Mayor – Sandy Sanders

Acting City Administrator – Jeff Dingman

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 – Tracy Pennartz
At Large Position 6 – Kevin Settle
At Large Position 7 – Don Hutchings

AGENDA

Fort Smith Board of Directors
REGULAR MEETING
January 19, 2016 ~ 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 AND ONLINE AT http://www.ustream.tv/channel/city-of-fort-smith-board-of-directors-meetings

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING
(Section 2-37 of Ordinance No. 24-10)

APPROVE MINUTES OF THE JANUARY 5, 2016 REGULAR MEETING

ITEMS OF BUSINESS:

1. Ordinance amending Section 2-37(b) of the Fort Smith Municipal Code regarding meeting procedures *~ Settle/Good placed on agenda at the January 12, 2016 regular meeting ~*

2. Resolution accepting an offer to purchase City-owned property and authorizing execution of all necessary documentation pertaining to such transaction *(Belle Grove Center, former Girls, Inc. property)*

3. Ordinance amending Chapter 3 of the Fort Smith Municipal Code to establish fees for dispensary permits for alcoholic beverages and for permits for serving mixed drinks and other alcoholic beverages and for other purposes

4. Resolution authorizing the Mayor to execute an agreement for insurance broker services *($28,500.00 / Finance Department / Budgeted – Various Funds)*

5. Consent Agenda

A. Resolution to accept the bid and authorize a contract for the 2014 Drainage Improvements, Phase B1, Project No. 14-06-B1 *($616,720.00 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦

B. Resolution to accept completion of and authorize final payment for the construction of railroad crossing repairs at North 27th Street, Project No. 15-10-A *($108,952.26 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦

C. Resolution authorizing a change order for the construction of 2014 Street Overlay / Reconstruction, Phase B, Project No. 14-03-B *(97 days / $150,298.25 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦

D. Resolution accepting completion of and authorizing final payment for the construction of 2014 Street Overlay / Reconstruction, Phase B, Project No. 14-03-B *($150,434.36 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦

E. Ordinance authorizing the Mayor to execute agreements for certain services for inhabitants of the city of Fort Smith

F. Resolution accepting the bid and authorizing the Mayor to execute a contract with Rodebush Construction, Inc. for the construction of the press box and dugouts at Martin Luther King Jr. Park *($112,750.00 / Parks Department / Not Budgeted – Arkansas State Parks Outdoor Recreation Grant & Park Partners donation)*

G. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith Police Department and the Office of Secure Transportation, National Nuclear Security Administration, Department of Energy

OFFICIALS FORUM ~ presentation of information requiring no official action

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

- Mayor
- Directors
- City Administrator

ADJOURN

1.

ORDINANCE _____

AN ORDINANCE AMENDING SECTION 2-37(b) OF THE FORT SMITH MUNICIPAL CODE REGARDING MEETING PROCEDURES

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

SECTION 1: Section 2-37(b) of the Fort Smith Municipal Code is hereby amended to read as follows:

(b) After presentation of an item on the agenda of any regular or special meeting of the board, the mayor shall inquire of those present if anyone has a statement to make concerning the item under consideration. An applicant before the board may have up to five (5) minutes to make an opening presentation. If a group of citizens opposes the applicant, they may have up to five (5) minutes to make an opposing presentation. Each side shall have up to three (3) minutes to make a rebuttal presentation. All other comments from citizens shall be limited to no more than two (2) minutes per citizen. Any of these time limits may be extended by a consensus of the members of the board. Citizen comments must be relevant to the agenda item under consideration. After public comment is complete, the mayor shall ask the board for a motion to consider the item. Once a motion is made and seconded for approval of the item, the board may proceed with discussion and vote on said item.

SECTION 2: Emergency Clause. The immediate effectiveness of this Ordinance amending meeting procedures for the governing body of the City is required to provide for the orderly conducting of the affairs of the governing body of the City. Therefore, an emergency is declared, and this Ordinance shall be in full force and effect immediately upon its passage and approval.

This Ordinance adopted this ___19th___day of January, 2016.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:

_____
Publish one time

Memo

To: Honorable Mayor & Members of the Board of Directors

From: Jeff Dingman, Acting City Administrator

Date: 1/14/2016

Re: Procedural Ordinance amendment

At the January 12, 2016 study session, the Board discussed adjusting the meeting procedure codified in the Municipal Code in order to clarify and define the sequence of hearing public comments and discussing agenda items before a vote.

Please see the attached ordinance amending Section 2-37(b) of the Fort Smith Municipal Code. The amendment specifies the sequence for considering matters before the Board as such:

- Presentation of the agenda item and any background information by staff
- The mayor invites public comment relevant to the agenda item, and the section specifies the sequence and time limits regarding public comment
- The mayor asks the Board for a motion
- After a motion is made and seconded, the Board conducts its own discussion
- After Board discussion, a vote on the motion is taken

There is an emergency clause attached to this item so that the procedure becomes effective immediately. Please contact me if you have any questions regarding this agenda item.

2

RESOLUTION NO. _____

A RESOLUTION ACCEPTING AN OFFER TO PUCHASE CITY-OWNED PROPERTY AND AUTHORIZING EXECUTION OF ALL NECESSARY DOCUMENTATION PERTAINING TO SUCH TRANSACTION

WHEREAS, the city purchased property at 622 North 7th Street, 701 North 8th Street, and 515 North 8th Street (the former Girls, Inc. property) in January, 2013 intending to renovate such facility into a community center, a project subsequently recommended for deferral by the Parks and Recreation Commission until at least 2021/22 due to its sizeable cost; and

WHEREAS, on January 11, 2016 the city received an unsolicited offer from Northwest Development Group, LLC to purchase said property for $110,000.00 conditioned upon obtaining a conditional use from the city for the use of the property as a school and being able to place temporary modular classrooms on the property while the facility undergoes renovation or new construction; and

WHEREAS, the Northwest Development Group, LLC has indicated that it intends to renovate the facility and lease it to the Future School of Fort Smith for use as a public charter high school.

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

Section 1. The offer from Northwest Development Group, LLC to purchase property at 622 North 7th Street; 701 North 8th Street and 515 North 8th Street for $110,000.00 conditioned upon approval of a conditional use and authorization to place modular classrooms on the property during renovation/construction is hereby accepted.

Section 2. The Mayor is hereby authorized to execute any and all documents necessary to effect such transaction.

THIS RESOLUTION ADOPTED this 19th day of January, 2016.

APPROVED:

_____

Mayor

ATTEST:

_____

City Clerk

APPROVED AS TO FORM:

_____

City Attorney, No Publication Required

Memo

To: Honorable Mayor & Members of the Board of Directors

From: Jeff Dingman, Acting City Administrator

Date: 1/14/2016

Re: Offer to purchase city property

On the January 11, 2016 the city received an unsolicited offer from Northwest Development Holdings, LLC to purchase city property at 622 North 7th Street (the former Girls, Inc. facility) for $110,000. The offer is good through 3pm on January 25, 2016 and is attached for your review.

The city attorney advises that while there is a prescribed process for the city to designate excess property and solicit sealed bids, such process is not required in the event the city receives an unsolicited offer to purchase city-owned property. As such, the Board of Directors is free to review the offer after consideration of the facts relevant to the property's value to the city. Upon consideration of the offer, the Board may either accept the offer, reject it, or make a counter-offer.

On your agenda for the January 19 regular meeting is a resolution regarding this item. Although the resolution is written in terms of approving the offer, the board certainly also has the ability to reject the offer or make a counter-offer and can amend the resolution accordingly. Pertinent information related to this topic includes the following:

- The city purchased this property in January, 2013 for $107,500 after the former owner had marketed the property for several years. Soon thereafter the city invested $4,860 in roof and drainage repairs bringing total cash investment in the property to $112,360

- The city subsequently engaged MAHG Architects, at a cost of $25,225, to propose a development plan for the property and provide a general estimate for construction cost to develop it into a community center. When the proposed plan was delivered in February, 2014, the construction cost estimate was over $1.5 million. Due to the estimated cost and in deference to other projects, the Parks and Recreation Commission, through its Capital Improvement Plan, recommended deferring any further investment in this project until at least 2021/22

- The city continues to carry the utilities (very minimal) and grounds maintenance costs for the property

Northwest Development Holdings, LLC, represented by Rodney Ghan, will be in attendance at the meeting to address the issue and any questions the Board may have. The investment group intends to renovate and lease the property to the Future School of Fort Smith public charter high school. The offer is contingent upon receiving approval from the Belle Grove Historic District to allow temporary modular classrooms on the property during renovation/construction; and a conditional use from the city for operating a school on the property. The Future School of Fort Smith was discussed by the Board as part of the August 13, 2015 special study session held jointly with the Parks and Recreation Commission.

Any proceeds from the sale of this property would go back to the Parks CIP fund and be made available for other parks capital projects. Please contact me if you have questions regarding this agenda item.

Real Estate Contract (Commercial)

Copyright 2016 Arkansas REALTORS® Association

FORM SERIAL NUMBER: *001246-200145-2543041*

1. PARTIES: *Northwest Development Holdings, LLC and/or Assigns*

(individually, or collectively, the "Buyer") offers to purchase, subject to the terms and conditions set forth herein, from *City of Fort Smith* (individually or collectively, the "Seller"), the real property described in Paragraph 2 of this Real Estate Contract (the "Property").

2. ADDRESS AND LEGAL DESCRIPTION:

622 N. 7th Street, 701 N. 8th Street and 515 N. 8th Street, Fort Smith Arkansas 72901

3. PURCHASE PRICE: Buyer shall pay the following to Seller for the Property (the "Purchase Price") $*110,000.00* payable as follows:

Cash offer

FORM SERIAL NUMBER: *001246-200145-2543041*

4. **CONVEYANCE:** Unless otherwise specified, conveyance of the Property shall be made to Buyer by ☐ general warranty deed ☒ special warranty deed, in fee simple absolute, except it shall be subject to recorded instruments and easements if any, which do not materially affect the value of the Property. Unless expressly reserved herein, **SUCH CONVEYANCE SHALL INCLUDE ALL MINERAL RIGHTS OWNED BY SELLER CONCERNING AND LOCATED ON THE PROPERTY, IF ANY, UNLESS OTHERWISE SPECIFIED IN PARAGRAPH 17. IT IS THE RESPONSIBILITY OF THE BUYER TO INDEPENDENTLY VERIFY AND INVESTIGATE THE EXISTENCE OR NONEXISTENCE OF MINERAL RIGHTS AND ANY LEGAL RAMIFICATIONS THEREOF.** Seller warrants and represents only signatures set forth below are required to transfer legal title to the Property. Seller also warrants and represents that Seller has peaceable possession of the Property, including all improvements and fixtures thereon, and the legal authority and capacity to convey the Property by a good and sufficient general warranty deed, free from any liens, leaseholds or other interests.

5. **TITLE INSURANCE:** Buyer and Seller understand that Listing Firm and Selling Firm are not licensed title insurance agents as defined by Arkansas law and do not and cannot receive direct or indirect compensation from any Closing Agent regarding the closing process or the possible purchase of title insurance by one or more of Buyer and Seller. Regardless of the policy chosen, Buyer and Seller shall have the right to choose their Closing Agent(s). Within ___15___ days of acceptance, Seller shall furnish to Buyer a commitment for an American Land Title Association (ALTA) owner's title insurance policy in the amount of the Purchase Price issued by a company of Seller's choice authorized to insure title to real property in the State of Arkansas and which company is reasonably acceptable to Buyer.

Where the title commitment shows special exceptions to title other than those standard exceptions contained in the ALTA commitment form, and where such special exceptions relate to restrictions, conditions, defects or other matters that would interfere with Buyer's use or adversely affect the value of the Property, then within ___15___ days of delivery of the title commitment, Buyer shall deliver written notice thereof to Seller. Such notice shall state specifically those exceptions to which Buyer objects. All objections not specifically enumerated within such a timely delivered notice shall be deemed to be waived by Buyer.

Within ___15___ days of Buyer's delivery of notice of objections to Seller, Seller may cure such objections or have the exceptions waived or removed by the title company issuing the commitment. If, within such ___15___ day period, Seller fails to cure and/or waive such objections and exceptions, or within that period, Seller delivers written notice to Buyer that it will not so cure, then within ___5___ days from delivery of such notice from Seller or the end of the period within which Seller may cure (whichever is applicable), Buyer shall have the option to:

A. Terminate this Real Estate Contract by delivering written notice thereof to Seller, in which event all sums paid or deposited by Buyer shall be returned to Buyer; or

B. Agree to purchase the Property as scheduled subject to such objections and exceptions with no reduction in the Purchase Price; or

C. Agree to extend the Closing date for ___30___ days to give Seller additional time to cure such objections. If Buyer fails to deliver notice of termination or grant an extension of the Closing date within that period, the objections shall be deemed to be waived and the transaction shall close as scheduled.

Seller shall furnish the committed owner's title insurance policy as soon as practicable after Closing, and shall pay all expenses related to the owner's title insurance policy.

FORM SERIAL NUMBER: *001246-200145-2543041*

6. NON-REFUNDABLE DEPOSIT: The Non-Refundable Deposit (hereinafter referred to as "Deposit") is funds tendered by Buyer to Seller to compensate Seller for liquidated damages that may be incurred by Seller resulting from Buyer failing to close on this transaction. The liquidated damages shall include, but not be limited to, Seller's time, efforts, expenses and potential loss of marketing due to Seller's removal of property from the market.

The Deposit is not refundable to Buyer unless failure to close is exclusively the fault of Seller or if Seller cannot deliver marketable title to the Property. Paragraphs that constitute exclusive fault of the Seller include, but are not limited to, Paragraphs 5, 8, 11, 13B, 15B, 17, 18, or 20, as a termination pursuant to each of the listed paragraphs would cause Seller to forfeit the Deposit back to Buyer. The Deposit will be credited to Buyer at Closing. Buyer shall hold Listing Firm and Selling Firm harmless of any dispute regarding the Deposit. Buyer expressly acknowledges the Deposit is not to be held by either Listing Firm or Selling Firm. The Deposit may be commingled with other monies of Seller, such sum not being held in an escrow, trust or similar account.

[X] **A.** The Deposit is not applicable.

[ ] **B.** Buyer will pay to Seller the Deposit in the amount of $_____

- [ ] i. Within_____ days following the date this Real Estate Contract has been signed by Buyer and Seller
- [ ] ii. Within three (3) business days of execution of Paragraph 4(a) of the Inspection Repair & Survey Addendum; or
- [ ] iii. Other: _____

7. EARNEST MONEY: Earnest money is in the amount of $_____ ("Earnest Money"), which shall apply toward Buyer's Purchase Price or Closing Costs. If at least one or more of the conditions of Paragraphs 5, 13B, and 20 (if any) have not been fulfilled, performed or removed, Earnest Money shall be promptly refunded to Buyer. If Buyer fails to fulfill his obligations under this Real Estate Contract, or if after all conditions have been met Buyer fails to close this transaction, Earnest Money may, at the sole and exclusive option of Seller, be retained by Seller as liquidated damages. Alternatively, Seller may return Earnest Money and assert all legal or equitable rights that may exist as a result of Buyer breaching this Real Estate Contract. Buyer warrants, represents and acknowledges that the check tendered will be honored upon presentation to Buyer's bank, and that Buyer shall be in default of this Real Estate Contract if the check is not honored upon first presentation to Buyer's bank. Buyer understands that failure to tender Earnest Money as required by this Paragraph 7 shall constitute a breach of this Real Estate Contract. Buyer and Seller agree that in the event of any dispute concerning entitlement to Earnest Money, Listing Firm may interplead Earnest Money into a court of competent jurisdiction, and upon such interpleading of Earnest Money, both Listing Firm and Selling Firm shall be released from liability to Buyer and Seller. Listing Firm shall be reimbursed for all costs and attorney's fees from the funds entered for interpleading.

[ ] **A.** Earnest Money is tendered by Buyer in the form of [ ] cash [ ] check. If Earnest Money is tendered by check, it will be made payable to [ ] Listing Firm, [ ] Closing Agent [ ] Other_____. Earnest Money will be deposited by Listing Firm no later than three (3) business days following the date this Real Estate Contract has been signed by Buyer and Seller.

[ ] **B.** Earnest Money will be tendered by Buyer in the form of [ ] cash [ ] check. If Earnest Money is tendered by check, it will be made payable to [ ] Listing Firm, [ ] Closing Agent [ ] Other_____. Earnest Money will be deposited within three (3) business days following the date this Real Estate Contract has been signed by Buyer and Seller. (If Earnest Money is not to be tendered within three (3) business days after this Real Estate Contract has been signed by Buyer and Seller, see Paragraph 17.)

[X] **C.** No Earnest Money will be tendered. References to Earnest Money in this Real Estate Contract shall not be applicable and are deemed deleted.

The principal broker shall also be responsible and accountable for any funds delivered to an escrow agent selected by the principal broker, but shall not be responsible for funds delivered to an escrow agent selected by the parties.

FORM SERIAL NUMBER: *001246-200145-2543041*

8. **SURVEY:** Buyer has been given the opportunity to obtain a new certified survey. Should Buyer decline to obtain a survey as offered in Paragraph 8A of this Real Estate Contract, Buyer agrees to hold Seller, Listing Firm and Selling Firm involved in this Real Estate Contract harmless of any problems relative to any survey discrepancies that may exist or be discovered (or occur) after Closing.

[X] **A.** A new survey satisfactory to Buyer, certified to Buyer within thirty (30) days prior to Closing by a registered land surveyor

[ ] showing property lines only [ ] ALTA Certified Survey

[X] showing all improvements, easements and any encroachments will be provided and paid for by:

[ ] Buyer [X] Seller [ ] Equally split between Buyer and Seller.

[ ] **B.** No survey shall be provided.

[ ] **C.** Other _____

Specific Survey Requirements: _____

_____

_____

Should Buyer agree to accept the most recent survey provided by Seller, this survey is for information purposes only and Buyer will not be entitled to the legal benefits of a survey certified in Buyer's name.

9. **PRORATIONS:** Taxes and special assessments due on or before Closing shall be paid by Seller. Any deposits on rental Property are to be transferred to Buyer at Closing. Insurance, general taxes and special assessments, rental payments and interest on any assumed loans shall be prorated as of Closing, unless otherwise specified herein.

10. **FIXTURES AND ATTACHED EQUIPMENT:** Unless specifically excluded herein, all fixtures and attached equipment, if any, are included in the Purchase Price. If any personal property is included in the Purchase Price it will be described in a separate exhibit attached hereto and incorporated by reference herein (hereinafter referred to as the "Personal Property"). The Personal Property does not include any software or related materials that Seller does not have the legal right to transfer or license to Buyer, and does not include any items leased to Seller under any operating contract. Seller agrees to execute a Bill of Sale at Closing transferring ownership of the Personal Property to Buyer.

FORM SERIAL NUMBER: *001246-200145-2543041*

11. CLOSING: Closing is the date and time at which Seller delivers the executed and acknowledged deed. Buyer and Seller agree the Closing date will be (month) ***March*** (day) ***25***, (year) ***2016***. The Closing date may be changed by written agreement of Buyer and Seller. If the sale is not consummated by Closing date (or any written extension thereof) the parties shall have the remedies available to them in equity or at law, including the remedies available to them in Paragraph 7.

Buyer and Seller shall have the right to choose their Closing Agent(s) and are not relying on Listing Firm or Selling Firm to choose a Closing Agent. Should Buyer or Seller choose the services of a Closing Agent(s) other than Selling Firm or Listing Firm, then Buyer and Seller each jointly and severally agree to indemnify and hold Listing Firm and Selling Firm harmless for all intentional misconduct and negligent acts (including acts of omission) of the Closing Agent(s).

This Real Estate Contract shall serve as written closing instructions to the Closing Agent on behalf of the Buyer and Seller. The Closing Agent(s) is/are authorized to provide Seller's settlement statement to Listing Firm (in addition to Seller) and Buyer's settlement statement to Selling Firm (in addition to Buyer) prior to settlement so that Buyer, Seller, Listing Firm and Selling Firm shall have a reasonable opportunity to review prior to Closing.

Buyer and Seller shall each have the right to request title insurer(s), if any, issue closing protection, to indemnify against loss of closing funds because of acts of a Closing Agent, title insurer's named employee, or title insurance agent. Any cost for closing protection will be paid by the requesting party(ies). Listing Firm and Selling Firm strongly advise Buyer and Seller to inquire of the Closing Agent(s) about the availability and benefits of closing protection.

Unless otherwise agreed by Buyer and Seller, transaction costs will be paid by the party indicated below.

Seller	Buyer
Title Examination or search fees	Recording fees
Premium for owner's title insurance policy	Premium for mortgagee's title insurance policy
Preparation of conveyance documents	Preparation of loan documents
One-half of escrow fees	One-half of escrow fees
One-half of documentary stamps	One-half of documentary stamps
Other charges as customarily paid by Seller	Other charges customarily paid by Buyer
IRS Notification form	

This Real Estate Contract shall, unless otherwise specified in Paragraph 17 of this Real Estate Contract, constitute express written permission and authorization to Listing Firm and Selling Firm to disclose the terms of this Real Estate Contract (and all Addenda), including without limitation concessions provided by Buyer or Seller or other non-public personal information of Buyer and Seller regarding the purchase and sale of the Property, to any of the following: (i) an Arkansas licensed appraiser; (ii) multiple listing services for use by the members thereof; and (iii) any other person or entity which Listing Firm or Selling Firm determines, using sole discretion, may have a legitimate basis to request and obtain such information. The authorization and permissions granted in this Paragraph 11 shall not create any obligation or duty upon Listing Firm or Selling Firm to make any disclosure to any person or entity.

FORM SERIAL NUMBER: *001246-200145-2543041*

12. POSSESSION: Possession of the Property shall be delivered to Buyer: (Check one)

☒ **A.** Upon the Closing (Seller's delivery of executed and acknowledged Deed).

☐ **B.** Other, as follows:_____

_____

_____

_____

_____

13. SELLER PROPERTY DISCLOSURE: (Check one)

☐ **A.** Buyer and Seller acknowledge that upon the authorization of Seller either Selling Firm or Listing Firm have delivered to Buyer, prior to the execution of this Real Estate Contract, a written disclosure prepared by Seller concerning the condition of the Property, but this fact neither limits nor restricts Buyer's Disclaimer of Reliance set forth in Paragraph 16 of this Real Estate Contract. The written disclosure prepared by Seller is dated (month) _____ (day)_____, (year)_____, and is warranted by Seller to be the latest disclosure and the answers contained in the disclosure are warranted to be true, correct, and complete to Seller's knowledge.

☐ **B.** Buyer hereby requests Seller to provide a written disclosure about the condition of the Property that is true and correct to Seller's knowledge within three (3) business days after this Real Estate Contract has been signed by Buyer and Seller. If Seller does not provide the disclosure within the three (3) business days, Buyer may declare this Real Estate Contract terminated with Buyer and Seller both agreeing to sign the Termination of Contract, with Buyer to receive a refund of the Earnest Money. If Buyer finds the disclosure unacceptable within three (3) business days after receipt of disclosure, this Real Estate Contract may be declared terminated by Buyer, with Buyer and Seller both agreeing to sign the Termination of Contract, with Buyer to receive a refund of the Earnest Money. Receipt of this disclosure neither limits nor restricts in any way Buyer's Disclaimer of Reliance set forth in Paragraph 16 of this Real Estate Contract.

☐ **C.** Although a disclosure form may have been completed (or can be completed) by Seller, Buyer has neither received nor requested and does not desire from Seller a written disclosure concerning the condition of the Property prior to the execution of this Real Estate Contract, but this fact neither limits nor restricts in any way Buyer's Disclaimer of Reliance set forth in Paragraph 16 of this Real Estate Contract. BUYER IS STRONGLY URGED BY SELLING FIRM AND LISTING FIRM TO MAKE ALL INDEPENDENT INSPECTIONS DEEMED NECESSARY PRIOR TO SIGNING THIS REAL ESTATE CONTRACT.

☒ **D.** Buyer understands no disclosure form is available and will not be provided by Seller. BUYER IS STRONGLY URGED BY SELLING FIRM AND LISTING FIRM TO MAKE ALL INDEPENDENT INSPECTIONS DEEMED NECESSARY PRIOR TO SIGNING THIS REAL ESTATE CONTRACT.

FORM SERIAL NUMBER: *001246-200145-2543041*

14. **ENVIRONMENTAL REPRESENTATION:** Seller hereby represents to Buyer that to Seller's knowledge (unless otherwise disclosed herein):
   A. The Property is not the subject of any judicial or administrative notice or action relating to hazardous waste or environmental contamination;
   B. Seller has received no notice of any claim or violation of any law or regulation having to do with environmental protection;
   C. No hazardous or toxic substances have been stored, processed, or disposed of on the Property during the period that Seller has owned the Property; and
   D. No underground storage tanks are located on the Property.

15. **TERMITE CONTROL REQUIREMENTS:** (Check one)
   [x] **A.** None
   [ ] **B.** Seller shall provide prior to Closing, at Seller's expense, a current termite control policy issued by a licensed operator, satisfactory to Buyer

16. **BUYER'S DISCLAIMER OF RELIANCE:**

   A. BUYER CERTIFIES BUYER WILL PERSONALLY INSPECT OR HAVE A REPRESENTATIVE INSPECT THE PROPERTY AS FULLY AS DESIRED PRIOR TO CLOSING. BUYER CERTIFIES BUYER HAS NOT AND WILL NOT RELY ON ANY WARRANTIES, REPRESENTATIONS, OR STATEMENTS OF SELLER, LISTING FIRM, SELLING FIRM, OR ANY AGENT, INDEPENDENT CONTRACTOR, OR EMPLOYEE ASSOCIATED WITH THOSE ENTITIES, OR INFORMATION FROM MULTIPLE LISTING SERVICES OR OTHER WEBSITES REGARDING MINERAL RIGHTS, YEAR BUILT, SIZE (INCLUDING WITHOUT LIMITATION THE SQUARE FEET IN IMPROVEMENTS LOCATED ON THE PROPERTY), QUALITY, VALUE OR CONDITION OF THE PROPERTY, INCLUDING WITHOUT LIMITATION ALL IMPROVEMENTS, APPLIANCES, PLUMBING, ELECTRICAL OR MECHANICAL SYSTEMS. HOWEVER, BUYER MAY RELY UPON ANY WRITTEN DISCLOSURES PROVIDED BY SELLER.

   LISTING FIRM AND SELLING FIRM CANNOT GIVE LEGAL ADVICE TO BUYER OR SELLER. LISTING FIRM AND SELLING FIRM STRONGLY URGE STATUS OF TITLE TO THE PROPERTY, CONDITION OF PROPERTY, SQUARE FOOTAGE OF IMPROVEMENTS, QUESTIONS OF SURVEY AND ALL OTHER REQUIREMENTS OF BUYER SHOULD EACH BE INDEPENDENTLY VERIFIED AND INVESTIGATED BY BUYER OR A REPRESENTATIVE CHOSEN BY BUYER.

   B. IN THE EVENT THAT THE INSPECTION, REPAIR AND SURVEY ADDENDUM IS USED, BUYER AGREES TO SIGN PAGE 4 OF THE INSPECTION, REPAIR AND SURVEY ADDENDUM PRIOR TO CLOSING IF BUYER ACCEPTS THE CONDITION OF THE PROPERTY AND INTENDS TO CLOSE.

17. **OTHER:**

1)Buyer to receive approval from City of Fort Smith and the Belle Grove Historical District prior to closing allowing Buyer the right to have temporary modular classrooms during any current and future renovations or new construction. 2) Buyer to obtain from the City of Fort Smith prior to closing a conditional use for the right to have a school at the Property.

FORM SERIAL NUMBER: *001246-200145-2543041*

18. CONTINGENCIES: Buyer's offer to purchase the Property is expressly contingent upon Buyer's satisfaction of the contingencies checked below within the deadline indicated for each contingency. Buyer shall notify Seller in writing when the contingencies are satisfied. If Buyer fails to provide such written notice before the indicated deadline that a contingency checked below has been satisfied, then this Real Estate Contract shall be terminated with Buyer and Seller both agreeing to sign the Termination of Contract, with Buyer to receive a refund of the Earnest Money and Buyer and Seller shall have no further obligation to each other unless otherwise provided in this Real Estate Contract.

Contingencies (check all that apply):

☐ **A.** Obtain satisfactory financing, in Buyer's sole discretion, within _____ days after acceptance.

☒ **B.** Obtain satisfactory results of a feasibility study, in Buyer's sole discretion, within *60* days after acceptance.

☐ **C.** Obtain satisfactory results of a Property inspection, in Buyer's sole discretion, within _____ days after acceptance.

☐ **D.** Obtain satisfactory results of an environmental report, in Buyer's sole discretion, within _____ days after acceptance.

☐ **E.** Obtain satisfactory rezoning, platting, re-platting, or zoning verification, in Buyer's sole discretion, within _____ days after acceptance.

☐ **F.** _____ within _____ days after acceptance.

☐ **G.** _____ within _____ days after acceptance.

☐ **H.** _____ within _____ days after acceptance.

Additional requirements related to any of above contingencies:

_____

_____

_____

_____

_____

_____

Seller agrees to have all utilities connected and turned on to Property.

Sellers hereby grant to Buyer, its agents and contractors, the right to enter upon the Property to make tests and/or inspections. If the Property is damaged by Buyer or Buyer's agents or contractors during Buyer's inspections or test of the Property, Buyer shall repair and restore the Property to substantially the same condition as existed prior to conducting the inspection and test. Buyer shall indemnify Seller and its agents and hold them harmless from any and all liability, damages, claims, expenses, including reasonable attorney's fees, judgments, proceedings and causes of action of any kind to the extent caused by Buyer's inspection and testing activities with such indemnity obligation expressly surviving Closing or termination of the Real Estate Contract for any reason.

FORM SERIAL NUMBER: *001246-200145-2543041*

19. AGENCY: (Check all that apply)

☐ **A. LISTING FIRM AND SELLING FIRM REPRESENT SELLER:** Buyer acknowledges that Listing Firm and Selling Firm and all licensees associated with those entities are the agents of Seller and that it is Seller who employed them, whom they represent, and to whom they are responsible. Buyer acknowledges that before eliciting or receiving confidential information from Buyer, Selling Firm, which may be the same as Listing Firm, verbally disclosed that Selling Firm represents Seller.

☐ **B. LISTING FIRM REPRESENTS SELLER AND SELLING FIRM REPRESENTS BUYER:** Buyer and Seller acknowledge that Listing Firm is employed by Seller and Selling Firm is employed by Buyer. All licensees associated with Listing Firm are employed by, represent, and are responsible to Seller. All licensees associated with Selling Firm are employed by, represent, and are responsible to Buyer. Buyer acknowledges Selling Firm verbally disclosed that Listing Firm represents Seller. Seller acknowledges Listing Firm verbally disclosed that Selling Firm represents Buyer.

☐ **C. LISTING FIRM AND SELLING FIRM ARE THE SAME AND REPRESENT BOTH BUYER AND SELLER:** Seller and Buyer hereby acknowledge and agree that Listing and Selling Firm are the same and all licensees associated with Listing and Selling Firm are representing both Buyer and Seller in the purchase and sale of the above referenced Property and that Listing/Selling Firm has been and is now the agent of both Seller and Buyer with respect to this transaction. Seller and Buyer have both consented to and hereby confirm their consent to agency representation of both parties. Further, Seller and Buyer agree:

(i) Listing/Selling Firm shall not be required to and shall not disclose to either Buyer or Seller any personal, financial or other confidential information concerning the other party without the express written consent of that party; however, Buyer and Seller agree Listing/Selling Firm shall disclose to Buyer information known to Listing/Selling Firm related to defects in the Property and such information shall not be deemed "confidential information." Confidential information shall include but not be limited to any price Seller is willing to accept that is less than the offering price or any price Buyer is willing to pay that is higher than that offered in writing.

(ii) by selecting this option 19C, Buyer and Seller acknowledge that when Listing/Selling Firm represents both parties, a possible conflict of interest exists, and Seller and Buyer further agree to forfeit their individual right to receive the undivided loyalty of Listing/Selling Firm.

(iii) to waive any claim now or hereafter arising out of any conflicts of interest from Listing/Selling Firm representing both parties. Buyer and Seller acknowledge Listing/Selling Firm verbally disclosed that Listing/Selling Firm represents both parties in this transaction, and Buyer and Seller have given their written consent to this representation before entering into this Real Estate Contract.

☒ **D. SELLING FIRM REPRESENTS BUYER (NO LISTING FIRM):** Seller acknowledges that Selling Firm and all licensees associated with Selling Firm are the agents of Buyer and that it is Buyer who employed them, whom they represent, and to whom they are responsible. Seller acknowledges that at first contact, Selling Firm verbally disclosed that Selling Firm represents Buyer. Any reference to "Listing Firm" in this Real Estate Contract will be considered to mean Selling Firm, both Buyer and Seller acknowledging that all real estate agents (unless Seller is a licensed Real Estate Agent) involved in this Real Estate Contract only represent Buyer.

☐ **E. NON-REPRESENTATION:** See Non-Representation Disclosure Addendum

20. RISK OF LOSS: Risk of loss or damage to the Property by fire or other casualty occurring prior to the time Seller delivers an executed and acknowledged deed to Buyer is expressly assumed by Seller. Should the Property be damaged or destroyed prior to Closing, Buyer shall have the option to: (i) enter into a separate written agreement with Seller whereby Seller will agree to restore the Property to its condition at the time this Real Estate Contract was accepted, (ii) accept all insurance proceeds (in an amount not more than the Purchase Price with any proceeds in excess of the Purchase Price to remain the property of Seller) and the Property in its existing condition, or (iii) terminate this Real Estate Contract and recover the Earnest Money. Buyer and Seller agree any written agreement concerning option (i) or (ii) above shall be prepared only by licensed attorneys separately representing Buyer and Seller. Notwithstanding the choice selected in Paragraph 16, Buyer shall have the right prior to Closing to inspect the Property to ascertain any damage that may have occurred due to fire, flood, hail, windstorm or other acts of nature, vandalism or theft.

FORM SERIAL NUMBER: *001246-200145-2543041*

21. **GOVERNING LAW:** This Real Estate Contract shall be governed by the laws of the State of Arkansas.

22. **SEVERABILITY:** The invalidity or unenforceability of any provisions of this Real Estate Contract shall not affect the validity or enforceability of any other provision of this Real Estate Contract, which shall remain in full force and effect.

23. **MERGER CLAUSE:** This Real Estate Contract, when executed by both Buyer and Seller, shall contain the entire understanding and agreement between Buyer and Seller with respect to all matters referred to herein and shall supersede all prior or contemporaneous agreements, representations, discussions and understandings, oral or written, with respect to such matters. This Real Estate Contract shall not supersede any agency agreements entered into by Buyer or Seller and Listing Firm or Selling Firm.

24. **ASSIGNMENT:** This Real Estate Contract may not be assigned by Buyer unless written consent of Seller is obtained, such consent not to be unreasonably withheld. It shall not be unreasonable for Seller to withhold consent if Seller is to provide financing for Buyer in any amount.

25. **ACCEPTANCE:** The term "acceptance" as used herein shall mean the later of the two dates on which this Real Estate Contract is signed by Seller or Buyer, as indicated by their signatures below, which later date shall be the date of final execution and agreement by the parties hereto. If any date or deadline provided for herein falls on Saturday, Sunday, or a holiday, the applicable date shall be the next business day.

26. **TIME:** Buyer and Seller agree time is of the essence with regard to all times and dates set forth in this Real Estate Contract. Unless otherwise specified, days as it appears in this Real Estate Contract shall mean calendar days. Further, all times and dates set forth in this Real Estate Contract refer to Arkansas Central time and date.

27. **ATTORNEY'S FEES:** Should Buyer or Seller initiate any type of administrative proceeding, arbitration, mediation or litigation against the other (or against an agent for the initiating party or agent for the non-initiating party), it is agreed by Buyer and Seller (aforementioned agents being third-party beneficiaries of this Paragraph 26) that all prevailing parties shall be entitled to an award of all costs and attorney's fees incurred in defense of such initiated action against the non-prevailing party.

28. **COUNTERPARTS:** This Real Estate Contract may be executed in multiple counterparts each of which shall be regarded as an original hereof but all of which together shall constitute one in the same.

29. **FIRPTA COMPLIANCE, TAX REPORTING:** Buyer and Seller agree to disclose on or before Closing, to the person or company acting as Closing Agent for this transaction, their United States citizenship status, solely for the purpose of compliance with the Foreign Investment in Real Property Taxation Act (FIRPTA). In addition, Buyer and Seller shall execute all documents required by such Closing Agent to document compliance with the FIRPTA and all other applicable laws. Buyer and Seller agree that nothing in this Real Estate Contract is intended to limit the responsibility of the Closing Agent as defined pursuant to United States Treasury Regulation 1.6045-4) to (i) be the "reporting person" under state and federal tax laws (including without limitation 26 USC Section 6045(e)), and (ii) file all necessary forms regarding the Closing, including without limitation form 1099, 8288 or 8288A. By accepting the role as Closing Agent, this Real Estate Contract shall obligate the Closing Agent to fulfill their responsibilities as set forth above and as defined by the above statutes. Seller will execute an affidavit confirming compliance with FIRPTA, as prepared by the Closing Agent.

FORM SERIAL NUMBER: *001246-200145-2543041*

30. NOTICE: All notices, requests and other communications under this Agreement shall be in writing and shall be delivered in person, or sent by overnight courier or certified mail, return receipt requested, addressed as follows:

If to Seller: *City of Fort Smith, P.O. Box 1908, Fort Smith Arkansas 72902*

With a copy to:

If to Buyer: *Northwest Development Holdings, LLC and/or Assigns, Attn: Rodney Ghan*
4611 Rogers Avenue, Suite 201, Fort Smith Arkansas 72903

With a copy to: *Ghan & Cooper Commercial Properties, Attn: Rodney Ghan*
4611 Rogers Avenue, Suite 201, Fort Smith Arkansas 72903

Or at such other address, and to the attention of such person, of which the parties shall have given notice as herein provided. All such notices, requests and other communications shall be deemed to have been sufficiently given for all purposes hereof on the second day after the date of the mailing thereof or the first day after being sent by overnight courier.

31. TAX DEFERRED EXCHANGE: Each party agrees to cooperate with the other, if requested in writing, to effect a tax deferred exchange under the provisions of the Internal Revenue Code of 1986, as amended, provided such exchange is without cost or expense to cooperating party, and the requesting party shall indemnify and hold the other harmless from and against any cost or expense or other liability, tax or action which may be incurred in connection with such exchange.

32. LICENSEE DISCLOSURE: (Check all that apply):

☐ **A**. Not Applicable.

☐ **B**. One or more parties to this Real Estate Contract acting as a ☐ Buyer ☐ Seller hold a valid Arkansas Real Estate License.

☒ **C.** One or more owners of any entity acting as ☒ Buyer ☐ Seller hold a valid Arkansas Real Estate License.

33. EXPIRATION: This Real Estate Contract expires if not accepted in writing by Seller on or before (month) *January* (day) *25*, (year) *2016*, at *3:00* ☐ (a.m.) ☒ (p.m.).

Real Estate Contract (Commercial)

Copyright 2016 Arkansas REALTORS® Association

THIS IS A LEGALLY BINDING REAL ESTATE CONTRACT WHEN SIGNED BY THE PARTIES BELOW. READ IT CAREFULLY. YOU MAY EMPLOY AN ATTORNEY TO DRAFT THIS FORM FOR YOU. IF YOU DO NOT UNDERSTAND THE EFFECT OF ANY PART, CONSULT YOUR ATTORNEY BEFORE SIGNING. REAL ESTATE AGENTS CANNOT GIVE YOU LEGAL ADVICE. THE PARTIES SIGNED BELOW WAIVE THEIR RIGHT TO HAVE AN ATTORNEY DRAFT THIS FORM AND HAVE AUTHORIZED THE REAL ESTATE AGENT(S) TO FILL IN THE BLANKS ON THIS FORM.

THIS FORM IS PRODUCED AND COPYRIGHTED BY THE ARKANSAS REALTORS® ASSOCIATION. THE SERIAL NUMBER BELOW IS A UNIQUE NUMBER NOT USED ON ANY OTHER FORM. THE SERIAL NUMBER BELOW SHOULD BE AN ORIGINAL PRINTING, NOT MACHINE COPIED, OTHERWISE THE FORM MAY HAVE BEEN ALTERED. DO NOT SIGN THIS FORM IF IT WAS PREPARED AFTER DECEMBER 31, 2016.

FORM SERIAL NUMBER: *001246-200145-2543041*

The above Real Estate Contract is executed by Buyer on (month) *January* (day) *11*, (year) *2016*, at *2:00* ☐ (a.m.) ☒ (p.m.).

Ghan & Cooper Commercial Properties
Selling Firm

Signature: _____ Signature: _____

Printed Name: *Rodney H. Ghan* Printed Name: *Northwest Development Holdings, LLC*

Principal or Executive Broker **Buyer**

Signature: _____ Signature: _____

Printed Name: *Chris Griffin* Printed Name: _____

Selling Agent **Buyer**

The above Real Estate Contract is executed by Seller on (month) _____ (day) _____, (year) _____, at _____ ☐ (a.m.) ☐ (p.m.).

_____
Listing Firm

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____

Principal or Executive Broker **Seller**

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____

Listing Agent **Seller**

The above offer was ☐ rejected ☐ counter offered (Form Serial Number _____)
on (month) _____ (day) _____, (year) _____, at _____ ☐ (a.m.) ☐ (p.m.).

_____ **Seller's Initials** _____ **Seller's Initials**

3

ORDINANCE NO._____

AN ORDINANCE AMENDING CHAPTER 3 OF THE FORT SMITH MUNICIPAL CODE TO ESTABLISH FEES FOR DISPENSARY PERMITS FOR ALCOHOLIC BEVERAGES AND FOR PERMITS FOR SERVING MIXED DRINKS AND OTHER ALCOHOLIC BEVERAGES AND FOR OTHER PURPOSES

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

Section 1**:** Section 3-31 of the Fort Smith Municipal Code is amended to read as follows:

(a) Every person in the city engaged in manufacturing spirituous liquors or malt liquors shall pay an annual permit fee to the city as provided by state law.

(b) Every person in the city engaged in the manufacture of vinous liquors shall pay an annual permit fee to the city as provided by state law.

(c) Every person in the city engaged in the business of rectifying, blending or flavoring spirituous liquors shall pay an annual permit fee to the city as provided by state law.

Section 2: The Fort Smith Municipal Code is amended by adding Section 3-37 to read as follows:

Permits and Fee Schedule

	License Type	**Annual Fee**
1	Wholesale Liquor (Min-Max)	$750
2	Wholesale Beer (single county)	$40
3	Retail Beer	$40
4	Combination Rest. Retail Beer & Wine	$40
5a	H-M-R Mixed Drink Minimum	$250

5b	H-M-R Mixed Drink Maximum	$500
6	Temporary Expansion (Min – Max)	$0
7	Private Club	$250
8	Retail Liquor	$250
9	Military Service Club	$250
10	Satellite Catering	$250
11	Off Premises Catering	$250
12	Large Attendance Facility	$500
13	Micro-brewery Restaurant	$250

Section 3: Section 3-74 of the Fort Smith Municipal Code is amended to read as follows:

The application for a permit required by the provisions of this division shall be accompanied by an annual permit fee in the amount as provided in Section 3-37.

Section 4: Section 3-77 "Bond" is hereby amended to read as follows:

An indemnity bond shall be required of each permittee under this division guaranteeing the permittee's faithful accounting for and prompt payment of the taxes becoming due under this division. Such bond shall be in an amount of five hundred dollars ($500.00) with approved surety.

Section 5: Section 3-101(g) of the Fort Smith Municipal Code is amended to read as follows:

(g) The annual fees for the permits required by subsection (c) and (f) above shall be:

i. Hotel or motel having fewer than one hundred (100) rooms shall be in accordance with Section 3-37 (5a).
ii. Hotel or motel having one hundred (100) rooms or more shall be in accordance with Section 3-37 (5b).
iii. Large attendance facility shall be in accordance with Section 3-37 (12).
iv. Restaurant having seating capacity of less than one hundred (100) persons shall be in accordance with Section 3-37 (5a).
v. Restaurant having seating capacity of one hundred (100) or more persons shall be in accordance with Section 3-37 (5b).
vi. Satellite catering permit shall be in accordance with Section 3-37 (10).

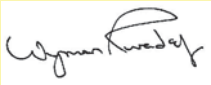
PASSED AND APPROVED THIS _____ DAY OF January 2016.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk



_____
City Attorney
Publish One Time

3

MEMORANDUM

January 14, 2016

TO: Jeff Dingman, Acting City Administrator

FROM: Jennifer Walker, Finance Director

SUBJECT: Alcoholic beverage permit fees – Adding Microbrewery Class

The attached ordinance updates language regarding permit fees for the sale of alcoholic beverages and adds class codes related to microbrewery businesses. The Fort Smith Municipal Code does not currently include a microbrewery business class code. Without such class code, new microbrewery businesses located in Fort Smith will be assigned alcohol permit codes that do not align with Arkansas state alcohol permit codes.

Additionally, a list of alcohol permit fee amounts is being added to the ordinance to improve accessibility to permit information for the business community. Currently, businesses must contact the Business Licensing and Collections office to determine the appropriate fee for their business. Finance department will update this ordinance annually each January to account for any changes in fees or code structures.

Please note, no fees have been increased or changed with this ordinance. All current alcohol permit fees remain u. Thank you, and please contact me if you need clarification or have additional questions.

Jennifer Walker

RESOLUTION NO._____

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR INSURANCE BROKER SERVICES

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

SECTION 1: The agreement for the purpose of utilizing BancorpSouth Insurance Services, a qualified insurance broker to represent the City of Fort Smith in various insurance markets including property, casualty, and other insurance and related services, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute said Agreement, in the amount of $28,500 for the provision of said services.

This Resolution adopted this _____ day of January, 2016.

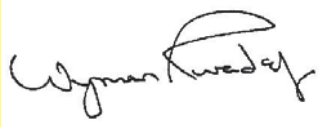
APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to form:



_____
No Publication Required

Interoffice Memorandum

TO: Jeff Dingman, Acting City Administrator

COPY TO: Jennifer Walker, Finance Director
Tracey Shockley, Internal Auditor

FROM: Alie Bahsoon, Purchasing Manager AB

SUBJECT: Insurance Broker Services

DATE: January 11, 2016

While discussing and reviewing the City's auto and property insurance renewal options during the February 10, 2015 study session, the Finance Department was directed by the Board to seek other brokers prior to the next renewal period to determine if the City is getting the best insurance coverage and value. This was further substantiated at the April 21, 2015 meeting when the Board amended the 2015 Budget for the addition of a Safety & Risk Manager position. It was discussed by the board that the new risk manager, whenever hired, will spearhead the broker services search by virtue of soliciting bid proposals.

The newly hired risk manager unfortunately stepped down after nearly completing three weeks in this position. Because of the vacancy, I composed and solicited Requests for Qualifications (RFQ) for broker services (copy attached). The solicitation was advertised in the Times Record and the Arkansas Democrat Gazette on November 21-23, 2015. Proposals were due December 9, 2015.

A three member committee consisting of myself, Jennifer Walker, and Tracey Shockley reviewed and scored the proposals on January 8, 2016. Our summary score sheet is attached. As noted in the RFQ, this is a three year contract with renewal options of two additional two-year terms, renewable one term at a time. It is our intent that the newly hired risk manager will serve as the City's future "broker" once they have settled in their position and have conducted a thorough review and assessment of the City's policies in place and insurance needs. Until that happens, it is imperative that we rely on the expertise of a qualified broker that will enable the City to benefit from getting expert advice on insurance coverage that best suits our needs, find the proper and necessary coverage to protect they City's assets of nearly $300,000,000 by comparing prices and product features from numerous potential underwriters and ultimately reduce our insurance costs.

It is our recommendation that the City acquire the broker services of BancorpSouth Insurance Services (BXS) for which a resolution is included for their review and approval. Despite our recommendation, the Board of Directors have the final authority over award of the contract. Please note that the resolution is for broker agency services only. Once approved by the Board, we will immediately begin working with BXS to solicit proposals from various insurance carriers and the Arkansas Municipal League for those coverages and will make a recommendation at the February 9th study session.

Please let me know if you should have any questions regarding this item.

BROKER SERVICES RFQ REVIEW

FIRM	AJG	BHC	BXS	Cross Pointe	Regions
MINIMUM REQUIREMENTS					
Licensed insurance broker/agent in AR	Yes	Yes	Yes	Yes	Yes
Broker agency headquartered in AR	No	Yes	No	Yes	No
Minimum of 7 years of experience	Yes	Yes	Yes	Yes	Yes
Minimum premium volume of $10,000,000	$320M	$99M	$289M	$37M	$463M
Access to insurance markets to provide property and casualty insurance	10	1	26	7	3
In business for at least 7 years	Yes	Yes	Yes	Yes	Yes
Covered for various types of insurance	Yes	Yes	Yes	Yes	Yes
Five References	Yes	Yes	Yes	No (4)	Yes
EVALUATION (100 POINTS MAX)					
Thoroughness of response to RFQ (0-10)	8	7	8	5	8
Relevant experience of firm (0-15)	11	12	13	8	10
Knowledge, expertise & qualifications of personnel assigned to this project (0-15)	12	11	12	8	10
Proposed pricing and agency fees (0-20) *	13	7	18	6	10
Locale of office handling the account (0-10)**	6	9	7	7	8
Quality of analysis of the City's needs (0-20)	14	11	15	7	11
Financial stability of the respondent (0-5)	5	4	4	3	4
Comments received from references (0-5)	4	4	4	3	4
TOTAL	**73**	**65**	**81**	**47**	**65**
*Agency proposed pricing	$44,000	10% Commission (equiv. to approx. $80k)	$28,500	10%-20% Commission (equiv. to approx. $80k-$150k)	$50,000
**Servicing Office	Little Rock	Ft. Smith	Rogers	Ft. Smith	Ft. Smith

AJG: primary contact in Louisiana; previous board member oversees local office; conflict of interest exists in the event of major disaster
BHC: limited insurance markets; high commission
BXS: lowest cost; numerous potential insurance markets
Cross Pointe: high commission; limited public sector accounts
Regions: high cost; limited insurance markets; staff expertise is excellent for healthcare, oil & gas, and Mfg. industries

Interoffice Memorandum

ITEM 4 Supplement

TO: Jeff Dingman, Acting City Administrator

COPY TO: Jennifer Walker, Finance Director

FROM: Alie Bahsoon, Purchasing Manager AB

SUBJECT: Insurance Coverage Review

DATE: January 13, 2016

At the January 12, 2016 study session, the board requested to discuss the City's current insurance property and casualty coverage as well as reviewing the legal insurance requirements. The information prepared essentially looks at what our current coverage entails as well as the Arkansas requirements regarding auto coverage.

The City's auto and property insurance policies renew on March 1, 2016. For the benefit of the board, I have outlined below a summary of the city's current insurance and have attached a summary of the 2015-2016 policy:

- The city carries a traditional, fully insured plan on auto, equipment, and property.
- An annual premium is charged to each city department based on the size of their fleet, the equipment on hand, and the value of the buildings and their content.
- Total assets and values:
  - 536 vehicles Value: $33,108,842 2015-2016 premium: $419,414
  - 101 trailers Value: $705,361 2015-2016 premium: included above
  - 205 equipment Value: $11,328,857 2015-2016 premium: $58,099
  - Property Value: $253,314,000 2015-2016 premium: $345,840
- Fleet averages an approximate 6,561,549 miles driven annually thereby substantially increasing the city's risk exposure
- Brown Hiller Clark Insurance (BHC) has been the city's "agent" for the past 24 years; they research the market and solicit potential underwriters and match us with the best value on the dollar based on the city's current needs and its claims history; they, along with Travelers, have acted as the city's "risk management" department.

Under *Act § 21-9-303, "Motor vehicle liability insurance required-Minimum amounts"*, the State of Arkansas requires all political subdivisions to purchase and carry liability insurance on their motor vehicles in the minimum amounts prescribed in the Motor Vehicle Safety Responsibility Act, § 27-19-101. The minimum amounts of liability coverage are:

- $25,000 for bodily injury or death of one person in any one accident;
- $50,000 for bodily injury or death of two or more persons in any one accident; and
- $25,000 for damage to or destruction of property

Other than being fiscally responsible to the citizens of Fort Smith and to protect our assets, there are no known state statutes requiring municipalities to carry property insurance.

Because of the value of our assets, I want to emphasize that the city recognizes the limited availability of insurance carriers who provide insurance for governmental entities and most, if not

all of these markets can only be accessed utilizing the services of an agent of the carrier or broker. Secondary to insurance protection, the city does have a need for services and other expertise in addressing issues of safety, loss control and risk management and with the assistance of the soon to be hired risk manager, it is our objective as we move forward to:

- Obtain the broadest insurance coverage with stable insurance carriers at the least cost;
- Compensate the agent/broker on a fee basis for placement of all coverage stated (as per the attached) and other coverage as needs develop; and
- Receive services typically performed by an agent/broker

Please let me know if you should have any questions.

Summary of Insurance (01-01-15 to 03-01-16)

For: **City of Fort Smith**
Attn: Alie Bahsoon
Fort Smith AR 72902

Coverage	Company	Policy Number	Eff Date	Exp Date
Property	Travelers Property Casualty Company of America	H-630-6013X958-TIL-15	3/1/2015	3/1/2016

Named Insured Schedule:
City of Fort Smith

Subjects of Insurance	**Limits**	**Valuation**
Blanket Building	$210,380,432	Replacement Cost
- **Lights**	$ 644,700	
- **Fencing**	$ 655,190	
Blanket Business Personal Property	$ 27,840,614	Replacement Cost
Computer Equipment	$ 1,820,459	Replacement Cost
Total Blanket Property Limit	$241,341,395	
Parrot Island Water Park Added 5/21/15	$ 11,000,000	
	$252,341,395	
Specific Building	$ 2,741,851	See Remarks
Specific Business Personal Property	$ 51,519	See Remarks
Blanket business Income with Extra Expense	$ 531,000	72 Hour Deductible / 100% Coinsurance

Cause of Loss	Special Form (Including Theft)
Coins %	90%
Deductible	$25,000 - except $50,000 Wind & Hail Deductible

Additional Coverages – Earthquake and Flood:

Earthquake Coverage – all locations on file	$10,000,000	Annual Aggregate Limit
Flood Coverage, Broad Form – specific locations on file	$ 5,000,000	Annual Aggregate Limit
Deductible for Earthquake and Flood	$ 50,000	

Coverage	Company	Policy Number	Eff Date	Exp Date
Crime	Travelers Property Casualty Company of America	H-630-6013X958-TIL-15	3/1/2015	3/1/2016

$10,000 Employee Theft
$25,000 Forgery or Alteration
$20,000 Theft, Disappearance and Destruction – Inside Premises
$10,000 Theft, Disappearance and Destruction – Outside Premises
$25,000 Money Orders and Counterfeit Paper Currency

B·H·C
Brown • Hiller • Clark & Associates

For: City of Fort Smith
Attn: Alie Bahsoon
Fort Smith AR 72902

$ 1,000 Deductible

Coverage	Company	Policy Number	Eff Date	Exp Date
Scheduled Property	Travelers Property Casualty Company of America	H-630-6013X958-TIL-15	3/1/2015	3/1/2016

$363,581 Radio Equipment # EOC Training Center 8400 S. Zero
$100,000 Police/Radio Equipment & Contents @ Police Dept. 3900 Kelly Highway
$ 75,000 Radio Equipment & Contents @ Police Dept. 100 S. 10th
$ 5,000 Unscheduled Equipment – Maximum $5,000. per item
$543,581 Total Scheduled Property

$ 1,000 Deductible

Coverage	Company	Policy Number	Eff Date	Exp Date
Scheduled Equipment Generators	Travelers Property Casualty Company of America	H-630-6013X958-TIL-15	3/1/2015	3/1/2016

$529,960 Generators Located at Fire Stations

$ 1,000 Deductible

For: City of Fort Smith
Attn: Alie Bahsoon
Fort Smith AR 72902
(479) 784-2267

Coverage	Company	Policy Number	Eff Date	Exp Date
Commercial Auto	Travelers Property Casualty Company of America	H-810-3038P91A-TIL-15	3/1/2015	3/1/2016

Policy Coverages

Coverage	Symbol(s)	Limit/Deductible	
Liability	1	$100,000	Combined Single Limit
Uninsured Motorist	2	$100,000	Bodily Injury ea. Accident
Uninsured Motorist Prop Dmg	2	$100,000	Property Damage ea. accident
Underinsured Motorist	2	$100,000	Bodily Injury ea. accident
Comprehensive/OTC	10/8	See Below	
Collision	11/8	See Below	
Hired/borrowed liability		Yes	States: AR If any basis: Yes
Non-owned auto liability		Yes	States: AR
Hired physical damage			AR;

COVERED AUTO SYMBOLS		
(1) ANY AUTO	(4) OWNED AUTOS OTHER THAN PRIVATE PASSENGER	(7) AUTOS SPECIFIED ON SCHEDULE
(2) ALL OWNED AUTOS	(5) ALL OWNED AUTOS WHICH REQUIRE NO-FAULT COVERAGE	(8) HIRED AUTOS
(3) OWNED PRIVATE PASSENGER AUTOS	(6) OWNED AUTOS SUBJECT TO COMPULSORY U.M. LAW	(9) NON-OWNED AUTOS
(10) See Below	(11) See Below	

Physical Damage Deductibles – Commercial Autos – Symbol 10/11:

Comprehensive Deductible $1,000: All Owned Vehicles, Trailers, Buses, 15 Passenger Vans, And Leased Vehicles If required By Contract: Original Cost New Under $100,000

Comprehensive Deductible $5,000: All Owned Vehicles, Trailers, Buses, 15 Passenger Vans, Leased Vehicles If required By Contract, and MRAP Caiman Armored Vehicles: Original Cost New $100,000 And Above

Collision Deductible $1,000: All Owned Buses, 15 Passenger Vans, And Leased Vehicles If required By Contract: Original Cost New Under $100,000

Collision Deductible $5,000: All Owned Buses, 15 Passenger Vans, Leased Vehicles If required By Contract, And MRAP Caiman Armored Vehicle: Original Cost New $100,000 And Above

B·H·C
Brown • Hiller • Clark & Associates

Summary of Insurance (01-01-15 to 03-01-16)

For: City of Fort Smith
Attn: Alie Bahsoon
Fort Smith AR 72902
(479) 784-2267

Additional Coverage Information:

Vehicles are composite rated and will be adjusted at the end of the policy term.

Number of Autos Excluding Trailers at Policy Inception: 536
Number of Trailers at Policy Inception: 100
Owner's Cost New for Comprehensive at Policy Inception: $33,108,842
Owner's Cost New for Collision at Policy Inception: $1,952,375
Auto Liability Bodily Injury and Property Damage Deductible: $1,000 each accident

Hired Car Physical Damage Limit: $50,000 with $1,000 comprehensive / $1,000 collision deductibles.

B·H·C
Brown • Hiller • Clark & Associates

For: City of Fort Smith
Attn: Alie Bahsoon
Fort Smith AR 72902
(479) 784-2267

Coverage	Company	Policy Number	Eff Date	Exp Date
Contractors Equipment Floater	CHUBB Group Insurance	60412036	3/1/2015	3/1/2016

Coverage	Coinsurance	Deductible	Total Sched. Amount
Actual Cash Value	See Below	See Below	See Below

Contractors Equipment – per schedule submitted by insured

Blanket Contractors Equipment Limit	$10,858,633
Rented/Leased Equipment From Others	$ 200,000
Deductible -	1% with $1,000 minimum & $5,000 maximum
Flood Annual Aggregate Sub-Limit	$ 1,000,000
Deductible – (Flood, Surface Water, Backup of Sewers & Drains)	$ 10,000
Earthquake Annual Aggregate Sub-Limit	$ 1,000,000
Deductible – (Earthquake)	$ 10,000
Waterborne Equipment Sub-Limit	$ 100,000
Deductible -	$ 2,500
Employee Tools Limit	$ 25,000
Employee Tools – max per employee limit	$ 2,500
Deductible -	$ 250

B·H·C
Brown • Hiller • Clark & Associates

For: City of Fort Smith
Attn: Alie Bahsoon
Fort Smith AR 72902
(479) 784-2267

Scheduled Property Floater – see schedule below

Total Limit for Scheduled Items on File	**$ 8,906,665**
Deductible	**$ 2,500**
Coinsurance	**100%**
Flood Annual Aggregate Sub-Limit	**$ 1,000,000**
Deductible –	**$ 5,000**
(Flood, Surface Water, Backup of Sewers & Drains)	
Earthquake Annual Aggregate Sub-Limit	**$ 1,000,000**
Deductible –	**$ 5,000**
(Earthquake)	

Fine Arts Floater – per schedule submitted by insured

Total Limit for Scheduled Items on File	**$ 320,040**
Deductible	**$ 1,000**

Fine Arts Coverage Breakdown:
Mayor's Art Commission Sculpture - $40,000
Fort Smith Art Quest Convention Center Exhibit - $190,040
12 Historic Plaques ($7,500. each) - $90,000

B·H·C
Brown • Hiller • Clark & Associates

RESOLUTION _____

A RESOLUTION TO ACCEPT THE BID AND AUTHORIZE A CONTRACT FOR THE 2014 DRAINAGE IMPROVEMENTS, PHASE B1
PROJECT NO. 14-06-B1

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

SECTION 1: The bid of Steve Beam Construction, Inc. received December 15, 2015 for the 2014 Drainage Improvements, Phase B1, Project No. 14-06-B1, in the amount of $616,720.00 be accepted.

SECTION 2: The Mayor is authorized to execute a contract with Steve Beam Construction, 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 _____ day of January, 2016.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form

_____

☐ No Publication Required

Memorandum

TO: Jeff Dingman, Acting City Administrator

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

DATE: January 14, 2016

SUBJECT: 2014 Drainage Improvements, Phase B1
Project No. 14-06-B1

This project consists of drainage improvements at two locations. The first location will replace an undersized earthen ditch located on Boys Club Lane with concrete storm drain. The second location along Glen Flora Way will add a concrete wall and storm drain to intercept runoff from the hillside. Structure flooding, severe street and yard flooding are occurring, and the existing earthen ditch is a maintenance issue due to severe erosion. The location of the proposed improvements are shown on the attached exhibit.

Construction plans and specifications were prepared by Morrison Shipley Engineers, Inc. of Fort Smith. An advertisement was published and bids were received on December 15, 2015. Seven contractors requested plans and specifications and seven bids were received which are summarized as follows:

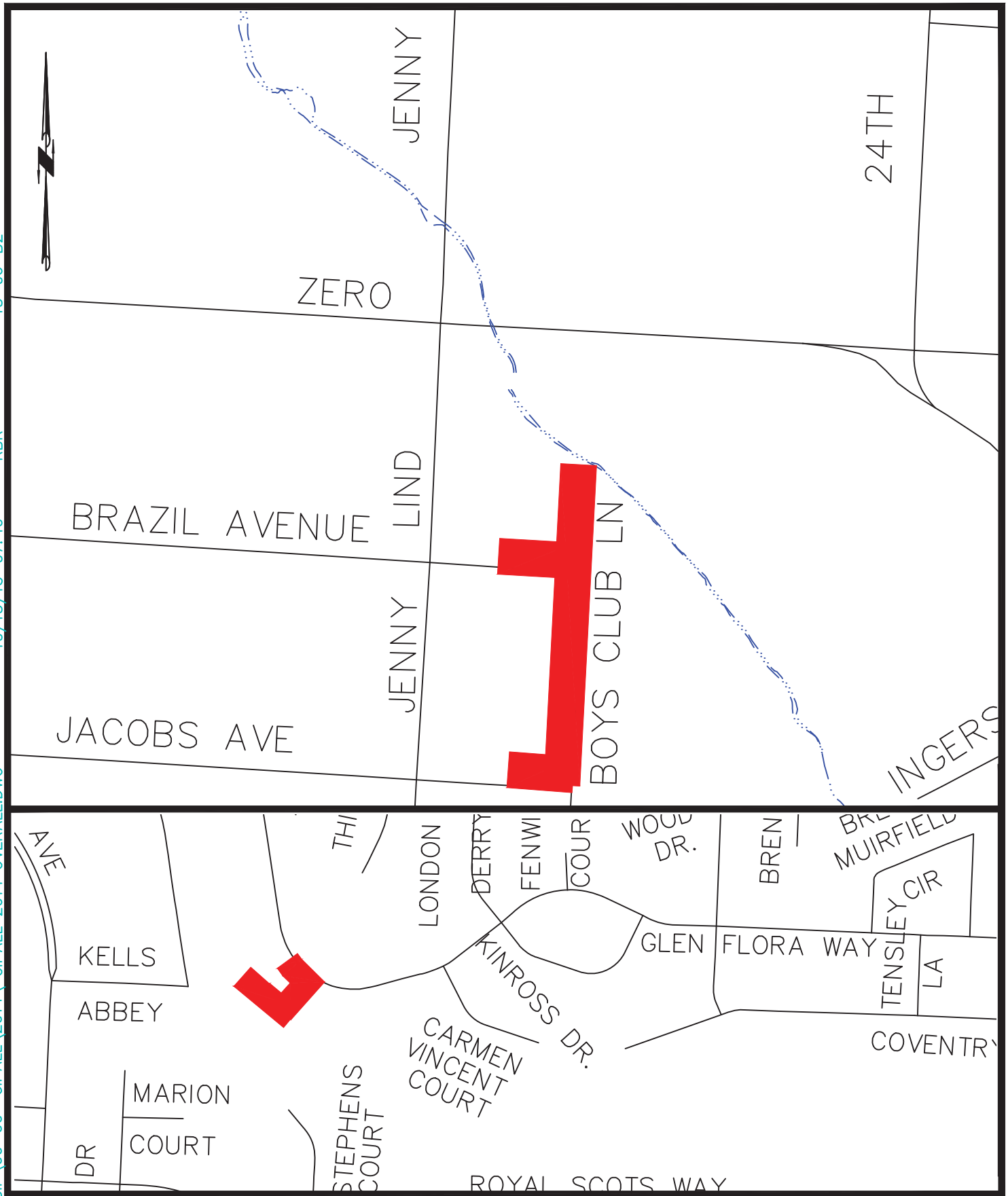
CONTRACTOR	AMOUNT	CONTRACTOR	AMOUNT
1. Steve Beam Const. Fort Smith, AR	$616,720.00	5. AJ Greenwood Plumbing & Excavation Van Buren, AR	$735,384.00
2. T-N-T, Inc. Van Buren, AR	$647,674.00	6. Brothers Construction Van Buren, AR	$758,845.00
3. Cove Creek Construction Clarksville, AR	$653,648.50	7. Township Builders, Inc. Little Rock, AR	$782,594.00
4. Forsgren, Inc. Fort Smith, AR	$732,723.50	*Engineer's Estimate*	*$800,000.00*

I recommend that the lowest bid be accepted and that the construction contract be awarded to Steve Beam Construction, Inc. The estimated notice to proceed date for this contract is February 15, 2016. Based on the contract duration of 180 days, the estimated completion date would be August 12, 2016.

This project is also in alignment with the comprehensive plan policies FLU-1.4 (Ensure adequate, well-maintained infrastructure, public safety, and public facilities for all development and prevent development ahead of infrastructure and service provision), TI-5.1 (Continue to ensure that customers within Fort Smith have access to reliable water, sewer, drainage, solid waste services by reducing or eliminating deficiencies and gaps in infrastructure systems), TI-5.2 (Ensure that utility and infrastructure systems can meet the city's long-term needs) and NCR-2.6 (Reduce stormwater runoff and flooding).

Attached is a Resolution to accomplish the above recommendation. Funds are available in the Sales Tax Program (1105).

Attachment



2014 CAPITAL IMPROVEMENTS PROGRAM

DRAINAGE IMPROVEMENTS

The City of Fort Smith ARKANSAS

Project:	14-06-B1
Date:	DEC. 2015
Scale:	NONE
Drawn By:	JRC

G:\DRAWINGS\CIP\00-00 CIPALL\2014\ CIPALL 2014 OVERALL.DWG 10/15/15-07:46 RBR 13-06-B2

RESOLUTION _____

A RESOLUTION TO ACCEPT COMPLETION OF AND AUTHORIZE FINAL PAYMENT FOR THE CONSTRUCTION OF RAILROAD CROSSING REPAIRS AT NORTH 27TH STREET
PROJECT NO. 15-10-A

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

SECTION 1: The City of Fort Smith hereby accepts the construction of the Railroad Crossing Repairs at North 27th Street, Project No. 15-10-A, as complete.

SECTION 2: Final payment is authorized in the amount of $108,952.26 to the contractor, Steve Beam Construction, Inc. for the Railroad Crossing Repairs at North 27th Street, Project No. 15-10-A.

This resolution adopted this _____ day of January, 2016.

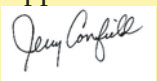
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form



_____

☐ No Publication Required

Memorandum

TO: Jeff Dingman, Acting City Administrator

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

DATE: January 14, 2016

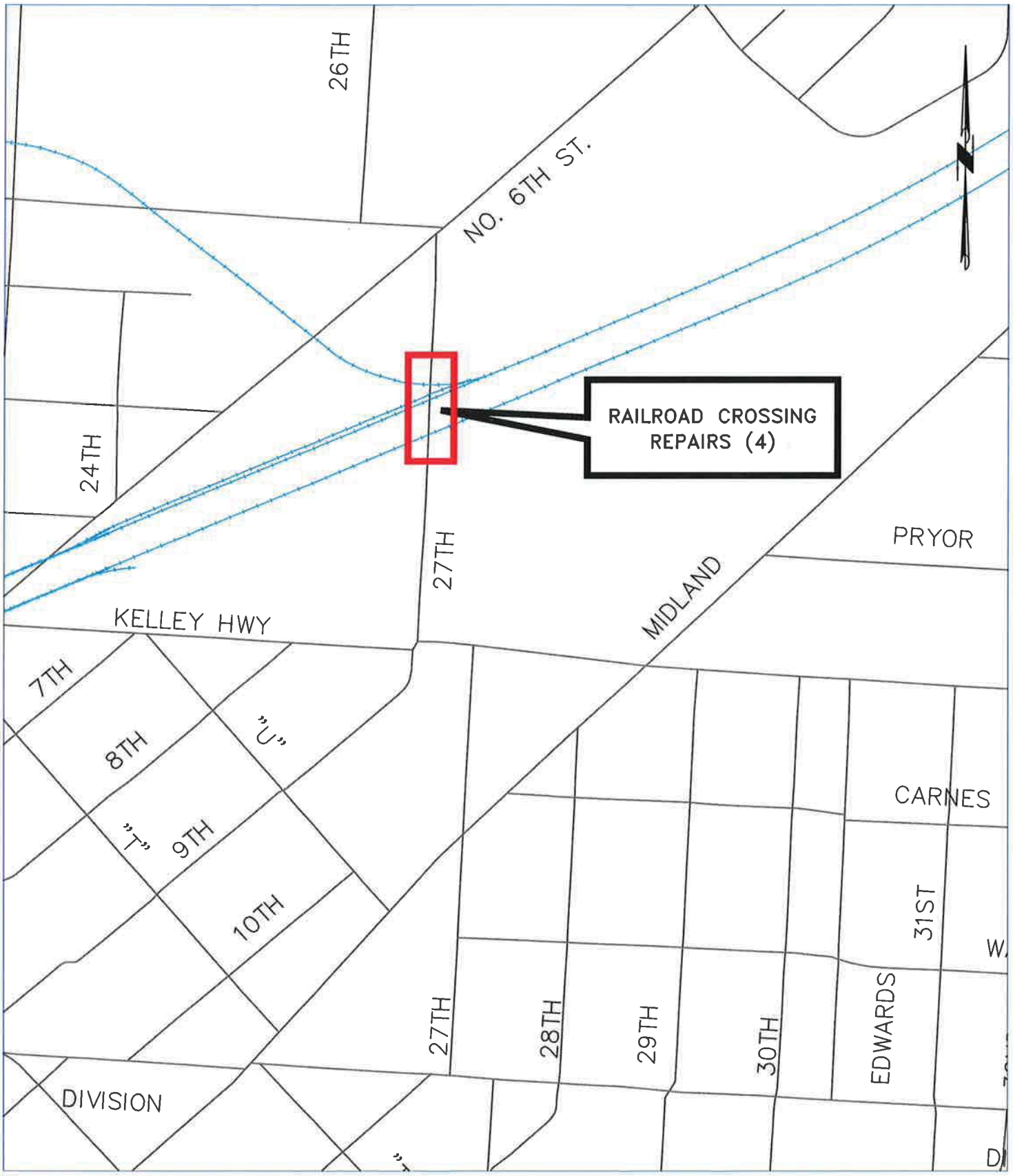
SUBJECT: Railroad Crossing Repairs at North 27th Street.
Project No. 15-10-A

The above subject project consisted of railroad crossing repairs on North 27th Street between North 6th Street and Kelley Highway as shown on the attached exhibit. The work included the installation of concrete panels to improve the street driving surface at four railroad crossings. A project summary is also attached.

This project was in alignment with the comprehensive plan policy FLU-1.4 (Ensure adequate, well-maintained infrastructure, public safety, and public facilities for all development and prevent development ahead of infrastructure and service provision).

Attached is a Resolution to accept the project as complete and authorize final payment to the contractor. I recommend that the Resolution be accepted by the Board of Directors at the next regular meeting.

Attachments



2015 CAPITAL IMPROVEMENTS PROGRAM
RAILROAD CROSSING IMPROVEMENTS

The City of Fort Smith ARKANSAS

Project:	15-10-A
Date:	OCT. 2014
Scale:	NONE
Drawn By:	RBR

G:\DRAWINGS\CIP\00-00 CIPALL\2015\2015 Consultant Selection\ 15-10-A.dwg 10/13/14-15:57 RBR 15-10-A

SUMMARY SHEET

City of Fort Smith

Project Status	Complete	Project Name:	2015 Railroad Crossing Repairs
Today's Date:	1/14/2016	Project Number:	15-10-A
Staff contact name:	Stan Snodgrass	Consultant Engineer:	McGuire Engineering
Staff contact phone:	784-2225	Project Contractor:	Steve Beam Construction
Contract time (no of days):	60		
Notice to proceed issued:	11/16/2015		

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	$290,840.00	8/20/2015	1/14/2016
Contract Revisions:			
1			
2			
3			
Adjusted contract amount	$290,840.00		
Payments to date (as negative):	$181,881.54		
Amount of this payment	$108,952.26		
Contract balance remaining	$6.20		
Retainage held	0%		
Final payment	$108,952.26		
Amount under original as a percentage	0.0%		

Final Comments:

The project was substantially complete on December 17, 2015 which is within the contract time allotted.

RESOLUTION _____

A RESOLUTION AUTHORIZING A CHANGE ORDER FOR THE CONSTRUCTION OF 2014 STREET OVERLAY/RECONSTRUCTION, PHASE B
PROJECT NO. 14-03-B

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

SECTION 1: Change Order No. 1 with Forsgren, Inc., for the construction of 2014 Street Overlay/Reconstruction Phase B, Project 14-03-B, which increases the contract amount by $150,298.25 to an adjusted contract amount of $2,269,869.06, and which increases the contract time by 97 days, is hereby approved.

This resolution adopted this _____ day of January, 2016.

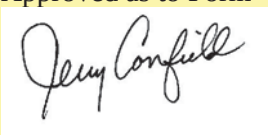
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form



_____

☐ No Publication Required

RESOLUTION _____

A RESOLUTION ACCEPTING COMPLETION OF AND AUTHORIZING FINAL PAYMENT FOR THE CONSTRUCTION OF 2014 STREET OVERLAY/RECONSTRUCTION PHASE B
PROJECT NO. 14-03-B

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

SECTION 1: The City of Fort Smith hereby accepts the construction of the 2014 Street Overlay/Reconstruction Phase B, as complete.

SECTION 2: Final payment is hereby authorized in the amount of $150,434.36 to the contractor, Forsgren, Inc., for the 2014 Street Overlay/Reconstruction Phase B, Project No. 14-03-B.

This Resolution adopted this _____ day of January, 2016.

APPROVED:

_____

Mayor

ATTEST:

_____
City Clerk

Approved as to Form

_____

☐ No Publication Required

Memorandum

TO: Jeff Dingman, Acting City Administrator

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

DATE: January 14, 2016

SUBJECT: Street Overlays/Reconstruction
Project No. 14-03-B

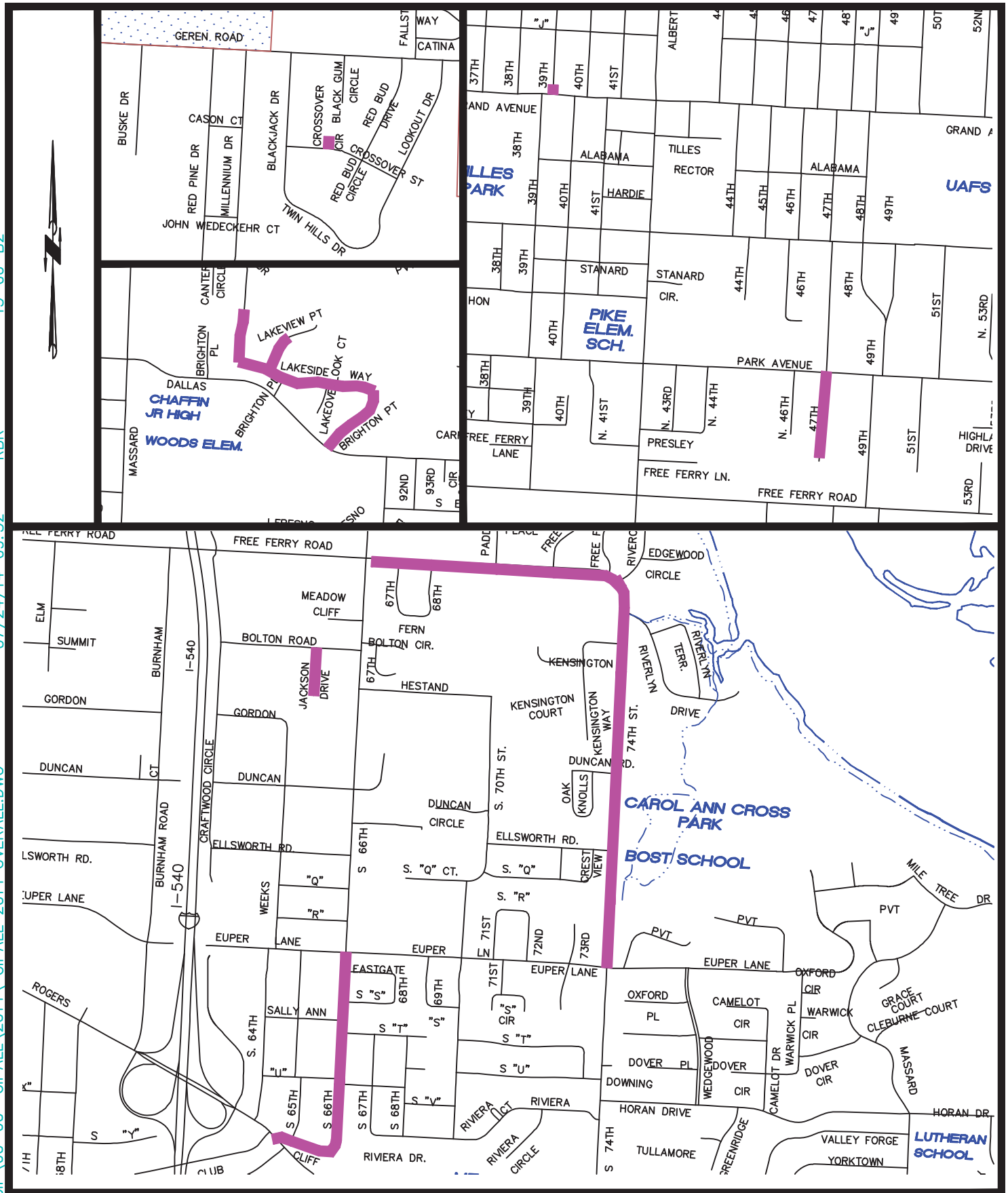
The above subject project consisted of asphalt street overlays, reconstruction and drainage improvements for the streets shown on the attached exhibit. The total length of streets improved was approximately 2.6 miles. A project summary sheet is also attached.

Change Order No. 1 in the amount of $150,298.25 (7.1%) is due to the extension of drainage facilities to alleviate flooding issues that were brought about during the heavy spring rains. The project was substantially complete on December 2, 2015 which is 97 days beyond the August 27, 2015 contract completion date. The additional time beyond the contract completion date includes 46 days due to extra work which was added to the contract and 51 days due to weather days.

This project was in alignment with the comprehensive plan policies FLU-1.4 (Ensure adequate, well-maintained infrastructure, public safety, and public facilities for all development and prevent development ahead of infrastructure and service provision), TI-5.1 (Continue to ensure that customers within Fort Smith have access to reliable water, sewer, drainage, solid waste services by reducing or eliminating deficiencies and gaps in infrastructure systems), TI-5.2 (Ensure that utility and infrastructure systems can meet the city's long-term needs) and NCR-2.6 (Reduce stormwater runoff and flooding).

Attached are Resolutions to approve Change Order No. 1 and to accept the project as complete and authorize final payment to the contractor. I recommend that the Resolutions be accepted by the Board of Directors at the next regular meeting.

Attachments



2014 CAPITAL IMPROVEMENTS PROGRAM

STREET OVERLAYS/RECONSTRUCTION

The City of Fort Smith ARKANSAS

Project:	14-03-B
Date:	OCT. 2013
Scale:	NONE
Drawn By:	RBR

G:\DRAWINGS\CIP\00-00 CIPALL\2014\ CIPALL 2014 OVERALL.DWG 07/24/14-09:52 RBR 13-06-B2

SUMMARY SHEET

City of Fort Smith

Project Status	Complete	Project Name:	2014 Street Overlays/Reconstruct Ph B
Today's Date:	1/14/2016	Project Number:	14-03-B
Staff contact name:	Stan Snodgrass	Consultant Engineer:	Brixey Engineering
Staff contact phone:	784-2225	Project Contractor:	Forsgren, Inc.
Contract time (no of days):	270		
Notice to proceed issued:	12/1/2014		

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	$2,119,570.81	9/9/2014	8/27/2015
Contract Revisions:			
1 Change Order #1 including time extension of 97 days	$150,298.25		12/2/2015
Adjusted contract amount	$2,269,869.06		
Payments to date (as negative):	$2,119,434.70		
Amount of this payment	$150,434.36		
Contract balance remaining	$0.00		
Retainage held	0%		
Final payment	$150,434.36		
Amount over original as a percentage	7.1%		

Final Comments:

Change Order No. 1 in the amount of $150,298.25 (7.1%) is due to the extension of drainage facilities to alleviate flooding issues that were brought about during the heavy spring rains. The project was substantially complete on December 2, 2015 which is 97 days beyond the August 27, 2015 contract completion date. The additional time beyond the contract completion date includes 46 days due to extra work which was added to the contract and 51 days due to weather days.

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AGREEMENTS FOR CERTAIN SERVICES FOR INHABITANTS OF THE CITY OF FORT SMITH

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

SECTION 1: The Mayor is hereby authorized to execute that certain agreement with the **Fort Smith Museum of History** providing for the payment by the City to the Fort Smith Museum of History in the amount of the actual utility expenses (water, sewer, sanitation, gas and electric expense) incurred in the operation of the Fort Smith Museum of History up to a maximum of **$20,000** during calendar year 2016 for services provided to the City and its inhabitants, which services include the providing of facilities and programs for cultural and educational purposes to enhance and provide for the health and welfare of the inhabitants of the City during the year 2016.

SECTION 2: The Mayor is hereby authorized to execute that certain agreement with **SRCA, Inc. Social Services** providing for the direct payment by the City to SRCA, Inc. Social Services of **$175,000** during calendar year 2016 for services provided the City and its inhabitants, which services include the providing of facilities and programs for nutritional purposes to enhance and provide for the health and welfare of the inhabitants of the City during the year 2016.

SECTION 3: The Mayor is hereby authorized to execute that certain agreement with the **Area Agency on Aging** providing for the payment by the City to the Area Agency on Aging of **$50,000** during calendar year 2016 for services provided the City and its inhabitants, which services include the providing of facilities and programs for health and human service purposes to enhance and provide for the health and welfare of the inhabitants of the City during the year 2016.

SECTION 4: The Mayor is hereby authorized to execute that certain agreement with the **Project Compassion** providing for the payment of **$7,500** during calendar year 2016 for services provided the City and its inhabitants, which services include the providing of facilities and programs for rehabilitation

and educational purposes to enhance and provide for the health and welfare of the inhabitants of the City during the year 2016.

SECTION 5: It is hereby declared and determined by the Board of Directors that the subject matters of the agreements authorized by Sections 1, 2, 3, and 4, above deal with providing services in an exceptional situation where competitive bidding procedures are not feasible so that such competitive bidding procedures are hereby waived with reference to such agreements.

SECTION 31: The authorizations set forth in Sections 1-4 above are deemed and declared to be severable. Any invalidity of one or more of the separate sections shall not affect the validity of the other sections of this Ordinance.

PASSED AND APPROVED this ____ day of January, 2016.

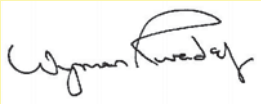
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:



_____NPR

The City of Fort Smith ARKANSAS

MEMORANDUM

January 4, 2016

TO: Jeff Dingman, Acting City Administrator

FROM : Christy Deuster, Finance Department Christy

SUBJECT: Agreements for Agencies Funded from County Sales Tax & Utility Reimbursement Agreement with FS Museum of History

The following funding recommendations were approved by the Board in conjunction with the 2016 Budget. The Fort Smith Museum of History funding is along standing agreement with the City (originating in 1936)for reimbursement of utilities up to $20,000 per calendar year. The remaining three agencies are funded from the portion of the county sales tax in return for providing services to senior residents of Fort Smith:

Fort Smith Museum of History	$20,000
Area Agency on Aging	$50,000
SRCA, Inc. Social Services	$175,000
Project Compassion	$7,500

Prior to disbursing to these organizations, the City attorney has advised that an agreement be executed with each organization which states the services to be provided in 2016. These agreements require each organization's books and records to be open to the public and allow review of financial statements and records by the City as necessary during the year.

Attached for the Board of Directors consideration is an ordinance authorizing the Mayor to execute agreements with each of the organizations. A copy of a blank agreement is also attached. Upon execution by the Mayor, on the City's behalf, each organization will execute their agreement.

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

Attachments

pc: Jennifer Walker, Director of Finance

5F

RESOLUTION NO. _____

A RESOLUTION ACCEPTING BID AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH RODEBUSH CONSTRUCTION, INC., FOR THE CONSTRUCTION OF THE PRESS BOX AND DUGOUTS AT MARTIN LUTHER KING, JR. PARK

_____

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

SECTION 1: The bid of Rodebush Construction, Inc., for the construction of the press box and dugouts at Martin Luther King, Jr., Park is hereby accepted.

Section 2: The Mayor is hereby authorized to execute a contract with Rodebush Construction, Inc., for an amount not to exceed $112,750.00, for performing said project.

This Resolution adopted this _____ day of January, 2016.

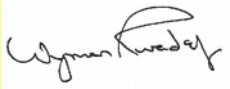
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM



_____npr

PARKS RECREATION
FORT SMITH

Memo:

January 15, 2016

To: Jeff Dingman, Acting City Administrator
From: Doug Reinert, Director of Parks and Recreation DSR
Re: Martin Luther King Softball Field Improvements

Martin Luther King Park Softball Fields were designed and put out for bid. A contract was awarded to Crawford Construction for the field work and construction will begin next week. The contract being brought at this time is for the press box and dugouts. Sealed bids for the project were opened December 1 with only one bid received from Rodebush Construction for $122,250.

The architect for the project, James Reddick with Studio 6 Architects, has negotiated several items in the contract with Rodebush Construction reducing the bid amount by $9,500 giving us a revised contract amount of $112,750. I approve of the negotiations which adjusts the floor to floor height, floor to roof height, changing the brick veneer to wainscot height and purchasing a better brick and eliminating "eyebrow" at lower level of the press box/concession building.

The combination of the revised contracts for the fieldwork and press box and dugouts totals $360,892. Funds were committed from the CIP 1/8 sales tax for $150,000 and $135,000 grant received from the Arkansas Department of Parks and Tourism, leaving $75,892 to be funded. Park Partners has received $80,100 to date for this project and commitments continue to be made. This will leave a balance of $4,208 for other improvements that can be made to the project such a bleachers.

The improved softball field will be the home field of Northside High School, but will also be used by the Boys and Girls Club, allowing for open play times for the public as well. The project is estimated to be complete in June and ready for summer play.

This project is in alignment with the goals of the Comprehensive Plan policy NCR-1.3, NCR-1.5 and NCR-4. I recommend approval of the resolution. If you have any questions regarding the field please feel free to contact me.

MLK Softball Improvements
Contract Amounts & Funding

	Dedicated Funds	Contract Amount
Amount budgeted from 1/8 cent sales tax	150,000	
ADPT - Outdoor Recreation Grant funds	135,000	
	285,000	
MLK Field Improvement Contract		248,142
MLK Pressbox, Concession & Dugout Contract		122,250
		370,392
Deduction due to negotiations on press box/concession & dugouts		9,500
Revised contract amount		360,892
Total dedicated funds	285,000	
Total revised contract amounts	360,892	
Funds needed for full award of contracts	-75,892	
Amount of funds received by Park Partners	80,100	
	4,208	

PRESS BOX AND DUGOUTS
MARTIN LUTHER KING PARK
Fort Smith, Arkansas
Plan No. 3601

TABULATION OF BIDS
December 1, 2015
2:00 P.M.

Studio 6 Architects
Fort Smith, Arkansas

CONTRACTOR:	Rodebush Construction	Steve Beam Construction			
Bid Security:	5%	5%			
Certified Check					
Cashier's Check					
Bidder's Bond	Employees Mutal Casualty Co.				
Base Bid Proposal:	**$122,250.00**	**NO BID**			
Alternate Proposal No. 1:	**DEDUCT ($76,425.00)**				
Unit Prices: - ADD Price per square yard to remove and replace existing soils with compacted fill.	$50.00 / CY				
Number of Calendar Days:	120				
Acknowledgement of Addendums:					
Addendum No. 1	**X**				
Addendum No. 2	**X**				

Bid Validity - 90 Days

I hereby certify this is a true and correct Tabulation of Bids for this project.

Studio 6 Architects

By: _____

Date: December 1, 2015

5G

RESOLUTION _____

A RESOLUTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF FORT SMITH POLICE DEPARTMENT AND THE OFFICE OF SECURE TRANSPORTATION, NATONAL NUCLEAR SECURITY ADMINISTRATION, DEPARTMENT OF ENERGY.

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

Section 1: The Memorandum of Understanding between the City of Fort Smith Police Department and the Office of Secure Transportation, National Nuclear Security Administration, Department of Energy, which shall be substantially in the form attached hereto, is hereby approved and provides for the establishment of a cooperative agreement to resolve threats, criminal acts associated with trespass, theft, sabotage or hostage attempts and other emergencies against Office of Secure Transportation (OST) property located at 11408 Roberts Blvd., Fort Smith, AR 72916, otherwise known as OST Logistics Support site (OST/LSS) between the two parties.

Section 2: The Mayor, his signature being attested by the City Clerk, is hereby authorized to execute this Memorandum of Understanding to which the City of Fort Smith is a party.

THIS RESOLUTION ADOPTED this _____day of _____2016.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form:

_____
No Publication Required

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE OFFICE OF SECURE TRANSPORTATION, NATIONAL NUCLEAR SECURITY ADMINISTRATION, DEPARTMENT OF ENERGY

AND

THE CITY OF FORT SMITH, FORT SMITH POLICE DEPARTMENT

MUTUAL ASSISTANCE FOR INCIDENT RESPONSE AND RESOLUTION

I. INTRODUCTION

This Memorandum of Understanding (MOU) between the Department of Energy (DOE) National Nuclear Security Administration (NNSA) Office of Secure Transportation (OST) and the City of Fort Smith through the Fort Smith Police Department (FSPD), sets forth a cooperative agreement to resolve threats, criminal acts associated with trespass, theft, sabotage or hostage attempts and other emergencies against OST property located at 11408 Roberts Blvd., Fort Smith, AR 72916, otherwise known as the OST Logistics Support Site (OST/LSS). This MOU facilitates implementation of the Atomic Energy Act of 1954, Presidential Decision Directives 39 and 62, National Security Presidential Directive 28, the

Homeland Security Presidential Directive 5, the National Response Plan and the National Incident Management System.

II. PURPOSE

A. The purpose of this MOU is to provide a clear basis for contingency response planning, coordination, and cooperation between FSPD and the OST within the State of Arkansas to deal with suspected criminal activity and other emergencies at the OST/LSS; and

1. Facilitate effective communication and exchange of relevant information; and
2. Assure timely, reliable, effective decision making and response actions.

III. AUTHORITY

A. This MOU is established pursuant to the DOE Organization Act, 42 U.S.C. § 7256 (a), Atomic Energy Act of 1954, Presidential Decision Directives 39 and 62, National Security Presidential Directive28, the Homeland Security Presidential Directive 5, National Response Plan and the National Incident Management System.

B. The FSPD is responsible for enforcing State Law and City Ordinances throughout Fort Smith including the OST/LSS.

IV. JURISDICTION FOR CRIMINAL ACTIVITY ON OST/LSS PROPERTY:

A. For violations of Federal Statutes, the FBI is the federal law enforcement authority for all areas of OST activities, including the OST/LSS.

B. Per Section III. B. above, NNSA recognizes that FSPD is the law enforcement authority within all areas of Fort Smith (including areas of lands and buildings on the OST/LSS property) for violations of the criminal provisions of Statutes and City Ordinances. Nothing in this MOU is designed to prevent the FSPD from taking the necessary actions to apprehend those individuals that commit a state crime or violate city ordinances at the OST/LSS.

1. If NNSA employees, contractors, or others doing business on the OST/LSS property become aware of possible criminal activity or emergency situations, they shall communicate such possible violations to the FSPD via emergency (9-1-1) or non-emergency (479-709-5100) phone numbers and/or the FBI as appropriate.
2. If FSPD becomes aware of possible criminal activity or emergency situations at the OST/LSS, either from viewing it personally or in response to an alarm or dispatch, they shall take the necessary actions to attempt to respond to the emergency or apprehend those responsible for the suspected criminal activity and communicate such possible violations to OST via the Transportation Safeguards Training Site (TSTS), Charge of Quarters (CQ), 505-503-5300 phone number and/or the FBI as appropriate.

V. OST/LSS SECURITY INCIDENT RESPONSE GUIDELINES:

A. Immediate Notification: When suspicious activity, a terrorist threat, criminal activity or other emergency situations occur at the OST/LSS, a representative of OST will notify the FBI and FSPD

of the incident, as applicable, and relay the status and location of the situation.

B. FSPD Responsibilities: Upon discovering potential criminal activity or emergency situation through direct observation or via notification, FSPD will initiate a response and direct FSPD assets to the OST/LSS to investigate the activity. When responding to emergencies or suspected criminal activity FSPD does not need to obtain permission from OST prior to entering the OST/LSS, however OST should be notified of the situation and the FSPD response as soon as possible.

1. For after-hours access the FSPD shall contact the OST via the Transportation Safeguards Training Site (TSTS), Charge of Quarters (CQ), 505-503-5300, or take other emergency action to access the OST/LSS if the situation dictates.
2. FSPD will assist OST and other responding Federal and State, and local law enforcement agencies by providing available resources (e.g. patrol officers and supervisors) to respond to the OST/LSS incident.
3. The execution of this response may expose FSPD officers to deadly force situations. The FSPD policy for the use of deadly force and pursuit operations will be followed at all times by FSPD officers.
4. FSPD officers will cooperate with Federal law enforcement authorities to assist in their investigation, arrest and prosecution of individuals suspected of participating in criminal activity at the OST/LSS as appropriate.

C. OST Responsibilities

1. Provide assistance to the FSPD in entering the OST/LSS when they are responding to after-hours criminal activity or emergency situations.

2. Ensure that OST employees, contractors and response resources remain available and responsive to fully and immediately support the law enforcement operations.
3. As applicable, coordinate with Federal, State and local law enforcement agencies for mutual assistance and response to the incident.
4. Cooperate with the FSPD and provide information and assistance necessary for the investigation, arrest and prosecution of those apprehended for committing a state or city crime at the OST/LSS.

VI. OST/LSS INCIDENT RESOLUTION

A. Arkansas law enforcement agencies will control and secure crime scenes and will transfer such control to Federal law enforcement agencies or OST as appropriate.

B. Detention and arrest of suspects for violations of state, city or county crimes will be conducted by Arkansas law enforcement agencies, unless other Federal agencies are on scene.

C. Prosecution of individuals for criminal actions committed at the OST/LSS will be coordinated with the FSPD, DOE, and those entities' respective prosecutorial agencies.

VII. FUNDING REQUIREMENT

This MOU is neither a fiscal nor a funds obligation document. Nothing in this MOU authorizes or is intended to obligate the Parties to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value.

VIII. LITIGATION

Any claims against the Federal Government that arise as a result of any actions taken as a part of this activity shall be resolved pursuant to the provisions of the Federal Tort Claims Act (28 USC § 134(b) and 28 USC § 2671 et.seq.) or applicable state law. Each Party acknowledges that financial and civil liability, if any and in accordance with applicable law, for the acts and omissions of each employee remains vested with his or her employing agency. However, the Department of Justice (DOJ) may, in its discretion, determine on a case-by-case basis that an individual should be afforded legal representation, legal defense or indemnification of a civil judgment, pursuant to the Federal law and DOJ policy and regulations. Liability for any negligent or willful acts of employees undertaken outside the terms of this MOU or MOA will be the sole responsibility of the respective employee and agency involved.

IX. PUBLIC INFORMATION COORDINATION

Subject to the Freedom of Information Acts of the United States (5 USC § 552) and Arkansas (Ark. Code Ann.§ 25-19-101), decisions on disclosure of information to the public regarding procedures implemented under this MOU will be made following consultation between the National Nuclear Security Administration Office of Public Affairs and the FSPD.

X. MISCELLANEOUS

Unless otherwise stated, this MOU is no way restricts either of the Parties from participating in any activity with other public or private agencies, organizations, or individuals.

This MOU is strictly for internal management purposes for each of the Parties. With the exception of Section VIII, Litigation, this MOU is not legally enforceable and shall not be construed to create any legal obligation on the part of the other Party. This MOU shall not be construed to provide a private right or cause of action for or by any person or entity.

XI. AMENDMENT, REVIEW, AND TERMINATION

This MOU may be modified or amended by written agreement between Parties and terminated by mutual agreement of OST and the FSPD or by either Party upon 30 days written notice to each other.

This MOU shall remain in effect for five years from the effective date.

XII. APPROVAL

The Parties below have executed this MOU effective as of the latter date signature.

Kerry M. Clark

Kerry M. Clark
Acting Assistant Deputy Administrator
Office of Secure Transportation

12/22/15
Date

Sandy Sanders
Mayor, City of Fort Smith

Date

ATTEST:

City Clerk

Date

Kevin D. Lindsey
Chief of Police

Date

5G

Fort Smith Police Department

Kevin Lindsey, Chief of Police

INTERDEPARTMENTAL MEMORANDUM

To: **Jeff Dingman,Acting City Administrator**

From: **Kevin Lindsey, Chief of Police**

Subject: **Intergovernmental Police Service Assistance Agreement with the Office of Secure Transportation, National Nuclear Security Administration, Department of Energy**

Date: **January 8, 2016**

On October 28, 2015, I met with legal counsel for the Office of Secure Transportation for the purpose of discussing development of a mutual agreement between the City of Fort Smith Police Department and the Office of Secure Transportation for police responses to the Secure Logistics Site located in Fort Smith. Since that initial meeting, police department staff has worked with representatives from the Office of Secure Transportation to develop the proposed Intergovernmental Police Service Assistance Agreement.

In keeping with the Fort Smith Police Department's tradition of maintaining an excellent working relationship with Federal agencies, the Department would like to execute a memorandum of understanding (MOU) with the Office of Secure Transportation, National Nuclear Security Administration, Department of Energy. This agreement would specify that the Fort Smith Police Department is authorized to enforce applicable laws and regulations within the jurisdiction of the Office of Secure Transportation, National Nuclear Security Administration, Department of Energy Logistics Support Site.

Furthermore, the Agreement would authorize the Office of Secure Transportation, National Nuclear Security Administration, Department of Energyto cooperate, within the Logistics Support Site, with any State or political subdivision in the enforcement of the laws or ordinances of the State of Arkansas or City of Fort Smith.

This agreement serves to direct the involved parties to assist each other in the notification of any such enforcement of applicable laws and regulations. These agreements foster good working relationships between law enforcement and Federal agencies that extend beyond the realm of emergency response. I recommend approval and execution of the Agreement.

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

The City of Fort Smith ARKANSAS

January 6, 2016

TO: Members of the Board of Directors
Members of the Plumbing Advisory Board

RE: Appointment:

Mr. Jan Taylor of the of the Plumbing Advisory Board has passed away. In accordance with Ordinance No. 2926 applications for these prospective vacancies are now being received. Applicants must be residents and registered voters in the City of Fort Smith.

Please submit applications to the city administrator's office no later than the close of business on February 9th, 2016. 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,

Jeff Dingman
Acting City Administrator

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 785-2801
www.fortsmithar.gov

Printed on 100% Recycled Paper

Mayor – Sandy Sanders

Acting City Administrator – Jeff Dingman

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 – Tracy Pennartz
At Large Position 6 – Kevin Settle
At Large Position 7 – Don Hutchings

AGENDA ~ SUMMARY

Fort Smith Board of Directors
REGULAR MEETING
January 19, 2016 ~ 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 AND ONLINE AT http://www.ustream.tv/channel/city-of-fort-smith-board-of-directors-meetings

INVOCATION & PLEDGE OF ALLEGIANCE
Reverend Jerry Jennings, Mount Moriah Missionary Baptist Church

ROLL CALL
- All present, except Director Andre' Good (Director Good arrived during presentation of Item No. 1)
- Mayor Sandy Sanders presiding

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING
(Section 2-37 of Ordinance No. 24-10)
Information available by viewing rebroadcast of the meeting on the City Access Channel 214, the City website or http://www.ustream.tv/channel/city-of-fort-smith-board-ofdirectors-meetings

APPROVE MINUTES OF THE JANUARY 5, 2016 REGULAR MEETING
APROVED as written

ITEMS OF BUSINESS:

1. Ordinance amending Section 2-37(b) of the Fort Smith Municipal Code regarding meeting procedures *~ Settle/Good placed on agenda at the January 12, 2016 regular meeting ~*
   APPROVED 7 in favor, 0 opposed / Ordinance No. 5-16

2. Resolution accepting an offer to purchase City-owned property and authorizing execution of all necessary documentation pertaining to such transaction *(Belle Grove Center, former Girls, Inc. property)*
APPROVED 5 in favor, 2 opposed (Catsavis & Pennartz) / Resolution No. R-5-16

3. Ordinance amending Chapter 3 of the Fort Smith Municipal Code to establish fees for dispensary permits for alcoholic beverages and for permits for serving mixed drinks and other alcoholic beverages and for other purposes
APPROVED 7 in favor, 0 opposed / Ordinance No. 6-16

4. Resolution authorizing the Mayor to execute an agreement for insurance broker services *($28,500.00 / Finance Department / Budgeted – Various Funds)*
TABLED 5 in favor, 2 opposed (Catsavis & Hutchings) pending study session review of existing insurance coverage, minimum insurance requirements and insurance coverage proposals.

5. Consent Agenda

   A. Resolution to accept the bid and authorize a contract for the 2014 Drainage Improvements, Phase B1, Project No. 14-06-B1 *($616,720.00 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦
   APPROVED 7 in favor, 0 opposed / Resolution No. R-6-16

   B. Resolution to accept completion of and authorize final payment for the construction of railroad crossing repairs at North 27th Street, Project No. 15-10-A *($108,952.26 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦
   APPROVED 7 in favor, 0 opposed / Resolution No. R-7-16

   C. Resolution authorizing a change order for the construction of 2014 Street Overlay / Reconstruction, Phase B, Project No. 14-03-B *(97 days / $150,298.25 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦
   APPROVED 7 in favor, 0 opposed / Resolution No. R-8-16

   D. Resolution accepting completion of and authorizing final payment for the construction of 2014 Street Overlay / Reconstruction, Phase B, Project No. 14-03-B *($150,434.36 / Engineering Department / Budgeted – Sales Tax Program Fund)* ♦
   APPROVED 7 in favor, 0 opposed / Resolution No. R-9-16

   E. Ordinance authorizing the Mayor to execute agreements for certain services for inhabitants of the city of Fort Smith
   APPROVED 7 in favor, 0 opposed as amended to remove the agreement with the Fort Smith Museum of History pending review of contract authorizing initial funding / Ordinance No. 7-16

F. Resolution accepting the bid and authorizing the Mayor to execute a contract with Rodebush Construction, Inc. for the construction of the press box and dugouts at Martin Luther King Jr. Park *($112,750.00 / Parks Department / Not Budgeted – Arkansas State Parks Outdoor Recreation Grant & Park Partners donation)*
APPROVED 7 in favor, 0 opposed / Resolution No. R-10-16

G. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith Police Department and the Office of Secure Transportation, National Nuclear Security Administration, Department of Energy
APPROVED 7 in favor, 0 opposed / Resolution No. R-11-16

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, the City website or http://www.ustream.tv/channel/city-of-fort-smith-board-ofdirectors-meetings

ADJOURN
6:59 p.m.

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JANUARY 19, 2016 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Reverend Jerry Jennings of Mount Moriah Missionary Baptist Church, followed by the Pledge of Allegiance.

On roll call the following members of the Board were present: Directors Keith Lau, Mike Lorenz, George Catsavis, Tracy Pennartz, Kevin Settle and Don Hutchings. Director Andre' Good arrived during presentation of Item No. 1. The Mayor declared a quorum present.

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

The minutes of the January 5, 2016 regular meeting were presented for approval. Pennartz, seconded by Hutchings, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

With regard to the time limit policy for persons wishing to address the Board, the Mayor communicated that five (5) minutes per side would be granted for controversial items with three (3) minutes for rebuttal per side, and two (2) minutes for comments only.

Item No. 1 was an ordinance amending Section 2-37(b) of the Fort Smith Municipal Code regarding meeting procedures *~ Settle/Good placed on agenda at the January 12, 2016 regular meeting ~*

Acting City Administrator Jeff Dingman briefed the Board on the item as discussed at the January 12, 2016 regular meeting advising such amends the existing meeting

procedure to clarify and define the sequence of hearing public comments and discussing agenda items before a vote is taken. The proposed amendment specifies the sequence for considering matters before the Board, which is provided as follows:

- Presentation of the agenda item and any background information by staff.
- The mayor invites public comment relevant to the agenda item, and the section specifies the sequence and time limits regarding public comment.
- The mayor asks the Board for a motion.
- After a motion is made and seconded, the Board conducts its own discussion.
- After Board discussion, a vote on the motion is taken.

Pennartz, seconded by Lorenz, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings.

There was no Board discussion; therefore, the motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried. Hutchings, seconded by Catsavis, moved adoption of Section 2 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted with ordinance given Ordinance No. 5-16.

Item No. 2 was a resolution accepting an offer to purchase City-owned property and authorizing execution of all necessary documentation pertaining to such transaction *(Belle Grove Center, former Girls, Inc. property)*.

Administrator Dingman briefed the Board on the item advising on January 11, 2016,

the City received an unsolicited offer from Northwest Development Holdings, LLC to purchase City-owned property at 622 North 7th Street (the former Girls, Inc. facility) for $110,000. The offer is good through 3:00 p.m. on January 25, 2016. The city attorney advises that while there is a prescribed process for the City to designate excess property and solicit sealed bids, such process is not required in the event the City receives an unsolicited offer to purchase City-owned property. Upon consideration of the offer, the Board may either accept the offer, reject it, or make a counter-offer. The proposed resolution accepts the offer as presented; however, the Board maintains the ability to amend the resolution accordingly. Pertinent information related to this topic includes the following:

- The City purchased this property in January 2013 for $107,500 after the former owner had marketed the property for several years. Soon thereafter the city invested $4,860 in roof and drainage repairs bringing total cash investment in the property to $112,360.

- The City subsequently engaged MAHG Architects (at a cost of $25,225) to propose a development plan for the property and provide a general estimate for construction cost to develop it into a community center. When the proposed plan was delivered in February 2014, the construction cost estimate was over $1.5 million. Due to the estimated cost and in deference to other projects, the Parks and Recreation Commission, through its Capital Improvement Plan, recommended deferring any further investment in this project at least until 2021/22.

- The City continues to carry the utilities (very minimal) and grounds maintenance costs for the property.

Northwest Development Holdings, LLC, represented by Rodney Ghan, intends to renovate and lease the property to the Future School of Fort Smith public charter high school. The offer is contingent upon receiving approval from the Belle Grove Historic

District to allow temporary modular classrooms on the property during renovation/construction; and, a conditional use from the City for operating a school on the property. The Future School of Fort Smith was discussed by the Board as part of the August 13, 2015 special study session held jointly with the Parks and Recreation Commission. Proceeds from the sale of this property would go back to the Parks and Recreation CIP Fund and be made available for other parks capital projects.

The following individuals were present to address the Board:

- Rodney H. Ghan
  Fort Smith, Arkansas

  Re: Spoke in favor of the item advising the intent of the proposed purchase and lease to the Future School of Fort Smith is *"not to make money"*, but merely to help get the school in the building. The School anticipates to average one hundred and fifty (150) students the first year with an additional one hundred and fifty (150) students the second and the same increase the third year. Due to required renovations to the structure, a 9,800 square ft. modular building is proposed to house the students until the renovations are complete, which will require Planning Commission approval.

  Directors Good and Catsavis questioned the time students are anticipated to remain in the modular building, the lease term, and if adequate parking is available.

  Director Pennartz inquired if Northwest Development Holdings would submit a bid in the event the City opts to move forward with competitive bidding. She spoke in favor of initiating the bidding process; however, she conceded the City should at least make a counter-offer to recoup the City's fiscal investment in the property.

  Mr. Ghan addressed each inquiry advising the School anticipates utilizing the modular building for approximately sixty (60) months, which will allow adequate time to complete the required renovations to

the structure. An initial three (3) year lease is proposed; however, such will be definitively determined at a later date to whatever term the School feels is most suitable to their needs. There is currently adequate space available for parking; therefore, he conveyed much confidence such is not a concern. If the City opts to solicit sealed bids, Mr. Ghan advised the proposed buyer will most likely regroup and discuss the matter with the Future School of Fort Smith before moving forward.

- David Harris
  Fort Smith, Arkansas

  Re: Spoke in favor of The Future School stating such is *"good for Fort Smith"*; however, the City should extend a counter-offer recommending such be the City's total investment in the property less the architectural design fees, i.e. $112,360.

Lau, seconded by Lorenz, moved adoption of the resolution.

Director Catsavis inquired of the estimated monthly expense to retain the property and the appraisal amount at the time the City purchased the property.

The former owner was a non-profit organization and received federal funds; therefore, Director Pennartz questioned if the City inherited any federal encumbrances from the previous owner.

Director of Parks and Recreation Doug Reinert advised the estimated expense associated with the property is approximately $2,000 per month. In 2007, the property was appraised for $818,000.

Administrator Dingman confirmed the City purchased the property in 2013 free of any encumbrances.

Good offered a motion to amend the resolution reducing the sale price to $52,000 citing when the property was purchased, the City made a significant investment to improve

the subject area. The proposed offer allows the City to provide an investment *"unlike any other that the Board can do for public schools"* because such will *"touch people outside of the neighborhood."* Although monetary investment is important, he feels the aforementioned investment is of greater value.

The motion received no second; therefore, the Mayor declared the motion died for lack of a second.

Director Lau noted that although he voted in favor of purchasing the property in 2013, he conceded that such *"wasn't a good investment"* for the City and reminded all that the property was on the market for several years prior the City's purchase. The City has not invested any capital improvement to the property; therefore, he spoke in favor of accepting the offer as submitted and close on the property as soon as possible.

Since the city attorney has indicated seal bids are not required, Director Hutchings spoke in favor of moving forward with consideration of the offer.

The main motion remaining on the floor, the members voted as follows: ayes - Lau, Good, Lorenz, Settle and Hutchings; nays - Catsavis and Pennartz. The Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-5-16.

Item No. 3 was an ordinance amending Chapter 3 of the Fort Smith Municipal Code to establish fees for dispensary permits for alcoholic beverages and for permits for serving mixed drinks and other alcoholic beverages and for other purposes.

Director of Finance Jennifer Walker briefed the Board on the item advising such merely updates language regarding permit fees for the sale of alcoholic beverages and adds class codes related to microbrewery businesses, which is not currently included in the Fort Smith Municipal Code. Without such class code, new microbrewery businesses

located in Fort Smith will be assigned alcohol permit codes that do not align with Arkansas alcohol permit codes. Additionally, a list of alcohol permit fee amounts is being added to the ordinance to improve accessibility to permit information for the business community. Currently, businesses must contact the Business Licensing and Collections Office to determine the appropriate fee for their subject business. The Finance Department will review the ordinance annually (in January) to address any changes in fees or code structures. The proposed ordinance does not incorporate any fee increase; therefore, all current alcohol permit fees remain the same.

Settle, seconded by Pennartz, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings.

Director Hutchings requested confirmation the proposed maintains no fee increase whereby Mrs. Walker responded, *"that's correct."*

Director Catsavis questioned the current alcohol permit fee.

Ms. Walker noted such vary depending on the type of business and alcohol served (beer, wine, mixed drinks, etc.); however, most restaurants average between $250 to $300 per year.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 6-16.

Item No. 4 was a resolution authorizing the Mayor to execute an agreement for insurance broker services *($28,500.00 / Finance Department / Budgeted - Various Funds)*

January 19, 2016 Regular Meeting

Administrator Dingman briefed the Board on the item advising during review of the City's auto and property insurance renewal options during the February 10, 2015 study session, the Finance Department was directed by the Board to seek other brokers prior to the next renewal period to determine if the City is getting the best insurance coverage and value. Such was further substantiated at the April 21, 2015 meeting when the Board amended the 2015 Budget for the addition of a Safety & Risk Manager position. It was discussed by the board that the new risk manager, whenever hired, will spearhead the broker services search by virtue of soliciting bid proposals. The newly hired risk manager unfortunately stepped down after nearly completing three (3) weeks in the position. When a new risk manager is hired, settled in the position and have conducted a thorough review of current policies and insurance needs, he/she will serve as the City's "broker"; however, util such time, it is imperative that the City rely on the expertise of a qualified broker that will enable the City to benefit from getting expert advice on insurance coverage that best suits the City's needs, find the proper and necessary coverage to protect they City's assets of nearly $300,000,000 by comparing prices and product features from numerous potential underwriters and ultimately reduce insurance costs. Regardless, the City moved forward and solicited Requests for Qualifications (RFQ) for broker services. The solicitation was advertised in the Times Record and the Arkansas Democrat Gazette on November 21-23, 2015. Proposals were due December 9, 2015. A three (3) member committee reviewed and scored all proposals on January 8, 2016 and recommend an agreement with BancorpSouth Insurance Services (BXS), which is for broker agency services only. The proposed is a three-year contract with renewal options of two (2) additional two-year terms, renewable one term at a time. Upon approval, staff will immediately begin working with

BXS to solicit proposals from various insurance carriers and the Arkansas Municipal League for those coverages and will make a recommendation at the February 9, 2016 study session.

Lorenz, seconded by Pennartz, moved adoption of the resolution.

Director Settle noted that the Arkansas Municipal League (AML) was considered to provide insurance coverage in 2015, which it was anticipated such would result in an approximate $250,000 reduction in the annual premium currently paid by the City. The City opted not to move forward with AML; however, he spoke in favor of tabling the matter and directing staff to request a quote from AML for 2016 with an invitation for Mr. Don Zimmerman, AML Executive Director, to come to a future study session and address the Board.

Mayor Sanders inquired when the existing insurance coverage expires whereby Administrator Dingman advised the renewal date is March 1, 2016.

Director Lau noted a discussion needs to occur so the Board can determine if the City wants to opt for minimum coverage amounts. If the City opts to go with AML, there's no need to consider the proposed resolution. No opposition was conveyed with tabling the matter; however, the aforementioned discussion is necessary.

Director Good concurred with comments of Director Lau.

Mayor Sanders requested staff prepare a comparison of the City's current coverage, the minimum insurance requirements, and what AML can provide.

Settle, seconded by Lau, moved to table consideration of the item pending discussion at the next study session (Tuesday, January 26, 2016) provided Mr. Zimmerman can attend said study session to review insurance services provided by AML.

Prior to the vote, there was brief discussion regarding broker services and if other entities should be allowed to also submit proposals along with the AML.

City Attorney Canfield addressed the Board clarifying the Board may accept quotes from any entity that wishes to submit such.

Director Pennartz advised the current broker, Brown Hiller & Clark, should be able to provide the requested current and minimum coverage requirements. A previous concern with the AML coverage is that said insurance would not cover anything in the event the City vehicle is outside the boundaries of the State of Arkansas; therefore, she inquired if such is a valid issuance of significance.

Mr. Scott Clark, Brown Hiller & Clark, addressed the Board and advised he's analyzed the AML program. He conceded such is definitely a cost savings to the City; however, he expressed concern the program may contain possible restrictions or limitations that would be a detriment to the City of Fort Smith. If all aspects of the AML program can be vetted and addressed, he conveyed no reservation with selecting AML for the City's insurance coverage. With regard to coverage on vehicles, he noted three (3) areas of concern, i.e. out-of-state coverage; personal use of City vehicles, which would jeopardize immunity; and, if such were tried in a federal court.

The motion remaining on the floor, the members voted as follows: ayes - Lau, Good, Lorenz, Pennartz and Settle; nays - Catsavis and Hutchings. The Mayor declared the motion carried and the item was tabled pending discussion at a future study session.

The Consent Agenda (Item No. 5) was introduced for consideration, the items being as follows:

A. Resolution to accept the bid and authorize a contract for the 2014 Drainage Improvements, Phase B1, Project No. 14-06-B1 *($616,720.00 / Engineering Department / Budgeted - Sales Tax Program Fund)* ♦ *Future Fort Smith Item*

B. Resolution to accept completion of and authorize final payment for the construction of railroad crossing repairs at North 27th Street, Project No. 15-10-A *($108,952.26 / Engineering Department / Budgeted - Sales Tax Program Fund)* ♦ *Future Fort Smith Item*

C. Resolution authorizing a change order for the construction of 2014 Street Overlay / Reconstruction, Phase B, Project No. 14-03-B *(97 days / $150,298.25 / Engineering Department / Budgeted - Sales Tax Program Fund)* ♦ *Future Fort Smith Item*

D. Resolution accepting completion of and authorizing final payment for the construction of 2014 Street Overlay / Reconstruction, Phase B, Project No. 14-03-B *($150,434.36 / Engineering Department / Budgeted - Sales Tax Program Fund)* ♦ *Future Fort Smith Item*

E. Ordinance authorizing the Mayor to execute agreements for certain services for inhabitants of the city of Fort Smith

F. Resolution accepting the bid and authorizing the Mayor to execute a contract with Rodebush Construction, Inc. for the construction of the press box and dugouts at Martin Luther King Jr. Park *($112,750.00 / Parks Department / Not Budgeted - Arkansas State Parks Outdoor Recreation Grant & Park Partners donation)*

G. Resolution authorizing the execution of a memorandum of understanding between the City of Fort Smith Police Department and the Office of Secure Transportation, National Nuclear Security Administration, Department of Energy

Good, seconded by Hutchings, moved adoption of all consent agenda items.

Regarding Item No. 5B, Director Hutchings noted he's glad railroad crossing repairs are being initiated, but inquired if additional repairs in other locations are in the foreseeable future.

Director of Engineering Stan Snodgrass reminded all that railroad crossings are the responsibility of the railroad; however, it's proven difficult to get them to initiate repairs in a timely manner. Due to such, over the past several years the City has incorporated railroad crossing repairs within street improvement projects when such are located within the project area. Four (4) were completed in 2015 with two (2) anticipated in 2016. The Engineering Department has incorporated two (2) per year in subsequent years. With said pattern, it will take over thirty (30) years to complete all crossings currently in need of repair.

With regard to Item No. 5E, Pennartz, seconded by Lau, offered a substitute motion to amend the ordinance to remove and table discussion regarding Section 1 regarding the Fort Smith Museum of History agreement.

Prior to the vote, Director Pennartz expressed concern with the long-standing agreement with the Fort Smith Museum of History citing the principle involved should include all non-profit organizations; therefore, requested discussion regarding same to clarify a policy for all non-profit organizations.

Administrator Dingman advised the subject agreement is required due to a long-standing agreement with the Fort Smith Museum of History, which has been in effect for approximately eighty (80) years and such maintains no termination clause.

Director Settle conveyed no opposition to the proposed funding, but recommended such come from another funding source. Regardless, he requested City Attorney Jerry Canfield address the Board regarding the lack of a termination clause in the aforementioned, long-standing agreement from 1936.

Mr. Canfield advised he has no knowledge or recollection of reviewing the

aforementioned agreement, which from his understanding has been in place long before he represented the City in 1970; however, he will conduct said review if requested.

The substitute motion remaining the floor (amend Item No. 5E to remove Section 1 and table consideration pending further review) and the members all voting affirmatively with the exception of Director Hutchings, the Mayor declared the motion carried and the ordinance stood amended.

With regard to Item No. 5F, Director Settle extended much appreciation to Director of Parks and Recreation Doug Reinert for the project citing such will really change the park and he's looking forward to utilizing the facility.

The main motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the resolutions and ordinance (as amended) was adopted with the ordinance given Ordinance No. 7-16 and the resolutions numbered R-6-16 through R-11-16 respectively.

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

- Mayor Sanders

  Re: 1. Extended much appreciation to Bruce Wade and all involved with the Martin Luther King Jr. events.

  2. Noted that Reverend U. C. Washington, who has provided the invocation at several Board meetings, has accepted a church in Little Rock; therefore, much appreciation was conveyed for his service to the city of Fort Smith.

- Director Settle

  Re: Extended much gratitude to all who attended the recent nationally televised basketball games at the University of Arkansas Fort Smith (UAFS) citing it's encouraging to see the city's support of the local college.

- Director Hutchings

  Re: He simply noted that it's cold outside; therefore, he urged all to check on their neighbors and the elderly.

There being no further business to come before the Board, Lau moved that the meeting adjourn. The motion was seconded by Lorenz, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:59 p.m.

APPROVED:

MAYOR

ATTEST:

CITY CLERK