

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

February 18, 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

Father John Antony, Immaculate Conception Catholic Church

ROLL CALL

All present (Mayor 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 FEBRUARY 4, 2014 REGULAR MEETING

Unanimously approved as written

ITEMS OF BUSINESS:

1. Resolution approving a contingent fee agreement with Baron and Budd, P.C. and the Sims Law Office regarding the pursuit of claims against Whirlpool Corporation for TCE pollution ~ *Merry / Weber placed on agenda at the February 11, 2014 study session ~*
Defeated 2 in favor (Weber & Merry), 5 opposed (Lau, Good, Lorenz, Catsavis and Settle)
2. Ordinance amending Ordinance No. 16-94 (*correction of 1994 annexation legal description*)
Approved 7 in favor, 0 opposed / Ordinance No. 17-14

3. Ordinance amending Section 16-15 of the Fort Smith Municipal Code regarding the required number of Property Owners Appeal Board members to constitute a quorum
Approved 7 in favor, 0 opposed / Ordinance No. 18-14
4. Resolution of the Board of Directors of the City of Fort Smith certifying local government endorsement of business to participate in the Tax Back Program (as authorized by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003) (*Butler & Cook, Inc.*)
Approved 7 in favor, 0 opposed / Resolution No. R-11-14
5. Consent Agenda
 - A. Resolution to accept the bids and authorize a contract for the construction of Drainage Improvements, Project No. 12-06-C2 (\$630,662.58 / *Engineering Department / Budgeted – Sales Tax Program Fund*)
Approved 7 in favor, 0 opposed / Resolution No. R-12-14
 - B. Resolution approving priorities for the 2015 session of the Arkansas General Assembly ~ *Merry / Good placed on agenda at the February 11, 2014 study session ~*
Approved 7 in favor, 0 opposed / Resolution No. R-13-14
 - C. Resolution authorizing Change Order No. 2 to the contract with Crawford Construction Company for the Chaffee Crossing Water Supply Improvements – Pump Station (\$6,617.63 / *Utility Department / Budgeted – 2012 Sales and Use Tax Bonds*)
Approved 7 in favor, 0 opposed / Resolution No. R-14-14
 - D. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with Hawkins-Weir Engineers, Inc. for providing engineering services associated with the Mill Creek Pump Station and Equalization Tank (\$1,353,600.00 / *Utility Department / Budgeted – 2012 Sales and Use Tax Bonds*)
Approved 7 in favor, 0 opposed / Resolution No. R-15-14
 - E. Resolution accepting the bid of and authorizing the Mayor to execute a contract with BRB Contractors, Inc. for the Mill Creek Pump Station and Equalization Tank (\$12,930,000.00 / *Utility Department / Budgeted - 2012 Sales and Use Tax Bonds*)
Approved 7 in favor, 0 opposed / Resolution No. R-16-14
 - F. Resolution authorizing the Mayor to execute Authorization No. 2 to the agreement with Hawkins-Weir Engineers, Inc. for engineering services for the Mill Creek Interceptor Improvements – Phase II (\$165,000.00 / *Utility Department / Budgeted – 2012 Sales and Use Tax Bonds*)
Approved 7 in favor, 0 opposed / Resolution No. R-17-14

G. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Forsgren, Inc. for the Mill Creek Interceptor Improvements – Phase II (\$1,917,753.10 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)

Approved 7 in favor, 0 opposed / Resolution No. R-18-14

H. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Goodwin & Goodwin, Inc. for the “P” Street Wastewater Treatment Plant effluent pump installation (\$87,680.00 / Utility Department / Budgeted – 2008 Revenue Bonds)

Approved 7 in favor, 0 opposed / Resolution No. R-19-14

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 (approximately 6:37 p.m.)

• Appointments: **ELECTRIC CODE APPEALS BOARD**

Bill Kirk (reappointment)

Marvin Matlock (reappointment)

Terms expire March 31, 2019

PARKING AUTHORITY

Tiffany Parker

Term expires February 18, 2019

PLUMBING ADVISORY BOARD

Jan Taylor (reappointment)

Term expires February 28, 2018

ADJOURN

6:41 p.m.

ORDINANCE NO. 17-14AN ORDINANCE AMENDING ORDINANCE NO. 16-94

WHEREAS, Ordinance No. 16-94 was passed and approved on March 22, 1994, for the purpose of annexing certain territory into the City of Fort Smith; and

WHEREAS, the owners of certain property described in Ordinance No. 16-94 did not participate in the original petition to annex property as described in Ordinance No. 16-94; yet by scrivener's error, the owners' real property was included in the legal description contained in the Ordinance;

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Directors of the City of Fort Smith, Arkansas, that Ordinance No. 16-94 is hereby amended to state the legal description of the real property being annexed as follows:

Lot 1, Bieker Business Center Addition to the Greenwood District of Sebastian County, Arkansas.

AND

The East Half (E ½) of the Northeast Quarter (NE ¼) of Section 2, Township 7 North, Range 32 West to Sebastian County, Arkansas.

AND

The West Half (W ½) of the Southeast Quarter (SE ¼); the Southeast Quarter (SE ¼) of the Southeast Quarter (SE ¼) and the West Half (W ½) of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼), all in Section 2, Township 7 North, Range 32 West, Sebastian County, Arkansas, more particularly described as follows:

Beginning at the Northwest corner of said W ½ of the NE ¼ of the SE ¼; thence South 88°05' East, 658.0 feet along the North line of said W ½ of the NE ¼ of the SE ¼ to the Northeast corner thereof; thence South 01°47' West, 1325.1 feet along the East line of said W ½ of the NE ¼ of the SE ¼ to the Southeast corner of said W ½ of the NE ¼ of the SE ¼; thence South 88°03' East, 658.0 feet to the Northeast corner of said SE ¼ of the SE ¼; thence South 01°47' West, 1325.5 feet along the East line of said SE ¼ of the SE ¼ to the Southeast corner of the said SE ¼ of the SE ¼; thence North

88°02' West, 2635.7 feet to the Southwest corner of said W ½ of the SE ¼; thence North 01°45' East, 2648.2 feet to the Northwest corner of said W ½ of the SE ¼; thence South 88°05' East, 1321.0 feet to the point of beginning, containing 140.34 acres more or less;

LESS AND EXCEPT:

That portion of Section 2 lying in the Northeast Quarter of the Northeast Quarter of Section 2, Township 7 North, Range 32 West located north and east of Old Greenwood Road and south of Zero Street.

PASSED AND APPROVED THIS 18th DAY OF February, 2014.

APPROVED:



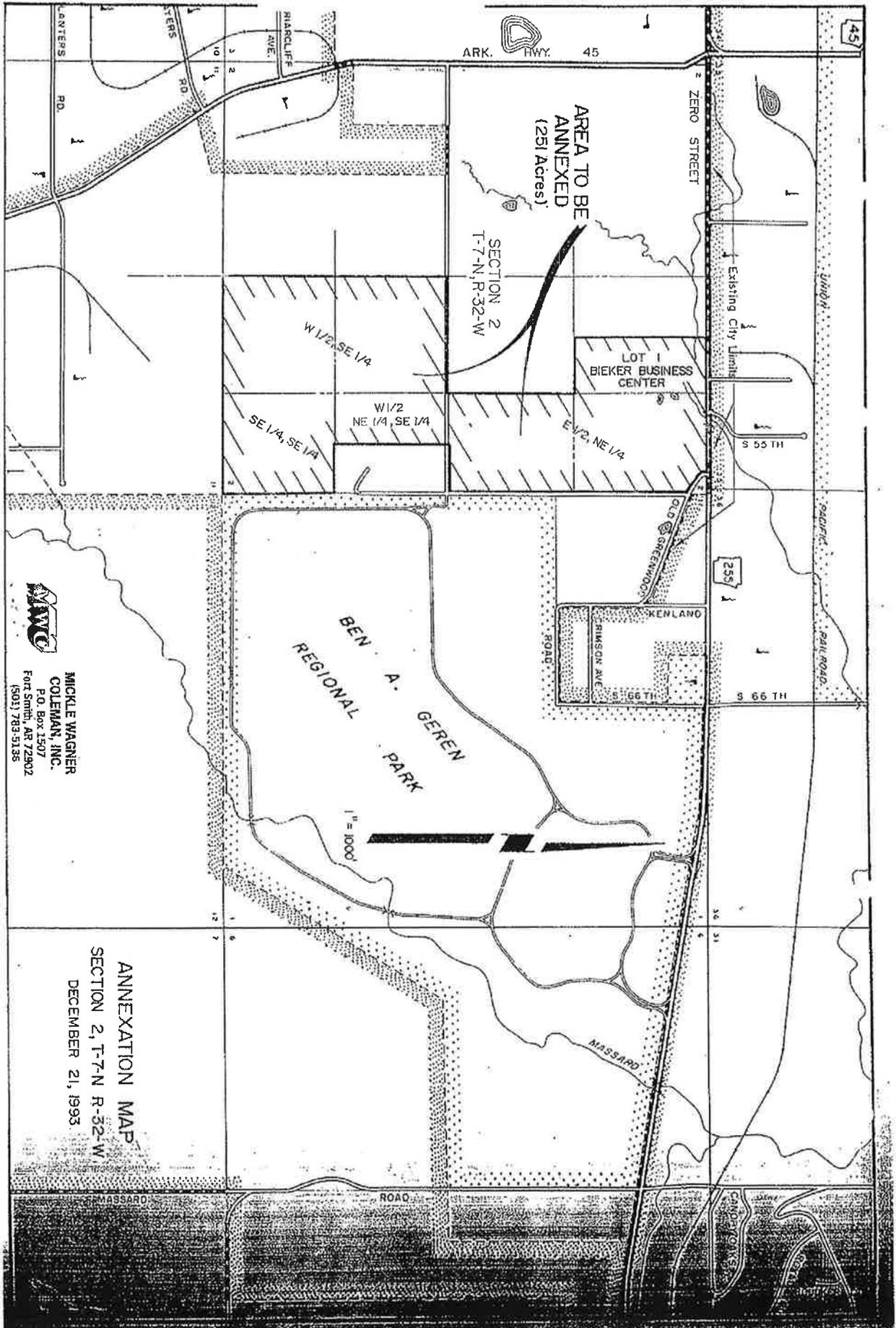
ATTEST:


City Clerk

Approved as to form:


City Attorney
B. J. ...

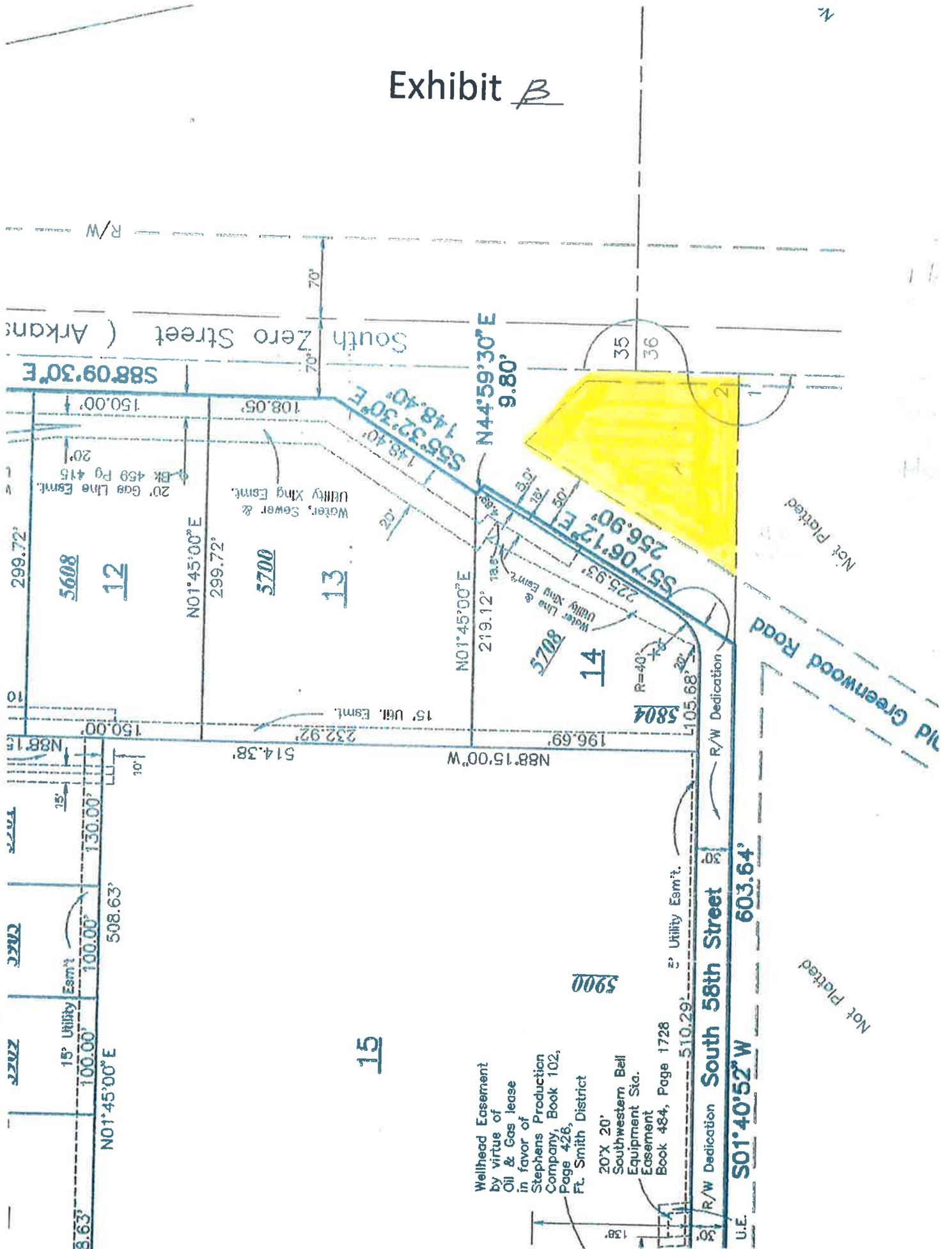
Exhibit A



MWC
MICKLE WAGNER
COLEMAN, INC.
 P.O. Box 1507
 Fort Smith, AR 72302
 (501) 783-5135

ANNEXATION MAP
SECTION 2, T-7-N, R-32-W
DECEMBER 21, 1993

Exhibit B



N

Not Platted

Not Platted

Exhibit C



ORDINANCE NO. 18-14

AN ORDINANCE AMENDING SECTION 16-15 OF THE FORT SMITH MUNICIPAL CODE REGARDING THE REQUIRED NUMBER OF PROPERTY OWNERS APPEAL BOARD MEMBERS TO CONSTITUTE A QUORUM

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

SECTION 1: Section 16-15(g) of the Fort Smith Municipal Code is hereby amended to read as follows:

(g) *Quorum. Three (3) members of the board shall constitute a quorum. To grant an appeal shall require the affirmative vote of three (3) members.*

THIS ORDINANCE ADOPTED this 18th day of February, 2014.

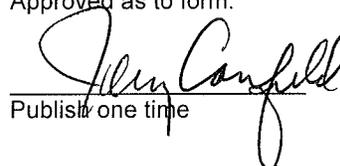
APPROVED


MAYOR

ATTEST


CITY CLERK

Approved as to form:


Publish ~~one~~ time

Tax Back**Resolution**

RESOLUTION No. R-11-14

RESOLUTION OF THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH CERTIFYING LOCAL GOVERNMENT ENDORSEMENT OF BUSINESS TO PARTICIPATE IN THE TAX BACK PROGRAM (AS AUTHORIZED BY SECTION 15-4-2706(d) OF THE CONSOLIDATED INCENTIVE ACT OF 2003).

WHEREAS, in order to be considered for participation in the Tax Back Program, the local government must endorse a business to participate in the Tax Back Program; and

WHEREAS, the local government must authorize the refund of local sales and use taxes as provided in the Consolidated Incentive Act of 2003; and

WHEREAS, said endorsement must be made on specific form available from the Arkansas Economic Development Commission; and

WHEREAS, Butler & Cook, Inc., located at 8307 Ball Road, Fort Smith, Arkansas has sought to participate in the program and more specifically has requested benefits accruing from construction and/or expansion of the specific facility; and

WHEREAS, Butler & Cook, Inc. has agreed to furnish the local government all necessary information for compliance.

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

1. Butler & Cook, Inc. be endorsed by the Board of Directors of the City of Fort Smith for benefits from the sales & use tax refunds as provided by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003.
2. **The Department of Finance and Administration is authorized to refund local sales and use taxes to Butler & Cook, Inc.**
3. This resolution shall take effect immediately.


Mayor

Date Passed: February 18, 2014

Attest: Shemi Gard
City Clerk

Approved as to form:

No publication required

RESOLUTION R.12.14

**A RESOLUTION TO ACCEPT THE BIDS AND AUTHORIZE
A CONTRACT FOR THE CONSTRUCTION OF
DRAINAGE IMPROVEMENTS
PROJECT NO. 12-06-C2**

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

SECTION 1: The bid of Forsgren Inc. received February 11, 2014 for the construction of Drainage Improvements, Project No. 12-06-C2, in the amount of \$630,662.58 be accepted.

SECTION 2: The Mayor is authorized to execute a contract with Forsgren Inc. subject to the terms set forth in Section 1 above.

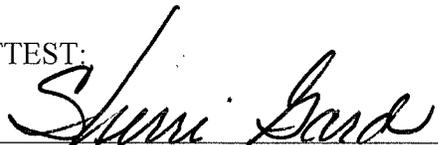
SECTION 3: Payment for construction authorized by Section 1 is hereby authorized from the Sales Tax Fund (1105).

This resolution adopted this 18th day of February, 2014.

APPROVED:


Mayor

ATTEST:


City Clerk

Approved as to Form


 No Publication Required
 Publish ___ Times

RESOLUTION NO. R-13-14

A RESOLUTION APPROVING PRIORITIES
FOR THE 2015 SESSION OF THE
ARKANSAS GENERAL ASSEMBLY

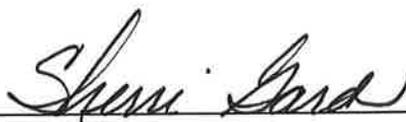
BE IT RESOLVED by the Board of Directors of the City of Fort Smith, Arkansas that:

The City of Fort Smith's priorities for the 2015 session of the Arkansas General Assembly as attached hereto are hereby approved. The City Administrator is hereby directed to forward this Resolution to the Arkansas Municipal League.

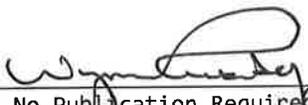
This Resolution passed this 18th day of February, 2014.


Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM


No Publication Required



CITY OF FORT SMITH
Legislative Priorities for the
2015 Session of the
Arkansas General Assembly

► ***Sales Tax Bond Election Ballot Questions***

Amendment 62 to the Arkansas Constitution allows cities and counties to ask voters to approve bonds for local capital improvement projects. Section 1(a) of Amendment 62 requires that if more than one purpose is proposed on the same ballot, each shall be stated separately on the ballot.

Fort Smith undertook a sales tax bond election in 2012 under Amendment 62 in which there were 5 separate purposes/projects for voters to decide. All of these purposes relied on the same 3/4% sales tax to finance the bonds. During voter education presentations before the election, many citizens questioned why each project/purpose had to be voted separately on the ballot. They said it was confusing, particularly considering the same revenue source was being used to pay the bonds for all of the projects/purposes.

This confusion could be eliminated by deleting the following sentence in Amendment No. 62, section 1(a)

If more than one purpose is proposed, each shall be stated separately on the ballot.

Elimination of this requirement would give cities and counties the option of presenting each purpose/project separately, or combining a number of purposes/projects into one vote. In either case, the voters still decide if the issuance of bonds is approved.

▶ ***Emergency Lights on Police Vehicles***

A combination of blue and red emergency warning lights on police vehicles are becoming more common across the United States. They help the public identify public safety vehicles. They're also cheaper to purchase than lights that are entirely blue. Arkansas statute doesn't allow for a combination of blue and red lights. Arkansas code 27-49-219(d)(1)(A) should be amended as follows:

(A) Motor vehicles used by state, county, or city and municipal police agencies, all of which shall be equipped with:

(i) Blue lights; or

(ii) Blue, red, or white rotating or flashing emergency lights or any combination of these colors;

This change would give police agencies the option of using all blue lights, or of using any combination of red, blue and white lights.

▶ ***Appointment of District Court Clerk***

Arkansas statute 16-17-108(a)(84) provides that each Fort Smith District Court judge shall appoint a district court clerk. A literal interpretation of this provision would result in the court having 3 court clerks. This is neither practical nor the current practice of the court. The judges are recommending that this language be clarified to reflect that the court shall have 1 clerk. They further recommend that this clerk be appointed by and pursuant to the personnel authority of the City Administrator. The appointment of the clerk will provide stability in the daily administration of the court, provide continuity when new judges are elected or appointed to the court, and will ensure that the appointment and removal from the position will be based on job performance. The statute should be amended as follows:

16-17-108. Salaries of personnel and other requirements of various district courts.

(a) Unless otherwise provided by law, the salaries of the judges and other personnel of the various district courts shall be established as follows:

(84) ~~The Sebastian County District Court — Fort Smith District Judges, Departments 1, 2, and 3, each~~ The Fort Smith City Administrator shall appoint a qualified elector to serve as district court clerk. The salaries salary of the district court clerks and , deputy clerks, court personnel, any special district court judges authorized by this subdivision (a)(84) and the operating expenses of the Sebastian County District Court — Fort Smith District shall be paid seventy percent (70%) by the City of Fort Smith and thirty percent (30%) by Sebastian County;

▶ ***Police and Fire Pension Plan Funding***

Many cities across Arkansas have unfunded liabilities for police and fire pension plans, particularly older plans which have been closed to new participants. A solution to these unfunded liabilities would be a constitutional amendment which would permit the use of a special local sales tax, with voter approval, to pay for these unfunded liabilities of closed local police and fire pension plans.

RESOLUTION AUTHORIZING CHANGE ORDER NUMBER TWO TO THE
CONTRACT WITH CRAWFORD CONSTRUCTION COMPANY FOR THE CHAFFEE
CROSSING WATER SUPPLY IMPROVEMENTS - PUMP STATION

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

Change Order Number Two in the amount of \$6,617.63, adjusting the contract amount to \$1,417,589.54, and adding 5 calendar days to the contract with Crawford Construction Company, for construction of the Chaffee Crossing Water Supply Improvements - Pump Station, Project Number 12-04-C3, is hereby approved.

This Resolution adopted this 18th day of February 2014.

APPROVED:


Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



npr

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT AND
AUTHORIZATION NUMBER ONE WITH HAWKINS-WEIR ENGINEERS, INC.,
FOR PROVIDING ENGINEERING SERVICES ASSOCIATED WITH THE
MILL CREEK PUMP STATION AND EQUALIZATION TANK

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

SECTION 1: An Agreement and Authorization Number One with Hawkins-Weir Engineers,
Inc., for providing engineering construction phase services associated with Mill Creek Pump Station and
Equalization Tank, Project Number 10-01-EC1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute an Agreement and Authorization
Number One in the amount of \$1,353,600.00, for performance of said services.

This Resolution adopted this 18th day of February 2014.

APPROVED:


Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



npr

RESOLUTION ACCEPTING THE BID OF AND AUTHORIZING THE MAYOR
TO EXECUTE A CONTRACT WITH BRB CONTRACTORS, INC., FOR
THE MILL CREEK PUMP STATION AND EQUALIZATION TANK

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

SECTION 1: The bid of BRB Contractors, Inc., for the construction of the
Mill Creek Pump Station and Equalization Tank, Project Number 10-01-C1, is hereby
accepted.

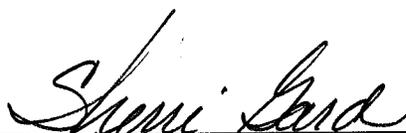
SECTION 2: The Mayor is hereby authorized to execute a contract with BRB
Contractors, Inc., for an amount of \$12,930,000.00, for performing said construction.

This Resclution adopted this 18th day of February 2014.

APPROVED:

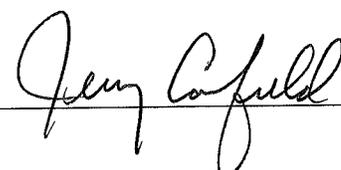

Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



npr

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AUTHORIZATION NUMBER TWO TO THE AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC., FOR ENGINEERING SERVICES FOR THE MILL CREEK INTERCEPTOR IMPROVEMENTS - PHASE II

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

SECTION 1: Authorization Number Two with Hawkins-Weir Engineers, Inc., providing engineering construction phase services for the Mill Creek Interceptor Improvements - Phase II, Project Number 12-12-EC1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute Authorization Number Two in the amount of \$165,000.00, for performance of said services.

This Resolution adopted this 18th day of February 2014.

APPROVED:



Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



npr

RESOLUTION ACCEPTING THE BID OF AND AUTHORIZING THE
MAYOR TO EXECUTE A CONTRACT WITH FORSGREN, INC., FOR THE
MILL CREEK INTERCEPTOR IMPROVEMENTS - PHASE II

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

SECTION 1: The bid of Forsgren, Inc., for the construction of the Mill Creek Interceptor
Improvements - Phase II, Project Number 12-12-C1, is hereby accepted.

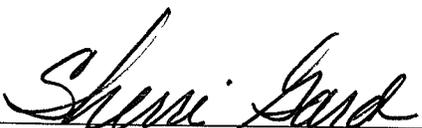
SECTION 2: The Mayor is hereby authorized to execute a contract with Forsgren, Inc.,
for an amount of \$1,917,753.10, for performing said construction.

This Resolution adopted this 18th day of February 2014.

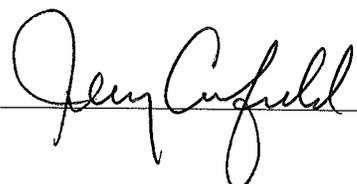
APPROVED:


Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM:


npr

RESOLUTION ACCEPTING THE BID OF AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH GOODWIN & GOODWIN, INC., FOR THE "P" STREET WASTEWATER TREATMENT PLANT EFFLUENT PUMP INSTALLATION

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

SECTION 1: The bid of Goodwin & Goodwin, Inc., for the construction of the "P" Street Wastewater Treatment Plant Effluent Pump Installation, Project Number 12-17-C2, is hereby accepted.

SECTION 2: The Mayor is hereby authorized to execute a contract with Goodwin & Goodwin, Inc., for an amount of \$87,680.00, for performing said construction.

This Resolution adopted this 18th day of February 2014.

APPROVED:

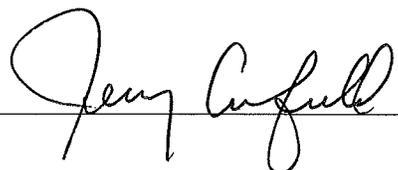

Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



npr