

AGENDA

**FORT SMITH BOARD OF DIRECTORS
SPECIAL MEETING**

November 29, 2011~ 12:00 NOON

**FORT SMITH PUBLIC LIBRARY
COMMUNITY ROOM
3201 ROGERS AVENUE**

ROLL CALL

- Resolution approving Amendment No. 2 to the convention center lease agreement with the Fort Smith Advertising and Promotion Commission

ADJOURN



OFFICE OF THE CITY CLERK
Sherri Gard, CMC, City Clerk
Heather James, Assistant City Clerk

MEDIA RELEASE

November 23, 2011

The City of Fort Smith Board of Directors will not have a study session on Tuesday, November 29, 2011; however, Directors Steve Tyler, Andre' Good, Don Hutchings and Kevin Settle have called a special meeting for 12:00 Noon, Tuesday, November 29, 2011 at the Fort Smith Public Library Community Room to consider the following:

- Resolution approving Amendment No. 2 to the convention center lease agreement with the Fort Smith Advertising and Promotion Commission

For agenda information, please contact the City Clerk's Office at 784-2208. Once finalized, the agenda will be posted on the city website, www.fortsmithar.gov.



Sherri Gard, City Clerk

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 784-2208
FAX (479) 784-2256
E-mail: cityclerk@fortsmithar.gov

SM 1

RESOLUTION NO. _____

**A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE
CONVENTION CENTER LEASE AGREEMENT WITH THE
FORT SMITH ADVERTISING AND PROMOTION COMMISSION**

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

Amendment No. 2 to the lease agreement with the Fort Smith Advertising and Promotion Commission for the Convention Center is hereby approved. The Mayor is hereby authorized to execute said amendment on behalf of the City.

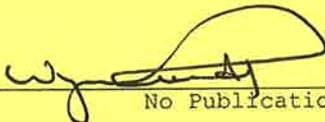
This Resolution passed this _____ day of November, 2011.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



No Publication Required



MEMORANDUM

November 23, 2011

TO: Mayor and Board of Directors

FROM: Ray Gosack, City Administrator

SUBJECT: Convention Center Lease Agreement

Earlier this year, the board approved an agreement with the Advertising and Promotion Commission for the A & P to operate the convention center. The agreement was contingent upon the enactment of the prepared food tax. The transition of the center to the A & P Commission's operation was effective July 1st. By a previous amendment, the agreement is effective through November 30, 2011 if the prepared food tax wasn't enacted.

The A & P Commission has an interest in continuing to operate the convention center. If the board is interested, a new lease agreement will need to be negotiated. Until such an agreement can be prepared, it would make sense for the A & P Commission to continue operating the convention center beyond November 30th.

Attached is a lease amendment which extends the A & P Commission's operation of the convention center until a new agreement is in place or until February 29, 2012. The city will continue paying the center's operating costs and receiving the operating income.

The staff recommends approval of the lease amendment. This will provide for operation of the convention center by the A & P Commission until a new lease agreement is approved. The A & P Commission has approved the lease amendment. If there's any questions or a need for more information, please contact me.

Attachment

Ray

AMENDMENT NO. 2 TO LEASE AGREEMENT

THIS AMENDMENT made and entered into on the ____ day of _____, 2011, by and between the City of Fort Smith, Arkansas (“Landlord” or the “City”) and Fort Smith Advertising and Promotion Commission (“Tenant” or the “Commission”), to be effective December 1, 2011.

WHEREAS, by a lease dated July 1, 2011, the Landlord leased to the Tenant the premises described on Exhibit “A” and referenced in Paragraph 1.3 of the Lease Agreement for a term of ten (10) years commencing on July 1, 2011; and,

WHEREAS, the Prepared Food Tax contemplated by the Lease Agreement will not be enacted; and,

WHEREAS, the Lease Agreement was previously amended on July 5, 2011, which amendment will expire on November 30, 2011; and,

WHEREAS, the Landlord and the Tenant presently wish to amend the Lease in accordance with the terms and conditions hereof;

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The parties agree that the recitals above are true and correct in all material respects.
2. The parties agree that the Lease is hereby modified and amended as follows:
 - (a) Until such time as a new lease agreement between Landlord and Tenant is approved, Tenant shall continue to use and operate the Premises, but the cost of operation during such time shall be borne by the Landlord through funds in the Landlord’s Convention Fund Account.
 - (b) The thirteen (13) City employees currently assigned to work at the Fort Smith Convention Center shall continue to be employees of the Commission, with the same salaries and benefits as they now have or as may otherwise be approved.
 - (c) Any income derived from the operation of the Fort Smith Convention Center during the period of this amendment shall go into and be a part of the Landlord’s Convention Fund Account.
 - (d) This present amendment to the Lease Agreement shall terminate on February 29, 2012, unless extended by agreement of the parties or unless replaced sooner

by a new lease agreement.

3. The parties hereby confirm that all other terms and conditions of the Lease are in full force and effect, unamended except as expressly provided in this agreement and that time shall remain of the essence in the Lease.
4. This Amended Lease Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original and such counterpart together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Amendment to Lease Agreement has been executed under seal as of the day and year first above written.

LANDLORD:

City of Fort Smith, Arkansas
a city of the first class

By: _____

Print Name: _____

Title: _____

TENANT:

**Fort Smith Advertising and Promotion
Commission**

By: _____

Print Name: _____

Title: _____

RESOLUTION NO. R-129-11

**A RESOLUTION APPROVING AN AMENDMENT TO THE
CONVENTION CENTER LEASE AGREEMENT WITH THE
FORT SMITH ADVERTISING AND PROMOTION COMMISSION**

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

The amendment to the lease agreement with the Fort Smith Advertising and Promotion Commission for the Convention Center is hereby approved. The Mayor is hereby authorized to execute said amendment on behalf of the City.

This Resolution passed this 5th day of July, 2011.



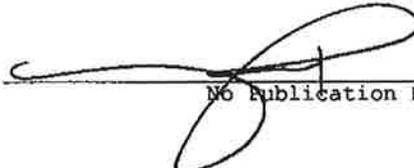
Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



No Publication Required

R-129-11

AMENDMENT TO LEASE AGREEMENT

THIS AMENDMENT made and entered into on the 5th day of July, 2011, by and between the City of Fort Smith, Arkansas ("Landlord" or the "City") and Fort Smith Advertising and Promotion Commission ("Tenant" or the "Commission"), to be effective July 1, 2011.

WHEREAS, by a lease dated July 1, 2011, the Landlord leased to the Tenant the premises described on Exhibit "A" and referenced in Paragraph 1.3 of the Lease Agreement for a term of ten (10) years commencing on July 1, 2011; and,

WHEREAS, the Prepared Food Tax levied by Landlord is currently in abeyance as the result of a preliminary injunction entered by the Sebastian County Circuit Court; and,

WHEREAS, the Landlord and the Tenant wish to amend the Lease in accordance with the terms and conditions hereof;

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The parties agree that the recitals above are true and correct in all material respects.
2. The parties agree that the Lease is hereby modified and amended as follows:
 - (a) Until such time as the Prepared Food Tax levied by Landlord is implemented, Tenant shall continue to use and operate the Premises, but the cost of operation during such time shall be borne by the Landlord through funds in the Landlord's Convention Fund Account. If the Prepared Food Tax levied by Landlord is, by final court decision or otherwise, allowed to be implemented, then, at such time, the terms of this Amended Lease shall terminate and from that point forward the terms and conditions of the original Lease Agreement between Landlord and Tenant shall be in effect in their entirety.
 - (b) The thirteen (13) City employees currently assigned to work at the Fort Smith Convention Center shall, effective July 1, 2011, become employees of the Commission, with the same salaries and benefits as they now have.
 - (c) Any income derived from the operation of the Fort Smith Convention Center during the period of this amendment shall go into and be a part of the Landlord's Convention Fund Account.

(d) Subject to the provisions of 2(a) above, this present amendment to Lease Agreement shall terminate on November 30, 2011, unless extended by agreement of the parties.

3. The parties hereby confirm that all other terms and conditions of the Lease are in full force and effect, unamended except as expressly provided in this agreement and that time shall remain of the essence in the Lease.
4. This Amended Lease Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original and such counterpart together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Amendment to Lease Agreement has been executed under seal as of the day and year first above written.

LANDLORD:

City of Fort Smith, Arkansas
a city of the first class

By: 
Print Name: Sandy Sanders
Title: Mayor

TENANT:

**Fort Smith Advertising and Promotion
Commission**

By: 
Print Name: Sandy Sanders
Title: Chairman

RESOLUTION NO. R-28-11

**A RESOLUTION APPROVING A LEASE AGREEMENT
FOR THE FORT SMITH CONVENTION CENTER**

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

The Lease Agreement between the City of Fort Smith, Arkansas and the Fort Smith Advertising and Promotion Commission for the Fort Smith Convention Center is hereby approved. The Mayor and City Clerk are hereby authorized to execute said agreement on behalf of the City.

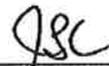
This Resolution passed this 15th day of February, 2011.


Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM:


No Publication Required

R-28-11

LEASE AGREEMENT

City of Fort Smith, Arkansas

Landlord

and

Fort Smith Advertising and Promotion Commission

Tenant

LEASE AGREEMENT

LANDLORD: **City of Fort Smith, Arkansas**

TENANT: **Fort Smith Advertising and Promotion Commission**

PREMISES: **Fort Smith Convention Center**
 55 South 7th Street, Fort Smith, Arkansas

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LEASE AGREEMENT

This Lease Agreement (hereinafter sometimes referred to as the "Lease") is made and entered into as of July 1, 2011 (the "Commencement Date"), by and between **City of Fort Smith, Arkansas**, a city of the first class located in Sebastian County, Arkansas (hereinafter sometimes referred to as the "Landlord" or the "City") and **Fort Smith Advertising and Promotion Commission**, a commission of the City of Fort Smith (hereinafter sometimes referred to as the "Tenant" or the "Commission").

WITNESSETH:

For valuable consideration, the receipt and sufficiency of which each party acknowledges, Landlord and Tenant, intending to be legally bound, hereby agree with each other as follows:

ARTICLE I
DEFINITIONS AND FUNDAMENTAL PROVISIONS

The following terms shall have the meanings set forth below when used in this Lease, except as may otherwise be specifically provided. The Rent shall be as set forth below subject to adjustment as provided in the Section cross referenced therewith.

1.1. **Addresses.**

Landlord: City of Fort Smith, Arkansas
Attn: City Administrator
P.O. Box 1908
Fort Smith, Arkansas 72902

Tenant: Fort Smith Advertising and Promotion Commission
Attn: Mr. Claude Legris, Executive Director
2 North B Street,
Fort Smith, Arkansas 72901

or such other address or addresses as a party may designate by written notice to the other party.

1.2. **Permitted Use.** The Premises shall be used for the following purposes and for no other purpose whatsoever: operation of a multi-purpose civic center for meetings and conventions, exhibitions, entertainment events and related uses, including without limitation the serving of food and drink, including alcoholic beverages.

1.3. **Premises.** The lands situated in the City of Fort Smith, Sebastian County, Arkansas more particularly described on Exhibit A attached hereto (the "Lands"), all buildings, structures and other improvements now or at any time hereafter erected and installed on the Lands (the "Improvements"), and all easements, rights of way and other appurtenances belonging or related to the Lands or Improvements (the Lands and Improvements are collectively referred to herein as the "Facility"). All furniture, fixtures, machinery and equipment used in the

operation of the Facility presently located in or associated with the Facility (the "*Equipment*"). The Facility and the Equipment are collectively referred to as the "*Premises*".

1.4. Rent. From and after the Commencement Date, Tenant shall pay to Landlord as rent hereunder the sum of One Dollar (\$1.00) per year. All Rents shall be payable in advance beginning on the Commencement Date and on each anniversary thereof during the Primary Term.

1.5. Term. Ten (10) years (the "*Term*" or "*Primary Term*"), to begin on the Commencement Date, subject to earlier termination as hereinafter provided. This Lease shall expire at midnight on the tenth (10th) anniversary of the Commencement Date (hereinafter sometimes referred to as the "*Expiration Date*").

ARTICLE II DEMISED PREMISES

2.1. Demise of Premises. Landlord hereby leases to Tenant for the Term and Permitted Use specified herein and Tenant rents from Landlord the Premises, subject to the terms and conditions herein contained, and subject to all encumbrances, easements, restrictions, zoning laws, and governmental or other regulations affecting the Premises.

ARTICLE III RENT AND OTHER CHARGES

3.1. Payment of Rent. During the Term, Tenant covenants and agrees to pay to Landlord at the address set forth in Section 1.1 above, without demand, deduction or setoff, except as specifically provided elsewhere in the Lease, all Rent and other charges as defined in Section 1.5.

3.2. Utilities. The utilities for the Premises are separately metered. Tenant shall pay for, and be solely responsible for all utilities required, used or consumed in the Premises, including, but not limited to water, sanitary sewer service, garbage collection, gas, telephone, electricity, or any similar service (herein sometimes collectively referred to as the "*Utility Services*").

3.3. Real Estate Taxes, Personal Property Taxes and Rent Tax. Landlord and Tenant hereby acknowledge that the Premises are currently shown as "Exempt" on the books of the Sebastian County Assessor and that no real estate, personal property or other ad valorem taxes are assessed or paid on the Premises. In the event the Premises cease to be deemed exempt from ad valorem taxes and those taxes are levied against the Premises, Tenant shall be responsible for the payment of such taxes and assessments and Landlord shall cooperate with Tenant in any efforts to cease the levy and collection of those taxes.

3.4. Insurance. Tenant, at its sole cost and expense, shall maintain fire and extended coverage insurance on the Premises with a limit no less than the full insurable value of the Improvements including any leasehold improvements constructed by Tenant. Landlord shall be named as an additional insured party under the insurance policy. Tenant shall provide insurance

coverage for the contents, furniture, fixtures and equipment from whatever source as Tenant may elect.

ARTICLE IV
USE OF PREMISES

4.1. **Tenant's Use.** Tenant shall use the Premises solely for the Permitted Use specified in Section 1.3. Tenant will at all times operate the Premises as a convention center within the requirements of the Advertising and Promotion Commission Act, Ark. Code Ann. §§ 26-75-601 through 606 so as to permit the use of revenues received from any tax levied under such Act for the benefit of the Premises.

4.2. **Legal Operation of Premises.** Tenant shall not use or suffer or permit the Premises, or any part thereof, to be used for any purpose or use in violation of the Lease or applicable law. Tenant shall have the right to contest any alleged violation of law provided that the interest of Landlord in the Premises is not at unreasonable risk as the result of such contest or from any adverse judgment in Landlord's reasonable discretion.

4.3. **Alterations to Facility.** Tenant shall have the right from time to time during the Term to make non-structural additions, alterations and changes in or to the Improvements at its sole cost and expense. Tenant may make structural modifications to the Improvements and construct additional improvements only with the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant shall submit to Landlord plans and specifications for any structural modifications or additional improvements. All work by Tenant on the Facility shall be performed in a workmanlike manner with high quality materials and shall be prosecuted diligently to completion. All such permanent alterations shall remain upon and become a part of the Facility and shall become Landlord's property upon the termination of this Lease. Tenant shall have no obligation to remove any such modifications or improvements or restore the Facility to its original condition at the expiration of the Term.

4.4. **Liens.** Tenant will not create or permit to be created or to remain, and will discharge (or bond over, within sixty (60) days following notice of the filing thereof), as provided below), any lien (including, but not limited to, the liens of mechanics, laborers or materialmen for work or materials alleged to be done or furnished in connection with the Premises), encumbrance or other charge upon the Premises or any part thereof, except for any such liens attributable to the acts or omissions of Landlord. If Tenant fails to discharge or bond over any such liens, encumbrances or charges as may be placed upon the Premises, Landlord may, but shall not be obligated to, remove any such lien, whereupon Tenant shall reimburse Landlord upon written demand for all sums so expended by Landlord, including attorney's fees in connection therewith, and interest thereon from the date of Landlord's payment, until reimbursement at the rate of four (4%) percent over the then Prime Rate as published daily under the heading "Money Rates" in The Wall Street Journal, unless such rate be usurious as applied to Tenant, in which case the highest permitted legal rate shall apply (the "*Interest Rate*"). Tenant will pay, protect and indemnify Landlord promptly upon demand therefor, from and against all liabilities, losses, claims, damages, costs and expenses, including reasonable attorney's fees, incurred by Landlord by reason of the filing of any lien and/or the removal of the same.

ARTICLE V
REPAIRS AND MAINTENANCE

5.1. Maintenance and Repair Obligations of Tenant. Tenant shall, at Tenant's expense, at all times maintain the Premises, including the roof, foundation, exterior walls of the Facility, gutters and water spouts, utility services extending to the service connections within the Facility and all interior wiring, plumbing, pipes, conduits and other utilities and sprinkler fixtures, all interior non-structural portions of the Facility (specifically including the windows and doors of the Facility), the HVAC systems serving the Facility, and all the Equipment in good order and repair. In the event Tenant fails to perform any of its obligations as required hereunder within thirty (30) days after receipt of written notice, Landlord may, but shall not be required to, perform and satisfy same with Tenant hereby agreeing to reimburse Landlord, as additional rent, for the cost thereof promptly upon written demand, together with interest thereon at the Interest Rate from the date of payment by Landlord to the date of reimbursement. Notwithstanding the above, Tenant may in its reasonable discretion determine that some or all of the Equipment cannot be repaired or is no longer useful due to ordinary wear and tear or obsolescence. In such event Tenant may dispose of such Equipment and, at its sole cost and expense, replace the disposed Equipment with Equipment of equal utility and benefit for the Facility's operation. All such replacement Equipment shall become the property of Landlord and subject to this Lease. Tenant hereby assumes all contracts between Landlord and third parties existing on the Commencement Date for the maintenance and upkeep of the Premises. The assumption shall be effective as of the Commencement Date. Subject to the terms thereof, Tenant shall have no obligation to renew or extend any such maintenance contracts. A list of the maintenance contracts assumed by Tenant is set forth on Exhibit B attached hereto.

5.2. Inspection of the Premises. Tenant may obtain, at its sole cost and expense, an inspection of the Premises covering, without limitation, any or all electrical, mechanical, HVAC, plumbing and fire protection systems, roof, structural components and condition of the Equipment. The inspections shall be conducted by one or more consultants engaged by Tenant at its sole discretion. The inspectors shall provide a report of their findings, which may include an estimate of the cost to return any deficient systems or Equipment to operation in accordance with applicable manufacturer's specifications and an opinion on systems or Equipment that will require material expense for maintenance or replacement during the Primary Term of this Lease. After receipt of the inspection reports, Tenant may provide written notice to Landlord (a "Deficiency Notice") concerning deficient systems, structural components or Equipment the cost of which to repair or replace will be material. Any Deficiency Notice shall be delivered to Landlord on or before sixty (60) days after the Commencement Date. Landlord and Tenant shall thereafter negotiate in good faith to reach agreement on the responsibility for the cost and expense of repair, maintenance or replacement of the items set out in the Deficiency Notice. If Landlord and Tenant have not reached agreement on such matters within thirty (30) days after Tenant's delivery of the Deficiency Notice (the "Negotiation Period"), then Tenant shall have the right, in its sole discretion, to terminate the Lease. Any such termination shall be effected by written notice to Landlord on or before five (5) Business days after the expiration of the Negotiation Period. Tenant shall have thirty (30) days after delivery of such termination notice to vacate the Premises and thereafter neither party shall have any further obligation under the Lease.

ARTICLE VI
INSURANCE AND INDEMNIFICATION

6.1. **Tenant Insurance.** Tenant shall maintain at its sole expense during the Term commercial general liability insurance covering the Premises and the adjoining streets, sidewalks and passageways in an amount not less than \$1,000,000.00 for injury or death to any one person and \$2,000,000.00 for injury and/or death to any number of persons in any one accident and property damage insurance in an amount not less than \$500,000.00 in companies licensed and in good standing in the State of Arkansas. Tenant will cause such insurance policies to name Landlord and its agents as additional insureds and to be written so as to provide that the insurer waives all right of recovery by way of subrogation against Landlord in connection with any loss or damage covered by the policy. In addition, Tenant shall keep in force worker's compensation or similar insurance to the extent required by law, which coverage may be provided through an arrangement with Landlord or, if separate, shall provide benefits substantially similar to the coverage provided by Landlord to its employees. Tenant shall deliver certificates of such insurance to Landlord upon written request. Should Tenant fail to effect and maintain the insurance called for herein, Landlord may, at its sole option after ten (10) business days prior written notice to Tenant and Tenant's failure to procure same and provide proof thereof to Landlord within said ten (10) business days, procure said insurance and pay the requisite premiums, in which event, Tenant shall pay all sums so expended to Landlord, as additional rent following invoice, together with interest thereon at the Interest Rate from the date of Landlord's payment until reimbursement. Each insurer under the policies required hereunder shall agree by endorsement on the policy issued by it or by independent instrument furnished to Landlord that it will give Landlord ten (10) days prior written notice before the policy or policies in question shall be altered or canceled.

6.2. **Indemnification.** Tenant hereby agrees to indemnify and hold Landlord wholly harmless from any and all claims, damages, liabilities or expenses (including, without limitation, reasonable attorney's fees and the costs of defending any action) arising out of (i) Tenant's use of the Premises, (ii) any and all claims by third parties arising out of or due to the acts or omissions of Tenant, its agents, contractors, employees or licensees after the expiration of any notice and cure period, (iii) the negligence or willful acts or omissions of Tenant, its agents, contractors, employees or licensees, regardless of whether or where such negligence, acts or omissions occurred or (iv) the injury to, or death of, any persons or damage to, or destruction of any property occurring in the Premises. Tenant further releases Landlord from liability for any damages sustained by Tenant, or any other person claiming by, through or under Tenant, due to the Premises or any part thereof, or any appurtenances thereto, becoming out of repair, or due to the happening of any accident, including, but not limited to, any damage caused by water, snow, windstorm, tornado, gas, steam, electrical wiring, sprinkler system, plumbing, heating and air conditioning apparatus. Landlord shall not be liable for any damage to, or loss of, Tenant's personal property, inventory, fixtures or improvements from any cause whatsoever, unless caused by the negligence or willful misconduct of Landlord or its agents, contractors, employees or licensees and then only to the extent not covered by insurance to be obtained by Tenant in accordance with this Article. The foregoing indemnity obligation of Tenant shall include reasonable attorney's fees, investigation costs, and all other reasonable costs and expenses incurred by Landlord and shall survive the termination of this Lease.

6.3. Subrogation. Landlord and Tenant each waive any rights each may have against the other on account of any loss or damage occasioned to Landlord or Tenant, as the case may be, to the Premises or its contents arising from any liability, loss, damage or injury caused by fire or other casualty for which property insurance is required to be carried pursuant to the Lease (to the extent of receipt of proceeds pursuant to such policies of insurance). The insurance policies obtained by Tenant pursuant to this Lease shall contain endorsements waiving any right of subrogation which the insurer may otherwise have against the non-insuring party. The foregoing release and the foregoing requirement for waivers of subrogation shall be operative only so long as the same shall neither preclude the obtaining of such insurance nor diminish, reduce or impair the liability of any insurer.

ARTICLE VII
DAMAGE TO PREMISES AND CONDEMNATION

7.1. Fire, Explosion or Other Casualty. If the Premises is damaged by fire, tornado or other casualty covered by the insurance policies maintained hereunder, and such damage cannot be fully rebuilt or repaired within ninety (90) days after the date of the casualty, then Tenant shall have the right to terminate this Lease upon written notice to Landlord and this Lease shall terminate upon the date set forth in such notice and neither party shall have any further obligations hereunder except that any obligation to indemnify the other for pre-termination events shall survive. If Tenant elects not to terminate this Lease or the damage may be repaired in less than the ninety days, then the Premises shall be promptly repaired and restored by Tenant to not less than substantially the same condition in which it was immediately preceding the casualty, but Tenant shall not be obligated to spend in excess of any insurance proceeds actually received by Tenant as a result of such damage or casualty. Landlord shall release any interest in the insurance proceeds to fund such work. If Tenant elects to terminate this Lease, Tenant shall assign to Landlord all rights to insurance proceeds related to the Premises.

7.2. Condemnation. In the event that the Premises, or any part thereof, shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, then the Lease shall, at the sole option of Tenant, forthwith cease and terminate. If Tenant does not elect to terminate this Lease following any such condemnation, Tenant shall, as soon as reasonably practicable following such condemnation, restore the Premises to an integrated whole, but Tenant shall not be obligated to spend in excess of any condemnation award actually received by Tenant as a result of such condemnation and receipt of any compensation awarded for any taking. All compensation awarded for any taking (or sale proceeds in lieu thereof) shall be the property of Tenant, and Landlord shall have no claim thereto, the same being hereby expressly waived by Landlord, provided however that if this Lease is terminated by Tenant as a result of any condemnation, Landlord shall be entitled to claim from the condemning authority, such compensation as may be awarded or recoverable by Landlord on account of any and all damage to Landlord's interest in the Premises, or for any other damages compensable separately to Landlord

ARTICLE VIII
ASSIGNMENT AND SUBLETTING

8.1. **Assignment and Subletting.** Tenant shall not have the right to assign this Lease, sublease the entirety of the Premises, or pledge or hypothecate its interest in the Premises or Lease without Landlord's prior written consent. Any assignment, unauthorized sublease, pledge or hypothecation executed without Landlord's consent shall be void. Tenant may sublease without consent (i) all or any part of the Premises in the ordinary course of business of the Premises and (ii) portions of the Premises to one or more third party providers of convention and event related services, including without limitation, event promoters, caterers, and event ticket sales and distribution companies.

ARTICLE IX
SUBORDINATION AND ATTORNMENT

9.1. **Attornment.** Tenant shall attorn and be bound to any of Landlord's successors under all the terms, covenants and conditions of this Lease for the balance of the remaining Term provided such successor recognizes this Lease and Tenant's rights thereunder.

9.2. **Estoppel Certificate.** Within thirty (30) days after request therefor by Landlord, or upon a request associated with any sale, assignment or hypothecation of the Premises by Landlord, Tenant hereby agrees to deliver an estoppel certificate to Landlord or any proposed mortgagee or purchaser of the Premises certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, stating the modifications and that the Lease is in full force and effect as modified), that there are no defenses or setoffs thereto (or stating those claimed by Tenant), the dates to which rent and other charges hereunder have been paid and such other matters as Tenant may be required to provide Landlord pursuant to the Lease.

9.3. **Tenant's Lender Requirements.** Landlord does, if requested, likewise agree to execute estoppel letters containing the information described in Section 9.2 above and other reasonable instruments for the benefit of Tenant's lender(s), if any, within thirty (30) days of written request therefor. No such instrument shall function as a material modification of this Lease or the waiver of any material right on the part of Landlord or impose any new material obligation on Landlord. Landlord may refuse to execute any estoppels letter that includes terms prohibited by the preceding sentence.

ARTICLE X
DEFAULT, REMEDIES AND BANKRUPTCY

10.1. **Default of Tenant and Remedies of Landlord.** In the event of default by Tenant hereunder, Landlord may at its option invoke all of the remedies set forth in this Article X or otherwise available (in law or equity) to Landlord under the laws of the United States or the State of Arkansas. In the event Tenant shall not commence and proceed diligently to effectuate any actions required by Landlord and which Tenant is obligated to effect under the terms of the Lease, as specified in any notice given Tenant hereunder provided said notice period is at least equivalent to that set forth in this Lease, Landlord may at its sole discretion do such things as are specified in said notice, and Tenant hereby grants to Landlord access to the Premises if same is

required by Landlord in furtherance thereof. Landlord shall have no liability to Tenant for any loss or damage whatsoever (except for the negligence or willful act of Landlord, its agents or employees) resulting from such entry or such action by Landlord, and Tenant hereby agrees to pay as Rent, within ten (10) days after written demand, any reasonable expenses incurred or paid by Landlord in taking such action. Each of the following shall be deemed a default by Tenant and a breach of this Lease (each, a "default"). In the event that Tenant: (i) fails to pay all or any portion of any sum due from Tenant hereunder for Rent within ten (10) days after written notice that same is due; (ii) fails to reimburse Landlord for sums advanced by Landlord on Tenant's behalf hereunder or pursuant to any exhibit hereto within ten (10) business days following written notice to Tenant that such payment is overdue; (iii) fails to immediately cease all conduct prohibited hereby within thirty (30) days after receipt of written notice by Tenant; (iv) fails to take such actions within thirty (30) days after written notice from Landlord as are required by Landlord to remedy Tenant's failure to perform any of the terms, covenants, and conditions hereof; (v) is adjudged as bankrupt or insolvent or files any debtor proceeding or if Tenant shall take or have taken against Tenant any petition of bankruptcy which is not vacated within ninety (90) days, or if Tenant shall take action or have action taken against Tenant for the appointment of a receiver for all or a portion of Tenant's assets which is not vacated within ninety (90) days, or shall make an assignment for the benefit of creditors or if in any other manner Tenant's interest hereunder shall pass to another by operation of law (it being understood that any or all of such occurrences shall be deemed a default on account of bankruptcy for the purposes hereof and that such default on account of bankruptcy shall apply to and include any guarantor of this Lease); (vi) commits waste to the Premises or is otherwise in default hereunder, and such default shall not have been cured within thirty (30) days following written notice from Landlord (it being agreed that in the event such default shall not be curable by the payment of money and shall be of such a nature as to reasonably require more than thirty (30) days to cure, then Tenant shall not be deemed in default provided Tenant commences the cure of such default within said thirty (30) day period and thereafter continuously prosecutes said cure to completion within ninety (90) days), then and in such event, Landlord may at its option and upon ten (10) days notice to Tenant, reenter and resume possession of the Premises. Notwithstanding such reentry with legal process by Landlord, and except for the negligence of Landlord, Tenant hereby releases Landlord from and against any and all loss or damage which Tenant may incur by reason of the termination of this Lease and/or Tenant's right to possession hereunder pursuant to the terms of this Lease or as a matter of law.

10.2. Remedies Cumulative. All rights and remedies of either party herein created or remedies otherwise existing at law or equity are cumulative and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right to the exercise of any other. All such rights and remedies may be exercised and enforced concurrently and whenever and as often as the exercising party shall deem desirable. The failure of Landlord to insist upon strict performance by Tenant of any of the covenants, conditions, and agreements of this Lease shall not be deemed a waiver of any of said rights and remedies concerning any subsequent or continuing breach or default by the other of any of the covenants, conditions, or agreements of this Lease. No surrender of the Premises shall be affected by Landlord's acceptance of Rent or by any other means whatsoever unless the same be evidenced by Landlord's written acceptance of such as a surrender.

10.3. Remedies of Tenant. Landlord agrees that with respect to any default by Landlord hereunder, Tenant may invoke all rights and remedies available at law or equity to Tenant under the laws of the United States or the State of Arkansas.

ARTICLE XI
SURRENDER OF PREMISES

11.1. Surrender of Premises, Holding Over and Abandonment of Tenant's Trade Fixtures. Tenant, upon expiration or termination of this Lease, either by lapse of time or otherwise, agrees peaceably to surrender to Landlord the Premises, including the alterations, additions, improvements, changes, fixtures and Equipment, in broom-clean condition and in good repair, ordinary use, wear, damage by fire or other casualty excepted. Tenant agrees to remove Tenant's office furniture, computers and electronics, and office equipment upon such expiration or termination and to repair all damage to the Premises caused by or resulting from such removal. Tenant's failure to remove all or part of Tenant's personal property and restore the Premises within thirty (30) days after such expiration or termination shall be deemed an abandonment to Landlord of such property and, if Landlord elects to remove all or any part of said personal property, such removal, including the cost of repairing any damage to the Premises caused by or resulting from such removal, shall be paid by Tenant.

ARTICLE XII
ACCESS TO PREMISES

12.1. Access to Premises. Tenant agrees that Landlord, its agents, employees, or servants or any person authorized by Landlord may enter the Premises during normal business hours to inspect the condition of same and to make such repairs to the Premises as Landlord may elect to make in accordance with the terms and provisions of this Lease (Landlord agreeing to repair any damage to the Premises occasioned by such entry and to provide two (2) days' written notice to Tenant of its intent to make repairs to the Premises, except in the case of an emergency where no such prior notice shall be required). Nothing in this Article XII, however, shall be deemed or construed to impose upon Landlord any obligation or liability whatsoever for care, supervision, repair, improvement, addition, change, or alteration of the Premises.

ARTICLE XIII
MISCELLANEOUS

13.1. Successors and Assigns. All covenants, promises, conditions, representations, and agreements herein contained shall be binding upon, apply, and inure to the parties hereto and their respective heirs, executors, administrators, successors, and permitted assigns.

13.2. Entire Agreement. This Lease and any Exhibits attached hereto constitute the sole and exclusive agreement between the parties with respect to the Premises. No amendments, modifications of or supplements of this Lease shall be effective unless in writing and executed by Landlord and Tenant.

13.3. Late Charges. If Tenant shall fail to make any payment of Rent within ten (10) days after notice that the same is past due, such amount shall bear interest at the Interest Rate, and Tenant shall pay a late fee equal to five percent (5%) of the amount past due, it being

understood that said amounts shall constitute liquidated damages and shall be for the purpose of reimbursing Landlord for additional costs and expenses which Landlord presently expects to incur in connection with the handling and processing of late Rent payments. The payment of the above listed amount is in addition to any other remedy provided in this Lease.

13.4. Time is of the Essence. The time of the performance of all of the covenants, conditions, and agreements of this Lease is of the essence of this Lease.

13.5. Recording of this Lease. A short form or memorandum of this Lease may be recorded by Tenant upon review and approval and execution of the same by Landlord.

13.6. Relationship of Parties. Nothing herein shall be construed so as to constitute a joint venture or partnership between Landlord and Tenant.

13.7. No Presumption Against Drafter. Landlord and Tenant understand, agree, and acknowledge that: (i) this Lease has been freely negotiated by both parties; and (ii) that, in the event of any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this Lease, or any of its terms or conditions, there shall be no inference, presumption, or conclusion drawn whatsoever against either party by virtue of that party having drafted this Lease or any portion thereof.

13.8. Force Majeure. In the event that either party shall be delayed or hindered in, or prevented from, the performance of any work, service, or other act required under this Lease to be performed by the party and such delay or hindrance is due to strikes, lockouts, acts of God, governmental restrictions, enemy act, civil commotion, unavoidable fire or other casualty, or other causes of a like nature beyond the control of the party so delayed or hindered, then performance of such work, service, or other act shall be excused for the period of such delay and the period for the performance of such work, service, or other act shall be extended for a period equivalent to the period of such delay. In no event shall such delay constitute a termination or extension of this Lease. The provisions of this Section shall not operate to excuse Tenant from the prompt payment of Rent as due under any provision hereof.

13.9. Governing Law. This Lease shall be construed under the laws of the State of Arkansas.

13.10. Partial Invalidity. If any provision of this Lease or the application thereof to any person or circumstance shall to any extent be held invalid, then the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby, and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

13.11. Interpretation. In interpreting this Lease in its entirety, the printed provisions of this Lease and any additions written or typed thereon shall be given equal weight, and there shall be no inference, by operation of law or otherwise, that any provision of this Lease shall be construed against either party hereto.

13.12. Survival of Obligations. The provisions of this Lease with respect to any obligation of either party to pay any sum in order to perform any act required by this Lease after

the expiration or other termination of this Lease shall survive the expiration or other termination of this Lease.

13.13. Headings, Captions and References. The section captions contained in this Lease are for convenience only and do not in any way limit or amplify any term or provision hereof. The use of the terms "hereof," "hereunder" and "herein" shall refer to this Lease as a whole, inclusive of the Exhibits, except when noted otherwise. The use of the masculine or neuter genders herein shall include the masculine, feminine and neuter genders and the singular form shall include the plural when the context so requires. All Exhibits attached to this Lease are by this reference incorporated herein.

13.14. Consents and Approvals. Whenever any provision of this Lease requires approval or determination by a party, the party shall promptly exercise its judgment and promptly communicate its decision to the other party.

13.15. Hazardous Materials. Tenant shall not cause or permit any Hazardous Material (as defined herein) to be brought, kept or used in or about the Premises by Tenant, its agents, employees, contractors or invitees except for Hazardous Material used by Tenant, its agents, employees, contractors or invitees in connection with activities permitted by this Lease and in accordance with applicable law. Tenant hereby indemnifies Landlord from and against any breach by Tenant of the obligations stated in the preceding sentence, and agrees to defend and hold Landlord harmless from and against any and all loss, damage, cost and/or expenses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises, and sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees) which arise during or after the Term as a result of such breach. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises which results from such a breach. Without limiting the foregoing, if the presence of any Hazardous Material in the Premises caused or permitted by Tenant results in any contamination of the Premises Center, Tenant shall promptly take all actions at its sole expense as are necessary to return the Premises to the conditions existing prior to the introduction of such Hazardous Material to the Premises; provided that the Landlord's approval of such actions, and the contractors to be used by Tenant in connection therewith, shall first be obtained.

As used herein, the term "*Hazardous Material*" means any hazardous or toxic substance, material, or waste which is or becomes regulated by any local governmental authority or the United States Government. The term "*Hazardous Material*" includes, without limitation, any material or substance which is (i) defined as a "hazardous waste", "extremely hazardous waste", or "restricted hazardous waste" or similar term under the law of the jurisdiction where the property is located, or (ii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1317), (iii) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 47 U.S.C. § 6901 *et seq.* (42 U.S.C. § 6903), or (iv) defined as a "hazardous substance" pursuant to

Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.* (42 U.S.C. § 9601).

As used herein, the term "*Laws*" means any applicable federal, state, or local laws, ordinances, or regulation relating to any Hazardous Material affecting the Town Center, including, without limitation, the laws, ordinances, and regulations referred to in Section 13.10 above.

Landlord and its employees, representatives and agents shall have access to the Premises during reasonable hours and upon reasonable notice to Tenant in order to conduct periodic environmental inspections and tests of Hazardous Material contamination of the Premises, provided that Landlord and its employees, representatives and agents shall use all reasonable efforts to not interfere with Tenant's business in the Premises in exercise of such rights.

13.16. Existing Reservations and Bookings. Tenant shall assume and honor the existing reservations and bookings for use of the Facility set forth on Exhibit C attached hereto.

13.17. Counterparts. This Lease may be executed in one or more counterparts, each of which may be deemed an original, and all of such counterparts together shall constitute one and the same Lease.

13.18. Notice. Any notice permitted or required to be delivered under this Lease may be delivered either personally, by mail, or by express delivery service. If delivery is made by mail, it will be deemed to have been delivered and received three business days after a copy of the notice has been deposited in the United States mail, postage prepaid, with the address set forth in Section 1.1 above, or if to Tenant, at the Premises. If delivery is made by express delivery service, it will be deemed to have been delivered and received one business days after a copy of the notice has been deposited with an "overnight" or "same - day" delivery service, properly addressed. A party's address for notice may be changed from time to time by notice in writing to the other party. A true copy of any notice given under this Lease shall also be transmitted by email or facsimile machine, but the recipient's failure to receive the notice transmitted in that manner shall not invalidate the notice.

13.19. Annual Report. On or before [June 1] of each calendar year, Tenant shall provide Landlord with a report of the financial condition of the Premises, a budget for the upcoming fiscal year, significant events hosted, and other material information concerning the operation of the Premises

13.20. Repeal of Prepared Food Tax. Tenant shall have the right to terminate this Lease in the event the Prepared Food Tax levied by Landlord by ordinance approved by vote of the electorate and used by Tenant for the operation of the Premises is repealed or modified in any manner resulting in a reduction of the proceeds of such tax. Tenant shall give written notice to Landlord of such termination on or before ninety days after the effective date of the repeal or modification and state the effective date of the termination, which shall be not sooner than thirty (30) days after the date of the notice.

IN WITNESS WHEREOF this Lease has been executed under seal as of the day and year first above written.

LANDLORD:

City of Fort Smith, Arkansas
a city of the first class

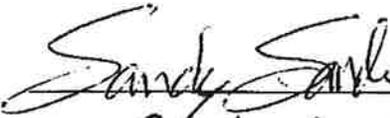
By: 

Print Name: Sandy Sanders

Title: Mayor

TENANT:

**Fort Smith Advertising and Promotion
Commission**

By: 

Print Name: Sandy Sanders

Title: Chairman

EXHIBIT A

PROPERTY DESCRIPTION

[[CONFIRM DESCRIPTION]]

All of Blocks 522 and 533 and part of abandoned Garland Street, City of Fort Smith, Sebastian County, Arkansas

EXHIBIT B

ASSUMED MAINTENANCE CONTRACTS

Trane of Arkansas - Service Chillers, Boilers, HVAC System

Marric Fire & Safety - Fire Alarm System

Chemaqua - Chemicals for Boilers and Cooling Tower

Concessions Contract: Neumeier's

Vending Contract: Compass Group



**EXHIBIT C
ASSUMED RESERVATIONS AND BOOKING AGREEMENTS**

**NOTE THIS REPORT WAS COMPLETED FEBRUARY 11, 2011
DUE TO EARLY BOOKINGS/PROPOSALS ADDITIONS AND CHANGES WILL OCCUR**

Client Name	Event Name	Event Date	Event Status
FBLA - Conference	Special School Dist. of Ft. Sm. - FBLA #071241-001	2/11/2011	SIGNED CONTRACT
MAACP	Letters Co. MAACP	2/12/2011	CONTRACT SENT
Convention Commission Mfg	Fort Smith Convention Center	2/16/2011	SIGNED CONTRACT
Metcalf Gun Show - #082726-001	Warren Metcalf Productions, Inc.	2/20/2011	SIGNED CONTRACT
FriendsInCarey	FranklinCovey	2/23/2011	SIGNED CONTRACT
Job Fair - #087591-001	Sykes Enterprises - 087591-001	2/23/2011	CONTRACT SENT
Cell Phone Distribution	Liberty Wireless	2/23/2011	TENTATIVE HOLD
A Chorus Line - #071243-001	University of Arkansas Fort Smith	3/1/2011	SIGNED CONTRACT
Fort Smith Regional Art Museum - Welcomes Our New	Mayor's Events	3/3/2011	CONTRACT SENT
Circle of Friends Poker & Bunko Night	AR Children's Hospital - Greater Area Circle of Friends For	3/5/2011	CONTRACT SENT
2011 Bella Nails Gala	Young Emerging Leaders	3/5/2011	SIGNED CONTRACT
Civil Service Exams (Fire or Police?)	Human Resources	3/7/2011	CONTRACT SENT
Miss UAFS Pageant - #071243-001	University of Arkansas Fort Smith	3/12/2011	SIGNED CONTRACT
Project Compassion - 071386-001	Mayor's Events	3/19/2011	CONTRACT SENT
Sayakumane & Syrington Wedding	Sayakumane Syrington	3/12/2011	SIGNED CONTRACT
Treway Entertainment	Treway Entertainment	3/12/2011	CONTRACT SENT
MAPETS 2011 Conference	Rotary International - MAPETS #071285-001	3/17/2011	SIGNED CONTRACT
Friends of the NRA - #071369-001	Friends of the NRA - #071369-001	3/19/2011	SIGNED CONTRACT
"Satisfaction" Rolling Shires	Team of Work for All Charities	3/19/2011	SIGNED CONTRACT
River Valley Lawn & Garden Show 2011 - Account # 1	Arkansas River Valley Lawn & Garden	3/23/2011	SIGNED CONTRACT
CATS	Columbia Artist Theater	3/23/2011	PROPOSAL
Cullen and Beaudies Prelin	Karey Bell	3/26/2011	CONTRACT SENT
Pigt Longlocks	American Theater of Arts for Youth	3/30/2011	PROPOSAL
Civil Service Exams (Fire or Police?)	Human Resources	3/30/2011	CONTRACT SENT
The Renaissance Tour - #087614-001	Red Letter Productions LLC	4/6/2011	CONTRACT SENT
Poverty Simulation - Civil Servens Program	Arkansas Department of Higher Education/Civil Servens Progr	4/6/2011	SIGNED CONTRACT
Metcalf Gun Show	Warren Metcalf Productions, Inc.	4/6/2011	SIGNED CONTRACT



**EXHIBIT C
ASSUMED RESERVATIONS AND BOOKING AGREEMENTS**

**NOTE THIS REPORT WAS COMPLETED FEBRUARY 11, 2011
DUE TO DAILY BOOKINGS/PROPOSALS ADDITIONS AND CHANGES WILL OCCUR**

Event Name	Client Name	Event Date	Status	Agent
2011 Mountainburg High School Prom - #097206-001	Mountainburg High School	4/8/2011	SIGNED CONTRACT	KHOBBBS
Arkansas Federation of Garden Clubs 2011 Convention	Arkansas Federation of Garden Clubs	4/11/2011	PROPOSAL	KHOBBBS
Jazz Spring Concert - #71243-001	University of Arkansas Fort Smith	4/14/2011	SIGNED CONTRACT	FRICKE
Fort Smith Symphony - #071237-001	Fort Smith Symphony	4/19/2011	SIGNED CONTRACT	FRICKE
Roland Prom 2011 - #071234-001	Roland High School	4/19/2011	SIGNED CONTRACT	FRICKE
Greenwood High School Prom - #071231-001	Greenwood Prom	4/19/2011	SIGNED CONTRACT	KHOBBBS
Snow - Murphy Wedding Ceremony - #093733-001	Snow - Murphy Wedding	4/19/2011	CONTRACT SENT	KHOBBBS
Recording Sessions - Ft. Smith Symphony - #071237-0	Fort Smith Symphony	4/19/2011	SIGNED CONTRACT	FRICKE
Symphonic Band Spring Concert - #071243-001	University of Arkansas Fort Smith	4/21/2011	SIGNED CONTRACT	FRICKE
Break Center Sun/rot Breakfast - #071360-001	Mayor's Events	4/23/2011	SIGNED CONTRACT	KHOBBBS
Choral Soling Concert - #71243-001	University of Arkansas Fort Smith	4/26/2011	SIGNED CONTRACT	FRICKE
State Volunteer Mutual Seminar - #071321-001	State Volunteer Mutual	4/28/2011	SIGNED CONTRACT	DROSS
Alibi in Wondersland	Western Arkansas Ballet	4/27/2011	SIGNED CONTRACT	KHOBBBS
Christian Congregation of Jehovah's Witnesses - Arka	Christian Congregation of Jehovah's Witnesses	5/1/2011	SIGNED CONTRACT	KHOBBBS
Center for Art & Education 5 K 5 Event #088653-001	Center for Art & Education	4/30/2011	SIGNED CONTRACT	FRICKE
Mayor's Honor to Visual and Performing Arts 2011 - #0	Mayor's Events	5/3/2011	CONTRACT SENT	KHOBBBS
TNA Wrestling Live	TNA Entertainment LLC	5/4/2011	SIGNED CONTRACT	KHOBBBS
Medicaid Managed Care Conference	Medicaid Managed Care Conference	5/5/2011	CONTRACT SENT	DROSS
Webster University Graduation - #071307-001	Webster University	5/7/2011	SIGNED CONTRACT	KHOBBBS
Shining Stars Dance Recital	Shining Stars Dance Studio	5/12/2011	SIGNED CONTRACT	KHOBBBS
Metzoff Gun Show	Warren Metzoff Productions Inc.	5/13/2011	SIGNED CONTRACT	DROSS
Northside High School Senior Dinner	Northside High School	5/17/2011	CONTRACT SENT	KHOBBBS
Fort Smith Symphony - #71237-001	Fort Smith Symphony	5/21/2011	SIGNED CONTRACT	FRICKE
Johnson / Dye Wedding	Johnson / Dye Wedding	5/21/2011	CONTRACT SENT	FRICKE
Altitudes Performing Arts Recital	Altitudes Performing Arts	5/26/2011	CONTRACT SENT	FRICKE
Hesselt Ball Wedding	Hesselt Ball Wedding	5/26/2011	CONTRACT SENT	KHOBBBS
Avon	Avon	5/27/2011	CONTRACT SENT	KHOBBBS
		5/27/2011	TENTATIVE HOLD	FRICKE



**EXHIBIT C
ASSUMED RESERVATIONS AND BOOKING AGREEMENTS**

**NOTE THIS REPORT WAS COMPLETED FEBRUARY 11, 2011
DUE TO DAILY BOOKINGS/PROPOSALS ADDITIONS AND CHANGES WILL OCCUR**

Client Name	Event Date	Event	Status
Franco Wedding Reception	6/4/2011	SIGNED CONTRACT	JRC-E
River City Sality Church 2011 - #071383-001	6/7/2011	CONTRACT SENT	JRC-E
June 9 - 12, 2011 - Jehovah's Witnesses - #079572-B	6/8/2011	SIGNED CONTRACT	KHC-BBS
June 16 - 19, 2011 - Jehovah's Witnesses - #079372-C	6/15/2011	SIGNED CONTRACT	KHC-BBS
June 24 - 26, 2011 - Jehovah's Witnesses - #079372-C	6/22/2011	SIGNED CONTRACT	KHC-BBS
Jones Methodist Ceremony & Reception	7/1/2011	CONTRACT SENT	JRC-E
Spoon Wedding & Reception - #087289-001	7/29/2011	CONTRACT SENT	JRC-E
Rutz / Palacios Wedding - #087622-001	7/30/2011	CONTRACT SENT	JRC-E
24 th Conference 2011 Conference	8/13/2011	PROPOSAL	RHC-BBS
Fort Smith Public Schools - #071261-001	8/16/2011	SIGNED CONTRACT	JRC-E
Kathryn Hobbs 16th Birthday Celebration	8/20/2011	CONTRACT SENT	JRC-E
Bead Show	8/28/2011	SIGNED CONTRACT	JRC-E
Music Festival	9/8/2011	TENTATIVE HOLD	JRC-E
Prestige Platinum Dinner	9/13/2011	TENTATIVE HOLD	JRC-E
Fort Smith Symphony #071237-001	9/16/2011	TENTATIVE HOLD	JRC-E
30 th Anniversary	9/17/2011	TENTATIVE HOLD	JRC-E
WNA Quilters Congress	9/23/2011	SIGNED CONTRACT	JRC-E
2011 Southern Fried Swing Dance Workshop	9/30/2011	PROPOSAL	KHC-BBS
Fort Smith Symphony - #071237-001	9/30/2011	CONTRACT SENT	JRC-E
Cul Deer Expo	10/2/2011	TENTATIVE HOLD	JRC-E
Chief Service Exams (Fire or Police?)	10/3/2011	CONTRACT SENT	DROSS
Metzall Gun Show	10/7/2011	SIGNED CONTRACT	DROSS
Hispanic Catholic Charismatic Renewal - #075675-001	10/7/2011	PROPOSAL	KHC-BBS
Brian Adams	10/11/2011	TENTATIVE HOLD	JRC-E
Fort Smith Symphony - #071237-001	10/21/2011	CONTRACT SENT	JRC-E
Samon Xiang / Ourgrauah Wedding - #087510-001	10/21/2011	CONTRACT SENT	JRC-E
Taste of Fort Smith - #071323-001	10/25/2011	CONTRACT SENT	KHC-BBS



**EXHIBIT C
ASSUMED RESERVATIONS AND BOOKING AGREEMENTS**

**NOTE THIS REPORT WAS COMPLETED FEBRUARY 11, 2011
DUE TO DAILY BOOKINGS/PROPOSALS ADDITIONS AND CHANGES WILL OVERT**

Client Name	Event Name	Event Date	Event Status
Advances in Business Research Symposium 2011 Co	U of A Fort Smith - College of Business	10/29/2011	10/27/2011 CONTRACT SENT
Hispanic Catholic Renewal	Hispanic Catholic Charismatic Renewal	10/29/2011	10/30/2011 PROPOSAL
Fort Smith Symphony - #071237-001	Fort Smith Symphony	10/29/2011	10/29/2011 TENTATIVE HOLD
Arkansas Optometric Association Annual Convention	Arkansas Optometric Association	10/29/2011	10/30/2011 PROPOSAL
New Show	Yee Corporation	1/8/2011	1/8/2011 TENTATIVE HOLD
River Valley Falls - #071392-001	Fort Smith Irish Dances Council	1/11/2011	1/12/2011 PROPOSAL
Holiday Market 2011 - #071237-001	Junior League of Fort Smith	1/15/2011	1/21/2011 CONTRACT SENT
City of Fort Smith Health Fair 2011	Human Resources	1/23/2011	1/30/2011 SIGNED CONTRACT
Frontier Trails Best Robotics Competition for 2009 - 07	Frontier Trails Best Robotics	1/30/2011	1/22/2011 PROPOSAL
Fort Smith Symphony - #071237-001	Fort Smith Symphony	12/2/2011	12/2/2011 CONTRACT SENT
The Musmacher - #071247-001	Western Arkansas Baskt	12/6/2011	12/10/2011 PROPOSAL
Frontier Trails Best Robotics Competition for 2011 - 07	Frontier Trails Best Robotics	12/7/2011	12/9/2011 PROPOSAL
Cally Crook / Robotics Awards Kansas	Cally Crook / Robotics Awards Kansas	12/10/2011	12/10/2011 CONTRACT SENT
Milton / Galits Wedding	Milton / Galits Wedding	12/19/2011	12/19/2011 SIGNED CONTRACT
Christmas Program - #080625-001	First Baptist Church	12/12/2011	12/18/2011 PROPOSAL
Madness Quinceanera	David Madrazo	1/7/2012	1/7/2012 SIGNED CONTRACT
U of A Fort Smith - #071243-001	University of Arkansas Fort Smith	1/10/2012	1/12/2012 TENTATIVE HOLD
Bridal Fest 2012 - #071250-001	Fort Smith Convention Center - City of Fort Smith	1/13/2012	1/18/2012 CONTRACT SENT
All Region Band - #071241-001	Special School District of Fort Smith	1/14/2012	1/14/2012 PROPOSAL
Fort Smith Symphony - #071237-001	Fort Smith Symphony	1/27/2012	1/28/2012 CONTRACT SENT
Raffle at the Fort Volleyball Tournament	Fort Smith Volleyball Club	1/27/2012	2/5/2012 SIGNED CONTRACT
Enriquez - #071237-001	Fort Smith Symphony	2/6/2012	2/6/2012 CONTRACT SENT
U of A Fort Smith - #071243-001	University of Arkansas Fort Smith	2/7/2012	2/8/2012 TENTATIVE HOLD
Gymnastic Meet - #071277-001	Flame Gymnastics	2/9/2012	2/12/2012 SIGNED CONTRACT
2012 Home Show	Fort Smith Home Builders	2/15/2012	2/29/2012 SIGNED CONTRACT
The PK Conference Proposal	The PK Conference	3/8/2012	3/19/2012 PROPOSAL
MAPETS 2012 Conference	Rotary International - MAPETS #071286-001	3/16/2012	3/17/2012 SIGNED CONTRACT



**EXHIBIT C
ASSUMED RESERVATIONS AND BOOKING AGREEMENTS**

**NOTE THIS REPORT WAS COMPLETED FEBRUARY 14, 2011
DUE TO DAILY BOOKINGS/PROPOSALS ADDITIONS AND CHANGES WILL OUFER**

Client Name	Event Date	Event Type	Room
Friends of the NRA - #071369-001	3/17/2012	PROPOSAL	KHOBB5
River Valley Lawn & Garden Show 2012 - Account #1	3/21/2012	PROPOSAL	KHOBB5
Fort Smith Symphony - #071237-001	4/29/2012	CONTRACT SENT	JRCHE
Reflexions Luncheon	4/27/2012	CONTRACT SENT	KHOBB5
Arkansas State PTA	5/18/2012	CONTRACT SENT	JRCHE
Fort Smith Symphony	5/21/2012	PROPOSAL	KHOBB5
Christian Congregation of Jehovah's Witnesses	5/31/2012	PROPOSAL	KHOBB5
United Methodist Church Arkansas Conference	6/13/2012	CONTRACT SENT	KHOBB5
Christian Congregation of Jehovah's Witnesses - #079	6/23/2012	PROPOSAL	KHOBB5
Christian Congregation of Jehovah's Witnesses	6/26/2012	PROPOSAL	KHOBB5
National Taxidermist Association	7/10/2012	PROPOSAL	KHOBB5
Fort Smith Convention and Visitors Bureau	7/19/2012	PROPOSAL	KHOBB5
Fort Smith Convention and Visitors Bureau	7/29/2012	PROPOSAL	KHOBB5
Hillway Inn	7/29/2012	CONTRACT SENT	KHOBB5
Arkansas Bandmasters Association 2012 Convention	8/9/2012	PROPOSAL	KHOBB5
Arkansas Calfedien	9/22/2012	CONTRACT SENT	KHOBB5
Western Arkansas Ballet	9/22/2012	CONTRACT SENT	KHOBB5
The PK Conference	9/28/2012	PROPOSAL	KHOBB5
Fort Smith Symphony - #071237-001	10/6/2012	CONTRACT SENT	JRCHE
Arkansas Optometric Association Annual Convention	10/26/2012	PROPOSAL	KHOBB5
Fort Smith Symphony	10/27/2012	CONTRACT SENT	JRCHE
Antique Clock Show & Sale	11/12/2012	CONTRACT SENT	KHOBB5
Razorback Chapter 62 Regional Antique Clock & Watch Assn	11/23/2012	PROPOSAL	KHOBB5
Fort Smith High Dance Council	11/23/2012	TENTATIVE HOLD	JRCHE
Junior League of Fort Smith	11/23/2012	PROPOSAL	KHOBB5
Frontier Trails Best Robotics	11/30/2012	CONTRACT SENT	JRCHE
Fort Smith Symphony - #071237-001	12/9/2012	PROPOSAL	KHOBB5
The Muzacker - #071247-001	12/9/2012	PROPOSAL	KHOBB5
Frontier Trails Best Robotics	12/5/2012	PROPOSAL	KHOBB5



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ASSUMED RESERVATIONS AND BOOKING AGREEMENTS**

**NOTE THIS REPORT WAS COMPLETED FEBRUARY 11, 2011
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Client Name	Client Code	Event Date	Event Title	Status
Christmas Program - #080825-001	First Baptist Church	12/16/2012	TENTATIVE HOLD	JR/CH
Advertiser Ministers Convention Proposal	Seventh Day Adventist	1/18/2013	PROPOSAL	JR/CH
Battle at the Fort Volleyball Tournament	Fort Smith Volleyball Club	2/9/2013	SIGNED CONTRACT	K/OBBS
Gymnastic Meet - #071277-001	Flame Gymnastics	2/7/2013	SIGNED CONTRACT	K/OBBS
2013 Home Show	Fort Smith Home Builders	2/18/2013	PROPOSAL	JR/CH
MAPETS 2013 Conference	Ruby International - MAPETS #071268-001	3/14/2013	SIGNED CONTRACT	JR/CH
Regional Dance America Southwest Festival 2013	Western Arkansas Ballet	4/2/2013	CONTRACT SENT	K/OBBS
Christian Congregation of Jehovah's Witnesses	Christian Congregation of Jehovah's Witnesses	5/20/2013	PROPOSAL	K/OBBS
Christian Congregation of Jehovah's Witnesses	Christian Congregation of Jehovah's Witnesses	6/30/2013	PROPOSAL	K/OBBS
Christian Congregation of Jehovah's Witnesses	Christian Congregation of Jehovah's Witnesses	6/6/2013	PROPOSAL	K/OBBS
National Taxidermist Association Convention	National Taxidermist Association	7/16/2013	PROPOSAL	K/OBBS
2013 Association of Arkansas Counties Convention	Association of Arkansas Counties Convention	8/19/2013	PROPOSAL	K/OBBS
Arkansas Optometric Association Annual Convention	Arkansas Optometric Association	10/25/2013	PROPOSAL	K/OBBS
Battle at the Fort Volleyball Tournament 2014	Fort Smith Volleyball Club	1/24/2014	PROPOSAL	K/OBBS
Earthquake - #071237-001	Fort Smith Symphony	2/2/2014	PROPOSAL	JR/CH
Gymnastic Meet - #071277-001	Flame Gymnastics	2/6/2014	SIGNED CONTRACT	K/OBBS
2014 Home Show	Fort Smith Home Builders	2/18/2014	PROPOSAL	JR/CH
Earthquake - #071237-001	Fort Smith Symphony	3/2/2014	PROPOSAL	K/OBBS
Earthquake - #071237-001	Fort Smith Symphony	3/9/2014	PROPOSAL	JR/CH
AR SHRM 2010 Conference - #71455-001	Arkansas Human Resource Conference	4/7/2014	SIGNED CONTRACT	PROSS
Fort Smith Symphony - #071237-001	Fort Smith Symphony	4/11/2014	PROPOSAL	JR/CH
AAAM - Arkansas Association of Instructional Media	AAAM - AR Assn of Instructional Media	4/12/2014	PROPOSAL	K/OBBS
Fort Smith Symphony - #071337-001	Fort Smith Symphony	4/12/2014	PROPOSAL	K/OBBS
National Taxidermist Association Convention	National Taxidermist Association	7/16/2014	PROPOSAL	K/OBBS
Arkansas Band Masters 2014 Convention	Holiday Inn	7/25/2014	PROPOSAL	K/OBBS
Arkansas Band Masters 2014 Convention	Holiday Inn	7/30/2014	PROPOSAL	K/OBBS
Arkansas Optometric Association Annual Convention	Arkansas Optometric Association	10/31/2014	PROPOSAL	K/OBBS



**EXHIBIT C
ASSUMED RESERVATIONS AND BOOKING AGREEMENTS**

**NOTE THIS REPORT WAS COMPLETED FEBRUARY 11, 2011
DUE TO DAILY BOOKINGS/PROPOSALS ADDITIONS AND CHANGES WILL OCCUR**

Event Name	Client Name	Start Date	End Date	Event	Project
Arkansas Optometric Association Annual Convention	Arkansas Optometric Association	10/30/2015	11/1/2015	PROPOSAL	KHOBS
Arkansas Band Masters 2016 Convention	Holiday Inn	7/27/2016	7/30/2016	PROPOSAL	KHOBS

MEMORANDUM OF UNDERSTANDING

In keeping with discussions and to memorialize our understanding for respective files and future reference, this Memorandum of Understanding describes that which is expected of the University of Arkansas - Fort Smith (University) and the City of Fort Smith (City) with regard to the mutual interest and expressed intent to provide the use of the Fort Smith Convention Center for University events.

This memorandum is entered into voluntarily with the mutual pledge of goodwill and the shared support of the respective missions of each party as and where practical.

The University will:

1. On an annual basis, host the entire Season of Entertainment (SOE) programming, the Miss UA Fort Smith pageant, and University drama events in the Arkansas Best Corporation Performing Arts Center, and the BEST Robotics competitions in the First National Bank Exhibit Hall.
2. Pay for all charges, including labor and table/chair rentals with the exception of a rental fee for the building.
3. University personnel will treat all city buildings and equipment with care and will notify the City as soon as reasonably possible, if problems are discovered with said arrangement.
4. The City's donation of space for SOE, Miss UA Fort Smith pageant, drama events, and BEST Robotics sponsorships will be treated as an in-kind donation.

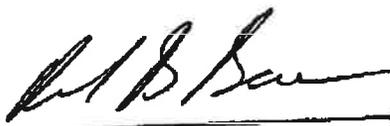
The City of Fort Smith will:

1. Furnish the University at no expense to the University the use of the Arkansas Best Performing Arts Center for the entire Season of Entertainment (SOE) programming, the Miss UA Fort Smith pageant, and University drama events in the Arkansas Best Corporation Performing Arts Center, and the BEST Robotics competitions in the First National Bank Exhibit Hall.
2. Provide 3 days (including load-in and pick-up) for SOE events, and 4 days for Miss UA Fort Smith pageant and Jazz Concert.
3. Permit the University to use general facilities (i.e. restrooms, equipment, etc.) and make every reasonable effort to notify the University of any building repairs or maintenance efforts that could impact University events.

The parties represent by their signatures below their concurrence with and understanding of the commitments stipulated above. Parties also acknowledge that this is not an inclusive list. As other needs, roles, and responsibilities not yet discussed will surface in the course of pursuing this project, parties commit to work cooperatively in resolution of the issues.

This memorandum of understanding will continue without expiration so long as all parties are in agreement with the terms listed above. It may be terminated by any party upon written advance notice of no less than 30 days.

Entered into this 3rd day of August, 2010.



Paul B. Beran, Ph.D.
Chancellor
University of Arkansas - Fort Smith



Dennis Kelly
City Administrator
City of Fort Smith



November 17, 2011

TO: Members of the Board of Directors
Members of the Sebastian County Regional Solid Waste Management Board

RE: Appointments:

The terms of Mayor Sandy Sanders and Mr. Chester Koprovic of the Sebastian County Regional Solid Waste Management Board expire effective January 21, 2012. In accordance with Ordinance No. 2926 nominations for this prospective vacancy are now being received.

Please submit nominations to the city administrators office no later than the close of business on December 14, 2011. A list will be compiled for review by the Board of Directors. Applications are available on the City of Fort Smith website. Go to www.fortsmithar.gov and click on boards and commissions.

Sincerely,

A handwritten signature in cursive script that reads "Ray Gosack".

Ray Gosack
City Administrator

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

AGENDA ~ *Summary*

**FORT SMITH BOARD OF DIRECTORS
SPECIAL MEETING**

November 29, 2011~ 12:00 NOON

**FORT SMITH PUBLIC LIBRARY
COMMUNITY ROOM
3201 ROGERS AVENUE**

ROLL CALL

All present, except Director Good

- Resolution approving Amendment No. 2 to the convention center lease agreement with the Fort Smith Advertising and Promotion Commission
Approved 6 in favor, 0 opposed / Resolution No. R-214-11

ADJOURN

OTHER

Directors Merry and Catsavis placed discussion of the Van Buren water true-up specifically regarding the letter from Mr. C.E. Dougan, Chairman of the Van Buren Municipal Utilities, on the December 6, 2011 regular meeting.

MINUTES OF BOARD OF DIRECTORS SPECIAL MEETING

THURSDAY ~ NOVEMBER 29, 2011 ~ 12:00 NOON

FORT SMITH PUBLIC LIBRARY COMMUNITY ROOM

The special meeting was called by Directors Steve Tyler, Andre' Good, Don Hutchings and Kevin Settle for the purpose of considering the following:

- Resolution approving Amendment No. 2 to the convention center lease agreement with the Fort Smith Advertising and Promotion Commission

The special meeting was called to order by Mayor Sandy Sanders, presiding.

On roll call the following members of the Board were present: Directors Steve Tyler, Don Hutchings, George Catsavis, Pam Weber and Kevin Settle; absent - Director Andre' Good. The Mayor declared a quorum present. Director Philip Merry arrived immediately after roll.

Regarding the proposed resolution, City Administrator Ray Gosack briefed the Board on the item. The proposed amendment is to extend the existing lease agreement with the Advertising and Promotion Commission (the "Commission") to operate the convention center until a new lease agreement is in place or until February 29, 2012. The City will continue to receive the revenue from the convention center, as well as cover the operating expenses until a new agreement is approved. The Commission has reviewed and approved the proposed amendment.

Director Catsavis inquired if the Commission will receive any benefit from operating the convention center and questioned if the revenue will go to them or the City.

November 29, 2011 Special Meeting

Mr. Gosack advised the benefit to the Commission for operating the convention center is the ability to provide a coordinated effort to better market the convention center, which is directly related to their area of expertise. With regard to the revenue and expense to operate the facility, he reiterated the City will continue to receive all the revenue, as well as cover all operating expenses.

Director Tyler inquired if the Commission plans to employ a Director of Operations for the convention center.

Mayor Sanders, who also serves as Chairman of the Advertising and Promotion Commission, advised such has not yet been discussed by the Commission; however, the matter is anticipated to be addressed soon after the first of the year. Upon determination, the subject issue will be specifically noted within the new lease agreement.

Settle, seconded by Hutchings, moved adoption of the resolution. The members present all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given No. R-214-11.

Regarding the Van Buren water true-up, Director Merry requested Board discussion/reaction to the recent letter from C.E. Dougan, Chairman of the Van Buren Municipal Utilities.

Mayor Sanders advised the matter is not on the agenda. The requested discussion may be placed on the agenda; however, such would require consent from all seven (7) directors, whereby only six (6) were in attendance.

November 29, 2011 Special Meeting

Due to such and because two (2) directors may place an item on an upcoming agenda, Merry, seconded by Catsavis, moved to place the requested discussion on the December 6, 2011 regular meeting agenda.

There being no further business to come before the Board, Hutchings moved that the meeting adjourn. The motion was seconded by Settle, and the members present all voting aye, the Mayor declared the motion carried, and the special meeting stood adjourned at 12:07 p.m.

APPROVED:



MAYOR

ATTEST:



CITY CLERK