenue, Fort Smith, Arkansas

A neighborhood meeting to discuss the Park Meadow subdivision project was held Tuesday, July 31, 2012 at 5:30 p.m. at the Guesthouse Inn Meeting Room, 3600 Grinnell Avenue, Fort Smith, Arkansas. Pat Mickle & Bob Cooper were present representing the developer and land owner. Mr. Mickle conducted the meeting. There were a total of six people in attendance, three of which were area neighbors.

Mr. John Sauter, 9117 Bryn Mawr Circle noted the extension of Edinburgh Road into the subdivision. His lot is immediately south of this street extension. He noted the street light located at the corner of the existing Edinburgh and Bryn Mawr roads. He asked for confirmation that the light would remain in service. Mr. Mickle stated yes. Mr. Sauter indicated he liked the landscaping as shown on the Edinburgh entry into the subdivision.

Also present were Mr. & Mrs. Simmons who own the residence at 9009 Bryn Mawr Circle. They asked what was planned for the property. After Mr. Mickle explained they had no objections. They stated they had an issue with standing water in their backyard. Mr. Mickle indicated that part of the construction plans included a storm drain behind their property. The proposed subdivision drainage would be directed to this storm drain. The subdivision construction would have no adverse impact on their property; but could possibly provide better drainage for them.

Neither property owner provided positive or negative comments concerning the proposed termination of Braeburn Glen at the subdivision boundary. Mr. Mickle also provided an explanation of the request for variance to a 5' sideyard setback. There were no objections.

There being no other comments, the meeting adjourned at 6:10 p.m.



Patrick J. Mickle

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location Guesthouse Inn, 3600 Grinnell Avenue, Fort Smith, AR.

Meeting Time & Date Tuesday, July 31, 2012 at 5:30 p.m.

Meeting Purpose To discuss preliminary layout and proposed zoning & subdivision variances - Park Meadow

| <u>NAME</u> | <u>ADDRESS</u> | <u>PHONE #</u> |
|------------------|---|-------------------|
| 1. Ron Simmons | 20752 River View Ln. ^{spiro, OK} | 74959 918 9622907 |
| 2. John Sauter | 9117 Bryn Mawr Cir | 479-646-4471 |
| 3. Bob Cooper | 4611 Rogers Ave. Ste 200 | 478-6161 |
| 4. Ron [unclear] | Fort Smith Planning Dept | 784-2216 |
| 5. Pat Mean | 3434 Country Club, FSA | 649-2484 |
| 6. | | |
| 7. | | |
| 8. | | |
| 9. | | |
| 10. | | |
| 11. | | |

ZE

PETITION FOR CHANGE IN ZONING MAP

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

See Attached

2. Address of property: 8750 South 36th Terrace

3. The above described property is now zoned: Commercial 5 and Commercial 5 Special

4. Application is hereby made to change the zoning classification of the above described property to RS-3 by Extension.
(Extension or classification)

5. Why is the zoning change requested?

To permit development of a single-family residential subdivision.

6. Submit any proposed development plans that might help explain the reason for the request.

Signed:

Mickle Wagner Coleman, Inc.

Owner or Agent Name
(please print)

Owner .

P.O. Box 1507, Ft. Smith, AR. 72902

Owner or Agent Mailing Address

Pat Mear
Agent

479-649-8484

Owner or Agent Phone Number

ZF

June 13, 2012

PARK MEADOW
ZONING & LAND USE DESCRIPTION

PART OF THE WEST HALF (W ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 32 WEST, CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET ½" REBAR MARKING THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (NW ¼) OF SAID SE ¼ OF SECTION 10, SAID POINT ALSO MARKING THE SOUTHEAST CORNER OF KINGSWOOD SOUTH, PHASE II, AN ADDITION TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS; THENCE N03°17'57"E, ALONG THE WEST LINE OF SAID NW ¼ SE ¼ OF SECTION 10 AND SAID EAST LINE OF KINGSWOOD SOUTH, PHASE II, 331.97 FEET TO AN EXISTING REBAR (RLS #773) MARKING THE SOUTHWEST CORNER OF COMMERCIAL PARK SOUTH, PHASE II, AN ADDITION TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS; THENCE S86°42'03"E, LEAVING SAID WEST LINE OF NW ¼ SE ¼ OF SECTION 10 AND ALONG THE SOUTH LINE OF SAID COMMERCIAL PARK SOUTH, PHASE II, 700.00 FEET TO A SET ½" REBAR; THENCE S03°11'03"W, LEAVING SAID SOUTH LINE OF COMMERCIAL PARK SOUTH, PHASE II, 500.00 FEET TO A SET ½" REBAR; THENCE S32°34'53"E 540.04 FEET TO A SET ½" REBAR; THENCE S03°11'03"W 730.00 FEET TO A SET ½" REBAR ON THE SOUTH LINE OF THE SOUTHWEST QUARTER (SW ¼) OF SAID SE ¼ OF SECTION 10 AND THE NORTH LINE OF ELMER H. COOK SCHOOL SUBDIVISION, AN ADDITION TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS; THENCE N86°14'25"W, ALONG SAID NORTH LINE OF ELMER H. COOK SCHOOL SUBDIVISION, 1016.35 FEET TO A SET ½" REBAR MARKING THE SOUTHWEST CORNER OF SAID SW ¼ SE ¼ OF SECTION 10 AND THE NORTHWEST CORNER OF SAID ELMER H. COOK SCHOOL SUBDIVISION, SAID POINT ALSO BEING LOCATED ON THE EAST LINE OF SAID REPLAT FIANNA HILLS I; THENCE N03°11'03"E, ALONG SAID WEST LINE OF SW ¼ SE ¼ OF SECTION 10 AND SAID EAST LINE OF REPLAT FIANNA HILLS I, 1327.42 FEET TO THE POINT OF BEGINNING, CONTAINING 33.59 ACRES, MORE OR LESS, BEING SUBJECT TO PUBLIC ROAD RIGHTS-OF-WAY AND ANY EASEMENTS OF RECORD.

Mr. Alan Love
Fort Smith Public Schools
P. O. Box 1948
Fort Smith, AR 72902

City of Fort Smith, AR

Celena Taylor
9301 Bryn Mawr Circle
Fort Smith, AR 72908

Robert White & Wendy Wilburn
6304 Fallstone Road
Fort Smith, AR 72916

Charles Fawcett
P. O. Box 3912
Fort Smith, AR 72913

VJF Properties, LLC
P. O. Box 10248
Fort Smith, AR 72917

James & Aydee Saunders
3418 Londonderry Street
Fort Smith, AR 72908

Jennifer Lynn Kistler Living Trust
9209 Bryn Mawr Circle
Fort Smith, AR 72908

Charles & Mary Roberts
9200 Bryn Mawr Circle
Fort Smith, AR 72908

Janene & Daniel Dorman
3419 Londonderry Street
Fort Smith, AR 72908

Roberto & Bonita Mendoza
9201 Bryn Mawr Circle
Fort Smith, AR 72908

Jim & Virginia Pruett
3398 Shade Tree Drive
Batesville, AR 72501

John Francis & Cynthia Sauter
9117 Bryn Mawr Circle
Fort Smith, AR 72908

Dorothy Allen Revocable Trust
5710 Jenny Lind
Fort Smith, AR 72908

Garland & Sharon Mott
3420 Edinburg Drive
Fort Smith, AR 72908

Stephens Production Company
P. O. Box 2407
Fort Smith, AR 72902

Stacy & Jerry Lee Baldogo
225 Crescent Drive
Fort Smith, AR 72916

Kealy & Shawn Hicks
9100 Bryn Mawr Circle
Fort Smith, AR 72908

Shawn & Misty Rogers
3417 Edinburg Drive
Fort Smith, AR 72908

Blake Decker
9030 Bryn Mawr Circle
Fort Smith, AR 72908

Leanne Canak
21538 Awbrey Place
Broadlands, VA 20148

Devin Surls
9024 Bryn Mawr Circle
Fort Smith, AR 72908

John & Erin Barker
9025 Bryn Mawr Circle
Fort Smith, AR 72908

Richard & Janice Wade
9016 Bryn Mawr Circle
Fort Smith, AR 72908

Mark & Vadona Maxwell
9017 Bryn Mawr Circle
Fort Smith, AR 72908

Larry Shields
9008 Bryn Mawr Circle
Fort Smith, AR 72908

Ronald & Joan Simmons
20752 River View Lane
Spiro, OK 74959

Jackie Wik
9008 Bryn Mawr Circle
Fort Smith, AR 72908

Joseph Armer
9001 Bryn Mawr Circle
Fort Smith, AR 72908

Robert Moore
8924 Bryn Mawr Circle
Fort Smith, AR 72908

Kralicek Investments, LLC
2300 South 57th Street-Suite 4
Fort Smith, AR 72908

Thanh Tran
3112 Carrington Pointe
Fort Smith, AR 72903

George & Mary Seahorn
8917 Bryn Mawr Circle
Fort Smith, AR 72908

LNH Properties, Inc.
2704 Shadow Lake Drive
Greenwood, AR 72936

Kyle & Amy Barnhill
8909 Bryn Mawr Circle
Fort Smith, AR 72908

Martha & Heyward Jackson
10604 Kingsley Court
Fort Smith, AR 72908

Benny Lee & Tisha Scott
8901 Bryn Mawr Circle
Fort Smith, AR 72908

Alaric Leblanc
3416 Bryn Mawr Circle
Fort Smith, AR 72908

Katherine Gregory
3529 Brentwood Drive
Fort Smith, AR 72908

Natasha Hilton
3430 Braeburn Glen Street
Fort Smith, AR 72908

Delana Ross
3436 Braeburn Glen Street
Fort Smith, AR 72908

Thomas & Gola Clark
3409 Bryn Mawr Circle
Fort Smith, AR 72908

James Howell
3417 Bryn Mawr Circle
Fort Smith, AR 72908

Paul Dean Sparks
3425 Braeburn Glen Street
Fort Smith, AR 72908

Ricky & Donna White
8813 South 35th Terrace
Fort Smith, AR 72908

Donald & Zelinda Baker
8809 South 35th Terrace
Fort Smith, AR 72908

Terry & Shere Tuell
8801 Kendall Court
Fort Smith, AR 72908

Vance & Teresa Leffert
8800 South 35th Terrace
Fort Smith, AR 72908

Scotty Bates
8805 South 35th Terrace
Fort Smith, AR 72908

Eugene & Charlene Hannaman
8802 South 35th Terrace
Fort Smith, AR 72908

Tam Ngoc Ho
8801 South 35th Terrace
Fort Smith, AR 72908

Larry & Frances Wilhelm
8715 Kendall Court
Fort Smith, AR 72908

Paula Betnar
8714 South 35th Terrace
Fort Smith, AR 72908

Helen Harrison & Ala Valentine
8715 South 35th Street
Fort Smith, AR 72908

Adam Archer
3117 Londonderry Street
Fort Smith, AR 72908

Thang Tran & Lan Ngoc Nguyen
8710 S. 35th Terrace
Fort Smith, AR 72908

Alan & Brenda Valentine
8713 S. 35th Terrace
Fort Smith, AR 72908

Clifford & Cathy Harris
3400 Kendall Avenue
Fort Smith, AR 72908

Richard & Heather Combest, Jr.
8706 S. 35th Terrace
Fort Smith, AR 72908

Amanda Huffman
8709 S. 35th Terrace
Fort Smith, AR 72908

Vance Clayton
3301 Cliff Drive
Fort Smith, AR 72903

Minh Tam T. Chu, et al
8705 S. 35th Terrace
Fort Smith, AR 72908

Steven & Diana Cancel
8701 S. 35th Terrace
Fort Smith, AR 72908

Phoung T. Ngo
8613 S. 35th Street
Fort Smith, AR 72903

Larry & Rebecca Enoch
8609 S. 35th Terrace
Fort Smith, AR 72908

Chi Van Nguyen & Nisah Hamid
8608 S. 35th Street
Fort Smith, AR 72903

N&W Properties LLC
1301 Armistead Road
Fort Smith, AR 72916

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
OCTOBER 9, 2012**

On roll call, the following Commissioners were present: Vicki Newton, Rett Howard, Marshall Sharpe, Jennifer Parks, Mike Lorenz, Brandon Cox, Steve Griffin, Walton Maurras and Richard Spearman.

Chairman Griffin called for the vote on the minutes from the September 11, 2012, Planning Commission meeting. Motion was made by Commissioner Howard, seconded by Commissioner Sharpe and carried unanimously to approve the minutes as written.

Mr. Wally Bailey spoke on the procedures.

- 1. Master Land Use Plan Amendment from General Commercial to Residential Detached located at 8750 South 36th Terrace. (tabled from August 2012) (companion item to items #2, #2, #4 & #13)**
- 2. Rezoning #15-7-12; A request by Pat Mickle, agent, for a zone change from Commercial Heavy (C-5) and Commercial Heavy Special (C-5-SPL) to Residential Single Family Medium High Density (RS-3) by Extension located at 8750 South 36th Terrace. (tabled from August 2012) (companion item to items #1, #3, #4 & #13)**
- 3. Subdivision Variance #3-8-12; A request by Pat Mickle, agent, for a subdivision variance from Section 27-503-5(A) – street connectivity. (tabled from August 2012) (companion item to items #1, #2, #4 & #13)**
- 4. Preliminary Plat – Park Meadows Addition – Lots 1-108 – Mickle-Wagner-Coleman (tabled from August 2012) (companion item to items #1, #2, #3 & #13)**
- 13. Variance #24-8-12; A request by Pat Mickle, agent, for a variance from 7.5 feet to 5 feet interior side yard setback located at 8750 South 36th Terrace. (tabled from August 2012) (companion item to items #1, #2, #3 & #4)**

Mr. Wally Bailey read the staff reports indicating that the purpose of these requests is to facilitate the development of a 108 lot single family subdivision. Mr. Bailey noted that approval of the subdivision variance would allow the developer to eliminate connecting Braeburn Glen to the proposed Park Meadow Subdivision. Mr. Bailey also noted that approval of the variance request would facilitate side-entry garages on some of the houses.

Mr. Pat Mickle was present to speak on behalf of these requests.

Commissioner Maurras questioned Mr. Mickle relative to limiting the 5 foot variance only to certain lots. Mr. Mickle stated that they would rather have flexibility on all of the proposed lots.

Mr. Rob Coleman was also present to speak on behalf of these requests. Mr. Coleman stated that they are requesting a lower density and asking for a variance in order to provide larger homes in the proposed subdivision.

Mr. David Harris, 2025 South "V", questioned the Commission as to whether a particular residential zoning district such as R-4 can have wider lots with fewer houses.

Chairman Griffin stated that he felt from a marketability standpoint, it makes sense since it gives a potential buyer flexibility as to what can be put on the lot. Mr. Griffin noted that he felt this was a reasonable request.

Commissioner Maurras stated that he feels the 5 foot setback needs to be limited to those houses that have side entry garages.

Following a discussion by the Commission, Chairman Griffin called for the vote on these items.

1. **Master Land Use Plan Amendment from General Commercial to Residential Detached located at 8750 South 36th Terrace. (tabled from August 2012) (companion item to items #2, #3, #4 & #13)**

Chairman Griffin called for the vote on the Master Land Use Plan Amendment. The vote was 8 in favor, 0 opposed and 1 abstention (Griffin).

2. **Rezoning #15-7-12; A request by Pat Mickle, agent, for a zone change from Commercial Heavy (C-5) and Commercial Heavy Special (C-5-SPL) to Residential Single Family Medium High/Density (RS-3) by Extension located at 8750 South 36th Terrace. (tabled from August 2012) (companion item to items #1, #3, #4 & #13)**

Chairman Griffin called for the vote on the rezoning request. The vote was 8 in favor, 0 opposed and 1 abstention (Griffin).

3. **Subdivision Variance #3-8-12; A request by Pat Mickle, agent, for a subdivision variance from Section 27-503-5(A) – street connectivity. (tabled from August 2012) (companion item to items #1, #2, #4 & #13)**

Chairman Griffin called for the vote on the subdivision variance request. The vote was 8 in favor, 0 opposed and 1 abstention (Griffin).

4. **Preliminary Plat – Park Meadows Addition – Lots 1-108 – Mickle-Wagner-Coleman**

Commissioner Maurras questioned Mr. Bailey prior to voting whether the preliminary plat depicts the requested side yard setbacks. Mr. Bailey noted that it did not.

Chairman Griffin then called for the vote on the preliminary plat. The vote was 8 in favor, 0 opposed and 1 abstention (Griffin).

**RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT**

- 13. Variance #24-8-12; A request by Pat Mickle, agent, for a variance from 7.5 feet to 5 feet interior side yard setback located at 8750 South 36th Terrace. (tabled from August 2012) (companion item to items #1, #2, #3 & #4)**

Chairman Griffin called for the vote on the variance request. Motion was made by Commissioner Maurras, seconded by Commissioner Spearman and carried by a vote of 6 in favor, 2 opposed (Lorenz, Howard) and 1 abstention (Griffin) to amend the request to limit the 5 foot setback to those instances in which the house has a side entry garage.

Chairman Griffin then called for the vote on the variance request as amended. The vote was 8 in favor, 0 opposed and 1 abstention (Griffin).

**RECESS BOARD OF ZONING ADJUSTMENT
RECONVENE PLANNING COMMISSION**

- 5. Rezoning #25-10-12; A request by Michael Johnson, agent, for a zone change from No Zone (Institutional Area, per Chaffee Crossing) to Residential Multi-Family High Density (RM-4) by Classification located at 7803, 7807 & 7809 Wells Lake Road. (companion item to item #6)**
- 6. Development Plan Approval for a multi-family development located at 7803 and 7805 Wells Lake Road. (companion item to item #5)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to facilitate the addition of two (2) new multi-family structures and place zoning on two (2) existing multi-family structures.

Ms. Andrews stated that a neighborhood meeting was held on October 8, 2012, at 4:30 p.m. at the Fort Chaffee Redevelopment Authority's Conference Room.

Mr. Michael Johnson was present to speak on behalf of these requests.

No one was present to speak in opposition to these requests.

Chairman Griffin called for the vote on these requests separately.

ORDINANCE NO. _____

**AN ORDINANCE REZONING IDENTIFIED PROPERTY
AND AMENDING THE ZONING MAP**

WHEREAS, the City Planning Commission has heretofore held a public hearing upon request No. 27-11-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on November 13, 2012, that said change be made;

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

SECTION 1: That the following properties to-wit:

Part of the West Half (W/2) of Section 3, Township 8 North, Range 32 West, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35 of Kelleam Addition to the City of Fort Smith, Arkansas, including any and all rights of way and alleyways adjoining said lots.

Also, that part of Lot 15 of said Kelleam Addition lying South and West of a line extended along the East line of said Lots 12 Southeasterly to the railroad right of way.

Also, that portion of the Southeast Quarter of the Southwest Quarter of the Northwest Quarter (SE/4, SW/4, NW/4) of said Section 3 lying South and West of a line extended along the East line of said Lot 12 Southeasterly to the railroad right of way, less and except that portion of said property covered by an existing 100' x 100' communications tower lease site.

more commonly known as 2910-3026 North 6th Street and 2718-2722 North 27th Street, should be, and is hereby rezoned from Industrial Light (I-1) to Residential Single Family Duplex High Density (RSD-4) by Classification.

The zoning map of the City of Fort Smith is hereby amended to reflect said rezoning.

PASSED AND APPROVED THIS _____ DAY OF _____, 2012.

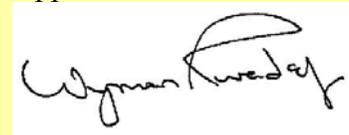
ATTEST:

APPROVED:

City Clerk

Mayor

Approved as to form:



Publish 1 Time

Fort Smith Housing Authority

2100 North 31st Street

Fort Smith, Arkansas 72904

(479) 782-4991 FAX (479) 782-0120

www.fortsmithhousing.org

November 29, 2012

Ms. Maggie Rice
Planning Department
City of Fort Smith
P. O. Box 1908
Fort Smith, AR 72902

Re: Rezoning application #27-11-12

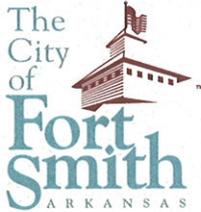
Dear Ms. Rice:

We have been unable to reach an agreement with the owners of the Diaz body shop regarding the above-referenced rezoning request. We are continuing to work with Mr. Diaz to obtain his approval of this request, and as such we respectfully request that this item be tabled until the December 18th board meeting to allow for these further discussions.

Sincerely,



Kenneth L. Pyle
Executive Director



November 27, 2012

Honorable Mayor and Board of Directors
City of Fort Smith, Arkansas

Re: Rezoning #27-11-12; A request by Kenneth Pyle & Mitch Minnick, agents for WEL, LLC – William Lee and Carco Rentals – Carl Corley, owners, for Planning Commission consideration of a zone request from Industrial Light (I-1) to Residential Single Family Duplex High Density (RSD-4) by Classification located at 2910-3026 North 6th Street and 2718-2722 North 27th Street.

On November 13, 2012, the City Planning Commission held a public hearing to consider the above rezoning request.

Ms. Maggie Rice read the staff report indicating that the purpose of this request is to allow for the development of a single family and duplex residential subdivision.

Ms. Rice noted that a neighborhood meeting was held on Monday, November 5, 2012, at Stephens Boys & Girls Club at 3101 North 6th Street with one surrounding property owner in attendance who had no objections to the proposed project. Ms. Rice stated that the owner of the property located at 3000 North 6th Street, Mr. Daniel Manjarrez, has not authorized the Housing Authority to purchase his property. Ms. Rice noted that Mr. Manjarrez's brother-in-law, Raymond Diaz, owns and operates Diaz Body Shop at this location and is opposed to the rezoning and does not want to move. The Housing Authority is currently still working with the property owner to reach an agreement to purchase the property. Ms. Rice noted that rezoning his property would make the auto body shop a nonconforming use. Further, city staff has contacted Mr. Diaz and he is aware of the rezoning and understands what happens if the zoning on his property is changed.

Mr. Ken Pyle and Mr. Mitch Minnick, representing the Fort Smith Housing Authority, were present to speak on behalf of these requests.

Commissioner Maurras questioned Mr. Pyle as to whether the Housing Authority has power of eminent domain and whether they have ever exercised that power in the past. Mr. Pyle stated that to the best of his knowledge the Housing Authority has never exercised their power of eminent domain.

No one was present to speak in opposition to this request.

623 Garrison Avenue
P.O. Box 1908
FORT SMITH, ARKANSAS 72902
(479) 784-2216
FAX (479) 784-2462

Chairman Griffin then called for the vote on the rezoning request. The vote was 8 in favor and 0 opposed.

The Planning Commission hereby certifies this zoning map amendment to the Board of Directors in accordance with A.C.A. 14-56-422.

Respectfully Submitted,

CITY PLANNING COMMISSION

Steve Griffin, Chairman

SG/lp

cc: File
City Administrator

Memo

To: City Planning Commission

From: Planning Staff

Date: October 29, 2012

Re: Rezoning #27-11-12 - A request by Kenneth Pyle & Mitch Minnick, agents for WEL, LLC – William Lee and Carco Rentals – Carl Corley, owners, for Planning Commission consideration of a zone request from Industrial Light (I-1) to Residential Single Family Duplex High Density (RSD-4) by classification at 2910-3026 North 6th Street and 2718-2722 North 27th Street. Companion to item #1B (Development plan deferral)

LOT LOCATION AND SIZE

The subject property is on the east side of North 27th Street between the railroad tracks and North 6th Street. The tract contains an area of approximately 9 acres with approximately 600 feet of street frontage along North 6th Street and approximately 320 feet of street frontage along North 27th Street.

EXISTING ZONING

The existing zoning on this tract is Industrial Light (I-1).
Characteristics of this zone are as follows:

Purpose:

To provide for a mixture of light manufacturing, office park, research and development, and limited retail/service retail land uses in an attractive, business park setting. The Industrial Light district may be used as a zoning buffer between mixed uses, commercial uses and heavier industrial uses. The I-1 zoning district is appropriate with the Office, Research, and Light Industrial (ORLI) and Industry classifications of the Master Land Use Plan.

Permitted Uses:

Auto and boat related businesses, a wide variety of retail businesses, indoor flea market, pawnshop, financial services, offices, bar or tavern, restaurant, animal and pet services, manufacturing and commercial communication towers are examples of permitted uses.

Conditional Uses:

Homeless shelter, truck stop, outdoor flea market, beer garden, restaurant with outdoor dining, pet cemetery, animal food processing, petroleum distribution facility, bus station, recycling

1A-1

center, sports complex, educational facilities and police station are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

- Minimum Lot Size – 20,000 square feet
- Maximum Height - 45 feet (1+1)
- Maximum Lot Coverage - 75%
- Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
- Existing District (By Extension) – 20,000 square feet
- Minimum Lot Width – 100 feet
- Front Yard Setback - 25 feet
- Side Yard on Street Side of Corner Lot - 15 feet
- Side Yard Setback – 10 feet
- Rear Yard Setback - 10 feet
- Side/Rear (adjoining SF Residential District/Development) – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)
- Minimum building separation – to be determined by current City building and fire code.
- Required street access – Major Arterial or higher

REQUESTED ZONING

The requested zoning on this tract is Residential Single Family – Duplex High Density (RSD-4). Characteristics of this zone are as follows:

Purpose:

To provide very dense single family detached and duplex housing as either new or infill development. The RSD-4 zoning district is appropriate in higher density residential areas near the downtown, in mixed use/density areas, and as a transitional buffer zone between lower density residential development and multifamily or commercial uses. The RSD-4 zoning district corresponds to the Residential Attached, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings and family group homes are examples of permitted uses.

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, community recreation center, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

- Minimum Lot Size – 5,000 square feet
- Maximum Height - 35 feet (1+1)
- Maximum Density – 8.7 Dwelling Units/Acre
- Maximum Lot Coverage - 65%
- Minimum Lot Width at Building Line – 50 feet

1A-2

Minimum Street Frontage – 20 feet
Front Yard Setback - 20 feet
Side Yard on Street Side of Corner Lot - 20 feet
Side Yard Setback – 5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet

SURROUNDING ZONING AND LAND USE

The areas to the north are zoned Commercial Heavy (C-5) and Industrial Light (I-1) and are developed as an auto accessory business, an auto body shop, and the Boys Club.

The areas to the east are zoned Residential Multifamily Medium Density (RM-3) and are developed as residential.

The areas to the south are zoned Industrial Light (I-1), Industrial Moderate (I-2), and Commercial Heavy (C-5) and are developed as railroad tracks, Cagle Ornamental Iron, and a truck repair business.

The areas to the west are zoned Industrial Light (I-1) and are developed as auto body shops and a vacant business.

LAND USE PLAN COMPLIANCE

The *Unified Development Ordinance* currently classifies the site as Mixed Use Employment. This classification is to provide for a dense, compatible mix of retail, residential, employment and production activities designed for all modes of transportation. Approval of the zone change will not conflict with the goals and objectives of the Unified Development Ordinance.

PROPOSED ZONING

If the rezoning is approved it would allow for the development of single family and duplex residential subdivision.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Monday, November 5th at Stephens Boys & Girls Club at 3101 North 6th Street. One surrounding property owner was in attendance. There were no objections to the proposed project. A copy of the attendance record and meeting summary are enclosed.

The proposed zoning would facilitate the development of a single family and duplex residential subdivision adjacent to North Pointe.

The owner of the property at 3000 North 6th Street, Daniel Manjarrez, has not authorized the Housing Authority to purchase his property. He owns and operates Diaz Body Shop at this location and does not want to move. The Housing Authority is still working with the property owner to reach an agreement to purchase the property. Rezoning his property would make the auto body shop a nonconforming use.

1A-3

Staff recommends approval of the request contingent upon approval of the deferral of the development plan and compliance with other departmental comments.

1A-4

NEIGHBORHOOD MEETING SUMMARY

Meeting Location _Stephens Boys & Girls Club, 3101 N. 6th St, Fort Smith, AR 72904_

Meeting Time & Date _6:30pm Monday, November 5th, 2012_

Meeting Purpose _To discuss rezoning request and preliminary lot layout for North Pointe Annex Subdivision_

The meeting began at 6:32pm. In attendance were Ken Pyle and Mitch Minnick, agents for the request; Tyler Miller, Planning Department representative; and Mr. and Mrs. James and Judith Kelley, the property owners at 2605 Kelley Highway.

Mr. Kelley posed the following questions:

- Could 27th Street be closed as a through street?
 - Mr. Miller stated street closures generally go through the city's engineering department and such a question should be asked of them.
- Does the city have any plans of making Kelley Highway, from Midland to 6th Street, four lanes?
 - Mr. Miller stated the city's engineering department would have the answer to this question as well.
- How will the development address railroad noise?
 - Mr. Pyle stated a 6-foot wooden privacy fence would separate the development from the railroad. In addition, Mr. Minnick stated that in previous developments near railroad tracks special building materials had been used to help with noise reduction.
- How will the development affect crime rate?
 - Mr. Pyle stated his opinion is a well lit, occupied development is more of a deterrent to criminal activity than the current open field and vacant building located on the property. He also pointed out that good management can play a part in keeping the crime rate low by conducting quality credit and criminal background checks.

Following the discussion of Mr. Kelley's questions, the meeting was adjourned at 6:58pm.

Prepared and Submitted by:



Mitch Minnick

1A-5

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location Stephens Boys & Girls Club, 3101 N. 6th St, Fort Smith, AR 72904

Meeting Time & Date 6:30pm Monday, November 5th, 2012

Meeting Purpose To discuss rezoning request and preliminary lot layout for North Pointe Annex Subdivision

| <u>NAME</u> | <u>ADDRESS</u> | <u>PHONE #</u> |
|-----------------------------|---|---------------------|
| 1. <u>Tyler Miller</u> | <u>City of Fort Smith</u> | <u>479-784-2241</u> |
| 2. <u>JAMES W WELLEY JR</u> | <u>10615 HWY 253 FS 72914</u> | <u>479-646-7526</u> |
| 3. <u>KEN PYLE</u> | <u>2100 N. 31ST ST FSM 72904</u> | <u>782-4991</u> |
| 4. <u>MITCH MINNICK</u> | <u>2100 N. 31ST ST FSM 72904</u> | <u>782-4991</u> |
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1A-6

PETITION FOR CHANGE IN ZONING MAP

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

- The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

| <u>Parcel ID</u> | <u>Legal Description</u> | <u>Address</u> |
|---------------------|------------------------------|--|
| 14283-0033-00000-00 | Lots 33-35, Kelleam Addition | 2722 N. 27 th St |
| 14283-0032-00000-00 | Lots 31-32, Kelleam Addition | 2718 N. 27 th St |
| 14283-0030-00000-00 | Lots 23-29, Kelleam Addition | Off N. 6 th & N. 27 th |
| 14283-0020-00000-00 | Lots 16-20, Kelleam Addition | not available from assessor |
| 14283-0012-00000-00 | Lots 7-12, Kelleam Addition | not available from assessor |
| 14283-0004-00000-00 | Lots 2 - 4, Kelleam Addition | N. 6 th St |
| 14283-0006-00000-00 | Lots 5 - 6, Kelleam Addition | 3000 N. 6 th St |
| 14283-0022-00000-00 | Lots 21-22, Kelleam Addition | not available from assessor |

- Address of property: _____
- The above described property is now zoned: **Industrial Light (I-1)**
- Application is hereby made to change the zoning classification of the above described property to **Residential Single Family-Duplex High Density (RSD-4)** by **classification.**
(Extension or classification)
- Why is the zoning change requested?

To permit development of a single-family and duplex residential subdivision.
- Submit any proposed development plans that might help explain the reason for the request.
See attached

Signed:

Fort Smith Housing Authority

Ken Pyle & Mitch Minnick

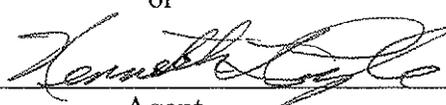
Owner or Agent Name

(please print)

Owner

2100 N. 31st St, Fort Smith, AR 72904

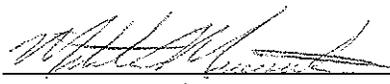
Owner or Agent Mailing Address

or


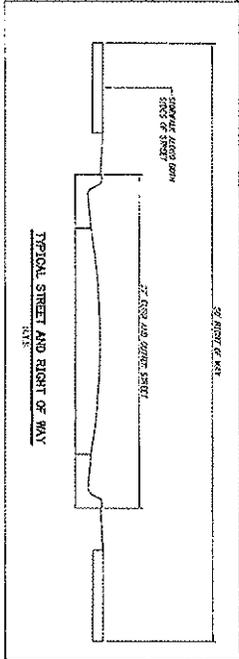
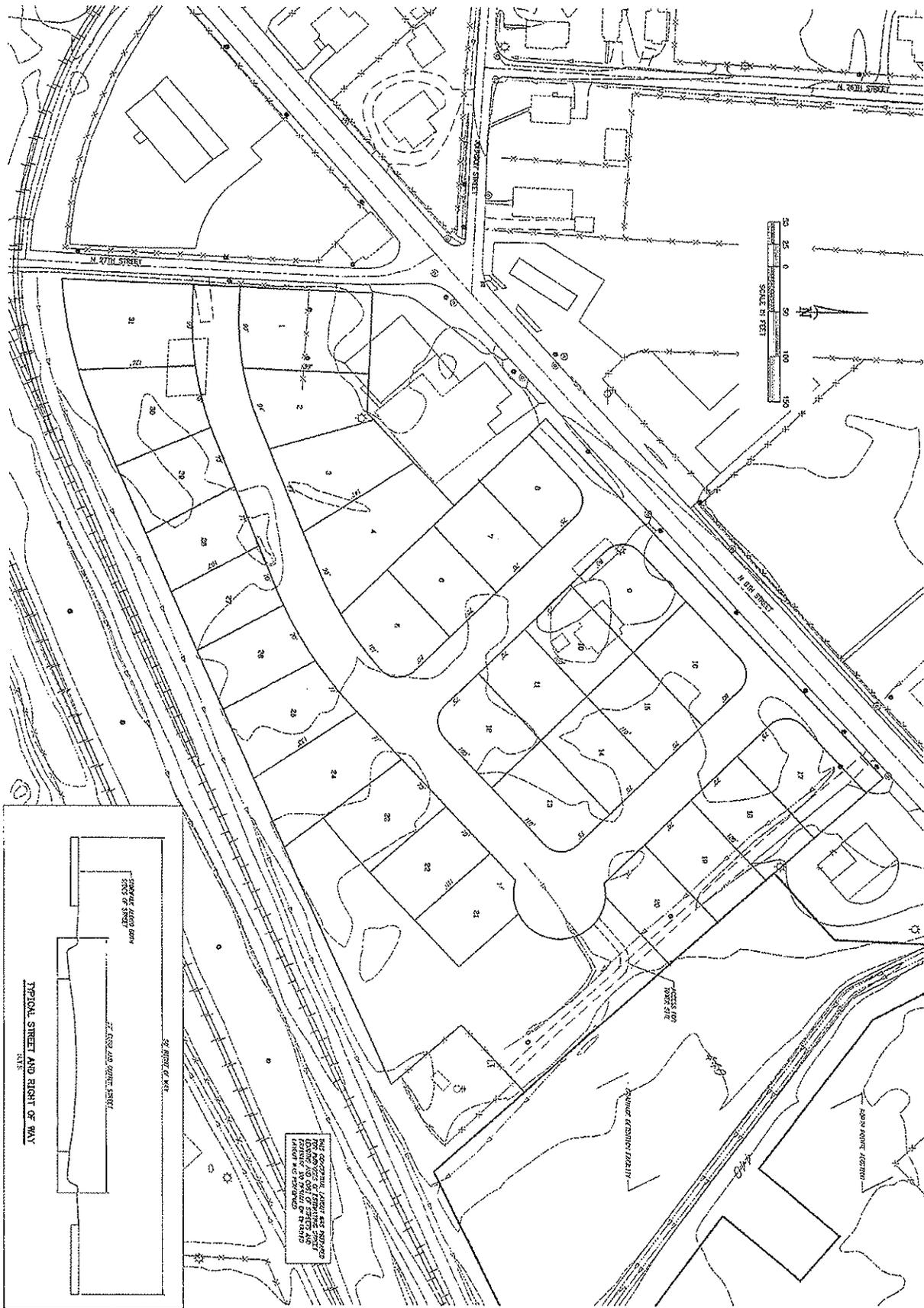
Agent

479-782-4991 ext. 28

Owner or Agent Phone Number



Agent



THIS CONCEPTUAL LAYOUT AND PROPERTY LINES ARE NOT TO BE CONSIDERED AS A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE USER OF THIS INFORMATION SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR VERIFYING THE ACCURACY OF ALL INFORMATION PROVIDED HEREON.

FORT SMITH, ARKANSAS
NORTH POINTE ANNEX
CONCEPTUAL PLAN
 DATE: 08/02/12
 DRAWN BY: JMS
 CHECKED BY: JMS
 PROJECT NO: 2012001
 SHEET NO: 1 OF 3

HW HAWKINS & WEIR ENGINEERS, INC.
 110 South 7th Street • P.O. Box 64 • Van Buren, AR 72097 • (479) 474-1227
 200 River Market Avenue • Suite 250 • Little Rock, AR 72201 • (501) 374-4940
 www.hawkins-weir.com



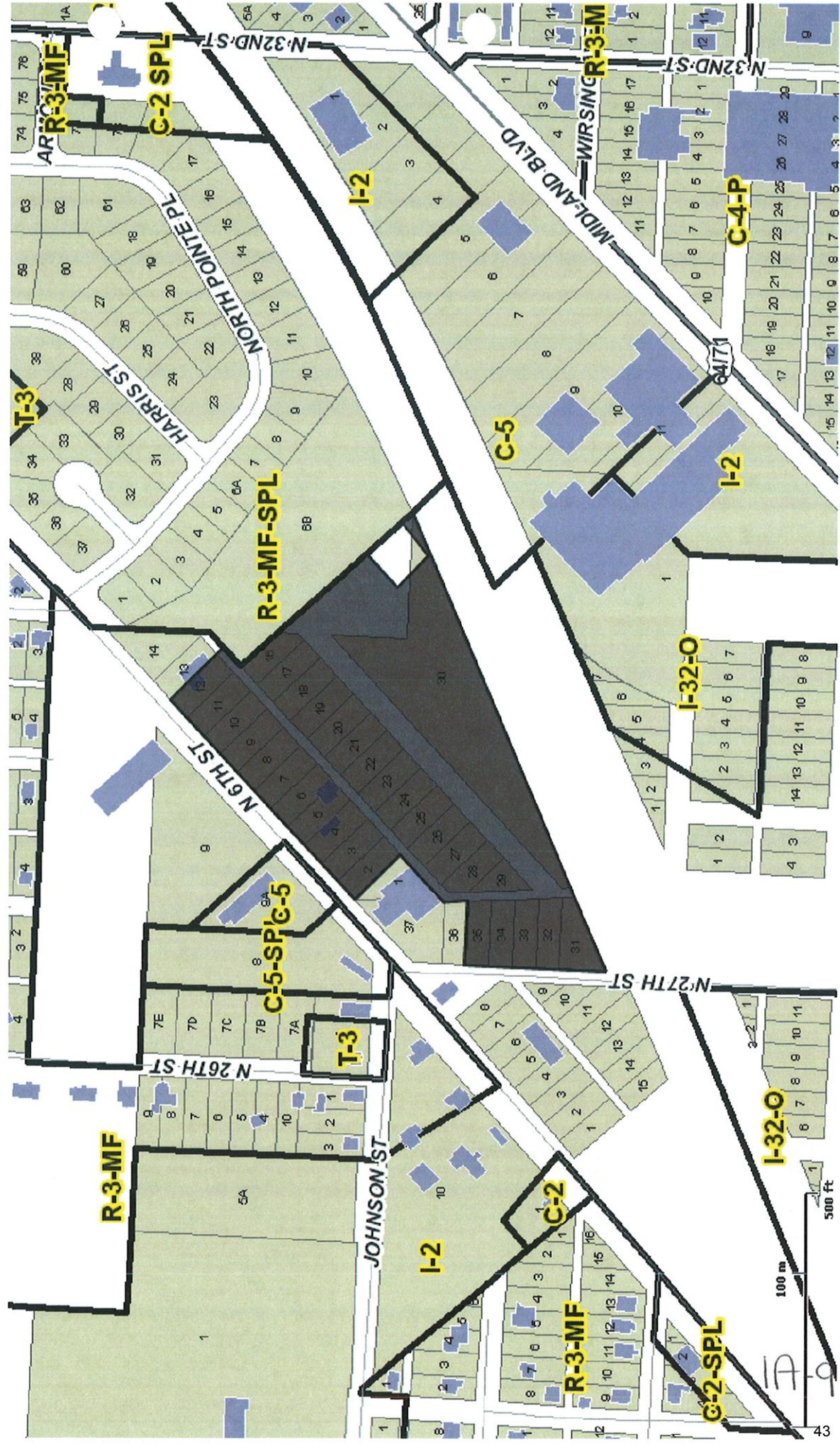
| REVISION | DATE |
|----------|------|
| | |
| | |
| | |

DATE: 08/02/12
 TIME: 1:15 PM
 SHEET NO: 1 OF 3

1A-8

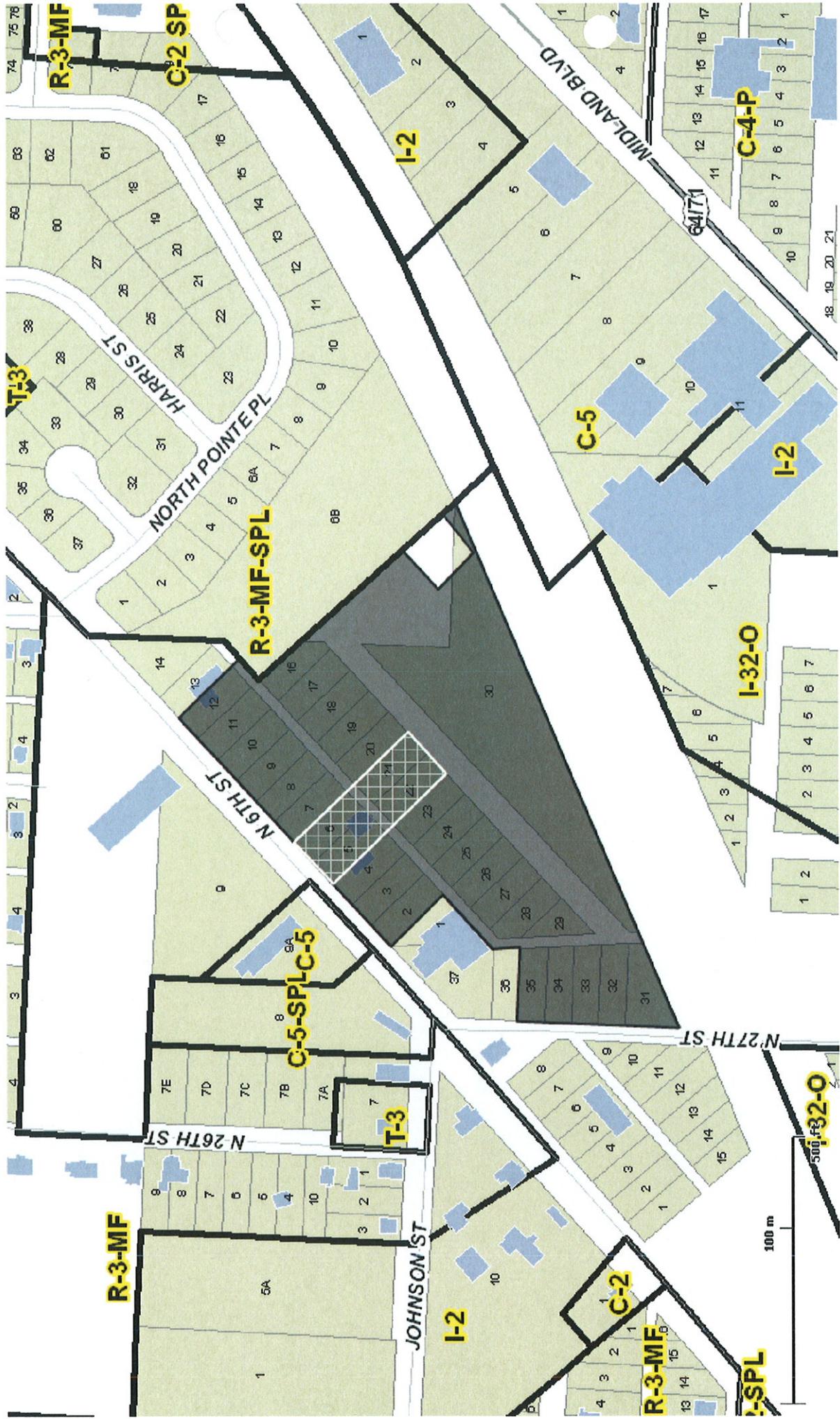
Rezoning #27-11-12: From Industrial Light (I-1) to Residential Single Family Duplex High Density (RSD-4)

2910-3026 North 6th Street and 2718-2722 North 27th Street



Location of Diaz Body Shop

3000 North 6th Street



WEL, LLC
P. O. Box 3949
Fort Smith, AR 72913

Daniel Manjarrez
1615 North 52nd Street
Fort Smith, AR 72904

Fort Smith Housing Authority
2100 North 31st Street
Fort Smith, AR 72904

Perry & Mary Lou Driggers
1504 Old Uniontown Road
Van Buren, AR 72956

Hung Ngoc Tran & Cuc Nguyen
2919 North 6th Street
Fort Smith, AR 72904

Fort Smith Railroad Company
1318 S. Johanson Road
Peoria, IL 61607

North Pointe Limited Partnership
2100 North 31st Street
Fort Smith, AR 72904

James & Judith Kelley
10615 Hwy. 253
Fort Smith, AR 72901

Fort Smith Boys Club
3101 North 6th Street
Fort Smith, AR 72901

Giau & Rosie Mai
2800 North 6th Street
Fort Smith, AR 72904

Carco Rentals, Inc.
2905 North 32nd Street
Fort Smith, AR 72904

Glass Properties, Inc.
P. O. Box 4150
Fort Smith, AR 72914

Fort Smith Boys Club
4905 North "O" Street
Fort Smith, AR 72904

Hands of Love, Inc.
302 Chesnut
Warren, AR 71671

Robert & Barbara Neihouse
2811 North 6th Street
Fort Smith, AR 72904

Mai Thi Ngoc Nguyen
811 Skyline Drive
Van Buren, AR 72956

Women's Crisis Services
P. O. Box 774
Poteau, OK 74953

Fabio Garcia
309 North 20th Street
Fort Smith, AR 72901

Henry Kuykendall
3523 North 6th Street
Fort Smith, AR 72904

Littlefield Investment Company
P. O. Box 180129
Fort Smith, AR 72918

Mustafa & Jalili Yassin
2908 North 6th Street
Fort Smith, AR 72904

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
NOVEMBER 13, 2012**

On roll call, the following Commissioners were present: Vicki Newton, Rett Howard, Marshall Sharpe, Jennifer Parks, Brandon Cox, Steve Griffin, Walton Maurras and Richard Spearman. Commissioner Mike Lorenz was absent.

Chairman Griffin called for the vote on the minutes from the October 9, 2012, Planning Commission meeting. Commissioner Sharpe noted the following corrections to the minutes:

- Page 1- item #1 noted companion item #2 twice.
- Page 7- item #11, paragraph 1, last line the word alley was misspelled

Motion was then made by Commissioner Howard, seconded by Commissioner Parks and carried unanimously to approve the minutes as corrected.

Mr. Wally Bailey spoke on the procedures.

1.A.Rezoning #27-11-12; A request by Kenneth Pyle & Mitch Minnick, agents for WEL, LLC – William Lee & Carco Rentals – Carl Corley, for a zone change from Industrial Light (I-1) to Residential Single Family Duplex High Density (RSD-4) by Classification located at 2910-3026 North 6th Street and 2718-2722 North 27th Street. (companion item to item #1B)

B. A request to defer the requirement for a development plan at 2910-3026 North 6th Street and 2718-2722 North 27th Street. (companion item to item #1A)

Ms. Maggie Rice read the staff reports indicating that the purpose of these requests is to allow for the development of single family and duplex residential subdivision. Ms. Rice stated that the applicant is also requesting the deferment of a development plan at this time due to the fact that the developer does not have a defined plan for this area.

Ms. Rice noted that a neighborhood meeting was held on Monday, November 5th at Stephens Boys & Girls Club at 3101 North 6th Street with one surrounding property owner in attendance who had no objections to the proposed project. Ms. Rice stated that the owner of the property at 3000 North 6th Street, Mr. Daniel Manjarrez, has not authorized the Housing Authority to purchase his property. Ms. Rice noted that Mr. Manjarrez owns and operates Diaz Body Shop at this location and does not want to move. The Housing Authority is currently still working with the property owner to reach an agreement to purchase the property. Ms. Rice noted that rezoning his property would make the auto body shop a nonconforming use.

Mr. Ken Pyle and Mr. Mitch Minnick, representing the Fort Smith Housing Authority, were present to speak on behalf of these requests.

Commissioner Maurras questioned Mr. Pyle as to whether the Housing Authority has power of eminent domain and whether they have ever exercised that power in the past. Mr. Pyle stated that to the best of his knowledge the Housing Authority has never exercised their power of eminent domain.

No one was present to speak in opposition to these requests.

Chairman Griffin then called for a vote on these requests.

- 1A. Rezoning #27-11-12; A request by Kenneth Pyle & Mitch Minnick, agents for WEL, LLC – William Lee & Carco Rentals – Carl Corley, for a zone change from Industrial Light (I-1) to Residential Single Family Duplex High Density (RSD-4) by Classification located at 2910-3026 North 6th Street and 2718-2722 North 27th Street. (companion item to item #1B)**

Motion was made by Commissioner Maurras, seconded by Commissioner Parks and carried unanimously to amend this request to make approval subject to approval of the deferral of the development plan and compliance with other departmental comments. Chairman Griffin then called for the vote on this request as amended. The vote was 8 in favor and 0 opposed.

- 1B. A request to defer the requirement for a development plan at 2910-3026 North 6th Street and 2718-2722 North 27th Street. (companion item to item #1A)**

Chairman Griffin called for the vote on this request. The vote was 8 in favor and 0 opposed.

- 2. A request by Van Hale, agent for Joe Howard & Bill Dillard, for a Master Land Use Plan Amendment from Residential Detached to General Commercial located at 1101 & 1105 South Vicksburg Street. (companion item to items #3A, #3B & #11)**

- 3.A. Rezoning #28-11-12; A request by Van Hale, agent for Joe Howard & Bill Dillard, for a zone change from Residential Multifamily Medium Density (RM-3) to Commercial Heavy (C-5) by Extension located at 1100 Utica Street & 1101 South Vicksburg Street. (companion item to items #2, #3B & #11)**

- B. A request to defer the requirement for a development plan at 1100 Utica Street & 1101 South Vicksburg Street. (companion item to items #2, #3A & #11)**

- 11. Variance #39-11-12; A request by Van Hale, agent for Joe Howard & Bill Dillard, for a variance from required street access from minor arterial to local road located at 1101 Utica Street and 1101 South Vicksburg Street. (companion item to items #2, #3A & 33B)**

4.

ORDINANCE NO.
AN ORDINANCE AMENDING THE 2012 BUDGET

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

SECTION 1: The revised 2012 revenue estimates as listed for the General Fund and the Street Maintenance Fund on Exhibit 1, and Exhibit 2 are hereby approved.

SECTION 2: There is hereby authorized the following appropriations from the unreserved balance of the General Fund to account for the one-quarter percent (1/4%) sales tax allocation for the Fire and Parks departments as well as the SAFER Grant for the Fire Department:

| | |
|---|------------------|
| Fire Department Program 4803: | |
| Personnel | \$123,413 |
| Operating | 75,500 |
| Capital Outlay | <u>339,162</u> |
| Sub Total | <u>538,075</u> |
| Parks and Recreation Department Program 6208: | |
| Capital Outlay | <u>414,662</u> |
| Total | <u>\$952,737</u> |

SECTION 3: There is hereby authorized the following appropriations from the unrestricted balance of the Sanitation Operating Fund to provide for the expenses related to the automated waste disposal question and for additional equipment repair:

| | |
|----------------------|-------------------|
| Sanitation Programs: | |
| 6301-Personnel | \$ 24,680 |
| 6302-Personnel | 70,100 |
| 6302-Operating | 26,900 |
| 6305-Operating | <u>269,010</u> |
| Total | <u>\$ 390,690</u> |

SECTION 4: There is hereby appropriated the following amounts from the unreserved balance of the General Fund to provide additional funding for costs during 2012:

| | | |
|--|----|---------------|
| 4204-City Attorney | \$ | 12,000 |
| 4401-Information & Technology Systems | | <u>9,000</u> |
| Total | \$ | <u>21,000</u> |

THIS ORDINANCE ADOPTED THIS 4th DAY OF DECEMBER, 2012.

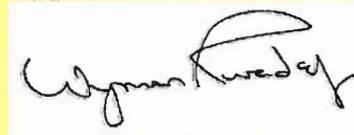
APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



No Publication Required

**General Fund
Revenue Comparisons
2012**

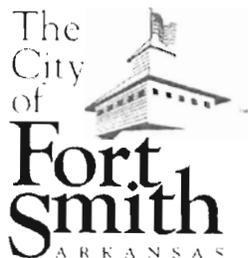
Exhibit 1

| | Budget FY 12 | Estimated FY 12 |
|------------------------------------|-------------------------|----------------------------|
| Intergovernmental | | |
| State Turnback - General | \$ 1,379,344 | \$ 1,392,275 |
| Transit Reimbursement | 1,578,614 | 1,837,340 |
| Airport Security Reimbursement | 150,000 | 150,000 |
| SAFER Grant | - | 123,413 |
| COPS Grant | 117,328 | 117,328 |
| Taxes and Assessments | | |
| Franchise | 6,191,500 | 6,059,139 |
| Ad Valorem | 7,133,880 | 6,951,600 |
| County Sales Tax | 15,257,500 | 15,471,768 |
| 1/4% City Sales Tax - Fire & Parks | - | 829,324 |
| Gasoline Tax Refund - Transit | 5,000 | 25,000 |
| Court Fines and Forfeitures | 2,050,000 | 2,104,786 |
| Licenses and Permits | | |
| Privilege | 20,000 | 20,000 |
| Construction | 680,000 | 650,079 |
| Alcohol | 540,000 | 545,559 |
| Other | 130,000 | 183,784 |
| Service Charges and Fees | | |
| Community Centers | 36,000 | 37,863 |
| Fire Protection Contracts | 72,500 | 72,462 |
| Port Authority | 12,000 | 12,000 |
| Parks and Aquatics | 210,000 | 210,000 |
| Oak Cemetery | 55,000 | 55,000 |
| Animal Control | 2,500 | 850 |
| False Alarm Fees | 15,000 | 17,150 |
| Mobile Data Support Fees | 62,000 | 62,000 |
| Transit System | 195,000 | 195,000 |
| Miscellaneous | | |
| Reimbursement from Airport | 3,163 | 3,163 |
| Interest Earned | 5,000 | 5,000 |
| Sebastian County Participation | 581,791 | 535,248 |
| Reimbursement from 911 Fund | 255,000 | 255,000 |
| Reimbursement from FSPS for SROs | 38,000 | 42,783 |
| Other | 150,000 | 150,000 |
| Transfers | | |
| Sales Tax Fund | 2,505,100 | 2,505,100 |
| A & P Fund | 22,150 | 22,150 |
| Street Maintenance Fund | 86,260 | 86,260 |
| Water & Sewer Operating Fund | 86,260 | 86,260 |
| Sanitation Operating Fund | 86,260 | 86,260 |
| Total | \$ 39,712,150 | \$ 40,900,944 |

Street Maintenance Fund
 Revenue Comparisons
 2012

Exhibit 2

| | <u>Budget</u> <u>FY 12</u> | <u>Estimated</u> <u>FY 12</u> |
|-------------------------------|-------------------------------|----------------------------------|
| Intergovernmental | | |
| State Turnback - Gasoline Tax | \$ 4,094,928 | \$ 3,866,474 |
| Taxes and Assessments | | |
| Ad Valorem | 2,140,164 | 2,029,500 |
| Miscellaneous | | |
| Interest Earned | 5,000 | 1,800 |
| Other | 5,000 | 5,000 |
| Transfers | | |
| Sidewalk Construction Fund | <u>-</u> | <u>366,751</u> |
| Total | <u>\$ 6,245,092</u> | <u>\$ 6,269,525</u> |



MEMORANDUM

November 27, 2012

TO: Ray Gosack, City Administrator

FROM : Kara Bushkuhl, Director of Finance *Kara*

SUBJECT: Amendment for 2012 Budget

As required by accounting standards, the revenues estimated for 2012 for the General Fund and the Street Maintenance Fund must be approved by the Board of Directors as an amendment to the 2012 Budget. Exhibits 1 and 2 are attached to the proposed ordinance for this purpose. The estimated 2012 amounts for the funds were provided in the proposed 2013 budget document with one minor exception. The reimbursement from the Fort Smith Public School System was updated from \$38,000 to \$42,783 to agree with the actual amount for 2012.

Since the ¼% city sales tax for the Fire and Parks departments went into effect October 1, 2012, the appropriations for uses of those revenues must be appropriated. Likewise, the SAFER grant for the Fire Department was effective October 1, 2012 and these monies must be appropriated. A total of \$952,737 is included in Section 2 of the proposed ordinance.

During 2012, the Sanitation Operating Fund experienced some unexpected expenses related to the automated waste disposal question and significant repairs to large equipment such as the landfill grinder. In order to cover these costs, a supplemental appropriation totaling \$390,690 is necessary.

Additional appropriations are necessary for the City Attorney and Information and Technology Systems (ITS) programs. The City Attorney program requires \$12,000 to cover costs through the end of 2012. The ITS program needs \$9,000 to cover personnel costs for the year. Section 4 of the proposed ordinance provides for these appropriations.

If you have any questions or require more information, please let me know.

5.

ORDINANCE NO. _____

AN ORDINANCE TO ADOPT THE FISCAL YEAR 2013
OPERATING BUDGET AND TO PROVIDE OTHER
MATTERS RELATING THERETO

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

Section 1: The City of Fort Smith fiscal year 2013 Operating Budget is approved
and authorized as on file in the City Clerk's office.

Section 2: The City Administrator is hereby authorized to transfer
appropriated monies among and within authorized programs.

Section 3: The 2012 year end encumbrances are hereby appropriated in the 2013
Budget.

Section 4: All ordinances and resolutions in conflict with the budget hereby
are amended to conform with the budget hereby approved.

PASSED AND APPROVED THIS 4th DAY OF DECEMBER 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



Publish 1 Time

City of Fort Smith
FY13
Budget Comparison Summary-General Fund

| | Estimated FY12 | Budget FY13 | Increase (Decrease) | Projected FY14 |
|--|----------------------|----------------------|------------------------|-----------------------|
| Revenues | | | | |
| Intergovernmental | \$ 3,620,356 | \$ 4,667,624 | \$ 1,047,268 | \$ 3,495,904 |
| Taxes and Assessments | 29,336,831 | 33,943,137 | 4,606,306 | 34,533,141 |
| Court Fines and Forfeitures | 2,104,786 | 2,110,000 | 5,214 | 2,110,000 |
| Licenses and Permits | 1,399,422 | 1,315,000 | (84,422) | 1,315,000 |
| Service Charges and Fees | 662,325 | 681,250 | 18,925 | 681,250 |
| Miscellaneous | 991,194 | 992,163 | 969 | 998,163 |
| Transfers | 2,786,030 | 2,855,350 | 69,320 | 2,926,180 |
| Total | \$ 40,900,944 | \$ 46,564,524 | \$ 5,663,580 | \$ 46,059,638 |
| Expenditures | | | | |
| Policy and Administration Services | \$ 2,636,051 | \$ 2,878,998 | \$ 242,947 | \$ 2,982,488 |
| Management Services | 2,579,000 | 2,630,293 | 51,293 | 2,759,866 |
| Development Services | 2,509,518 | 2,880,381 | 370,863 | 2,868,049 |
| Police Services | 15,065,295 | 16,893,690 | 1,828,395 | 17,729,550 |
| Fire Services | 10,093,311 | 13,886,200 | 3,792,889 | 14,259,570 |
| Operation Services | 5,077,439 | 8,029,018 | 2,951,579 | 7,960,330 |
| Non-Departmental | 2,922,078 | 2,709,289 | (212,789) | 2,570,000 |
| Total | \$ 40,882,692 | \$ 49,907,869 | \$ 9,025,177 | \$ 51,129,853 |
| Excess (Deficiency) | | | | |
| Revenues Over Expenditures | \$ 18,252 | \$ (3,343,345) | \$ (3,361,597) | \$ (5,070,215) |
| Fund Balance, Beginning of Year | 6,879,199 | 6,897,451 | 18,252 | 3,554,106 |
| Fund Balance, End of Year | \$ 6,897,451 | \$ 3,554,106 | \$ (3,343,345) | \$ (1,516,109) |

**City of Fort Smith
FY13
Budget Comparison Summary-Street Maintenance Fund**

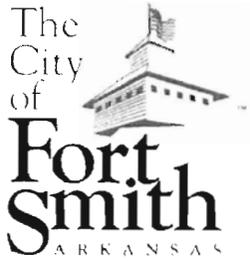
| | Estimated FY12 | Budget FY13 | Increase (Decrease) | Projected FY14 |
|------------------------------------|---------------------|---------------------|------------------------|---------------------|
| Revenues | | | | |
| Intergovernmental | \$ 3,866,474 | \$ 4,506,474 | \$ 640,000 | \$ 5,402,036 |
| Taxes and Assessments | 2,029,500 | 2,070,090 | 40,590 | 2,111,400 |
| Licenses and Permits | 0 | 160,000 | 160,000 | 150,000 |
| Miscellaneous | 6,800 | 7,000 | 200 | 7,000 |
| Transfers | 366,751 | 0 | (366,751) | 0 |
| Total | \$ 6,269,525 | \$ 6,743,564 | \$ 474,039 | \$ 7,670,436 |
| Expenditures | | | | |
| Policy and Administration | | | | |
| Services | \$ 142,103 | \$ 159,257 | \$ 17,154 | \$ 163,475 |
| Management Services | 398,705 | 404,813 | 6,108 | 422,516 |
| Development Services | 70,912 | 78,197 | 7,285 | 78,751 |
| Operation Services | 5,487,587 | 6,754,860 | 1,267,273 | 7,061,810 |
| Non-Departmental | 337,702 | 378,973 | 41,271 | 432,500 |
| Total | \$ 6,437,009 | \$ 7,776,100 | \$ 1,339,091 | \$ 8,159,052 |
| Excess (Deficiency) | | | | |
| Revenues Over Expenditures | \$ (167,484) | \$ (1,032,536) | \$ (865,052) | \$ (488,616) |
| Fund Balance, Beginning of Year | 2,073,433 | 1,905,949 | (167,484) | 873,413 |
| Fund Balance, End of Year | <u>\$ 1,905,949</u> | <u>\$ 873,413</u> | <u>\$ (1,032,536)</u> | <u>\$ 384,797</u> |

City of Fort Smith
FY13
Budget Comparison Summary-Water and Sewer Operating Fund

| | Estimated FY12 | Budget FY13 | Increase (Decrease) | Projected FY14 |
|--|----------------------|----------------------|------------------------|----------------------|
| Revenues | | | | |
| Services Charges and Fees | \$ 38,949,445 | \$ 37,737,268 | \$ (1,212,177) | \$ 38,249,300 |
| Miscellaneous | 72,500 | 72,500 | 0 | 72,500 |
| Total | \$ 39,021,945 | \$ 37,809,768 | \$ (1,212,177) | \$ 38,321,800 |
| Expenses | | | | |
| Policy and Administration | | | | |
| Services | \$ 376,109 | \$ 443,024 | \$ 66,915 | \$ 454,020 |
| Management Services | 2,665,272 | 2,652,995 | (12,277) | 2,748,126 |
| Development Services | 237,640 | 278,542 | 40,902 | 264,920 |
| Operation Services | 32,814,147 | 35,607,230 | 2,793,083 | 35,600,680 |
| Non-Departmental | 377,884 | 383,400 | 5,516 | 387,500 |
| Total | \$ 36,471,052 | \$ 39,365,191 | \$ 2,894,139 | \$ 39,455,246 |
| Excess (Deficiency) | | | | |
| Revenues Over Expenditures | \$ 2,550,893 | \$ (1,555,423) | \$ (4,106,316) | \$ (1,071,118) |
| Working Capital, Beginning of Year | 8,050,446 | 8,851,339 | 800,893 | 4,850,917 |
| Working Capital, End of Year | \$ 10,601,339 | \$ 7,295,916 | \$ (3,305,423) | \$ 3,779,799 |
| Adjustment for CIP Transfers | (1,750,000) | (2,445,000) | (1,585,000) | (1,500,000) |
| Adjusted Working Capital, End of Year | <u>\$ 8,851,339</u> | <u>\$ 4,850,916</u> | <u>\$ (4,890,423)</u> | <u>\$ 2,279,799</u> |

City of Fort Smith
FY13
Budget Comparison Summary-Sanitation Operating Fund

| | Estimated FY12 | Budget FY13 | Increase (Decrease) | Projected FY14 |
|--|----------------------|----------------------|------------------------|----------------------|
| Revenues | | | | |
| Service Charges and Fees | \$ 12,313,828 | \$ 13,529,200 | \$ 1,215,372 | \$ 11,977,400 |
| Miscellaneous | 31,500 | 52,000 | 20,500 | 52,000 |
| Total | \$ 12,345,328 | \$ 13,581,200 | \$ 1,235,872 | \$ 12,029,400 |
| Expenses | | | | |
| Policy and Administration | | | | |
| Services | \$ 182,759 | \$ 207,151 | \$ 24,392 | \$ 212,557 |
| Management Services | 769,155 | 771,289 | 2,134 | 803,102 |
| Operation Services | 10,270,490 | 10,491,070 | 220,580 | 9,948,060 |
| Non-Departmental | 1,411,270 | 1,585,941 | 174,671 | 1,432,500 |
| Total | \$ 12,633,674 | \$ 13,055,451 | \$ 421,777 | \$ 12,396,219 |
| Excess (Deficiency) | | | | |
| Revenues Over Expenditures | \$ (288,346) | \$ 525,749 | \$ 814,095 | \$ (366,819) |
| Working Capital, Beginning of Year | 2,693,613 | 1,705,267 | (988,346) | 931,015 |
| Working Capital, End of Year | \$ 2,405,267 | \$ 2,231,016 | \$ (174,251) | \$ 564,196 |
| Adjustment for CIP Transfers | (700,000) | (1,300,000) | (200,000) | (700,000) |
| Adjusted Working Capital, End of Year | \$ 1,705,267 | \$ 931,016 | \$ (374,251) | \$ (135,804) |



MEMORANDUM

November 27, 2012

TO: Ray Gosack, City Administrator

FROM : Kara Bushkuhl, Director of Finance *Kara*

SUBJECT: 2013 Budget Hearing and Approval

Prior to the adoption of the 2013 Budget, the Board will conduct a hearing to obtain public input.

Following the budget review sessions with the Board, the following adjustments to the proposed 2013 Budget are suggested:

1. The estimated revenue from the federal government in 2013 in the General Fund for reimbursement of the sworn police personnel working airport security has been decreased from \$150,000 to \$109,500 per the notice received during November 2012.
2. The estimated revenue from the Fort Smith School System for 2013 in the General Fund has been increased from \$38,000 to \$44,000 based upon the 2012 reimbursement for the 2 school resource officers.

Please note that the amendments proposed for the Street Maintenance Fund 2013 budget revenues and appropriations that were distributed during the November 13, 2012 budget review session are included for the proposed 2013 budget ordinance. These amendments included the addition of \$640,000 in highway sales tax turnback and increased appropriations for the sidewalk construction program of \$578,700 that includes an additional 5FTE positions.

The attached summary schedule includes the two revisions to the General Fund revenues. This summary also indicates the anticipated balances for each of the four operating funds as of December 31, 2013.

If you have any questions or require more information, please do not hesitate to contact me.

Pc: Jeff Dingman

City of Fort Smith, Arkansas
 Summary Schedule
 Budget Amendments for the 2013 Budget

| | Total | General Fund | Street Maintenance Fund | W/S Operating Fund | Sanitation Operating Fund |
|--|----------------------|---------------------|-------------------------|---------------------|---------------------------|
| Operating Funds: | | | | | |
| Beginning Balance, 1/1/2013 | | | | | |
| Proposed Budget Presented 11/6/2012 | \$ 19,355,223 | \$ 6,892,668 | \$ 1,905,949 | \$ 8,851,339 | \$ 1,705,267 |
| Adjustment for SRO Reimbursement from FSPS | 4,783 | 4,783 | - | - | - |
| Proposed Budget Presented 12/4/2012 | <u>19,360,006</u> | <u>6,897,451</u> | <u>1,905,949</u> | <u>8,851,339</u> | <u>1,705,267</u> |
| 2013 Revenues | | | | | |
| Proposed Budget Presented 11/6/2012 | 104,093,556 | 46,599,024 | 6,103,564 | 37,809,768 | 13,581,200 |
| Street Maintenance Fund - Highway Sales Tax Turnback | 640,000 | - | 640,000 | - | - |
| Airport Grant Reimbursement for Airport Security | (40,500) | (40,500) | - | - | - |
| Reimbursement from FSPS for SRO Positions | 6,000 | 6,000 | - | - | - |
| Proposed Budget Presented 12/4/2012 | <u>104,699,056</u> | <u>46,564,524</u> | <u>6,743,564</u> | <u>37,809,768</u> | <u>13,581,200</u> |
| 2013 Expenditures/Expenses | | | | | |
| Proposed Budget Presented 11/6/2012 | 109,525,911 | 49,907,869 | 7,197,400 | 39,365,191 | 13,055,451 |
| Street Maintenance Fund - Addition for Sidewalk Construction Program, including 5 additional FTE positions | (578,700) | - | (578,700) | - | - |
| Proposed Budget Presented 12/4/2012 | <u>108,947,211</u> | <u>49,907,869</u> | <u>6,618,700</u> | <u>39,365,191</u> | <u>13,055,451</u> |
| Ending Balance, 12/31/2013 | | | | | |
| Proposed Budget Presented 11/6/2012 | 13,922,868 | 3,583,823 | 812,113 | 7,295,916 | 2,231,016 |
| Adjustments | 31,583 | (29,717) | 61,300 | - | - |
| Proposed Budget Presented 12/4/2012 | <u>\$ 13,954,451</u> | <u>\$ 3,554,106</u> | <u>\$ 873,413</u> | <u>\$ 7,295,916</u> | <u>\$ 2,231,016</u> |
| | 15.1% | 7.5% | 11.7% | 28.4% | 19.4% |

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING SALARIES AND BENEFITS AND RELATED
PROCEDURES FOR CITY EMPLOYEES

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

SECTION 1: Pay Rates and Salaries

All employees shall be paid based on the salary grade ranges as shown in Appendix A.

- A. On December 24, 2012, all city employees within their salary grade will receive a 1.9% pay increase. As to any employee not meeting performance expectations on December 24, 2012 the Department Head and City Administrator may withhold this pay increase.
- B. For non uniformed employees below the midpoint of the salary grade, a pay for performance evaluation will take place shortly before their position anniversary date:
1. If the employee is meeting job requirements, a step increase will be granted on the position anniversary date.
 2. An additional step increase may be granted if the employee at times exceeds job requirements (an average of 2.0 or better on the attached performance scale). Should the step increases place the salary at or above the midpoint, any pay increase over the midpoint shall be based on the formula found in Section C (2.) of this Ordinance.
 3. Two additional step increases may be granted if the employee consistently exceeds job requirements (an average of 3.0 on the attached performance scale). Should the step increases place the salary at or above the midpoint, any pay increase over the midpoint shall be based on the formula found in Section C (1.) of this Ordinance.
 4. No step increase will be granted to an employee evaluated as Progressing to Minimum Requirements. (An average score of less than 1.0 or one or more evaluation category rating of E)
 5. The 2013 pay increase will be rescinded if the employee is found to need improvement and a decision about the employee's future with the City will be made no later than the time of the evaluation. (An average score of less than 1.0 and one or more evaluation category rating of E)

- C. For non uniformed employees at or above the midpoint of the salary grade, a pay for performance evaluation will take place shortly before their position anniversary date.
1. Based on the employee's average score, a pay increase of 3% will be granted if the employee consistently exceeds job requirements. The actual percentage will be determined by the attached scale in Appendix B and will be adjusted to either one third or two thirds of the total percentage in Appendix B if the employee's first or second step of the increase otherwise placed them above the midpoint.
 2. Based on the employee's average score, a pay increase between 1-3% will be granted if the employee at times exceeds job requirements. The actual percentage will be determined by the attached scale in Appendix B and will be adjusted to one half of the total percentage in Appendix B if the employee's first step of the increase otherwise placed them above the midpoint.
 3. No additional pay increases will be granted if the employee is evaluated as Meeting Job Requirements.
 4. The 2013 pay increase may be rescinded if the employee is working toward expectations. (An average score of less than 1.0 or one or more evaluation category rating of E)
 5. The 2013 pay increase will be rescinded if the employee is found to need improvement and a decision about the employee's future with the City will be made no later than the time of the evaluation. (An average score of less than 1.0 and one or more evaluation category rating of E)

While the preceding steps in SECTION 1. B. & C. are listed to illustrate the effect of the pay decisions based on their performance evaluation, Supervisors and Department Heads are encouraged to engage in periodic evaluation discussions with employees. These discussions can be a method to let employees know if they are meeting or exceeding expectations during the year. Supervisors and Department Heads should also deal with deficient performance issues immediately and not wait until the scheduled evaluation to inform the employee of these problems.

- D. For non uniformed employees at or above the maximum salary for the grade, no salary increase will be granted if the employee is meeting expectations. A onetime payment that will not become part of the employee's permanent salary may be approved by the City Administrator if the employee consistently exceeds or at times exceeds job requirements. The amount of the onetime payment will follow the same percentages found in Section C (1.) & C (2.) of this Ordinance.
- E. For Police uniformed employees, a step increase will be granted if the employee is evaluated as satisfactory regardless of their location on the pay grade until the employee has reached the last step.
- No pay increases will be granted, including cost of living, to any employee if they are found to be unsatisfactory on their annual performance evaluation.
- F. For Fire Department uniformed employees, a step increase will be granted if the employee

is evaluated as satisfactory regardless of their location on the pay grade until the employee has reached the last step.

No pay increases will be granted, including cost of living, to any employee if they are found to be unsatisfactory in any one evaluation category.

- G. Employees designated by their department director as a language interpreter are eligible for language incentive pay of \$83.34 per month subject to certain conditions and procedures as follows:

Each employee will be required to pass a certification test verifying their ability to speak, listen or sign at the designated competency level required by their department.

The City will pay for the first two certification tests for the designated employee. If the employee fails to pass the certification test on the first two attempts then it will be the employee's responsibility to pay for any subsequent attempts to achieve certification.

- H. Employees designated as an IT user liaison are eligible for incentive pay of \$100.00 per month subject to certain conditions and procedures as follows:

Each employee will be required to attend IT user liaison training and pass a certification test verifying their competency. IT user liaisons will spend 5-10 % of their work week supporting IT users and the IT function of the city.

- I. All non uniformed employees shall receive longevity pay as follows:

1. After the first five (5) years of continuous and uninterrupted service, the sum of \$10.00 shall be added to monthly compensation.
2. After each five (5) year period of continuous and uninterrupted service thereafter, an additional \$5.00 per month for each said five year periods shall be added provided however, that \$30.00 per month shall be the maximum longevity pay.

- J. Employees designated by their department director as a member of the chlorine emergency response team are eligible for incentive pay of \$100.00 per month subject to certain conditions and procedures as follows: Each employee will be required to initially complete 40 hours of specialized training to be eligible to participate on the chlorine emergency response team. Then each member will be required to complete a minimum of 8 hours of continuing education each year to remain on the chlorine emergency response team.

- K. Employees designated by their position description as a salesperson will be paid a commission of 5% on all sales in excess of their gross sales (excluding "contract labor fees") for the same quarter of the previous year subject to certain conditions and procedures as follows: The gross sales amount for the previous year will be determined by the department director of the salesperson eligible to receive the commission.

SECTION 2: Non-Exempt Non-Uniformed Employees

- A. Shift Differential - a Non-Exempt employee assigned to work a second shift shall receive a shift differential of ten (10) cents per hour for each hour worked beginning with a regularly scheduled shift starting time of 2:00 p.m. and ending before 10:00 p.m. A Non-Exempt employee assigned to work a third shift shall receive a shift differential of fifteen (15) cents per hour for each hour worked beginning with a regularly scheduled shift starting time of 10:00 p.m. and ending before 6:00 a.m.
- B. Mileage Reimbursement - Employees, who on written instructions, use their personal automobile(s) on City business will be reimbursed at the "Internal Revenue Service Code" rate.

SECTION 3: Exempt Employees Salaries

- A. In addition to any other current contributions, a contribution to the International City Managers Association - Retirement Corporation (ICMA-RC) of one-hundred dollars (\$100) per month will be made for each department head as listed below:

| | |
|--|---------------------------------------|
| City Administrator | Deputy City Administrator |
| District Court Clerk | Police Chief |
| Fire Chief | Director of Engineering |
| Director of Development & Construction | Director of Human Resources |
| Director of Finance | Director of Utilities |
| Director of Sanitation | Director of Streets & Traffic Control |
| Director of Parks & Recreation | Director of Transit |
| Director of Information & Technology | City Clerk |
| Internal Auditor | |

SECTION 4: Civil Service (uniformed) employees of the Fire Department shall be paid a rate of pay as set forth in Appendix C.

- A. All firefighters hired (including rehires) by the City shall initially be placed in Step A in the Firefighter F-1 position. Advancement to Step B shall occur on the first anniversary date of the date of appointment to the position if an employee's performance is found to be satisfactory. Advancement into each step subsequent to Step B shall occur on the respective subsequent anniversary date of the appointment to the position.
- B. Drivers, Captain, Battalion Chiefs, Fire Marshals, Training Officer and Assistant Chief are eligible on their position anniversary date for advancement to Step B (in the applicable range) based on merit as determined by a job performance evaluation. Advancement to each step subsequent to Step B shall also be based on merit as determined by a job performance evaluation on each subsequent promotion anniversary date.
- C. All hourly compensated firefighters shall have a work period of fourteen (14) days (106 hours) and shall be subject to the Section 7 (k) exemption of 29 CFR Part 553 application of the Fair Labor Standards Act to Employees of State and Local Governments.

- D. All firefighters shall receive compensation for an additional thirteen (13) days paid as legal holidays in accordance with the provisions of Act 501 of 1987. Compensation for holidays is based on the firefighter's daily rate of pay and is in addition to the regular pay schedule. Holiday compensation is included in the rates of pay provided in Appendix C. The thirteen (13) days of holiday equalization pay shall be prorated and paid during the regular payroll periods. "Daily rate of pay" for all hourly compensated firefighters is hereby defined for all budgetary purposes of the City of Fort Smith as being one-tenth of the biweekly base pay for the applicable employment grade and range. The biweekly base pay period for all firefighters shall be based on an average of one-hundred-twelve (112) hours worked biweekly.
- E. All firefighters shall be granted annual vacation as follows:
- After twelve (12) months of continuous and uninterrupted service, 144 hours.
After six (6) consecutive years of continuous and uninterrupted service, 168 hours.
After ten (10) consecutive years of continuous and uninterrupted service, 192 hours.
After fifteen (15) consecutive years of continuous and uninterrupted service, 216 hours.
After twenty (20) consecutive years of continuous and uninterrupted service, 240 hours.
Annual vacation leave shall not be accumulated from calendar year to calendar year.
- F. For administrative convenience, the annual vacation of not less than fifteen (15) days with full pay for Fire Department employees as required by A.C.A. 14-53-107 and provided in Section (E) above is hereafter defined in terms of annual vacation "hours" as provided in this section. Each three days of annual vacation with full pay provided for in A.C.A. 14-53-107 and each three days of additional annual vacation granted by Section (E) above is deemed to be equal to one scheduled working shift of twenty-four (24) hours. For administrative record keeping of the City, the City Administrator and his designated agents are authorized to maintain records regarding annual vacation leave in terms of "scheduled working hours." Using such administrative procedure, the annual vacation provided by Section (E) above shall be provided in terms of three (3) calendar days being equal to one (1) working shift of twenty-four (24) hours. For each hour of vacation leave that a firefighter is away from a regularly scheduled work shift, one hour shall be credited against his annual vacation benefit.
- G. The administrative procedures provided in Section (F) shall not be interpreted or construed to enlarge or decrease the current vacation leave benefit provided by A.C.A. 14-53-107 and this ordinance.
- H. Sick leave for firefighters shall accumulate at a rate of 360 hours per year beginning with the date of employment and decreasing to 288 hours per year beginning four (4) years after employment. Unused sick leave shall accumulate to firefighters provided with 360 hours per year and 288 hours per year sick leave to a maximum of 2400 hours. If at the end of his/her term of service, upon death or retirement defined as being eligible to receive normal, early or disability LOPFI retirement pension payments immediately upon separation of employment, any firefighter who has unused accumulated sick leave, he/she shall be paid for such sick leave at the regular rate of pay in effect at the time of retirement provided, however, that payment for unused sick leave upon retirement shall not exceed three (3) months salary as per state law, A.C.A. 14-53-108

- I. All Civil Service Fire Department personnel shall receive longevity pay as follows:
1. After the first five (5) years of continuous and uninterrupted service, the sum of \$10.00 shall be added to monthly compensation.
 2. After each five (5) year period of continuous and uninterrupted service thereafter, an additional \$5.00 per month for each said five year periods shall be added provided however, that \$30.00 per month shall be the maximum longevity pay.
- J. All firefighters, after their first year of probation, shall be eligible for a monthly pay bonus for the completion of certificates awarded by the Arkansas State Fire Academy or the National Fire Academy according to the following schedule.

| <u>Certificate</u> | <u>Monthly Pay Bonus</u> |
|--|--------------------------|
| 1. Pump Operation/Emergency Driving | \$15.00 |
| 2. Fire Inspector 1 | \$15.00 |
| 3. First Responder | \$15.00 |
| 4. Fire Officer 1 | \$15.00 |
| 5. Emergency Medical Technician EMT | \$15.00 |
| 6. Special Certification Certificate as per Fire Chief | \$15.00 |
| 7. Arson Investigation | \$15.00 |
| 8. Hazardous Materials | <u>\$15.00</u> |
| Total possible Certificate pay | \$120.00 |

- K. An additional 10%, after their first year of probation, shall be added to the pay rate of a firefighter who becomes a Certified Paramedic. Certification must be maintained or certification pay will be eliminated.
- L. All firefighters shall receive an annual physical examination by the City to determine their physical fitness to perform firefighting activities.
- M. All firefighters are eligible for educational bonus pay subject to certain conditions and procedures as follows: If the employees hire date is prior to or December 31, 2004 and the employee has entered an educational program then schedule (1) will be followed. If an employee has not entered an educational program prior to January 1, 2005 or the employee hire date is January 1, 2005 or later then schedule (2) will be followed. If an employee who is eligible and receiving bonus pay based on schedule (1) earns a bachelors degree then that employee will be eligible for schedule (2).

Schedule (1)

| <u>Educational Program</u> | <u>Percentage of Total Annual Pay Added as Bonus</u> |
|--------------------------------------|--|
| Entry into the Plan | 1% |
| Completion of 15 semester hours | 2% |
| Completion of 30 semester hours | 3% |
| Completion of 45 semester hours | 4% |
| Completion of 60 semester hours plus | 5% attainment of Associates Degree |

Schedule (2)

| <u>Educational Program</u> | <u>Percentage of Total Annual Pay Added as Bonus</u> |
|----------------------------|--|
| Associates Degree | 3% |
| Bachelors Degree | 6% |
| Masters Degree | 7% |

- N. Firefighters designated by the fire department and certified to maintain and service breathing apparatus are eligible for incentive pay of \$100.00 per month.

SECTION 5: Civil Service (uniformed) employees of the Police Department shall be paid a rate of pay as set forth in Appendix D.

- A. All Police Officers hired (including rehires) by the City shall initially be placed in the Entry Level in the Patrol Officer/Detective P-1 Range. Advancement to subsequent levels of pay shall be based upon an officer's anniversary date as indicated in the schedule in Appendix D.
- B. Advancement to the Corporal rank P-1 will occur upon reaching the tenth step of a patrol officer/detective. Advancement to subsequent levels of pay shall be based upon an officer's position anniversary date as indicated on the schedule in Appendix D.
- C. All hourly compensated Police Officers shall have a work period of seven (7) days, shall receive overtime pay after 40 hours, and shall be subject to the Section 7 (K) exemption of 29 CFR Part 553 Application of the Fair Labor Standards Act to Employees of State and Local Governments.
- D. All Police Officers shall receive compensation for an additional thirteen (13) days as paid legal holidays in accordance with the provisions of Act 501 of 1987. Compensation for holidays is based on the officer's daily rate of pay and is in addition to the base pay schedule. In calculating the holiday pay, the "daily rate of pay" for all hourly compensated Police Officers is hereby defined for budgetary purposes of the City of Fort Smith as being the per hour rate of base pay times (8) hours for the applicable employment grade and range. Holiday compensation is included in the rates of pay provided in Appendix D. Holiday pay is to be prorated and paid during the regular payroll periods.
- E. All Police Officers shall be granted annual vacations as follows:
1. After twelve (12) months of continuous and uninterrupted service, fifteen (15) working days.
 2. After six (6) consecutive years of continuous and uninterrupted service, seventeen (17) working days.
 3. After ten (10) consecutive years of continuous and uninterrupted service, twenty (20) working days.
 4. In addition to the foregoing vacation days, each officer will receive one (1) discretionary day off with pay each year after (12) months of continuous service.

Annual vacation leave and the discretionary day shall not be accumulated for more than a twelve month period from the date of accrual for Civil Service Employees.

- F. All Police Officers shall accumulate sick leave at the rate of twenty (20) working days (i.e., 28 calendar days) per year beginning one (1) year after the date of employment. Sick leave may be accumulated from year to year to maximum accumulation of one hundred twenty (120) working days (i.e., 168 calendar days) at any one time. If at the end of his/her term of service, upon death or retirement defined as being eligible to receive normal, early or disability LOPFI retirement pension payments immediately upon separation of employment, any Police Officer has unused accumulated sick leave, he/she shall be paid for such sick leave at the regular rate of pay in effect at the time of retirement or death, provided however, that payment of unused sick leave upon retirement or death shall not exceed (3) months salary for Police Officers in the rank of Captain and above and shall not exceed salary for five hundred twenty (520) hours for Police Officers in the rank of Sergeant and below.
- G. All civil service police officers shall receive longevity pay as follows:
1. After the first five (5) years of continuous and uninterrupted service, the sum of \$10.00 shall be added to monthly compensation.
 2. After each (5) year period of continuous and uninterrupted service thereafter, an additional \$5.00 per month for each of said five (5) year periods shall be added, provided, however, that \$30.00 per month shall be the maximum longevity pay.
- H. All Police Officers, after their first year of probation, shall be eligible for a monthly pay bonus for the completion of the State of Arkansas Law Enforcement Standards and Training Certificates as follows:
1. General Certificate - \$20.00 added to monthly compensation
 2. Intermediate Certificate - \$40.00 added to monthly compensation.
 3. Advanced Certificate - \$60.00 added to monthly compensation.
 4. Senior Certificate - \$80.00 added to monthly compensation.

All police officers are eligible for educational bonus pay subject to certain conditions and procedures as follows:

If the employees hire date is prior to or December 31, 2004 and the employee has entered an educational program then schedule (1) will be followed. If an employee has not entered an educational program prior to January 1, 2005 or the employees hire date is January 1, 2005 or later then schedule (2) will be followed. If an employee who is eligible and receiving bonus pay based on schedule (1) earns a bachelors degree then that employee will be eligible for schedule (2).

Schedule (1)

| <u>Educational Program</u> | <u>Percentage of Total Annual Pay Added as Bonus</u> |
|--------------------------------------|--|
| Entry into the Plan | 1% |
| Completion of 15 semester hours | 2% |
| Completion of 30 semester hours | 3% |
| Completion of 45 semester hours | 4% |
| Completion of 60 semester hours plus | 5% attainment of Associates Degree |

Schedule (2)

| <u>Educational Program</u> | <u>Percentage of Total Annual Pay Added as Bonus</u> |
|----------------------------|--|
| Associates Degree | 3% |
| Bachelors Degree | 6% |
| Masters Degree | 7% |

SECTION 6: Policy

As to non uniformed employees, in extreme and unusual employment and promotional situations related to business necessity and efficiency, the City Administrator may waive or alter the step increase procedure to fill a position with the most highly qualified candidate and assign the appropriate wage within the job classification.

SECTION 7: All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

PASSED AND APPROVED THIS _____ day of December, 2012

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



No Publication Required

Appendix A

HOURLY PAY GRADE RANGES

BUDGET YEAR 2013
(basis, 8 hrs/day, 5 days/week, 52 weeks/year)

| Grade | Entry | Midpoint | Maximum | Step |
|-------|----------|----------|----------|---------|
| 1 | \$ 9.44 | \$ 11.41 | \$ 13.38 | \$ 0.40 |
| 2 | \$ 10.55 | \$ 12.76 | \$ 14.96 | \$ 0.44 |
| 3 | \$ 11.65 | \$ 14.09 | \$ 16.54 | \$ 0.49 |
| 4 | \$ 12.78 | \$ 15.45 | \$ 18.12 | \$ 0.53 |
| 5 | \$ 13.90 | \$ 16.79 | \$ 19.69 | \$ 0.58 |
| 6 | \$ 15.00 | \$ 18.13 | \$ 21.25 | \$ 0.62 |
| 7 | \$ 16.10 | \$ 19.46 | \$ 22.84 | \$ 0.67 |
| 8 | \$ 17.20 | \$ 20.80 | \$ 24.39 | \$ 0.71 |
| 9 | \$ 18.32 | \$ 22.16 | \$ 25.98 | \$ 0.76 |
| 10 | \$ 19.43 | \$ 23.50 | \$ 27.56 | \$ 0.82 |
| 11 | \$ 20.54 | \$ 24.84 | \$ 29.14 | \$ 0.87 |
| 12 | \$ 21.63 | \$ 26.45 | \$ 32.34 | \$ 1.17 |
| 13 | \$ 22.90 | \$ 27.83 | \$ 34.01 | \$ 1.23 |
| 14 | \$ 23.96 | \$ 29.47 | \$ 36.02 | \$ 1.31 |
| 15 | \$ 25.29 | \$ 30.81 | \$ 37.68 | \$ 1.38 |
| 16 | \$ 26.34 | \$ 32.53 | \$ 39.74 | \$ 1.45 |
| 17 | \$ 27.41 | \$ 33.88 | \$ 41.43 | \$ 1.51 |
| 18 | \$ 28.49 | \$ 35.27 | \$ 43.11 | \$ 1.57 |
| 19 | \$ 29.56 | \$ 36.67 | \$ 44.84 | \$ 1.63 |
| 20 | \$ 30.65 | \$ 38.04 | \$ 46.52 | \$ 1.69 |
| 21 | \$ 31.69 | \$ 39.44 | \$ 48.21 | \$ 1.75 |
| 22 | \$ 32.78 | \$ 40.80 | \$ 49.89 | \$ 1.82 |
| 23 | \$ 33.86 | \$ 42.19 | \$ 51.59 | \$ 1.89 |
| 24 | \$ 33.86 | \$ 43.57 | \$ 53.27 | \$ 1.95 |

BI-WEEKLY PAY GRADE RANGES

BUDGET YEAR 2013
(basis, 8 hrs/day, 5 days/week, 52 weeks/year)

| Grade | Entry | Midpoint | Maximum | Step |
|-------|-------------|-------------|-------------|-----------|
| 1 | \$ 755.20 | \$ 912.80 | \$ 1,070.40 | \$ 32.00 |
| 2 | \$ 844.00 | \$ 1,020.80 | \$ 1,196.80 | \$ 35.20 |
| 3 | \$ 932.00 | \$ 1,127.20 | \$ 1,323.20 | \$ 39.20 |
| 4 | \$ 1,022.40 | \$ 1,236.00 | \$ 1,449.60 | \$ 42.40 |
| 5 | \$ 1,112.00 | \$ 1,343.20 | \$ 1,575.20 | \$ 46.40 |
| 6 | \$ 1,200.00 | \$ 1,450.40 | \$ 1,700.00 | \$ 49.60 |
| 7 | \$ 1,288.00 | \$ 1,556.80 | \$ 1,827.20 | \$ 53.60 |
| 8 | \$ 1,376.00 | \$ 1,664.00 | \$ 1,951.20 | \$ 56.80 |
| 9 | \$ 1,465.60 | \$ 1,772.80 | \$ 2,078.40 | \$ 60.80 |
| 10 | \$ 1,554.40 | \$ 1,880.00 | \$ 2,204.80 | \$ 65.60 |
| 11 | \$ 1,643.20 | \$ 1,987.20 | \$ 2,331.20 | \$ 69.60 |
| 12 | \$ 1,644.80 | \$ 2,116.00 | \$ 2,587.20 | \$ 93.60 |
| 13 | \$ 1,730.40 | \$ 2,226.40 | \$ 2,720.80 | \$ 98.40 |
| 14 | \$ 1,832.00 | \$ 2,357.60 | \$ 2,881.60 | \$ 104.80 |
| 15 | \$ 1,916.80 | \$ 2,464.80 | \$ 3,014.40 | \$ 110.40 |
| 16 | \$ 2,023.20 | \$ 2,602.40 | \$ 3,179.20 | \$ 116.00 |
| 17 | \$ 2,107.20 | \$ 2,710.40 | \$ 3,314.40 | \$ 120.80 |
| 18 | \$ 2,192.80 | \$ 2,821.60 | \$ 3,448.80 | \$ 125.60 |
| 19 | \$ 2,279.20 | \$ 2,933.60 | \$ 3,587.20 | \$ 130.40 |
| 20 | \$ 2,364.80 | \$ 3,043.20 | \$ 3,721.60 | \$ 135.20 |
| 21 | \$ 2,452.00 | \$ 3,155.20 | \$ 3,856.80 | \$ 140.00 |
| 22 | \$ 2,535.20 | \$ 3,264.00 | \$ 3,991.20 | \$ 145.60 |
| 23 | \$ 2,622.40 | \$ 3,375.20 | \$ 4,127.20 | \$ 151.20 |
| 24 | \$ 2,708.80 | \$ 3,485.60 | \$ 4,261.60 | \$ 156.00 |

ANNUAL PAY GRADE RANGES

BUDGET YEAR 2013
(basis, 8 hrs/day, 5 days/week, 52 weeks/year)

| Grade | Entry | Midpoint | Maximum | Step |
|-------|--------------|--------------|---------------|-------------|
| 1 | \$ 19,635.20 | \$ 23,732.80 | \$ 27,830.40 | \$ 832.00 |
| 2 | \$ 21,944.00 | \$ 26,540.80 | \$ 31,116.80 | \$ 915.20 |
| 3 | \$ 24,232.00 | \$ 29,307.20 | \$ 34,403.20 | \$ 1,019.20 |
| 4 | \$ 26,582.40 | \$ 32,136.00 | \$ 37,689.60 | \$ 1,102.40 |
| 5 | \$ 28,912.00 | \$ 34,923.20 | \$ 40,955.20 | \$ 1,206.40 |
| 6 | \$ 31,200.00 | \$ 37,710.40 | \$ 44,200.00 | \$ 1,289.60 |
| 7 | \$ 33,488.00 | \$ 40,476.80 | \$ 47,507.20 | \$ 1,393.60 |
| 8 | \$ 35,776.00 | \$ 43,264.00 | \$ 50,731.20 | \$ 1,476.80 |
| 9 | \$ 38,105.60 | \$ 46,092.80 | \$ 54,038.40 | \$ 1,580.80 |
| 10 | \$ 40,414.40 | \$ 48,880.00 | \$ 57,324.80 | \$ 1,705.60 |
| 11 | \$ 42,723.20 | \$ 51,667.20 | \$ 60,611.20 | \$ 1,809.60 |
| 12 | \$ 42,764.80 | \$ 55,016.00 | \$ 67,267.20 | \$ 2,433.60 |
| 13 | \$ 44,990.40 | \$ 57,886.40 | \$ 70,740.80 | \$ 2,558.40 |
| 14 | \$ 47,632.00 | \$ 61,297.60 | \$ 74,921.60 | \$ 2,724.80 |
| 15 | \$ 49,836.80 | \$ 64,084.80 | \$ 78,374.40 | \$ 2,870.40 |
| 16 | \$ 52,603.20 | \$ 67,662.40 | \$ 82,659.20 | \$ 3,016.00 |
| 17 | \$ 54,787.20 | \$ 70,470.40 | \$ 86,174.40 | \$ 3,140.80 |
| 18 | \$ 57,012.80 | \$ 73,361.60 | \$ 89,668.80 | \$ 3,265.60 |
| 19 | \$ 59,259.20 | \$ 76,273.60 | \$ 93,267.20 | \$ 3,390.40 |
| 20 | \$ 61,484.80 | \$ 79,123.20 | \$ 96,761.60 | \$ 3,515.20 |
| 21 | \$ 63,752.00 | \$ 82,035.20 | \$ 100,276.80 | \$ 3,640.00 |
| 22 | \$ 65,915.20 | \$ 84,864.00 | \$ 103,771.20 | \$ 3,785.60 |
| 23 | \$ 68,182.40 | \$ 87,755.20 | \$ 107,307.20 | \$ 3,931.20 |
| 24 | \$ 70,428.80 | \$ 90,625.60 | \$ 110,801.60 | \$ 4,056.00 |

Appendix B

| <u>Performance Level</u> | <u>Performance Points</u> |
|--------------------------|---------------------------|
| A | 3 |
| B | 2 |
| C | 1 |
| D | 0 |
| E | 0 |

Performance Increase

| <u>Average Score</u> | <u>Increase</u> |
|----------------------|-----------------|
| 1.2 - 1.3 | 1.0% |
| 1.4 - 1.5 | 1.5% |
| 1.6 - 1.7 | 2.0% |
| 1.8 - 1.9 | 2.5% |
| 2.0 - 2.1 | 3.0% |
| 2.2 - 2.3 | 3.0% |
| 2.4 - 2.5 | 3.0% |
| 2.6 - 2.7 | 3.0% |
| 2.8 - 2.9 | 3.0% |
| 3.0 | 3.0% |

Appendix C

City of Fort Smith
 Fire Department
 Pay Schedule
 Budget Year 2013

| Rank | Range | Rate | A | B | C | D | E | F | G |
|--|-------|---------|-------------|-------------|----------|----------|----------|----------|----------|
| Probationary Firefighter & Firefighter | F1 | Hourly | \$ 10.21 | \$ 11.03 | \$ 11.81 | \$ 12.61 | \$ 13.37 | \$ 14.16 | \$ 14.90 |
| Driver | F2 | Hourly | \$ 15.47 | \$ 16.97 | | | | | |
| Captain | F3 | Hourly | \$ 18.45 | \$ 20.21 | | | | | |
| Fire Marshal Battalion Chief Training Officer Assistant Chief | F5 | Monthly | \$ 5,536.98 | \$ 6,229.13 | | | | | |

Appendix D

City of Fort Smith
 Police Department
 Pay Schedule
 Budget Year 2013

| Rank | Rate | Entry | Step 1 | Step 2 | Step 3 | Step 4 | Step 5 | Step 6 | Step 7 | Step 8 | Step 9 |
|----------|----------|--------------|--------------|--------------|--------------|--------------|--------------|----------|----------|----------|----------|
| Patrol | Hourly | \$ 16.43 | \$ 16.95 | \$ 17.48 | \$ 17.96 | \$ 18.49 | \$ 19.02 | \$ 19.54 | \$ 20.08 | \$ 20.59 | \$ 21.12 |
| | | \$ 0.82 | \$ 0.85 | \$ 0.87 | \$ 0.90 | \$ 0.92 | \$ 0.95 | \$ 0.98 | \$ 1.00 | \$ 1.03 | \$ 1.06 |
| | | \$ 17.25 | \$ 17.80 | \$ 18.35 | \$ 18.86 | \$ 19.41 | \$ 19.97 | \$ 20.52 | \$ 21.08 | \$ 21.62 | \$ 22.18 |
| Corporal | Hourly | | \$ 21.64 | | | \$ 22.20 | | | \$ 22.49 | | |
| | | | \$ 1.08 | | | \$ 1.11 | | | \$ 1.12 | | |
| | | | \$ 22.72 | | | \$ 23.31 | | | \$ 23.61 | | |
| Sergeant | Hourly | Entry | Step 1 | Step 2 | Step 3 | Step 4 | Step 5 | | | | |
| | | \$ 23.32 | \$ 24.00 | \$ 24.73 | \$ 25.41 | \$ 26.10 | \$ 26.82 | | | | |
| | | \$ 1.17 | \$ 1.20 | \$ 1.24 | \$ 1.27 | \$ 1.31 | \$ 1.34 | | | | |
| | | \$ 24.49 | \$ 25.20 | \$ 25.97 | \$ 26.68 | \$ 27.41 | \$ 28.16 | | | | |
| Captain | Annually | Entry | Step 1 | Step 2 | Step 3 | Step 4 | Step 5 | | | | |
| | | \$ 58,562.35 | \$ 59,662.51 | \$ 60,762.67 | \$ 61,862.82 | \$ 62,962.98 | \$ 64,084.08 | | | | |
| | | \$ 2,928.12 | \$ 2,983.13 | \$ 3,038.13 | \$ 3,093.14 | \$ 3,148.15 | \$ 3,204.20 | | | | |
| | | \$ 61,490.47 | \$ 62,645.64 | \$ 63,800.80 | \$ 64,955.96 | \$ 66,111.13 | \$ 67,288.28 | | | | |
| Major | Annually | Entry | Step 1 | Step 2 | Step 3 | Step 4 | Step 5 | | | | |
| | | \$ 67,288.32 | \$ 69,448.01 | \$ 71,607.70 | \$ 73,767.39 | \$ 75,927.08 | \$ 78,086.75 | | | | |
| | | \$ 3,364.42 | \$ 3,472.40 | \$ 3,580.39 | \$ 3,688.37 | \$ 3,796.35 | \$ 3,904.34 | | | | |
| | | \$ 70,652.74 | \$ 72,920.41 | \$ 75,188.09 | \$ 77,455.76 | \$ 79,723.43 | \$ 81,991.09 | | | | |

M E M O R A N D U M

TO: Ray Gosack, City Administrator

FROM: Richard B. Jones, Director of Human Resources 

DATE: November 29, 2012

SUBJECT: AN ORDINANCE ESTABLISHING SALARIES AND BENEFITS AND RELATED PROCEDURES FOR CITY EMPLOYEES FOR 2013

Attached is the annual ordinance establishing salaries and benefits for city employees. The changes from the 2012 ordinance are as follows:

1. Section 1A is changed to read: On December 24, 2012, all city employees within their salary grade will receive a 1.9% pay increase. As to any employee not meeting performance expectations on December 24, 2012 the Department Head and City Administrator may withhold this pay increase.
2. Sections 4 is changed to read: Civil Service (uniformed) employees of the Fire Department shall be paid a rate of pay as set forth in Appendix C.
3. Section 5 is changed to read: Civil Service (uniformed) employees of the Police Department shall be paid a rate of pay as set forth in Appendix D.
4. Section 5C is changed to read: All hourly compensated Police Officers shall have a work period of seven (7) days, shall receive overtime pay after 40 hours, and shall be subject to the Section 7 (K) exemption of 29 CFR Part 553 Application of the Fair Labor Standards Act to Employees of State and Local Governments.

There are no other changes to this ordinance for 2012.

I recommend approval of this ordinance.

7.

ORDINANCE NO.

AN ORDINANCE TO CLOSE THE
SIDEWALK CONSTRUCTION FUND

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

The Sidewalk Construction Fund is hereby closed and the remaining fund
balance estimated at \$366,751 is transferred to the Street Maintenance Fund.

THIS ORDINANCE IS ADOPTED THIS 4th DAY OF DECEMBER, 2012.

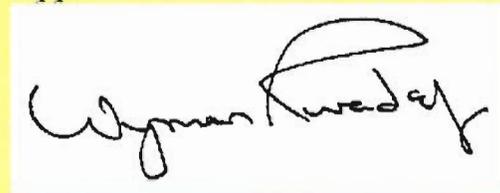
APPROVED:

MAYOR

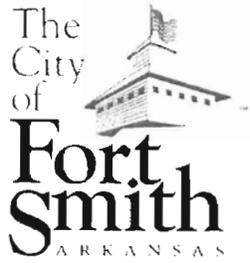
ATTEST:

CITY CLERK

Approved as to form:



No Publication Required



MEMORANDUM

November 27th, 2012

TO: Ray Gosack, City Administrator

FROM : Kara Bushkuhl, Director of Finance 

SUBJECT: Sidewalk Construction Fund

With the Streets and Traffic Control Department taking responsibility for the city's sidewalk repairs and construction it is not necessary to maintain the Sidewalk Construction Fund. The permit assessments allocated for sidewalks that are part of building permit fees will now be deposited in the Street Maintenance Fund.

The attached ordinance will close the Sidewalk Construction Fund and its remaining balance will be transferred to the Street Maintenance Fund. The estimated balance is \$366,751.

If you have any questions, please let me know.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING DESIGNATED PROVISIONS
OF CHAPTER 2, ARTICLE V OF THE FORT SMITH MUNICIPAL CODE
CONCERNING THE CITY ADMINISTRATOR'S PURCHASING AUTHORITY**

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

SECTION 1: Chapter 2, Article V, Section 2-162 of the Fort Smith Municipal Code is hereby amended to read as follows:

The city administrator, or designated representative, is hereby authorized to approve, or disapprove, for payment out of funds previously appropriated for that purpose, any bills, debts or statements presented to the city and resulting from the supplying of goods, properties or services to the city; provided, however, if the amount of any bill, debt or liability exceeds seven hundred fifty thousand dollars (\$750,000), the payment or disapproval thereof shall require the confirmation of the board of directors.

SECTION 2: Chapter 2, Article V, Section 2-182 (a), (b), (c) and (d)(3) of the Fort Smith Municipal Code is hereby amended to read as follows:

(a) In exercising his authority as set forth in section 2-181, the city administrator, or designated representative, shall conform to the procedures in this section.

(b) The following procedures shall apply to purchases of or contracts for any supplies, materials or equipment for the various offices, departments and agencies of city government (purchases) or for the construction of municipal improvements (contracts):

(1) All purchases or contracts where the expenditure therefor is less than one thousand dollars (\$1,000) may be made by the city administrator, or designated representative, without securing oral or written competitive quotes.

(2) All purchases or contracts where the expenditure is one thousand dollars (\$1,000) or more, but less than seven thousand five hundred (\$7,500) may be made by the city administrator, or designated representative, after securing oral competitive quotes therefor.

(3) All purchases where the expenditure therefor is seven thousand five hundred dollars (\$7,500) or more, but less than seventy-five

thousand dollars (\$75,000) may be made by the city administrator, or designated representative, after the securing of three (3) or more written competitive quotes, if possible. If three (3) written competitive quotes are not obtained, the purchase request form must show the names of at least three (3) suppliers contacted in attempting to obtain competition or note the reason three (3) suppliers were not contacted.

(4) All purchases where the expenditure is seventy-five thousand dollars (\$75,000) or more may be made after the securing of competitive written bids and with the approval of the bid by the city administrator and board of directors.

(5) All contracts where the expenditure therefor is seven thousand five hundred dollars (\$7,500) but less than twenty thousand (\$20,000) may be made by the city administrator, or his designated representative, after the securing of three or more written bids. If three (3) written bids are not obtained, the purchase request form must show the names of at least three (3) firms contacted in attempting to obtain competition or note the reason three (3) firms were not contacted.

(6) All contracts where the expenditure is twenty thousand dollars (\$20,000) or more may be made with the approval of the board of directors after securing of competitive bids.

(c) The following procedures shall apply to all contracts for services, other than those expressly provided for in subsection (d) of this section, to be rendered to the city:

(1) Utilizing budgeted funds, the city administrator is authorized to enter into any such contract for services where the expenditure therefor is not more than seventy-five thousand dollars (\$75,000) after soliciting and reviewing written proposals from interested and qualified providers of such services. Such written proposals shall include a statement of the scope of services to be provided, qualifications of the providers of the service fees and charges, and any other information the city administrator may require.

(2) Utilizing budgeted funds, the city administrator is authorized to enter into any such contract for services where the expenditure is seventy-five thousand dollars (\$75,000) or more but less than three hundred thousand dollars (\$300,000) after soliciting and reviewing written proposals from interested and qualified providers of such services. Such written proposal shall include a statement of the scope of services to be provided, qualifications of the providers of the services, fees and charges, and any other information the city administrator may require. With reference to those contracts described in this subsection, before execution of any such contract

for services on behalf of the city, the city administrator shall notify the board of directors in writing of the execution of the contract for services, the designation of the budgeted fund from which such contract for services will be paid and the date on which execution of the contract will be made.

(3) The city administrator is authorized to secure competitive bids for any such contract for services where the expenditure is three hundred thousand dollars (\$300,000) or more. Such written bids shall include a statement of the scope of services to be provided, qualifications of the providers of the services, fees and charges, and any other information the city administrator may require. The selected bid shall require approval of the city administrator and the board of directors.

(d) (3) Utilizing budgeted funds, all contracts providing for total compensation for services and expenses to be supplied to the city of seventy-five thousand dollars (\$75,000) or less shall be entered into by the city administrator. All contracts for services in excess of seventy-five thousand dollars (\$75,000) shall be authorized by the board of directors.

SECTION 3: Chapter 2, Article V, Section 2-183 (a) and (c) of the Fort Smith Municipal Code are hereby amended to read as follows:

(a) Where the amount of any expenditure for a purchase for supplies, materials or equipment for the various offices, departments and agencies of the city government is seventy-five thousand dollars (\$75,000) or more, or for any contract for services to be rendered to the city is seventy-five thousand dollars (\$75,000) or more, the city administrator or designated representative shall invite competitive bidding thereon by legal advertisement published one (1) time in a daily local newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The bidding procedure as set forth in this and other provisions of the city shall not be exclusive of other state-mandated bidding procedures.

(c) Where the amount of any expenditure for the construction of municipal improvements is twenty thousand dollars (\$20,000) or more, the city administrator or designated representative shall invite competitive bidding thereon by legal advertisement published one (1) time in a daily local newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The bidding procedure as set forth in this and other provisions of the city shall not be exclusive of other state-mandated bidding procedures.

SECTION 4: Chapter 2, Article V, Section 2-202 of the Fort Smith Municipal Code is hereby amended to read as follows:

Where the value of supplies, materials, apparatus or equipment to be sold, exchanged or transferred pursuant to Section 2-201 is such that it is reasonably expected to result in a credit to the city in the amount of seven thousand five hundred dollars (\$7,500) or more, the city administrator, or designated representative, shall invite competitive bidding thereon by legal advertisement in any local daily newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The city administrator, or designated representative, shall transmit to the board of directors a tabulation of all bids received. The selected bid shall require approval of the city administrator and the board of directors. All received bids may be rejected.

SECTION 5: The introductory clause to each of subsections (1), (2), and (3) of Section 2-214 of the Fort Smith Municipal Code are hereby amended to read:

- (1) For acquisitions of a value up to five thousand dollars (\$5,000):
- (2) For acquisitions of a value between five thousand one dollars (\$ 5,001) and twenty thousand dollars (\$20,000):
- (3) For acquisitions of a value greater than twenty thousand dollars (\$20,000):

SECTION 6: Emergency Clause. In recognition of normal inflation and other factors contributing to rising costs and realizing the City of Fort Smith often needs to respond to purchasing needs in an expedited fashion through authority provided to the City Administrator, the Board of Directors determines that there is an immediate need for the effectiveness of these proposed Code changes, and thus an emergency is declared to exist and this Ordinance will be in full force and effect from this date.

PASSED AND APPROVED this 4th day of December, 2012.

APPROVED:

Mayor

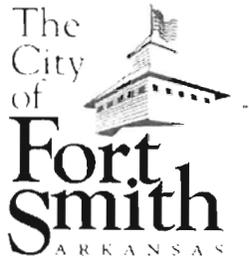
ATTEST:

City Clerk

Approved as to form:



Publish 1 Time



MEMORANDUM

November 27, 2012

TO: Ray Gosack, City Administrator

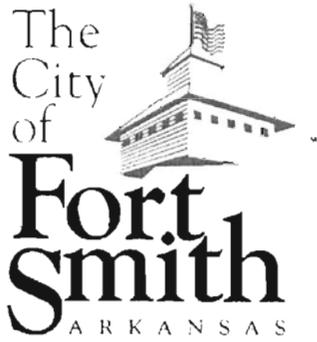
FROM : Kara Bushkuhl, Director of Finance 

SUBJECT: City Administrator Purchasing Authority, Contracting and Sale Authority

As indicated at their November 27, 2012 study session, the board placed the attached two ordinances for consideration at the December 4, 2012 regular meeting. Ordinance A includes the updated and increased limits as suggested for the various types of purchasing authorizations. Ordinance B is the update to the professional services listings.

There is an emergency clause included for ordinance A. Approval of Ordinance B requires a two-thirds (2/3) vote by the Board. The staff recommends approval of both ordinances.

If you have any questions, or require more information, please let me know.



1

MEMORANDUM

November 20, 2012

TO: Ray Gosack, City Administrator

FROM: Kara Bushkuhl, Director of Finance *KB*

SUBJECT: City Administrator Purchasing, Contracting and Sale Authority

After reviewing possible amendments to the City Administrator's purchasing, contracting and sale authority with Jerry Canfield, City Attorney, the following information is provided for the applicable sections of the city code of ordinances.

1. Regarding Code Section 2-162 dealing with payment of debts, the Board must establish a dollar limit for obligations, including partial payments. The current limit of \$500,000 was set in 2001. Applying inflation since 2001, the current amount would be \$650,000. Staff suggests the Board consider a limit higher such as \$750,000. Section 1 of the attached ordinance form refers to this section.
2. Code Section 2-182 deals with purchases or contracts for supplies, materials or equipment ("purchases") or for the construction of municipal improvements ("contracts"). The Board may set limits for purchases at any level. However, the limit for public improvement contracts must maintain the state limit of \$20,000 for approval by the City Administrator. These contracts include the construction of facilities, water and sewer projects, street projects, and drainage improvements. Even though the City Code established these contracts with a \$40,000 limit for approval in 2001, recent history has not indicated any such instances when the City Administrator approval was obtained between the \$20,000 and \$40,000 level. The City Attorney has suggested that the city separate "purchases" from "contracts". Section 2 of the attached ordinance form will provide this distinction. Subsection (b) (1) and (2) apply to both purchases and contracts for smaller limits; (b) (3) and (4) refer only to purchases; and (b) (5) and (6) refer only to contracts.

The limits suggested for each subsection are:

| | <u>Current</u> | <u>Proposed</u> |
|-----------------------------|--------------------|--------------------|
| (1) Purchases and Contracts | \$750 | \$1,000 |
| (2) Purchases and Contracts | \$750-\$5,000 | \$1,000-\$7,500 |
| (3) Purchases | \$5,000-\$20,000 | \$7,500-\$75,000 |
| (4) Purchases | \$40,000 and above | \$75,000 and above |
| (5) Contracts | \$5,000-\$20,000 | \$7,500-\$20,000 |
| (6) Contracts | \$40,000 and above | \$20,000 and above |

The suggested levels are slightly above inflation rates since 2001. Please note that the proposed ordinance reduces the requirement for competitive bidding until the purchase has to go to the Board. This will save time and money since the advertising and waiting requirements are eliminated for those purchases.

- Regarding Code Section 2-182 (c) dealing with contracts for services, the current limit for the City Administrator is \$40,000 for the first level; between \$40,000 and \$200,000 for the next level; and \$200,000 and above for services requiring competitive bidding. The inflation rates for 2012 for these levels of spending are \$52,000 and \$260,000, respectively. Staff suggests the Board consider \$75,000 and \$300,000, respectively.
- Regarding Code Section 2-182 (d) (3) dealing with specified contracts for professional services, the current limit is \$40,000. Staff recommends that this be increased to \$75,000.
- Section 2-183 (a) and (c) of the City Code covers competitive bidding requirements. Section 3 of the attached ordinance form allows for the separation of purchases and contracts. Purchases and contracts for services are provided for in subsection (a) while contracts for municipal improvements are provided for in subsection (c). The amounts for purchases and contracts for services will follow the choices made above for subsection (a). The amount for subsection (c) must be \$20,000 per state law.
- Regarding Code Section 2-202 that deals with sales, leases or exchanges of personal properties, the current limit is \$5,000. The inflation rate would increase the limit to \$6,500. Staff suggests the Board select \$7,500. Section 4 of the proposed ordinance form provides for a change to this limit.

7. Section 2-214 of the City Code deals with project approval authorization for real property acquisitions. The first level of limits is currently \$2,500. A formal appraisal is not required unless negotiations are not settled. Staff has requested that this limit be raised to \$5,000 due to formal appraisal costs starting at \$1,500 and above. The next level of project approval is currently \$2,501 to \$10,000 that requires a formal appraisal and approval by the City Administrator. The proposed limit increase for this level is \$5,001 to \$20,000. The third level for project approval is for acquisitions greater than \$10,000 so it is proposed that this limit be changed to greater than \$20,000.

Regarding the approval for final payments and acceptance of the project as complete, this is the city's current practice. The City Attorney recommends that this remain in place. He stated that it is a benefit for negotiating with contractors and any subsequent litigation. Furthermore, the City Clerk relies on these Board approvals to close a contract file.

In another matter, the staff would like to update the list of professional services to include land acquisitions and appraisal services. A separate ordinance draft has been attached to provide for these additions. Approval of this ordinance requires a two-thirds (2/3) vote by the Board.

For your information, attached is a schedule that indicates the purchasing activity and periodic payment authorizations by type presented to the Board for the past three calendar years and 2012 to date. Also, attached is a schedule that indicates the number of purchases that would have been presented to the Board if the proposed level of \$75,000 was in place and the number of partial payments that would have been presented to the Board if the level had been \$750,000. A copy of the current code for the sections referenced in this memorandum is also attached.

Please let me know if you have questions, or require more information.

Pc: Jeff Dingman

| <u>Approval Type</u> | <u>2009</u> | <u>2010</u> | <u>2011</u> | <u>2012</u> |
|----------------------------------|--------------------|--------------------|--------------------|--------------------|
| Architectural | \$0.00 | \$0.00 | \$0.00 | \$252,015.00 |
| Computer Equip. | \$0.00 | \$353,168.88 | \$346,536.04 | \$0.00 |
| Construction | 8 \$1,559,280.76 | 12 \$3,334,164.21 | 7 \$5,169,432.39 | 4 \$907,153.57 |
| Consulting | 2 \$144,850.00 | 1 \$185,630.00 | \$0.00 | \$0.00 |
| Engineering-Construction | 20 \$17,176,921.29 | 3 \$51,800.00 | 4 \$8,514,695.39 | 8 \$8,945,776.12 |
| Engineering-Drainage Imp. | 2 \$159,036.24 | 2 \$678,400.25 | 2 \$602,239.28 | 2 \$1,142,335.30 |
| Engineering Services-General | 2 \$1,271,050.00 | 3 \$1,136,035.00 | 2 \$954,354.00 | 2 \$233,848.00 |
| Engineering-Property Acquisition | \$0.00 | \$0.00 | \$0.00 | 1 \$249,900.00 |
| Equipment | 6 \$933,234.18 | 2 \$838,446.33 | 7 \$1,295,817.04 | 7 \$2,216,462.28 |
| Engineering-Street Overlays | 12 \$9,519,166.55 | 6 \$7,699,183.61 | 8 \$8,481,263.73 | 3 \$3,414,752.87 |
| Goods | 3 \$469,342.01 | \$0.00 | \$547,569.00 | 4 \$805,855.00 |
| Heavy Equipment | 7 \$1,536,605.73 | 4 \$475,439.81 | 11 \$1,922,904.28 | 9 \$6,203,692.62 |
| Property Acquisition | \$0.00 | \$0.00 | \$0.00 | 1 \$167,000.00 |
| Software | \$0.00 | \$41,504.54 | \$0.00 | 1 \$53,802.00 |
| Staffing | \$0.00 | \$58,782.49 | \$0.00 | 1 \$987,309.00 |
| Utilities-Architectural | 1 \$72,200.00 | 4 \$50,593.00 | \$121,296.00 | \$0.00 |
| Utilities-Construction | 57 \$68,768,575.59 | 56 \$35,255,196.32 | 47 \$23,339,771.17 | 41 \$19,092,049.20 |
| Utilities-Engineering | 17 \$6,439,944.84 | 9 \$850,954.75 | 10 \$1,531,367.00 | 2 \$4,258,503.20 |
| Utilities-Property Acquisition | 5 \$405,470.00 | 2 \$316,846.00 | 4 \$531,010.00 | 1 \$709,000.00 |
| Total Resolutions | <u>143</u> | <u>109</u> | <u>112</u> | <u>87</u> |

City of Fort Smith, Arkansas
 Purchase Limit & Partial Payment History & Proposal Comparisons
 For the Fiscal Years Ended December 31, 2009, 2010 & 2011 and for the
 Period January 1 - September 30, 2012

| Approval Type | 2009 | 2010 | 2011 | 2012 To Date |
|--|------|------|------|-----------------|
| Actual Purchases of Items: less than \$40,000 | 48 | 31 | 36 | 41 |
| \$40,000 and above | 143 | 109 | 112 | 87 |
| Partial Payments: \$500,000 and above | 51 | 34 | 31 | 28 |
| If proposed limits adopted, past activity would have been: | | | | |
| Actual Purchases of Items: \$75,000 and above | 116 | 84 | 89 | 75 |
| Partial Payments: \$750,000 and above | 2 | 14 | 18 | - |

Fort Smith, Arkansas, Code of Ordinances >> - FORT SMITH MUNICIPAL CODE >> Chapter 2 - ADMINISTRATION >> ARTICLE V. - FINANCE >>
DIVISION 1. - GENERALLY >>

DIVISION 1. - GENERALLY

Sec. 2-161. - Fee ratified.

Sec. 2-162. - Approval of obligations.

Sec. 2-163. - Signatures for warrants.

Sec. 2-164. - Deposit of funds in budgeted checking accounts.

Sec. 2-165. - Investment management.

Secs 2-166—2-180. - Reserved.

Sec. 2-161. - Fee ratified.

All fees and charges made by the city in effect on the adoption date of this Code are ratified and confirmed.

Sec. 2-162. - Approval of obligations.

The city administrator, or designated representative, is hereby authorized to approve, or disapprove, for payment out of funds previously appropriated for that purpose, any bills, debts or statements presented to the city and resulting from the supplying of goods, properties or services to the city; provided, however, if the amount of any bill, debt or liability exceeds five hundred thousand dollars (\$500,000.00), the payment or disapproval thereof shall require the confirmation of the board of directors.

(Code 1976, § 2-124; Ord. No. 36-01, § 1, 6-19-01)

State law reference— Board to establish maximum amount of bills that can be paid by administration without confirmation of board of directors, A.C.A. § 14-48-117(5)(A)(ii).

Sec. 2-163. - Signatures for warrants.

The city administrator is hereby authorized to sign all municipal warrants, and all such warrants shall be cosigned by the city treasurer.

(Code 1976, § 2-126)

State law reference— Administrator to sign warrants when authorized by board of directors, A.C.A. § 14-48-117(9).

Sec. 2-164. - Deposit of funds in budgeted checking accounts.

- (a) Beginning January 1, 2001, the city shall contract for banking services every two (2) years with optional annual renewals, not to exceed two (2) renewals. The contract will be awarded after competitive bids for banking services have been evaluated according to the criteria established by the city administrator, or designated representative. In awarding the contract for banking services, the city shall give preference to the banking institution that offers the lowest cost of services requested and the highest lending and investment efforts in the community, while giving consideration to new or unique services offered by the banking institution that can be quantified to provide financial benefits to the city. The contract for banking services shall include termination clauses for the city and the financial institution in the event of a breach of service or failure to meet performance criteria.
- (b) To be eligible to submit a bid, a banking institution must meet the following qualifications:
 - (1) The banking institution must be licensed by the federal government and be a part of all relevant federal insurance plans;
 - (2) The banking institution must be licensed by the state;
 - (3) The banking institution must have at least three (3) staffed full service locations within the boundaries of the city;
 - (4) The banking institution must provide all of the services being sought by the city in its request for proposals;
 - (5) The banking institution must be included on the annual list of eligible banks prepared by the state bank commissioner as provided by A.C.A. § 19-8-105(a); and
 - (6) In the event of change of ownership of the banking institution, the above five (5) qualifications must continue to be met by the new entity. Failure to meet these qualifications will allow the city to terminate the contract.
- (c) In order for a banking institution to be considered a qualified bidder, the bank must be capable of, and agree to, provide the city full banking services. These services will be paid for on a fee for service basis. These services will include, but not be limited to the following:
 - (1) Accept deposits and process checks. Reconciliations will be furnished electronically for the city's special account, payroll account, clearing account and other accounts as requested by the city;
 - (2) Complete wire transfers, night depository services, investment processing services, coin sorting and counting services;
 - (3) Collateralize at least one hundred two (102) percent of the daily account balances with the U.S. government and selected agency securities of the U.S. government with maturities not to exceed eighteen (18) months, or other instruments authorized by state law;
 - (4) Provide the city weekly statements on CD-ROM for its payroll account, clearing account and other accounts as requested by the city. Monthly statements will be provided for all other accounts. The statements must detail account balances, interest rate earned, and the dollar amount of interest credited to various city accounts.
 - (5) Direct deposit of payroll services for those city employees electing to use this service;
 - (6) Cash all checks issued by the city and drawn on the servicing bank at all branches of the servicing bank within the Greater Fort Smith Metropolitan Statistical Area.
- (d) Annually, the city's depository board shall confirm the banking services contract pursuant to A.C.A. § 19-8-105(b).

(Code 1976, § 2-127; Ord. No. 44-00, §§ 1, 2, 8-15-00)

Sec. 2-165. - Investment management.

- (a) The objectives of the city's investment and cash management program shall be to:
 - (1) Safely invest city funds to the fullest extent possible.
 - (2) Maintain sufficient liquidity to meet cash flow needs.
 - (3) Attain the maximum yield possible consistent with subsections (1) and (2) above.
- (b) The city will limit its investments to the safest type of securities permitted by state law. These shall include those which:
 - (1) Have insurance on the principal guaranteed by the Federal Deposit Insurance Corporation (FDIC).
 - (2) Have security on the principal in the form of bonds or other interest-bearing securities of the U.S. government or its agencies.
 - (3) Have security on the principal in the form of bonds or other interest-bearing securities of the state, or its agencies or political subdivisions as defined by state law.
- (c) Investments shall be made by the city administrator, or designated representative, on the basis of competitive offers and bids in order to obtain the highest available rates in accordance with subsections (a) and (b) of this section. In order to keep administrative costs as low as possible, investments of less than one hundred thousand dollars (\$100,000.00) may be made through a current depository bank. For investments exceeding one hundred thousand dollars (\$100,000.00), banking institutions shall be contacted by telephone and asked to provide an interest yield quote by return telephone call within sixty (60) minutes. The institution offering the highest interest yield in accordance with the other security requirements will be notified immediately of the city's investment decision. The bids of each institution shall be recorded and kept on file for a period of at least one (1) fiscal year.
- (d) In the event of identical interest yield bids, the city may break the tie by the use of an objective method to be determined by the city.
- (e) In the event no quotes are received from a banking institution in the city insured by the FDIC, the city may invest its funds in any banking institution insured by the FDIC in the state meeting the security requirements of subsection (b) of this section.
- (f) Clear title to the principal of and collateral backing for any investment shall be maintained by the city or by a third-party safekeeping agent under agreement to the city.
- (g) The city may specify monthly investment yield payments in order to enhance cash flow and investment returns.
- (h) The city administrator, or designated representative, shall be responsible for administering the city's investment and cash management program in accordance with state law and city ordinances.
- (i) The city administrator, or designated representative, shall provide the mayor and board of directors with monthly investment information. The information shall include type of investment, purchase date, maturity date, face value, rate of interest, amount of interest earned and institution where the funds are invested.

(Code 1976, § 2-128)

State law reference— Determination of depositories, A.C.A. §§ 19-8-106, 19-8-107.

Secs. 2-166—2-180. - Reserved. 

Fort Smith, Arkansas, Code of Ordinances >> - FORT SMITH MUNICIPAL CODE >> Chapter 2 - ADMINISTRATION >> ARTICLE V. - FINANCE >> DIVISION 2. - PURCHASES >>

DIVISION 2. - PURCHASES

Sec. 2-181. - Authority of administrator.

Sec. 2-182. - Procedures for purchase of supplies, services.

Sec. 2-183. - Competitive bidding—When required.

Sec. 2-184. - Same—Waiver of formalities.

Sec. 2-185. - Same—Waiver.

Sec. 2-186. - Exception.

Secs 2-187—2-200. - Reserved.

Sec. 2-181. - Authority of administrator.

The city administrator, or designated representative, shall have the exclusive power and responsibility to make purchases of or contract for any supplies, materials or equipment for the various offices, departments and agencies of the city government, and to make or authorize contracts for services to be rendered to the city or for the construction of municipal improvements.

(Code 1976, § 2-140)

State law *reference*— Similar provisions. A.C.A. § 14-48-117(5)(A)(i).

Sec. 2-182. - Procedures for purchase of supplies, services.

- (a) In exercising his authority as set forth in section 2-181, the city administrator, or designated representative, shall conform to the procedures in this section.
- (b) The following procedures shall apply to purchases of or contracts for any supplies, materials or equipment for the various offices, departments and agencies of city government or for the construction of municipal improvements:
 - (1) All purchases or contracts where the expenditure therefor is less than seven hundred fifty dollars (\$750.00) may be made by the city administrator, or designated representative, without securing bids.
 - (2) All purchases or contracts where the expenditure is seven hundred fifty dollars (\$750.00) or more, but less than five thousand (\$5,000.00) may be made by the city administrator, or designated representative, after securing oral bids therefor.
 - (3) All purchases or contracts where the expenditure therefor is five thousand dollars (\$5,000.00) or more, but less than twenty thousand dollars (\$20,000.00) may be made by the city administrator, or designated representative, after the securing of three or more written bids. If three (3) written bids are not obtained, the purchase request form must show the names of at least three (3) firms contacted in attempting to obtain competition or note the reason three (3) firms were not contacted.
 - (4) All purchases or contracts where the expenditure therefor is twenty thousand dollars (\$20,000.00) but less than forty thousand dollars (\$40,000.00) may be made by the city administrator, or his designated representative, after the securing of competitive bids.
 - (5) All purchases or contracts where the expenditure is forty thousand dollars (\$40,000.00) or more may be made with the approval of the board of directors after the securing of competitive bids.
- (c) The following procedures shall apply to all contracts for services, other than those expressly provided for in subsection (d) of this section, to be rendered to the city:
 - (1) The city administrator is authorized to enter into any such contract for services where the expenditure therefor is not more than forty thousand dollars (\$40,000.00) after soliciting and reviewing written proposals from interested and qualified providers of such services. Such written proposals shall include a statement of the scope of services to be provided, qualifications of the providers of the service fees and charges, and any other information the city administrator may require.
 - (2) The city administrator is authorized to enter into any such contract for services where the expenditure is forty thousand dollars (\$40,000.00) or more but less than two hundred thousand dollars (\$200,000.00) after soliciting and reviewing written proposals from interested and qualified providers of such services. Such written proposal shall include a statement of the scope of services to be provided, qualifications of the providers of the services, fees and charges, and any other information the city administrator may require. With reference to those contracts described in this subsection, before execution of any such contract for services on behalf of the city, the board of directors must appropriate the necessary funds for the services and the city administrator shall notify the board of directors in writing of the execution of the contract for services, the designation of the budgeted fund from which such contract for services will be paid, if appropriated, and the date on which execution of the contract will be made.
 - (3) The city administrator is authorized to secure competitive bids for any such contract for services where the expenditure is two hundred thousand dollars (\$200,000.00) or more. Such written bids shall include a statement of the scope of services to be provided, qualifications of the providers of the services, fees and charges, and any other information the city administrator may require. Any contract to be executed for services shall require approval of the board of directors.
 - (4) Any written proposal for services received under the provisions of this subsection (c) shall be retained by the city for a period of three (3) years.
- (d) In keeping with A.C.A., tit. 19, ch. 11, subch. 8 [§ 19-11-801 et seq.], it is determined to be the policy of the city that the city shall authorize contracts for external accounting; legal; financial advisory; architectural; consulting; engineering; construction management; land surveying, title search and insurance services; graphic design, advertising and video production services; and software and website development services to be provided to the city on a negotiated basis, and the city shall negotiate contracts for any other professional services when directed by state law. The following procedure shall apply to the procurement of such contracts:
 - (1) The term "city administrator" shall refer to the city administrator or the administrator's designated agent. The term "firm" shall refer to any professional person or a firm of professionals.
 - (2) Such contracts shall be negotiated based on demonstrated competence and qualifications and at fair and reasonable prices.
 - (3)

- All contracts providing for total compensation for services and expenses to be supplied to the city of forty thousand dollars (\$40,000.00) or less shall be entered into by the city administrator provided that the board of directors has appropriated, either in the city's annual budget or by other appropriation, the funds from which services shall be paid. All contracts in excess of forty thousand dollars (\$40,000.00) shall be authorized by the board of directors.
- (4) The city administrator shall cause to be published in a newspaper having general circulation in the city a notice indicating that the city will receive, for a 15-day period including the date of notice, statements of qualifications and performance data from all firms who provide professional services such as lawyers, architects, engineers or land surveyors or other professional services designated in the notice. Submitted statements of qualifications and performance data shall be utilized in the procurement process for service contracts. On or before the fifteenth day of September of each calendar year, a notice shall be so published indicating that such professionals may submit statements of qualifications and performance data by the fifteenth day of November of the year of publication, which submitted information will be used in the procurement of service contracts by the city during the one-year period commencing with the first calendar day of the year following the year of publication. At any time the city enters into the procurement of any contract for such professional services, all then current statements of qualification and performance data on file with the city and all additional statements of qualification and performance data obtained by or submitted to the city, whether as a result of a published notice or otherwise, shall be evaluated as a part of the contract procurement process.
 - (5) From the available statements of qualifications and performance data, the city shall select three (3) qualified firms for consideration with reference to the anticipated issuance of a contract for services. From the three (3) qualified firms, there shall be selected the firm considered the best qualified and capable of performing the desired work. Both in the selection of the three (3) qualified firms and in the selection of the firm considered the best qualified and capable, consideration shall be given to the following factors:
 - a. The specialized experience and technical competence of the firm with respect to the type of professional services required.
 - b. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project.
 - c. The past record of performance of the firm with respect to such factors as control of costs, quality of work and ability to meet schedules and deadlines.
 - d. The firm's proximity to and familiarity with the area in which the project is located.
 - (6) After the selection of the firm most qualified and capable of performing the desired work, the city administrator shall, jointly with the selected firm, prepare a detailed, written description of the scope of proposed services. Such written description shall be used as the basis for the negotiation of the contract for services. The city administrator shall then enter into negotiations with the selected firm. If the administrator is unable to negotiate a satisfactory contract with such firm, the unsuccessful negotiations shall be terminated and negotiations shall commence with another of the selected qualified firms. If negotiations are again unsuccessful, negotiations shall be conducted with the third qualified firm. If the administrator is unable to negotiate a contract with any of the selected firms, the city administrator shall reevaluate the necessary professional services, including the scope and reasonable fee requirements anticipated by the contract, and, after completing that process, proceed in accordance with the provisions of this division.
 - (7) If at the time of commencement of procurement of a professional services contract there is available from all sources less than three (3) statements of qualifications and performance data, the procedures outlined above shall take place with reference to the then available statements of qualifications and performance data.

(Code 1976, § 2-141; Ord. No. 65-89, §§ 1, 2, 8-1-89; Ord. No. 89-90, § 3, 12-18-90; Ord. No. 59-97, §§ 1-3, 10-21-97; Ord. No. 64-98, §§ 1-3, 9-1-98; Ord. No. 36-01, §§ 2-4, 6-19-01; Ord. No. 65-04, §§ 1, 2, 10-19-04; Ord. No. 92-05, 12-6-05; Ord. No. 97-05, 12-20-05; Ord. No. 71-06, 8-1-06)

State law reference— Board to establish maximum amount for which administrator may contract without bids. A.C.A. § 14-48-117(b)(A)(i).

Sec. 2-183. - Competitive bidding—When required.

- (a) Where the amount of any expenditure for a purchase or contract for supplies, materials or equipment for the various offices, departments and agencies of the city government is twenty thousand dollars (\$20,000.00) or more, or for any contract for services to be rendered to the city is two hundred thousand dollars (\$200,000.00) or more, the city administrator or designated representative shall invite competitive bidding thereon by legal advertisement published one (1) time in a daily local newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The bidding procedure as set forth in this and other provisions of the city shall not be exclusive of other state-mandated bidding procedures.
- (b) In the event of an emergency, the city administrator may invite competitive bidding to be opened not less than five (5) days following the date of invitation to bid.
- (c) Where the amount of any expenditure for the construction of municipal improvements is ten thousand dollars (\$10,000.00) or more the city administrator or designated representative shall invite competitive bidding thereon by legal advertisement published one (1) time in a daily local newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The bidding procedure as set forth in this and other provisions of the city shall not be exclusive of other state-mandated bidding procedures.
- (d) Thereupon, the city administrator or designated representative shall transmit to the board of directors a tabulation of all bids received thereon and the board of directors, with the recommendation of the city administrator, by resolution duly passed, shall authorize the purchase or contract to the best responsible and responsive bidder; provided, however, the directors may reject any and all bids.

(Code 1976, § 2-142; Ord. No. 59-97, § 4, 10-21-97; Ord. No. 36-01, § 5, 6-19-01)

State law reference— Competitive bidding required. A.C.A. § 14-48-129.

Sec. 2-184. - Same—Waiver of formalities.

The advertisement for bid may state that the board of directors may waive any formalities in regard to the bidding other than the requirement of bond, when the same is required.

(Code 1976, § 2-143)

Sec. 2-185. - Same—Waiver.

The board of directors, by ordinance, may waive the requirement of competitive bidding in exceptional situations where such procedure is not feasible, but such exceptional situation being lacking, the board of directors may not except any particular bid from the requirement of competitive bidding.

(Code 1976, § 2-144)

State law reference— Waiver of competitive bidding, A.C.A. § 14-48-129(b).

Sec. 2-186. - Exception.

The provisions of this division dealing with the procurement of contracts for professional services shall not be applicable to professional employees of the city.

(Ord. No. 65-89, § 3. 8-1-89)

Secs. 2-187—2-200. - Reserved.

FOOTNOTE(S):

⁽⁸⁾ Editor's note— Resolution No. R-95-99, adopted April 20, 1999, set forth procedures for protests of bid awards as follows: [\(Back\)](#)

⁽⁶⁾ The city administrator is authorized to implement the following protest of bid award procedure for all city sealed bids taken by the city's purchasing department: [\(Back\)](#)

⁽⁸⁾ Any protest of bid award must be made in writing and received by the purchasing department no later than three (3) days after notice of intent to award has been made. Additionally, if the subject purchase requires board of directors' approval, written protest must be received by the purchasing department no later than five (5) days prior to the next board of directors meeting at which the recommended bid award will be considered. [\(Back\)](#)

⁽⁶⁾ The foregoing procedure shall not be applicable to contracts for public works not administered by the city's purchasing department. [\(Back\)](#)

Fort Smith, Arkansas, Code of Ordinances >> - FORT SMITH MUNICIPAL CODE >> Chapter 2 - ADMINISTRATION >> ARTICLE V. - FINANCE >>
 DIVISION 3.1. - SALE, LEASE OR EXCHANGE OF PERSONAL PROPERTIES >>

DIVISION 3.1. - SALE, LEASE OR EXCHANGE OF PERSONAL PROPERTIES

Sec. 2-201. - Authorized.

Sec. 2-202. - Competitive bidding—When required.

Sec. 2-203. - Same—Waiver of formalities.

Sec. 2-204. - Same—When not required.

Sec. 2-205. - Same—Waiver.

Sec. 2-201. - Authorized.

The city administrator, or his designated representative shall have the exclusive power and authority to sell, exchange or transfer any supplies, materials, apparatus or equipment owned by the city for public purposes.

(Code 1976, § 2-157; Ord. No. 36-01, § 6, 6-19-01)

State law reference— Similar provisions, A.C.A. § 14-48-117(5)(A)(iii).

Sec. 2-202. - Competitive bidding—When required.

Where the amount of a sale, exchange or transfer authorized in [section 2-201](#) exceeds the sum of five thousand dollars (\$5,000.00) that is to say, whenever the value of the property being sold or exchanged is of such value that it will reasonably realize a credit to the city in the amount of five thousand dollars (\$5,000.00) or more, the city administrator, or designated representative, shall invite competitive bidding thereon by legal advertisement in any local daily newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The city administrator, or designated representative shall transmit to the board of directors a tabulation of all bids received thereon and the board of directors, with the recommendation of the city administrator, by resolution duly passed, shall authorize the purchase or contract to the lowest responsible and responsive bidder; provided, however, the directors may reject any and all bids.

(Code 1976, § 2-158; Ord. No. 36-01, § 7, 6-19-01)

State law reference— Board to establish dollar value of property for which bids required. A.C.A. § 14-48-117(5)(A)(iv).

Sec. 2-203. - Same—Waiver of formalities.

The advertisement for bid may state that the board of directors may waive any formalities in regard to the bidding other than the requirement of bond, when same is required.

(Code 1976, § 2-159)

Sec. 2-204. - Same—When not required.

No property owned by the city shall be sold, exchanged or transferred without competitive bidding unless the city administrator shall certify in writing that in his opinion the fair market value of such property is less than five thousand dollars (\$5,000.00).

(Code 1976, § 2-160; Ord. No. 36-01, § 8, 6-19-01)

Sec. 2-205. - Same—Waiver.

The board of directors, by ordinance, may waive the requirement of competitive bidding in regard to the sale or exchange of such property, in exceptional situations, where such procedure is not feasible, but such exceptional situations lacking, the board of directors may not except any particular sale from the requirement of competitive bidding.

(Code 1976, § 2-161)

FOOTNOTE(S):

¹⁹ Editor's note— Ord. No. 44-07, § 1, adopted June 5, 2007, amended the Code by renumbering former div. 3 as a new div. 3.1, and changing the title from "Sale, lease or exchange of property." (Back)

Fort Smith, Arkansas, Code of Ordinances >> - FORT SMITH MUNICIPAL CODE >> Chapter 2 - ADMINISTRATION >> ARTICLE V. - FINANCE >>
DIVISION 3.3. - REAL PROPERTY ACQUISITION POLICY >>

DIVISION 3.3. - REAL PROPERTY ACQUISITION POLICY

Sec. 2-210. - Purpose.

Sec. 2-211. - Application.

Sec. 2-212. - Project preparation and notice.

Sec. 2-213. - Input received and design completion.

Sec. 2-214. - Project approval.

Sec. 2-215. - Reserved.

Sec. 2-210. - Purpose.

The property acquisition policy of the city as stated in this division is adopted for the purpose of outlining the procedures to be used by the administrative officials of the city in the preparation of public projects which involve the city's acquisition of private property interests. The policy is adopted to provide uniformity among the various departments of the city which, from time to time, acquire private property interests in conjunction with approved projects. The policy is not intended to create rights in favor of persons or entities other than the city. Specifically, the city reserves the complete right to exercise the constitutionally authorized power of eminent domain as permitted by controlling law, and no provision of the policy stated in section 2-211 is intended to restrict or limit the right of the city to exercise its power of eminent domain.

(Ord. No. 40-05, § 1, 5-17-05)

Sec. 2-211. - Application.

The hereinafter stated property acquisition policy shall apply to the acquisition of real property interests by the city except in situations:

- (1) Involving acquisitions pursuant to federal requirements; and
- (2) Otherwise authorized by motion, resolution, or other legislative enactment of the governing body of the city.

(Ord. No. 40-05, § 2, 5-17-05)

Sec. 2-212. - Project preparation and notice.

Administrative staff of the city shall prepare a conceptual plan for the proposed project identifying approximate property acquisition impacts. Property owners affected by the proposed project are to be sent:

- (1) Notice of the name and telephone number of a staff contact person; and
- (2) Notice of a public meeting at which the conceptual plan and approximate property acquisition impacts are to be discussed with affected property owners.

As to smaller projects affecting only a few properties, the administrative staff will make direct contact with the property owners in lieu of holding a public meeting.

(Ord. No. 40-05, § 2, 5-17-05)

Sec. 2-213. - Input received and design completion.

Input from affected property owners will be received at the public meeting or in individual contacts with affected property owners. After considering pertinent information, project design is to be completed by staff. When design nears completion, the needs for acquisition of private property interests is finalized.

(Ord. No. 40-05, § 2, 5-17-05)

Sec. 2-214. - Project approval.

Unless previously authorized by budget (budgeted maintenance or construction projects), the proposed project requiring acquisition of private property interests must be approved by the board of directors.

- (1) For acquisitions of a value up to two thousand five hundred dollars (\$2,500.00):
 - a. Staff will estimate the value of each acquisition based on appraisal reports from other properties in the neighborhood. The estimate value must be reviewed and approved by the staff employee's department head or his/her designee.
 - b. Staff sends an offer letter to the property owner.
 - c. Staff will not negotiate with the property owner except to receive information about an obvious error in the staff's valuation.
 - d. In the event of complicating factors in the acquisition or if there is no reliable value data available, the subsection a. valuation procedure will not be used; rather, an appraiser will be retained to establish value.
 - e. If the acquisition value issue is settled, staff or the city attorney will close the transaction.
 - f. If the acquisition value issue is not settled, a formal appraisal will be prepared and forwarded to the property owner. Any proposed settlement above the appraised amount will be submitted to the board. The use of the power of eminent domain will be submitted to the board for approval. The board may either approve a settlement amount or authorize the use of eminent domain to acquire the property interest.
- (2) For acquisitions of a value between two thousand five one hundred dollars (\$2,501.00) and ten thousand dollars (\$10,000.00):

- a. Staff will have a formal appraisal report prepared by a qualified appraiser.
 - b. Staff will send an offer letter to the affected property owner.
 - c. Staff will not negotiate with the property owner except to receive information about an obvious error in the appraiser's valuation.
 - d. If the acquisition value issue is settled, staff or the city attorney will close the transaction.
 - e. If the acquisition value issue is not settled, any settlement offer from the property owner will be forwarded to the board. The board may either approve a settlement amount or authorize the use of eminent domain to acquire the property interest.
- (3) For acquisitions of a value greater than ten thousand dollars (\$10,000.00):
- a. Staff will have a formal appraisal report prepared by a qualified appraiser.
 - b. The appraised amount and a request for authorization to make an offer will be presented to the board for approval.
 - c. If authorized, the city attorney's office or a staff member will send an offer letter to the property owner.
 - d. If the acquisition value issue is settled for appraised value, the city attorney or a staff member will close on the acquisition with the property owner.
 - e. Any settlement greater than the appraised amount will require board approval. If the value issue is not settled, the use of the power of eminent domain will be submitted to the board for approval. The board may either approve a settlement amount or authorize the use of eminent domain to acquire the property interest.
- (4) For acquisitions involving only temporary construction easements of any value where there is no damage to substantial improvements:
- a. Staff will estimate the value of the temporary construction easement based on appraisal reports from other properties in the neighborhood.
 - b. In the event of complicating factors in the acquisition, damage to substantial improvements, or reliable appraisal data is not available, the subsection a. valuation procedure will not be used; rather, an appraiser will be retained to establish value.
 - c. Staff will send an offer letter to the affected property owner.
 - d. Staff will not negotiate with the property owner except to receive information about an obvious error in the staff's valuation.
 - e. If the acquisition value issue is settled for the estimated or appraisal amount, staff or the city attorney will close the transaction.
 - f. If the acquisition value issue is not settled, a formal appraisal will be prepared and forwarded to the property owner. Any settlement above the appraised amount will be submitted to the board. The use of the power of eminent domain will be submitted to the board for approval. The board may either approve a settlement amount or authorize the use of eminent domain to acquire the property interest.

(Ord. No. 40-05, § 2, 5-17-05)

Sec. 2-215. - Reserved. 

FOOTNOTE(S):

⁽¹⁾ *Editor's note— Ord. No. 44-07, § 1, adopted June 5, 2007, amended the Code by renumbering former div. 3.5 as a new div. 3.3, and changing the title from "Property acquisition policy." [\(Back\)](#)*

9.

ORDINANCE NO.
AN ORDINANCE AMENDING SECTION 2-182 OF THE
FORT SMITH MUNICIPAL CODE REGARDING PROFESSIONAL SERVICES

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

The first sentence of Section 2-182 (d) of the Fort Smith Municipal Code is hereby
amended to read:

In keeping with the A.C.A. title 19, Chapter 11, subchapter 8 (Section 19-11-801 et
seq.), it is determined to be the policy of the city that the city shall authorize contracts
for external accounting; legal; financial advisory; architectural; consulting; engineering;
construction management; land surveying, title search and insurance services; graphic
design; advertising and video production services; software and website development
services; and land acquisition and appraisal services to be provided to the city on a
negotiated basis, and the city shall negotiate contracts for any other professional
services when directed by state law.

THIS ORDINANCE ADOPTED THIS _____ DAY OF _____, 2012

APPROVED:

MAYOR

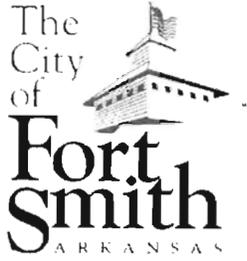
ATTEST:

CITY CLERK

Approved as to form:



Publish 1 Time



MEMORANDUM

November 27, 2012

TO: Ray Gosack, City Administrator

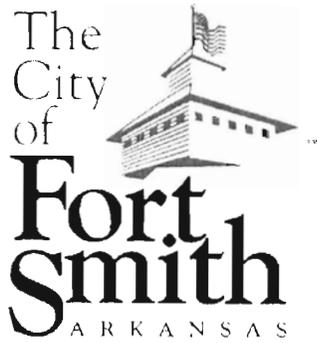
FROM : Kara Bushkuhl, Director of Finance 

SUBJECT: City Administrator Purchasing Authority, Contracting and Sale Authority

As indicated at their November 27, 2012 study session, the board placed the attached two ordinances for consideration at the December 4, 2012 regular meeting. Ordinance A includes the updated and increased limits as suggested for the various types of purchasing authorizations. Ordinance B is the update to the professional services listings.

There is an emergency clause included for ordinance A. Approval of Ordinance B requires a two-thirds (2/3) vote by the Board. The staff recommends approval of both ordinances.

If you have any questions, or require more information, please let me know.



1

MEMORANDUM

November 20, 2012

TO: Ray Gosack, City Administrator

FROM: Kara Bushkuhl, Director of Finance 

SUBJECT: City Administrator Purchasing, Contracting and Sale Authority

After reviewing possible amendments to the City Administrator's purchasing, contracting and sale authority with Jerry Canfield, City Attorney, the following information is provided for the applicable sections of the city code of ordinances.

1. Regarding Code Section 2-162 dealing with payment of debts, the Board must establish a dollar limit for obligations, including partial payments. The current limit of \$500,000 was set in 2001. Applying inflation since 2001, the current amount would be \$650,000. Staff suggests the Board consider a limit higher such as \$750,000. Section 1 of the attached ordinance form refers to this section.
2. Code Section 2-182 deals with purchases or contracts for supplies, materials or equipment ("purchases") or for the construction of municipal improvements ("contracts"). The Board may set limits for purchases at any level. However, the limit for public improvement contracts must maintain the state limit of \$20,000 for approval by the City Administrator. These contracts include the construction of facilities, water and sewer projects, street projects, and drainage improvements. Even though the City Code established these contracts with a \$40,000 limit for approval in 2001, recent history has not indicated any such instances when the City Administrator approval was obtained between the \$20,000 and \$40,000 level. The City Attorney has suggested that the city separate "purchases" from "contracts". Section 2 of the attached ordinance form will provide this distinction. Subsection (b) (1) and (2) apply to both purchases and contracts for smaller limits; (b) (3) and (4) refer only to purchases; and (b) (5) and (6) refer only to contracts.

The limits suggested for each subsection are:

| | <u>Current</u> | <u>Proposed</u> |
|-----------------------------|--------------------|--------------------|
| (1) Purchases and Contracts | \$750 | \$1,000 |
| (2) Purchases and Contracts | \$750-\$5,000 | \$1,000-\$7,500 |
| (3) Purchases | \$5,000-\$20,000 | \$7,500-\$75,000 |
| (4) Purchases | \$40,000 and above | \$75,000 and above |
| (5) Contracts | \$5,000-\$20,000 | \$7,500-\$20,000 |
| (6) Contracts | \$40,000 and above | \$20,000 and above |

The suggested levels are slightly above inflation rates since 2001. Please note that the proposed ordinance reduces the requirement for competitive bidding until the purchase has to go to the Board. This will save time and money since the advertising and waiting requirements are eliminated for those purchases.

3. Regarding Code Section 2-182 (c) dealing with contracts for services, the current limit for the City Administrator is \$40,000 for the first level; between \$40,000 and \$200,000 for the next level; and \$200,000 and above for services requiring competitive bidding. The inflation rates for 2012 for these levels of spending are \$52,000 and \$260,000, respectively. Staff suggests the Board consider \$75,000 and \$300,000, respectively.
4. Regarding Code Section 2-182 (d) (3) dealing with specified contracts for professional services, the current limit is \$40,000. Staff recommends that this be increased to \$75,000.
5. Section 2-183 (a) and (c) of the City Code covers competitive bidding requirements. Section 3 of the attached ordinance form allows for the separation of purchases and contracts. Purchases and contracts for services are provided for in subsection (a) while contracts for municipal improvements are provided for in subsection (c). The amounts for purchases and contracts for services will follow the choices made above for subsection (a). The amount for subsection (c) must be \$20,000 per state law.
6. Regarding Code Section 2-202 that deals with sales, leases or exchanges of personal properties, the current limit is \$5,000. The inflation rate would increase the limit to \$6,500. Staff suggests the Board select \$7,500. Section 4 of the proposed ordinance form provides for a change to this limit.

7. Section 2-214 of the City Code deals with project approval authorization for real property acquisitions. The first level of limits is currently \$2,500. A formal appraisal is not required unless negotiations are not settled. Staff has requested that this limit be raised to \$5,000 due to formal appraisal costs starting at \$1,500 and above. The next level of project approval is currently \$2,501 to \$10,000 that requires a formal appraisal and approval by the City Administrator. The proposed limit increase for this level is \$5,001 to \$20,000. The third level for project approval is for acquisitions greater than \$10,000 so it is proposed that this limit be changed to greater than \$20,000.

Regarding the approval for final payments and acceptance of the project as complete, this is the city's current practice. The City Attorney recommends that this remain in place. He stated that it is a benefit for negotiating with contractors and any subsequent litigation. Furthermore, the City Clerk relies on these Board approvals to close a contract file.

In another matter, the staff would like to update the list of professional services to include land acquisitions and appraisal services. A separate ordinance draft has been attached to provide for these additions. Approval of this ordinance requires a two-thirds (2/3) vote by the Board.

For your information, attached is a schedule that indicates the purchasing activity and periodic payment authorizations by type presented to the Board for the past three calendar years and 2012 to date. Also, attached is a schedule that indicates the number of purchases that would have been presented to the Board if the proposed level of \$75,000 was in place and the number of partial payments that would have been presented to the Board if the level had been \$750,000. A copy of the current code for the sections referenced in this memorandum is also attached.

Please let me know if you have questions, or require more information.

Pc: Jeff Dingman

| <u>Approval Type</u> | <u>2009</u> | <u>2010</u> | <u>2011</u> | <u>2012</u> |
|----------------------------------|--------------------|--------------------|--------------------|--------------------|
| Architectural | \$0.00 | \$0.00 | \$0.00 | \$252,015.00 |
| Computer Equip. | \$0.00 | \$353,168.88 | \$346,536.04 | \$0.00 |
| Construction | 8 \$1,559,280.76 | 12 \$3,334,164.21 | 7 \$5,169,432.39 | 4 \$907,153.57 |
| Consulting | 2 \$144,850.00 | 1 \$185,630.00 | \$0.00 | \$0.00 |
| Engineering-Construction | 20 \$17,176,921.29 | 3 \$51,800.00 | 4 \$8,514,695.39 | 8 \$8,945,776.12 |
| Engineering-Drainage Imp. | 2 \$159,036.24 | 2 \$678,400.25 | 2 \$602,239.28 | 2 \$1,142,335.30 |
| Engineering Services-General | 2 \$1,271,050.00 | 3 \$1,136,035.00 | 2 \$954,354.00 | 2 \$233,848.00 |
| Engineering-Property Acquisition | \$0.00 | \$0.00 | \$0.00 | \$249,900.00 |
| Equipment | 6 \$933,234.18 | 2 \$838,446.33 | 7 \$1,295,817.04 | 7 \$2,216,462.28 |
| Engineering-Street Overlays | 12 \$9,519,166.55 | 6 \$7,699,183.61 | 8 \$8,481,263.73 | 3 \$3,414,752.87 |
| Goods | 3 \$469,342.01 | \$0.00 | 3 \$547,569.00 | 4 \$805,855.00 |
| Heavy Equipment | 7 \$1,536,605.73 | 4 \$475,439.81 | 11 \$1,922,904.28 | 9 \$6,203,692.62 |
| Property Acquisition | \$0.00 | \$0.00 | \$0.00 | \$167,000.00 |
| Software | \$0.00 | \$41,504.54 | \$0.00 | \$53,802.00 |
| Staffing | \$0.00 | \$58,782.49 | \$0.00 | \$987,309.00 |
| Utilities-Architectural | 1 \$72,200.00 | 4 \$50,593.00 | 2 \$121,296.00 | \$0.00 |
| Utilities-Construction | 57 \$68,768,575.59 | 56 \$35,255,196.32 | 47 \$23,339,771.17 | 41 \$19,092,049.20 |
| Utilities-Engineering | 17 \$6,439,944.84 | 9 \$850,954.75 | 10 \$1,531,367.00 | 2 \$4,258,503.20 |
| Utilities-Property Acquisition | 5 \$405,470.00 | 2 \$316,846.00 | 4 \$531,010.00 | 1 \$709,000.00 |
| Total Resolutions | <u>143</u> | <u>109</u> | <u>112</u> | <u>87</u> |

City of Fort Smith, Arkansas
 Purchase Limit & Partial Payment History & Proposal Comparisons
 For the Fiscal Years Ended December 31, 2009, 2010 & 2011 and for the
 Period January 1 - September 30, 2012

| Approval Type | 2009 | 2010 | 2011 | 2012 To Date |
|--|------|------|------|-----------------|
| Actual Purchases of Items: | | | | |
| less than \$40,000 | 48 | 31 | 36 | 41 |
| \$40,000 and above | 143 | 109 | 112 | 87 |
| Partial Payments: | | | | |
| \$500,000 and above | 51 | 34 | 31 | 28 |
| If proposed limits adopted, past activity would have been: | | | | |
| Actual Purchases of Items: | | | | |
| \$75,000 and above | 116 | 84 | 89 | 75 |
| Partial Payments: | | | | |
| \$750,000 and above | 2 | 14 | 18 | - |

Fort Smith, Arkansas, Code of Ordinances >> - FORT SMITH MUNICIPAL CODE >> Chapter 2 - ADMINISTRATION >> ARTICLE V. - FINANCE >>
 DIVISION 1. - GENERALLY >>

DIVISION 1. - GENERALLY

Sec. 2-161. - Fee ratified.

Sec. 2-162. - Approval of obligations.

Sec. 2-163. - Signatures for warrants.

Sec. 2-164. - Deposit of funds in budgeted checking accounts.

Sec. 2-165. - Investment management.

Secs. 2-166—2-180. - Reserved.

Sec. 2-161. - Fee ratified.

All fees and charges made by the city in effect on the adoption date of this Code are ratified and confirmed.

Sec. 2-162. - Approval of obligations.

The city administrator, or designated representative, is hereby authorized to approve, or disapprove, for payment out of funds previously appropriated for that purpose, any bills, debts or statements presented to the city and resulting from the supplying of goods, properties or services to the city; provided, however, if the amount of any bill, debt or liability exceeds five hundred thousand dollars (\$500,000.00), the payment or disapproval thereof shall require the confirmation of the board of directors.

(Code 1976, § 2-124; Ord. No. 36-01, § 1, 6-19-01)

State law reference— Board to establish maximum amount of bills that can be paid by administration without confirmation of board of directors, A.C.A. § 14-48-117(5)(A)(ii).

Sec. 2-163. - Signatures for warrants.

The city administrator is hereby authorized to sign all municipal warrants, and all such warrants shall be cosigned by the city treasurer.

(Code 1976, § 2-126)

State law reference— Administrator to sign warrants when authorized by board of directors, A.C.A. § 14-48-117(9).

Sec. 2-164. - Deposit of funds in budgeted checking accounts.

- (a) Beginning January 1, 2001, the city shall contract for banking services every two (2) years with optional annual renewals, not to exceed two (2) renewals. The contract will be awarded after competitive bids for banking services have been evaluated according to the criteria established by the city administrator, or designated representative. In awarding the contract for banking services, the city shall give preference to the banking institution that offers the lowest cost of services requested and the highest lending and investment efforts in the community, while giving consideration to new or unique services offered by the banking institution that can be quantified to provide financial benefits to the city. The contract for banking services shall include termination clauses for the city and the financial institution in the event of a breach of service or failure to meet performance criteria.
- (b) To be eligible to submit a bid, a banking institution must meet the following qualifications:
 - (1) The banking institution must be licensed by the federal government and be a part of all relevant federal insurance plans;
 - (2) The banking institution must be licensed by the state;
 - (3) The banking institution must have at least three (3) staffed full service locations within the boundaries of the city;
 - (4) The banking institution must provide all of the services being sought by the city in its request for proposals;
 - (5) The banking institution must be included on the annual list of eligible banks prepared by the state bank commissioner as provided by A.C.A. § 19-8-105(a); and
 - (6) In the event of change of ownership of the banking institution, the above five (5) qualifications must continue to be met by the new entity. Failure to meet these qualifications will allow the city to terminate the contract.
- (c) In order for a banking institution to be considered a qualified bidder, the bank must be capable of, and agree to, provide the city full banking services. These services will be paid for on a fee for service basis. These services will include, but not be limited to the following:
 - (1) Accept deposits and process checks. Reconciliations will be furnished electronically for the city's special account, payroll account, clearing account and other accounts as requested by the city;
 - (2) Complete wire transfers, night depository services, investment processing services, coin sorting and counting services;
 - (3) Collateralize at least one hundred two (102) percent of the daily account balances with the U.S. government and selected agency securities of the U.S. government with maturities not to exceed eighteen (18) months, or other instruments authorized by state law;
 - (4) Provide the city weekly statements on CD-ROM for its payroll account, clearing account and other accounts as requested by the city. Monthly statements will be provided for all other accounts. The statements must detail account balances, interest rate earned, and the dollar amount of interest credited to various city accounts.
 - (5) Direct deposit of payroll services for those city employees electing to use this service;
 - (6) Cash all checks issued by the city and drawn on the servicing bank at all branches of the servicing bank within the Greater Fort Smith Metropolitan Statistical Area.
- (d) Annually, the city's depository board shall confirm the banking services contract pursuant to A.C.A. § 19-8-105(b).

(Code 1976, § 2-127; Ord. No. 44-00, §§ 1, 2, 8-15-00)

Sec. 2-165. - Investment management.

- (a) The objectives of the city's investment and cash management program shall be to:
 - (1) Safely invest city funds to the fullest extent possible.
 - (2) Maintain sufficient liquidity to meet cash flow needs.
 - (3) Attain the maximum yield possible consistent with subsections (1) and (2) above.
- (b) The city will limit its investments to the safest type of securities permitted by state law. These shall include those which:
 - (1) Have insurance on the principal guaranteed by the Federal Deposit Insurance Corporation (FDIC).
 - (2) Have security on the principal in the form of bonds or other interest-bearing securities of the U.S. government or its agencies.
 - (3) Have security on the principal in the form of bonds or other interest-bearing securities of the state, or its agencies or political subdivisions as defined by state law.
- (c) Investments shall be made by the city administrator, or designated representative, on the basis of competitive offers and bids in order to obtain the highest available rates in accordance with subsections (a) and (b) of this section. In order to keep administrative costs as low as possible, investments of less than one hundred thousand dollars (\$100,000.00) may be made through a current depository bank. For investments exceeding one hundred thousand dollars (\$100,000.00), banking institutions shall be contacted by telephone and asked to provide an interest yield quote by return telephone call within sixty (60) minutes. The institution offering the highest interest yield in accordance with the other security requirements will be notified immediately of the city's investment decision. The bids of each institution shall be recorded and kept on file for a period of at least one (1) fiscal year.
- (d) In the event of identical interest yield bids, the city may break the tie by the use of an objective method to be determined by the city.
- (e) In the event no quotes are received from a banking institution in the city insured by the FDIC, the city may invest its funds in any banking institution insured by the FDIC in the state meeting the security requirements of subsection (b) of this section.
- (f) Clear title to the principal of and collateral backing for any investment shall be maintained by the city or by a third-party safekeeping agent under agreement to the city.
- (g) The city may specify monthly investment yield payments in order to enhance cash flow and investment returns.
- (h) The city administrator, or designated representative, shall be responsible for administering the city's investment and cash management program in accordance with state law and city ordinances.
- (i) The city administrator, or designated representative, shall provide the mayor and board of directors with monthly investment information. The information shall include type of investment, purchase date, maturity date, face value, rate of interest, amount of interest earned and institution where the funds are invested.

(Code 1976, § 2-128)

State law reference— Determination of depositories, A.C.A. §§ 19-8-106, 19-8-107

Secs. 2-166—2-180. - Reserved. 

Fort Smith, Arkansas, Code of Ordinances >> - FORT SMITH MUNICIPAL CODE >> Chapter 2 - ADMINISTRATION >> ARTICLE V. - FINANCE >>
DIVISION 2. - PURCHASES >>

DIVISION 2. - PURCHASES

Sec. 2-181. - Authority of administrator.

Sec. 2-182. - Procedures for purchase of supplies, services.

Sec. 2-183. - Competitive bidding—When required.

Sec. 2-184. - Same—Waiver of formalities.

Sec. 2-185. - Same—Waiver.

Sec. 2-186. - Exception.

Secs. 2-187—2-200. - Reserved.

Sec. 2-181. - Authority of administrator.

The city administrator, or designated representative, shall have the exclusive power and responsibility to make purchases of or contract for any supplies, materials or equipment for the various offices, departments and agencies of the city government, and to make or authorize contracts for services to be rendered to the city or for the construction of municipal improvements.

(Code 1976, § 2-140)

State law reference— Similar provisions. A.C.A. § 14-48-117(5)(A)(i).

Sec. 2-182. - Procedures for purchase of supplies, services.

- (a) In exercising his authority as set forth in section 2-181, the city administrator, or designated representative, shall conform to the procedures in this section.
- (b) The following procedures shall apply to purchases of or contracts for any supplies, materials or equipment for the various offices, departments and agencies of city government or for the construction of municipal improvements:
 - (1) All purchases or contracts where the expenditure therefor is less than seven hundred fifty dollars (\$750.00) may be made by the city administrator, or designated representative, without securing bids.
 - (2) All purchases or contracts where the expenditure is seven hundred fifty dollars (\$750.00) or more, but less than five thousand (\$5,000.00) may be made by the city administrator, or designated representative, after securing oral bids therefor.
 - (3) All purchases or contracts where the expenditure therefor is five thousand dollars (\$5,000.00) or more, but less than twenty thousand dollars (\$20,000.00) may be made by the city administrator, or designated representative, after the securing of three or more written bids. If three (3) written bids are not obtained, the purchase request form must show the names of at least three (3) firms contacted in attempting to obtain competition or note the reason three (3) firms were not contacted.
 - (4) All purchases or contracts where the expenditure therefor is twenty thousand dollars (\$20,000.00) but less than forty thousand dollars (\$40,000.00) may be made by the city administrator, or his designated representative, after the securing of competitive bids.
 - (5) All purchases or contracts where the expenditure is forty thousand dollars (\$40,000.00) or more may be made with the approval of the board of directors after the securing of competitive bids.
- (c) The following procedures shall apply to all contracts for services, other than those expressly provided for in subsection (d) of this section, to be rendered to the city:
 - (1) The city administrator is authorized to enter into any such contract for services where the expenditure therefor is not more than forty thousand dollars (\$40,000.00) after soliciting and reviewing written proposals from interested and qualified providers of such services. Such written proposals shall include a statement of the scope of services to be provided, qualifications of the providers of the service fees and charges, and any other information the city administrator may require.
 - (2) The city administrator is authorized to enter into any such contract for services where the expenditure is forty thousand dollars (\$40,000.00) or more but less than two hundred thousand dollars (\$200,000.00) after soliciting and reviewing written proposals from interested and qualified providers of such services. Such written proposal shall include a statement of the scope of services to be provided, qualifications of the providers of the services, fees and charges, and any other information the city administrator may require. With reference to those contracts described in this subsection, before execution of any such contract for services on behalf of the city, the board of directors must appropriate the necessary funds for the services and the city administrator shall notify the board of directors in writing of the execution of the contract for services, the designation of the budgeted fund from which such contract for services will be paid, if appropriated, and the date on which execution of the contract will be made.
 - (3) The city administrator is authorized to secure competitive bids for any such contract for services where the expenditure is two hundred thousand dollars (\$200,000.00) or more. Such written bids shall include a statement of the scope of services to be provided, qualifications of the providers of the services, fees and charges, and any other information the city administrator may require. Any contract to be executed for services shall require approval of the board of directors.
 - (4) Any written proposal for services received under the provisions of this subsection (c) shall be retained by the city for a period of three (3) years.
- (d) In keeping with A.C.A., tit. 19, ch. 11, subch. 8 [§ 19-11-801 et seq.], it is determined to be the policy of the city that the city shall authorize contracts for external accounting; legal; financial advisory; architectural; consulting; engineering; construction management; land surveying, title search and insurance services; graphic design, advertising and video production services; and software and website development services to be provided to the city on a negotiated basis, and the city shall negotiate contracts for any other professional services when directed by state law. The following procedure shall apply to the procurement of such contracts:
 - (1) The term "city administrator" shall refer to the city administrator or the administrator's designated agent. The term "firm" shall refer to any professional person or a firm of professionals.
 - (2) Such contracts shall be negotiated based on demonstrated competence and qualifications and at fair and reasonable prices.
 - (3)

- All contracts providing for total compensation for services and expenses to be supplied to the city of forty thousand dollars (\$40,000.00) or less shall be entered into by the city administrator provided that the board of directors has appropriated, either in the city's annual budget or by other appropriation, the funds from which services shall be paid. All contracts in excess of forty thousand dollars (\$40,000.00) shall be authorized by the board of directors.
- (4) The city administrator shall cause to be published in a newspaper having general circulation in the city a notice indicating that the city will receive, for a 15-day period including the date of notice, statements of qualifications and performance data from all firms who provide professional services such as lawyers, architects, engineers or land surveyors or other professional services designated in the notice. Submitted statements of qualifications and performance data shall be utilized in the procurement process for service contracts. On or before the fifteenth day of September of each calendar year, a notice shall be so published indicating that such professionals may submit statements of qualifications and performance data by the fifteenth day of November of the year of publication, which submitted information will be used in the procurement of service contracts by the city during the one-year period commencing with the first calendar day of the year following the year of publication. At any time the city enters into the procurement of any contract for such professional services, all then current statements of qualification and performance data on file with the city and all additional statements of qualification and performance data obtained by or submitted to the city, whether as a result of a published notice or otherwise, shall be evaluated as a part of the contract procurement process.
 - (5) From the available statements of qualifications and performance data, the city shall select three (3) qualified firms for consideration with reference to the anticipated issuance of a contract for services. From the three (3) qualified firms, there shall be selected the firm considered the best qualified and capable of performing the desired work. Both in the selection of the three (3) qualified firms and in the selection of the firm considered the best qualified and capable, consideration shall be given to the following factors:
 - a. The specialized experience and technical competence of the firm with respect to the type of professional services required.
 - b. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project.
 - c. The past record of performance of the firm with respect to such factors as control of costs, quality of work and ability to meet schedules and deadlines.
 - d. The firm's proximity to and familiarity with the area in which the project is located.
 - (6) After the selection of the firm most qualified and capable of performing the desired work, the city administrator shall, jointly with the selected firm, prepare a detailed, written description of the scope of proposed services. Such written description shall be used as the basis for the negotiation of the contract for services. The city administrator shall then enter into negotiations with the selected firm. If the administrator is unable to negotiate a satisfactory contract with such firm, the unsuccessful negotiations shall be terminated and negotiations shall commence with another of the selected qualified firms. If negotiations are again unsuccessful, negotiations shall be conducted with the third qualified firm. If the administrator is unable to negotiate a contract with any of the selected firms, the city administrator shall reevaluate the necessary professional services, including the scope and reasonable fee requirements anticipated by the contract, and, after completing that process, proceed in accordance with the provisions of this division.
 - (7) If at the time of commencement of procurement of a professional services contract there is available from all sources less than three (3) statements of qualifications and performance data, the procedures outlined above shall take place with reference to the then available statements of qualifications and performance data.

(Code 1976, § 2-141; Ord. No. 65-89, §§ 1, 2, 8-1-89; Ord. No. 89-90, § 3, 12-18-90; Ord. No. 59-97, §§ 1—3, 10-21-97; Ord. No. 64-98, §§ 1—3, 9-1-98; Ord. No. 36-01, §§ 2—4, 6-19-01; Ord. No. 65-04, §§ 1, 2, 10-19-04; Ord. No. 92-05, 12-6-05; Ord. No. 97-05, 12-20-05; Ord. No. 71-06, 8-1-06)

State law reference— Board to establish maximum amount for which administrator may contract without bids. A.C.A. § 14-48-117(5)(A)(i).

Sec. 2-183. - Competitive bidding—When required.

- (a) Where the amount of any expenditure for a purchase or contract for supplies, materials or equipment for the various offices, departments and agencies of the city government is twenty thousand dollars (\$20,000.00) or more, or for any contract for services to be rendered to the city is two hundred thousand dollars (\$200,000.00) or more, the city administrator or designated representative shall invite competitive bidding thereon by legal advertisement published one (1) time in a daily local newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The bidding procedure as set forth in this and other provisions of the city shall not be exclusive of other state-mandated bidding procedures.
- (b) In the event of an emergency, the city administrator may invite competitive bidding to be opened not less than five (5) days following the date of invitation to bid.
- (c) Where the amount of any expenditure for the construction of municipal improvements is ten thousand dollars (\$10,000.00) or more the city administrator or designated representative shall invite competitive bidding thereon by legal advertisement published one (1) time in a daily local newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The bidding procedure as set forth in this and other provisions of the city shall not be exclusive of other state-mandated bidding procedures.
- (d) Thereupon, the city administrator or designated representative shall transmit to the board of directors a tabulation of all bids received thereon and the board of directors, with the recommendation of the city administrator, by resolution duly passed, shall authorize the purchase or contract to the best responsible and responsive bidder; provided, however, the directors may reject any and all bids.

(Code 1976, § 2-142. Ord. No. 59-97, § 4, 10-21-97; Ord. No. 36-01, § 5, 6-19-01)

State law reference— Competitive bidding required. A.C.A. § 14-48-129.

Sec. 2-184. - Same—Waiver of formalities.

The advertisement for bid may state that the board of directors may waive any formalities in regard to the bidding other than the requirement of bond, when the same is required.

(Code 1976, § 2-143)

Sec. 2-185. - Same—Waiver.

The board of directors, by ordinance, may waive the requirement of competitive bidding in exceptional situations where such procedure is not feasible, but such exceptional situation being lacking, the board of directors may not except any particular bid from the requirement of competitive bidding.

(Code 1976, § 2-144)

State law reference— Waiver of competitive bidding. A.C.A. § 14-48-129(b).

Sec. 2-186. - Exception.

The provisions of this division dealing with the procurement of contracts for professional services shall not be applicable to professional employees of the city.

(Ord. No. 65-89, § 3, 8-1-89)

Secs. 2-187—2-200. - Reserved.

FOOTNOTE(S):

⁽⁵⁾ *Editor's note— Resolution No. R-95-99, adopted April 20, 1999, set forth procedures for protests of bid awards as follows: [\(Back\)](#)*

⁽⁶⁾ *The city administrator is authorized to implement the following protest of bid award procedure for all city sealed bids taken by the city's purchasing department: [\(Back\)](#)*

⁽⁶⁾ *Any protest of bid award must be made in writing and received by the purchasing department no later than three (3) days after notice of intent to award has been made. Additionally, if the subject purchase requires board of directors' approval, written protest must be received by the purchasing department no later than five (5) days prior to the next board of directors meeting at which the recommended bid award will be considered. [\(Back\)](#)*

⁽⁷⁾ *The foregoing procedure shall not be applicable to contracts for public works not administered by the city's purchasing department [\(Back\)](#)*

Fort Smith, Arkansas, Code of Ordinances >> - FORT SMITH MUNICIPAL CODE >> Chapter 2 - ADMINISTRATION >> ARTICLE V. - FINANCE >>
DIVISION 3.1. - SALE, LEASE OR EXCHANGE OF PERSONAL PROPERTIES >>

DIVISION 3.1. - SALE, LEASE OR EXCHANGE OF PERSONAL PROPERTIES

[Sec. 2-201. - Authorized](#)

[Sec. 2-202. - Competitive bidding—When required](#)

[Sec. 2-203. - Same—Waiver of formalities](#)

[Sec. 2-204. - Same—When not required](#)

[Sec. 2-205. - Same—Waiver](#)

Sec. 2-201. - Authorized.

The city administrator, or his designated representative shall have the exclusive power and authority to sell, exchange or transfer any supplies, materials, apparatus or equipment owned by the city for public purposes.

(Code 1976, § 2-157; Ord. No. 36-01, § 6, 6-19-01)

State law reference— Similar provisions. A.C.A. § 14-48-117(5)(A)(iii).

Sec. 2-202. - Competitive bidding—When required.

Where the amount of a sale, exchange or transfer authorized in [section 2-201](#) exceeds the sum of five thousand dollars (\$5,000.00) that is to say, whenever the value of the property being sold or exchanged is of such value that it will reasonably realize a credit to the city in the amount of five thousand dollars (\$5,000.00) or more, the city administrator, or designated representative, shall invite competitive bidding thereon by legal advertisement in any local daily newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The city administrator, or designated representative shall transmit to the board of directors a tabulation of all bids received thereon and the board of directors, with the recommendation of the city administrator, by resolution duly passed, shall authorize the purchase or contract to the lowest responsible and responsive bidder; provided, however, the directors may reject any and all bids.

(Code 1976, § 2-158; Ord. No. 36-01, § 7, 6-19-01)

State law reference— Board to establish dollar value of property for which bids required. A.C.A. § 14-48-117(5)(A)(ii).

Sec. 2-203. - Same—Waiver of formalities.

The advertisement for bid may state that the board of directors may waive any formalities in regard to the bidding other than the requirement of bond, when same is required.

(Code 1976, § 2-159)

Sec. 2-204. - Same—When not required.

No property owned by the city shall be sold, exchanged or transferred without competitive bidding unless the city administrator shall certify in writing that in his opinion the fair market value of such property is less than five thousand dollars (\$5,000.00).

(Code 1976, § 2-160; Ord. No. 36-01, § 8, 6-19-01)

Sec. 2-205. - Same—Waiver.

The board of directors, by ordinance, may waive the requirement of competitive bidding in regard to the sale or exchange of such property, in exceptional situations, where such procedure is not feasible, but such exceptional situations lacking, the board of directors may not except any particular sale from the requirement of competitive bidding.

(Code 1976, § 2-161)

FOOTNOTE(S):

⁽⁹⁾ *Editor's note— Ord. No. 44-07, § 1, adopted June 5, 2007, amended the Code by renumbering former div. 3 as a new div. 3.1. and changing the title from "Sale, lease or exchange of property." [\(Back\)](#)*

Fort Smith, Arkansas, Code of Ordinances >> - FORT SMITH MUNICIPAL CODE >> Chapter 2 - ADMINISTRATION >> ARTICLE V. - FINANCE >>
DIVISION 3.3. - REAL PROPERTY ACQUISITION POLICY >>

DIVISION 3.3. - REAL PROPERTY ACQUISITION POLICY

Sec. 2-210. - Purpose.

Sec. 2-211. - Application.

Sec. 2-212. - Project preparation and notice.

Sec. 2-213. - Input received and design completion.

Sec. 2-214. - Project approval.

Sec. 2-215. - Reserved.

Sec. 2-210. - Purpose.

The property acquisition policy of the city as stated in this division is adopted for the purpose of outlining the procedures to be used by the administrative officials of the city in the preparation of public projects which involve the city's acquisition of private property interests. The policy is adopted to provide uniformity among the various departments of the city which, from time to time, acquire private property interests in conjunction with approved projects. The policy is not intended to create rights in favor of persons or entities other than the city. Specifically, the city reserves the complete right to exercise the constitutionally authorized power of eminent domain as permitted by controlling law, and no provision of the policy stated in section 2-211 is intended to restrict or limit the right of the city to exercise its power of eminent domain.

(Ord. No. 40-05, § 1, 5-17-05)

Sec. 2-211. - Application.

The hereinafter stated property acquisition policy shall apply to the acquisition of real property interests by the city except in situations:

- (1) Involving acquisitions pursuant to federal requirements; and
- (2) Otherwise authorized by motion, resolution, or other legislative enactment of the governing body of the city.

(Ord. No. 40-05, § 2, 5-17-05)

Sec. 2-212. - Project preparation and notice.

Administrative staff of the city shall prepare a conceptual plan for the proposed project identifying approximate property acquisition impacts. Property owners affected by the proposed project are to be sent:

- (1) Notice of the name and telephone number of a staff contact person; and
- (2) Notice of a public meeting at which the conceptual plan and approximate property acquisition impacts are to be discussed with affected property owners.

As to smaller projects affecting only a few properties, the administrative staff will make direct contact with the property owners in lieu of holding a public meeting.

(Ord. No. 40-05, § 2, 5-17-05)

Sec. 2-213. - Input received and design completion.

Input from affected property owners will be received at the public meeting or in individual contacts with affected property owners. After considering pertinent information, project design is to be completed by staff. When design nears completion, the needs for acquisition of private property interests is finalized.

(Ord. No. 40-05, § 2, 5-17-05)

Sec. 2-214. - Project approval.

Unless previously authorized by budget (budgeted maintenance or construction projects), the proposed project requiring acquisition of private property interests must be approved by the board of directors.

- (1) For acquisitions of a value up to two thousand five hundred dollars (\$2,500.00):
 - a. Staff will estimate the value of each acquisition based on appraisal reports from other properties in the neighborhood. The estimate value must be reviewed and approved by the staff employee's department head or his/her designee.
 - b. Staff sends an offer letter to the property owner.
 - c. Staff will not negotiate with the property owner except to receive information about an obvious error in the staff's valuation.
 - d. In the event of complicating factors in the acquisition or if there is no reliable value data available, the subsection a. valuation procedure will not be used; rather, an appraiser will be retained to establish value.
 - e. If the acquisition value issue is settled, staff or the city attorney will close the transaction.
 - f. If the acquisition value issue is not settled, a formal appraisal will be prepared and forwarded to the property owner. Any proposed settlement above the appraised amount will be submitted to the board. The use of the power of eminent domain will be submitted to the board for approval. The board may either approve a settlement amount or authorize the use of eminent domain to acquire the property interest.
- (2) For acquisitions of a value between two thousand five one hundred dollars (\$2,501.00) and ten thousand dollars (\$10,000.00):

- a. Staff will have a formal appraisal report prepared by a qualified appraiser.
 - b. Staff will send an offer letter to the affected property owner.
 - c. Staff will not negotiate with the property owner except to receive information about an obvious error in the appraiser's valuation.
 - d. If the acquisition value issue is settled, staff or the city attorney will close the transaction.
 - e. If the acquisition value issue is not settled, any settlement offer from the property owner will be forwarded to the board. The board may either approve a settlement amount or authorize the use of eminent domain to acquire the property interest.
- (3) For acquisitions of a value greater than ten thousand dollars (\$10,000.00):
- a. Staff will have a formal appraisal report prepared by a qualified appraiser.
 - b. The appraised amount and a request for authorization to make an offer will be presented to the board for approval.
 - c. If authorized, the city attorney's office or a staff member will send an offer letter to the property owner.
 - d. If the acquisition value issue is settled for appraised value, the city attorney or a staff member will close on the acquisition with the property owner.
 - e. Any settlement greater than the appraised amount will require board approval. If the value issue is not settled, the use of the power of eminent domain will be submitted to the board for approval. The board may either approve a settlement amount or authorize the use of eminent domain to acquire the property interest.
- (4) For acquisitions involving only temporary construction easements of any value where there is no damage to substantial improvements:
- a. Staff will estimate the value of the temporary construction easement based on appraisal reports from other properties in the neighborhood.
 - b. In the event of complicating factors in the acquisition, damage to substantial improvements, or reliable appraisal data is not available, the subsection a. valuation procedure will not be used; rather, an appraiser will be retained to establish value.
 - c. Staff will send an offer letter to the affected property owner.
 - d. Staff will not negotiate with the property owner except to receive information about an obvious error in the staff's valuation.
 - e. If the acquisition value issue is settled for the estimated or appraisal amount, staff or the city attorney will close the transaction.
 - f. If the acquisition value issue is not settled, a formal appraisal will be prepared and forwarded to the property owner. Any settlement above the appraised amount will be submitted to the board. The use of the power of eminent domain will be submitted to the board for approval. The board may either approve a settlement amount or authorize the use of eminent domain to acquire the property interest.

(Ord. No. 40-05, § 2, 5-17-05)

Sec. 2-215. - Reserved. 

FOOTNOTE(S):

⁽¹⁾ **Editor's note**— Ord. No. 44-07, § 1, adopted June 5, 2007, amended the Code by renumbering former div. 3.5 as a new div. 3.3. and changing the title from "Property acquisition policy." [\(Back\)](#)

ORDINANCE NO. _____

AN ORDINANCE REPEALING ORDINANCE NO. 86-12 AND AMENDING SECTION 2-26 OF THE FORT SMITH MUNICIPAL CODE SETTING THE DATE, TIME AND LOCATION FOR REGULAR MEETINGS OF THE BOARD OF DIRECTORS FOR THE YEAR 2013

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

SECTION 1: Ordinance No. 86-12 is repealed effective immediately.

SECTION 2: Section 2-26 of the Fort Smith Municipal Code is hereby amended to read as follows:

In 2013, all regular meetings of the Fort Smith Board of Directors shall be held at 6:00 p.m. at the Fort Smith Public Schools Service Center, Building B, 3205 Jenny Lind Road, on the first and third Tuesday evenings of each month. The only exceptions are in the months of January, March and July at which time the first meetings of the month in January and July (*first Tuesdays*) shall be held on Thursday, January 3rd and Tuesday, July 9th; and, the second meeting in March (*third Tuesday*) shall be held on _____, March ____.

THIS ORDINANCE ADOPTED this 4th day of December, 2012.

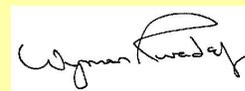
APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



Publish one time

MEMORANDUM

To: Ray Gosack, City Administrator
From: Sherri Gard, City Clerk
Date: November 30, 2012
Re: March 25, 2013 Regular Meeting

At the November 20, 2012 regular meeting, the Board adopted Ordinance No. 86-12 which set the dates, time and location for all regular meetings in 2013. All regular meeting dates were set for the first and third Tuesday of each month, with the exception of the following:

FIRST & THIRD TUESDAY

First Tuesday / January 1 (*New Years Day*)
Third Tuesday / March 19 (*week of spring break*)
First Tuesday / July 2 (*week of Independence Day*)

SCHEDULED DATES

Thursday, January 3
Monday, March 25
Tuesday, July 9

The Board opted to forego meeting the week of spring break, March 18 - 22, 2013; therefore, because the school facility was not available on the following Tuesday, March 26th, the second regular meeting in March was scheduled for Monday, March 25th.

The City was originally informed that the school facility was available on Monday, March 25th; however, the school now advises the meeting room is NOT available on said date. Due to such, the second regular meeting in March must now either be rescheduled to another date or held at an alternate location. Please note that if an alternate location is selected, live broadcast of the meeting on the City Access Channel will not be available.

As originally proposed, the school facility remains available on Wednesday, March 27th and Thursday, March 28th. If the Board desires to select an alternate location, Tuesday, March 26th may now be considered. The Rose Room at Creekmore Park and a room at the convention center have been tentatively reserved to accommodate either Monday, March 25th or Tuesday, March 26th.

The Mayor has indicated he has a prior commitment on Thursday, March 28th; therefore, recommends the regular meeting be rescheduled to either Wednesday, March 27th at the school facility or another date at an alternate location.

For codification purposes, the city attorney recommended Ordinance No. 86-12 be repealed and the dates, time and location of all regular meetings essentially be re-adopted with the desired date and/or location to accommodate the rescheduling of the March 25, 2013 regular meeting.

An ordinance has been prepared so the Board may identify the desired meeting date at the time of adoption. If the Board opts to select an alternate location, the date as well as the specific location must be stated in the motion.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING SECTION 2-40(a)
OF THE FORT SMITH MUNICIPAL CODE
TO INCREASE THE MAYOR'S COMPENSATION
EFFECTIVE JANUARY 1, 2015**

BE IT ORDAINED AND ENACTED by the Board of Directors of the City of Fort Smith, Arkansas that:

Section 2-40(a) of the Fort Smith Municipal Code is hereby amended by the addition of the following sentence:

Effective January 1, 2015, the compensation for the mayor shall be twenty thousand dollars (\$20,000.00) per year.

PASSED and APPROVED this _____ day of December, 2012.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Publish 1 Time



MEMORANDUM

November 29, 2012

TO: Mayor and Board of Directors

FROM: Ray Gosack, City Administrator

SUBJECT: Mayor's Salary

Attached is an ordinance which will increase the mayor's compensation effective January 1, 2015. The compensation will increase from \$10,000 to \$20,000 per year. The change doesn't affect the vehicle allowance, which is \$450 per month.

State law (copy attached) provides that the board sets the mayor's compensation. The salary can't be changed during the mayor's current term. The attached ordinance will make the change effective with the beginning of the next mayoral term.

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

A handwritten signature in black ink that reads "Ray".

Attachments

EXCERPT FROM FORT SMITH MUNICIPAL CODE

Sec. 2-40. - Salaries.

(a) The mayor shall receive compensation in the amount of ten thousand dollars (\$10,000.00) per year. Additionally, the mayor shall receive as reimbursement for vehicle expense the sum of four hundred fifty dollars (\$450.00) per month.

EXCERPT FROM STATE STATUTE

14-48-111. Mayor.

(a) (1) The mayor of a city having the city administrator form of government shall be recognized as the head of the city government for all ceremonial purposes and by the Governor for the purposes of military law.

(2) He shall sign on behalf of the city all written agreements, contracts, bonds, mortgages, pledges, indentures, conveyances, and other written instruments, the execution of which has been approved by the board of directors.

(3) He shall serve as chairman of the board and shall preside at regular and special meetings of the board, but he shall not have a vote on any matter coming before the board.

(b) (1) The mayor shall have the power of veto over all decisions made by the board except matters relative to city personnel.

(2) A veto by the mayor may be overridden by the affirmative vote of five (5) or more members of the board.

(c) (1) The mayor shall not be required to devote his full time to the office and shall receive a compensation or salary not to exceed the salary permitted municipal officers by the Constitution of this state, to be fixed by the board.

(2) When once fixed, the salary shall not be increased or diminished during the term for which he may have been elected.

(d) The mayor, before entering upon the discharge of his duties, shall take the oath of office required by Arkansas Constitution, Article 19, Section 20.

HISTORY: Acts 1967, No. 36, § 8; A.S.A. 1947, § 19-808.

Item 12

RESOLUTION NO. _____

RESOLUTION ACCEPTING BID FOR UNIFORM RENTAL SERVICES

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

The bids, as indicated by enclosure for the rental of uniform services from Cintas Corporation, are accepted.

This Resolution adopted this _____ day of December, 2012.

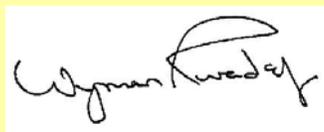
APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



No Publication Required

Item 12

Interoffice Memorandum

TO: Ray Gosack, City Administrator
FROM: Alie Bahsoon, Purchasing Manager 
SUBJECT: Uniform Rental Services Bid-UPDATE
DATE: November 29, 2012
BID TAB: 100512-BA



Pursuant to the Board's request at the November 20th meeting to review the bid numbers presented to the board, we (the Uniform Committee and I) reviewed the numbers in order to determine the "true" usage and savings to be realized should the City select any of the three potential vendors.

You will find attached the following information for your review and for the Board's consideration and approval. This information is based on 307 employees as of November 28th.

- Anticipated Cost by Department: this is based on the estimated actual usage and the bid costs submitted by each of the vendors
- Cost Breakdown by Item: based on the actual usage as submitted by each of the departments listed; costs are consistent with the actual numbers presented in the bid tabulation
- Employee Survey results
- Employee Survey comments

As noted in the enclosed information, it is apparent that the City employees prefer Cintas over the other two companies. Additionally, the employees ranked Cintas higher in quality, style, and vendor preference. Despite being \$5,525 or 5% higher (annually) than Unifirst, the employee level of satisfaction and the overall level of service, uniform quality, and best value is well worth the opportunity cost benefits.

I would like to remind the board that this is an initial three year contract with the option of 2 two-year term extensions and contingent upon proven and satisfactory results.

On behalf of the committee, I am once again recommending that we move forward with the new uniform rental services by awarding the contract to Cintas Corporation.

Please let me know if you should have any questions

Uniform Rental Services

Anticipated Costs by Department

| | <u>Cintas</u> | <u>Unifirst</u> | <u>Aramark</u> |
|-------------------|---------------------|---------------------|---------------------|
| Sanitation | \$537.55 | \$524.80 | \$440.88 |
| Utilities | \$998.99 | \$965.75 | \$903.35 |
| Street | \$348.50 | \$291.15 | \$281.64 |
| Parks | \$73.02 | \$76.16 | \$70.86 |
| Fire | \$23.40 | \$20.57 | \$16.23 |
| ITS | \$1.75 | \$2.50 | \$1.05 |
| Police | \$28.50 | \$32.00 | \$22.84 |
| Health | \$6.25 | \$8.00 | \$4.99 |
| Transit | \$189.14 | \$173.92 | \$154.29 |
| Convention Center | \$24.62 | \$26.12 | \$22.43 |
| Finance | \$10.50 | \$15.00 | \$6.30 |
| Monthly Total | <u>\$2,242.22</u> | <u>\$2,135.97</u> | <u>\$1,924.86</u> |
| Annual Total | <u>\$116,595.44</u> | <u>\$111,070.44</u> | <u>\$100,092.72</u> |

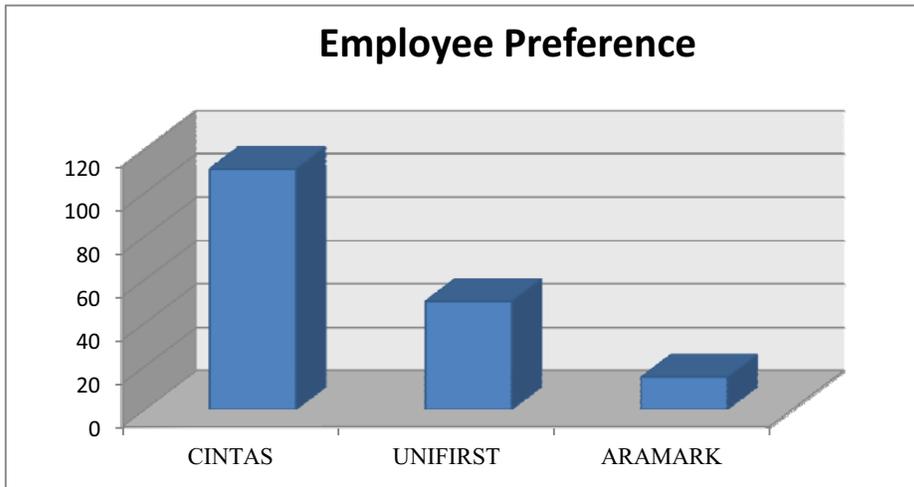
Uniform Rental Services Cost Breakdown

| Item | Qty. | Cintas (Ea) | Unifirst (Ea) | Aramark (Ea) |
|--------------------|------|-------------|---------------|--------------|
| Work Shirt (LS/SS) | 4246 | \$0.16 | \$0.13 | \$0.14 |
| Polo Shirt | 295 | \$0.22 | \$0.21 | \$0.20 |
| Work Pant | 638 | \$0.20 | \$0.21 | \$0.16 |
| Cargo Pant | 210 | \$0.24 | \$0.24 | \$0.22 |
| Denim Jean | 2386 | \$0.24 | \$0.23 | \$0.24 |
| Shorts | 40 | \$0.20 | \$0.19 | \$0.13 |
| Cargo Shorts | 102 | \$0.20 | \$0.23 | \$0.17 |
| Jacket | 516 | \$0.37 | \$0.38 | \$0.25 |
| Heavy Jacket | 46 | \$1.50 | \$0.53 | \$0.50 |
| Coverall | 8 | \$0.75 | \$0.37 | \$0.35 |
| 3x5 Mat | 79 | \$1.75 | \$2.50 | \$1.00 |
| 3x10 Mat | 6 | \$3.75 | \$4.00 | \$2.00 |
| 4 x6 Mat | 49 | \$2.75 | \$3.00 | \$2.75 |
| Shop Towel | 1050 | \$0.07 | \$0.06 | \$0.04 |
| Mop Heads | 42 | \$0.50 | \$0.45 | \$0.45 |
| Service Charge | 21 | \$3.00 | \$4.00 | \$0.43 |
| | | \$15.90 | \$16.73 | \$9.03 |
| | | \$15.90 | \$16.73 | \$9.03 |

City of Fort Smith Employee Survey

Anonymous Survey (conducted between 11-21 to 11-28, 2012)

| | | Yes | No | Response |
|-----|---|-----|----|------------|
| 1. | Do your garments arrive when expected? | 162 | 34 | 8 |
| 2. | Does quantity & quality of the garments meet your expectations? | 116 | 74 | 6 |
| 3. | Do your garments show significant signs of use by previous wear? | 101 | 83 | 13 |
| 4. | Do your garments fit properly? | 135 | 59 | 2 |
| 5. | Is the individual garment identification tag clear and understandable? | 169 | 24 | 2 |
| 6. | Are your garments pressed or finished properly when returned? | 195 | 50 | 10 |
| 7. | Are your garments clean upon return? | 151 | 36 | 9 |
| 8. | Are you completely satisfied with the quality of the products? | 107 | 85 | 4 |
| 9. | Are you satisfied with the services you receive from your route-person? | 175 | 18 | 5 |
| 10. | Are you satisfied with the response time to requests you have made? | 143 | 48 | 6 |
| 11. | How satisfied are you with Cintas as your uniform provider? | | | 5 |
| | Very Satisfied | | | 58 |
| | Somewhat Satisfied | | | 46 |
| | Satisfied | | | 49 |
| | Not Satisfied | | | 36 |
| 12. | Would you consider switching to another service provider at this time? | | | 12 |
| | I'm happy with Cintas | | | 114 |
| | I would prefer Aramark | | | 15 |
| | I would prefer Unifirst | | | 50 |



City of Fort Smith Employee Survey
Anonymous Comments as stated by City Employees
(conducted between 11-21 to 11-28, 2012)

- Not perfect, but better than the others we've had
- Overall, the service is satisfactory. The garments are in poor shape and need replaced. I prefer Unifirst polo shirts.
- Shirt fabric is thin and seems to promote odor
- The women's-specific clothing fits poorly. I would appreciate a more professional appearance.
- Shirts, long sleeve or short sleeve (winter) and fire resistant somewhat (welding) & T shirts long or short for summer, denim pants
- For the most part, garments arrive when expected. There have been times when the delivery has been delayed due to lack of stock or ordering issues. No changes or orders are placed when the regular delivery person is on vacation or ill due to the order normally not being processed normally.
- The quantity of garments meets my expectations but not the quality. We have asked for a different type of shirt several times in the past & were told Cintas only carries 100% polyester shirts. It was during the uniform fair that I was told they do have a cotton/poly blend we had been asking for, however, the delivery person was not aware of this.
- Garments often show significant signs of use. The inside of the pants and the collar and cuffs of the shirts are worn and thin.
- Garments sometimes fit properly. The shirts and pants are always labeled correctly; however, they are not consistent with the fit of the garment.
- Yes and no on the garment identification tag being clear and understandable. The tags are not placed constantly in the same place on the garments
- When returned, the garments are not pressed or finished properly. Often, the shirts are wrinkled.
- Garments are not always clean upon return. There have been numerous times garments are returned with stains that did not originally exist when the garment was sent in for cleaning. Stains often will remain and will not be removed which could be done with bleach.
- For the most part, I am satisfied with the service I receive from the route-person; however, the delivery person was not aware of the complete line of products available and there seemed to be no way of communicating our needs to corporate to ask if a certain type of garment is available.
- Although Cintas does a satisfactory job in providing uniforms, having dealt with both Cintas and Unifirst in the past, Unifirst provided a higher quality of uniform and great service. Both Cintas and Unifirst have good service personnel.
- Prefer more women's clothing options
- I love my uniform; it's a lot better than what we had before

City of Fort Smith Employee Survey
Anonymous Comments as stated by City Employees
(conducted between 11-21 to 11-28, 2012)

- I don't know how to contact the route-person. I wish we had something to store and return our dirty uniforms in. It's kind of a hassle to carry an armful of dirty uniforms in every week.
- Would prefer someone else but just not sure who.
- Need women's uniforms (shirts & pants)
- I very much appreciate the driver Jeremy-I love his work ethic; friendly and professional and a great asset to Cintas.
- I often wash my own to break them in quicker and make them more comfortable.
- Only would like to see trousers starched & pressed
- Name tag adhesive is poor quality; holes in garment tend to remain unrepaired; damaged garments not replaced promptly
- I would prefer Aramark if we can't have Cintas
- I requested different and smaller jackets but didn't get them. The jackets are way too big and they are men's jackets.
- Still missing 2 pairs of pants
- Thank you for informing us about schedule changes during holidays
- I would like to see Unifirst back-did not have any troubles before with Unifirst, real good company. I think that the employees wearing the uniforms should make the choice on uniforms; we are the ones that wear them.
- I'd like to hear more about options
- Do own laundry
- Garment is excellent quality; have had mine over 3 years and is excellent quality.
- Still waiting on 6 short sleeve shirts. Been waiting for months
- Some pants seem to be shorter than others. Only complaint I have.
- Have always had problems getting right uniforms, and trouble getting old ones replaced, it is bad service
- Quite often buttons come back broken. Uniforms fit loose when new and shortly become too small (approximately 10 washings). I don't know if the other companies would be any better but Cintas is terrible.
- Need other options than straight fit style. 1 style does not fit all.
- It doesn't matter which company we use. Not everyone will be satisfied. We need to do the best we can with what we have! If they provide the service we need at the lower cost then that's who we should use.
- I wash my own uniforms.
- Was so glad to see Unifirst go-did not care for the quality of their garments-never fit right
- Shirts are usually late coming back if you get them back
- Patches on shirts are torn

City of Fort Smith Employee Survey
Anonymous Comments as stated by City Employees
(conducted between 11-21 to 11-28, 2012)

- I have less issues with Cintas than I had with Unifirst
- Good service-thank you
- Do my darn laundry
- Some of jeans are too big and some are tight.
- As long as uniforms are not wrinkled, I'm happy
- My clothes became soiled with concrete and they are not completely clean of residue from them. Two shirts had buttons sewn back on using white thread instead of blue. Shirt collars are often wrinkled and/or uneven. Jean cuffs not always turned down.
- If we can't have Cintas, I'd prefer Aramark.
- I'd rather have Aramark if we cannot have Cintas.



MEMORANDUM
November 20, 2012

To: Alie Bahsoon
From: Nancy Kain, Chairperson
Subject: Uniform Bid

For the benefit of the board, I have put together a list of the reasons the committee chose Cintas.

- Superior Customer Service
- Professionalism
- Quality of Service
- Quality of Garments
- Different style options for women's pants; typically fit better (an option not available with the other companies)
- Sustainability (Green) Initiatives

With the current service provider, Cintas, the committee acknowledged:

- The uniform counts are consistently correct
- The billing is easily understood
- Any issues are addressed promptly
- They follow through expeditiously and with accuracy when special requests are made.

If you have any further questions please let me know.

| Date | Customer | Contact | Phone Number | Comments |
|-----------|--|---------------------|--------------|---|
| 3/11/2011 | City of Ft Smith- Convention Center | Frankie Hamilton | 479-788-8932 | I am not in for a uniform agreement. I would just rather buy our own uniforms and wash and take care of them ourselves. This has nothing to do with Cintas. Cintas does a great job. / nmr |
| 5/6/2011 | City of Ft Smith- Massard | David Shelly | 479-452-2735 | I would tell them the customer service is excellent. The uniforms are great. I have not had any problems with them and I am extremely happy with the program. /nmr |
| 10/7/2011 | City of Ft Smith- Street | Brooke Mathis | 479-784-2361 | They are very easy to deal with. The driver we deal with is just great. If there are any issues he is quick to deal with them. |
| 12/9/2011 | City of Ft Smith- Parks | Aaron Lee | 479-784-1006 | It seems to be pretty good now. Some of the guys have had some problems with the cleaning of the uniforms. Also there have been a couple shirts that have come back torn. |
| 1/6/2012 | City of Ft Smith- Utility | Julie Humble | 479-784-2231 | The service is easy and convenient. You dont have to worry about whether you will get your uniforms or not because Cintas is here every week when they are supposed to be and we have very little problems with the uniforms. |

From: Fleetwood, Landon
Sent: Monday, August 20, 2012 11:37 AM
To: permenterj@cintas.com
Cc: Bahsoon, Alie
Subject: Jeremy Floyd

Hi Justin,

I want to thank you for coming by today and visiting with me. That means a lot to me. I want to express my feelings about our route driver, Jeremy Floyd. I have been with the city for 28 yrs. and Jeremy is by far the best delivery person I have dealt with. I have gotten to know Jeremy personally as well as professionally. Let me tell you, you need to be sure and keep this fine young man. He has always helped us out with all the problems we may have and I know Lee Creek is just a small portion of his work load. He has offered to let us know of promotions that are going on, which could save us money. I like that! I could go on and on about Jeremy, but I am sure you have heard it before. Please let Jeremy know how good of a job he is doing. That means the world to some people when you give them an "at a boy".

Thanks for serving Lee Creek so well!

Landon Fleetwood - Supervisor

Lee Creek Water Facility

479-474-7582

lfleetwood@fortsmithar.gov

ORDINANCE NO. _____

**AN ORDINANCE TO ABANDON
WATER LINE EASEMENTS
LOCATED IN CAVANAUGH MEADOWS, LOT 2, AN ADDITION
TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS**

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

SECTION 1: The City of Fort Smith, Arkansas hereby releases, vacates and abandons all its rights together with the rights of the public generally to the water line easements located in the hereinafter described real property:

Part of the Southeast Quarter, Section 5, Township 7 North, Range 32 West, Fort Smith, Sebastian County, Arkansas being more particularly described as follows:

A 10 foot easement 5.0' on either side of a centerline beginning at a point 162.5' South 8 Degrees West of the Northeast corner of Cavanaugh Heights, an Addition to the City of Fort Smith, Arkansas, thence North 86 Degrees East a distance of 210.0' to the point of termination, said point being on an 8" water line running North and South from South 9th Street, Random Acres to Cheryl Street, Farnum Place.

Also: A 25 foot easement beginning at the Northwest corner of Lot 14, Farnum Place an Addition to the City of Fort Smith, Arkansas, thence North 8 Degrees East 376.0' more or less to the North line of a tract of land described in Deed Book 168 Page 123; thence West along said North line 25.0' to a point; thence South 8 Degrees West 376.0' more or less to a point on the North line of said Farnum Place 25.0' West of the point of beginning thence East 25.0' along said North line to the point of beginning.

The above legal descriptions for the waterlines are contained in Cavanaugh Meadows, Lot 2, an Addition to the City of Fort Smith, Sebastian County, Arkansas.

The water line easements being released, vacated and abandoned are no longer required for municipal corporate purposes.

SECTION 2: A copy of the Ordinance duly certified by the City Clerk shall be filed with the Office of the Recorder of the County and recorded in the deed records of the County.

PASSED AND APPROVED THIS _____ DAY OF DECEMBER 2012.

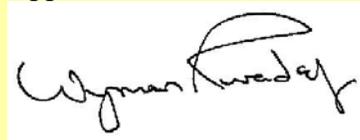
APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



Publish 1 Time

Memo

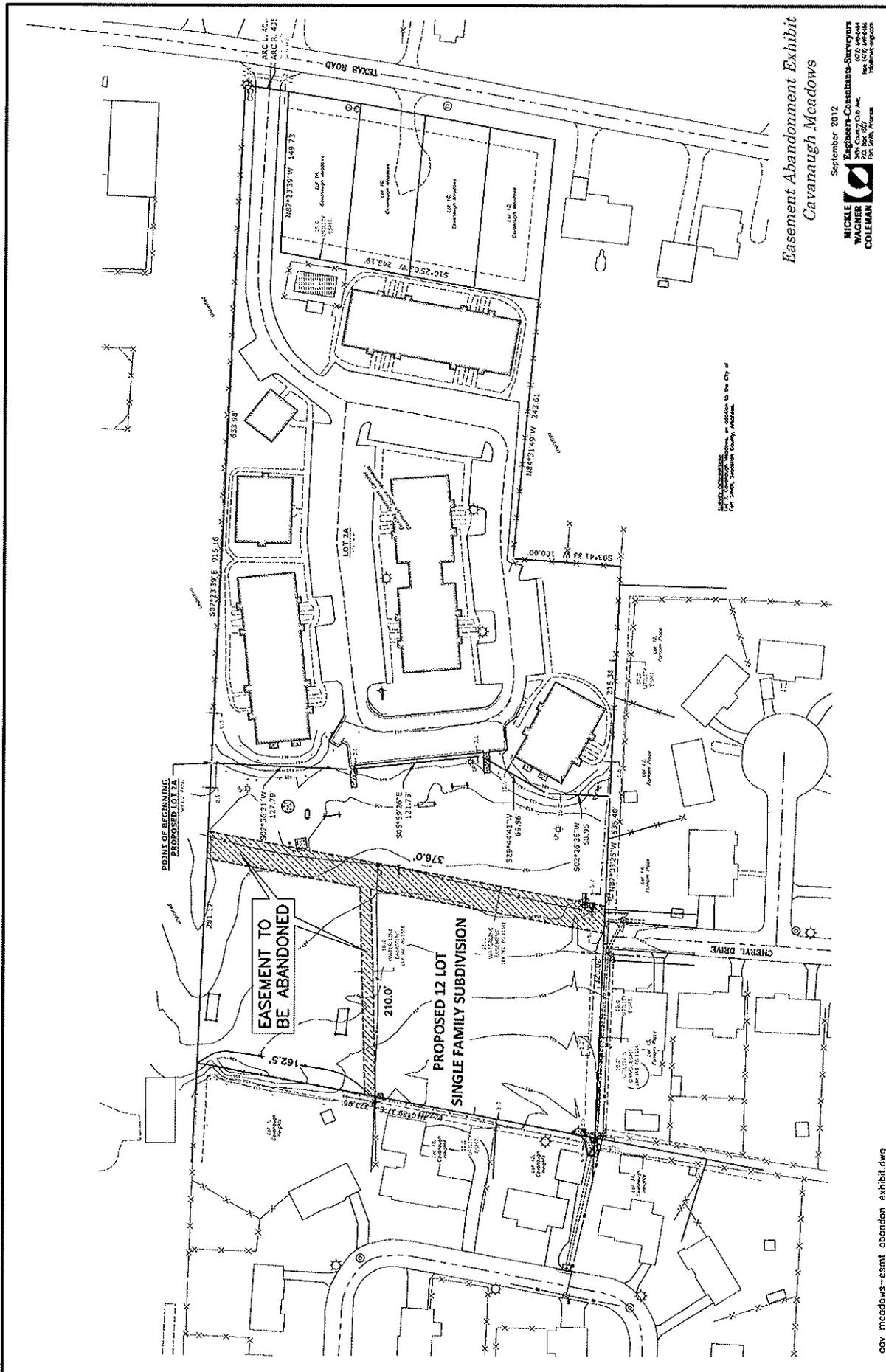
To: Ray Gosack, City Administrator
From: Wally Bailey, Director of Development Services
Date: 11/28/2012
Re: Request for Abandonment of Water Line Easements
Cavanaugh Meadows, Lot 2

The City is in receipt of the enclosed request from Patrick J. Mickle, P.E., with Mickle-Wagner-Coleman, agent, for ERC Land Development, LLC, to abandon two waterlines in Cavanaugh Meadows, Lot 2. The existing waterlines conflict with plans for a new, 12 lot single-family subdivision that will be constructed on 2.7 acres west of the existing Cavanaugh Square Apartments. The existing waterlines have been relocated as part of the development of a new single-family subdivision. A map enclosed shows the location of the easements proposed for abandonment.

There are no objections to the request from City Departments. Enclosed for the Board's consideration is an ordinance authorizing the abandonment of the easements.

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

Enc.



Easement Abandonment Exhibit
Cavanaugh Meadows

September 2012
WICKLE WALKER ENGINEERS-CONSULTANTS-SURVEYORS
 300 Casey, Oak Ave.
 P.O. Box 107
 Fort Worth, Texas 76101

cov_meadows-esmt_abandon_exhibit.dwg



REQUEST FOR ABANDONMENT OF PUBLIC RIGHT-OF-WAY, ALLEY OR PUBLIC EASEMENT

Indicate one contact person for application: Applicant Representative

Applicant (owner)

Representative (engineer, attorney, realtor, etc)

Name: ERC Land Development, LLC

Name: Patrick J. Mickle, P.E.

Address: 813 Fort Street
Barling, Arkansas 72923

Address: 3434 Country Club Avenue
Fort Smith, Arkansas 72903

Phone Number: 479-452-9950

Phone Number: 479-649-8484

E-mail:

E-mail: pmickle@mwc-engr.com

Site Address/Location: 7200 Block of Cheryl Street

Legal Description of Area to be vacated (attach separate sheet if necessary):

See Attached.

Assessor's Parcel Number for Subject Property:

Reason for Request: Water line location conflicts with plans for development of a single family subdivision.

Current Status of Right-of-Way Development: A water line existing in the easement. Water line will be relocated as part of subdivision, after which easement will be vacant.

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

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

Print Form

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

Name: (printed or typed) Patrick J. Mickle, P.E.

Signature:  Date: Sept 27, 2022

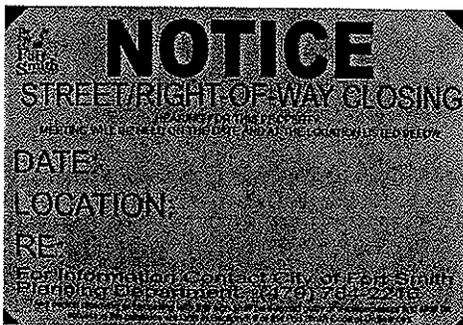
Property Owner(s)/ Authorized Agent: I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing.

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

Application Checklist:

- A list from the Sebastian County Assessor's Office showing all property owners within 300 feet of all perimeter points of the tract being considered for abandonment. (County Assessor is located in Room 107 of the Sebastian County Courthouse).
- Abstractor's Certificate of Ownership stating names of all owners of property abutting the property to be vacated.
- Petition with signatures of all abutting property owners.
- Meets and bounds legal description of the area to be vacated (Provide hard copy and CD containing legal description in MS Word)
- Hard copy and PDF of survey of the site depicting the perimeter property lines and area within the property to be vacated
- Application fee of \$150.00. This fee is non-refundable.

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



AUTHORIZATION OF AGENT

If an agent is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize

Patrick J. Mickle, P.E.

to act as our agent in the matter.

type name or clearly print

(Type or clearly print)

NAME AND ADDRESS OF ALL OWNERS

SIGNATURE OF ALL OWNERS

1. ERC Land Development, LLC
813 Fort Street
Barling, Arkansas 72923



2.

3.

4.

5.

6.

Cavanaugh Meadows

Water Line Easement Description

Part of the Southeast Quarter, Section 5, Township 7 North, Range 32 West, Fort Smith, Sebastian County, Arkansas being more particularly described as follows:

A 10 foot easement 5.0' on either side of a centerline beginning at a point 162.5' South 8 Degrees West of the Northeast corner of Cavanaugh Heights, an Addition to the City of Fort Smith, Arkansas, thence North 86 Degrees East a distance of 210.0' to the point of termination, said point being on an 8" water line running North and South from South 9th Street, Random Acres to Cheryl Street, Farnum Place.

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f:\doc\seasement\Cavanaugh Meadows – water line easement description.doc

RESOLUTION NO. _____

AUTHORIZING THE MAYOR TO SUBMIT A LETTER TO THE ARKANSAS ENERGY OFFICE CONCERNING THE ADOPTION OF THE 2011 ARKANSAS ENERGY CODE

WHEREAS, the State Legislature adopted Act 802, which no longer requires cities to comply with the 2004 version of the Arkansas Energy Code, but to comply with the current version of the Arkansas Energy Code; and

WHEREAS, the Arkansas Energy Office promulgated new rules and regulations in compliance with the Arkansas Administrative Procedures Act in 2011 that updated the state adopted energy code to more stringent standards, known as the 2011 Arkansas Energy Code, and requires cities that issue building permits to adopt the changes by December 31, 2012; and

WHEREAS, Act 802 allows cities to not adopt the 2011 Arkansas Energy Code by submitting a letter to the Arkansas Energy Office describing why the City is not in compliance with the Code; and

WHEREAS, the 2011 Arkansas Energy Code contains updated provisions for commercial construction and the residential construction requirements are scheduled for review and update in 2013 which will require another adoption and update process; and

WHEREAS, the adoption of the code at this time would be premature and that any discussion regarding code adoption should be deferred until the Arkansas Energy Office completes its analysis and recommendations with regard to the residential construction provisions.

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

SECTION 1: The Mayor is hereby authorized to submit a letter to the Arkansas Energy Office indicating that the City of Fort Smith will not adopt the 2011 Arkansas Energy Code pending the Arkansas Energy Office’s final action on the residential construction provisions.

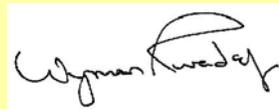
PASSED AND APPROVED THIS DAY _____ OF _____ 2012.

Approved: _____
Mayor

ATTEST:

City Clerk

Approved as to form:



NPR

Memorandum

To: Ray Gosack, City Administrator
From: Wally Bailey, Director of Development Services
Date: 11/28/2012
Re: Arkansas Energy Code

The Administrative Rules and Regulations Subcommittee of the Arkansas General Assembly approved the Arkansas Energy Office proposal to update the Arkansas Energy Code. The rules include a requirement that cities adopt the new energy code by December 31, 2012. However, the rules also include a provision that should a city not adopt the energy code by this date that a letter from the mayor describing why the city has not adopted the code must be submitted.

Some cities have elected to adopt the code while many cities in the state are electing to send letters to the Arkansas Energy Office with reasons why they are not adopting the code. The principal concern of cities is that the 2011 Arkansas Energy Code includes an update to the commercial provisions but not the residential provisions. The Arkansas Energy Office will begin reviewing and determining a final course of action on the residential provisions in the upcoming year. Most would like to conduct a single code adoption process instead of two processes so close in time together.

At the study session we presented the two options which are (1) adoption of the 2011 Arkansas Energy Code or (2) authorizing the mayor to send a letter indicating that the City of Fort Smith has elected to not adopt the Arkansas Energy Code subsequent to the final action by the Arkansas Energy office.

Subsequent to direction from the Board, we have prepared a resolution that will authorize the mayor sending a letter to the Arkansas Energy office. The resolution will be presented at the December 4, 2012 regular meeting.

Attached is the background information from the study session. Please contact me if you have any questions.

Memorandum

To: Ray Gosack, City Administrator
From: Wally Bailey, Director of Development Services
Date: 11/21/2012
Re: Arkansas Energy Code

During the 2011 Arkansas legislative session, the Arkansas Legislature passed and approved Act 802 which amended Arkansas Code Section 15-10-205(b)(3). This Act essentially requires compliance with the current version of the Arkansas Energy Code (AEO).

The Administrative Rules and Regulations Subcommittee of the Arkansas General Assembly approved the AEO proposal to update the state's energy code. The code update rule has renamed the 2004 Arkansas Energy Code as the 2011 edition of the Arkansas Energy Code. The commercial provisions of the code reference ASHRAE Standard 90.1-2007 and Chapter 5 of the 2009 International Energy Conservation Code (IECC), while the residential standards will continue to reference the 2003 IECC. The new energy code becomes effective January 1, 2013.

Cities or counties that issue building permits for new building construction are required to record that the builder has certified that the proposed building will comply with the Arkansas Energy Code. The design professionals (architects and engineers) employed to prepare plans and specifications for new buildings are responsible for ensuring compliance with the Arkansas Energy Code. Builders or contractors are also obligated to comply with the code.

Evidence that the building project complies with the Energy Code must be submitted with each building permit application. The evidence can be prepared using either prescriptive or performance methods. The different compliance methods are described in the Arkansas Energy Code. The Arkansas Energy Office has free software known as COMCheck and RESCheck to help the builder or design professional with determining compliance.

The Building Safety Division has been communicating for several months with the Fort Smith design and construction community regarding this action by the Arkansas Energy Office. Many we have talked with were already familiar with the requirements in the Arkansas Energy Code. Many residential contractors, hvacr contractors, architects and engineers that Jimmie Deer and I have visited with believe they have already been complying with most of the new code requirements on most of their jobs. Another opinion we received is that for those that are not familiar with the new code requirements the cost impact could be a minimum of \$500.00 per project.

We have provided written notice to design professionals and contractors, met with the Greater Fort Smith Association of Homebuilders, and met with the Fort Smith Chapter of the Arkansas HVACR Association for the purpose of informing and educating these groups about the new code. We will continue to inform and assist the design and construction community during this transition.

We wanted to take the opportunity to present this information to the Board of Directors at a study session before it is placed on a voting session. We will be prepared to discuss this with the Board at the November 27, 2012 study session.

I have enclosed background information as support for this item.

Cities that issue building permits for new building construction must adopt Arkansas Energy Code by December 31, 2012

In 2004, the Arkansas Energy Office, a subdivision of the Arkansas Economic Development Commission, developed the Arkansas Energy Code in order to establish minimum standards for the design of energy-efficient buildings. The 2004 version of the Arkansas Energy Code relied almost exclusively on the International Energy Conservation Code (IECC), 2003 Edition.

In 2009, the Arkansas Legislature passed Act 1196, which provided the Arkansas Energy Office with the authority to promulgate rules and regulations that require cities and counties issuing building permits for new building construction to adopt the 2004 version of the Arkansas Energy Code by ordinance. At the last legislative session, Act 1196 was amended by Act 802, which no longer required cities to comply with the 2004 version of the Arkansas Energy Code, but by the current version of the Arkansas Energy Code. *See Ark. Code Ann. § 15-10-205.*

New rules and regulations promulgated by the Arkansas Energy Office, including new versions of the Arkansas Energy Code, were to be enacted in compliance with the Arkansas Administrative Procedures Act. *See Ark. Code Ann. § 25-15-204 (describing the procedure for adopting, amending, or repealing a state agency's rules or regulations).*

The Arkansas Energy Office retooled the Arkansas Energy Code in 2011. For residential purposes, the 2003 edition of the IECC remains in effect. *See Ark. Energy Code for New Bldg. Constr. Supplements & Amendments*, Ark. Energy Office, available online at arkansasenergy.org/residential/builders/energy-code.aspx.

However, for commercial and high-rise residential construction projects, American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) 90.1-2001 will govern until the end of the year. In 2013, ASHRAE 90.1-2007 will govern, with Chapter 8 of the 2003 IECC being replaced with Chapter 5 of the 2009 IECC.

The 2011 edition of the Arkansas Energy Code places certain requirements on cities and counties in order

to bring all cities and counties in compliance with the Code. Specifically, cities and counties that issue building permits for new building construction are required to adopt the Arkansas Energy Code as amended.

The Arkansas Energy Code shall be adopted by ordinance in all applicable cities and counties by Dec. 31, 2012. Once adopted, applicable cities and counties are required to submit a copy of the ordinance to the Arkansas Energy Office. However, if an applicable city and county has not adopted the Code by Dec. 31, 2012, a mayor or county judge is required to submit a letter describing why the city or county is not in compliance with the Code no later than 60 days after the deadline.

Cities or towns enacting the Code should follow the procedures for adopting a technical code by reference. *See Ark. Code Ann. § 14-55-207.* The law requires publication in a newspaper of general circulation in the city giving notice that three copies of the Arkansas Energy Code have been filed either electronically or by hard copy with the clerk or recorder of the municipality in order to ensure the public has the opportunity to inspect the new standards before the passage of the ordinance. Note that in order to have the entire code you must have copies of (1) the Arkansas Energy Code for New Building Construction Supplements, (2) the 2003 version of the IECC, (3) the 2009 version of the IECC, and (4) the ASHRAE standards.

Copies of the 2003 and 2009 versions of the IECC may be obtained by visiting the International Code Council's website at www.iccsafe.org, or by calling 1-800-786-4452. The ASHRAE standards may be obtained by visiting the ASHRAE website at www.ashrae.org, or by calling 1-800-527-4723. The Arkansas Energy Code for New Building Construction Supplements and Amendments is available at: arkansasenergy.org/residential/builders/energy-code.aspx.

Summary of Arkansas Energy Code

By J.D. Lowery, Project Manager, Arkansas Energy Office

- ◆ The Arkansas Energy Code sets minimum efficiency standards for new construction.
- ◆ Energy codes provide a cost-effective step to mitigating problems associated with growing demand for energy and resources.
- ◆ Energy codes cover:
 - Building envelope
 - Mechanical system
 - Electrical & Lighting Systems
 - Service water heating
- ◆ Arkansas Energy Office promulgates rules, adopts the statewide code and provides education and outreach regarding the code and building practices that can be used to meet the code.
- ◆ While AEO has the authority to enforce the code, this traditionally has fallen to local municipalities with building code enforcement divisions.
- ◆ It is the responsibility of the builders/contractors to meet the code. Failure to comply can be verified by local municipality or AEO. Civil action can be taken by building owner.
- ◆ Municipalities can adopt their own code but cannot be less stringent than the Arkansas Energy Code.

Sample Ordinance -- 2011 ARKANSAS ENERGY CODE

ORDINANCE NO. _____

AN ORDINANCE PROVIDING MINIMUM ENERGY STANDARDS FOR THE DESIGN OF NEW BUILDINGS AND STRUCTURES OR PORTIONS AND ADDITIONS TO EXISTING BUILDINGS THAT PROVIDE FACILITIES OR SHELTER FOR PUBLIC ASSEMBLY, EDUCATION, BUSINESS, MERCANTILE, INSTITUTIONAL, STORAGE, AND RESIDENTIAL OCCUPANCIES, AS WELL AS THOSE PORTIONS OF FACTORY AND INDUSTRIAL OCCUPANCIES DESIGNED PRIMARILY FOR HUMAN OCCUPANCY BY REGULATING THEIR EXTERIOR ENVELOPES AND THE SELECTION OF THEIR HVAC, SERVICE WATER HEATING, ELECTRICAL DISTRIBUTION AND ILLUMINATING SYSTEMS AND EQUIPMENT FOR EFFECTIVE USE OF ENERGY.

Be it enacted by the City Council of _____, Arkansas,

Section 1. ADOPTION OF ENERGY CODE.

There is hereby adopted by the City Council of _____, Arkansas, for the purpose of establishing rules and regulations for energy efficient standards for new building construction, this code known as the 2011 Arkansas Energy Code, being particularly the 2011 Arkansas Energy Code edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, of which not less than three (3) copies of this ordinance, as well as, three (3) copies of the 2011 Arkansas Energy Code, have been and now are filed in the office of the Clerk or Recorder of the city of _____, Arkansas, and the same ordinance is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits of the City of _____, Arkansas.

Section 2. INCONSISTENT ORDINANCES REPEALED.

Ordinances or parts thereof in force at the time that this ordinance shall take effect, if inconsistent herewith, are hereby repealed.

Section 3. EMERGENCY CLAUSE.

Whereas it is of the utmost urgency that the city of _____, Arkansas, have an up-to-date Energy Code to protect the citizens of our city, therefore, an Emergency is hereby declared to exist and this ordinance being necessary for the immediate protection of the public shall take effect immediately on its passage and approval.

Signed: _____
Mayor

Attest: _____ (SEAL)
City Clerk or Recorder

Date Passed: _____



November 15, 2012

Mr. Wally Bailey
Building Department
City of Fort Smith
P. O. Box 1908
Ft. Smith, AR 72902

Dear Wally;

Our members and directors are aware of the City's proposed adoption of the updated Arkansas Energy Code. You and your staff have taken time to present a program to our membership and answer questions regarding this implementation. I appreciate your consideration of our industry.

While many of our members don't fully agree with some of the measures being imposed by the new Code, we understand the mandate.

I appreciate the open dialogue our members have with the City building department, through their affiliation with the GFSAHB, concerning issues of importance to the home building and development industry.

Best regards,

A handwritten signature in blue ink, appearing to read "Dave Hughes", enclosed within a blue circular scribble.

Dave Hughes
Executive Director

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

SENATE BILL 816

4
5 By: Senator J. Jeffress
6 By: Representative T. Rogers

For An Act To Be Entitled

7
8
9 AN ACT TO AMEND THE ARKANSAS ENERGY REORGANIZATION
10 AND POLICY ACT AS IT PERTAINS TO THE PROMULGATION OF
11 RULES BY THE ARKANSAS ENERGY OFFICE; AND FOR OTHER
12 PURPOSES.

Subtitle

13
14
15
16 TO AMEND THE ARKANSAS ENERGY
17 REORGANIZATION AND POLICY ACT AS IT
18 PERTAINS TO THE PROMULGATION OF RULES BY
19 THE ARKANSAS ENERGY OFFICE.

20
21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23
24 SECTION 1. Arkansas Code § 15-10-205(b)(3), concerning the powers and
25 duties of the Arkansas Energy Office, is amended to read as follows:

26 (3) Promulgate reasonable rules ~~and regulations~~ for the purpose
27 of:

28 (A) Implementing and prescribing enforcement for thermal
29 and lighting efficiency standards for new building construction; ~~and~~

30 (B) Requiring a city or county that issues building
31 permits for new building construction to adopt the 2004 Arkansas Energy Code
32 for New Building Construction, ~~as it existed on January 1, 2009; and~~

33 (C) Complying with the Arkansas Administrative Procedures
34 Act.

35
36 APPROVED: 03/30/2011



03-03-2011 14:41:31 MMC267

Arkansas Energy Code for New Building Construction Supplements and Amendments



2011

**Arkansas Energy Office
Arkansas Economic Development Commission**

ARKANSAS ENERGY CODE FOR NEW BUILDING CONSTRUCTION SUPPLEMENTS AND AMENDMENTS

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Introduction

The Arkansas General Assembly authorized the Arkansas Energy Office to promulgate these regulations in Section 3(B)(2)(c) of Act 7 of 1981. These rules and regulations are in adherence with the Administrative Procedures Act.

For residential structures, Arkansas adopts the International Energy Conservation Code (IECC), 2003 Edition, published and copyrighted by the International Codes Council. The residential portion of the *Arkansas Energy Code for New Building Construction* is composed of the 2003 Edition of the International Energy Conservation Code (2003 IECC) combined with these *Supplements and Amendments*.

Chapters 2 through 6 of the 2003 IECC provide regulations for residential construction. To order copies of the *International Energy Conservation Code, 2003 Edition* contact:

International Code Council
900 Montclair Road
Birmingham, Alabama 35213-1206
Phone: 1-800-786-4452, Fax: 205-591-0775
Copyright © 1996-1998 Southern Building Code Congress International, Inc. All rights reserved.

For commercial structures, the Arkansas Energy Code for New Building Construction adopts by reference the *American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) ANSI / ASHRAE / IESNA Standard 90.1-2001 Energy Standard for Buildings Except Low-Rise Residential Buildings* which will be in effect until 12/31/2012. On and after 1/1/2013 Arkansas will adopt by reference *ANSI / ASHRAE / IESNA Standard 90.1-2007*, and as an alternative, Chapter 5 of the *2009 International Energy Conservation Code* with its associated definitions, general requirements and referenced standards. Both codes are available from the International Code Council at the above address.

To order copies of *American Society of Heating, Refrigerating, and Air-Conditioning Engineers ANSI/ASHRAE/IESNA Standard 90.1-2001* or *2007* contact:

American Society of Heating, Refrigeration and Air-Conditioning Engineers, Inc.
1791 Tullie Circle, N.E.
Atlanta, GA 30329
Phone: 404-636-8400, Fax: 404-321-5478
Web: www.ashrae.org

Questions, inquiries or request for copies of the *Arkansas Energy Code for New Building Construction Supplements and Amendments* may be addressed to:

Arkansas Energy Office
Attn: *Arkansas Energy Code for New Building Construction*
900 West Capitol
Little Rock, AR 72201
Phone: 800-558-2633 or 501-682-6103, Fax: 501-682-7499
Email: EnergyInfo@ArkansasEDC.com
Download code information and compliance tools at: www.ArkansasEnergy.org. Click on the Residential tab on top, then Builders and Energy Code on the left side.

OVERVIEW

This document supplements and amends the *International Energy Conservation Code (IECC), 2003 Edition*. In cases where there are differences between these “Supplements and Amendments” and the IECC 2003 Edition, or with *ANSI/ASHRAE/IESNA Standard 90.1-2001 or Standard 90.1-2007* or Chapter 5 of the 2009 IECC, these “Supplements and Amendments” shall take precedence.

Each of the following Chapters of this document associates directly with the corresponding chapters of the 2003 IECC unless otherwise noted.

RESIDENTIAL

- **Chapter 1.** Administration – Deleted. Replaced with the *Arkansas Energy Code for New Building Construction Supplements and Amendments, Chapter 1, Administration and Enforcement*.
- **Chapter 2: Definitions.**
- **Chapter 3: Design Conditions.** Establishes the design criteria for the entire state of Arkansas and defines Arkansas’ four climate zones. The climate zones establish the design conditions for use with Chapters 4, 5, 6 and 8.
This chapter has been modified to include a map of Arkansas with a list of counties and their associated climate zones, and a table identifying the Heating Degree Day (HDD) ranges associated with each zone.
- **Chapter 4:** Pertains to **residential building design by systems analysis**, as well as the use of renewable resources such as wind, solar, geothermal, etc.
Section 402.2.3.1.3 has been deleted which required windows to have a 0.40 Solar Heat Gain Coefficient (SHGC) in homes located in areas experiencing less than 3,500 HDD.
- **Chapter 5: Residential compliance by designed component¹ performance**—this analyzes the total building for compliance one component at a time. Assuming each individual component of the building meets the thermal requirements of the code then the entire building is deemed to comply. This chapter offers the use of “trade-offs” to achieve compliance by allowing the builder to substitute or “trade-off” values between building components. A properly executed use of an Arkansas Energy Office approved compliance tool may be used to validate any trade-off.
Section 502.1.5 has been deleted which required the 0.40 SHGC. The *R*-values in the Minimum Duct Insulation **Table 503.3.3.3** have been changed. Also **footnote “b”** under that same table has been deleted which stated that insulation on return ducts located in a basement is not required. All references to the *International Mechanical Code* have been changed to the *Arkansas Mechanical Code*.
- **Chapter 6:** Offers **residential prescriptive compliance** via the single step compliance method by selecting an option directly from the charts in the applicable climate zone. The values from the option show the minimum requirements for each component of a residential structure for the specific climate zone. An approved Arkansas Energy Office prescriptive compliance tool may be used to validate code compliance.
Section 602.2 has been deleted which required the 0.40 SHGC.

COMMERCIAL

- **Chapter 7:** Pertains to **building design for commercial buildings**, except those that comply with Chapter 8. *ANSI/ASHRAE/IESNA Standard 90.1 2001* is adopted by reference and will be in effect until 12/31/2012. On and after 1/1/2013 *ANSI/ASHRAE/IESNA Standard 90.1 2007* will be in effect. An approved Arkansas Energy Office compliance tool may be used to validate compliance.
- **Chapter 8:** Chapter 8 of the 2003 IECC is in effect until 12/31/2012. On and after 1/1/2013 Chapter 8 is removed in its entirety and replaced with Chapter 5 of the 2009 International Energy Conservation Code (2009 IECC) with its associated definitions, general requirements and referenced standards. All references to the *International Mechanical Code* have been changed to the *Arkansas Mechanical Code*. An approved Arkansas Energy Office compliance tool may be used to validate compliance.

¹ The word “component” for the purposes of this code is defined as being a particular segment of a building such as a wall, ceiling, or floor. Hence, the terms *wall component* or *ceiling component*.

SUMMARY

Chapters 4, 5 and 6 of the 2003 IECC offer different methods to achieve code compliance for low-rise residential construction. For commercial and high-rise residential construction Chapters 7 and 8 offer different methods to achieve code compliance for commercial and high-rise residential construction and refer to ASHRAE 90.1-2001 which is in effect until 12/31/2012. On and after 1/1/2013 ASHRAE 90.1-2007 becomes effective for commercial and high-rise residential construction and Chapter 8 of the 2003 IECC is removed and replaced with Chapter 5 of the 2009 IECC.

These amendments have five significant changes:

- 1) Chapter 1 – Administration was deleted and replaced with the *Arkansas Energy Code for New Building Construction Supplements and Amendments, Chapter 1, Administration and Enforcement*.
- 2) The requirement of a 0.4 Solar Heat Gain Coefficient in Chapters 4, 5 and 6 was deleted.
- 3) The residential duct insulation requirement was changed.
- 4) *ANSI/ASHRAE/IESNA 90.1-2001* is referenced for commercial buildings and high-rise residential buildings in Chapters 7 and 8 until 12/31/2012. On and after 1/1/2013 *ANSI/ASHRAE/IESNA 90.1-2007* is referenced for commercial buildings and high-rise residential buildings.
- 5) On and after 1/1/2013 Chapter 8 of the 2003 IECC is deleted and replaced with Chapter 5 of the 2009 IECC.

ARKANSAS AMENDMENTS

** Revise the Arkansas Energy Code for New Building Construction Supplements and Amendments (the 2003 Edition of the International Energy Conservation Code), as follows:*

CHAPTER 1 ADMINISTRATION

Delete entire CHAPTER 1 ADMINISTRATION. Replace with the *Arkansas Energy Code for New Building Construction Supplements and Amendments, CHAPTER 1, ADMINISTRATION AND ENFORCEMENT* as follows.

CHAPTER 1 ADMINISTRATION and ENFORCEMENT

SECTION 101 GENERAL

101.1 Title. These regulations shall be known as the *Arkansas Energy Code for New Building Construction Supplements and Amendments*, and shall be cited as such. Unless otherwise specified, this *Arkansas Energy Code for New Building Construction Supplements and Amendments*, the 2003 International Energy Conservation Code, ASHRAE 90.1-2001, ASHRAE 90.1-2007 and Chapter 5 of the 2009 IECC are referred to herein as “this Code” or “the Arkansas Energy Code.”

101.2 Scope. This Code establishes minimum prescriptive and performance-related regulations for the design of energy-efficient buildings and structures or portions thereof that provide facilities or shelter for public assembly, educational, business, mercantile, institutional, storage and residential occupancies, as well as those portions of factory and industrial occupancies designed primarily for human occupancy. This Code thereby addresses the design of energy-efficient building envelopes and the selection and installation of energy-efficient mechanical, service water-heating, electrical distribution and illumination systems and equipment for the effective use of energy in these buildings and structures. NOTE: All referenced Chapters, Sections and Tables in this Chapter correspond directly to the *International Energy Conservation Code, 2003 Edition* unless otherwise noted.

101.2.1 Exempt buildings. Buildings and structures indicated in Sections 101.2.1.1 through 101.2.1.5 shall be exempt from the building envelope provisions of this Code, but shall comply with the provisions for building, mechanical, service water heating and lighting systems.

101.2.1.1 Separated buildings. Buildings and structures, or portions thereof separated by building envelope assemblies from the remainder of the building, that have a peak design rate of energy usage less than 3.4 Btu/h per square foot (10.7 W/m²) or 1.0 watt per square foot (10.7 W/m²) of floor area for space conditioning purposes.

101.2.1.2 Unconditioned buildings. Buildings and structures or portions thereof, which are neither heated nor cooled.

101.2.1.3: Buildings and structures or portions thereof that are exclusively heated or cooled by renewable fuels.

101.2.1.4: Mobile homes

101.2.1.5: Temporary use structures such as hunting and fishing camps, boat houses, remote cabins, etc. that do not meet the definition of "dwelling units" in Section 202; General Definitions.

101.2.2 Applicability. The provisions of this Code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this Code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

101.2.2.1 Existing installations. Except as otherwise provided for in this chapter, a provision in this Code shall not require the removal, alteration or abandonment of, nor prevent the continued utilization and maintenance of, an existing building envelope, mechanical, service water-heating, electrical distribution or illumination system lawfully in existence at the time of the adoption of this Code.

101.2.2.2 Additions to Existing Buildings: Additions to existing buildings or structures may be made to such buildings or structures without making the entire building or structure comply. The new addition shall conform to the provisions of this Code as they relate to new construction only.

101.2.2.3 Renovations: Any rehabilitation of an existing building that requires more than 25 percent of the gross floor area or volume of the entire building to be rebuilt shall comply with this Code. Cosmetic work such as painting, wall covering, wall paneling, and floor covering shall not be included.

101.2.2.4 Historic buildings. The provisions of this Code relating to the construction, alteration, repair, enlargement, restoration, relocation or movement of buildings or structures shall not be mandatory for existing buildings or structures specifically identified and classified as historically significant by the state or local jurisdiction, listed in *The National Register of Historic Places* or which have been determined to be eligible for such listing.

101.2.3 Mixed occupancy. When a building houses more than one occupancy, each portion of the building shall conform to the requirements for the occupancy housed therein. Where minor accessory uses do not occupy more than 10 percent of the area of any floor of a building, the major use shall be considered the building occupancy. Buildings, other than detached one- and two-family dwellings and townhouses, with a height of four or more stories above grade shall be considered commercial buildings for purposes of this Code, regardless of the number of floors that are classified as residential occupancy.

101.3 Intent. The provisions of this Code shall regulate the design of building envelopes for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, service water-heating and illumination systems and equipment which will enable effective use of energy in new building construction. It is intended that these provisions provide flexibility to permit the use of innovative approaches and techniques to achieve effective utilization of energy. This Code is not intended to abridge safety, health or environmental requirements under other applicable codes or ordinances.

101.4 Compliance. Compliance with this Code shall be determined in accordance with Sections 101.4.1 and 101.4.2.

101.4.1 Residential buildings. For residential buildings the following shall be used as the basis for compliance assessment: a systems approach for the entire building (Chapter 4), an approach based on performance of individual components of the building envelope (Chapter 5), an approach based on performance of the total building envelope (Chapter 5), an approach based on acceptable practice for each envelope component (Chapter 5), an approach by prescriptive specification for individual components of the building envelope (Chapter 5), or an approach based on simplified, prescriptive specification (Chapter 6) where the conditions set forth in Section 101.4.1.1 or 101.4.1.2 are satisfied.

101.4.1.1 Detached one- and two-family dwellings. When the glazing area does not exceed 15 percent of the gross area of exterior walls.

101.4.1.2 Residential buildings, Group R-2, R-4 or townhouses. When the glazing area does not exceed 25 percent of the gross area of exterior walls.

101.4.2 Commercial buildings. For commercial buildings, a prescriptive or performance-based approach (Chapter 7) or as specified by acceptable practice (Chapter 8) shall be used as the basis for compliance assessment up to 12/31/2012. On and after 1/1/2013 ANSI/ASHRAE/IESNA 90.1-2007 or Chapter 5 of the 2009 IECC shall be used as a basis for compliance assessment.

101.4.3 Builder Acknowledgement. Cities or counties that issue building permits for new building construction are required to record that the builder has certified that the proposed building will comply with the Arkansas Energy Code.

101.5 Adoption. Arkansas Code § 15-10-205(b)(3)(B) requires that any city or county in Arkansas which issues building permits for new building construction (referred to herein as “applicable cities or counties”) shall adopt the Arkansas Energy Code as amended.

101.5.1 Date of Adoption. Applicable cities or counties shall adopt the Arkansas Energy Code prior to December 31, 2012.

101.5.2 Acknowledgement of Adoption. Upon adoption of the Arkansas Energy Code, applicable cities or counties are required to submit a copy of the adoption ordinance to the Arkansas Energy Office. If the applicable city or county has not adopted the Arkansas Energy Code by December 31, 2012, the mayor and/or county judge is required to submit a letter to the Arkansas Energy Office, no later than 60 days after this deadline, describing why the city or county is not in compliance with Arkansas Code § 15-10-205(b)(3)(B).

SECTION 102 MATERIALS, SYSTEMS AND EQUIPMENT

102.1 General. Materials, equipment and systems shall be identified in a manner that will allow a determination of their compliance with the applicable provisions of this Code.

102.2 Materials, equipment and systems installation. All insulation materials, caulking and weatherstripping, fenestration assemblies, mechanical equipment and systems components, and water-heating equipment and system components shall be installed in accordance with the manufacturer’s installation instructions.

102.3 Maintenance information. Required regular maintenance actions shall be clearly stated and incorporated on a readily accessible label. Such label shall include the title or publication number, the operation and maintenance

manual for that particular model and type of product. Maintenance instructions shall be furnished for equipment that requires preventive maintenance for efficient operation.

102.4 Insulation installation. Roof/ceiling, floor, wall cavity and duct distribution systems insulation shall be installed in a manner that permits inspection of the manufacturer's *R*-value identification mark.

102.4.1 Protection of exposed foundation insulation. Insulation applied to the exterior of foundation walls and around the perimeter of slab-on-grade floors shall have a rigid, opaque and weather-resistant protective covering to prevent the degradation of the insulation's thermal performance. The protective covering shall cover the exposed area of the exterior insulation and extend a minimum of 6 inches (153 mm) below grade.

102.5 Identification. Materials, equipment and systems shall be identified in accordance with Sections 102.5.1, 102.5.2 and 102.5.3.

102.5.1 Building envelope insulation. A thermal resistance (*R*) identification mark shall be applied by the manufacturer to each piece of building envelope insulation 12 inches (305 mm) or greater in width. Alternatively, the insulation installer shall provide a signed and dated certification for the insulation installed in each element of the building envelope, listing the type of insulation installations in roof/ceilings, the manufacturer and the *R*-value. For blown-in or sprayed insulation, the installer shall also provide the initial installed thickness, the settled thickness, the coverage area and the number of bags installed. Where blown-in or sprayed insulation is installed in walls, floors and cathedral ceilings, the installer shall provide a certification of the installed density and *R*-value. The installer shall post the certification in a conspicuous place on the job site.

102.5.1.1 Roof/ceiling insulation. The thickness of roof/ceiling insulation that is either blown in or sprayed shall be identified by thickness markers that are labeled in inches or millimeters installed at least one for every 300 square feet (28 m²) throughout the attic space. The markers shall be affixed to the trusses or joists and marked with the minimum initial installed thickness and minimum settled thickness with numbers a minimum of 1 inch (25 mm) in height. Each marker shall face the attic access. The thickness of installed insulation shall meet or exceed the minimum initial installed thickness shown by the marker.

102.5.2 Fenestration product rating, certification and labeling. *U*-factors of fenestration products (windows, doors and skylights) shall be determined in accordance with NFRC 100 by an accredited, independent laboratory, and labeled and certified by the manufacturer. The solar heat gain coefficient (SHGC) of glazed fenestration products (windows, glazed doors and skylights) shall be determined in accordance with NFRC 200 by an accredited, independent laboratory, and labeled and certified by the manufacturer. Where a shading coefficient for a fenestration product is used, it shall be determined by converting the product's SHGC, as determined in accordance with NFRC 200, to a shading coefficient, by dividing the SHGC by 0.87. Such certified and labeled *U*-factors and SHGCs shall be accepted for purposes of determining compliance with the building envelope requirements of this Code.

When a manufacturer has not determined product *U*-factor in accordance with NFRC 100 for a particular product line, compliance with the building envelope requirements of this Code shall be determined by assigning such products a default *U*-factor in accordance with Tables 102.5.2(1) and 102.5.2(2). When a SHGC or shading coefficient is used for code compliance and a manufacturer has not determined product SHGC in accordance with NFRC 200 for a particular product line, compliance with the building envelope requirements of this Code shall be determined by assigning such products a default SHGC in accordance with Table 102.5.2(3). Product features must be verifiable for the product to qualify for the default value associated with those features. Where the existence of a particular feature cannot be determined with reasonable certainty, the product shall not receive credit for that feature. Where a composite of materials from two different product types is used, the product shall be assigned the higher *U*-factor.

102.5.3 Duct distribution systems insulation. A thermal resistance (*R*) identification mark shall be applied by the manufacturer in maximum intervals of no greater than 10 feet (3048 mm) to insulated flexible duct products showing the thermal performance *R*-value for the duct insulation itself (excluding air films, vapor retarders or other duct components).

**TABLE 102.5.2(1)
U-FACTOR DEFAULT TABLE FOR WINDOWS, GLAZED DOORS AND SKYLIGHTS**

| FRAME MATERIAL AND PRODUCT TYPE^a | SINGLE GLAZED | DOUBLE GLAZED |
|---|--------------------------|--------------------------|
| Metal without thermal break: | | |
| Curtain wall | 1.22 | 0.79 |
| Fixed | 1.13 | 0.69 |
| Garden window | 2.60 | 1.81 |
| Operable (including sliding and swinging glass doors) | 1.27 | 0.87 |
| Site-assembled sloped/overhead glazing | 1.36 | 0.82 |
| Skylight | 1.98 | 1.31 |
| Metal with thermal break: | | |
| Curtain wall | 1.11 | 0.68 |
| Fixed | 1.07 | 0.63 |
| Operable (including sliding and swinging glass doors) | 1.08 | 0.65 |
| Site-assembled sloped/overhead glazing | 1.25 | 0.70 |
| Skylight | 1.89 | 1.11 |
| Reinforced vinyl/metal clad wood: | | |
| Fixed | 0.98 | 0.56 |
| Operable (including sliding and swinging glass doors) | 0.90 | 0.57 |
| Skylight | 1.75 | 1.05 |
| Wood/vinyl/fiberglass: | | |
| Fixed | 0.98 | 0.56 |
| Garden window | 2.31 | 1.61 |
| Operable (including sliding and swinging glass doors) | 0.89 | 0.55 |
| Skylight | 1.47 | 0.84 |

a. Glass block assemblies with mortar but without reinforcing or framing shall have a *U*-factor of 0.60.

**TABLE 102.5.2(2)
U-FACTOR DEFAULT TABLE FOR NONGLAZED DOORS**

| DOOR TYPE | WITH FOAM CORE | WITHOUT FOAM CORE |
|--|--------------------------------|-----------------------------------|
| Steel doors (1.75 inches thick) | 0.35 | 0.60 |
| | WITH STORM DOOR | WITHOUT STORM DOOR |
| Wood doors (1.75 inches thick) | | |
| Hollow core flush | 0.32 | 0.46 |
| Panel with 0.438-inch panels | 0.36 | 0.54 |
| Panel with 1.125-inch panels | 0.28 | 0.39 |
| Solid core flush | 0.26 | 0.40 |

For SI: 1 inch = 25.4 mm.

**TABLE 102.5.2(3)
SHGC DEFAULT TABLE FOR FENESTRATION**

| PRODUCT DESCRIPTION | SINGLE GLAZED | | | | DOUBLE GLAZED | | | |
|---------------------|---------------|--------|-------|------|---------------|----------------|---------------|--------------|
| | Clear | Bronze | Green | Gray | Clear + Clear | Bronze + Clear | Green + Clear | Gray + Clear |
| Metal frames | | | | | | | | |
| Fixed | 0.78 | 0.67 | 0.65 | 0.64 | 0.68 | 0.57 | 0.55 | 0.54 |
| Operable | 0.75 | 0.64 | 0.62 | 0.61 | 0.66 | 0.55 | 0.53 | 0.52 |
| Nonmetal frames | | | | | | | | |
| Fixed | 0.75 | 0.64 | 0.62 | 0.61 | 0.66 | 0.54 | 0.53 | 0.52 |
| Operable | 0.63 | 0.54 | 0.53 | 0.52 | 0.55 | 0.46 | 0.45 | 0.44 |

**SECTION 103
ALTERNATE MATERIALS—METHOD OF CONSTRUCTION,
DESIGN OR INSULATING SYSTEMS**

103.1 General. The provisions of this Code are not intended to prevent the use of any material, method of construction, design or insulating system not specifically prescribed herein, provided that such construction, design or insulating system has been approved by the code official as meeting the intent of the Code.

Compliance with specific provisions of this Code may be determined through the use of deemed to comply computer software, worksheets, compliance manuals and other similar materials when they have been approved by the Arkansas Energy Office.

**SECTION 104
CONSTRUCTION DOCUMENTS**

104.1 General. Construction documents and other supporting data shall be submitted in one or more sets with each application for a permit. The construction documents and designs submitted under the provisions of Chapter 4 shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the code official is authorized to require additional construction documents to be prepared by a registered design professional.

Exceptions:

1. The code official is authorized to waive the submission of construction documents and other supporting data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this Code.
2. For residential buildings having a conditioned floor area of 5,000 square feet (465 m²) or less, designs submitted under the provisions of Chapter 4 shall be prepared by anyone having qualifications acceptable to the code official.

104.2 Information on construction documents. Construction documents shall be drawn to scale upon suitable material. Electronic media documents are permitted to be submitted when approved by the code official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in sufficient detail pertinent data and features of the building and the equipment and systems as herein governed, including, but not limited to, design criteria, exterior envelope component materials, *U*-factors of the envelope systems, *U*-factors of fenestration products, *R*-values of insulating materials, size and type of apparatus and equipment, equipment and systems controls and other pertinent data to indicate compliance with the requirements of this Code and relevant laws, ordinances, rules and regulations, as determined by the code official.

104.3 Design Professional: Architects and engineers employed to prepare plans and specifications for new buildings shall ensure the plans and specifications comply with the provisions of this Code in a manner consistent with their obligations under Arkansas State law (see also the *Arkansas Fire Prevention Code 2007 Edition*, Volume I Fire, Volume II Building and Volume III Residential).

SECTION 105 CONTRACTOR / BUILDER COMPLIANCE

105.1 General: Compliance with this Code shall be the obligation of the licensed builder or contractor.

105.1.1 Compliance: Compliance signifies that the licensed builder or contractor has constructed or will construct or renovate the building in compliance with the requirements of this Code, and that by inspection within a two-year period from the date of completion, if the building fails to meet the Code's specifications, understands that he or she is responsible for bringing the building into compliance with this Code.

105.1.2 Compliance Materials: Compliance materials, instructions and Arkansas Energy Office approved tools and third-party services, are made a part of this Code by reference.

105.1.3 Compliance by Self-Builders: Compliance with this Code by builders who build, or contract to build, single-family buildings for their own occupancy is voluntary.

105.2 Compliance Alternatives

105.2.1 Alternative Compliance Tools: Arkansas Energy Office approved alternative compliance tools may be used to validate code compliance.

105.2.2 Federally Financed Homes: Newly constructed single and multi-family buildings financed through HUD/FHA, VA, and USDA Rural Development programs shall meet the thermal performance requirements of this Code.

SECTION 106 INSPECTIONS

106.1 General. Construction or work that must comply with this Code shall be subject to inspection by the Arkansas Energy Office or its agent, or by the code official.

106.2 Final inspection. Code officials within a county or municipality who have adopted this Code and conduct final inspections as a part of their normal operations shall perform a final inspection and approval for buildings when completed and ready for occupancy.

106.3 Reinspection. The Arkansas Energy Office or its agent or code official may cause a structure to be reinspected.

SECTION 107 ENFORCEMENT

107.1 General: Enforcement of this Code shall be the responsibility of the Arkansas Energy Office or local government (when adopted).

107.2 Local Government: All counties, cities or municipalities that issue building permits for new building construction are required to adopt this Code for new construction, additions and renovation of existing structures. However, the local municipality shall not in any way modify the energy conservation standards in this Code or promulgate or adopt rules or regulations that are less stringent than this Code.

A local government may exercise other administrative and enforcement procedures that it deems necessary to affect the purposes of this Code, including, but not limited to, prior plan approval, building permit requirements, and inspections during the course of construction.

SECTION 108 APPEALS

108.1 Board of Appeals: Any appeal of the energy conservation standards contained in this Code shall be made to the Board of Appeals established by the Arkansas Energy Office, and a decision on an appeal will be made within 45 days of its filing.

108.2 Local Government: In any county or municipality where this Code is adopted, the governing body shall establish a Board of Appeals to adjudicate complaints arising from the application of the Code. When a Board of Appeals is established, the governing body shall prescribe procedures for providing a fair and reasonable hearing of the appeal.

SECTION 109 VALIDITY

109.1 General. If a section, subsection, sentence, clause or phrase of this Code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code.

SECTION 110 RESPONSIBILITY

110.1 These minimum standards shall not be construed as relieving the licensed builder or contractor of his or her responsibility for compliance with local ordinances, codes, and regulations.

SECTION 111 REFERENCED STANDARDS

111.1 General. The standards, and portions thereof, which are referred to in this Code and listed in Chapter 10, shall be considered part of the requirements of this Code to the extent of such reference.

111.2 Conflicting requirements. When a section of this Code and a section of a referenced standard from Chapter 10 specify different materials, methods of construction or other requirements, the provisions of this Code shall apply.

SECTION 112 EFFECTIVE DATE

112.1 The effective date of this Code for residential buildings, as defined herein, is 10/1/2004. ASHRAE 90.1-2001 and Chapter 8 of the 2003 IECC are in effect for commercial buildings until 12/31/2012. The effective date for ASHRAE 90.1-2007 and Chapter 5 of the 2009 IECC for commercial buildings, as defined herein, is 1/1/2013.

CHAPTER 2 DEFINITIONS

* Revise Section 202 GENERAL DEFINITIONS to read as follows:

EFFICIENCY, HVAC SYSTEM. The ratio of useful energy output (at the point of use) to the energy input in consistent units for a designated time period, expressed in percent.

RECOOLING. The removal of heat by sensible cooling of the supply air (directly or indirectly) which has been previously heated above the temperature to which the air is to be supplied to the conditioned space for proper control of the temperature of that space.

RECOVERED ENERGY. Energy utilized which would otherwise be wasted (i.e., not contribute to a desired end use) from an energy utilization system.

RESET. Adjustment of the set point of a control instrument to a higher or lower value automatically or manually to conserve energy.

RESIDENTIAL BUILDING. Detached one- and two-family dwellings.

CHAPTER 3 DESIGN CONDITIONS

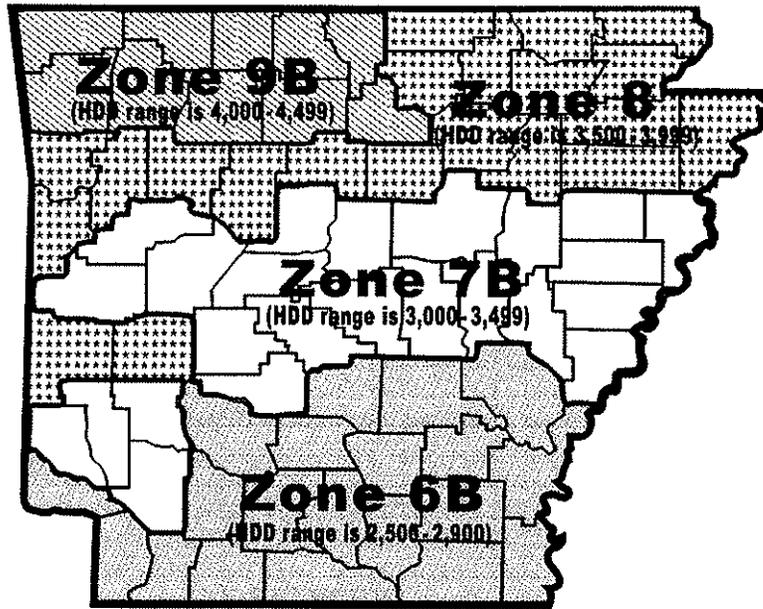
TABLE 302.1 EXTERIOR DESIGN CONDITIONS

* Revise footnotes *b* and *c* and add footnote *d* under table 302.1 as follows:

- b. The degree days heating (base 60°F) and cooling (base 60°F) shall be selected from NOAA "Annual Degree Days to Selected Bases Derived from the 1961-1990 Normals," the ASHRAE *Handbook of Fundamentals*, data available from adjacent military installations, or other source of local weather data acceptable to the code official.
- c. The climate zone shall be selected from the map provided in Figure 302.1(1) on the following page.
- d. Load calculations may be determined by using ACCA Manual J for residential, and ACCA Manual N for commercial.

* Add the following FIGURES: 302.1(1) showing the four climate zones in Arkansas with a list of counties and their associated climate zones, and Table 302.2 Arkansas HDD and zones; and add FIGURE 501.3 showing the two commercial climate zones in Arkansas that apply to Chapter 5 of the 2009 IECC and ASHRAE 90.1-2007.

**Arkansas Climate Zones for Residential Construction.
Applies to Commercial Construction up to 12/31/2012**



**FIGURE 302.1(1)
ARKANSAS**

| Zone | County | Zone | County |
|------|----------------|------|------------------|
| 6B | Arkansas (H) | 8 | Lawrence |
| 6B | Ashley (H) | 7B | Lee (H) |
| 9B | Baxter | 6B | Lincoln (H) |
| 9B | Benton | 6B | Little River (H) |
| 9B | Boone | 7B | Logan (H) |
| 6B | Bradley (H) | 7B | Lonoke (H) |
| 6B | Calhoun (H) | 9B | Madison |
| 9B | Carroll | 9B | Marion |
| 6B | Chicot (H) | 6B | Miller (H) |
| 6B | Clark (H) | 8 | Mississippi |
| 8 | Clay | 7B | Monroe (H) |
| 8 | Cleburne | 8 | Montgomery |
| 6B | Cleveland (H) | 6B | Nevada (H) |
| 6B | Columbia (H) | 9B | Newton |
| 7B | Conway (H) | 6B | Ouachita (H) |
| 8 | Craighead | 7B | Perry (H) |
| 8 | Crawford | 7B | Phillips (H) |
| 7B | Crittenden (H) | 7B | Pike (H) |
| 7B | Cross (H) | 8 | Poinsett |
| 6B | Dallas (H) | 8 | Polk |
| 6B | Desha (H) | 8 | Pope |
| 6B | Drew (H) | 7B | Prairie (H) |
| 7B | Faulkner (H) | 7B | Pulaski (H) |
| 8 | Franklin | 8 | Randolph |
| 8 | Fulton | 7B | Saline (H) |
| 7B | Garland (H) | 7B | Scott (H) |
| 6B | Grant (H) | 9B | Searcy |
| 8 | Greene | 8 | Sebastian |
| 7B | Hempstead (H) | 7B | Sevier (H) |
| 7B | Hot Spring (H) | 8 | Sharp |
| 7B | Howard (H) | 7B | St Francis (H) |
| 8 | Independence | 9B | Stone |
| 8 | Izard | 6B | Union (H) |
| 8 | Jackson | 8 | Van Buren |
| 6B | Jefferson (H) | 9B | Washington |
| 8 | Johnson | 7B | White (H) |
| 6B | Lafayette (H) | 7B | Woodruff (H) |
| | | 7B | Yell (H) |

Table 302.2 Arkansas HDD* and zones

| Zone | HDD |
|------|---------------|
| 6B | 2,500 – 2,999 |
| 7B | 3,000 – 3,499 |
| 8 | 3,500 – 3,999 |
| 9B | 4,000 – 4,499 |

* HDD = Heating Degree Days

Note: Counties identified with (H) shall be considered “hot and humid climate areas” for purposes of the application of Section 502.1.1.

**CHAPTER 4
RESIDENTIAL BUILDING DESIGN BY SYSTEMS ANALYSIS AND DESIGN OF
BUILDINGS UTILIZING RENEWABLE ENERGY SOURCES**

* Delete Section 402.2.3.1.3 FENESTRATION SYSTEM SOLAR HEAT GAIN COEFFICIENT, STANDARD DESIGN without substitution.

**CHAPTER 5
RESIDENTIAL BUILDING DESIGN BY COMPONENT PERFORMANCE APPROACH**

* Revise Exception 2 in Section 502.1.1 MOISTURE CONTROL as follows:

2. Vapor retarders shall not be required where the county in which the building is being constructed is considered a hot and humid climate area and identified as such in Figure 302.1(1).

* Delete Section 502.1.5 FENESTRATION SOLAR HEAT GAIN COEFFICIENT without substitution.

* Revise Table 503.3.3.3 MINIMUM DUCT INSULATION as follows:

**TABLE 503.3.3.3
MINIMUM DUCT INSULATION ^a**

| ANNUAL HEATING DEGREE DAYS | Insulation <i>R</i> -value ^d | | | |
|-------------------------------|---|--------|---|--------|
| | Ducts in unconditioned attics or outside building | | Ducts in unconditioned basements, crawl spaces, garages, and other unconditioned spaces ^c | |
| | Supply | Return | Supply | Return |
| < 1,500 | 8 | 4 | 4 | 0 |
| 1,500 to 3,500 | 5.6 | 5.6 | 5.6 | 5.6 |
| 3,501 to 7,500 | 5.6 | 5.6 | 5.6 | 5.6 |
| > 7,500 | 11 | 6 | 11 | 2 |

* Delete footnote b in Table 503.3.3.3 without substitution.

**SECTION 503
BUILDING MECHANICAL SYSTEMS AND EQUIPMENT**

* Replace the *International Mechanical Code* with the *Arkansas Mechanical Code* in Sections 503.3.3.4 DUCT CONSTRUCTION, 503.3.3.4.1 HIGH-AND MEDIUM-PRESSURE DUCT SYSTEMS and 503.3.3.4.2 LOW-PRESSURE DUCT SYSTEMS.

CHAPTER 6
SIMPLIFIED PRESCRIPTIVE REQUIREMENTS FOR DETACHED
ONE- AND TWO-FAMILY DWELLINGS AND GROUP R-2, R-4
OR TOWNHOUSE RESIDENTIAL BUILDINGS

* Revise Section 601.2 COMPLIANCE to include deemed to comply tools that are approved by the Arkansas Energy Office.

601.2 Compliance. Compliance shall be demonstrated in accordance with Section 601.2.1 or 601.2.2. Deemed to comply tools that are approved by the Arkansas Energy Office shall be permitted to demonstrate compliance.

* Revise Section 601.3.2.1 DEFAULT FENESTRATION PERFORMANCE as follows:

601.3.2.1 Default fenestration performance. Where a manufacturer has not determined a fenestration product's *U*-factor in accordance with NFRC 100, compliance shall be determined by assigning such products a default *U*-factor from Tables 102.5.2(1) and 102.5.2(2).

* Modify Exception in Section 602.1.6 SLAB-ON-GRADE FLOORS as follows:

Exception: Slab perimeter insulation is not required for unheated slabs in areas of moderate to very heavy termite infestation probability as shown in Figure 502.2(7). Where this exception is used, building envelope compliance shall be demonstrated by using Section 502.2.2 or Chapter 4 with the actual "Slab perimeter *R*-value and depth" in Table 602.1, or by using Section 502.2.4.

* Delete Section 602.2 MAXIMUM SOLAR HEAT GAIN COEFFICIENT FOR FENESTRATION PRODUCTS without substitution.

CHAPTER 7
BUILDING DESIGN FOR ALL COMMERCIAL BUILDINGS

* Chapter 7 will be in effect until 12/31/2012. Revise ASHRAE/IESNA 90.1 to ANSI/ASHRAE/IESNA 90.1-2001 in the following section:

701.1 Scope. Until 12/31/2012 commercial buildings shall meet the requirements of ANSI/ASHRAE/IESNA 90.1-2001. On and after 1/1/2013 commercial buildings shall meet the requirements of ANSI/ASHRAE/IESNA 90.1-2007 with the following exception.

Exception: Commercial buildings that comply with Chapter 5 in the 2009 IECC with its associated definitions, general requirements and reference standards.

Chapter 8 of the 2003 IECC is in effect until 12/31/2012. On and after 1/1/2013 Chapter 8 is removed in its entirety and replaced with Chapter 5 of the 2009 International Energy Conservation Code (2009 IECC) with its associated definitions, general requirements and referenced standards.

CHAPTER 8—In effect until 12/31/2012
DESIGN BY ACCEPTABLE PRACTICE FOR COMMERCIAL BUILDINGS

* Replace the *International Mechanical Code* with the *Arkansas Mechanical Code* in Sections 803.2.5 VENTILATION, 803.2.6 COOLING WITH OUTDOOR AIR, 803.2.8.1 DUCT CONSTRUCTION, 803.2.8.1.1 HIGH- AND MEDIUM-PRESSURE DUCT SYSTEMS, 803.2.8.1.2 LOW-PRESSURE DUCT SYSTEMS, 803.3.4 REQUIREMENTS FOR COMPLEX MECHANICAL SYSTEMS SERVING MULTIPLE ZONES, and 803.3.8.1 AIR SYSTEM BALANCING.

* Replace ASHRAE/IESNA 90.1 with ANSI/ASHRAE/IESNA 90.1-2001 in Sections 801.2 APPLICATIONS, SECTION 802 BUILDING ENVELOPE REQUIREMENTS, 802.1 GENERAL, and 802.2 CRITERIA.

Arkansas Commercial Climate Zones
in effect on and after 1/1/2013

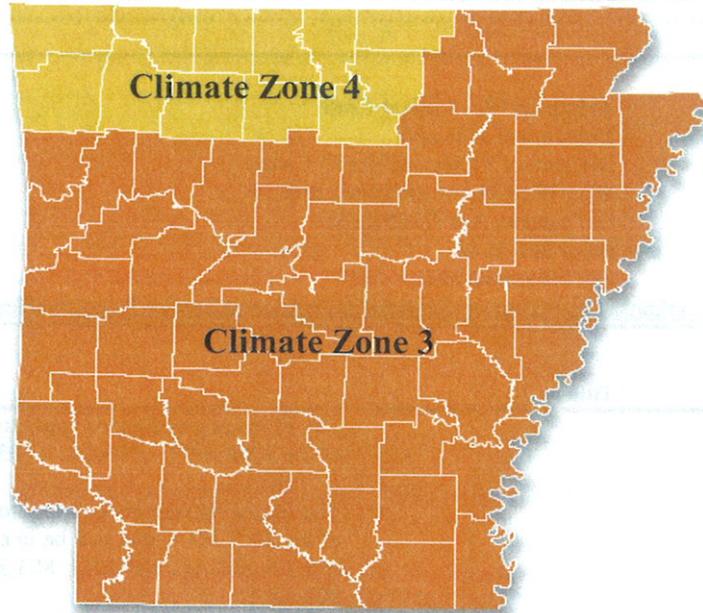


FIGURE 501.3
ARKANSAS COMMERCIAL CLIMATE ZONES

Climate Zones 3 and 4 are referenced in ANSI/ASHRAE/IESNA 90.1-2007 and Chapter 5 of the 2009 International Energy Conservation Code. These codes take effect on and after 1/1/2013.

Climate Zone 4 contains counties of Baxter, Benton, Boone, Carroll, Fulton, Izard, Madison, Marion, Newton, Search, Stone and Washington.

Climate Zone 3 contains counties of Arkansas, Ashley, Bradley, Calhoun, Chicot, Clark, Clay, Cleburne, Cleveland, Columbia, Conway, Craighead, Crawford, Crittenden, Dross, Dallas, Desha, Drew, Faulkner, Franklin, Garland, Grant, Greene, Hempstead, Hot Spring, Howard, Independence, Jackson, Jefferson, Johnson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Monroe, Montgomery, Nevada, Ouachita, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, Sebastian, Sevier, Sharp, St. Francis, Union, Van Buren, White, Woodruff and Yell.

**CHAPTER 10
REFERENCED STANDARDS**

* Revise Chapter 10 REFERENCED STANDARDS to include the following:

AFC

Arkansas Fire Prevention Code
State Fire Marshal's Office
#1 State Police Plaza Dr
Little Rock, AR 72209
(501) 618-8624
Fax (501) 618-8621

| Standard Reference Number | Title | Referenced in Code Section Number |
|---------------------------|-------|-----------------------------------|
| AFC | | 104.3 |

AMC

Arkansas Mechanical Code
Department of Health
Division of Protective Health Codes
4815 West Markham Street, Slot 24
Little Rock, AR 72205-3867
(501) 661-2642
Fax (501) 661-2671

<http://www.healthy.arkansas.gov/programsServices/environmentalHealth/ProtectiveHealthCodes/Pages/default.aspx>

| Standard Reference Number | Title | Referenced in Code Section Number |
|---------------------------|-------|-----------------------------------|
|---------------------------|-------|-----------------------------------|

| | |
|------------|--|
| AMC | <p>The following references apply to the residential section of the 2003 IECC: 503.3.3.4, 503.3.3.4.1 and 503.3.3.4.2.</p> <p>The following references apply to the commercial section of the 2003 IECC and will be in effect until 12/31/2012. 803.2.5, 803.2.6, 803.2.8.1, 803.2.8.1.1, 803.2.8.1.2, 803.3.4 803.3.8.1.</p> <p>The following references apply to the commercial section of the 2009 IECC and will be in effect on and after 1/1/2013: 503.2.5, 503.2.5.1, 503.2.6, 503.2.7, 503.2.7.1, 503.2.7.1.1, 503.2.7.1.2, 503.2.9.1, 503.3.1 and 503.4.5.</p> |
|------------|--|

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH DAILY & WOODS,
P.L.L.C. FOR GENERAL LEGAL SERVICES FOR 2013

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

The legal services agreement with Daily & Woods, P.L.L.C. for general
legal services for 2013 attached hereto is hereby approved. The Mayor is
hereby authorized to execute said agreement on behalf of the city.

THIS RESOLUTION PASSED THIS _____ DAY OF December,
2012.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney
No Publication Required

Memo



To: Ray Gosack, City Administrator
From: Jeff Dingman, Deputy City Administrator
Date: 11/26/2012
Re: General Legal Services for 2013

Attached for the board of directors' consideration is a resolution authorizing a contract for general legal services for 2013. Section 2-112 of the municipal code requires the board to approve a contract for legal services prior to the first of each calendar year.

Proposals from Professional Service Providers were solicited earlier this year. Daily & Woods was the only firm to submit a proposal for general legal services. The firm has provided legal services to the city for nearly 40 years. The proposed contract with Daily & Woods for legal services in 2013 and information about the attorneys at the firm are attached. The hourly rate is proposed at \$137.50/hr, a 2% increase from the 2012 rate. The contract is similar to that used in previous years.

The staff recommends approval of the attached resolution. Please contact me if there are any questions regarding this agenda item.

LEGAL SERVICES AGREEMENT

This Legal Services Agreement made the ___ day of _____, 2012, between the City of Fort Smith, Arkansas, a municipal corporation (“City”), acting by and through its authorized officers, and Daily & Woods, P.L.L.C., of 56 South 6th Street, Fort Smith, Arkansas (“Attorney”).

WHEREAS, pertinent portions of Act 636 of the 1989 Acts of Arkansas (also contained within Fort Smith Code of Ordinances § 2-182) require annual notice of solicitation of bids for professional services, including, but not limited to, legal services, and,

WHEREAS, such notice has been duly published and a Statement of Qualifications and Performance Data has been received by the City from all persons or firms who desire to be considered by the City at the time the City enters into any contract for professional legal services throughout the year 2013, and,

WHEREAS, the City, having received and reviewed such Statement of Qualifications and Performance Data from the law firm of Daily & Woods, P.L.L.C., and the City having determined that said firm is the most qualified and capable in handling the legal services for the City, does hereby enter into this Agreement for the use of and compensation of such legal services, to-wit:

SECTION ONE

City retains Daily & Woods, P.L.L.C. to act as attorney for the City and to render to the City and its authorized officers all legal advice and to represent City and its authorized officers as provided in Fort Smith Code of Ordinances §§ 2-112, 2-113, and 2-114.

SECTION TWO

Attorney accepts the compensation schedule as outlined in Exhibit “1” to this Agreement.

SECTION THREE

As compensation in full for all services to be rendered by Attorney under and pursuant to this Agreement, City shall pay to Attorney for Attorneys' services such compensation as is set forth in detail in the letter attached hereto as Exhibit "1" and incorporated herein by reference.

SECTION FOUR

This Agreement shall terminate on December 31, 2013. This Agreement may also be terminated at any time after date of execution of this Agreement after written notice from either party to the other party.

SECTION FIVE

This Agreement shall be governed by, construed, and enforced in accordance with the law of Arkansas.

SECTION SIX

This Agreement constitutes the entire agreement between the parties, and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding on either party except to the extent incorporated in this Agreement.

SECTION SEVEN

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if in writing signed by each party or an authorized representative of each party.

SECTION EIGHT

The rights of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

Each party has caused this Agreement to be executed at Fort Smith, Arkansas, on the date indicated below.

Dated this ____ day of _____, 2012.

City of Fort Smith, Arkansas

Daily & Woods, P.L.L.C.

By: _____
Mayor

By: _____
Authorized Representative

EXHIBIT “1” TO LEGAL SERVICES AGREEMENT

2013 Billing Rate: \$137.50 per hour

Additionally, all actual expenses incurred, e.g., copying, postage, long distance phone calls, travel, etc., are to be reimbursed to Daily & Woods, P.L.L.C., by the City

13D

RESOLUTION NO. _____

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

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

SECTION 1: The Renewal Agreement with HCC Life Insurance Company to provide
Specific Excess Insurance and Aggregate Excess Insurance for the year 2013 for the Self-Insured
Health Coverage program for employees of the City of Fort Smith, Arkansas is accepted.

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

This Resolution adopted this _____ day of December 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



No Publication Required

MEMORANDUM

TO: Ray Gosack, City Administrator

FROM: Richard B. Jones, Director of Human Resources 

DATE: November 29, 2012

SUBJECT: Health Coverage Resolution

The Renewals for the City's specific and aggregate stop loss are attached. The estimated cost for stop loss coverage is decreasing by 6.8% from \$547,014 to \$521,925. This cost decrease is directly related to one specific claim being removed from the specific stop loss amount of \$200,000 and being placed at the specific stop loss amount of \$350,000. In addition, please note that some carriers that provide stop loss coverage declined to quote because they could not provide competitive rates. This is because The City's current rates and stop loss experience are so far below the expected benchmarks for an organization our size.

I recommend approval of this resolution.

City of Ft. Smith

Stop Loss Market Analysis

Effective January 1, 2013

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

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

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

Presented by Gallagher Benefit Services, Inc.

November 14, 2012

**City of Ft. Smith
Estimate of Stop-Loss Renewal Effective January 1, 2013**

| Specific Stop-Loss | HCC | HCC | Captive | HM |
|------------------------------------|------------------|------------------|------------------|------------------|
| | Current | Renewal | 24/12 | 24/12 |
| Laser ██████████ | \$200,000 | \$200,000 | \$200,000 | \$200,000 |
| Monthly Premium Rates | | \$350,000 | | |
| Employee | \$23.46 | \$21.50 | \$24.89 | \$34.49 |
| Family | \$71.74 | \$66.36 | \$70.24 | \$92.98 |
| Annual Premium | \$516,960 | \$477,113 | \$516,476 | \$691,973 |
| Percent Increase | | -7.7% | -0.1% | 33.9% |
| Additional Premium | | (\$39,847) | (\$484) | \$175,013 |
| Aggregate Stop-Loss | HCC Current | HCC Renewal | Captive | HM |
| Annual Premium | \$42,755 | \$44,811 | \$35,286 | \$52,388 |
| Percent Increase | | 4.8% | -17.5% | 22.5% |
| Attachment Factor - Single | \$419.35 | \$457.28 | \$448.20 | \$498.77 |
| Attachment Factor - Family | \$1,025.83 | \$1,121.68 | \$1,134.67 | \$1,197.06 |
| Attachment Point | \$7,843,147 | \$8,569,250 | \$8,591,205 | \$9,202,970 |
| Percent Increase | | 9.3% | 9.5% | 17.3% |
| TOTAL FIXED STOP LOSS COSTS | \$559,715 | \$521,925 | \$551,762 | \$744,361 |
| Percent Increase | | -6.8% | -1.4% | 33.0% |

Based on: 448 Single
454 Family
902

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

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



HCC Life Insurance Company

16415 Addison Rd, Suite 700, Addison, TX 75001
 Telephone: (972) 248-7130 Facsimile: (972) 248-7157

Underwriter **Morrison, Carol**
 Group **City of Fort Smith**

Proposal **11/15/2012** Proposal No **2**
 Valid Thru Date **01/10/2013**
 Effective Date **01/01/2013** Expiration Date **12/31/2013**

INDIVIDUAL STOP LOSS COVERAGE

| Coverages | Option 1 | Option 2 | Option 3 | Option 4 |
|---|-------------------|------------------|------------------|------------------|
| | Medical, Rx Card | Medical, Rx Card | Medical, Rx Card | Medical, Rx Card |
| Contract Type | Paid | Paid | Paid | Paid |
| Annual Specific Deductible per Individual | 200,000 | 200,000 | 225,000 | 250,000 |
| except for | 325,000 | 325,000 | 325,000 | 325,000 |
| Lifetime Reimbursement | Unlimited | | | |
| Maximum Contract Period Reimbursement | 1,800,000 | 1,800,000 | 1,775,000 | 1,750,000 |
| Inpatient Mental & Nervous | 365 Days | | | |
| Quoted Rate Per Month | <u>Enrollment</u> | | | |
| Single | 448 | 26.99 | 21.50 | 18.61 |
| Family | 454 | 83.41 | 66.36 | 59.28 |
| Composite | 902 | 55.39 | 44.08 | 39.08 |
| Estimated Annual Premium | 599,516 | 477,113 | 423,005 | 370,439 |
| Quoted Rate(s) includes Commissions of | 15.00% | 0.00% | 0.00% | 0.00% |

AGGREGATE STOP LOSS COVERAGE

| Coverages | Option 1 | Option 2 | Option 3 | Option 4 |
|---------------------------------------|-------------------|------------------|------------------|------------------|
| | Medical, Rx Card | Medical, Rx Card | Medical, Rx Card | Medical, Rx Card |
| Contract Type | Paid | Paid | Paid | Paid |
| Loss Limit per Individual | 200,000 | 200,000 | 225,000 | 250,000 |
| Maximum Contract Period Reimbursement | 1,000,000 | 1,000,000 | 1,000,000 | 1,000,000 |
| Rate Per Month | <u>Enrollment</u> | | | |
| Composite | 902 | 5.02 | 4.14 | 4.27 |
| Estimated Annual Premium | 54,336 | 44,811 | 46,218 | 47,409 |
| Rate(s) includes Commissions of | 15.00% | 0.00% | 0.00% | 0.00% |
| Annual Aggregate Deductible | 8,569,250 | 8,569,250 | 8,847,120 | 9,043,042 |
| Minimum Aggregate Deductible | 8,569,250 | 8,569,250 | 8,847,120 | 9,043,042 |
| Run-in Limited To | 0 | 0 | 0 | 0 |
| Monthly Aggregate Claim Factors | <u>Enrollment</u> | | | |
| <u>Medical, Rx Card</u> | | | | |
| Single | 448 | 457.28 | 457.28 | 472.10 |
| Family | 454 | 1,121.68 | 1,121.68 | 1,158.06 |
| Composite | 902 | 791.69 | 791.69 | 817.36 |



HCC Life Insurance Company

16415 Addison Rd, Suite 700, Addison, TX 75001

Telephone: (972) 248-7130 Facsimile: (972) 248-7157

Underwriter **Morrison, Carol**
Group **City of Fort Smith**

| | | | |
|----------------|-------------------|-----------------|-------------------|
| Proposal | 11/15/2012 | Proposal No | 2 |
| Effective Date | 01/01/2013 | Valid Thru Date | 01/10/2013 |
| | | Expiration Date | 12/31/2013 |

OVERALL COST SUMMARY

| | <u>Option 1</u> | <u>Option 2</u> | <u>Option 3</u> | <u>Option 4</u> |
|--------------------------|------------------|------------------|------------------|------------------|
| Total Annual Fixed Costs | 653,852 | 521,924 | 469,223 | 417,848 |
| Aggregate Variable | 8,569,250 | 8,569,250 | 8,847,120 | 9,043,042 |
| Maximum Annual Liability | 9,223,102 | 9,091,174 | 9,316,343 | 9,460,890 |

AIG Benefit Solutions
One MacArthur Place, Suite 620
South Coast Metro, CA 92707
(800) 634-7462 Phone
(714) 436-3620 Fax

Date: November 14, 2012

Attn: **Darenda Ince**
Gallagher Benefit Services, Inc.
14241 Dallas Parkway
Suite 300
Dallas, TX 75254

Re: **CITY OF FORT SMITH**

Dear Darenda,

Thank you for the opportunity to review your request for proposal on the above-referenced group. After careful consideration of the information submitted, we are unable to provide you an Excess Loss proposal. More specifically:

We are unable to meet the requested due date. If the date can be extended, please contact me at the telephone number indicated below.

If you have any questions on the above, please do not hesitate to contact our office at (800) 634-7462.

Sincerely,

Josefina Panopio
Sr. Underwriter

CC: Guy Finley
Regional Sales Director

Jones, Richard

From: Browning, C. (Clifton) [clifton.browning@us.ing.com]
Sent: Tuesday, October 23, 2012 10:40 AM
To: Darendra Ince
Subject: City of Ft Smith Stoploss

Darendra:

Thank you for including ING/ReliaStar Life Insurance Company in your marketing efforts on behalf of your client, City of Ft Smith.

Regrettably, I have completed my preliminary underwriting and find that our rates are not competitive when compared to those being charged by the current carrier. Therefore, I must respectfully decline to quote on this group at this time.

I am sorry I could not provide you with a competitive proposal, but please keep me in mind with future marketings.

Clifton Browning
Senior Regional Manager
ING
15455 Dallas Parkway, Suite 1250
Addison, Texas 75001
Tel: 972.419.5775 Fax: 972.419.5781
Cell: 214.552.3520
Email: clifton.browning@us.ing.com

Ask me how you can CAP your Stop Loss renewal by adding LIFE Insurance with ING!

NOTICE: The information contained in this electronic mail message is confidential and intended only for certain recipients. If you are not an intended recipient, you are hereby notified that any disclosure, reproduction, distribution or other use of this communication and any attachments is strictly prohibited. If you have received this communication in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.

13E

RESOLUTION NO. _____

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

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

SECTION 1: The Renewal Agreement with Central Adjustment Corporation Inc. to provide Claims Administration and Regions Insurance to provide Specific Excess Insurance and Aggregate Excess Insurance for the year 2013 for the Self-Insured Workers' Compensation program for employees of the City of Fort Smith, Arkansas is accepted.

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

This Resolution adopted this _____ day of December 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



No Publication Required

MEMORANDUM

TO: Ray Gosack, City Administrator

FROM: Richard B. Jones, Director of Human Resources 

DATE: November 29, 2012

SUBJECT: Workers' Compensation Resolution

The total fixed cost for our self insured program will be approximately \$124,080 for 2013. This includes the broker/consultant fee, claims administration and the purchase of specific and aggregate excess insurance. **(Most of the cost of our workers' compensation program is from medical treatment and lost time claims where an employee is unable to work)** The total fixed cost for our self insured program for 2012 will be approximately \$116,736 (The final payroll has yet to be applied to the estimated premium). The total fixed cost for our self insured program for 2012 was \$108,858 and for 2010 it was \$104,475.

The City's comprehensive management of our Workers' Compensation Program as is essential to keeping cost as low as possible. Currently our comprehensive Workers' Compensation Program includes the following parts: Prevention by all city departments; triage done telephonically by an organization called Company Nurse; claims handling by Central Adjustment Company, Inc., which includes the submission of all documents required by the State of Arkansas, Regions Insurance to secure specific and aggregate excess insurance currently with Safety National Casualty Corporation; Dr. Holder and Dr. Clark to provide occupational medicine services through Copper Clinic; claims review, repricing and case management done by Corvell Corporation and legal services provided by the City Attorney.

I recommend approval of this resolution.

MARKET RECAP

Midwest Employers Casualty Company Quoted – See Tab 2

Looking at the insured's overall loss experience, strains/sprains are the leading type of injury. In terms of frequency their highest number of claims is to the low back area. While this may not be a surprise, it is concerning as back injuries are a leading injury type that have a tendency to last a long time and end up creeping into the excess layer. Upon binding coverage with us, MECC would want the insured to agree with meeting our Public Entity Practice Leader, David Parker within the first 60 days of us providing coverage. The purpose of the meeting would be to see where we can assist the insured in preventing these types of injuries and to see what other areas we can help the insured improve their safety and loss prevention programs. As they may recall, we provide a benchmarking report to highlight the insured's performance relative to how we would expect them to perform. We are still providing this report at no additional cost. MECC would be curious to know if their current carrier has delivered their resources and if so, has the insured been happy with what has been provided.

MECC has provided an alternative option for the insured to consider for a retention. The corridor can be eroded in one large loss or over several losses that are above their retention. The corridor deductible is a good way to go because there is a little bit of premium savings on this option, and it is a one time deductible. Once it is eroded, the insured maintains a \$600,000 retention.

Safety National Casualty Corporation Quoted – See Tab 1

SNCC is in need of making a couple of changes for this year's renewal. We are offering a renewal with a \$500,000 SIR for all occurrences at a rate per \$100 of payroll that is up approximately 12%. We are also offering an option with a Police/Fire SIR at \$600,000 and the all other exposures SIR at \$500,000 with a premium that is close to expiring premium. We are in need of making these renewal changes due to the following factors: 1.) Their frequency of large losses > \$100,000 is up to 6 claims this year from 3 claims last year at time. 2.) The frequency and severity of large losses for municipalities continues to increase nationwide, specifically in the Police/Fire exposure area, where the City of Fort Smith's Police/Fire exposures are relatively high at nearly 40% of their total payroll exposures. 3.) We continue to experience double digit medical cost inflation, with even higher medical cost increases for larger claims that we insure against. The biggest driver currently for the increased medical costs is the improvements in medical technology. Additionally, large claims are exacerbated by other contributing factors, such as; the obesity epidemic, prescription meds abuse, diabetes and psych issues, just to name a few.

Additionally, we are including our Enhanced MAP Client Services Proposal for you to share with the City of Fort Smith. There is no cost to sign up for and utilize these services. We have

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

found that if you get into the demo links and review the wide variety of services available that most of our customer's like what they see and want to sign up for, and begin using, these services to aid them in their efforts to reduce their overall insurance costs. We believe that these web based services will enhance the City of Fort Smith's existing safety management programs.

In addition to the attached brochures, I am including our current demo password and login sites for the City of Fort Smith, and you, to access so you can take a look the various services available. We have received a lot of positive feedback from our brokers and customers on these services. The passwords are changed monthly for the demo links.

Username: sndemo

November password: sndemo#1890 (This is the new password as of November 1)

December password: sndemo#9 (This is the new password as of December 1)

Login Pages

Safety Essentials Online: <http://safety.blr.com/ealogin.aspx?uid=3661912>

Workers' Comp Kit@: <http://www.workerscompkit.com/index.php?template=snce>

Safety Training Source: <http://sn.trainingweb.com>

November

S:ERVE: <http://serve.evoc101web.com>

Law Enforcement Class ID: sndemo#1890p

Law Enforcement Student #: Test1

Fire & EMS Class ID: sndemo#1890f

Fire & EMS Student #: Test2

December

S:ERVE: <http://serve.evoc101web.com>

Law Enforcement Class ID: sndemo#1890p

Law Enforcement Student #: Test1

Fire & EMS Class ID: sndemo#1890f

Fire & EMS Student #: Test2

These services were included with our quote last year, but it does not appear that they have utilized nor registered for these free services in the past.

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

Safety National Casualty Corporation
1832 Schuetz Road
St. Louis, MO 63146

PHONE # (314) 995-5300

FAX # (314) 995-3843

| | | | |
|--------|-------------------|-------|----------------------|
| TO: | REGIONS INSURANCE | ATTN: | Ms. Sharon Wineinger |
| PHONE: | (479) 785-5222 | FAX: | (479) 783-1449 |
| FROM: | B. Scott Brickson | DATE: | 11/28/2012 |

EXCESS WORKERS' COMPENSATION INSURANCE QUOTATION

| |
|---|
| Name of Risk: CITY OF FORT SMITH |
| Account: 6015848 Previous Policy Number: AGC4045286 |
| Specific & Aggregate Excess |

| Contract Terms | Option 328649556 | | Option 328649930 | |
|--------------------------------|-------------------------|--------------|-------------------------|--------------|
| Liability Period | 01/01/2013 - 01/01/2014 | | 01/01/2013 - 01/01/2014 | |
| Payroll Reporting Period | 01/01/2013 - 01/01/2014 | | 01/01/2013 - 01/01/2014 | |
| Payroll | \$ 38,118,835 | | \$ 38,118,835 | |
| Manual Premium | \$ 1,122,069 | | \$ 1,122,069 | |
| Experience Modification Factor | 1.000 | | 1.000 | |
| Standard Premium | \$ 1,122,069 | | \$ 1,122,069 | |
| Self-Insured Retention | \$ 500,000 | | \$ 600,000 | |
| Annual Aggregate Deductible | | | \$ 200,000 | |
| Specific Limit | Statutory | | Statutory | |
| Employers Liability Limit | Per Occ | \$ 1,000,000 | Per Occ | \$ 1,000,000 |
| Loss Fund Rate | Rate % Std Premium | 140.00 % | Rate % Std Premium | 160.00 % |
| Estimated Loss Fund | \$ 1,570,897 | | \$ 1,795,310 | |
| Minimum Loss Fund | \$ 1,570,897 | | \$ 1,795,310 | |
| Aggregate Excess Limit | \$ 1,000,000 | | \$ 1,000,000 | |
| Loss Limitation | \$ 500,000 | | \$ 600,000 | |
| Premium Rate | Rate % Std Premium | 6.5875 % | Rate % Std Premium | 5.57 % |
| Deposit Premium | \$ 73,916 | | \$ 62,499 | |
| Minimum Premium | \$ 70,220 | | \$ 59,374 | |
| Commission | Net | 0.00 % | Net | 0.00 % |
| Pay Plan | ANNUAL PAYMENT | | ANNUAL PAYMENT | |

*Quote expires 1 day after Payroll Reporting Period effective date for each Quote Option.

Safety National Casualty Corporation
1832 Schuetz Road
St. Louis, MO 63146

PHONE # (314) 995-5300

FAX # (314) 995-3843

| | | | |
|--------|-------------------|-------|----------------------|
| TO: | REGIONS INSURANCE | ATTN: | Ms. Sharon Wineinger |
| PHONE: | (479) 785-5222 | FAX: | (479) 783-1449 |
| FROM: | B. Scott Brickson | DATE: | 11/28/2012 |

EXCESS WORKERS' COMPENSATION INSURANCE QUOTATION

| |
|---|
| Name of Risk: CITY OF FORT SMITH |
| Account: 6015848 Previous Policy Number: AGC4045286 |
| Specific & Aggregate Excess |

| Contract Terms | Option 328658311 | Option 328649761 |
|--------------------------------|-----------------------------|--|
| Liability Period | 01/01/2013 - 01/01/2014 | 01/01/2013 - 01/01/2014 |
| Payroll Reporting Period | 01/01/2013 - 01/01/2014 | 01/01/2013 - 01/01/2014 |
| Payroll | \$ 38,118,835 | \$ 38,118,835 |
| Manual Premium | \$ 1,122,069 | \$ 1,122,069 |
| Experience Modification Factor | 1.000 | 1.000 |
| Standard Premium | \$ 1,122,069 | \$ 1,122,069 |
| Self-Insured Retention | \$ 750,000 | All Other \$ 500,000 Police/Firefighters \$ 600,000 |
| Specific Limit | Statutory | Statutory |
| Employers Liability Limit | Per Occ \$ 1,000,000 | Per Occ \$ 1,000,000 |
| Loss Fund Rate | Rate % Std Premium 175.00 % | Rate % Std Premium 140.00 % |
| Estimated Loss Fund | \$ 1,963,621 | \$ 1,570,897 |
| Minimum Loss Fund | \$ 1,963,621 | \$ 1,570,897 |
| Aggregate Excess Limit | \$ 1,000,000 | \$ 1,000,000 |
| Loss Limitation | \$ 750,000 | All Other \$ 500,000 Police/Firefighters \$ 600,000 |
| Premium Rate | Rate % Std Premium 5.34 % | Rate % Std Premium 6.0265 % |
| Deposit Premium | \$ 59,918 | \$ 67,621 |
| Minimum Premium | \$ 56,922 | \$ 64,240 |
| Commission | Net 0.00 % | Net 0.00 % |
| Pay Plan | ANNUAL PAYMENT | ANNUAL PAYMENT |

*Quote expires 1 day after Payroll Reporting Period effective date for each Quote Option.

Insured: City of Fort Smith
Policy #:

Policy Effective Date: 01/01/2013
Quote Date: 11/28/2012
Quote Expiration Date: 60 Days

New

| POLICY TERMS | QUOTE OPTIONS | | | | | |
|---|---------------|--------------|--------------|--|--|--|
| | 0173728 | 0171925 | 0171980 | | | |
| State(s) | AR | AR | AR | | | |
| SPECIFIC: | | | | | | |
| Specific Limit | STATUTORY | STATUTORY | STATUTORY | | | |
| Specific Retention | \$600,000 | \$750,000 | \$600,000 | | | |
| Corridor Deductible | NA | NA | \$200,000 | | | |
| EMPLOYERS LIABILITY: | | | | | | |
| Employers Liability Limit | \$1,000,000 | \$1,000,000 | \$1,000,000 | | | |
| Employers Liability Retention | \$600,000 | \$750,000 | \$600,000 | | | |
| Corridor Deductible | NA | NA | \$200,000 | | | |
| AGGREGATE: | | | | | | |
| Aggregate Limit | \$1,000,000 | \$1,000,000 | \$1,000,000 | | | |
| Rate as a % of Normal Premium | 151.71% | 151.71% | 151.71% | | | |
| Estimated Aggregate Retention | \$1,702,291 | \$1,702,291 | \$1,702,291 | | | |
| Minimum Aggregate Retention | \$1,668,245 | \$1,668,245 | \$1,668,245 | | | |
| Aggregate Loss Limit | \$500,000 | \$500,000 | \$500,000 | | | |
| LOADING BASE: | | | | | | |
| Est. Annual Payroll | \$38,118,835 | \$38,118,835 | \$38,118,835 | | | |
| Est. Annual Manual Premium | \$1,122,069 | \$1,122,069 | \$1,122,069 | | | |
| Length of Policy Period (Years) | 1.000000 | 1.000000 | 1.000000 | | | |
| Est. Policy Prd Normal Premium | \$1,122,069 | \$1,122,069 | \$1,122,069 | | | |
| Rate as a % of Normal Premium | 8% | 6.05% | 5.63% | | | |
| PREMIUM: | | | | | | |
| Total Est Policy Prd Premium (including Flat Charges) | \$89,766 | \$67,885 | \$63,172 | | | |
| Policy Prd Minimum Premium | \$80,789 | \$61,097 | \$56,855 | | | |
| Deposit Premium | \$89,766 | \$67,885 | \$63,172 | | | |
| Deposit Flat Charge(s) | NA | NA | NA | | | |
| Total Deposit Due | \$89,766 | \$67,885 | \$63,172 | | | |
| Terrorism Risk Ins Act of 2002 (incl in Total Deposit Due above) | \$2,693 | \$2,037 | \$1,895 | | | |
| Commission | 0% | 0% | 0% | | | |

CONDITIONS / COMMENTS:

* MECC must be notified of any aircraft changes occurring during the policy period.

CENTRAL ADJUSTMENT COMPANY, INC.

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

AGREEMENT entered into this ___ day of _____ 20___, by and between Central Adjustment Company, Inc. ("CAC") and City of Fort Smith ("CLIENT"). This agreement supersedes any and all prior agreements, whether written or oral, between the parties, and their transferors, assignors and predecessors.

RECITALS

1. CLIENT self-insures its workers compensation risk and desires to have CAC provide specific services in connection with such self insurance program.
2. CAC is willing to provide such services on the terms and conditions hereinafter stated.

AGREEMENT

1. Services to Be Performed by Central Adjustment Company, Inc.: CAC agrees to perform the following services:
 - A. **With regard to CLAIMS ADMINISTRATION, CAC shall:**
 - (1) Review all claim and loss reports received from CLIENT during the term of this Agreement and process each such claim or loss report in accordance with applicable statutory and administrative regulations;
 - (2) Conduct an investigation of each reported claim or loss under subparagraph (1) above (hereinafter referred to as a "qualified claim or loss") to the extent deemed necessary by CAC in the performance of its obligations hereunder;

- (3) Arrange for independent investigators or medical or other experts to the extent deemed necessary by CAC in connection with the processing of any qualified claim or loss;
- (4) Pay medical and death benefits, temporary or permanent disability compensation and other losses and expenses, but only with prior approval of CLIENT;
- (5) Perform reasonable and necessary administrative and clerical work in connection with qualified claims or losses including the preparation of checks bearing the name of the CLIENT and drawn on the accounts established pursuant to Paragraph 2F below;
- (6) Maintain an electronic file for each qualified claim or loss which shall become property of CLIENT and which shall be available for review by CLIENT at any reasonable time;
- (7) Notify excess insurers of all qualified claims or losses with values that may exceed CLIENT'S retention, and, if requested by CLIENT in writing, provide such insurers with necessary information on the current status of those claims or losses unless relieved of this obligation by CLIENT pursuant to paragraph 2A;
- (8) Assist in connection with CLIENT'S selection of counsel to defend qualified claims or losses, if requested by CLIENT;
- (9) Assist CLIENT'S counsel, if requested, in preparing the defense of litigated cases, negotiating settlements and pursuing subrogation or contribution actions;
- (10) Monitor the treatment programs recommended for employees by physicians, specialists and other health care providers by reviewing all reports prepared by them and maintaining such contact with these providers as may be appropriate in the judgment of CAC;
- (11) As CLIENT directs, assist in interpreting medical reports to consider the circumstances under which an ill or injured employee who desires to do so could return to work in the shortest period of time;

- (12) Assist CLIENT in arranging for rehabilitation or retraining of employees in appropriate cases;
- (13) Maintain a current estimate of the expected total cost of each qualified claim or loss;
- (14) Use computer programs to furnish to CLIENT selected loss and information reports either monthly, quarterly, or annually which are entitled;
 - (a) Claim and Expense Report (quarterly)
 - (b) Transaction Register (monthly)
 - (c) Claim Cost Analysis (quarterly)
 - (d) State Reports (as needed)
 - (e) Large Claim Status Report (quarterly).

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

- (15) Annually report federal, state, and local 1099 information under CLIENT'S tax identification numbers, when CLIENT has provided all required IRS authorizations, for vendor payments issued by CAC on bank accounts owned by CLIENT, but not for payment authorizations when CAC does not issue the checks;
- (16) Provide narrative reports of major or litigated claims, if requested by CLIENT;
- (17) Provide claims forms and other forms believed by CAC to be appropriate for the efficient operation of the self-insurance program.
- (18) Return to CLIENT all claim files that have been closed for over five years; or CAC will have the files and their contents confidentially destroyed.

B. With regard to MEDICAL CONTROL, CAC shall:

1. Assist CLIENT, where State rules and regulations permit, in the selection of a panel of physicians or other providers of health care to initially treat employees and a panel of medical specialists to provide long term or specialty care;
2. Consult with CLIENT in order to develop ways to use any in-house dispensary or other medical facility more effectively.

C. With regard to EMPLOYEE COUNSELING, CAC shall:

- (1) Assist as CLIENT directs, provide information to ill or injured employees regarding the benefits available under the self-insurance program and counsel such employees who wish to obtain the assistance of third parties in dealing with the issues arising out of work-related illness or injuries;
- (2) If CLIENT requests, consult with employee groups in regard to specific aspects of the self-insurance program
- (3) Assist CLIENT in developing policies and procedures to ensure that an employee's return to work or reassignment is not inconsistent with any findings of an appropriate state administrative agency.

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

- (1) Consult with key personnel of CLIENT on the establishment of and coordination of necessary procedures and practices to meet any applicable state requirements and the needs of CLIENT;
- (2) Participate in the orientation of CLIENT personnel who are directly or indirectly involved in the processing of qualified claims or losses;
- (3) Provide information from time to time on changes or proposed changes in certain legislation, regulations or rules affecting the responsibility of CLIENT;

- (4) Review the development of the self-insured program periodically with representatives of CLIENT in order to identify problems and recommend corrective action.
- E. CAC shall also furnish appropriate renewal applications and, upon CLIENT'S request, shall file all periodic reports and renewal applications required by state administrative agencies to maintain the self-insured program.
- F. CAC shall not provide any risk control services. Recommendations and or assistance in contracting services on behalf of the CLIENT will be solely at CLIENT discretion.

2. OBLIGATIONS OF CLIENT

- A. CLIENT shall provide CAC with excess insurance information for the policy years necessary for proper notification of applicable claims to such insurers by CAC.
- B. CLIENT shall provide to CAC a service fee which, in the initial period of this Agreement, shall be computed and payable as follows:

Flat annual fee of \$ 39,163.75 payable two semi-annual installments of \$ 19,581.87 and \$ 19,581.88. This includes one (1) online access to CAC'S claims management system for CLIENT.
- C. Should CLIENT close, discontinue, remove from program or otherwise dispose of any of its facilities included in this agreement CAC and CLIENT shall agree on service fees for continuing the processing and management of existing and new claims received from such facilities. If agreement cannot be reached, all claims from such facilities will be returned immediately to CLIENT and CAC shall have no further responsibility for them.
- D. Subject to the provision of section 5 below, the amount and schedule for payment of the service fee to be paid to CAC in any subsequent period shall be specified in accordance with section 10 of the Agreement.

- E. CLIENT shall at all times provide funds adequate for the payment of qualified claims or losses and of allocated loss expenses. For purposes of this Agreement, allocated loss expenses shall mean all costs, charges or expenses of third parties incurred by CAC, its agents or its employees which are properly chargeable to a qualified claim or loss, including, court costs, fees and expenses of attorneys, investigators, experts and witnesses, and fees for obtaining diagrams, reports, documents and photographs.
- F. CLIENT shall deposit such funds in a bank account or accounts established by and belonging to CLIENT. CLIENT shall have full responsibility for the care, custody and control of such account or accounts, but shall arrange for CAC to write checks on the account or accounts for use in the payment of CLIENT'S qualified claims and losses. Such funds shall be provided at the inception of the self-insurance program and replenished promptly from time to time thereafter.
- G. CAC shall have full discretion to make any individual discretionary payment of up to \$0 on any qualified claim or loss and shall not need the approval of CLIENT to make such payments. This amount may be changed at any time by CLIENT upon ten (10) days prior written notice to CAC. It is agreed that CAC shall have full authority and control in all matters pertaining to the payment, processing, investigation and administration of qualified claims or losses within the limit established by this paragraph.
- H. CAC shall have full discretion to redeem, compromise or settle any qualified claim or loss for an amount not to exceed \$0 on any qualified claim or loss and shall not need the approval of CLIENT to consummate such settlements. This amount may be changed at any time upon ten (10) days prior written notice to CAC. Failure of CAC to settle a qualified claim or loss within such limit, however, shall not subject CAC to any liability whatsoever in the event of an adverse judgment entered by any court or the settlement of such claim or loss for an excess of such limit.
- I. It is expressly understood that CAC shall not be required to advance its own funds to pay losses or allocated loss expenses hereunder. It is further understood that if CLIENT fails to provide funds sufficient to allow required payments to be made timely, CAC will have no obligation to perform any further services and may terminate this Agreement upon three (3) days written notice.

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

3. DISCONTINUANCE OF OPERATIONS:

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

4. GEOGRAPHIC LIMITATIONS:

This Agreement shall cover operations of CLIENT in the State of Arkansas.

5. TERM OF AGREEMENT AND CANCELLATION.

- A. The term of this Agreement shall be for a period commencing on January 1, 2013, and ending on December 31, 2014 and thereafter shall be renewed for successive twelve month periods, unless cancelled in accordance with paragraph 5B.
- B. This agreement may be cancelled by either party at the end of the initial term or any successive twelve (12) month periods thereafter provided that written notice of such cancellation is received by the other party not less than sixty (60) days prior to the anniversary date of this Agreement.
- C. If requested by CLIENT, CAC will continue to process any qualified claims or losses remaining open at the cancellation of this Agreement and any claims that reopen after such cancellation plus any other claims received that have occurrence dates that fall within the period or periods of this Agreement, provided that the CLIENT shall continue to make adequate funds available for the payment of

such qualified claims or losses and any allocated loss expenses connected with qualified claims or losses. The additional fee for this service shall be negotiated and agreed upon prior to the effective date of cancellation.

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

6. PRACTICE OF LAW:

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

7. INDEMNIFICATION:

- A. CLIENT agrees to indemnify, hold harmless, and defend CAC, its directors, officers, members, employees and agents and its parent affiliate companies and their directors, officers, members, employees and agents from and against any and all liabilities, loss, or damage that they may suffer as a result of any claim, demand, cost or judgment against them arising out of the acts of omissions of CLIENT in its performance under this Agreement.

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

8. NOTICES:

Any notice required to be given under this Agreement shall be sent by certified or registered mail, postage prepaid, to:

For CAC:

Central Adjustment Company, Inc.
Mr. David McCullough
2207 Hidden Valley Dr., Suite 105,
Little Rock, AR 72221

For City of Fort Smith:

Mr. Richard Jones- Director of Human Resources
City of Fort Smith
PO Box 1908
Fort Smith, AR 72202.

9. SUCCESSORS:

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

10. ENTIRE AGREEMENT AND MODIFICATION OR AMENDMENT:

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

11. APPLICABLE LAW:

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

12. HEADINGS:

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

13. CONFIDENTIAL INFORMATION:

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

14. RELATIONSHIP:

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

15. NON-DISCRIMINATION:

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

16. AUDIT:

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

17. MEDICARE SETASIDE REPORTING

CAC offers MMSEA Section III reporting on behalf of their clients via established electronic data interface feeds direct to Centers for Medicare and Medicaid Services (CMS).

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

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

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

CITY OF FORT SMITH

CENTRAL ADJUSTMENT CO. INC.

By: _____

By: Daniel McCullough

Title: _____

Title: Pres.

Date: _____

Date: 11/14/2012

RESOLUTION No. _____

Resolution Supporting Legislation to Improve Sales Tax Collection Information from the Arkansas Department of Finance & Administration

A RESOLUTION IN SUPPORT OF STATUTORY AMENDMENTS TO AUTHORIZE IMPROVEMENTS IN THE INFORMATION PROVIDED TO LOCAL GOVERNMENTS BY THE STATE OF ARKANSAS RELATED TO COLLECTIONS OF LOCAL SALES AND USE TAXES

Whereas, the Arkansas Department of Finance and Administration (DF&A) collects sales taxes levied by cities and counties in Arkansas under the same tax administration system that is used to collect State sales taxes, and as such, local taxes are "piggy backed" along with the collection of State sales taxes;

Whereas, the State withholds an administrative fee of 3% from local tax collections to fund the cost of such service which totaled approximately \$30 million in 2011;

Whereas, all taxing entities are entitled to have information about the collections produced by the taxes levied in order to monitor, evaluate, budget and project the tax collections to which they are entitled to receive;

Whereas, existing Arkansas law does not authorize or require DF&A to provide information to local governments that is useful and satisfactory to monitor, evaluate, budget and project local tax collections; and

Whereas, laws in neighboring states authorize and require the release of information that is satisfactory to serve the needs of local governments mentioned above which includes tax collections identified by specific taxpayer, and that the experience in such states demonstrates that related procedures and reports can be efficiently administered and produced, and that similar laws can be adopted and administered in Arkansas;

Resolved, that the Board of Directors of the City of Fort Smith, Arkansas supports amendments to Arkansas laws to authorize and require information to be provided to designated representatives of local governments that will permit them to fully and successfully monitor, evaluate, budget and project local tax collections;

That any information that can be identified with a specific taxpayer shall only be released following an agreement between the City of Fort Smith and the Arkansas Department of Finance and Administration to keep such information confidential, and that such specific taxpayer information shall be exempt from release to the extent allowed under the Arkansas Freedom of Information Act; and

That the information will: (1) be made available for the monthly collections and calendar year to date, by regular mail, email or by dedicated online account at the option of local governments (in electronic worksheet or PDF format), not later than 30 days following the most recent monthly tax distribution; (2) include details and totals that will agree or reconcile to the related tax collections distributed by the State Treasurer to a local government for a particular month; and (3) be updated as required by subsequent adjustments due to refunds, rebates, additional tax payments and any other matter affecting the tax collected for a particular period.

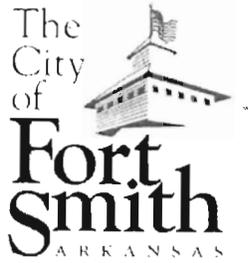
Adopted by the Board of Directors of the City of Fort Smith, Arkansas on _____, __, 2012.

_____ Mayor _____ Clerk

Approved as to form:



_____ NPR



MEMORANDUM

November 27, 2012

TO: Ray Gosack, City Administrator

FROM : Kara Bushkuhl, Director of Finance *Kara*

SUBJECT: Improved Sales Tax Information

The Arkansas GFOA chapter in association with the AML is proposing legislation that would require the Arkansas Department of Finance and Administration to provide more useful financial information regarding local sales tax data. The information requested is similar to what is provided to local governments in surrounding states. The data will provide information that will assist the city in evaluating budgeting and projecting local sales tax collections.

The AML has asked the city to consider adopting this resolution. Similar resolutions have been adopted by Little Rock, Jonesboro and Hot Springs. Senator Jake Files has been designated chairman of the Senate Revenue and Tax Committee where this legislation will be considered. Senator Files may be asked to co-sponsor the legislation.

If you have any questions or require more information, please let me know.

RESOLUTION NO. _____
RESOLUTION ADOPTING THE 2013 AUDIT PLAN

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

SECTION 1: The 2013 Audit Plan attached is hereby adopted.

Passed and Approved this _____ Day of _____, 2012.

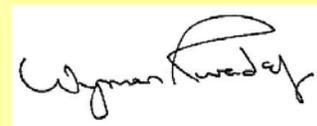
Approved

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



No Publication Required



MEMORANDUM

DATE: November 27, 2012

TO: Mayor Sanders, Board of Directors, Ray Gosack, Jeff Dingman

FROM: Mitzi Kimbrough, Internal Auditor

SUBJECT: 2013 Audit Plan

I am pleased to offer this 2013 audit plan for your approval. The audit advisory committee met in October 2012 and agreed to this plan. The plan is flexible and any items that come up during the year that any of you would like to add I would be glad to discuss them with you and include them.

The table shown of page 5 of the attached plan details the general project schedule for 2013.

If you have any questions or would like to discuss the 2013 audit plan, please contact me at your convenience.



City of Fort Smith, Arkansas

FY 2013 Internal Audit Plan

November 27 , 2012



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Overview

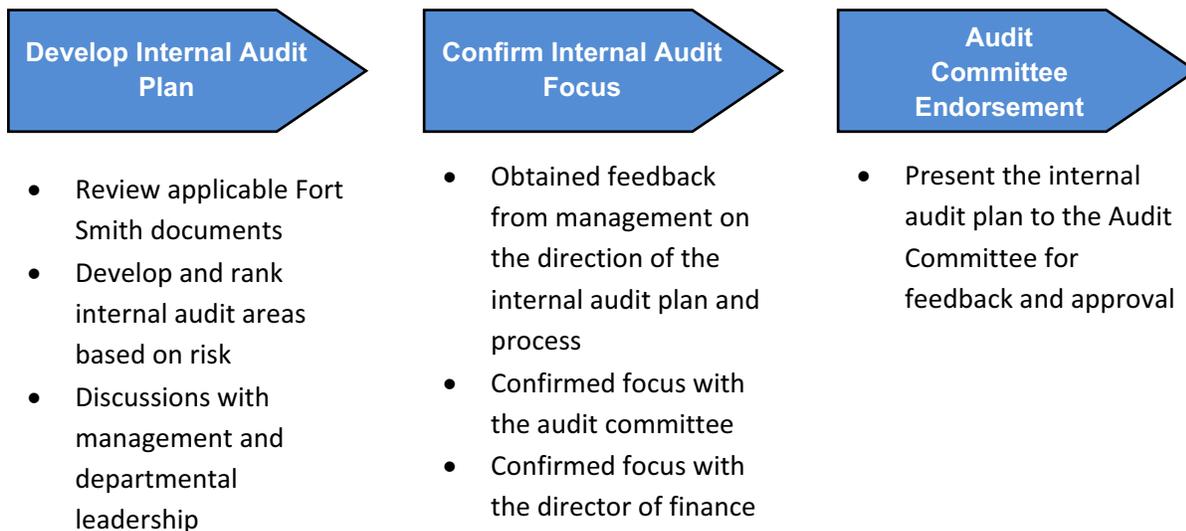
The City of Fort Smith (“the City”) management team, with the support and guidance of the City’s Audit Committee, has undertaken the creation of the City’s FY 2013 annual internal audit plan to support the City’s Internal Audit function. Recognizing the need for a formal plan, the Internal Audit Department (“Internal Audit”) has proposed the projects listed within this document.

Introduction

The City has created a Strategic Internal Audit Plan (“the plan”) to guide the direction of the Internal Audit testing in fiscal year 2013. The plan is meant to provide guidance to the various resources fulfilling the role of the Internal Audit to the City under the direction of management and the Audit Committee.

In keeping with the Institute of Internal Auditor’s definition of Internal Audit, the City’s Internal Audit goal is to provide an independent, objective assurance and consulting activity designed to add value and improve the City’s operations by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

The development of the plan involved a number of different activities and considerations including:



Internal Audit Resources

Recognizing the array of City resources in staffing the internal audit function is important to the execution of the plan. All reports from any internal audit processes will be issued directly to the appropriate department and the Audit Committee for review and consideration. The internal audit department will, on a functional basis, report to the management team; however, final reporting of Internal Audit remains with the Board through the Audit Committee. Management will provide support



and assistance in ensuring the timely cooperation of employees within the City. Management will also coordinate, with necessary support from other parties, the execution of the internal audit plan.

Internal Audit 2013 Service Objectives

In the proposed FY 2013 City budget, Internal Audit included the following items as service objectives for the upcoming year. The items are reproduced below.

1. Assist departments with required audit procedures for outside regulating entities.
2. Perform performance audits determined based on risk assessment and audit plan approval.
3. Continue to aid departments in establishing key performance indicators so that administration and the Board of Directors as well as the public can see the continuous improvement that all city departments strive for.
4. Implement key performance measures in the internal audit department as follows:

| Key Performance Indicators | | | |
|--|---------------|---------------|-------------|
| | 2011 Actual | 2012 Actual | 2013 Target |
| Implement continuous monitoring procedure | 1 | 1 | 1 |
| Perform petty cash/surprise counts for each department | New Indicator | New Indicator | 24 |
| Percentage of recommendations implemented by departments | New Indicator | New Indicator | 80% |
| Provide staff training with Webb Watch | New Indicator | 2 | 2 |

Internal Audit Plan

From the various planning steps completed above, the following items were deemed to be appropriate internal audit projects for fiscal year 2013. These projects are broken down into three different areas: (1) Internal Audits, (2) Re-occurring/Continuous Monitoring Internal Audits, and (3) Consulting and Support Projects. Internal Audit projects are those that generally involve a typical internal audit process such as a review of internal controls, compliance with a policy or procedure, or performance of a program or process. Consulting and Support Projects are those driven by a department or management request to provide input or expertise to a process or item without performing any management role or being involved in the decision making process. Finally, the Re-occurring/Continuous Monitoring projects are those that occur during each cycle in order to address a specific high-risk area. The projects are not listed in order of importance. Generally, Internal Audit operates with an hourly budget of approximately 1,850 hours towards operations, which excludes holiday and vacation time of 216 hours. Within the 1,850 hours, approximately 350 hours are reserved for training time, development time, meeting time



(i.e., Board, staff, department heads, audit committee, etc.), planning and risk assessment, and available time for unforeseen developments during the fiscal year.

Project Scopes

Selection of each project was determined by input of the audit committee and **management**. Based on the circumstances, discussions, and interviews, each anticipated scope was determined. The scope of each project is discussed in more detail under the project description section of the plan.

Project Descriptions

The various project descriptions provide a basis for planning a particular engagement. In considering each engagement, the appropriate resources should be allocated to obtain the best results for each planned area.

| Project Name | Anticipated scope | Project Area | Estimate of Hours |
|---|---|----------------|-------------------|
| Franchise Fees | Perform an analysis of the fees paid for electricity, gas, and cable/telephone against the listed properties within the City limits. The project would include external data from the franchise providers as well as internal data from the City's systems. | Internal Audit | 250 |
| Property Evidence Room – Police | Review the policies, procedures, and internal controls of the Police property evidence room for implementation and operating effectiveness. | Internal Audit | 65 |
| Overtime | Review the City overtime patterns for unusual activity. If potentially unusual activity is identified, review the detailed process, policies, and supporting documentation for the overtime. | Internal Audit | 120 |
| IT (Non-Data Tronics) Assessment | Review the City's IT Department's internal operations considering items such as change management, security, network processes, business continuity management, etc. | Internal Audit | 60 |
| Construction Contract Management | Assess the policies, procedures, and internal controls around the construction contract process from start of the contract to final approval and closure. Various active and close contracts will be examined during testing. | Internal Audit | 250 |
| Pension Liability Actuarial Assessment | Using City data, determine if the pension listing provided to the actuary contains appropriate individuals when compared to the City's human resource records. | Internal Audit | 65 |
| Fixed Assets | Review the fixed asset listing for reasonableness. Select a sample of assets to verify for existence of the asset. | Internal Audit | 100 |
| Sanitation | Assess the contract management process for | Internal Audit | 120 |

| Project Name | Anticipated scope | Project Area | Estimate of Hours |
|------------------------------------|---|------------------------------------|-------------------|
| Billings | sanitation contracts. Procedures could include observation of the scales, review of selected contracts, and other similar procedures. | | |
| Follow-Up Time | Follow-up on previous projects and recommendations to review for implementation and progress. | Internal Audit | 120 |
| Petty/Surprise Cash | Surprise cash counts throughout all City departments including both active drawers and petty cash funds for approximately 24 times during the year. | Re-occurring/Continuous Monitoring | 50 |
| Police – Drug Buy Money | Annual audit of the Police Department’s cash handling operations. | Re-occurring/Continuous Monitoring | 20 |
| Homestead Credit Monitoring | Monitoring of certain properties for the correct reporting and selection of homestead credits with the county as recommended by Internal Audit. | Re-occurring/Continuous Monitoring | 10 |
| Ghost Employee | Examine the City’s human resource and payroll records for unusual activity and potential areas of ghost employees. The examination will include distributing payroll checks to 2 departments during the year as well as analysis of City human resource and payroll data. | Re-occurring/Continuous Monitoring | 50 |
| Fuel Usage | Review the fuel usage process looking for unusual patterns and trends including 3-6 field observations of key and vehicle usage and a semi-annual review of the fuel system data including City pumps and external cards. | Re-occurring/Continuous Monitoring | 70 |
| Inventory Counts | Perform surprise inventory counts of 4 locations during the year (approximately 3-6 total visits). Also, perform a year-end inventory at the Utility Department. | Re-occurring/Continuous Monitoring | 50 |
| Key Performance Indicators | Assist management in understanding and implementing key performance indicators. Determine if any key indicators assigned by management could be useful to the internal audit department. | Re-occurring/Continuous Monitoring | 80 |

| Project Name | Anticipated scope | Project Area | Estimate of Hours |
|--------------------------|---|------------------------|-------------------|
| Ethics Training | Assist management in completing 2 ethics training seminars for various City staff. The training seminars include feedback, interaction, and case studies along with handouts covering the material presented. | Consulting and Support | 20 |
| Total (Estimated) | | | 1,500 |

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE NATIONAL PARK SERVICE -- FORT SMITH NATIONAL HISTORIC SITE TO PROVIDE POLICE PROTECTION ON LANDS WITHIN THE PARK'S BOUNDARIES

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

The Mayor is hereby authorized to execute, his signature being attested by the City Clerk, a Memorandum of Understanding, which shall be substantially in the form attached hereto, with the National Park Service -- Fort Smith National Historic Site for the police department to provide mutual assistance in the investigation and enforcement of felony and misdemeanor crimes occurring on land within the Park's boundaries.

This Resolution adopted this _____ day of November, 2012.

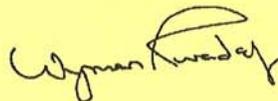
APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



City Attorney
No Publication Required



Fort Smith Police Department

Kevin Lindsey, Chief of Police

INTERDEPARTMENTAL MEMORANDUM

To: Ray Gosack City Administrator

From: Kevin Lindsey, Chief of Police

Subject: MoU with the Fort Smith National Historic Site National Park Service
United States Department of the Interior

Date: December 4, 2012

In keeping with the Fort Smith Police Department's tradition of maintaining an excellent working relationship with Federal agencies, the Department would like to execute a memorandum of understanding (MOU) with the Fort Smith National Historic Site, National Park Service United States Department of Interior. This agreement would specify that the Fort Smith Police Department is authorized to enforce applicable laws and regulations within the jurisdiction of the Fort Smith National Historic Site.

Furthermore, the Agreement would authorize the National Park Service to cooperate, within the National Park System, with any State or political subdivision in the enforcement of the laws or ordinances of the State of Arkansas or City of Fort Smith. The Fort Smith National Historic Site does not have a federally commissioned law enforcement officer on staff and does not anticipate having one in the foreseeable future. Thus, the need for enforcement of applicable laws and regulations would fall to the Fort Smith Police Department.

This agreement serves to direct the involved parties to assist each other in the notification of any such enforcement of applicable laws and regulations. These types of agreements foster good working relationships between law enforcement and the Federal government that extend beyond the realm of emergency response. I would encourage Board approval and execution of the agreement.

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

MOU#

MEMORANDUM OF UNDERSTANDING

BETWEEN

FORT SMITH NATIONAL HISTORIC SITE
NATIONAL PARK SERVICE
UNITED STATES DEPARTMENT OF THE INTERIOR

AND

FORT SMITH POLICE DEPARTMENT
CITY OF FORT SMITH
FORT SMITH, ARKANSAS

ARTICLE 1 – BACKGROUND AND OBJECTIVES

WHEREAS: The National Park Service, pursuant to Title 16, United States Code, Section 1a-6 (a), is authorized to maintain law and order and to protect persons and property through the enforcement of applicable laws or regulations within the concurrent jurisdiction of Fort Smith National Historic Site, a unit of the National Park Service;

WHEREAS: The city of Fort Smith and the Fort Smith Police Department is authorized to enforce applicable laws and regulations within the City of Fort Smith, Arkansas including the concurrent jurisdiction of Fort Smith National Historic Site.

WHEREAS: Title 16, United States Code, Section 1a-6 (b) (2) authorizes the National Park Service to cooperate, within the National Park System, with any State or political subdivision thereof in the enforcement of supervision of the laws or ordinances of that State or subdivision;

WHEREAS: Fort Smith National Historic Site does not, at this time, have a federally commissioned law enforcement officer on staff, and does not anticipate having one in the foreseeable future;

NOW, THEREFORE, this agreement is established to provide assistance to Fort Smith National Historic Site in the enforcement of applicable laws and regulations within the Historic Site.

ARTICLE II – STATEMENT OF WORK

1. Investigation and enforcement of felony and misdemeanor crimes under the laws of the State of Arkansas or Sebastian County, occurring within the City of Fort Smith are the primary responsibility of the Fort Smith Police Department. Fort Smith National Historic Site (NHS) will report the occurrence of such crimes within the park to the Police Department for investigation. Fort Smith NHS will be notified of the occurrence of such crimes within the park which are reported to and investigated by the Police Department.

2. Investigation and enforcement of felony and misdemeanor crimes under Federal laws are the primary responsibility of the Federal Bureau of Investigation, or other responsible federal agency. The Police Department will report the occurrence of such crimes within the park to Fort Smith NHS. The Police Department will be notified of the occurrence of such crimes within the park.
3. Investigation of motor vehicle accidents occurring on all (city and park) roadways within the authorized boundaries of Fort Smith NHS are the sole responsibility of the Police Department.
4. No provision of this agreement is meant to exclude or prohibit any other Federal or State agency from exercising their responsibility or authority for enforcement of any Federal or state law or regulation within the concurrent jurisdiction of Fort Smith NHS.
5. Fort Smith NHS has the primary responsibility for responding to intrusion alarms within the park. Fort Smith NHS or the security system monitoring center may request assistance from the Police Department to respond to alarms.

ARTICLE III – TERM OF AGREEMENT

This Memorandum of Understanding becomes effective on the date signed by the last cooperating party. The period of this agreement shall be from the date of execution not to exceed five years.

The Memorandum of Understanding shall be reviewed annually to evaluate the effectiveness of action by both parties and to provide for amendment. Any amendment deemed necessary by the parties during this review period will be in writing and executed by both parties.

ARTICLE IV – KEY OFFICIALS

The key officials for signing and amending this Memorandum of Understanding are the Superintendent of Fort Smith National Historic Site, for the National Park Service, and the Mayor of the City of Fort Smith.

All communications and notices regarding this agreement will be directed to the following key official(s) for each party.

National Park Service/Fort Smith National Historic Site:

Superintendent
 Fort Smith National Historic Site
 301 Parker Avenue
 Fort Smith, AR 72901
 479-783-3961; FAX 479-783-5307

Fort Smith Police Department:

Chief of Police
 Fort Smith Police Department
 100 South 10th Street
 Fort Smith, Arkansas 72901
 479-709-5143

ARTICLE V – REIMBURSEMENT

Each party will bear their respective costs for providing law enforcement services. Neither party will seek reimbursement from the other party for costs which may occur from these services.

ARTICLE VI – REPORTS AND CORRESPONDENCE

Both Fort Smith National Historic Site and the Police Department will provide the other agency with a copy of reports of investigations or other law enforcement activity with Fort Smith NHS. Reports will normally be made available within five working days of their completion. Required reports and correspondence shall be distributed to the Key Officials listed above.

ARTICLE VII – TERMINATION OF AGREEMENT

Any party to this Memorandum of Understanding may cancel their participation by giving written notice sixty days in advance to the other party.

ARTICLE VIII – STANDARD CLAUSES

1. Civil Rights – During the performance of this agreement, the participants agree to abide by the terms of USDI – Civil Rights Assurance Certification, non-discrimination and will not discriminate against any person because of race, color, religion, sex, or nation origin.

2. Officials Not to Benefit – No member or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

3. Promotions – The Police Department shall not publicize, or otherwise circulate, promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications) which states or implies Governmental, Departmental, bureau or Government employee endorsement or a product, service, or position which the parties represent. No release of information relating to this agreement may state or imply that the Government approves of the parties work product, or considers the parties work product to be superior to other products or services.

4. Public Information Release – The Fort Smith Police Department is subject to FOIA laws and under Arkansas law would have to release information if a FOIA request was made. The parties will notify the Superintendent of Fort Smith National Historic Site of any public information release which refers to the

Department of the Interior, any bureau, park unit, or employee (by name or title), or this agreement. It is requested by the park that specific text, layout, photographs, etc., of the proposed release must be submitted for consideration and review in advance of its release.

ARTICLE IX – AUTHORIZING SIGNATURES

IN WITNESS HEREOF, the parties hereto have signed their names and executed the Memorandum of Understanding.

NATIONAL PARK SERVICE, FORT SMITH NATIONAL HISTORIC SITE:

Carmen Chapin, Superintendent
Fort Smith National Historic Site

Date

CITY OF FORT SMITH:

Mayor
City of Fort Smith

Date

ATTEST:

City Clerk

Date

RESOLUTION NO. _____

13 I

RESOLUTION ACCEPTING THE PROJECT AS COMPLETE AND AUTHORIZING FINAL PAYMENT TO GOODWIN & GOODWIN, INC., FOR CONSTRUCTION OF THE HIGHWAY 71 INTERCHANGE 12-INCH WATER LINE RELOCATION

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

SECTION 1: The construction of the Highway 71 Interchange 12-Inch Water Line Relocation, Project Number 11-11-C1, is accepted as complete.

SECTION 2: Final payment to Goodwin & Goodwin, Inc., in the amount of \$281,446.61, is hereby approved.

This Resolution adopted this _____ day of December 2012.

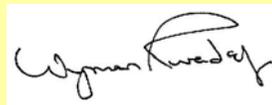
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



-----npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: November 27, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: Highway 71 Interchange 12-Inch Water Line Relocation
Project Number 11-11-C1

The Arkansas Highway and Transportation Department (AHTD) is constructing Route 71 (future I-49) which requires significant grade changes and bridge for Howard Hill Road and a new interchange with Highway 71. Their project required the relocation of approximately 1,635 feet of 12-inch water line along Howard Hill Road and approximately 6,890 feet of 12-inch water line along Highway 71. The AHTD has asked the city to accomplish these water line relocations and will reimburse the expenses associated with the construction. The attached exhibit shows the project area.

In July 2012, the Board awarded the contract to Goodwin & Goodwin, Inc., in the amount of \$724,911.50. The Board also approved Change Order Number One as part of the contract award, adjusting the contract amount to \$912,906.21. The change order was needed to address an increase in materials cost and additional construction for a temporary line due to AHTD's delay in authorizing an award of the bid. In lieu of laying the temporary line that was originally approved an alternate plan was devised which reduced Change Order Number One by an amount of \$49,497.10.

Goodwin & Goodwin, Inc., has completed the project. A Resolution accepting the project as complete and authorizing final payment in the amount of \$281,446.61 is attached. It is my recommendation that the project be accepted as complete.

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

attachment

pc: Jeff Dingman

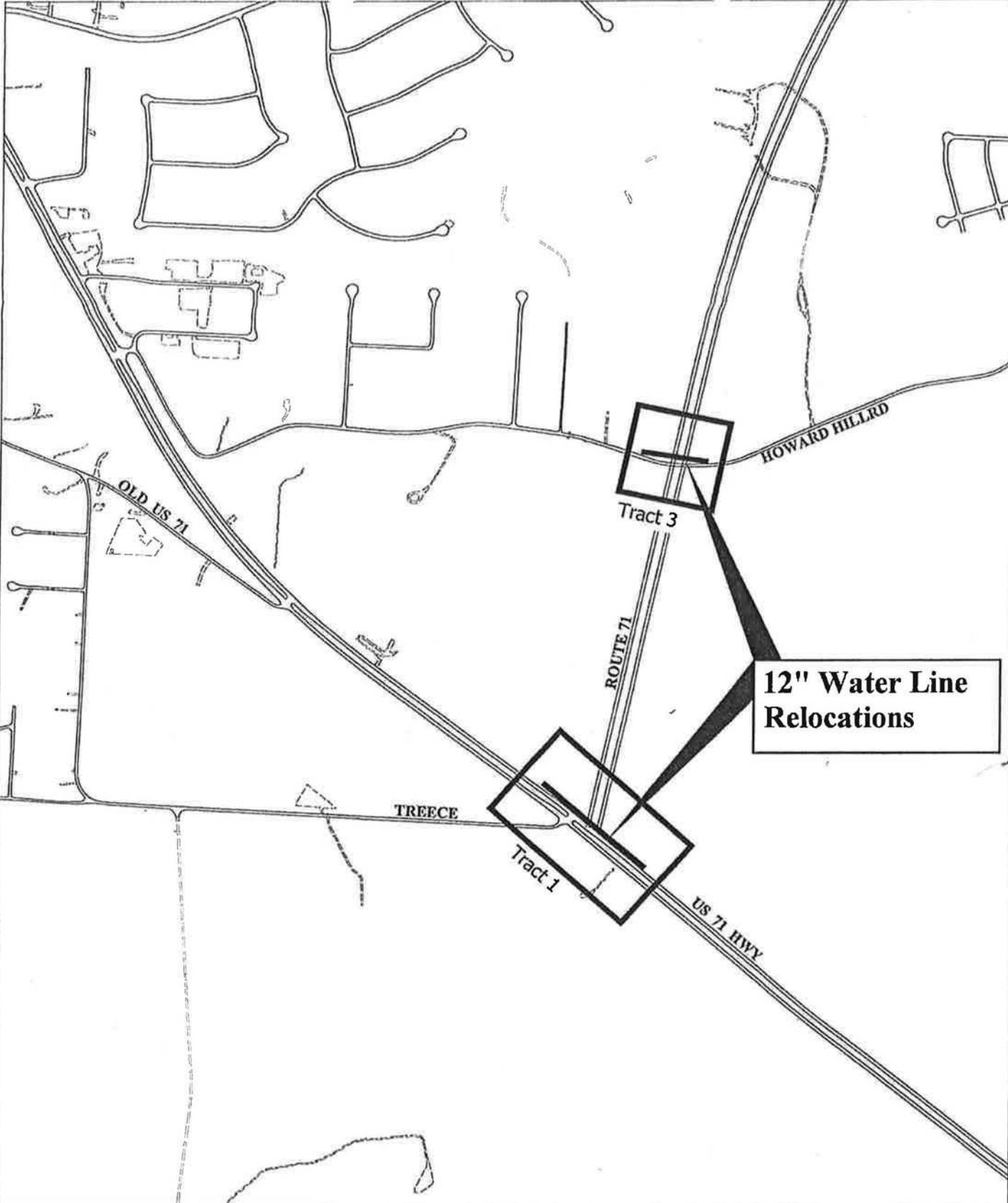
Project Summary

| | |
|--|--|
| Project status: Complete | Project name: Highway 71 Interchange 12-Inch Water Line Relocation |
| Today's date: November 27, 2012 | Project number: 11-11-C1 |
| Staff contact name: Steve Parke | Project engineer: Mickle Wagner Coleman Engineers |
| Staff contact phone: 784-2231 | Project contractor: Goodwin & Goodwin, Inc. |
| Notice to proceed issued: August 7, 2012 | |
| Completion date: November 15, 2012 | |

| | Dollar Amount | Contract Time (Days) |
|---------------------------------------|---------------------|----------------------|
| Original contract | \$724,911.50 | 100 |
| Change orders: Number One | \$187,994.71 | 0 |
| Total change orders | \$187,994.71 | <u>0</u> |
| Adjusted contract | <u>\$912,906.21</u> | <u>100</u> |
| Payments to date (as negative): | \$-581,962.50 | 63.7% |
| Amount of this payment (as negative) | \$-281,446.61 | 30.8% |
| Retainage held | \$0.00 | |
| Contract balance remaining (underrun) | \$49,497.10 | 5.4% |
| Amount Over (under) as a percentage | 19.1% | |

Final comments:

- AHTD to reimburse 100% of contract expense.
- Change Order Number One required to adjust material prices due to AHTD delay in authorizing award of bid.



**Highway 71 Interchange
12-Inch Water Line Relocation
Project Number 11-11-E1**



AN ORDINANCE DECLARING AN EXCEPTIONAL SITUATION WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING AND AUTHORIZING THE PURCHASE OF EQUIPMENT FROM FLOWSERVE FOR THE "P" STREET WASTEWATER TREATMENT PLANT EFFLUENT PUMP STATION UPGRADE

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

WHEREAS, it is necessary to purchase an additional pump to provide increased capacity of the "P" Street Wastewater Treatment Plant Effluent Pump Station; and,

WHEREAS, it is necessary to acquire an additional pump from the same manufacturer to match the existing pump in order to provide the needed increased capacity, the purchase of the pump is a single source item which precludes the city from meeting the requirements of competitive bidding; and,

WHEREAS, the purchase of the pump prevents the possibility of health hazards to the residents of the City of Fort Smith:

NOW THEREFORE, in order to eliminate the possibility of health hazards to the residents of the City of Fort Smith and to begin the necessary work for the "P" Street Wastewater Treatment Plant Effluent Pump Station Upgrade, Project Number 12-17-C1, as quickly as possible, an exceptional situation exists requiring the waiving of the conditions of competitive bidding, so that the competitive bidding requirements are hereby waived. Funds for this project are available from the 2008 Revenue Bonds issued for water and sewer improvements for said pump purchase and issuance of a Purchase Order to the supplier, Flowserve, in the amount of \$153,792.32, is approved.

PASSED AND APPROVED this _____ day of December 2012.

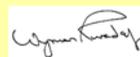
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: November 28, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: "P" Street Wastewater Treatment Plant
Effluent Pump Station Upgrade
Project Number 12-17-C1

The engineering department has contracted with Mobley Contractors to replace the 12-foot diameter storm drain within the "P" Street right-of-way along the frontage of the "P" Street wastewater treatment plant. The gravity discharge from the wastewater plant is made into this storm drain and then flows to the Arkansas River along with the storm water from the May Branch drainage basin. During the course of storm drain replacement the plant discharge will interfere with Mobley's work. The treatment plant does have an effluent pump station to redirect its discharge to the river through a separate force main when the river's high flood stages prevent a gravity discharge. An exhibit showing the effluent pump station location on the treatment plant grounds is attached.

As the effluent pump station was anticipated to be used only during the river's infrequent, high stage flood conditions, it only has a single pump. That pump's capacity is 24 million gallons-per-day, which is less than the plant's 48 million gallon-per-day wet weather flow treatment capacity. Provisions were made in the pump station piping for the addition of a second pump. The installation of the second pump is needed now to provide operational reliability for the pump station to be used on a continuous basis during the contract period to reconstruct the storm drain. Also, as the pump station must now be used on a continuous basis and not just during the river's high flood stage, the pump station's capacity must be increased to discharge the plant's full 48 million gallon-per-day wet weather flow treatment capacity.

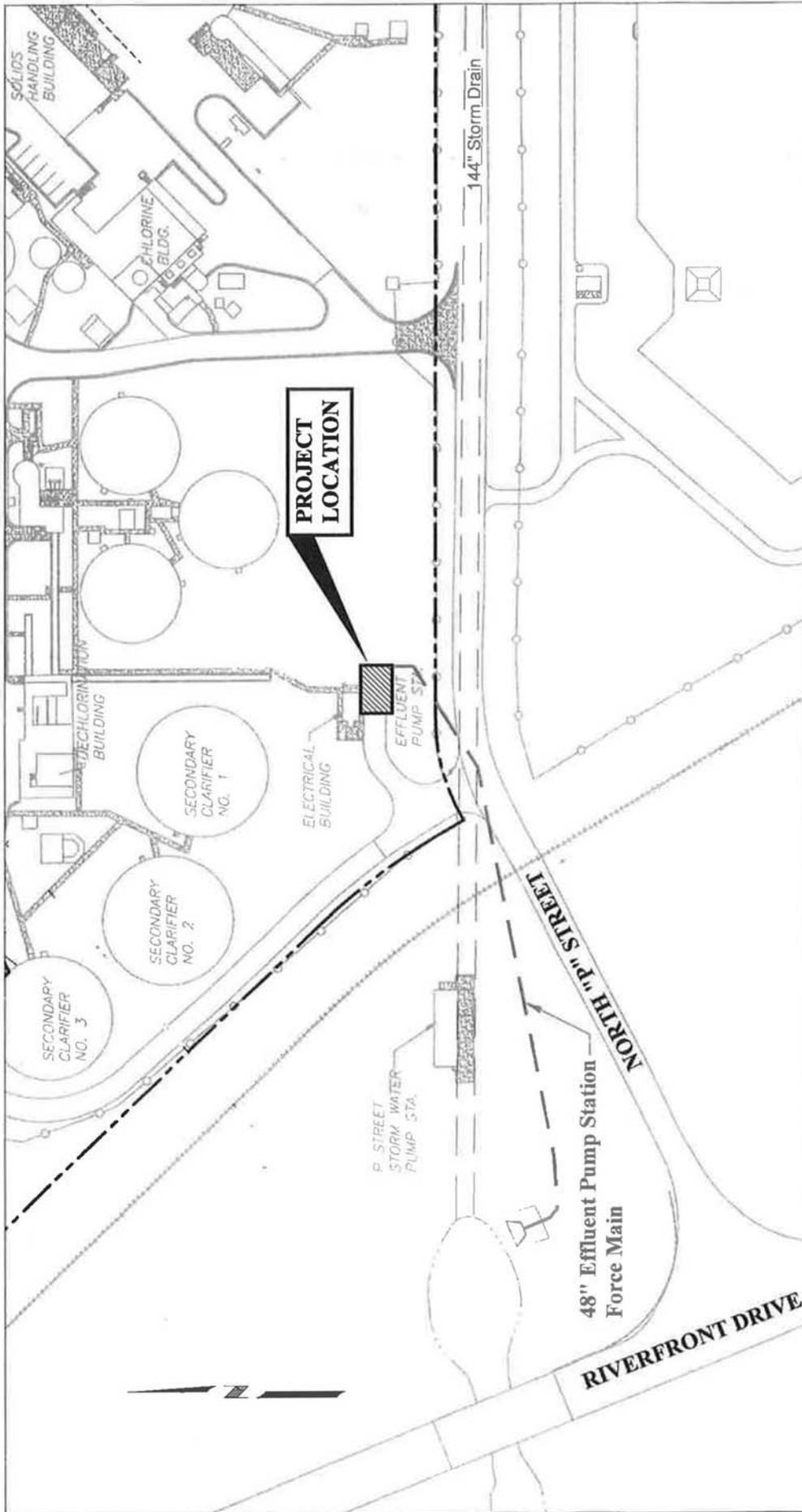
Hawkins-Weir Engineers evaluated several combinations of pumps and pumping rates in order to determine the recommended method to upgrade the pump station capacity. The best alternative to provide both the redundant and peak pumping capabilities over the wide range of low and high flow conditions is to install a matching second 24 million gallon-per-day pump as originally provided from Flowserve. Using Hawkins-Weir's evaluation along with the information obtained from the various pump suppliers, it has been determined that Flowserve's matching pump is competitively priced and will provide the best operational characteristics.

An Ordinance waiving the competitive bidding requirements and authorizing the issuance of a purchase order to Flowserve in the amount of \$153,792.32 is attached. The funds required for this purchase will be provided from the 2008 water and sewer revenue bonds. It is recommended that this Ordinance be submitted to the Board for consideration at their next scheduled meeting.

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

attachment

pc: Jeff Dingman



**"P" STREET WASTEWATER TREATMENT PLANT
 EFFLUENT PUMP STATION UPGRADE
 PROJECT NUMBER 12-17-C1**



November 21, 2012

TO: Members of the Board of Directors
Members of the Property Owners Appeals Board

RE: Appointments:

Sherry McKinney of the Property Owners Appeals Board has resigned her term effective November 21, 2012. In accordance with Ordinance No. 2926 applications for this prospective vacancy are now being received. Applicants must be residents and registered voters in the City of Fort Smith.

Please submit applications to the city administrators office no later than the close of business on December 13, 2012. A list will be compiled for review by the Board of Directors. Applications are available on the City of Fort Smith website. Go to www.fortsmithar.gov and click on boards and commissions.

Sincerely,

A handwritten signature in blue ink that reads "Ray Gosack" with a stylized flourish at the end.

Ray Gosack
City Administrator

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

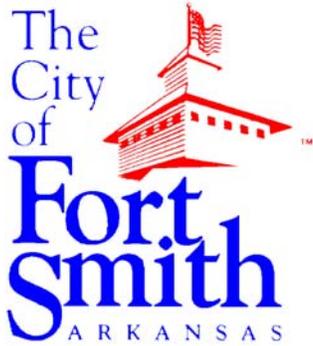
December 2012

| December 2012 | | | | | | | January 2013 | | | | | | |
|---------------|----|----|----|----|----|----|--------------|----|----|----|----|----|----|
| Su | Mo | Tu | We | Th | Fr | Sa | Su | Mo | Tu | We | Th | Fr | Sa |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 16 | 17 | 18 | 19 | 20 | 21 | 22 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 23 | 24 | 25 | 26 | 27 | 28 | 29 | 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 30 | 31 | | | | | | 27 | 28 | 29 | 30 | 31 | | |

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|--------|--------|---|---|---|--------|----------|
| Nov 25 | 26 | 27 | 28 | 29 | 30 | Dec 1 |
| | | | | | | |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| | | 6:00pm Board of Directors (FSM Public Schools Srv. Cntr.) | 11:30am Planning Com. Study Ses. (Creekmore) 12:00pm CDAC (Main Library) | 12:00pm Housing Assistance Board (Main Library) 6:00pm Historic District Commission (220 North 7 Street) | | |
| 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| | | 12:00pm Board of Director Study Ses. (Library) 5:30pm Planning Commission (Creekmore) | 11:30am Parks Commission (Creekmore) | 11:30am Housing Authority Com. (Beckman Center) 12:00pm Oak Cemetery Commission (Creekmore) | | |
| 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| | | 4:00pm Library Bd. of Trustees (Main Library) 5:30pm Airport Commission (Airport Ad 6:00pm Board of Directors (FSM Public School Servi | | | | |
| 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| | | 8:00am CITY OFFICES CLOSED (CITY OFFICES) | | 5:30pm Historic District S.S. (220 North 7 Street) | | |
| 30 | 31 | Jan 1, 13 | 2 | 3 | 4 | 5 |
| | | | | | | |

Beshnars, Wendy





Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Steve Tyler

Ward 2 – Andre’ Good

Ward 3 – Don Hutchings

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA
Fort Smith Board of Directors
Regular Meeting
December 4, 2012 ~ 6:00 P.M.
Fort Smith Public Schools Service Center
3205 Jenny Lind Road

THIS MEETING IS BEING TELECAST LIVE ON THE GOVERNMENT ACCESS CHANNEL 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 NOVEMBER 20, 2012 REGULAR MEETING

ITEMS OF BUSINESS:

1. Presentation: S.R.C.A. Christmas cards to Board of Directors
Presentation only
2. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan - General Commercial to Residential Detached; Rezoning - Commercial Heavy (C-5) and Commercial Heavy Special (C-5-SPL) to Residential Single-Family Medium High Density (RS-3) by extension located at 8750 South 36th Terrace*) ~ Tabled at the November 6, 2012 regular meeting ~
Approved 6 in favor, 0 opposed / Ordinance No. 88-12
3. Ordinance rezoning identified property and amending the zoning map (*from Industrial Light (I-1) to Residential Single-Family Duplex High Density (RSD-4)*) by

classification located at 2910-3026 North 6th Street and 2718-2722 North 27th Street)

Approved 6 in favor, 0 opposed / Tabled to the December 18, 2012 regular meeting

4. Ordinance amending the 2012 Operating Budget
Approved 6 in favor, 0 opposed / Ordinance No. 89-12
5. Public hearing and ordinance to adopt the fiscal year 2013 Operating Budget and to provide other matters relating thereto
Approved 6 in favor, 0 opposed / Ordinance No. 90-12
6. Ordinance establishing salaries and benefits and related procedures for City employees
Approved 6 in favor, 0 opposed / Ordinance No. 91-12
7. Ordinance to close the Sidewalk Construction Fund
Approved 6 in favor, 0 opposed / Ordinance No. 92-12
8. Ordinance amending designated provisions of Chapter 2, Article V of the Fort Smith Municipal Code concerning the City Administrator's authority ~
Tyler/Good placed on agenda at the November 27, 2012 study session ~
Approved 6 in favor, 0 opposed / Ordinance No. 93-12
9. Ordinance amending Section 2-182 of the Fort Smith Municipal Code regarding professional services ~
Tyler/Good placed on agenda at the November 27, 2012 study session ~
Approved 6 in favor, 0 opposed / Tabled for discussion at a future study session
10. Ordinance repealing Ordinance No. 86-12 and amending Section 2-26 of the Fort Smith Municipal Code setting the date, time and location for regular meetings of the Board of Directors for 2013
Approved 6 in favor, 0 opposed to hold meeting on Wednesday, March 27 / Ordinance No. 94-12
11. Ordinance amending Section 2-40(a) of the Fort Smith Municipal Code to increase the Mayor's compensation effective January 1, 2015 ~
Hutchings/Good placed on agenda at the November 27, 2012 study session ~
Defeated 2 in favor, 4 opposed (Tyler, Catsavis, Weber and Settle)
12. Resolution accepting bid for uniform rental services (3 year bid / Various City Departments / Budgeted - General, Street, Water & Sewer, and Sanitation Operating Funds) ~
Tabled at the November 20, 2012 regular board meeting ~
Approved 4 in favor, 2 opposed (Catsavis and Weber) / Resolution No. R-251-12

13. Consent Agenda

- A. Ordinance to abandon water line easements located in Cavanaugh Meadows, Lot 2, an addition to the City of Fort Smith, Sebastian County, Arkansas
Approved 6 in favor, 0 opposed / Ordinance No. 95-12
- B. Resolution authorizing the Mayor to submit a letter to the Arkansas Energy Office concerning the adoption of the 2011 Arkansas Energy Code ~ *Settle/Hutchings placed on agenda at the November 27, 2012 study session ~*
Approved 6 in favor, 0 opposed / Resolution No. R-252-12
- C. Resolution approving an agreement with Daily & Woods, P.L.L.C. for general legal services for 2013
Approved 6 in favor, 0 opposed / Resolution No. R-253-12
- D. Resolution approving specific excess insurance and aggregate excess insurance for the City's employee health coverage
Approved 6 in favor, 0 opposed / Resolution No. R-254-12
- E. Resolution approving claim service, specific excess insurance and aggregate excess insurance for City's workers' compensation coverage
Approved 6 in favor, 0 opposed / Resolution No. R-255-12
- F. Resolution supporting legislation to improve sales tax collection information from the Arkansas Department of Finance and Administration
Approved 6 in favor, 0 opposed / Resolution No. R-256-12
- G. Resolution adopting the 2013 Audit Plan
Approved 6 in favor, 0 opposed / Resolution No. R-257-12
- H. Resolution authorizing the Mayor to execute a memorandum of understanding with the National Park Service - Fort Smith National Historic Site to provide police protection on lands within the park's boundaries
Approved 6 in favor, 0 opposed / Resolution No. R-258-12
- I. Resolution accepting the project as complete and authorizing final payment to Goodwin & Goodwin, Inc. for construction of the Highway 71 Interchange 12-Inch Water Line Relocation (\$281,446.61 / Utility Department / Budgeted - 2008 Revenue Bonds)
Approved 6 in favor, 0 opposed / Resolution No. R-259-12
- J. Ordinance declaring an exceptional situation waiving the requirements of competitive bidding and authorizing the purchase of equipment from Flowserve for the "P" Street Wastewater Treatment Plant Effluent Pump

Station Upgrade (\$153,792.32 / Utility Department / Budgeted - 2008 Revenue Bonds)

Approved 6 in favor, 0 opposed / Ordinance No. 96-12

OFFICIALS FORUM ~ presentation of information requiring no official action

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

- Mayor
- Directors
- City Administrator

ADJOURN

7:23 p.m.