

Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith Lau

Ward 2 – Andre’ Good

Ward 3 – Mike Lorenz

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA

Fort Smith Board of Directors REGULAR MEETING

September 16, 2014 ~ 6:00 p.m.

**Fort Smith Public Schools Service Center
3205 Jenny Lind Road**

THIS MEETING IS BEING TELECAST LIVE ON THE GOVERNMENT ACCESS CHANNEL 214

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 SEPTEMBER 2, 2014 REGULAR MEETING

ITEMS OF BUSINESS:

1. Resolution authorizing the waiver of permit fees, zoning application fees and sewer connection fees for the Arkansas College of Osteopathic Medicine at 7000 Chad Colley Boulevard
2. Consent Agenda
 - A. Resolution adopting annual audit requirements and retaining BKD, LLP as external auditors
 - B. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith Police Department and the University of Arkansas – Fort Smith concerning the awarding of college credit hours for completion of the basic police training academy

- C. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith Police Department and the National Park Service – Fort Smith National Historic Site concerning providing police protection on lands within the park’s boundaries
- D. Resolution authorizing the City Administrator to accept a settlement offer from a property owner for the acquisition of easement interests in connection with the Highway 71 Interchange 12-Inch Water Line Relocation (\$7,000.00 / Utility Department / Budgeted - 2008 Revenue Bonds)
- E. Resolution authorizing the City Administrator to accept offer made by property owner for the acquisition of real property interests for the Lake Fort Smith Water Supply (\$12,500.00 / Utility Department / Budgeted - Capital Improvement Fund)
- F. Resolution authorizing the City Administrator to execute a settlement agreement and release with a property owner for the acquisition of real property and easement interests in connection with the Sunnymede Basin Wet Weather Flow Management Improvements (\$120,000.00 / Utility Department / Budgeted – 2012 Sales and Use Tax Bond)
- G. Resolution authorizing the Mayor to execute an agreement with RJN Group, Inc. for providing engineering services associated with Fall 2014 Wastewater Collection System Flow Monitoring (\$286,314.00 / Utility Department / Budgeted – 2014 Sales and Use Tax Bond)
- H. Ordinance declaring an exceptional situation waiving the requirements of competitive bidding and authorizing the purchase of replacement headworks pumps for the Massard Wastewater Treatment Plant (\$179,340.00 / Utility Department / Not Budgeted - 2014 Sales and Use Tax Bonds)

OFFICIALS FORUM ~ presentation of information requiring no official action

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

- Mayor
- Directors
- City Administrator

EXECUTIVE SESSION

- Appointments: Airport Commission (1), and Mechanical Board of Adjustments and Appeals (1)

ADJOURN

RESOLUTION _____

A RESOLUTION AUTHORIZING THE WAIVER OF PERMIT FEES, ZONING APPLICATION FEES AND SEWER CONNECTION FEES FOR THE ARKANSAS COLLEGE OF OSTEOPATHIC MEDICINE AT 7000 CHAD COLLEY BOULEVARD

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

The fees for the building permit and inspections, grading permit, zoning application and sewer connection for the construction of the Arkansas College of Osteopathic Medicine are hereby waived.

This resolution adopted this _____ day of September, 2014.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



Publish One Time



MEMORANDUM

September 12, 2014

TO: Mayor and Board of Directors

FROM: Ray Gosack, City Administrator

SUBJECT: Arkansas College of Osteopathic Medicine

Attached is a request from The Degen Foundation to waive fees for permits for the construction of the Arkansas College of Osteopathic Medicine at Chaffee Crossing. In the past, the city has waived fees for similar developments which have significant job creation and investment. The value of the various permit fees for the medical college are as follows:

Building Permits and Inspections	\$50,000
Sewer Tie On Fees	\$13,050
Planning/Zoning Application	\$ 350
Grading Permit	<u>\$ 100</u>
TOTAL	\$63,500

These waivers, if approved, would not include the expense of making actual connections to the water and sewer systems.

Attached is a resolution which approves the fee waivers. I recommend approval of the resolution. The medical college will invest at least \$30 million in our community, create 80-90 jobs, and have an ongoing financial impact estimated to be \$100 million annually. All of this supports the board's goals of job creation and improving our quality of place.

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

Attachments



THE DEGEN FOUNDATION

September 8, 2014

Mr. Ray Gosack, City Administrator
City of Fort Smith
PO Box 1908
Fort Smith, AR 72902

Dear Ray:

With the city's support and numerous other community organizations helping us as we begin the new Osteopathic Medical School, I'm sure you, the Mayor and the board are aware of its importance both to the people of our region as well as the local economy. I've noted for your reference the following:

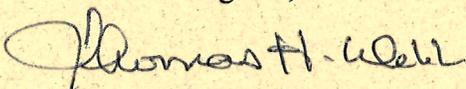
- Arkansas currently ranks 49th in the US in availability of physicians to patients it serves. Western Arkansas is the most underserved area in the state.
- It is estimated that the financial impact to our area, once the college is fully operational, is \$100 million annually.
- We expect to initially hire 80 to 90 employees primarily made up of D.O.'s and Ph.D.'s with an average compensation of approximately \$100,000 annually.

While this remains a mission driven plan, we continue to enlist the help and assistance of those who see this as a true game changer for our area.

It is in this spirit and with sincere appreciation for what the City of Fort Smith has already provided in support that we (The Degen Foundation) request that the city waive all permits and fees for the construction of our proposed college.

Again, many thanks for your efforts on our behalf and for your consideration of our request.

Warmest Regards,



Thomas H. Webb, Jr.,
Executive Director

cc: Mayor Sandy Sanders
City of Fort Smith

Kyle Parker, J.D.
President & CEO of Arkansas Colleges of Health Education

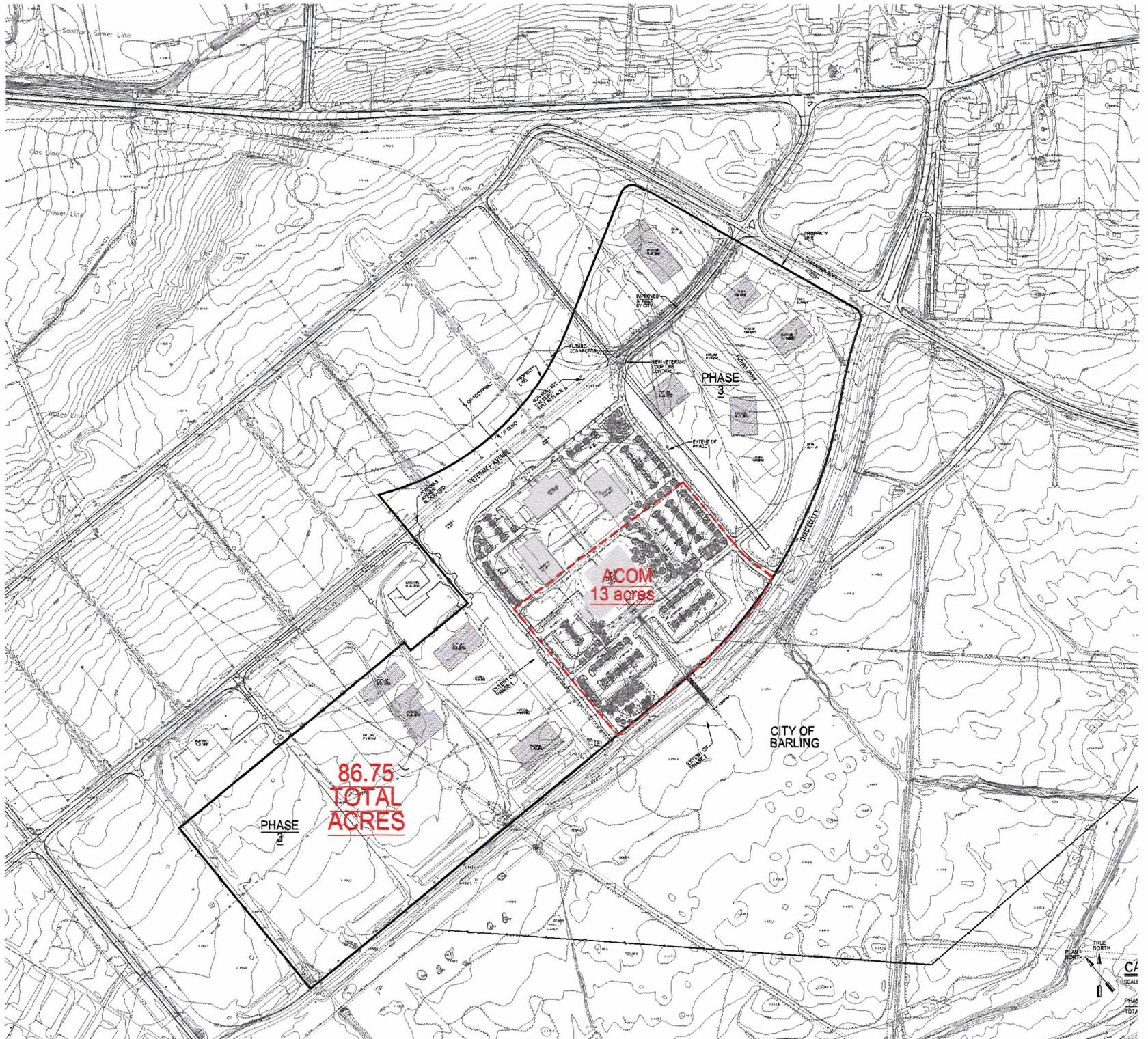
Phone: 479-434-3066 • Fax: 479-434-3068
PO Box 10366 • Fort Smith, AR 72917
6101 Phoenix Ave, #4 • Fort Smith, AR 72903



TRUE NORTH
 PLAN NORTH
CAMPUS SITE PLAN
 SCALE: 1" = 60'-0"
 PHASE I
 TOTAL PARKING = 434 CARS

**ARKANSAS COLLEGE of
 OSTEOPATHIC MEDICINE**
 CHAFFEE CROSSING, FORT SMITH, ARKANSAS

TIM A. RISLEY & ASSOCIATES
 ARCHITECTS AND PLANNERS
 41 CONARC PLACE • 6761 PHOENIX • FORT SMITH, ARKANSAS • 72302
 PHONE: 479.452.2616 • FAX: 479.452.2615 • EMAIL: info@timrisley.com



RESOLUTION NO. _____
A RESOLUTION ADOPTING ANNUAL AUDIT REQUIREMENTS
And RETAINING BKD, LLP as EXTERNAL AUDITORS

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

SECTION 1: The annual audit examination for the City of Fort Smith for the year ending December 31, 2014 shall be performed by an independent accounting firm in accordance with accounting standards generally accepted in the United States of America. Such standards shall include those promulgated by the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants and the United States Government Accounting Office, as applicable.

SECTION 2: BKD, LLP shall perform the annual audit examination for the year ending December 31, 2014 in accordance with Section 1 of this resolution.

THIS RESOLUTION ADOPTED THIS 16 DAY OF September, 2014.

APPROVED:

MAYOR

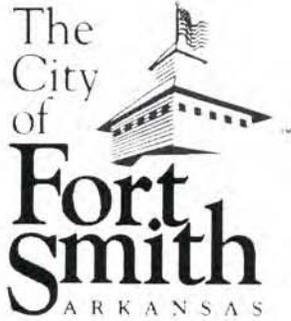
ATTEST:

CITY CLERK

Approved as to form:



City Attorney
No Publication Required



MEMORANDUM

September 16, 2014

TO: Ray Gosack, City Administrator

FROM : Kara Bushkuhl, Director of Finance *Kara*

SUBJECT: Annual Audit Requirements

In accordance with state law, the City must adopt its annual audit requirements. The City selects an independent accounting firm to prepare its annual audit examination in accordance with standards generally accepted in the United States.

Also, the Audit Advisory Committee recommended that the services of BKD, LLP be retained to perform the audit for the year ending December 31, 2014. The total cost, including document production and printing, was \$143,000 for the 2013 audit. A similar rate is anticipated for the 2014 audit.

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF FORT SMITH POLICE DEPARTMENT AND THE UNIVERSITY OF ARKANSAS - FORT SMITH CONCERNING THE AWARDING OF COLLEGE CREDIT HOURS FOR COMPLETION OF THE BASIC POLICE TRAINING ACADEMY

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

Section 1. The Memorandum of Understanding between the City of Fort Smith, Arkansas, and the University of Arkansas – Fort Smith, which shall be substantially in the form attached hereto, is hereby approved and provides for the terms, conditions, and mutual understandings concerning the University of Arkansas – Fort Smith in awarding college credit hours for completion of the Basic Police Training Academy.

Section 2. The Chief of Police of the Fort Smith Police Department is authorized to sign the Memorandum of Understanding to which the City of Fort Smith is a party.

THIS RESOLUTION ADOPTED THIS _____ DAY OF SEPTEMBER, 2014.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



City Attorney

npr

Memorandum of Understanding

University of Arkansas - Fort Smith
and
The Fort Smith Police Department

Article I Introduction

This Memorandum of Understanding (“MOU” or “Agreement”) is entered into by and between the University of Arkansas - Fort Smith (“UAFS”) and the Fort Smith Police Department (“FSPD”).

Article II General Purpose

The purpose of this Agreement and the intent of the parties is establish procedures for awarding academic credit for law enforcement officers who have successfully completed the Basic Police Officer Training through the Fort Smith Regional Police Academy (“Academy”).

Law enforcement officers who successfully complete the Academy, and who then present to UAFS a certificate of completion of the Academy or a 40 hour refresher certificate, will be awarded nine (9) credit hours of Criminal Justice courses at UAFS as set forth in Exhibit “A,” which is attached and made a part of this Agreement. This credit will be posted to the individual’s transcript once the individual has completed a minimum of twelve (12) credit hours from UAFS with a minimum cumulative GPA of 2.00. Specific Criminal Justice courses will be posted on the individual’s UAFS transcript without a tuition charge. The posted courses will apply towards the Bachelor of Science in Criminal Justice degree, or the Associate of Applied Science in Criminal Justice degree, or may be applied as elective hours for other degrees as may be approved by the respective academic college.

The parties also understand and agree that additional courses other than those currently set forth on Exhibit “A” may be offered through the Academy, and, if such additional courses are approved by UAFS for academic credit, those courses will subsequently be identified on additional exhibits and attached and made a part of this Agreement. All exhibits, including those that may be added subsequently, shall be governed by the terms, provisions, and conditions of this Agreement.

Article III Operation of Programs

The Criminal Justice courses will be offered by the College of Humanities and Social Sciences under the supervision of the UAFS Provost and Vice Chancellor for Academic Affairs. Each law enforcement officer wishing to achieve academic credit for completion of the Academy must make an application to and be accepted by UAFS as a student. Each law enforcement officer will be responsible for providing official training records to UAFS showing successful completion of the Academy prior to the officer receiving academic credit for same.

Police Officers enrolled through this program are UAFS students and will adhere to UAFS policies, registration and advisement processes, as outlined in the UAFS catalog and Student Code of Conduct. UAFS and FSPD will work together to provide program information, communication, and public relation activities to promote this program

Article IV Implementation or Termination

This Agreement will be in effect as of the date of the last signature executed below. This Agreement will commence in the fall 2014 semester and will continue until either the FSPD or UAFS deems it advisable to terminate this Agreement.

Should either party decide to terminate this Agreement or decide to terminate any program conducted under this Agreement, it shall notify the other, in writing, at least sixty (60) calendar days prior to the beginning of the upcoming semester so as to minimize any negative effects on individuals enrolled in the program. Such writing shall be sent to the UAFS at the following address: Provost Office, The University of Arkansas - Fort Smith, P.O. Box 3649, Fort Smith, AR 72913; and it shall be sent to the FSPD at the following address: Chief of Police, Fort Smith Police Department, 100 South 10th Street, Fort Smith, AR 72901. Any termination of this Agreement will, however, be done in such manner as to ensure that completion plans are implemented for individuals enrolled and on-track in any program, thus ensuring that they will be able to complete the degree program then in effect.

Article V Official Signatures

We agree to the above conditions and indicate by our signatures our commitment to this MOU for law enforcement officers of the FSPD.

Dr. Paul B. Beran Date
Chancellor
University of Arkansas - Fort Smith

Kevin Lindsey Date
Chief of Police
Fort Smith Police Department

Exhibit A

Awarding of Credit for Fort Smith Regional Police Academy

The University of Arkansas – Fort Smith
In Partnership With
The Fort Smith Police Department

Law enforcement officers who have satisfactorily completed the Basic Police Officer Training through the Fort Smith Regional Police Academy and provided proof of training records to the UAFS Records Office will receive nine credit hours of criminal justice courses. The credit hours will be posted on the UAFS transcript once the student has completed twelve credit hours at UAFS with a 2.0 cumulative GPA. Grades will be posted as CR credit.

The law enforcement officer will receive credit for the following courses:

- CJ 1013 Introduction to the Criminal Justice System
- CJ 2373 Police Systems & Practices
- CJ 2403 Legal Aspects of Law Enforcement at UAFS

Students will be registered for their courses by a UAFS advisor. If taking Criminal Justice courses prior to posting of the Academy credit, prerequisites of the above courses will be overridden allowing students to take advanced Criminal Justice courses.



Fort Smith Police Department

Kevin Lindsey, Chief of Police

INTERDEPARTMENTAL MEMORANDUM

To: Ray Gosack City Administrator

From: Kevin Lindsey, Chief of Police

Subject: Memorandum of Understanding between the Fort Smith Police Department and the University of Arkansas – Fort Smith concerning the awarding of college credit hours for completion of the basic police training academy

Date: September 8, 2014

The Fort Smith Police Department wishes to enter into an agreement with the University of Arkansas – Fort Smith (UAFS) in the form of a Memorandum of Understanding (MoU). The MoU references the University of Arkansas – Fort Smith (UAFS) authorizing the awarding of college credit hours for completion of the basic police training academy provided by the Department. The primary purpose of this document is to establish the procedures and responsibilities of both the Fort Smith Police Department and the University of Arkansas – Fort Smith (UAFS) for law enforcement officers who successfully complete the Academy. Those officers who then present to UAFS a certificate of completion of the Academy or 40 hours refresher certificate will be awarded nine (9) credit hours at UAFS. This credit will be posted to the individual's transcript once the individual has completed a minimum of twelve (12) credit hours from UAFS with a minimum cumulative GPA of 2.00. Specific Criminal Justice courses will apply towards the Bachelor of Science in Criminal Justice degree, or the Associate of Applied Science in Criminal Justice degree, or may be applied as elective hours for other degrees as may be approved by the respective academic college.

Approval of this MoU is recommended, and reinforces the long-standing partnership the Department has with the University. Please contact me if you have any questions or need any additional information.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE EXECUTION OF A
MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF
FORT SMITH POLICE DEPARTMENT AND THE NATIONAL PARK
SERVICE – FORT SMITH NATIONAL HISTORIC SITE CONCERNING
PROVIDING POLICE PROTECTION ON LANDS WITHIN THE PARK’S
BOUNDARIES**

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

Section 1. The Memorandum of Understanding between the City of Fort Smith, Arkansas, and the Fort Smith National Historic Site, which shall be substantially in the form attached hereto, is hereby approved and provides for the terms, conditions, and mutual understandings concerning 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.

Section 2. The Chief of Police of the Fort Smith Police Department is authorized to sign the Memorandum of Understanding to which the City of Fort Smith is a party.

This Resolution adopted this _____ day of September, 2014.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



City Attorney npr

**Memorandum of Understanding
between
The United States Department of the Interior
National Park Service
and the
Fort Smith Police Department
City of Fort Smith, Arkansas**

Regarding Law Enforcement Assistance

This Agreement is entered into by and between the National Park Service (hereinafter “NPS”), United States Department of the Interior, acting through the Superintendent of Fort Smith National Historic Site (hereinafter “FOSM”), and the Fort Smith Police Department (hereinafter “FSPD”), Arkansas, acting through its Police Chief.

ARTICLE I – BACKGROUND AND OBJECTIVES

The objective of the Agreement is to coordinate emergency law enforcement assistance between the two agencies. Fort Smith National Historic Site is under concurrent jurisdiction, and the NPS and the FSPD therefore share a common interest in law enforcement in and around FOSM.

Both agencies recognize through experience that violations affecting the safety and welfare of citizens, property, and resources under their protection frequently involve individuals and groups operating across jurisdictional boundaries. Both agencies also recognize that the most effective and sometimes only method to detect, deter, and solve these crimes is through cooperative efforts. Accordingly, the NPS and the FSPD do hereby enter into an agreement to provide emergency cooperative assistance to maintain public safety and welfare on lands and waters in Fort Smith, Arkansas, within and immediately surrounding FOSM, as both parties can mutually benefit from the expertise and resources of their respective agencies.

Fort Smith National Historic Site does not currently employ NPS law enforcement commissioned personnel on its staff. NPS law enforcement commissioned Rangers or Special Agents may visit the site temporarily to accomplish specific agency objectives including assisting with special events. The FOSM Superintendent or his/her designee may also contact NPS law enforcement rangers or NPS Special Agents for guidance and assistance regarding law enforcement incidents occurring at FOSM.

ARTICLE II - AUTHORITY

This Agreement is entered into under the authority of 16 U.S.C. §1a-6 and 16 U.S.C. § 1b.

The Secretary of the Interior, acting through the NPS, administers and manages FOSM pursuant to the Act of September 13, 1961, (75 Stat. 489), Public Law 87-215, and conducts law enforcement activities there and at other NPS areas within the State of Arkansas pursuant to Title 16 U.S.C. §1a-6.

Title 16 U.S.C. §1a-6(b) authorizes the Secretary of the Interior “to designate . . . certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System”.

Title 16 U.S.C. §1b(1) authorizes the Secretary of the Interior to render “emergency rescue, fire fighting, and cooperative assistance to nearby law enforcement and fire prevention agencies and for related purposes outside of the National Park System”. The FSPD is recognized for purposes of 16 U.S.C. § 1b(1) as a nearby law enforcement agency.

The FSPD is authorized to enter into agreements with other public agencies such as the NPS under Arkansas Code of 1987 Annotated (A.C.A.) § 25-20-104 for joint cooperative action pursuant to the Interlocal Cooperation Act.

A.C.A. § 14-52-203 authorizes the FSPD to enforce all laws, ordinances, and regulations for the preservation of good order and the public welfare as the Fort Smith Board of Directors may ordain.

A.C.A. § 16-81-106 authorizes the FSPD to enforce the laws of the State of Arkansas and authorizes certified law enforcement officers to make arrests in obedience to a warrant of arrest delivered to him or her; and without a warrant, where a public offense is committed in his or her presence or where he or she has reasonable grounds for believing that the person arrested has committed a felony.

A.C.A. § 16-81-106(g)(1)(L) establishes that full-time, certified law enforcement officers of the NPS shall be empowered to act as officers for the arrest of offenders against the laws of the state and shall enjoy the same immunity, if any, to the same extent and under the same circumstances as certified state law enforcement officers.

A.C.A. § 16-81-106(c)(3) further specifies that statewide arrest powers for certified law enforcement officers will be in effect only when the officer is working outside his or her jurisdiction at the request of or with the permission of the municipal or county law enforcement agency having jurisdiction in the locale where the officer is assisting or working by request.

A.C.A. § 16-81-106(c)(4) states that any law enforcement agency exercising statewide arrest powers must have a written policy on file regulating the actions of its employees relevant to law enforcement activities outside its jurisdiction. NPS Director's Order #9: Law Enforcement Program meets this policy requirement.

The scope of this Agreement is defined by the authorities identified herein.

ARTICLE III – STATEMENT OF WORK

A. **The NPS agrees as follows:**

1. **Within NPS Jurisdiction- Law Enforcement Assistance Pursuant to 16 U.S.C. §1a-6:**

- a. In accordance with 16 U.S.C. §1a-6, the NPS shall enforce all applicable Federal laws within FOSM.
- b. The FSPD may supplement NPS law enforcement efforts, initiate law enforcement action, and independently patrol within FOSM. The FSPD maintains principal responsibility for enforcing State laws within FOSM.
- c. The NPS will provide to the FSPD a list of responsible persons, with telephone numbers, to be contacted in an emergency. This list will be updated as needed to reflect personnel changes.
- d. The NPS will retain primary control of incidents occurring within FOSM. Incidents of a magnitude larger than NPS resources can manage effectively may require a cooperative effort with other Federal and local agencies. Due to the lack of commissioned NPS Rangers on site on a day-to-day basis, the FSPD will assume command and control of its agency's response to any incident-in-progress at FOSM until relieved by qualified NPS personnel approved by the park superintendent; or, unless a decision is made jointly between the NPS and the FSPD to manage the incident under Unified Command.
- e. The NPS may request resources of the FSPD for incidents occurring within FOSM. The NPS will provide a liaison to the FSPD as needed in cases when FSPD resources have been requested. The NPS liaison will participate and work cooperatively with the FSPD resources until the incident is concluded and, when possible, successful prosecution of the case has been attained.
- f. The NPS shall respond to structural alarms originating within the park for the purpose of protecting governmental interests and to identify the cause for the alarm in an attempt to reduce or eliminate the occurrence of false alarms. In the case of intrusion alarms, the NPS or its alarm monitoring service will request assistance from the FSPD and will wait for the FSPD Officer to clear the structure before non-law enforcement NPS personnel will access the area. The NPS may request assistance from the FSPD to respond to other structural alarms at the site.

2. **Outside NPS Jurisdiction – Law Enforcement Assistance Pursuant to 16 U.S.C. §1b (1):**

- a. The NPS agrees to provide cooperative law enforcement assistance as defined in this document to the FSPD outside of FOSM. Due to the lack of NPS commissioned personnel duty-stationed at FOSM on a day-to-day basis, this emergency assistance would only be available during occasions such as special events when NPS Rangers are temporarily on site.
- b. NPS emergency law enforcement assistance outside the boundaries of FOSM generally stems from an unexpected occurrence that requires immediate action and may include one or more of the following:
 - Emergency responses such as life or death incidents, serious injury/fatality accident/incident scenes, crime scenes involving the protection of human life, officer in trouble, threat(s) to health or safety of the public.
 - Emergency or law enforcement incidents directly affecting visitor safety or resource protection.
 - Probable cause felonies and felonies committed in the presence of and observed by National Park Service commissioned employees.
 - Misdemeanors committed in the presence of National Park Service commissioned employees that present an immediate threat to the health and safety of the public.
- c. Upon receiving an official request from the FSPD, the NPS shall render emergency law enforcement assistance (as defined in provision A.2.b above) to the FSPD whenever possible. A request for such emergency assistance will be placed with FOSM's Superintendent or his/her representative.
- d. The NPS may render emergency law enforcement assistance in those situations where a NPS law enforcement ranger, while in the course of his/her official duties, observes an emergency situation (as defined in provision A.2.b above), at which time the NPS law enforcement ranger shall secure and manage the scene. The NPS shall immediately notify the FSPD of the emergency. Upon arrival of the first FSPD officer on the scene, the NPS law enforcement ranger shall relinquish control; however, upon request, the NPS law enforcement ranger may assist the FSPD officer for the duration of the emergency.
- e. The NPS shall render assistance only until such time as the FSPD has enough resources on the scene to adequately control the emergency or until the emergency no longer exists, whichever comes first.
- f. The on-scene commanding officer of the FSPD shall be in primary control of all officers, including NPS law enforcement rangers who are rendering emergency

assistance; provided that the FSPD on-scene commander shall exercise control of NPS law enforcement rangers only through the highest ranking NPS law enforcement ranger at the scene, the highest ranking individual shall be identified by the NPS at the time of the emergency.

- g. For good cause the NPS Senior Law Enforcement Officer or his/her representative may decide at any time to withdraw emergency law enforcement assistance.
- h. NPS law enforcement rangers rendering emergency assistance to the FSPD pursuant to this Agreement shall wear the official NPS uniform or, if approved by the NPS Senior Law Enforcement Officer or his/her designee, plain clothes; shall remain under the authority and command of NPS supervisors; shall be subject to the laws, regulations, and policies of the NPS and of the United States; and shall not receive any monetary compensation from any source other than the NPS.

B. The FSPD agrees as follows:

1. The following incidents, when occurring within FOSM, must be reported to the NPS as soon as practical via verbal notification and/or written report:
 - Incidents involving damage within the boundaries of FOSM, the buildings or property contained therein.
 - Incidents involving fatalities, serious injury, or injuries to multiple persons.
 - Incidents involving or with the potential to involve media interest.
 - Incidents involving motor vehicle accidents within FOSM including the license plate number and/or Vehicle Identification Number of any vehicle that causes damage to park resources as a result of off-road driving or a MVA.
 - Incidents involving planned or unplanned demonstrations in or near FOSM.
 - The NPS should be notified immediately of incidents involving felony violations within FOSM.
2. The FSPD, when available, will respond to intrusion alarms activated within FOSM, searching the structure's interior (if access is available) and exterior for damage, intruders, and/or evidence of the same.
3. The FSPD authorizes the NPS to utilize its radio frequency and dispatch service as needed to request assistance and provide information concerning:
 - Person or person's identity
 - Vehicle registration
 - Want and warrant information
 - Criminal histories

4. The FSPD will, within the limits of available resources, respond when requested by the Superintendent of FOSM, or his/her designee, to any serious law enforcement incident. The FSPD will work cooperatively with the NPS in the investigation and prosecution of serious crimes, including Uniform Crime Reporting Part 1 offenses, by notifying the NPS Midwest Regional Chief Ranger of the incident at 402-661-1878. The Regional Chief Ranger in consultation with the FSPD will assess the need for NPS involvement in the management of the case. Felony crimes and/or long term investigations may involve Special Agents from the NPS Investigative Services Branch, commissioned NPS Rangers, and/or Agents from the Federal Bureau of Investigation working cooperatively with the FSPD.
5. For good cause the FSPD may decide at any time to withdraw emergency law enforcement assistance.
6. The FSPD will provide assistance for recurring events and issues affecting the park, such as providing public safety and parking/traffic assistance during City-sponsored events for which the public utilizes FOSM (e.g. 4th of July Celebration, Riverfront Blues Festival).

C. The parties further agree as follows:

1. As interdepartmental radio communications may be needed to coordinate law enforcement and public safety activities, each party authorizes the other party to utilize its radio frequency(s) as needed to carry out the provisions of this Agreement.
2. In the event of an emergency situation requiring immediate law enforcement assistance, FOSM personnel will contact FSPD using the local 911 system. Any NPS response to an ongoing incident would necessarily be delayed due to the lack of commissioned NPS personnel duty-stationed at the site.
3. If a felony incident occurs within FOSM that is a violation of both Federal and State law, then the NPS shall determine, after consulting with the United States Attorney's Office and other appropriate agencies, whether the violation should be prosecuted through the Federal or through the State system.
4. Both agencies will make evidence related to law enforcement incidents that occur within FOSM readily available for criminal prosecution proceedings within the other's judicial system to the extent authorized by applicable laws.
5. When making an arrest within the boundaries of FOSM, FSPD will select the jail to which the prisoner will be transported. If the arrest is made by the NPS, a federally-approved facility will be utilized.
6. Each party shall bear its own costs for furnishing services under this Agreement,

and neither party shall claim reimbursement for those costs from the other.

7. NPS law enforcement rangers rendering emergency assistance to the FSPD pursuant to this Agreement shall be deemed to be acting within the scope of their Federal employment.
8. Nothing in this Agreement shall be construed to bind the NPS to expend in any one fiscal year any sum in excess of funds appropriated by Congress or allocated by the NPS for the purposes of this Agreement.
9. To the extent authorized by applicable law, each party hereby waives any and all claims, demands, and causes of action against the other party and its employees, and releases the other party and its employees from any and all liability, arising out of or resulting from activities under this Agreement. Each party shall be solely responsible for any and all claims, demands, and causes of action filed by third parties arising out of or resulting from the activities of its employees under this Agreement, including, but not limited to, the costs of investigating and defending against such claims, demands, and causes of action and the costs of paying any compromise settlements, judgments, assessed costs, or fees (including attorney's fees).
10. The parties shall coordinate all public information releases about law enforcement incidents, investigations, actions, and other matters involving both parties. No public information release by one party shall refer to the other party or to any employee of the other party (by name or otherwise) without the other party's prior approval. Each party agrees not to comment to the media on law enforcement incidents that occur in the other party's jurisdiction. All media inquiries will be directed to the respective agency's information officer or designee.
11. The parties will exercise their best efforts to perform their responsibilities under this Agreement in a timely and professional manner. However, nothing in this Agreement is intended to restrict either party's lawful discretion to act (or not to act) in the manner it deems most appropriate in a particular situation.

ARTICLE IV – TERM OF AGREEMENT

This Agreement shall be effective for a period of five years after the date of final signature, unless it is terminated earlier by one of the parties pursuant to Article IX that follows. At the conclusion of that five-year term, this Agreement may be extended or renewed by written agreement of the parties.

ARTICLE V – KEY OFFICIALS

A. Key officials are essential to ensure maximum coordination and communications between the parties and the work being performed. They are:

1. **For the NPS:**

Superintendent
Fort Smith National Historic Site
301 Parker Avenue
Fort Smith, AR72901
(479) 783-3961
(479) 783-5307 FAX

Regional Chief Ranger
Midwest Region
601 Riverfront Drive
Omaha, NE 68102
(402) 661-1878

2. **Forthe Fort Smith Police Department:**

Chief of Police
Fort Smith Police Department
100 South 10th Street
Fort Smith, AR 72901
(479) 709-5143

B. **Communications** – The FSPD will address any communication regarding this Agreement to the Superintendent or his/her designee. The NPS will address any communication regarding this Agreement to the Fort Smith Police Chief or his/her designee.

C. **Changes in Key Officials** – Neither the NPS nor the FSPD may make any permanent change in a key official without written notice to the other party reasonably in advance of the proposed change. The notice will include a justification with sufficient detail to permit evaluation of the impact of such a change on the scope of work specified within this Agreement. Any permanent change in key officials will be made only by modification to this Agreement.

ARTICLE VI - FUNDING

Funds will not be exchanged under this Agreement. In-kind services will be exchanged as set forth in Article III.

ARTICLE VII – REPORTS AND/OR OTHER DELIVERABLES

Upon request and to the full extent permitted by applicable law, the parties will share with each other final reports of incidents involving both parties. To the extent authorized by law, any documents or data exchanged between the parties to this Agreement will not be released to a third party unless the designated key official of the party that generated the document or data, or his/her representative concurs that release is appropriate.

ARTICLE VIII – PROPERTY UTILIZATION

Unless otherwise agreed to in writing by the parties, any property furnished by one party to the other will remain the property of the furnishing party. Any property furnished by the NPS to the FSPD during the performance of this Agreement will be used and disposed of as set forth in NPS Property Management Regulations.

ARTICLE IX – MODIFICATION AND TERMINATION

- A. This Agreement may be modified only by a written instrument executed by the parties.
- B. Either party may terminate this Agreement by providing the other party with thirty (30) days advance written notice. In the event that one party provides the other party with notice of its intention to terminate, the parties will meet promptly to discuss the reasons for the notice and to try to resolve their differences.

ARTICLE X – STANDARD CLAUSES

A. Civil Rights

During the performance of this Agreement, the participants agree to abide by the terms of U.S. Department of the Interior – Civil Rights Assurance Certification, non-discrimination and will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, sexual orientation, national origin, disabilities, religion, age, or sex.

B. Promotions

The FSPD will 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 of a product, service, or position which the FSPD represents. No release of information relating to this Agreement may state or imply that the Government approves of the FSPD work product, or considers the FSPD work product to be superior to other products or services.

C. Public Information Release

Publications of Results of Studies

No party will unilaterally publish a joint publication without consulting the other party. This restriction does not apply to popular publication of previously published technical matter. Publications pursuant to this Agreement may be produced independently or in collaboration with others; however, in all cases proper credit will be given to the efforts of those parties contributing to the publication. In the event no agreement is reached concerning the manner of publication or interpretation of results, either party may publish data after due notice and submission of the proposed manuscripts to the other. In such instances, the party publishing the data will give due credit to the cooperation but assume full responsibility for any statements on which there is a difference of opinion.

ARTICLE XII – SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) setforth below.

FOR THE NATIONAL PARK SERVICE:

Signature: _____

Name: Lisa Frost _____

Title: Superintendent _____

Fort Smith National Historic Site _____

Date: _____

FOR THE FORT SMITH POLICE DEPARTMENT:

Signature: _____

Name: _____

Title: Police Chief, City of Fort Smith, AR _____

Date: _____



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: September 8, 2014

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 recommend approval and execution of the Agreement.

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

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT A SETTLEMENT OFFER FROM A PROPERTY OWNER FOR THE ACQUISITION OF EASEMENT INTERESTS IN CONNECTION WITH 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 City Administrator is hereby authorized to accept a settlement offer to conclude eminent domain case CV-12-90-G, made by the following property owners:

<u>Tract</u>	<u>Owner</u>	<u>Amount</u>
Tract 1	Stephens Production Company & Crossland Construction Company, Inc.	\$ 7,000.00

and to make a payment for same in connection with the acquisition of a water line easement for the Highway 71 Interchange 12-Inch Water Line Relocation, Project Number 11-11-C1, said property being located at the intersection of Highway 71 and I-49, Sebastian County, Arkansas.

This Resolution adopted this _____ day of September 2014.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: September 8, 2014

FROM: Steve Parke, Director of Utilities

SUBJECT: Highway 71 Interchange 12 - Inch Water
Line Relocation, Project Number 11-11

The Arkansas Highway and Transportation Department (AHTD) is constructing portions of the new Route 71 which in later years will become part of the new I-49. This phase of the project required the relocation of approximately 750 feet of 12-inch water line along Howard Hill Road and approximately 4,000 feet of 12-inch water line along U. S. Highway 71. The city was required to accomplish these relocations and the AHTD has reimbursed the city for the relocation costs to date. Finalizing this easement acquisition is the last remaining item and this cost is also a reimbursable expense.

The project required the acquisition of water line easements across property owned by Stephens Production Company (SPC). After unsuccessful attempts by staff to acquire the needed easements, the Board of Directors approved the city administrator and city attorney to proceed with the acquisitions by eminent domain. The city deposited \$3,300.00 with the court as an estimate of just compensation. SPC has since sold a portion of the property to Crossland Construction Company after the eminent domain proceedings were filed with the court.

SPC offered to settle the matter in March 2013 for \$34,553.00, an amount similar to the per acre value of \$7,735.00 paid by Center Point Energy to SPC for a gas line easement across their property. Staff could not recommend this offer at that time because it exceeded the city's value per acre of \$1,092.71. In May 2013, staff made an unsuccessful offer subject to Board approval to SPC for \$6,000.00. In July 2013, SPC offered to settle for \$16,000.00 and again staff could not recommend this offer. As the trial date approaches the owners recently made another counter offer of \$8,000.00 to settle but later agreed to reduce their offer to \$7,000.00. A copy of a letter from the city attorney concerning this settlement and exhibits of the easement areas are attached for your review.

Staff believes the settlement offer of \$7,000.00 to conclude eminent domain case is reasonable. Therefore, staff recommends that the Board approve the attached Resolution and accept the offer at its next scheduled meeting. The city's costs related to this acquisition will be reimbursed by the AHTD.

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

attachment

pc: Jeff Dingman

DAILY & WOODS

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

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

www.dailywoods.com

JAMES E. WEST
PHILLIP E. NORVELL †

OF COUNSEL

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

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THOMAS A. DAILY, P.A.
WYMAN R. WADE, JR., P.A.
DOUGLAS M. CARSON, P.A.
ROBERT R. BRIGGS, P.A. †
C. MICHAEL DAILY, P.A. † ●
COLBY T. ROE, P.A.

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

September 8, 2014

Mr. Steve Parke
Director of Utilities
City of Fort Smith

Via E-Mail Only

Re: City of Fort Smith, Arkansas v. Stephens Production Company, et al.,
Sebastian County Circuit Court Case No. CV-12-90-G

Dear Mr. Parke:

In connection with the 71 Interchange Waterline Relocation Project, the City instituted the referenced eminent domain action in order to acquire four water line easements and two temporary construction easements owned by the land owners. The acquisitions totaled 3.02 acres being acquired for easement purposes and an additional .57 acres in temporary construction easements. The case is currently set for trial on October 14, 2014.

The City's appraiser initially estimated fair market value of the acquisition at \$3,300.00. The land owners provided us with an appraisal report regarding the same property indicating a higher per acre value for the subject property. The parties have actively been negotiating settlement of this acquisition resulting in the Defendants proposing to settle this matter for the payment of \$7,000.00 to be split as agreed between the two land owners.

Based on expected litigation costs and risk of litigation, we believe the land owners' settlement proposal to be reasonable.

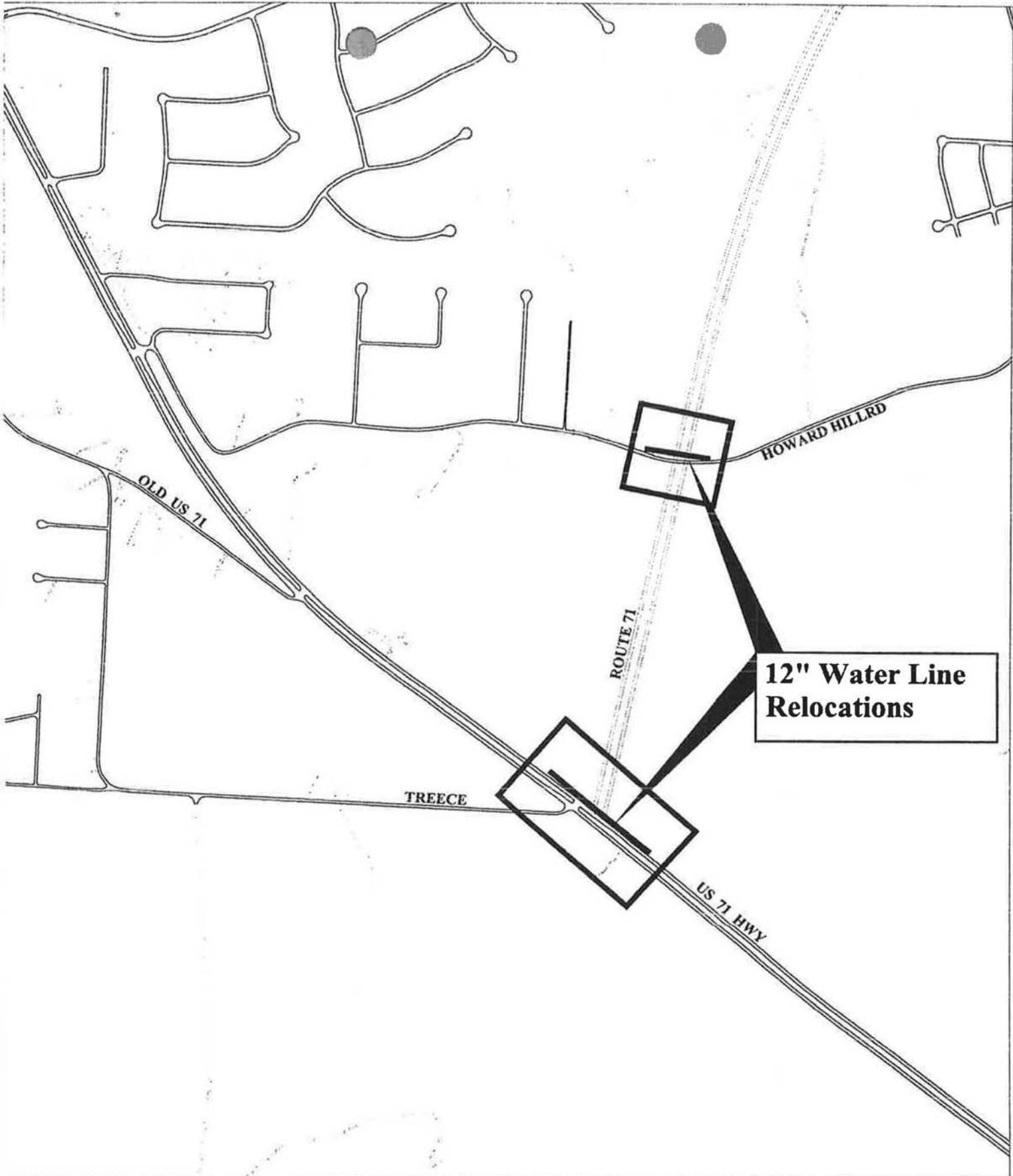
Thank you for your attention to this matter.

Very truly yours,



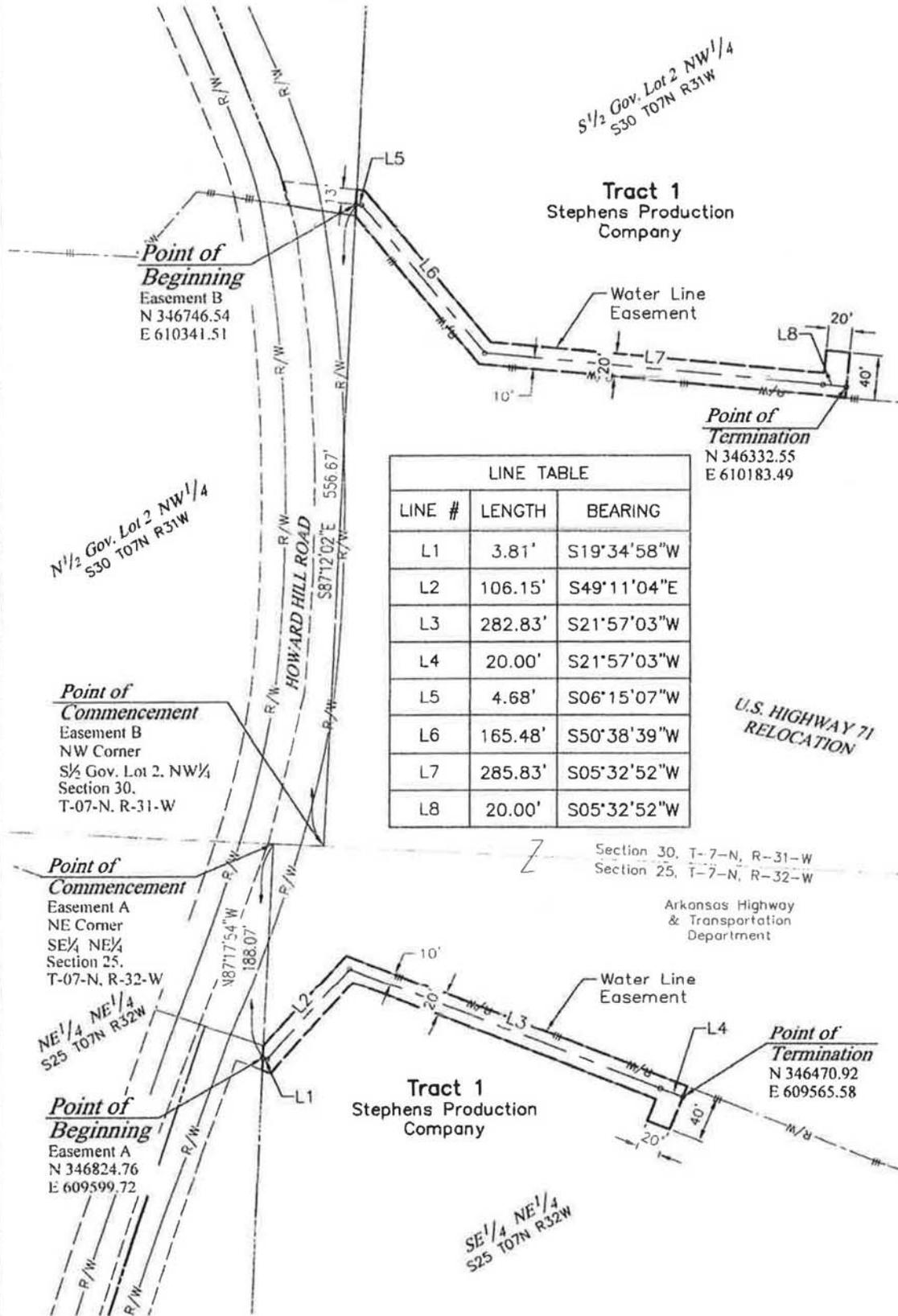
Robert R. Briggs
RRB/jaj

cc: Mr. Larry Guthrie (via email only)



**Highway 71 Interchange
12-Inch Water Line Relocation
Project Number 11-11-E1**





LINE TABLE		
LINE #	LENGTH	BEARING
L1	3.81'	S19°34'58"W
L2	106.15'	S49°11'04"E
L3	282.83'	S21°57'03"W
L4	20.00'	S21°57'03"W
L5	4.68'	S06°15'07"W
L6	165.48'	S50°38'39"W
L7	285.83'	S05°32'52"W
L8	20.00'	S05°32'52"W

Tract 1 - Easements A & B

Scale 1"=100'

U.S. HIGHWAY 71 WATER LINE RELOCATION - EASEMENT

Hwy 71 Easement
 Exhibit-Stephens Prod Co.dwg

Point of Beginning

Easement C
 N 345572.77
 E 610074.53

Point of Commencement
 Easement C
 SW Corner
 S½ Gov. Lot 2
 NW¼
 Section 30,
 T-7-N, R-31-W

NE¼, NE¼
 S25, T7N, R32W
 Section 25, T-7-N, R-32-W
 Section 30, T-7-N, R-31-W

U.S. HIGHWAY 71 RELOCATION

Arkansas Highway & Transportation Department

S½ Gov. Lot 2 NW¼
 S30, T7N, R31W

Tract 1
 Stephens Production Company

Water Line Easement

Gov. Lot 2 SW¼
 S30, T7N, R31W

SE¼, SE¼
 S25, T7N, R32W

25
 36
 30
 31

Section 30, T-7-N, R-31-W
 Section 31, T-7-N, R-31-W

Gov. Lot 2 NW¼
 S31, T7N, R31W

LINE TABLE		
LINE #	LENGTH	BEARING
L29	43.03'	N01°06'55"E
L30	98.44'	N02°48'27"E
L31	347.55'	S87°17'10"E
L32	50.84'	N89°24'37"E
L33	27.93'	S02°42'50"W
L34	29.21'	N87°17'10"W
L35	308.26'	S00°44'37"E
L36	238.20'	S13°28'57"E
L37	278.99'	S13°24'56"E
L38	102.45'	S58°47'02"E
L39	388.12'	S18°40'05"E
L40	122.31'	S49°11'40"W
L41	480.59'	S13°23'46"E
L42	299.31'	S21°49'30"E
L43	296.79'	S30°35'17"E
L44	296.22'	S44°11'04"E
L45	1135.07'	S49°43'07"E
L46	20.00'	S40°15'26"W
L47	51.17'	N52°51'28"W
L48	1084.98'	N49°34'14"W
L49	299.54'	N44°11'04"W
L50	300.71'	N30°35'17"W
L51	302.32'	N21°49'30"W
L52	494.22'	N13°23'48"W
L53	121.02'	N49°11'40"E
L54	367.37'	N18°40'05"W
L55	103.51'	N58°47'02"W
L56	287.34'	N13°24'56"W
L57	240.42'	N13°28'57"W
L58	336.76'	N00°44'37"W

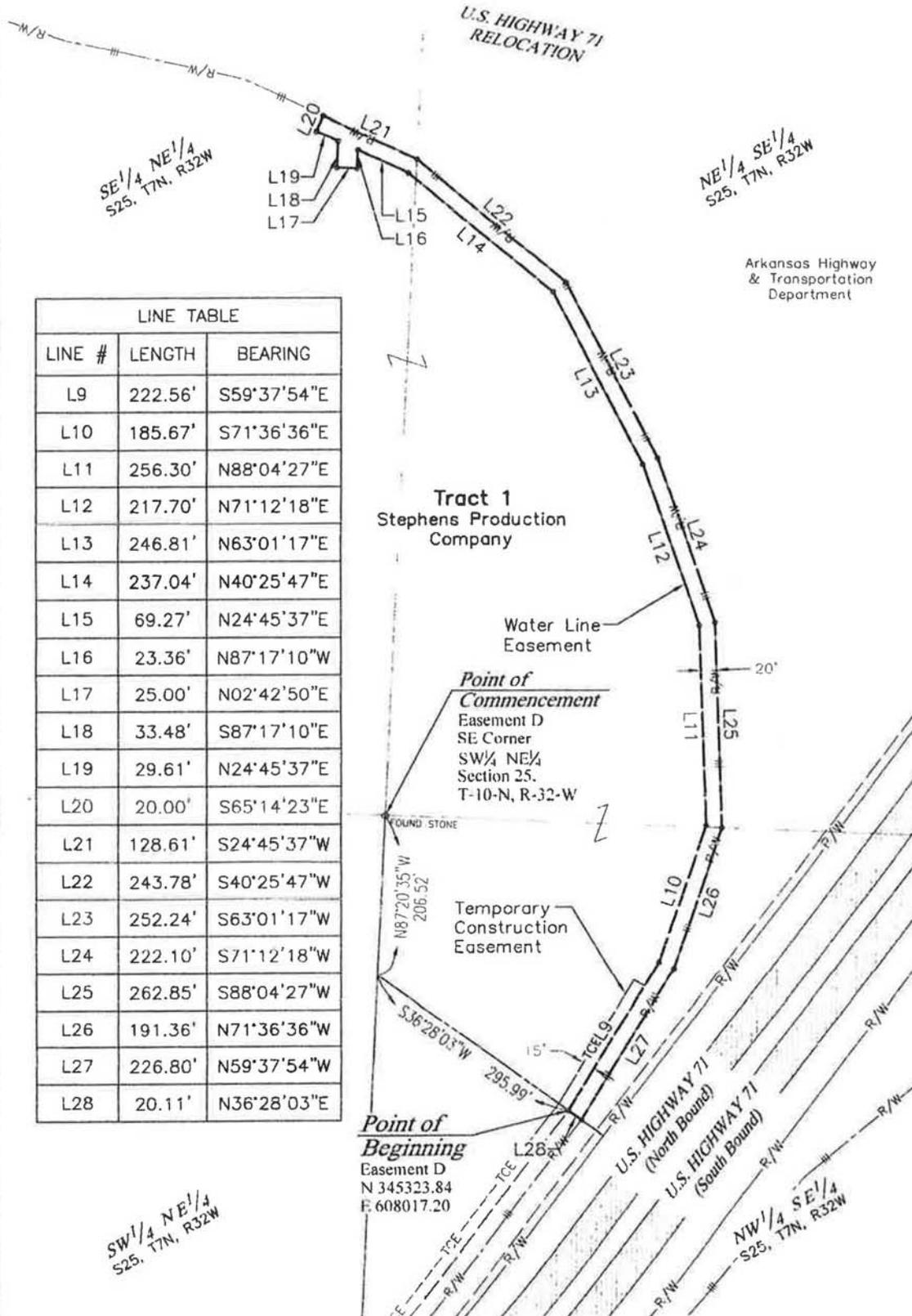
Temporary Construction Easement

Gov. Lot 1 NW¼
 S31, T7N, R32W

Tract 1 - Easement C

Scale 1"=300'

U.S. HIGHWAY 71 WATER LINE RELOCATION - EASEMENT



LINE TABLE		
LINE #	LENGTH	BEARING
L9	222.56'	S59°37'54"E
L10	185.67'	S71°36'36"E
L11	256.30'	N88°04'27"E
L12	217.70'	N71°12'18"E
L13	246.81'	N63°01'17"E
L14	237.04'	N40°25'47"E
L15	69.27'	N24°45'37"E
L16	23.36'	N87°17'10"W
L17	25.00'	N02°42'50"E
L18	33.48'	S87°17'10"E
L19	29.61'	N24°45'37"E
L20	20.00'	S65°14'23"E
L21	128.61'	S24°45'37"W
L22	243.78'	S40°25'47"W
L23	252.24'	S63°01'17"W
L24	222.10'	S71°12'18"W
L25	262.85'	S88°04'27"W
L26	191.36'	N71°36'36"W
L27	226.80'	N59°37'54"W
L28	20.11'	N36°28'03"E

Tract 1 - Easement D

Scale 1"=150'

U.S. HIGHWAY 71 WATER LINE RELOCATION - EASEMENT

Hwy 71 Easement
 Exhibit-Stephens Prod Co.dwg

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT OFFER
MADE BY PROPERTY OWNER FOR THE ACQUISITION OF REAL
PROPERTY INTERESTS FOR THE LAKE FORT SMITH WATER SUPPLY

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

The City Administrator is hereby authorized to accept an offer extended by the following
property owner:

<u>Tract</u>	<u>Owner</u>	<u>Amount</u>
Tract 17-3	J. Richard Carver and Elizabeth Carver	\$12, 500.00

and make payment for same and any applicable closing costs in connection with the acquisition
of the real property designated as 99-01-P for the Lake Fort Smith Water Supply, Project Number
99-01, said property being located in Section 17, Township 12 North, Range 29 West, Crawford
County, Arkansas.

This Resolution adopted this _____ day of September 2014.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: September 8, 2014

FROM: Steve Parke,  Director of Utilities

SUBJECT: Lake Fort Smith Water Supply
Project Number 99-01

Richard and Elizabeth Carver purchased this 10 acre parcel of property in 1984 for recreational purposes. The wooded property is vacant and is located on the northeast side of Lake Fort Smith. The topography is suitable for a building site but the remainder of the property is generally very steep and drains directly into the lake. All of the property is part of the watershed boundary area around the lake that the city proposes to acquire for watershed protection, either by a watershed protection easement or by fee title acquisition. The attached two exhibits show the watershed area and the general location of the property.

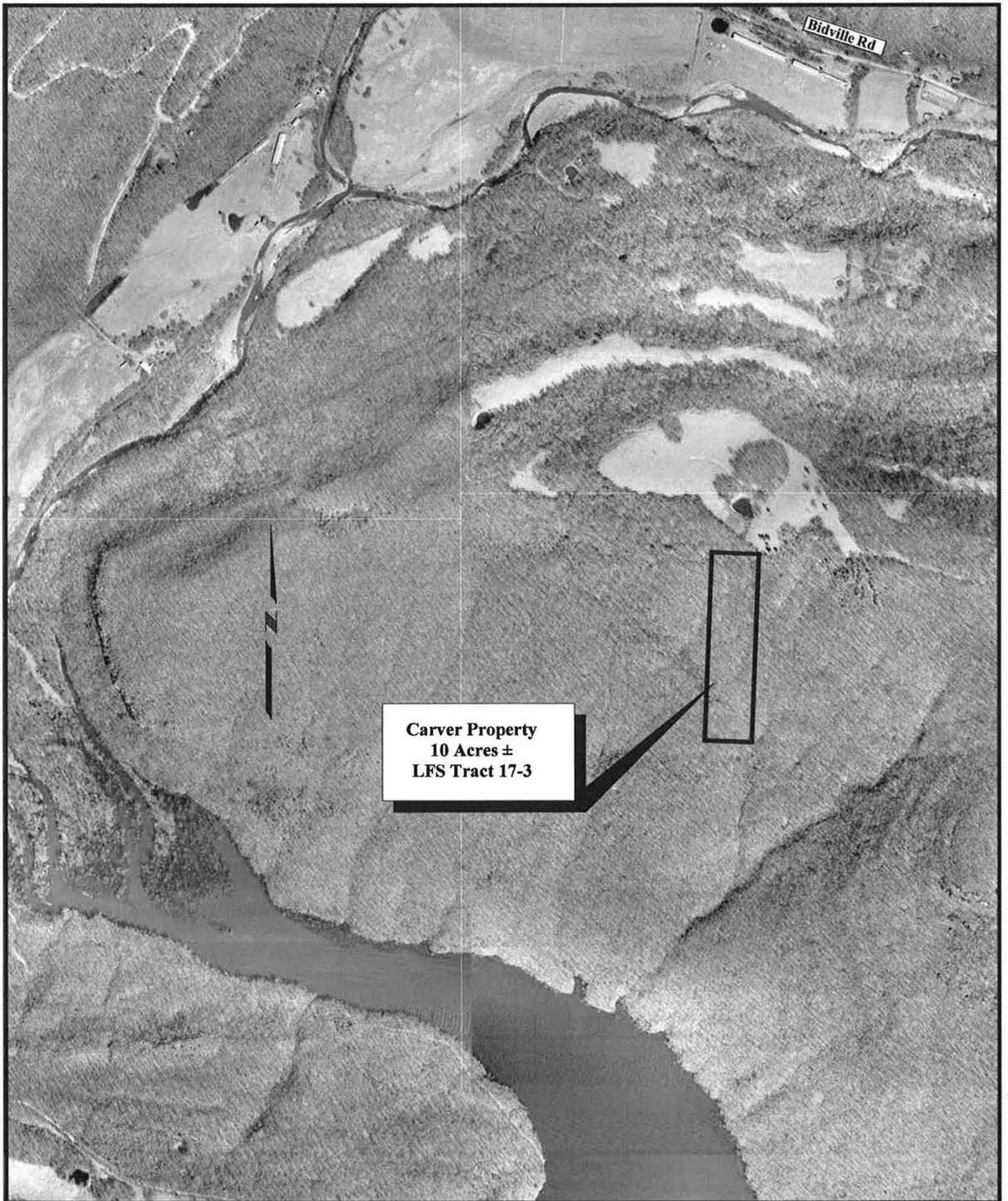
The city has been corresponding with Mr. and Mrs. Carver in an effort to purchase watershed restrictions on their property since August 2008. Recently, the Carver's offered to sell the property outright for \$15,000.00. The city's appraiser, Matthews and Associates, appraised the value of the property in August 2008 for \$10,000.00 or \$1,000.00 per acre. After further review and consideration, the Carver's reduced their asking price from \$15,000.00 to \$12,500.00 or \$2,500.00 above the city's appraised value.

Staff believes that the owner's offer to sell the property to the city for \$12,500.00 is reasonable compared to other properties purchased by the city and that the administrative costs associated with acquiring a watershed easement through other means is not the best alternative. Therefore, staff recommends that the Board approve this Resolution and accept the offer at its next regular scheduled meeting. Funding for watershed acquisitions is identified in the water and sewer capital improvement fund.

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

attachment

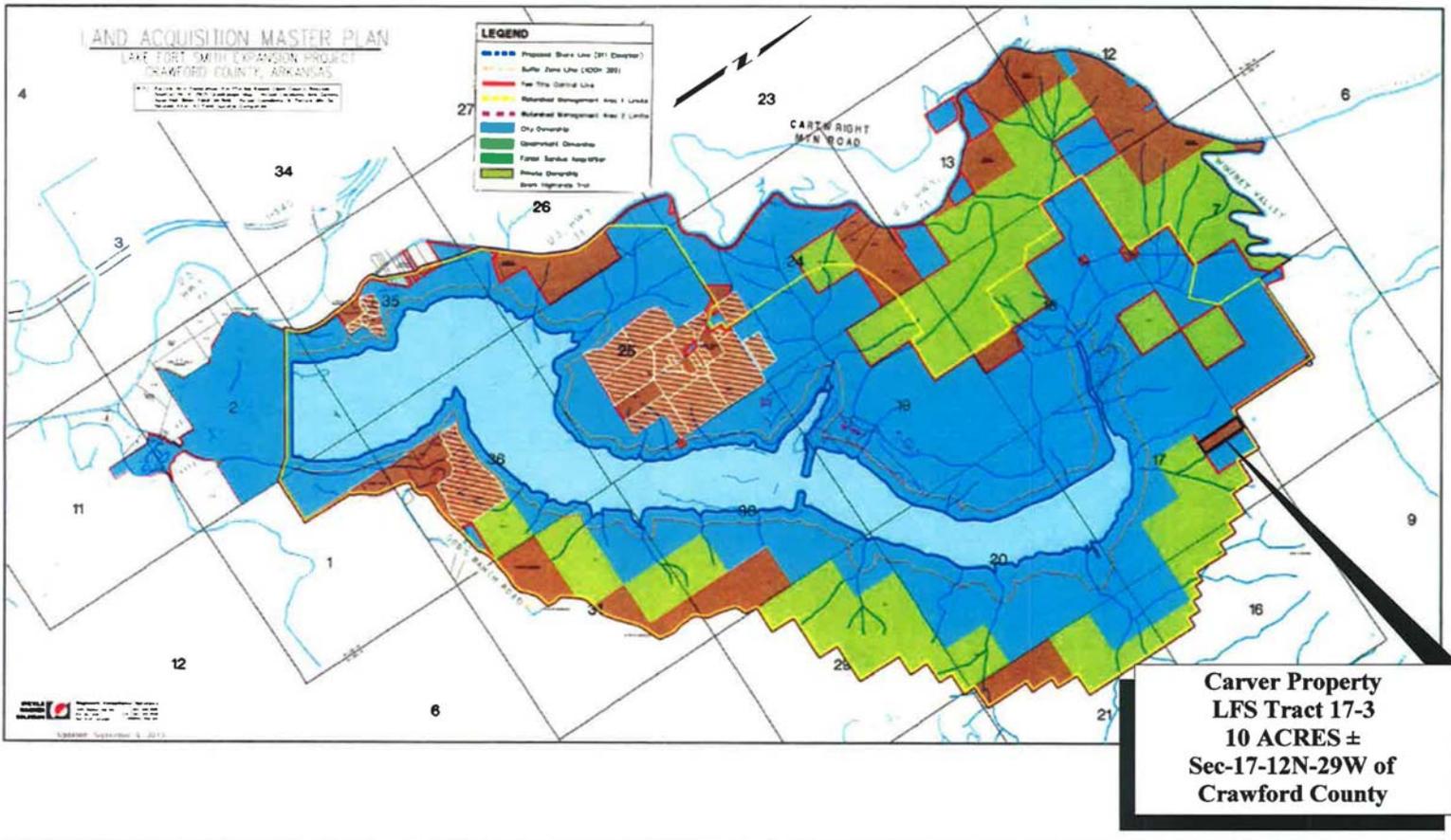
pc: Jeff Dingman



Bidville Rd

**Carver Property
10 Acres ±
LFS Tract 17-3**

**LAKE FORT SMITH WATER SUPPLY PROJECT NO 99-01
PROPOSED WATERSHED PROTECTION PURCHASE OF CARVER PROPERTY**



RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A SETTLEMENT AGREEMENT AND RELEASE WITH A PROPERTY OWNER FOR THE ACQUISITION OF REAL PROPERTY AND EASEMENT INTERESTS IN CONNECTION WITH THE SUNNYMEDE BASIN WET WEATHER FLOW MANAGEMENT IMPROVEMENTS

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

Section 1: The City Administrator is hereby authorized to execute a settlement agreement and release to conclude eminent domain cases CV-2008-127-V1 and CV-2008-128-V1 involving the following property owners:

<u>Tract</u>	<u>Owners</u>	<u>Amount</u>
Tract 2/3	Willie Mae Jeffrey Living Trust, Peggy Hinds Baker Living Trust & Joanne Swafford Living Trust	\$ 120,000.00

and to make a final payment for same in connection with the acquisition of 68 acres of real property and sewer easements designated as 06-04-P for the Sunnymede Basin Wet Weather Flow Management Improvements, Project Number 06-04-E2, said property being located at the east end of Grand Avenue, Fort Smith, Arkansas.

Section 2: The City Administrator is hereby authorized to execute a release of two sewer easements, grant two access easements and accept one access easement as set forth in Item 1 of the Settlement Agreement and Release.

This Resolution adopted this _____ day of September 2014.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: September 8, 2014

FROM: Steve Parke,  Director of Utilities

SUBJECT: Sunnymede Basin Wet Weather Flow Management
Improvements, Project Number 06-04

This project called for the construction of the new sewer pump station, equalization basin and sewer line on property owned by the Willie Mae Jeffrey Living Trust, Peggy Hinds Baker Living Trust and Joanne Swafford Living Trust. The property interests consisting of approximately 68 acres and two sewer easements were acquired by the process of eminent domain in January 2008.

After several attempts to reach a mutual agreement as to value, a settlement agreement has been reached and signed by the property owners. The agreement calls for total settlement of \$600,000.00, of which \$480,000.00 was deposited with the court and has already been paid to the owners. The \$120,000.00 is the balance due the owners under this agreement. Also included in the agreement, the city will release two sewer easements no longer needed, grant two access easements and accept an access easement. The basis for the additional \$120,000.00 is an estimated cost of \$72,000.00 to relocate a boat ramp on Sunnymede Creek lost in the acquisition and a 10 percent increase of \$48,000.00 above the city's appraisal value. The owners have an appraisal report that estimates the value of the property interests acquired by the city at \$1,400,000.00. Copies of the settlement agreement and the release along with a letter from the city attorney recommending the settlement is attached for your review.

Staff believes that this settlement agreement is reasonable and that the administrative costs associated with a trial is not the better alternative. Therefore, staff recommends that the Board approve the attached Resolution and accept the offer at its next scheduled meeting. The additional funding required is available from the 2012 sales tax and use tax bonds.

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

attachment

pc: Jeff Dingman

DAILY & WOODS

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

KMW BUILDING
58 SOUTH SIXTH STREET
P.O. BOX 1446
FORT SMITH, AR 72902
TELEPHONE (479) 782-0361
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JAMES E. WEST
PHILLIP E. NORVELL †

OF COUNSEL

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

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DOUGLAS M. CARSON, P.A.
ROBERT R. BRIGGS, P.A. †
C. MICHAEL DAILY, P.A. † ●
COLBY T. ROE, P.A.

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

September 5, 2014

Via email

Mr. Steve Parke
Director of Utilities
City of Fort Smith
Fort Smith, AR 72901

Re: Sunnymede Wastewater Improvement Project

City of Fort Smith v. Willie Mae Jeffrey Living Trust,
Sebastian County Circuit Court Case No. CV-2008-127 (VI)

City of Fort Smith v. Peggy Hinds Baker Living Trust and Joanne Swafford Living Trust,
Sebastian County Circuit Court Case No. CV-2008-128 (VI)

Dear Mr. Parke:

In connection with the Sunnymede Wastewater Project, the City instituted the two referenced eminent domain actions in order to acquire sanitary sewer easements and fee title owned by the landowners. The acquisitions include a total of approximately 68.19 acres being acquired in fee and 1.75 acres total in sanitary sewer easement. The cases have been consolidated for trial.

The City's appraiser initially estimated fair market value of the acquisitions at \$287,812.00. The Defendants' initial appraiser appraised the value of the acquisitions at \$330,000.00. The City subsequently retained the services of a second appraiser who estimated the fair market value of the acquisitions to be \$480,000.00. The Defendants subsequently changed attorneys and hired a new appraiser, who estimated the value of the acquisitions at \$1,447,000.00.

On February 27, 2013 the parties attended a mediation session, but did not reach a settlement at that time. There have been several attempts to settle this matter, which has now resulted in the landowners submitting settlement proposal which includes an additional payment of \$120,000.00 to the landowners plus the previous just compensation deposit of \$480,000.00 for a total of \$600,000.00. In addition, the settlement proposal includes the release of certain obsolete easements owned by the City and the grant by the landowners to the City of additional easements.

Because of the complexity, expected litigation costs and risks of litigation, we believe the

landowners' settlement proposal to be reasonable.

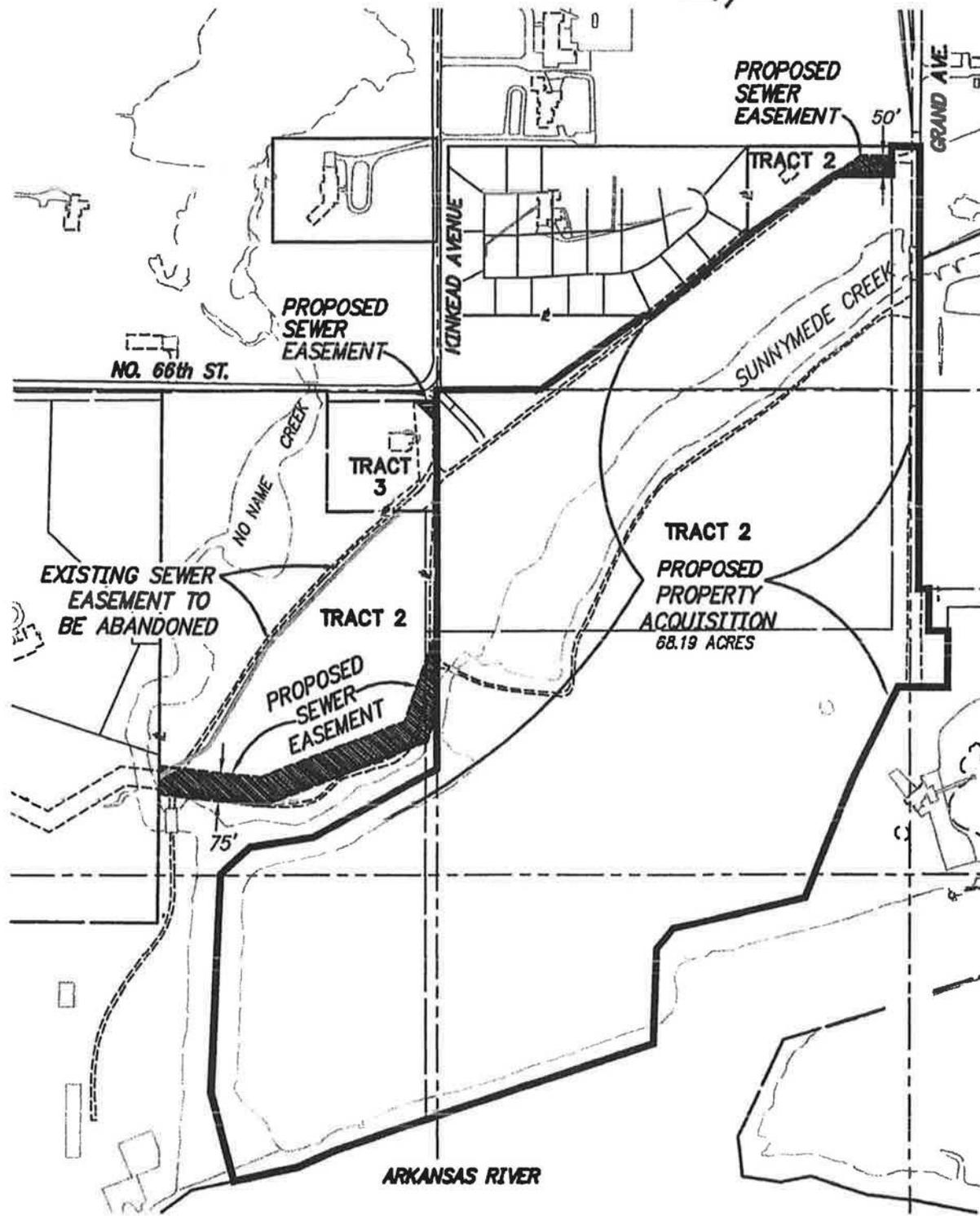
Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Briggs', written in a cursive style.

Robert R. Briggs

cc. Mr. Larry Guthrie via email



U:\DRAWINGS\PROJECTS\2006\061955\TB_Sunnymede_Relief_Sewer\exhibits\tract_2_and_3_for_board_presentation.dwg 12/12/07-10:40 AM LWS:ktf

HWEI Hawkins-Weir Engineers, Inc.
 Engineers Surveyors Consultants
 110 SOUTH, 7th ST • VAN BUREN, ARKANSAS • 72956
 PH. 479 474-1227 • FAX 479 474-8531
 www.hawkins-weir.com

TRACT 2, WILLIE MAE JEFFREY LIVING TRUST
TRACT 3, PEGGY HINDS BAKER LIVING TRUST
JOANNE JEFFREY SWAFFORD LIVING TRUST

DATE: 12/22/07 SCALE: 1" = 400' JOB NO. 06-11-E1

SETTLEMENT AGREEMENT and RELEASE

This Settlement Agreement and Release (“Agreement”) is made as of the _____ day of August, 2014, by and between the Willie Mac Jeffrey Living Trust (“Jeffrey Trust”), the Peggy Hinds Baker Living Trust (the “Baker Trust”) and Joanne Swafford Living Trust (the “Swafford Trust”)(collectively herein the Jeffrey Trust, Baker Trust, and Swafford Trust are sometimes referred to as the “3 Trusts”) and the City of Fort Smith, an Arkansas Municipal Corporation (“Fort Smith”).

WHEREAS, Jeffrey Trust and Fort Smith are engaged in the pending litigation in Sebastian County Circuit Court Case Number CV-2008-127-VI;

WHEREAS, Baker Trust, Swafford Trust, and Fort Smith are engaged in pending litigation in Sebastian County Circuit Court Case Number CV-2008-128-VI (collectively Case Numbers CV-2008-127-VI and CV2008-128-VI are referred to as the “Lawsuits”).

WHEREAS, the parties have settled all of their differences with one another, known and unknown, both as set forth in the Lawsuits and otherwise, as set forth herein.

NOW THEREFORE, in exchange of the consideration described herein, the sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

1. Basic Agreement.

- (A) The parties agree to the entry of a Consent Judgment in the Lawsuits affirming Fort Smith’s acquisitions of the property interests owned by the 3 Trusts and releasing any damage claims of the 3 Trusts against Fort Smith, said acquisitions being described in the Applications for Condemnation filed by Fort Smith in Civil Actions 2008-127-VI and 2008-128(VI);
- (B) Payment by Fort Smith to the 3 Trusts a total of \$600,000.00, \$480,000.00 of which has already been paid to the 3 Trusts through the registry of the Court for which Fort Smith shall receive credit. Accordingly, the balance due from Fort Smith to the 3 Trusts will be \$120,000.00;
- (C) Fort Smith shall grant the Jeffrey Trust the easements identified on Exhibits “A” and “B” attached hereto and incorporated herein. Fort Smith shall install, and the Jeffrey Trust shall maintain a sixteen (16) foot gate, to be in a closed and locked position, not to be opened or used by the Jeffrey Trust to allow ingress or egress to Fort Smith property, until such time that the Jeffrey Trust constructs the access drive over Easement B2 to the same in accordance with the other conditions of this Agreement. Said gate is to be installed with its center point being approximately ten (10) feet east of the point of beginning for Easement B2 identified on Exhibit “B” to this

Agreement. Upon the completion of the access drive over Easement B2, said gate shall be maintained in the closed and locked position except to be used by the Trust or its tenants for ingress and egress of slips at the boat dock and marina to be constructed by the Trust. The Trust shall not allow general public use of Easement B2 for boat launching or other purposes.

- (D) The Jeffrey Trust will grant to Fort Smith the easement described as Exhibit "C" attached hereto and incorporated herein;
- (E) Fort Smith shall release the Easement described on Exhibit "D" attached hereto and incorporated herein in favor of the Jeffrey Trust;
- (F) Fort Smith shall release the Sewer Easement in favor of the Baker Trust and Swafford Trust as shown as Exhibit "E" attached hereto and incorporated herein;
- (G) DELETED;
- (H) Fort Smith has extended the fence of a height of four (4) feet to connect to the fence of a height of eight (8) feet along Fort Smith's walking track adjacent to Sunnymede Creek. Within ninety (90) days of execution of this Settlement Agreement and Release, the City shall cause to be installed, at the City's expense, a four (4) feet wide gate in the near vicinity of the bridge walking path for the purpose of allowing entry to the bridge walking path from the Jeffrey Trust property;
- (I) Each party is responsible for their own attorney's fees and costs.

2. Release. The parties hereby release and forever discharge each other and their respective members, managers, officers, employees, beneficiaries, heirs, successors and assigns (the "Released Parties") from any and all actions, suits, payments, damages, claims and demands of whatsoever kind, at law or equity, which each had or has presently, or which may hereafter arise, or by reason of any other cause, matter or thing whatsoever from the beginning of the parties relationship with each other through the date of this Agreement, whether included and asserted in the Litigation and otherwise. The parties also specifically acknowledge that this Agreement includes but is not just related to those matters asserted in the Lawsuit. The parties are releasing, and hereby do release, the Released Parties generally from any and all actions, suits, payments, damages, claims and demands of whatsoever kind, at law or equity, of any and every kind, which each had, has presently, or which may hereafter arise, or by reason of any other cause, matter or thing whatsoever from

the beginning of the parties relationship with each other through the date of this Agreement, no matter what such matters relate to and no matter if they were contemplated at the time of this Agreement, and no matter if they are known or unknown at the time of this Agreement is signed. The parties agree that the future acts or omissions by the parties are not covered by the release described in this paragraph 2.

3. Covenant Not to Sue. The parties covenant and agree, on behalf of themselves as well as their directors, officers, shareholders, members, employees, agents, beneficiaries, heirs, successors and assigns (jointly and severally the "Releasing Parties"), to irrevocably bind all such parties to refrain from making any claim or demand, or to commence, cause or permit to be prosecuted any action in law or equity against any or all of the Released Parties on account of or pertaining in any way to any of the matters released as set forth in paragraph 2 above.
4. Covenant a Defense to Any Action. The parties expressly agree that this Agreement may be treated as a complete defense to any action or proceeding that may be brought, instituted or taken by any of the Releasing Parties against any of the Released Parties for any of the matters released as set forth in Paragraph 2 above, and shall forever be a complete bar to the commencement or prosecution of any such action or proceeding whatsoever, except for any breach under this Agreement.
5. Full and Final Settlement. The parties hereby acknowledge that they fully understand the terms of this Agreement, that this document is a complete integration of the terms of the settlement, and that they have entered into this Agreement with the intention that it be a full and final compromise and settlement of all claims by the Releasing Parties against the Released Parties. Each person signing this Agreement warrants and represents that he or she has read it and understands what it says and means.
6. Joint Preparation. Each of the parties to this Agreement is willing to and does assume joint responsibility for the form and composition of each and all of the contents of this Agreement. They further agree that the terms of this Agreement shall be interpreted and construed as though each of them participated equally in its preparation.
7. Binding Nature. This Agreement shall be binding upon the directors, officers, members, managers, employees, agents, successors, personal representatives, executors, heirs and assigns of the parties.
8. Warranty and Representation. Each person signing this Agreement

warrants and represents that he or she is fully authorized by all necessary meeting, actions and/or consents, to sign this Agreement on behalf of the entity for which he or she is signing, and to bind such entity to the terms hereof, and to indemnify the other party for all damages or claims (including without limitation attorney's fees) resulting from breach of said representation and warranty, all of which shall survive closing.

9. Notwithstanding anything provided herein, Fort Smith's agreement to enter into this Settlement Agreement and Release is specifically conditioned upon the final approval by the City of Fort Smith Board of Directors.

Willie Mae Jeffrey Living Trust

By: Joanne Swafford

Joanne Swafford Living Trust

By: Joanne Swafford

Peggy Hinds Baker Living Trust

By: Peggy Hinds - Baker

City of Fort Smith, Arkansas

By: _____

ACKNOWLEDGMENT

State of Arkansas)
)
County of Sebastian)

On this 28 day of August, 2014, before me, the undersigned officer, personally appeared Joanne Swafford, Peggy Hinds Baker, of Willie Mae Jeffrey Living Trust, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that, after having first been duly authorized, he/she executed the same on behalf of the said Willie Mae Jeffrey Living Trust for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

LAURA RINGELE
NOTARY PUBLIC-ARKANSAS
SEBASTIAN COUNTY
COMMISSION NO. 12397783
COMMISSION EXP. 03-07-2024

Laura Ringele
Notary Public

My Commission Expires:

ACKNOWLEDGMENT

State of Arkansas)
County of Sebastian)

On this 28 day of August, 2014, before me, the undersigned officer, personally appeared Peggy Hinds Baker, of the Peggy Hines Baker Living Trust, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that, after having first been duly authorized, he/she executed the same on behalf of the said Peggy Hines Baker Living Trust, for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

LAURA RINGELE
NOTARY PUBLIC-ARKANSAS
SEBASTIAN COUNTY
COMMISSION NO. 12397783
COMMISSION EXP. 03-07-2024

Laura Ringele
Notary Public

My Commission Expires:

ACKNOWLEDGMENT

State of Arkansas)
County of Sebastian)

On this 28 day of August, 2014, before me, the undersigned officer, personally appeared Joanne Swafford, of the Joanne Swafford Living Trust, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that, after having first been duly authorized, he/she executed the same on behalf of the said Joanne Swafford Living Trust, for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

LAURA RINGELE
NOTARY PUBLIC-ARKANSAS
SEBASTIAN COUNTY
COMMISSION NO. 12397783
COMMISSION EXP. 03-07-2024

Laura Ringele
Notary Public

My Commission Expires:

ACKNOWLEDGMENT

State of Arkansas)
)
County of _____)

On this _____ day of August, 2014, the undersigned Notary Public within and for the County and State aforesaid, duly commissioned and acting, appeared in person, STEVE PARKE, DIRECTOR OF UTILITIES for the City of Fort Smith, Arkansas, well known to me to be the person whose name is subscribed to the foregoing instrument and that he acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

ACCESS EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the CITY OF FORT SMITH, ARKANSAS, a municipal corporation, GRANTOR, for and in consideration of the sum of \$1.00 and other good and valuable considerations, to it in hand paid by, _____, Trustee of the Willie Mae Jeffrey Living Trust hereinafter called GRANTEE, the receipt of all of which is hereby acknowledged, does hereby grant, bargain, sell and convey, unto the said GRANTEE, a non-transferable and conditional Easement for Access to and from, over, across, under and upon the following described lands lying in the Fort Smith District of Sebastian County, Arkansas, to wit;

Part of the NE/4, NW/4 of Section 13, T-8-N, R-32-W, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the Southeast of said NE/4, NW/4; thence N00°01'20"W along the east line of said NE/4, NW/4, 1,245.58'; thence S89°57'19"W 604.40' to the Point of Beginning; thence continuing S89°57'21"W 21.28'; thence N12°41'21"W 13.41'; thence N25°35'26"W 11.68' to the south line of a Mutual Access and Utility Easement, platted as part of Tract 1, Arkhola-Jeffrey Plat, (filed for record 01/03/1995); thence S89°51'52"E along said south line of Mutual Access and Utility Easement, 36.63; thence S24°28'39"W 12.03'; thence S10°43'30"W 12.78' to the point of Beginning, containing 646 square feet or 0.01 acre more or less.

As shown on Exhibit "A" attached hereto and hereby incorporated herein.

TO HAVE AND TO HOLD said Access Easement unto said GRANTEE, forever, unless and until North 66th Street is extended to Grand Avenue for public use, which in such event, the easement granted herein shall revert to the City of Fort Smith, Arkansas.

The consideration paid by the GRANTEE is received and accepted by the GRANTOR in full satisfaction of every right hereby conveyed.

**Exhibit "A" to
Settlement Agreement and Release**

IN WITNESS WHEREOF, the GRANTOR herein has hereunto caused these presents to be executed on this _____ day of _____, 2014.

GRANTOR:

City of Fort Smith, Arkansas

By: _____
Ray Gosack, City Administrator

Attest:

By: _____
Sherri Gard, City Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF SEBASTIAN)

On this the _____ day of _____, 2014, before me, _____, the undersigned officer, personally appeared Ray Gosack and Sherri Gard, who acknowledged themselves to be the City Administrator and the City Clerk, respectively, of the City of Fort Smith, Arkansas, a municipal corporation, and that they, as such City Administrator and City Clerk, respectively, being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as City Administrator and City Clerk, respectively.

In witness whereof I hereunto set my hand and official seal.

My commission expires: _____

SCALE: 1"=50'

GRAND AVENUE

MUTUAL ACCESS & UTILITY EASEMENT
FROM PLAT OF ARKHOLA-JEFFREY,
TRACT 1, FILED FOR RECORD 01-03-95

ACCESS EASEMENT
CITY OF FORT SMITH TO
WILLIE MAE JEFFREY,
LIVING TRUST

SUNNYMEDE PUMP STATION
20' ACCESS DRIVE

SANITARY SEWER EASEMENT

CITY OF FORT SMITH
PROPERTY

WILLIE MAE JEFFREY,
LIVING TRUST PROPERTY

LEGEND:

▬ PROPERTY LINE

U:\DRAWINGS\PROJECTS\2012\2012124 SUNNYMEDE EXPERT WITNESS\JEFFREY-EXHIBIT A.DWG, 1/2/2014 10:35 AM, STEVE HENDRIX, LAYOUT

HW HAWKINS WEIR
ENGINEERS, INC.

110 South 7th Street • Van Buren, Arkansas 72956 • (479) 474-1227
211 Natural Resources Drive • Little Rock, Arkansas 72205 • (501) 374-4846
www.hawkins-weir.com

EXHIBIT A
ACCESS EASEMENT
SUNNYMEDE PUMPING STATION SITE
FOR: THE CITY OF FORT SMITH

DATE: 12/20/13

SCALE: 1"= 50'

JOB NO. 2012124

ACCESS EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the CITY OF FORT SMITH, ARKANSAS, a municipal corporation, GRANTOR, for and in consideration of the sum of \$1.00 and other good and valuable considerations, to it in hand paid by, _____, Trustee of the Willie Mae Jeffrey Living Trust hereinafter called GRANTEE, the receipt of all of which is hereby acknowledged, does hereby grant, bargain, sell and convey, unto the said GRANTEE, non-transferable and conditional Easements for Access to and from, over, across, under and upon the following described lands lying in the Fort Smith District of Sebastian County, Arkansas, to wit;

Easement B1

Part of the NE/4, NW/4 and part of the NW/4, NE/4 all in Section 13, T-8-N, R-32-W, Fort Smith, Sebastian County, Arkansas, said easement being 10' wide on each side of the centerline more particularly described as follows:

Commencing at the SE corner of said NE/4, NW/4, Section 13; thence N00°01'20"W along the east line of said NE/4, NW/4, 157.61'; thence N89°59'40"E 36.79' to the Point of Beginning, said point being the end of an existing access drive; thence along the centerline of said access drive the next (4) courses: N00°07'43"W 120.65'; along a curve to the left having a central angle of 37°08'26" and a radius of 100.00' to a point subtended by a chord bearing and distance of N18°41'56"W 63.69'; N37°16'09"W 450.59'; N35°59'03"W 559.94' to the Point of Termination, containing 23,920 square feet or 0.55 acre more or less.

-and-

Easement B2

Part of the NW/4, NE/4 of Section 13, T-8-N, R-32-W, Fort Smith, Sebastian County, Arkansas, said easement being 10' wide on each side of the centerline more particularly described as follows:

Commencing at the SW corner of said NW/4, NE/4, Section 13; thence N89°56'14"E along the south line of said NW/4, NE/4, 41.86' to the Point of Beginning; thence N00°07'43"W 24.00'; thence N13°56'17"W 20.00'; thence N00°07'43"W 114.18' to the Point of Termination, containing 3,164 square feet or 0.07 acre more or less.

-and-

*Exhibit "B" to
Settlement Agreement and Release*

Easement B3

Part of the NE/4, NW/4 of Section 13, T-8-N, R-32-W, Fort Smith, Sebastian County, Arkansas, said easement being 10' wide on each side of the centerline more particularly described as follows:

Commencing at the SE corner of said NE/4, NW/4, Section 13; thence N00°01'20"W along the east line of said NE/4, NW/4, 285.55'; thence N35°36'44"W 172.95' to the Point of Beginning; thence N52°43'51"E 29.98' to the Point of Termination, containing 600 square feet or 0.01 acre more or less.

-and-

Easement B4

Part of the NE/4, NW/4 of Section 13, T-8-N, R-32-W, Fort Smith, Sebastian County, Arkansas, said easement being 10' wide on each side of the centerline more particularly described as follows:

Commencing at the SE corner of said NE/4, NW/4, Section 13; thence N00°01'20"W along the east line of said NE/4, NW/4, 285.55'; thence N35°36'44"W 345.90'; thence N00°05'10"E 23.26'; thence N40°04'25"W 341.14'; thence N34°39'41"W 208.31' to the Point of Beginning; thence N55°20'19"E 27.72' to the Point of Termination, containing 554 square feet or 0.01 acre more or less.

As shown on Exhibit "B" (2 pages) attached hereto and hereby incorporated herein.

TO HAVE AND TO HOLD said Access Easements unto said GRANTEE, forever, provided, however, the said Access Easements are subject to the following conditions:

- A. Said Access Easements shall terminate and the subject rights shall revert to Grantor at the time that Grantor, or its permittee or contractor shall initiate construction of a public street (known as North 60th Street or otherwise) for public use utilizing, in whole or in part, the real property corridor on which Easement B1 or Easement B2 is located;
- B. The access use of Easement B1 and Easement B2 is limited to access for passenger vehicles, light trucks and boat trailers not in excess of ten (10) feet in width so that all construction vehicles and heavy equipment are prohibited and no blockage of the identified access easements shall be permitted;
- C. In the event Grantee obtains approval for and operates a boat dock and marina on

Jeffrey Trust Residual Property 1 (as shown on Exhibit B, pages 1 and 2), Grantee shall have the right to construct and maintain, at its expense, a driveway, meeting City of Fort Smith driveway standards, on Easement B2 and to install and maintain, at its expense, a locked gate with a width of sixteen (16) feet at the intersection of Easement B2 and the Jeffrey Trust Residual Property 1. The locked gate and easement B2 may, in that event, be used by Grantor and tenants of slips at the boat dock and marina, but Grantee shall not allow general public access use of Easement B2 for the purpose of boat launching from Jeffrey Trust Residual Property 1;

- D. In the event Grantee obtains approval for a subdivision of Jeffrey Trust Residual Property 1, in whole or in part, and unless a driveway has previously been constructed pursuant to Condition C, Grantee shall have the right to construct and maintain, at its expense, a driveway, meeting City of Fort Smith driveway standards, on Easement B2 and to install and maintain, at its expense, a locked gate with a width of sixteen (16) feet at the intersection of Easement B2 and Jeffrey Trust Residual Property 1. Subsequent to construction of the private or public rights-of-way servicing the lots of the subdivision, in whole or in part, Grantee's right to use Easements B1 and B2 pursuant to this Access Easement (Exhibit B) shall terminate and the subject rights shall revert to Grantee;
- E. All construction caused to be accomplished by Grantee utilizing Easements B1 and B2 shall comply with all city, state and federal policies, ordinances, restrictions and guidelines, and Grantee shall hold Grantor harmless from and shall indemnify Grantor against any claims or costs arising from or associated with said construction; and,
- F. This Access Easement (Exhibit B) shall terminate on the twentieth (20th) anniversary of the date of execution hereof by Grantor.

The consideration paid by the GRANTEE is received and accepted by the GRANTOR in full satisfaction of every right hereby conveyed.

IN WITNESS WHEREOF, the GRANTOR herein has hereunto caused these presents to be executed on this _____ day of _____, 2014.

GRANTOR:

City of Fort Smith, Arkansas

By: _____

Ray Gosack, City Administrator

Attest:

By: _____
Sherri Gard, City Clerk

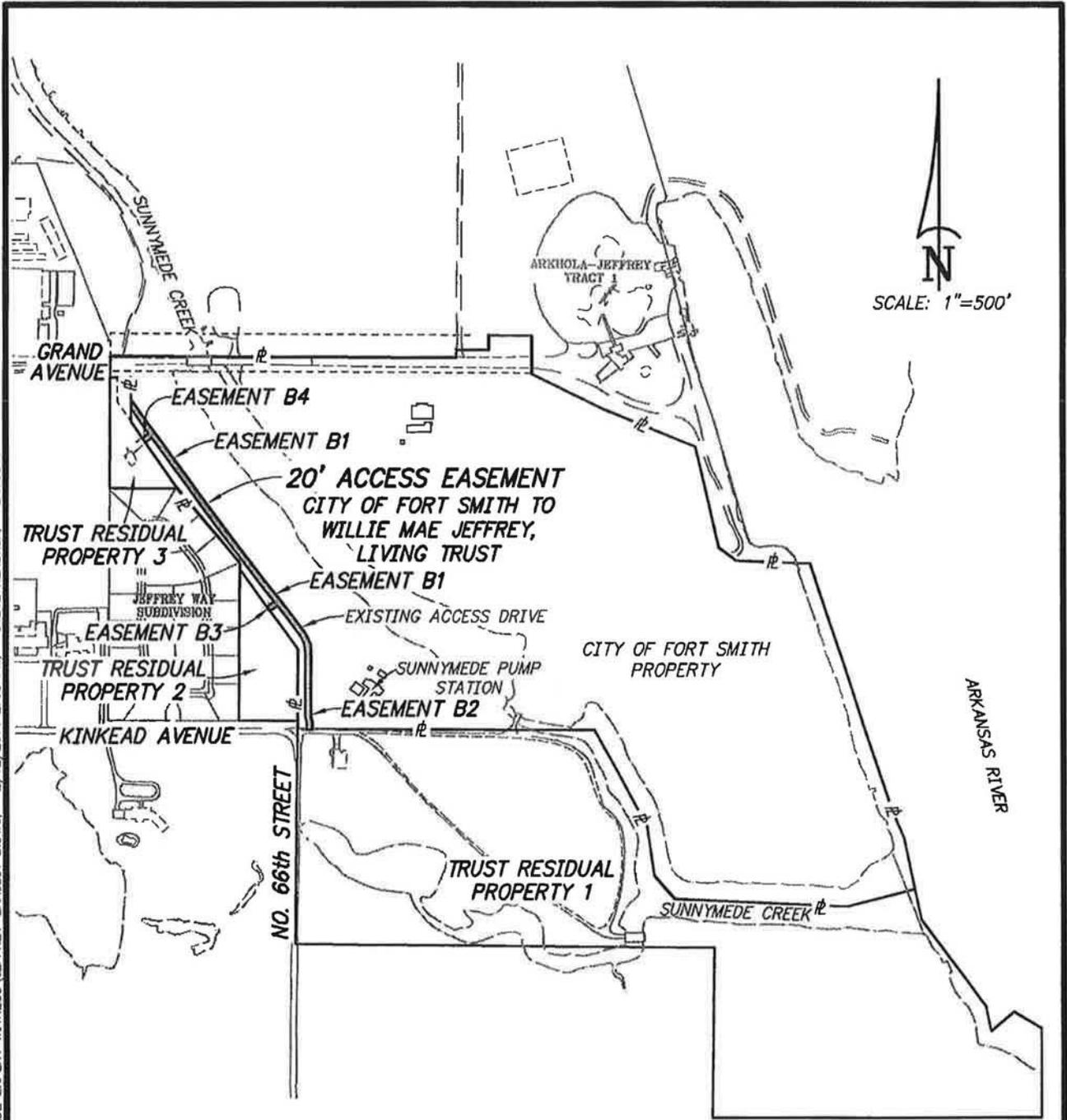
ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF SEBASTIAN)

On this the ____ day of _____, 2014, before me, _____, the undersigned officer, personally appeared Ray Gosack and Sherri Gard, who acknowledged themselves to be the City Administrator and the City Clerk, respectively, of the City of Fort Smith, Arkansas, a municipal corporation, and that they, as such City Administrator and City Clerk, respectively, being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as City Administrator and City Clerk, respectively.

In witness whereof I hereunto set my hand and official seal.

My commission expires: _____



SCALE: 1"=500'

U:\DRAWINGS\PROJECTS\2012\2012124 SUNNYMEDE EXPERT WITNESS\JEFFREY-EXHIBIT B.DWG, 2/12/2014 2:08 PM, STEVE HENDRIX, LAYOUT

LEGEND:
 Ⓡ PROPERTY LINE

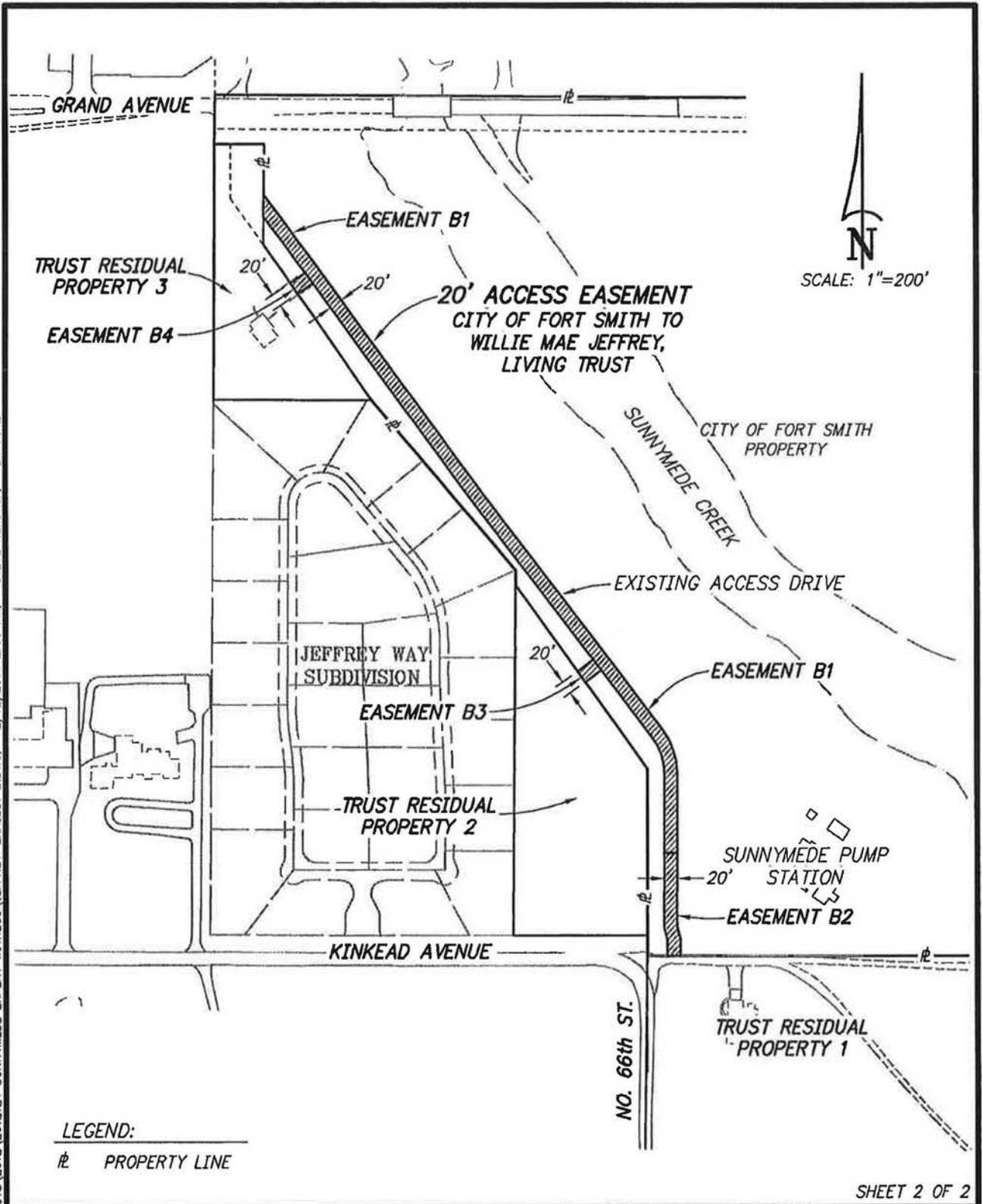
SHEET 1 OF 2

HW HAWKINS & WEIR
 ENGINEERS, INC.

110 South 7th Street • Van Buren, Arkansas 72956 • (479) 474-1227
 211 Natural Resource Drive • Little Rock, Arkansas 72205 • (501) 374-4846
 www.hawkins-weir.com

EXHIBIT B
20' ACCESS EASEMENT
SUNNYMEDE PUMPING STATION SITE
 FOR: THE CITY OF FORT SMITH

DATE: 01/31/14 SCALE: 1"= 500' JOB NO. 2012124



U:\DRAWINGS\PROJECTS\2012\2012124 SUNNYMEDE EXPERT WITNESS\JEFFREY-EXHIBIT B.DWG. 2/12/2014 2:09 PM. STEVE HENDRIX, LAYOUTZ

HW HAWKINS WEIR ENGINEERS, INC.
 110 South 7th Street • Van Buren, Arkansas 72936 • (479) 474-1227
 211 Natural Resources Drive • Little Rock, Arkansas 72205 • (501) 374-4846
 www.hawkins-weir.com

DATE: 01/31/14			SCALE: 1"= 200'			JOB NO. 2012124		
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SHEET 2 OF 2

ACCESS EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That _____, Trustee of the Willie Mae Jeffrey Living Trust, GRANTOR, for and in consideration of the sum of \$1.00 and other good and valuable considerations, to it in hand paid by, the CITY OF FORT SMITH, ARKANSAS, a municipal corporation, hereinafter called GRANTEE, the receipt of all of which is hereby acknowledged, does hereby grant, bargain, sell and convey, unto the said GRANTEE, its successors and assigns a Permanent Easement for Access to and from, of unrestricted nature, together with the right to excavate, fill, grade and level the surface area and to remove trees, bushes, undergrowth or other obstructions, over, across, under and upon the following described lands lying in the Fort Smith District of Sebastian County, Arkansas, to wit;

Part of the NE/4, NW/4 of Section 13, T-8-N, R-32-W, Fort Smith, Sebastian County, Arkansas, said easement being 10' wide on each side of the centerline more particularly described as follows:

Commencing at the Southeast corner of said NE/4, NW/4; thence N00°01'20"W along the east line of said NE/4, NW/4, 1,245.58'; thence S89°57'19"W 615.53' to the Point of Beginning; thence S09°49'33"E 45.42'; thence along a curve to the left having a central angle of 26°09'32" and a radius of 110.00' to a point subtended by a chord bearing and distance of S22°54'19"E 49.79'; thence S35°59'05"E 5.20' to the Point of Termination, containing 2,016 square feet or 0.05 acre more or less.

As shown on Exhibit "C" attached hereto and hereby incorporated herein.

TO HAVE AND TO HOLD said Access Easement unto said GRANTEE, its successors and assigns forever.

The consideration paid by the GRANTEE is received and accepted by the GRANTOR in full satisfaction of every right hereby conveyed.

**Exhibit "C" to
Settlement Agreement and Release**

IN WITNESS WHEREOF, the GRANTOR herein has hereunto caused these presents to be executed on this _____ day of _____, 2014.

GRANTOR:

By: _____, Trustee of
the Willie Mae Jeffrey Living Trust

ACKNOWLEDGMENT

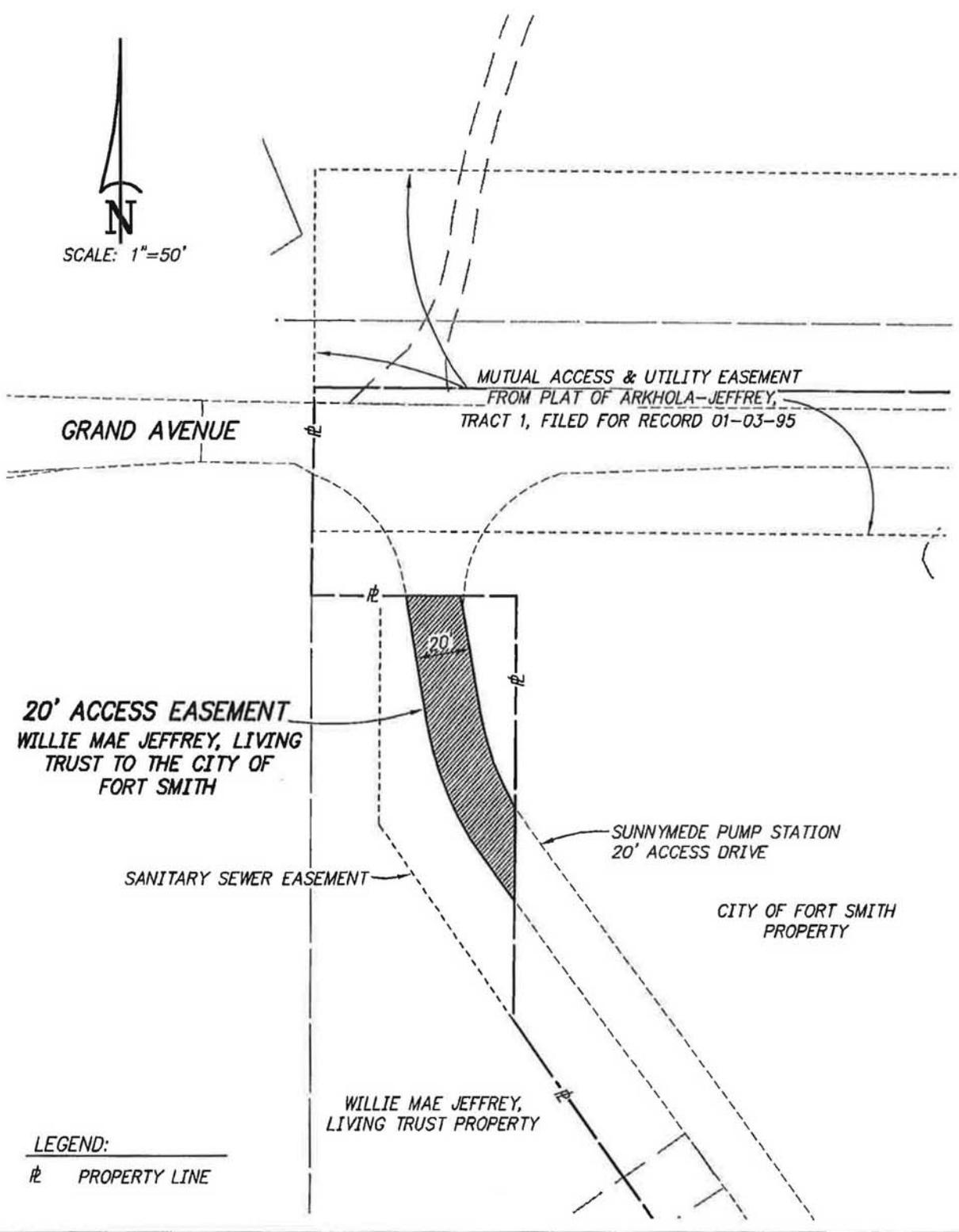
STATE OF ARKANSAS)
)
COUNTY OF SEBASTIAN)

I, the undersigned, a Notary Public, duly commissioned, qualified, and acting within and for said County and State, hereby certify the execution of the foregoing instrument by the within named _____, Trustee of the Willie Mae Jeffrey Living Trust, as the GRANTOR, for the consideration and purposes therein mentioned and set forth on this ___ day of _____, 2014.

Notary Public

My Commission Expires:

SCALE: 1"=50'



U:\DRAWINGS\PROJECTS\2012\2012124 SUNNYMEDE EXPERT WITNESS\JEFFREY-EXHIBIT C.DWG. 1/2/2014 10:37 AM. STEVE HENDRIX, LAYOUT

20' ACCESS EASEMENT
WILLIE MAE JEFFREY, LIVING TRUST TO THE CITY OF FORT SMITH

SANITARY SEWER EASEMENT

MUTUAL ACCESS & UTILITY EASEMENT FROM PLAT OF ARKHOLA-JEFFREY, TRACT 1, FILED FOR RECORD 01-03-95

SUNNYMEDE PUMP STATION
20' ACCESS DRIVE

CITY OF FORT SMITH PROPERTY

WILLIE MAE JEFFREY, LIVING TRUST PROPERTY

LEGEND:
R PROPERTY LINE

HW HAWKINS WEIR ENGINEERS, INC.
 110 South 7th Street • Van Buren, Arkansas 72956 • (479) 474-1227
 211 Natural Resources Drive • Little Rock, Arkansas 72205 • (501) 374-4846
 www.hawkins-weir.com

EXHIBIT C
20' ACCESS EASEMENT
SUNNYMEDE PUMPING STATION SITE
 FOR: THE CITY OF FORT SMITH

DATE: 12/30/13 SCALE: 1"= 50' JOB NO. 2012124

RELEASE OF EASEMENT

KNOW ALL BY THESE PRESENTS:

This Release of Easement is executed by the City of Fort Smith, Arkansas, an Arkansas municipal corporation, in consideration for the mutual promises and other good and valuable consideration, received from the Willie Mae Jeffrey Living Trust, the Peggy Hinds Baker Living Trust, and the Joanne Swafford Living Trust (collectively the "Trusts"), the receipt of which is hereby acknowledged.

RECITALS

WHEREAS, the Trusts are the current owners of real property situated in the Fort Smith District of Sebastian County, Arkansas, currently encumbered by the Easement recorded in Book 2006, Page 128, in the real property records of the Fort Smith District of Sebastian County, Arkansas, a true and correct copy of which is attached hereto and incorporated herein as Exhibit "1."

WHEREAS, the City of Fort Smith, Arkansas, in agreement for the settlement of certain pending litigation between the parties, has agreed to release the Easement described herein.

NOW, THEREFORE, for the consideration described herein, the City of Fort Smith, Arkansas, hereby releases and discharges of record the following Easement:

1. Easement executed by W.D. Jeffreys and Mae Jeffreys in favor of the City of Fort Smith, Arkansas, recorded in Book 226, Page 128 in the real property records of the Fort Smith District of Sebastian County, Arkansas.

IN WITNESS WHEREOF, the City of Fort Smith, Arkansas, by its City Administrator and attested by its City Clerk, duly authorized by Resolution of its Board of Directors has hereunto signed its corporate name on this ____ day of _____, 2014.

CITY OF FORT SMITH, ARKANSAS

Attest:

By: _____
Sherri Gard, City Clerk

By: _____
Ray Gosack, City Administrator

**Exhibit "D" to
Settlement Agreement and Release**

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF _____)

On this the ____ day of _____, 2014, before me, _____, the undersigned officer, personally appeared Ray Gosack and Sherri Gard, who acknowledged themselves to be the City Administrator and the City Clerk, respectively, of the City of Fort Smith, Arkansas, a municipal corporation, and that they, as such City Administrator and City Clerk, respectively, being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as City Administrator and City Clerk, respectively.

In witness whereof I hereunto set my hand and official seal.

My commission expires:

City of Fort Smith
Public Works Fund
Land & Light

CIRCUIT CL.

226/129

1966

220-H-6-13

EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That, W. D. Jefferys

for and in consideration of the sum of \$4,200.00 of ~~money~~ and other good and valuable consideration to us in hand paid by the CITY OF FORT SMITH, ARKANSAS, a municipal corporation, the receipt of which is hereby acknowledged, do hereby grant, give, sell, convey, transfer and deliver unto the CITY OF FORT SMITH, its successors and assigns, a permanent easement and right of way 10 feet in width (hereinafter described) including the perpetual right to enter hereupon at any time it may see fit for the purpose of constructing, maintaining, removing, relaying and repairing sewer lines with all appurtenances thereto, together with the right to excavate and refill ditches and/or trenches for the location of said lines and the further right to remove trees, brush, undergrowth and/or other obstructions interfering with the location, construction and maintenance of the said lines and all appurtenances thereto over, under and upon the following described land lying and being situated in the Fort Smith District of Sebastian County, Arkansas, to-wit:

A strip of land 10 feet wide, the center line of which is described as follows: Beginning at a point 278.0' West and 600.0' North of the Southeast corner of the Southwest Quarter of the Northeast Quarter of Section 13, Township 8 North, Range 32 West; running thence North 28° West 133.0' to a point; thence North 47° 00' West 715.0' to a point; thence North 44° 15' West 385.0' to a point; thence North 33° 45' West 275.0' to a point; thence North 37° 15' West 628.0' to a point; thence North 26° 45' West 550.0' to a point; thence North 0° 45' West 505.0' to a point; thence North 40° 45' West 585.0' to a point; thence North 32° 15' West 502.0' more or less to the Northeast corner of the Southwest Quarter of the Southwest Quarter of Section 12, Township 8 North, Range 32 West.

129

TO HAVE AND TO HOLD said easement unto the said CITY OF FORT SMITH, ARKANSAS, its successors and assigns forever.

It is agreed that the City of Fort Smith, its contractors, servants, agents and employees shall have the temporary right for a period of twelve months from date or until completion and acceptance by the City of the work to enter upon and use an additional 70 foot strip either side of the permanent easement hereinabove granted for the purpose of the construction of the sewage lines.

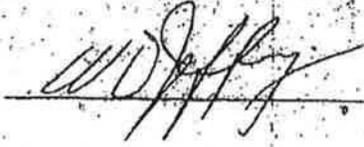
The grantors shall have the right of use of the surface of such land contained within the permanent easement so long as the use of said land does not interfere with the easement herein granted and the rights of the City of Fort Smith thereunder; provided, however, that grantor will not erect or construct any building or other structure within the strip of land covered by this easement without first having obtained written approval of the City Engineer of the City of Fort Smith, Arkansas. The approval of the City Engineer will not be unreasonably withheld. However, any such buildings or structures will be designed and constructed in such manner as to not interfere with the use and maintenance by the City of the sewer lines.

It is specifically understood and agreed that the City of Fort Smith will, after completion of construction, restore the land along the easement or affected by the construction, to substantially the same condition as it is at the date this easement is executed.

As additional consideration the grantee, City of Fort Smith, agrees that upon completion and acceptance of this project and upon the new sewer lines becoming fully operational that it will abandon the existing sewer lines which form a part of Sewer District Nos. 19 and 20 across the grantor's property between the new line and the outlet in the Arkansas River and that the City of Fort Smith will not remove the sewer lines from the abandoned easements and lines.

The consideration paid by the City of Fort Smith is received and accepted by the grantors in full satisfaction of every right hereby conveyed; it is agreed, however, that within a reasonable time after the completion of construction of said sewer lines the City of Fort Smith obligates itself to pay to the grantors all actual damages to crops, fences and timber caused by the construction of said sewer lines and thereafter to pay all actual damages to crops, timber and fences done by it in the maintenance and/or repair of such sewer lines.

WITNESS our hands this 2nd day of March, 19



And I, MAR JEFFREY, wife of the said

W. D. JEFFREY, for and in consideration of the sum of money, do hereby release and relinquish unto the City of Fort Smith, Arkansas, all my right of dower and homestead in and to said lands.

Mrs. Jeffrey

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF CRAWFORD ss

On this 2ND day of March, 1966, before me, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named W. D. JEFFREY to me personally well known as the persons whose names appear upon the within and foregoing instrument and stated that they had executed the same for the consideration and purpose therein mentioned and set forth, and I do hereby so certify.

And I further certify that on the same day voluntarily appeared before me MAR JEFFREY, wife of the said W. D. JEFFREY, to me well known to be the person whose name appears upon the within and foregoing deed, and in the absence of her said husband, stated and declared that she had of her own free will executed said easement and had signed the relinquishment of dower and homestead therein expressed for the purpose and consideration therein contained and set forth, without compulsion or undue influence of her said husband.

In testimony whereof, I have hereunto set my hand and official seal this 2nd day of March, 1966

Mary L. Gibson
Notary Public
(Mrs.) Mary L. Gibson

My Commission Expires:
2-26-1968



RELEASE OF SEWER EASEMENT

KNOW ALL BY THESE PRESENTS:

This Release of Sewer Easement is executed by the City of Fort Smith, Arkansas, an Arkansas municipal corporation, in consideration for the mutual promises and other good and valuable consideration, received from the Peggy Hinds Baker Living Trust and the Joanne Swafford Living Trust (collectively the "Trusts"), the receipt of which is hereby acknowledged.

RECITALS

WHEREAS, the Trusts are the current owners of real property situated in the Fort Smith District of Sebastian County, Arkansas, currently encumbered by the Sewer Easement dedicated to the City of Fort Smith on the plat for Lot 1, Flocks Addition to the City of Fort Smith recorded on March 8, 1996 as Plat 1404, in the real property records of the Fort Smith District of Sebastian County, Arkansas.

WHEREAS, the City of Fort Smith, Arkansas, in agreement for the settlement of certain pending litigation between the parties, has agreed to release the Sewer Easement described herein.

NOW, THEREFORE, for the consideration described herein, the City of Fort Smith, Arkansas, hereby releases and discharges of record the Sewer Easement dedicated to the City of Fort Smith on the plat for Lot 1, Flocks Addition to the City for Fort Smith recorded on March 8, 1996, in Plat Book 1404, in the real property records of the Fort Smith District of Sebastian County, Arkansas, which Sewer Easement is depicted on the attached Exhibit "E."

IN WITNESS WHEREOF, the City of Fort Smith, Arkansas, by its City Administrator and attested by its City Clerk, duly authorized by Resolution of its Board of Directors has hereunto signed its corporate name on this ____ day of _____, 2014.

CITY OF FORT SMITH, ARKANSAS

Attest:

By: _____
Sherri Gard, City Clerk

By: _____
Ray Gosack, City Administrator

**Exhibit "E" to
Settlement Agreement and Release**

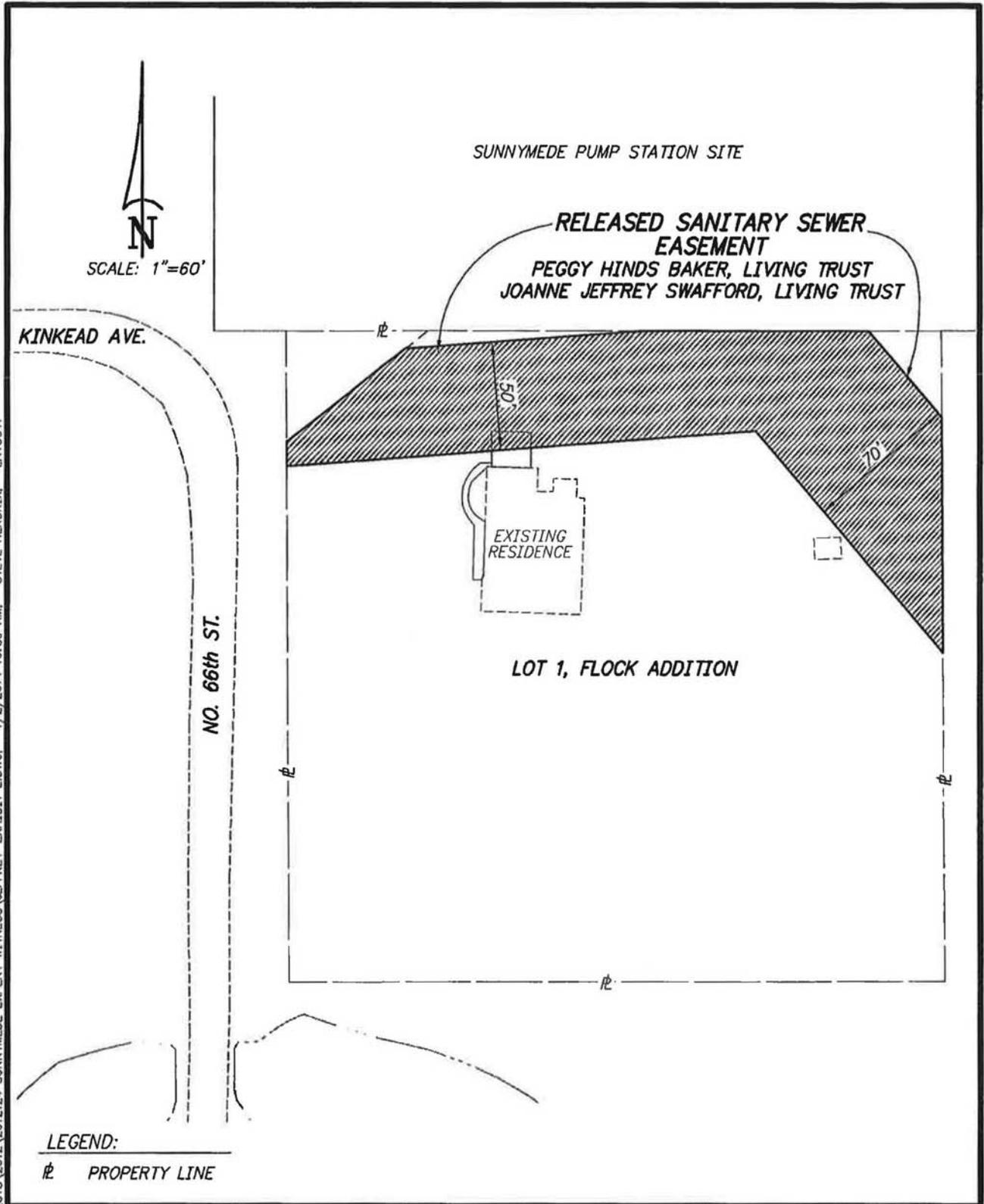
ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF _____)

On this the ____ day of _____, 2014, before me, _____, the undersigned officer, personally appeared Ray Gosack and Sherri Gard, who acknowledged themselves to be the City Administrator and the City Clerk, respectively, of the City of Fort Smith, Arkansas, a municipal corporation, and that they, as such City Administrator and City Clerk, respectively, being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as City Administrator and City Clerk, respectively.

In witness whereof I hereunto set my hand and official seal.

My commission expires:



U:\DRAWINGS\PROJECTS\2012\2012124 SUNNYMEDE EXPERT WITNESS\JEFFREY-EXHIBIT E.DWG. 1/2/2014 10:39 AM. STEVE HENDRIX, LAYOUT

HW HAWKINS & WEIR
 ENGINEERS, INC.

110 South 7th Street • Van Buren, Arkansas 72956 • (479) 474-1227
 211 Natural Resources Drive • Little Rock, Arkansas 72205 • (501) 374-4846
 www.hawkins-weir.com

EXHIBIT E
RELEASED SANITARY SEWER EASEMENT
SUNNYMEDE PUMPING STATION SITE
 FOR: THE CITY OF FORT SMITH

DATE: 12/30/13	SCALE: 1" = 60'	JOB NO. 2012124
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RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH RJN GROUP, INC., FOR PROVIDING ENGINEERING SERVICES ASSOCIATED WITH FALL 2014 WASTEWATER COLLECTION SYSTEM FLOW MONITORING

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

Section 1: An Agreement with RJN Group, Inc., for providing engineering services associated with the Fall 2014 Wastewater Collection System Flow Monitoring, Project Number 14-11-ED1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute an Agreement for professional engineering services in the amount of \$286,314.00.

This Resolution adopted this _____ day of September 2014.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: September 8, 2014

FROM: Steve Parke,  Director of Utilities

SUBJECT: Fall 2014 Wastewater Collection System Flow Monitoring

In the fall of 2013 and spring of 2014 the Board authorized engineering services agreements with RJN Group, Inc., to conduct flow monitoring within 60 percent of the wastewater collection system. This work was in support of our ongoing effort to identify and correct wastewater collection system defects that contribute to sewer overflows during periods of heavy rainfall. The data collected is currently being used to recalibrate portions of the collection system hydraulic model and to confirm the need and sizing of planned interceptor sewer lines within the areas monitored.

For the fall of 2014 we have identified 35 locations within the remainder of the collection system for installation of temporary flow monitors. In addition, eight temporary rain gauges will be installed for use in correlating wastewater flows and rainfall. Data from this monitoring will give us a complete and updated picture of the collection system performance during wet weather periods and enable us to prioritize the construction of both interceptor sewer projects and continued sewer system assessments. The completion of system wide flow monitoring will also support our efforts in implementing the anticipated requirements of the consent decree currently being negotiated with the Department of Justice. The attached exhibit shows the locations of remaining sub-basins to be flow monitored.

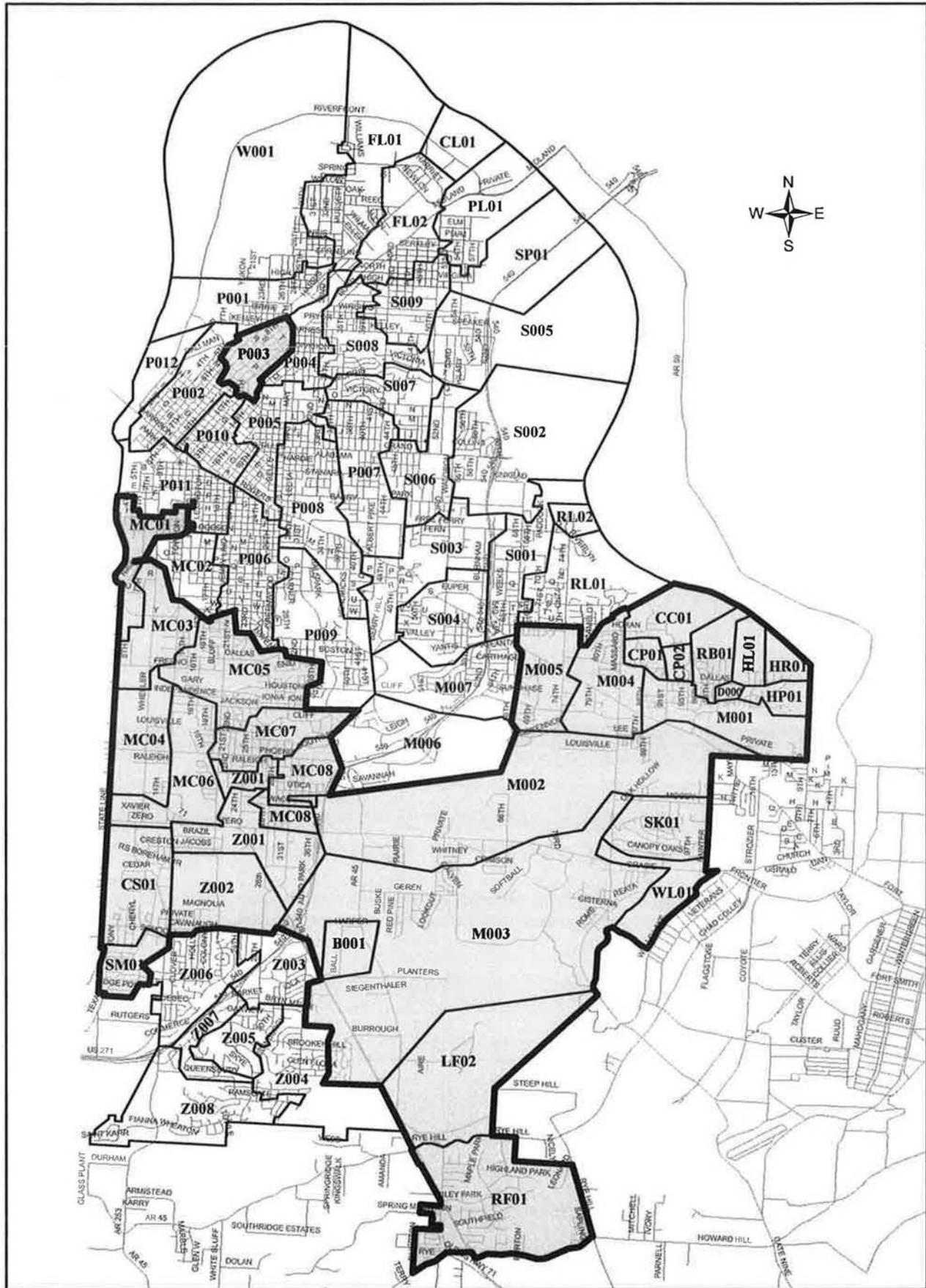
The attached Resolution authorizes the Mayor to sign an Agreement for engineering services with RJN Group, Inc. Under this Agreement RJN will provide, install and maintain the flow monitors and rain gauges for an initial 60 day period plus an additional 30 days should lack of rainfall necessitate additional monitoring time. The data gathered during the monitoring period will be analyzed and a final report of findings prepared. The fee for providing this service is \$286,314.00. Funds are available from the 2014 sales and use tax bonds for continuation of wet weather projects.

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

attachment

pc: Jeff Dingman

Fall 2014 Wastewater Collection System Flow Monitoring



ORDINANCE DECLARING AN EXCEPTIONAL SITUATION
WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING AND
AUTHORIZING THE PURCHASE OF REPLACEMENT HEADWORKS PUMPS
FOR THE MASSARD WASTEWATER TREATMENT PLANT

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

WHEREAS, it is necessary to replace two of the existing pumps at the headworks of the Massard wastewater treatment plant with matching equipment; and,

WHEREAS, Jack Tyler Engineering, Incorporated is the sole authorized representative serving the Fort Smith area for the equipment manufacturer of the required pump equipment and it is necessary to purchase the replacement pumps through Jack Tyler Engineering, Incorporated:

NOW THEREFORE, in order to eliminate the possibility of health hazards to the residents of the City of Fort Smith and to purchase the pump equipment 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. The purchase of two Flygt pumps and extended length cables from Jack Tyler Engineering, Incorporated in the amount of \$179,340.00, excluding taxes and freight, is hereby approved.

PASSED AND APPROVED this _____ day of September 2014.

APPROVED:

Mayor

APPROVED:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: September 12, 2014

FROM: Steve Parke, Director of Utilities

SUBJECT: Replacement Pump Purchase for the
Massard Wastewater Treatment Plant

The Massard wastewater treatment plant's headworks pumps deliver all of the incoming sewer flow to the processing units. The headworks pump station has three pumps which allows the operators to alternate two pumps in service with one pump in standby. Two pumps are required to be in operation to manage the incoming flow from the collection system served by the plant. The current pump equipment was placed in operation in 2004.

Two of the pumps are experiencing excessive repair requiring the pump to be removed from service and taken to the manufacturer's authorized repair facility in Little Rock for service. Only one pump at a time should be taken out of service to prevent the possibility of not having adequate pumping capacity. On two or more occasions we experienced pump problems which caused two pumps to be out of service at the same time and implementing emergency repair scenarios. Those situations present unacceptable risks.

All pumps are in operation at this time. However, with the fall season approaching with the expected, sustained wet weather flows, the risk of again losing service of more than one pump warrants the replacement of two pumps to assure adequate pumping capacity. The replacement pumps must match the current equipment in order to avoid extra costs associated with piping changes within the pump station. Jack Tyler Engineering, Incorporated, will supply the replacement Flygt pumps with extended length cables for an amount of \$179,340.00, excluding taxes and freight.

Jack Tyler Engineering is the sole provider of Flygt pumps for the Fort Smith service area which requires the city to waive competitive bidding requirements for this purchase. The attached Ordinance waives the competitive bidding requirements and authorizes the purchase of the needed replacement pumps in the amount of \$179,340.00. The funding for this purchase is available from the 2014 sales and use tax bonds issued for continuing wet weather sewer improvements.

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

pc: Jeff Dingman



MEMORANDUM

TO: Mayor and Board of Directors
FROM: Wendy Beshears, Administrative Assistant
DATE: September 11, 2014
SUBJECT: Airport Commission

Mr. Larry Devero of the Airport Commission has resigned his position August 1st, 2014. This position will need to be appointed at the next board meeting.

The applicants available are:

Suzanne Mush	2115 South 71 Street
Les W. Smith	4705 Juniper Court
Justin Voris	8008 Huntington Way

Appointments are **by the Mayor and confirmed by the Board of Directors**, one appointment is needed. The term will expire June 30, 2016.

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

AIRPORT COMMISSION

The Airport Commission has the authority to manage, operate, improve, extend and maintain the Municipal Airport and its related properties and facilities, has the right to employ and supervise airport employees, and has authority to finance all improvements at the Airport, including construction of facilities and acquisition of property.

The Commission shall keep a record of all revenues and expenditures of the Airport and its related properties and facilities, and shall submit monthly reports and an annual report to the Board of Directors.

The Airport Commission is composed of seven citizens who are qualified electors of the City, one of which must be fully experienced in aviation and hold some type of pilot rating. The Airport Commissioners are appointed by the Mayor and confirmed by a three-fourths vote of the Board of Directors for five-year terms. The commission meets on the Fourth Tuesday of each month at 5:30 p.m. in the airport conference room.

	<u>DATE APPOINTED</u>	<u>TERM EXPIRES</u>
M. Scott Archer Engineer 11709 Springridge Dr. (16) 649-8836 (h) 452-8922 (w) sarcher@hsaconsultants.com	06/28/05	06/30/15
Larry A. Devero Retired 7118 Milan Way (16) 478-8333 (h) Larrydevero@sbcglobal.net	09/21/04	06/30/16
Larry Schiffner Retired 2313 Camelot Drive 479-6397 (h) mooney6786@yahoo.com	11/15/11	06/30/16
Jan Nordin 4319 South 35 Drive (03) 646-8348 (h) Olblue727@sbcglobal.net	03/18/09	06/30/17

<p>James E. Kelly, III M.D. Doctor 5500 Painter Lane (03) 452-4331 (h) 709-8395 (w) kellyepm@aol.com</p>	<p>05/15/12</p>	<p>06/30/17</p>
<p>Mac McGhee Infrastructure Manager 7123 Riviera Drive (03) 462-6399 (h) 648-5634 (w) mac_mcghee@yahoo.com</p>	<p>08/16/11</p>	<p>06/30/18</p>
<p>Wayne Haver Principal Southside 3 Glen Haven Drive (03) 785-1839 (h) 646-7371 (w) Whaver@fortsmithschools.org</p>	<p>09/21/04</p>	<p>06/30/19</p>

airport com.

CITY OF FORT SMITH Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 4/8/13

Name: Les W. Smith

Home Telephone: 479-459-4510

Home Address: 4705 Juniper Ct
Fort Smith, AR

Work Telephone: 479-573-1366

Zip: 72903

Email: lwsmith@arvest.com

Occupation: SUP / Commercial Loan Mgr. Arvest Bank
(If retired, please indicate former occupation or profession)

Education: B.S. Finance - University of Arkansas, Grad. Banking School - LSU

Professional and/or Community Activities: Leadership Fort Smith

United Way - Loan Exe. Panel Chair Allocation

Additional Pertinent Information/References: _____

Registered voter in the City of Fort Smith? Yes No
of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
and the approximate date. A "yes" answer will not automatically
preclude consideration

Drivers License 0000000000 Date of Birth 000000 (This information will be used for criminal background check of all applicants)

I am interested in serving on the (please check):

- Audit Committee
- Advertising & Promoting Commission
- Airport Commission
- Arkansas Fair & Exhibition Facilities Bd
- Benevolent Fund Board
- Bldg. Bd. Of Adjustment and Appeals
- Central Business Improvement District
- Convention Center Commission
- Civil Service Commission
- Community Development Advisory Com.
- County Equalization Board
- Electric Code Board of Appeals & Appeals
- Fire Code Board of Appeals & Adjustments
- Historic District Commission
- Housing Assistance Board
- Housing Authority
- Library Bd of Trustees
- Mechanical Bd of Adjustments and Appeals
- Oak Cemetery Commission
- Outside Agency Review Panel
- Parking Authority
- Parks & Recreation Commission
- Planning Commission
- Plumbing Advisory Board
- Port Authority
- Property Owners Appeals Board
- Sebastian County Reg. Solid Waste Mgmt. Bd.
- Sister Cities Committee
- Transit Advisory Commission
- Residential Housing Facilities Board
- Comprehensive Plan Steering Committee

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 9/9/2014

Name: JUSTIN VOKIS

Home Telephone: 4797690075

Home Address: 8008 Huntington Way Work Telephone: 4797852431

Zip: 72914

Email: justinvokis@gmail.com

Occupation: Medical Doctor
 (If retired, please indicate former occupation or profession)

Education: BS, BSMT, MD

Professional and/or Community Activities: Citizen's Academy,
NewLife Church

Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes No
 Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
 Yes NO
 If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration. _____
 Drivers License 00000000 Date c 00000000 This information will be _____ (background check of all applicants).

I am interested in serving on the (please check):

- | | |
|---|--|
| <input type="checkbox"/> Audit Committee | <input type="checkbox"/> Library Bd of Trustees |
| <input type="checkbox"/> Advertising & Promoting Commission | <input type="checkbox"/> Mechanical Bd of Adjustments and Appeals |
| <input checked="" type="checkbox"/> Airport Commission | <input type="checkbox"/> Oak Cemetery Commission |
| <input type="checkbox"/> Arkansas Fair & Exhibition Facilities Bd | <input type="checkbox"/> Outside Agency Review Panel |
| <input type="checkbox"/> Benevolent Fund Board | <input type="checkbox"/> Parking Authority |
| <input type="checkbox"/> Bldg. Bd. Of Adjustment and Appeals | <input type="checkbox"/> Parks & Recreation Commission |
| <input type="checkbox"/> Central Business Improvement District | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Convention Center Commission | <input type="checkbox"/> Plumbing Advisory Board |
| <input type="checkbox"/> Civil Service Commission | <input type="checkbox"/> Port Authority |
| <input type="checkbox"/> Community Development Advisory Com. | <input type="checkbox"/> Property Owners Appeals Board |
| <input type="checkbox"/> County Equalization Board | <input type="checkbox"/> Sebastian County Reg. Solid Waste Mgmt. Bd. |
| <input type="checkbox"/> Electric Code Board of Appeals & Appeals | <input type="checkbox"/> Sister Cities Committee |
| <input type="checkbox"/> Fire Code Board of Appeals & Adjustments | <input type="checkbox"/> Transit Advisory Commission |
| <input type="checkbox"/> Historic District Commission | <input type="checkbox"/> Residential Housing Facilities Board |
| <input type="checkbox"/> Housing Assistance Board | <input type="checkbox"/> Comprehensive Plan Steering Committee |
| <input type="checkbox"/> Housing Authority | |



MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: September 11, 2014

SUBJECT: Mechanical Board of Adjustments and Appeals

The terms of Mr. Alan P. Wright and Mr. Andy Brown of the Mechanical Board of Adjustments and Appeals has expired July 31, 2014. Mr. Wright and Mr. Brown are not interested in reappointment.

The applicant available is:

Buford Martin

4015 South T Street

Appointments are **by the Board of Directors**, one appointment is needed. The term will expire July 31, 2019.

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

Mechanical Board of Adjustments and Appeals

The Mechanical Board of Adjustments and Appeals has the authority to hear appeals of decisions and interpretations of the administrative authority relating to the 1997 Arkansas Mechanical Code.

The Board consists of five members who have knowledge and experience in the mechanical code, such as design professionals, contractors or industry representatives. The Board, following initial staggered terms, will serve five-year terms. In addition, there are two alternate members (one member-at-large from the industry and one member-at-large from the public) who serve one-year terms. A member shall not act in a case in which he had a personal or financial interest. Appointments are made by the Board of Directors.

The Board meets on call.

	<u>Date Appointed</u>	<u>Term Expires</u>
<u>Industry Members:</u>		
Alan P. Wright Project Manager P.O. Box 23069 Barling, AR 72923 674-2169 (h) 452-5723 (w) awright@action-mechanical.com	07/20/99	07/31/14
Andy Brown Civil Engineer 6703 Deerfield Drive (16) 648-0991 (h) 649-8484 (w) abrown@mwc-engr.com	10/20/09	07/31/14
Ron B. Smith (Owner) Air Pro Heating & Air 3221 Cliff Drive (03) 646-4478 (h) 646-9699 (w) airproarron@sbcglobal.net	07/19/11	07/31/16

Michael Blaylock 07/17/07 07/31/17
Blaylock Heating & Air
1530 North Greenwood (01)
783-3420 (h)
782-8940 (w)
blaylock@blaylockhvac.com

Ted Neal 07/20/99 07/31/18
Ted's Air Conditioning, Inc.
2215 Bluff Avenue(1)
785-3287 (h)
783-7857 (w)
883-2529 ©
tedneal@sbcglobal.net

Alternate - Member-At-Large From Public:

Greg Williams 07/19/11 07/31/18
General Manager of Markham Restaurant Supply
2315 Hendrick Blvd. (01)
434-6012 (h)
782-3233 (w)
greg@markhamrs.com

Alternate - Member-at-large from industry:

Mike Locknar 06/18/13 07/31/18
Sanders Supply
9817 Meandering Way (03)
484-1140 (h)
648-8747 (w)
mlocknar@sanderssupply.net

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 8/20/14
 Name: Buford Martin Home Telephone: 479-462-9918
 Home Address: 4015 South T Work Telephone: 479-785-4444
 Zip: 72903 Email: bufordmartin@cox.net
 Occupation: Owner of Martin's Heating and Air
 (If retired, please indicate former occupation or profession)
 Education: some college / Licensed in Ark & OK
 Professional and/or Community Activities: Active with Christ
the King
 Additional Pertinent Information/References: I have mechanical
license in Arkansas & Oklahoma

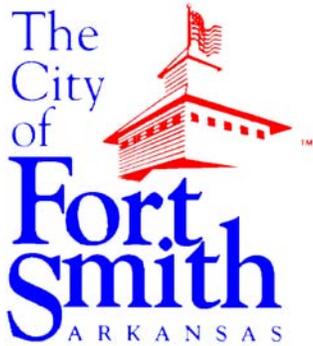
Are you a registered voter in the City of Fort Smith? Yes No
 Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
 Yes NO

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License C _____ Date of Birth _____
 information will be _____ background check of all applicants

I am interested in serving on the (please check):

- | | |
|---|--|
| <input type="checkbox"/> Audit Committee | <input type="checkbox"/> Library Bd of Trustees |
| <input type="checkbox"/> Advertising & Promoting Commission | <input checked="" type="checkbox"/> Mechanical Bd of Adjustments and Appeals |
| <input type="checkbox"/> Airport Commission | <input type="checkbox"/> Oak Cemetery Commission |
| <input type="checkbox"/> Arkansas Fair & Exhibition Facilities Bd | <input type="checkbox"/> Outside Agency Review Panel |
| <input type="checkbox"/> Benevolent Fund Board | <input type="checkbox"/> Parking Authority |
| <input type="checkbox"/> Bldg. Bd. Of Adjustment and Appeals | <input type="checkbox"/> Parks & Recreation Commission |
| <input type="checkbox"/> Central Business Improvement District | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Convention Center Commission | <input type="checkbox"/> Plumbing Advisory Board |
| <input type="checkbox"/> Civil Service Commission | <input type="checkbox"/> Port Authority |
| <input type="checkbox"/> Community Development Advisory Com. | <input type="checkbox"/> Property Owners Appeals Board |
| <input type="checkbox"/> County Equalization Board | <input type="checkbox"/> Sebastian County Reg. Solid Waste Mgmt. Bd. |
| <input type="checkbox"/> Electric Code Board of Appeals & Appeals | <input type="checkbox"/> Sister Cities Committee |
| <input type="checkbox"/> Fire Code Board of Appeals & Adjustments | <input type="checkbox"/> Transit Advisory Commission |
| <input type="checkbox"/> Historic District Commission | <input type="checkbox"/> Residential Housing Facilities Board |
| <input type="checkbox"/> Housing Assistance Board | <input type="checkbox"/> Comprehensive Plan Steering Committee |
| <input type="checkbox"/> Housing Authority | |



Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith Lau

Ward 2 – Andre’ Good

Ward 3 – Mike Lorenz

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA ~ Summary

Fort Smith Board of Directors

REGULAR MEETING

September 16, 2014 ~ 6:00 p.m.

Fort Smith Public Schools Service Center

3205 Jenny Lind Road

THIS MEETING IS BEING TELECAST LIVE ON THE GOVERNMENT ACCESS CHANNEL 214

INVOCATION & PLEDGE OF ALLEGIANCE

City of Fort Smith Police Chief Kevin Lindsey

ROLL CALL

- All present, except Director Merry who arrived during presentation of Item No. 1
- Mayor Sandy Sanders presiding

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING

(Section 2-37 of Ordinance No. 24-10)

Information available by viewing rebroadcast of the meeting on the City Access Channel 214 or City website

APPROVE MINUTES OF THE SEPTEMBER 2, 2014 REGULAR MEETING

Approved as written

ITEMS OF BUSINESS:

1. Resolution authorizing the waiver of permit fees, zoning application fees and sewer connection fees for the Arkansas College of Osteopathic Medicine at 7000 Chad Colley Boulevard
Approved 7 in favor, 0 opposed / Resolution No. R-128-14
2. Consent Agenda
 - A. Resolution adopting annual audit requirements and retaining BKD, LLP as external auditors
Approved 7 in favor, 0 opposed / Resolution No. R-129-14

- B. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith Police Department and the University of Arkansas – Fort Smith concerning the awarding of college credit hours for completion of the basic police training academy
[Approved 7 in favor, 0 opposed / Resolution No. R-130-14](#)
- C. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith Police Department and the National Park Service – Fort Smith National Historic Site concerning providing police protection on lands within the park’s boundaries
[Approved 7 in favor, 0 opposed / Resolution No. R-131-14](#)
- D. Resolution authorizing the City Administrator to accept a settlement offer from a property owner for the acquisition of easement interests in connection with the Highway 71 Interchange 12-Inch Water Line Relocation (\$7,000.00 / Utility Department / Budgeted - 2008 Revenue Bonds)
[Approved 7 in favor, 0 opposed / Resolution No. R-132-14](#)
- E. Resolution authorizing the City Administrator to accept offer made by property owner for the acquisition of real property interests for the Lake Fort Smith Water Supply (\$12,500.00 / Utility Department / Budgeted - Capital Improvement Fund)
[Approved 7 in favor, 0 opposed / Resolution No. R-133-14](#)
- F. Resolution authorizing the City Administrator to execute a settlement agreement and release with a property owner for the acquisition of real property and easement interests in connection with the Sunnymede Basin Wet Weather Flow Management Improvements (\$120,000.00 / Utility Department / Budgeted – 2012 Sales and Use Tax Bond)
[Approved 7 in favor, 0 opposed / Resolution No. R-134-14](#)
- G. Resolution authorizing the Mayor to execute an agreement with RJN Group, Inc. for providing engineering services associated with Fall 2014 Wastewater Collection System Flow Monitoring (\$286,314.00 / Utility Department / Budgeted – 2014 Sales and Use Tax Bond)
[Approved 7 in favor, 0 opposed / Resolution No. R-135-14](#)
- H. Ordinance declaring an exceptional situation waiving the requirements of competitive bidding and authorizing the purchase of replacement headworks pumps for the Massard Wastewater Treatment Plant (\$179,340.00 / Utility Department / Not Budgeted - 2014 Sales and Use Tax Bonds)
[Approved 7 in favor, 0 opposed / Ordinance No. 53-14](#)

OFFICIALS FORUM ~ presentation of information requiring no official action

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

➤ Mayor

➤ Directors

➤ City Administrator

Information available by viewing rebroadcast of the meeting on the City Access Channel 214 or City website

EXECUTIVE SESSION

• Appointments:

AIRPORT COMMISSION

Justin Voris *(to fill the unexpired term of Larry Devero who resigned)*

Term expires June 30, 2016

MECHANICAL BOARD OF ADJUSTMENTS AND APPEALS

Buford Martin

Term expires July 31, 2019

ADJOURN

6:16 p.m.

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ SEPTEMBER 16, 2014 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Police Chief Kevin Lindsey, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Keith Lau, Andre' Good, Mike Lorenz, George Catsavis, Pam Weber and Kevin Settle. The Mayor declared a quorum present. Director Philip H. Merry, Jr. arrived during the presentation of Item No. 1.

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

The minutes of the September 2, 2014 regular meeting were presented for approval. Settle, seconded by Catsavis, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

Item No. 1 was a resolution authorizing the waiver of permit fees, zoning application fees and sewer connection fees for the Arkansas College of Osteopathic Medicine at 7000 Chad Colley Boulevard.

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the request of The Degen Foundation. The Osteopathic Medical School is anticipated to be a \$30 million investment and create eighty (80) to ninety (90) new jobs. Once fully operational, such is expected to create an ongoing financial impact estimated at \$100 million annually. The proposed waiver supports the Board's goals of job creation and improving quality of place. The City has waived fees in the past for similar developments; therefore, staff recommends approval.

The following individual was present to address the Board:

September 16, 2014 Regular Meeting

- David Harris
Fort Smith, AR

Re: Due to the size of the project and many staff hours required for inspections, etc., he expressed concern that the waiver could result in a significant loss of revenue for the pertinent departments.

Mr. Bailey clarified the subject fees will impact only the General Fund, not a specific department.

Weber, seconded by Settle, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-128-14.

The Consent Agenda (Item No. 2) was introduced for consideration, the items being as follows:

- A. Resolution adopting annual audit requirements and retaining BKD, LLP as external auditors
- B. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith Police Department and the University of Arkansas – Fort Smith concerning the awarding of college credit hours for completion of the basic police training academy
- C. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith Police Department and the National Park Service – Fort Smith National Historic Site concerning providing police protection on lands within the park's boundaries
- D. Resolution authorizing the City Administrator to accept a settlement offer from a property owner for the acquisition of easement interests in connection with the Highway 71 Interchange 12-Inch Water Line Relocation (\$7,000.00 / Utility Department / Budgeted - 2008 Revenue Bonds)
- E. Resolution authorizing the City Administrator to accept offer made by property owner for the acquisition of real property interests for the Lake Fort Smith Water Supply (\$12,500.00 / Utility Department / Budgeted - Capital Improvement Fund)
- F. Resolution authorizing the City Administrator to execute a settlement agreement and release with a property owner for the acquisition of real property and easement interests in connection

September 16, 2014 Regular Meeting

with the Sunnymede Basin Wet Weather Flow Management Improvements (\$120,000.00 / Utility Department / Budgeted – 2012 Sales and Use Tax Bond)

- G. Resolution authorizing the Mayor to execute an agreement with RJN Group, Inc. for providing engineering services associated with Fall 2014 Wastewater Collection System Flow Monitoring (\$286,314.00 / Utility Department / Budgeted – 2014 Sales and Use Tax Bond)
- H. Ordinance declaring an exceptional situation waiving the requirements of competitive bidding and authorizing the purchase of replacement headworks pumps for the Massard Wastewater Treatment Plant (\$179,340.00 / Utility Department / Not Budgeted - 2014 Sales and Use Tax Bonds)

Regarding Item No. 2G, the following individual was present to address the

Board:

- Paul Foley
Fort Smith

Re: Expressed concern and inquired why a local firm was not selected for the project.

Director of Utilities Steve Parke advised the engineering firm was selected based on qualifications citing the proposed project requires a specialized field of expertise. Unfortunately, no local firm maintained the required expertise; therefore, consideration of a firm outside of Fort Smith had to be considered.

Director Good reiterated the Board's desire for local firms to be utilized when such is feasible.

Settle, seconded by Good, moved adoption of all consent agenda items. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and resolutions were adopted with the ordinance given No. 53-14 and the resolutions numbered R-129-14 through R-135-14 respectively.

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

- Mayor Sanders

September 16, 2014 Regular Meeting

Re: Announced the upcoming groundbreaking for the United States Marshals Museum scheduled for 11:00 a.m., September 24th at 121 Riverfront Drive and invited all to attend.

➤ Director Catsavis

Re: Announced the Arkansas Oklahoma State Fair is set for September 19th through 27th and encouraged all to attend.

➤ Director Merry

Re: Expressed much appreciation to Police Chief Kevin Lindsey for the Police Department's participation in a recent Muscular Dystrophy Association (MDA) fundraiser held on September 16th at Outback Steakhouse.

The Board entered into executive session at approximately 6:09 p.m. and after reconvening, the Mayor announced the following appointment nominations:

AIRPORT COMMISSION

Justin Voris

(to fill the unexpired term of Larry Devero, who resigned)

Term expires June 30, 2016

MECHANICAL BOARD OF ADJUSTMENTS AND APPEALS

Buford Martin

Term expires July 31, 2019

Merry, seconded by Lau, moved acceptance of the above named nominations.

The members all voting aye, Mayor Sanders declared the motion carried.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Lau, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:16 p.m.

APPROVED:



Vice - Mayor

ATTEST:



City Clerk