

Mayor – Sandy Sanders

City Administrator – Carl Geffken

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**

**November 1, 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 OCTOBER 18, 2016 REGULAR MEETING**

**ITEMS OF BUSINESS:**

1. Presentation of proposed 2017 Budget
2. Public hearing and ordinance to close, vacate and abandon a portion of Street right-of-way located in Sulphur Spring Town, an addition to the City of Fort Smith, Arkansas *(South 12<sup>th</sup> Street ~ applicant: Evangel Temple)*
3. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith *(illumination of business signs)*
4. Ordinance amending Appendix A, Section XVI of the Fort Smith Municipal Code regarding the City of Fort Smith Education Reimbursement Policy ~ *Pennartz/Lorenz placed on agenda at the September 27, 2016 study session / Tabled to the November 1, 2016 regular meeting at the October 4, 2016 regular meeting ~*

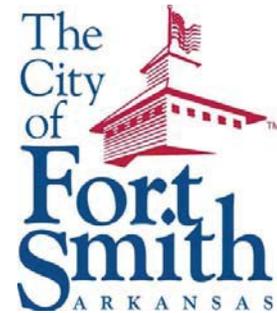
5. Resolution repealing Resolution No. R-43-16; authorizing the offering of Water and Sewer Revenue Bonds to refund all or a portion of the City's outstanding Water and Sewer Revenue Bonds, Series 2007 and Water and Sewer Refunding and Construction Revenue Bonds, Series 2008; and prescribing other matters relating thereto
6. Consent Agenda
  - A. Ordinance amending the 2016 Budget (*Sanitation Department*)
  - B. Resolution authorizing a contract for third party administrator services for city's employee health coverage
  - C. Resolution approving specific excess insurance and aggregate excess insurance for the City's employee health coverage
  - D. Resolution approving claim service, specific excess insurance and aggregate excess insurance for the City's worker's compensation coverage
  - E. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Kraus Construction Company, LLC for the Contract Water Users' Water Line Relocation (*\$198,326.00 / Utility Department / Budgeted – 2014 Sales and Use Tax Bond*) ♦
  - F. Resolution authorizing the Mayor to execute Authorization No. 2 to the agreement with Burns & McDonnell for staff augmentation services for the Utility Department as authorized by Resolution R-63-16 adopted on May 17, 2016 (*\$341,000.00 / Utility Department / Budgeted Water and Sewer Operating Funds*)

**OFFICIALS FORUM ~ presentation of information requiring no official action**  
*(Section 2-36 of Ordinance No. 24-10)*

- Mayor
- Directors
- City Administrator

**ADJOURN**

# Memo



To: Carl Geffken, City Administrator  
 CC: Jeff Dingman, Deputy City Administrator  
 From: Jennifer Walker, Finance Director  
 Date: 11/01/2016  
 Re: Update on 2017 Budget

Update on the 2017 budget process will be in the form of an oral presentation. As a reminder, the following dates are important in the budget process:

**November**

Tuesday

**1<sup>st</sup> Presentation of 2017 Budget**  
*~6pm Regular Meeting FSPSS*

Monday

**14<sup>th</sup> Budget Hearing #1**  
*~6pm FS Police Department  
 Bartlett Community Room*

Thursday

**17<sup>th</sup> Budget Hearing #2**  
*~6pm FS Police Department  
 Bartlett Community Room*

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO CLOSE AND VACATE AND  
ABANDON A PORTION OF STREET RIGHT-OF-WAY LOCATED IN  
SULPHUR SPRING TOWN, AN ADDITION  
TO THE CITY OF FORT SMITH, ARKANSAS**

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**WHEREAS**, a petition was duly filed with the Board of Directors of the City of Fort Smith, Arkansas, on October 10, 2016, asking the Board of Directors to close and vacate and abandon certain street right-of-way located in Sulphur Spring Town, an addition to the City of Fort Smith, Arkansas, more particularly described as follows:

Beginning at the Southeast Corner of Lot 22, Sulphur Spring Town, Fort Smith, Sebastian County, Arkansas; thence S90°00'00"W, along the south lot line of said Lot 22, 5.00 feet; thence S00°02'18"W, along the east line of Lots 21 and 20, Sulphur Spring Town, 100.00 feet; thence S89°37'48"E, 5.00 feet; thence N00°00'00"E, 100.03 feet to the Point of Beginning, containing 500 square feet, more or less.

**WHEREAS**, after notice as required by law, the Board of Directors has, at the time and place mentioned in the notice duly published as required by law, heard all persons desiring to be heard on the question, and has ascertained that the street right-of-way as described above has heretofore been dedicated to the public use as street right-of-way and at this time is no longer required for the corporate purposes, and that said street right-of-way is of no practical purpose or general purpose to the citizens of Fort Smith and it is in the best interest of the citizens of Fort Smith that the street right-of-way be closed; and that the public interest and welfare will not be adversely affected by the abandonment of the said street.

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

**SECTION 1:** The City of Fort Smith hereby releases, vacates and abandons all of its rights, title and interest, together with the right of the public generally, in and to the street right-

of-way designated as follows:

Beginning at the Southeast Corner of Lot 22, Sulphur Spring Town, Fort Smith, Sebastian County, Arkansas; thence S90°00'00"W, along the south lot line of said Lot 22, 5.00 feet; thence S00°02'18"W, along the east line of Lots 21 and 20, Sulphur Spring Town, 100.00 feet; thence S89°37'48"E, 5.00 feet; thence N00°00'00"E, 100.03 feet to the Point of Beginning, containing 500 square feet, more or less.

**SECTION 2:** A copy of this Ordinance duly certified by the City Clerk shall be filed in the Office of the Recorder of the County for the Fort Smith District of Sebastian County, Arkansas, and recorded in the deed records of said county.

**SECTION 3:** This Ordinance shall take effect and be in effect from and after its passage.

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF NOVEMBER 2016.**

**APPROVED:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**City Clerk**

Approved as to form:



\_\_\_\_\_  
Publish 1 Time

# Memo

To: Carl Geffken, City Administrator  
From: Wally Bailey, Director of Development Services  
cc: Jeff Dingman, Deputy City Administrator  
Date: October 27, 2016  
Re: Request to abandon a portion of South 12<sup>th</sup> Street in Sulphur Spring Town – Evangel Temple.

The City is in receipt of the enclosed request to abandon five (5) feet of right-of-way on the west side of South 12<sup>th</sup> Street in the Sulphur Spring Town subdivision. The request is from Shannon Reith with Studio 6 Architects, as agent for Evangel Temple.

The abandonment of the easement will facilitate the construction of a new parking lot associated with the church's proposed new worship center to be located at the southeast corner of the intersection of Towson Avenue and Dodson Avenue. Exhibit A shows the location of the requested right-of-way abandonment.

In response to the petition to abandon the street right-of-way, staff has contacted all franchise utility companies and appropriate city departments relative to any ongoing or future interests they may have within the street right-of-way. The request will not alter the width of the existing pavement of South 12<sup>th</sup> Street. We also notified all property owners within 300 feet of the requested street closure to inform them of the request and the public hearing date.

Additionally, in keeping with the Board's policy, all applicants requesting right-of-way abandonments are required to sign a Memorandum of Understanding (MOU). An MOU stipulates the applicant or their assigns will not make any claims for compensation in the event the city exercises the power of eminent domain to reclaim the abandoned right-of-way. A copy of the signed agreement is enclosed. (See Exhibit B)

Enclosed for the board's consideration is an ordinance authorizing the abandonment of the right-of-way.

If you have any questions regarding this matter, please do not hesitate to contact me.

Enc.

**CITY OF FORT SMITH, ARKANSAS  
REQUEST FOR ABANDONMENT OF PUBLIC RIGHT-OF-WAY OR ALLEY**

APPLICATION:

Indicate one contact person for application: \_\_\_\_\_ Applicant  Representative

*Applicant (owner)*  
Name: MATT STEVENSON  
EVANGEL TEMPLE  
Address: PODSON & TOWSON AVES.  
FORTSMITH, AR 72901

*Representative (engineer, attorney, realtor, etc)*  
Name: SHANNON REITH, AIA  
STUDIO Q ARCHITECTS  
Address: 1120 GARRISON AVE, STE 1A  
FORTSMITH, AR 72901

Telephone Number: 479-782-9121

Telephone Number: 479-782-4085

E-Mail: matt.stevenson1981@gmail.com

E-Mail: shannon@gostudioq.com

Site Address/Location: 1222 & 1226 S. 12TH STREET

Legal Description of area to be vacated (attach separate sheet if necessary):  
SEE ATTACHED.

Assessor's Parcel Number for Subject Property: 17621-0021-00001-00  
17621-0020-00001-00

Reason for Request: REQUEST CLOSURE OF 5' OF ROW TO ALIGN PROPERTY  
LINE W/ LOT 22 TO THE NORTH, AND TO ALLOW ADDITIONAL  
SPACE FOR PERIMETER/PARKING LOT SCREENING LANDSCAPING.

Current Status of Right-of-Way/Easement: OPEN

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

I understand that if it is determined following review of the application by city staff that ongoing utility interests must be protected through easement dedications, the applicant or his authorized agent shall be required to develop and submit a fully executed easement. Additionally, I understand that the applicant or agent will be required to execute a Memorandum of Understanding regarding any right-of-way abandonments and understand that no action will be taken by the Board of Directors on an abandonment request until said utility easement, if determined by staff is necessary, and Memorandum of Understanding are on file with the city.

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

Name: (printed) SHANNON REITH, AIA  
Signature: Shannon Reith Date: 8/17/16

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

**Note: If application is signed by authorized agent, all owners must sign and submit “Authorization of Agent” form.**

**Application Checklist:**

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

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



August 18, 2016

RE: Descriptions for Partial Street Right of Way Closing  
Evangel Temple Church  
Fort Smith, AR

Description for Partial Street Closing of South 12<sup>th</sup> Street:

Beginning at the Southeast Corner of Lot 22, Sulphur Spring Town, Fort Smith, Sebastian County, Arkansas; thence S90°00'00"W, along the south lot line of said Lot 22, 5.00 feet; thence S00°02'18"W, along the east line of Lots 21 and 20, Sulphur Spring Town, 100.00 feet; thence S89°37'48"E, 5.00 feet; thence N00°00'00"E, 100.03 feet to the Point of Beginning, containing 500 square feet, more or less.

**AUTHORIZATION OF AGENT**

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

We the undersigned, being owners of real property, hereby authorize

SHANNON BEITH, AIA to act as our agent.

(Print Name of Agent)

STUDIO 6 ARCHITECTS

(Type or clearly print)

NAME & ADDRESS OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

1. Matthew Stevenson  
P.O. Box 1077  
Fort Smith, AR 72902

Math Stevenson

2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

4. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

## LIST OF ALL PROPERTY OWNERS WITHIN 300 FEET

The Planning Department is required to give notice (in writing) of this application to all surrounding property owners. List the name and address of the owner of every piece of property within 300 feet of any part of this property. This information may be obtained at the County Assessor's Office located in the Sebastian County Courthouse – Room 107. Please call the Assessor's office at 783-8948 for an appointment. The Planning Department will mail the notices for you.

Gerald and Helen M Phillips  
2106 S. N St  
Fort Smith, AR 72901

Groves & Associates, Inc.  
300 May Branch Rd  
Van Buren, AR 72956

FORT SMITH HMA, LLC  
C/O PROPERTY VALUATION SERVICE  
14400 METCALF AVENUE  
OVERLAND PARK KS 66223

NEUBAUER INVESTMENT  
PROPERTIES, LLC.  
2900 GRAND AVE  
FORT SMITH AR 72901

HOOKS & ASSOCIATES, INC.  
PO BOX 180038  
FORT SMITH AR 72918

KHILLING PROPERTIES  
LIMITED PARTNER  
2919 S GARY ST  
FT SMITH AR 72901

WILLIAMS LEGACY, INC  
C/O ALBERT EUGENE WILLIAMS JR  
PO BOX 1242  
FORT SMITH AR 72902

RDA INVESTMENTS NO 3, LLC  
PO BOX 6664  
FORT SMITH AR 72906

RQD, LLC  
1915 N SHILOH STE 1  
FAYETTEVILLE AR 72704

RAMAGE FAMILY TRUST  
1101 DODSON AVE  
FORT SMITH AR 72901

LAMM, MICHAEL DEAN  
2412 RANNOCH LN  
FT SMITH AR 72908

YOUNG, SILAS & TANYA  
4212 S 18TH ST  
Fort Smith AR 72901

LITTLETON, TERRY L & RENA G  
PO BOX 729  
FORT SMITH AR 72902

GARCIA, GILDARDO &  
FRANCISCA  
1232 S 12TH ST  
FORT SMITH AR 72901

TROWBRIDGE, JOHN H JR &  
HERRINGTON, NET  
1230 S 12th ST  
FORT SMITH AR 72901

BENEFIT BANK  
PO BOX 10750  
FORT SMITH AR 72917

PEDERSEN, CHRISTIAN  
PO BOX 8231  
FORT SMITH AR 72902

GRIFFIS, JAMES & HAHN,  
EDWARD  
1112 TOWSON AVE  
FORT SMITH AR 72901

REITH, KATHRYN REVOCABLE  
TRUST  
1227 S 12TH ST  
FT SMITH AR 72901-5115

REITH, KATHRYN LIVING  
TRUST  
1227 S 12TH ST  
FORT SMITH AR 72901-5115

MOSER, CATHERINE  
GARRETSON, CLAY C  
6263 GORDON LN  
FORT SMITH AR 72903

PEARSON, BRUCE A  
1307 S 12TH  
FORT SMITH AR 72901

NGUYEN, SAI THANH  
PO BOX 4702  
FORT SMITH AR 72914

VALLEY, EDWARD F &  
LUNSFORD, DANIEL  
1112 TOWSON AVE  
FORT SMITH AR 72901

**LIST OF ALL PROPERTY OWNERS WITHIN 300 FEET**

The Planning Department is required to give notice (in writing) of this application to all surrounding property owners. List the name and address of the owner of every piece of property within 300 feet of any part of this property. This information may be obtained at the County Assessor's Office located in the Sebastian County Courthouse – Room 107. Please call the Assessor's office at 783-8948 for an appointment. The Planning Department will mail the notices for you.

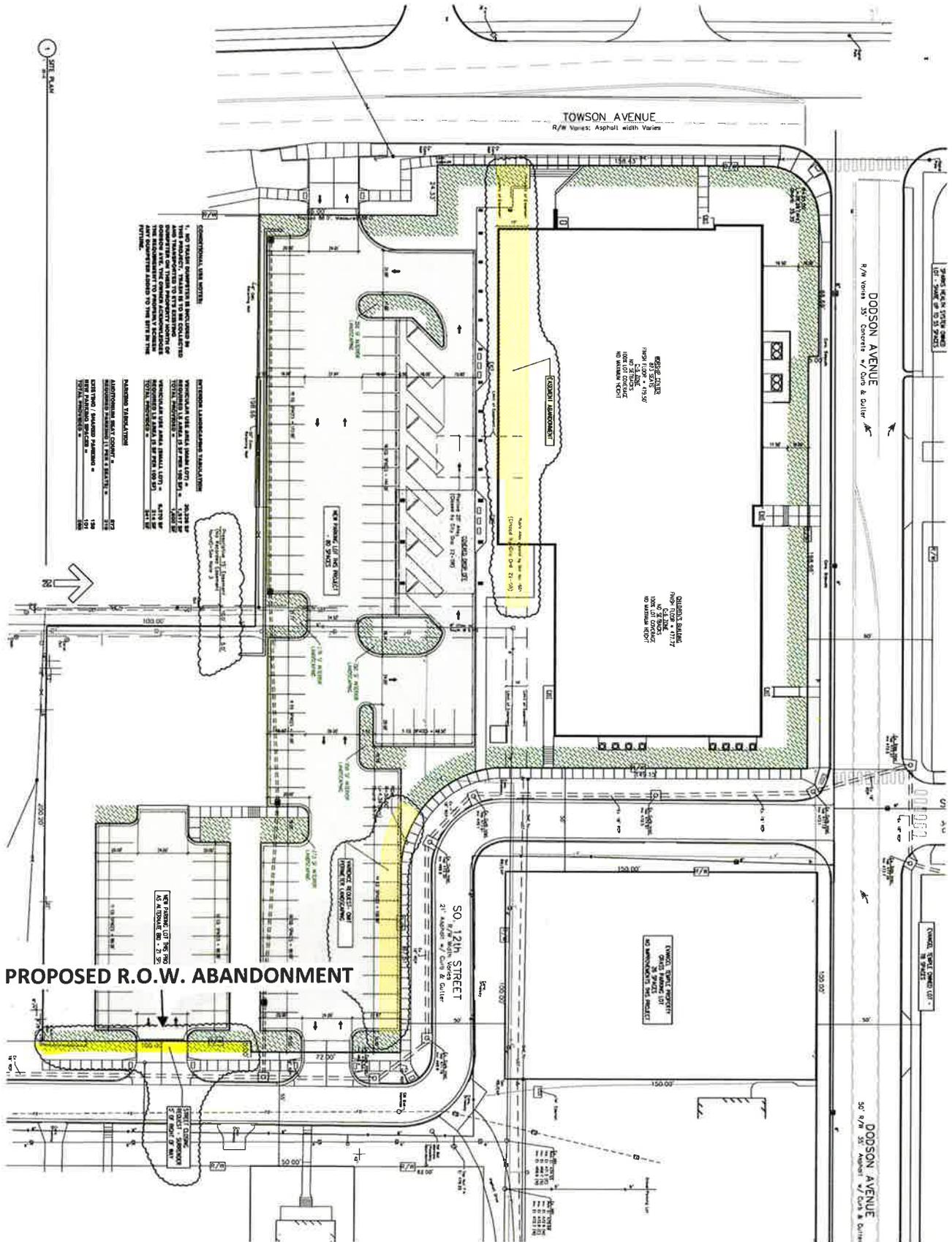
WESTBROOK DEVELOPMENT,  
LLC  
4611 ROGERS AVE, STE 201  
FORT SMITH AR 72903

REITH, BILL AND MARY  
PO BOX 10925  
FORT SMITH AR 72917-0925

LJM PROPERTIES, LLC  
2401 S 56TH ST  
FORT SMITH AR 72903

ABDELDAYEM, LAILA MAHMOUD  
511 GARRISON AVE  
FORT SMITH AR 72091

R. L. BECKER PROPERTIES  
LIMITED PARTNERSHIP  
PO BOX 8173  
FORT SMITH AR 72902



<p><b>PROPOSED R.O.W. ABANDONMENT</b></p> <p><b>CONSTRUCTION NOTES:</b></p> <ul style="list-style-type: none"> <li>1. THE CONSTRUCTION SHALL BE CONSIDERED TO BE TEMPORARY AND SHALL BE REMOVED TO THE PROPERTY LINE OF THE TRAILER EXPOSURE.</li> <li>2. THE CONSTRUCTION SHALL BE CONSIDERED TO BE TEMPORARY AND SHALL BE REMOVED TO THE PROPERTY LINE OF THE TRAILER EXPOSURE.</li> <li>3. THE CONSTRUCTION SHALL BE CONSIDERED TO BE TEMPORARY AND SHALL BE REMOVED TO THE PROPERTY LINE OF THE TRAILER EXPOSURE.</li> <li>4. THE CONSTRUCTION SHALL BE CONSIDERED TO BE TEMPORARY AND SHALL BE REMOVED TO THE PROPERTY LINE OF THE TRAILER EXPOSURE.</li> <li>5. THE CONSTRUCTION SHALL BE CONSIDERED TO BE TEMPORARY AND SHALL BE REMOVED TO THE PROPERTY LINE OF THE TRAILER EXPOSURE.</li> </ul>	<p>OWNER <b>EVANGEL TEMPLE</b></p> <p>PROJECT <b>WORSHIP CENTER</b></p> <p>LOCATION <b>FORT SMITH, ARKANSAS</b></p>	<p>CONSULTANTS</p> <p><b>STUDIO ARCHITECTS</b></p> <p>1120 Gertrion Avenue Suite 1A Fort Smith, AR 72901 479.782.4085 www.studio6.com</p>
	<p>PROJECT NO. 2395</p> <p>DATE: 08/17/16</p> <p>CONTRIBUTOR USE / VARIANCE APPLICATION</p> <p>CONTRIBUTOR USE SITE PLAN</p> <p>SCALE: AS SHOWN</p>	

**G1.2**

**MEMORANDUM OF UNDERSTANDING**

On \_\_\_\_\_, 2016, the Board of Directors of the City of Fort Smith passed Ordinance No. \_\_\_\_\_ closing, vacating and abandoning a portion of a street right-of-way located in Sulphur Spring Town, an addition to the City of Fort Smith, Sebastian County, Arkansas, more particularly described as follows:

Beginning at the Southeast Corner of Lot 22, Sulphur Spring Town, Fort Smith, Sebastian County, Arkansas; thence S90°00'00"W, along the south lot line of said Lot 22, 5.00 feet; thence S00°02'18"W, along the east line of Lots 21 and 20, Sulphur Spring Town, 100.00 feet; thence S89°37'48"E, 5.00 feet; thence N00°00'00"E, 100.03 feet to the Point of Beginning, containing 500 square feet, more or less.

For good and valuable consideration, the receipt of which is hereby acknowledged, Evangel Temple Assembly of God, agrees that in the event the City of Fort Smith, condemns all or a portion of the lands and buildings contiguous to said street right-of-way and owned by Evangel Temple Assembly of God, their successors or assigns, under the power of eminent domain, that the property owners, their successors or assigns, will make no claim to compensation for the value of the abandoned street right-of-way described above. Nothing contained herein shall preclude the Evangel Temple Assembly of God, or their successors or assigns from claiming compensation for improvements situated on the abandoned street right-of-way in the event of condemnation. By way of example, and example only, if the City condemns the property of Evangel Temple Assembly of God, and the total land condemned is 100,000 square feet and the abandoned alley right-of-way constitutes 10,000 square feet of that total, then the value of the land shall be reduced by 10% for condemnation compensation purposes.

This Memorandum of Understanding shall be binding on the Evangel Temple Assembly of God, and their successors or assigns.

In witness whereof, this document is executed this 20 day of OCTOBER 2016.

EVANGEL TEMPLE ASSEMBLY OF GOD

BY: Mathew Stevenson

**ACKNOWLEDGMENT**

STATE OF ARKANSAS        )  
  )SS  
COUNTY OF SEBASTIAN    )

On this 20 day of OCTOBER, 2016, before me, the undersigned notary public, personally appeared, MATHEW STEVENSON, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Lyn McKay  
Notary Public

My Commission Expires:

7-2-2024



3.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE 2009 UNIFIED DEVELOPMENT  
ORDINANCE OF THE CITY OF FORT SMITH**

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**WHEREAS**, the Board of Directors passed and approved Ordinance No. 36-09 which adopted the Unified Development Ordinance on May 19, 2009; and,

**WHEREAS**, it is necessary to amend certain sections of the Unified Development Ordinance to provide clarity and remove conflicts with other provisions of the municipal code; and,

**WHEREAS**, the Planning Commission held a public hearing regarding these amendments and recommended on October 11, 2016, that said changes be made; and,

**WHEREAS**, three (3) copies of November 2016 Amendments to the Unified Development Ordinance (Signs-Electronic Message Center/Digital) have been on file in the Office of the City Clerk of the City of Fort Smith for inspection and review by the public prior to the passage of this Ordinance; and,

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

**SECTION 1:** The November 2016 Amendments to the Unified Development Ordinance (Signs-Electronic Message Center/Digital) is hereby adopted.

**SECTION 2:** The codifier shall amend the existing sections of the Unified Development Ordinance.

**SECTION 3:** It is hereby found and determined that the adoption of these amendments to the Unified Development Ordinance are necessary to alleviate an emergency created by the lack of regulation of uses of property within the City of Fort Smith so that the protection of the health, safety and welfare of the inhabitants of the City requires that the amendments be effective, and the amendment is hereby made effective, as of the date of approval of this Ordinance.

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.**

**APPROVED:**

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**Mayor**

**ATTEST:**

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**City Clerk**

**Approved as to form:**



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**Publish One Time**

**NOVEMBER 2016**  
**AMENDMENTS TO THE UNIFIED DEVELOPMENT**  
**ORDINANCE (SIGN –ELECTRONIC MESSAGE**  
**CENTER/DIGITAL)**

shall mean a facility for repair or reconditioning of footgear, handbags and other leather articles such as shoes, boots, sandals, wallets, purses and other similar products.

**Sign**

shall mean a structure or device designed or intended to convey information to the public in written, pictorial or three dimensional form. Signs erected by the state highway department, county road department or the city street department are not subject to the regulations.

**Sign area**

shall mean the entire area within a single continuous perimeter enclosing the outer dimensions of the actual message or copy area. It does not include customary extensions or embellishments, nor any structural elements outside the limits of such display surface and not forming an integral part of the display. For double-face or V-type sign structures, only one (1) display face shall be counted in computing the actual sign area. The sign area permitted on any piece of property refers to the permitted combined total area of all signs on that property.

**Sign (back-to-back)**

shall mean a structure with two (2) parallel and directly opposite signs with their faces oriented in opposite directions and spaced no more than three (3) feet apart.

**Sign (bench)**

shall mean a sign located on any part of and contained within the perimeter of the bench or seat.

**Sign (bus shelter)**

shall mean a sign located on any part of and contained within the perimeter walls of the shelter.

**Sign (business)**

shall mean a sign which directs the attention of the general public to a business, product, service or activity which is conducted upon the premises where such sign is located.

**Sign (electronic message center/digital)**

shall mean a sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs, or a flipper matrix.

**Sign (flashing)**

shall mean a sign, the illumination of which is not constant in intensity when in use; except that illuminated signs which indicate the time, date, temperature and other public service information shall not be considered to be flashing signs.

**Sign (v-type)**

shall mean a structure of two (2) signs in the shape of the letter "V" when viewed from above and with their faces oriented in opposite directions.

**Single family**

shall mean a building designed for the occupancy by one family

**Single family detached**

- (e) Should the portable sign have electrical power, it shall meet the requirements of the National Electrical Code and chapter 6, article III of this Code prior to the issuance of a sign permit.
- (f) For the purpose of portable signs, the sign area measurement shall be a rectangular perimeter around the entire sign, the length of which is the maximum possible length of the sign, the width of which is the maximum possible width of the sign above the legs or other portable supports.

(Ord. No. 109-88, § 2, 12-20-88)

#### **27-704-8 Bench and Bus Shelter Signs Exempt**

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Bench signs and bus shelter signs owned, operated or contracted by the city transit department and on or adjacent to a public right-of-way are not subject to the regulations.

(Ord. No. 93-06, § 2, 10-3-06)

#### **27-704-9 Electronic Message Center/Digital Signs**

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- (a) Electronic message center/digital signs shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter. Documentation shall be provided to the City at the time of permit issuance certifying the digital billboard has been set to be incapable of exceeding 0.3 foot candles above ambient light.
- (b) Each display on a digital face must have a light sensing device that will adjust to the brightness as ambient light conditions change.
- (c) Existing Electronic Message Center Signs. A nonconforming sign shall be removed or modified to comply with these regulations if the following occurs:
  - 1. More than 50 percent of the sign is destroyed and the destruction is other than the facial copy replacement. A nonconforming sign shall be deemed to be more than 50 percent destroyed if the estimated cost of reconstruction or repair exceeds 50 percent of the replacement as determined by the Director.
  - 2. The sign is remodeled or altered in a manner not in compliance with these regulations.
  - 3. Replacement of the sign or sign electronics.
  - 4. A structural change is made to the sign or sign structure and/or support elements.

5. The sign is moved or relocated, except where the sign is relocated as a result of a street or utility improvement project.
6. The sign becomes a danger to the public or is unsafe.
7. The sign constitutes a traffic hazard not created by the relocation or widening of streets.

#### **27-705 Pistol Range (indoor)**

In addition to the conditional use requirements as listed within 27-332. All conditional uses issued for an indoor pistol range shall be subject to the following conditions:

- a. The board of directors shall automatically review the operation of the facility six (6) months after the facility opens for business. The purpose of the review shall be to ensure that [no] additional sound-proofing measures are necessary. If problems are found to exist (exceeding eighty (80) decibels) from the outside of the exterior wall of the firing range, then the board may impose additional noise abatement measures on the applicant which are necessary to reduce the decibel levels below eighty (80) decibels.
- b. All potential owners and operators of an indoor pistol range shall be required to obtain a letter from the chief of police stating that the individuals have no known criminal history. Such letter shall be submitted to the city clerk prior to the planning commission's review of a conditional use permit.
- c. Ammunition fired within the facility should not exceed in power and velocity what is commonly known as .45 caliber.
- d. The ventilation system shall be designed so that the total volume of air in the range is changed from twenty (20) to forty (40) times per hour at a minimum. A steady positive flow of air toward the back stop at the velocity of fifty (50) feet per minute shall be the minimum acceptable level.

#### **27-706 Day Care Homes**

Day care home, six (6) to twelve (12) children, shall mean a child care service, licensed by the State, in a single family home that is the full time residence of the caregiver, which cares for a limited number of children who are apart from their own family during a part of the day.

These regulations shall apply to all day care homes:

1. Day Care Homes are limited to the zoning districts specified in this chapter.



# Memorandum

---

**To:** Carl Geffken, City Administrator  
**Cc:** Jeff Dingman, Deputy City Administrator  
**From:** Wally Bailey, Director of Development Services  
**Date:** October 28, 2016  
**Subject:** Electronic Message Center Signs

The Planning Department staff has received a number of citizen concerns about the brightness level of some electronic message center signs. As we researched this item, we found a number of communities regulate the brightness levels. The City of Fort Smith Unified Development Ordinance (UDO) regulates the brightness levels for outdoor advertising signs (billboards) but not for signs located at a business.

The research included a review of information from the International Sign Association (ISA). Attached is a packet of information from the ISA on this subject. We also sent a letter to sign contractors asking for their review and input on this subject.

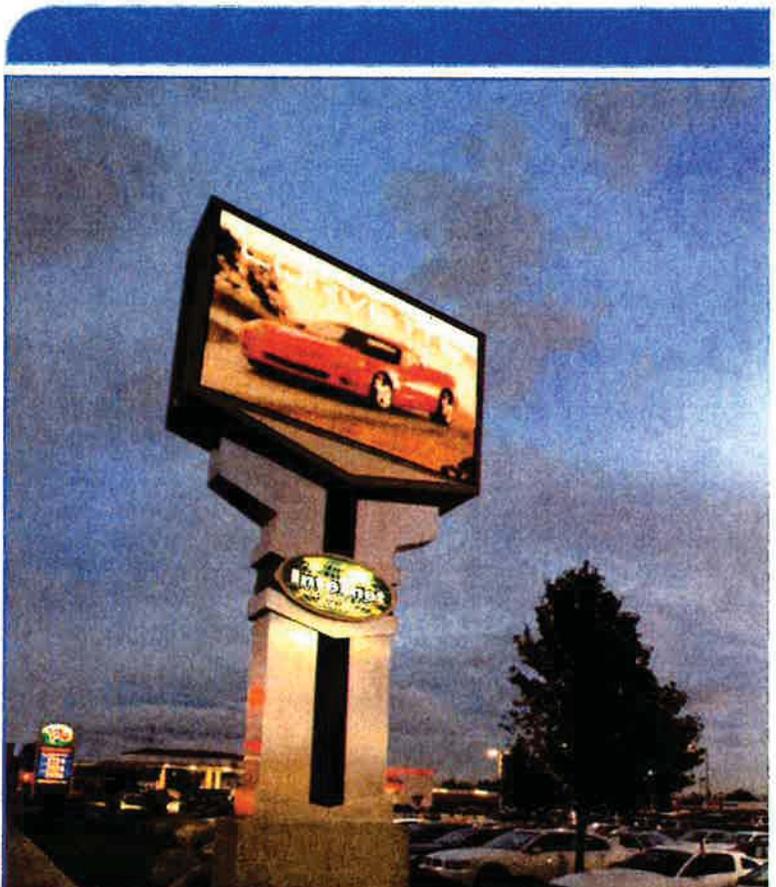
Also, included in this packet of information is the current language in the UDO that governs brightness levels for outdoor advertising signs or billboards. Similar language is used by the Arkansas Highway and Transportation Department (AHTD) to govern brightness levels of billboards along interstates and state highways.

In addition, we looked at developing criteria for retrofitting existing signs that would be nonconforming as a result of the proposed new regulation. After reviewing other municipal ordinances, we coordinated with Rick Wade, Assistant City Attorney to develop the criteria. The proposed amendments include situations and criteria that will require an existing sign be brought into compliance with the new brightness level requirement. The signs would not be required to be brought into compliance if the ordinance is approved but only if any one of the situations described in proposed section 27-704-9( c ) was to occur.

The Planning Commission studied this issue at their September and October meetings. After discussing the subject the Planning Commission approved the proposed amendments that are attached. The recommendation for determining the brightness level of the EMC signs is the same as is used for billboards (*see proposed 27-704-9(a)*). The Planning Commission voted 8 in favor and 0 opposed to recommend the UDO be amended with these proposed regulations. These items are now scheduled for consideration by the Board of Directors at the November 1, 2016 regular meeting.

Please contact me if you have any questions.

Recommended  
*Brightness Levels*  
for On-Premise  
Electronic  
Message Centers  
(EMC's)

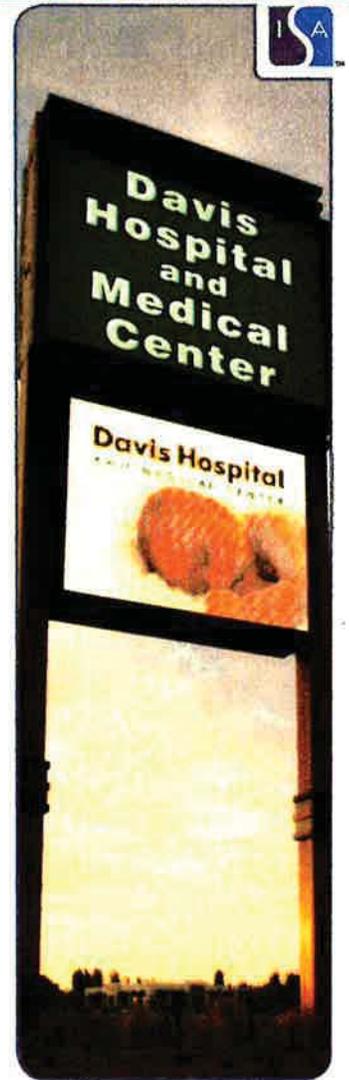


**ISA** INTERNATIONAL  
SIGN ASSOCIATION

A COMPILATION SUMMARY WITH EXTRACTS FROM INDUSTRY REPORTS \* DECEMBER 2010

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SIX STEPS: EMC BRIGHTNESS LEVELS .....	7



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# Introduction



## Electronic Message Centers (EMC's)

One of the more interesting types of signage that is becoming increasingly popular is on-premise electronic message centers, or EMCs. You may have heard EMCs being referred to as changeable message displays or digital signs.

EMCs are *not* digital billboards, which advertise a good or service that is located away from where the sign is located. Rather, EMCs are digital signs that are located *on the premises* of the business, and that advertise goods and services that are provided at the location.



Digital billboard/off-premise sign advertising an automobile business away from where the sign is located



Electronic Message Center (EMC) on-premise sign advertising an automobile business that is located at the place of business

There is often confusion regarding on and off-premise digital signs. However, EMCs and digital billboards have very distinct capabilities and purposes, each targets a specific audience and each has traditionally been treated under separate legal and regulatory regimes. For the purposes of this publication, *we are focusing solely and exclusively on EMCs.*

EMCs that are too bright can be offensive and ineffective. EMC brightness is an issue where sign users, the sign industry, and the planning community have a common goal: ensuring that EMCs are appropriately legible. We know the messages that these signs convey can be rendered unattractive and perhaps even unreadable if they are programmed too bright.

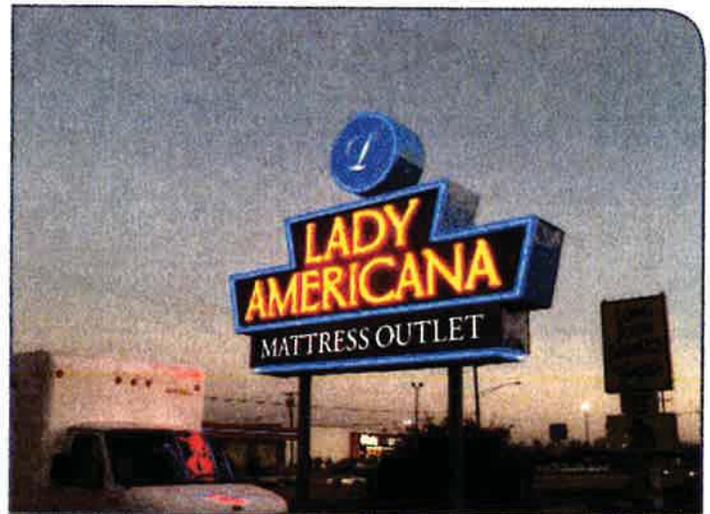
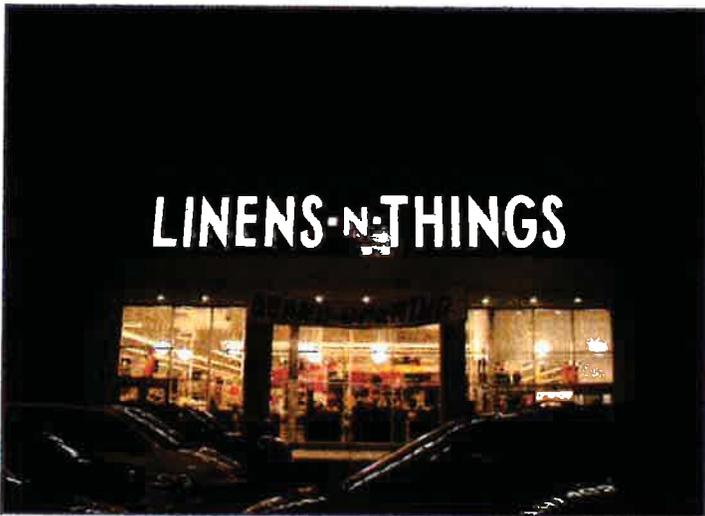


That's why many sign companies recommend to their customers that in order for these signs to be most effective, their brightness be set at such a level to be visible, readable and conspicuous.

In 2008, the International Sign Association (ISA) retained Dr. Ian Lewin of Lighting Sciences to help the industry develop scientifically-researched, understandable recommendations for EMC brightness. Dr. Lewin is a past chair of the Illuminating Engineering Society of North America (IES), and is greatly respected within the lighting field. His work for ISA was conducted with the input of experts within the sign industry. Dr. Lewin's full report can be found at [www.signs.org](http://www.signs.org).

*As a result of this research, the recommended brightness level for on premise EMCs is 0.3 foot candles above ambient light conditions when measured at an appropriate distance. This is a lighting level that works in theory and in practice.*

The research and the recommendations contained in this report pertain only to EMCs, not traditionally internally illuminated signs, such as these channel letter and neon signs below. EMC's use a different lighting technology than most of these types of signs, and as such the scientific approach differs.



You can rest assured that the information contained in this publication is relevant, appropriate and workable for determining EMC brightness levels.

We have provided six short steps to help guide the process and recommended statutory language. If you need further assistance, feel free to contact ISA at (703) 836-4012 to answer any of your EMC brightness questions.

*EMCs and digital billboards have very distinct capabilities and purposes, each targets a specific audience and each has traditionally been treated under separate legal and regulatory regimes.*

GM

# Executive Summary

## ISA Electronic Message Display Brightness Recommendations



This summary has been developed to assist stakeholders concerned with development of brightness standards for large-format, electronic displays used for on-premise sign applications. This summary comprises:

- 1) an overview of the importance of ensuring appropriate brightness,
- 2) technology utilized to ensure appropriate brightness,
- 3) recommended brightness standards, and
- 4) brightness measurement methodology.

### 1. Overview of the importance of ensuring appropriate brightness.

Electronic displays that are too bright can be offensive and ineffective. There are significant advantages to ensuring that an electronic display is not overly bright. These advantages include:

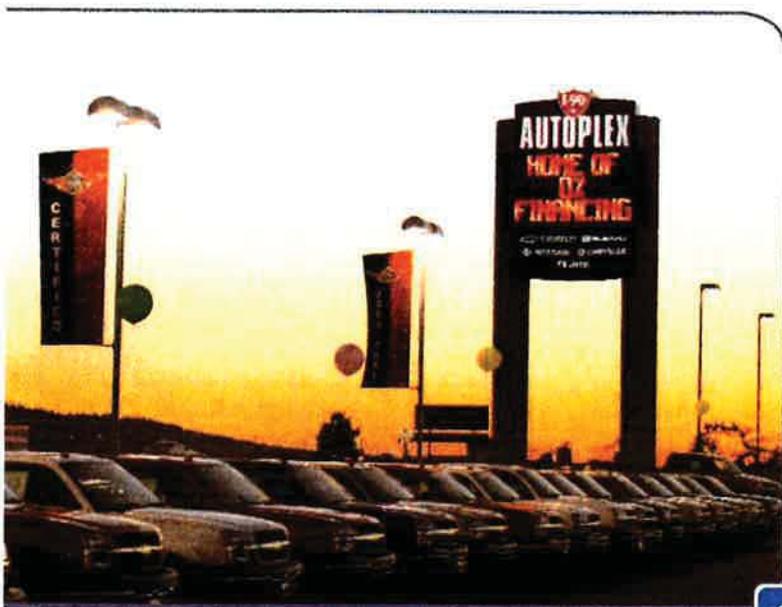
- » Conservation of energy
- » Increased life expectancy of the electronic display components
- » Building goodwill with the community
- » Ensuring the legibility of the display

It is in the best interest of all stakeholders to ensure that electronic displays are sufficiently bright to ensure clear legibility, while at the same time avoiding a display that is overly bright.

### 2. Technology utilized to ensure appropriate brightness.

Most electronic displays are designed to produce sufficient brightness to ensure clear legibility during daylight hours. However, daytime brightness settings are usually inappropriate for nighttime viewing. The following general methods are used to dim an electronic display for appropriate nighttime viewing:

1. *Manual Dimming.* Using this method, the sign operator dims the display in response to changing ambient light conditions.
2. *Scheduled Dimming.* Sunset-sunrise tables allow an electronic display to be programmed to dim at the same time that the sun sets and rises. This method is generally acceptable, but is more effective when used as a backup to automatic dimming controls capability, such as photocell technology.
3. *Photocell Technology.* An electronic display that utilizes photocell technology can automatically dim as light conditions change. A photocell sensor alerts the display to adjust brightness according to ambient light conditions.



*Most electronic displays are designed to produce sufficient brightness to ensure clear legibility during daylight hours. However, daytime brightness settings are usually inappropriate for nighttime viewing.*

### 3. Recommended brightness standards.

ISA commissioned Dr. Ian Lewin of Lighting Sciences, Inc. to develop brightness criteria for on-premise electronic displays. Dr. Lewin is a leading lighting expert with over thirty years experience in the lighting industry.

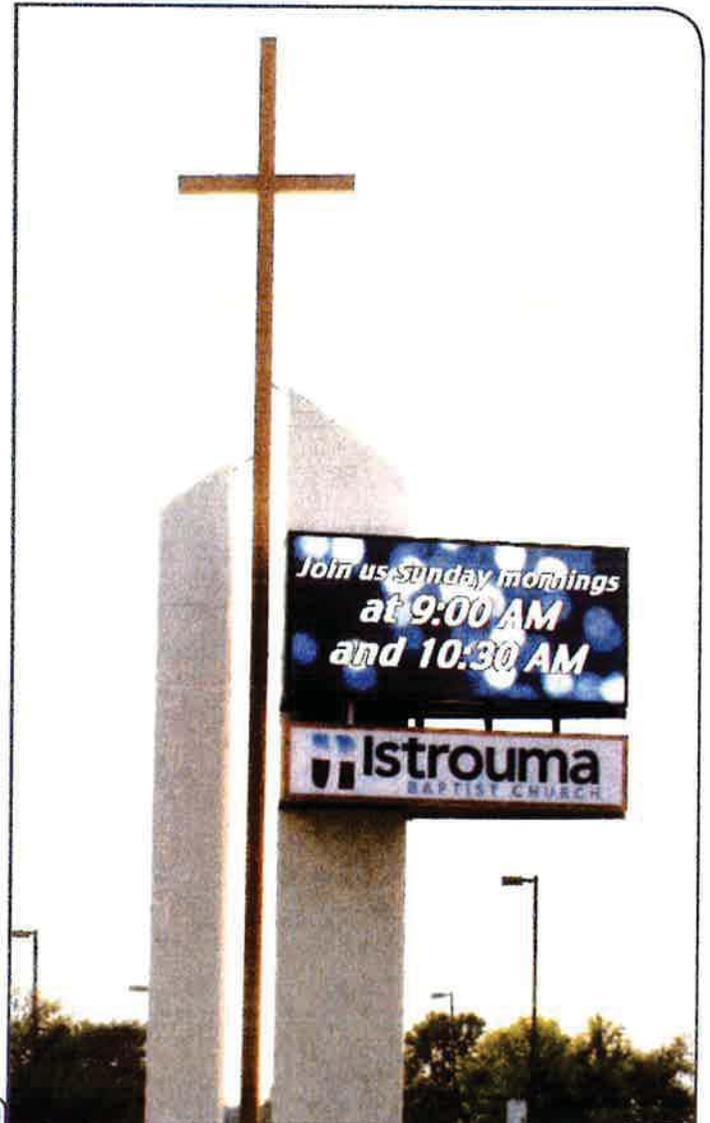
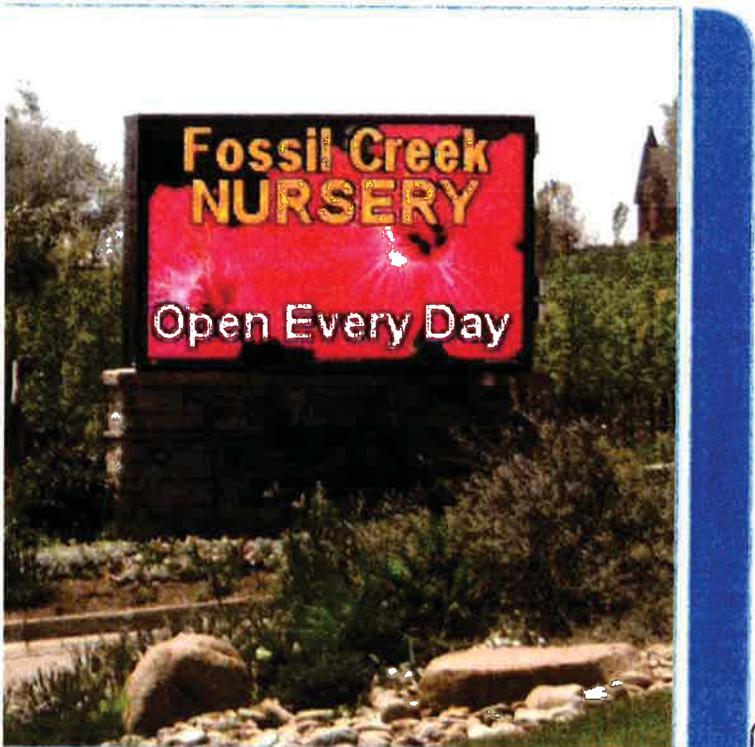
Dr. Lewin recommended the development of brightness criteria based on the Illuminating Engineering Society's (IES) well-established standards pertaining to light trespass, IES Publication TM-11-00. The theory of light trespass is based on the concept of determining the amount of light that can spill over (or "trespass") into an adjacent area without being offensive.

As a result of his research, Dr. Lewin recommended two different brightness settings based on whether the EMC was located in an area of high or low ambient light. After field testing and utilizing Dr. Lewin's recommendations, it was determined that using the more conservative recommendation is appropriate in areas of both low and high ambient light. In order to simplify Dr. Lewin's recommendations, and to take a more reasonable approach to ensure that EMC's are sufficiently visible but not overly bright, it is recommended that EMC's not exceed 0.3 footcandles over ambient lighting conditions when measured at the recommended distance, based on the EMC size.

*...it is recommended that EMC's not exceed 0.3 footcandles over ambient lighting conditions when measured at the recommended distance, based on the EMC size.*

### 4. Brightness measurement methodology.

There are two generally accepted measures of brightness in the sign industry; illuminance and luminance. Illuminance, the preferred method, is a measure of the amount of light intercepting an object at a given distance from a light source and is measured in footcandles or its metric equivalent, lux. Illuminance can be measured with a footcandle meter (also know as a luxmeter), which are relatively inexpensive (\$100-1000) and commonly available. The footcandle meter should be accurate to two decimal points for accurate measurements. The second method, luminance, is an absolute measure of the amount of brightness that is being emitted from a light source and is usually measured in candelas per square meter, also known as "nits." Luminance can be measured by use of a "nit gun", which are expensive (~\$3,000) and difficult to procure. The preferred method of measurement is illuminance using a footcandle meter because a measure of luminance fails to account for ambient light conditions.



# Recommended Legislative Language



1. **Electronic Message Center (EMC) Criteria:** The illumination of an EMC shall conform with the criteria set forth in this section.
  - A. **EMC Illumination Measurement Criteria:** The illuminance of an EMC shall be measured with an illuminance meter set to measure footcandles accurate to at least two decimals. Illuminance shall be measured with the EMC off, and again with the EMC displaying a white image for a full color-capable EMC, or a solid message for a single-color EMC. All measurements shall be taken perpendicular to the face of the EMC at the distance determined by the total square footage of the EMC as set forth in the accompanying Sign Area Versus Measurement Distance table.
  - B. **EMC Illumination Limits:** The difference between the off and solid-message measurements using the EMC Measurement Criteria shall not exceed 0.3 footcandles.
  - C. **Dimming Capabilities:** All permitted EMCs shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the 0.3 footcandle measurements.
  - D. **Definition of EMC:** A sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix.



## SIGN AREA VERSUS MEASUREMENT DISTANCE

AREA OF SIGN sq. ft.	MEASUREMENT Distance (ft.)
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71
55	74
60	77
65	81
70	84
75	87
80	89
85	92
90	95
95	97
100	100
110	105
120	110
130	114
140	118
150	122
160	126
170	130
180	134
190	138
200	141
220	148
240	155
260	161
280	167
300	173

\* For signs with an area in square feet other than those specifically listed in the table (i.e., 12 sq ft, 400 sq ft, etc), the measurement distance may be calculated with the following formula: Measurement Distance =  $\sqrt{\text{Area of Sign Sq. Ft.} \times 100}$

### **Current City and AHTD digital outdoor advertising sign regulations:**

Outdoor advertising signs may be erected with a static face or with a digital face, provided the sign complies with all provisions applicable to outdoor advertising signs and the following.

- (1) For permitted structures containing a digital face, only one digital face shall be allowed per facing, and the digital face shall be the only sign allowed on that facing;
- (2) Electronic message changes must be accomplished within a time interval of two (2) seconds or less;
- (3) The message or image on a digital face must remain static for a minimum of eight (8) seconds;
- (4) Digital faces shall contain a default design that will freeze the message in one position if a malfunction occurs;
- (5) Signs that contain, include, or are illuminated by any flashing, intermittent, or moving light or lights, including animated parts or scrolling messages or images, are prohibited, with the exception of those giving public service information such as time, date, temperature, and weather and/or similar information approved in writing in advance by the City Administrator or the Administrator's designated agent;
- (6) There shall be no appearance of a visual dissolve or fading in which any part of one electronic message/display appears simultaneously with any part of a following electronic message/display;
- (7) A sign owner may modify existing, legal, conforming structures to a digital face only after filing an application and receiving a permit to do so;
- (8) Signs containing a digital face shall not be located closer than 1,500 linear feet along interstate highways and 1,000 linear feet along non-interstate state streets to another digital faced sign when measured along the same direction of the traveled way;
- (9) Digital faces shall comply with all other requirements of federal and state outdoor advertising regulations;
- (10) Digital faces shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot

candle meter. Documentation shall be provided to the City at time of permit issuance certifying the digital billboard has been set to be incapable of exceeding .3 foot candles above ambient light;

(11) Each display on a digital face must have a light sensing device that will adjust the brightness as ambient light conditions change;

(12) The city planning department shall be provided with an on-call contact person and telephone number for every permitted digital face. In the event of malfunction, the contact person must have the ability and authority to make modifications to the displays and lighting levels. If modifications cannot be made to correct the malfunction within a timely manner, then the digital face must be disabled until the modifications are made. It shall be the responsibility of the permittee to maintain with the planning department accurate and current contact information; and,

(13) Failure to adhere to any of these provisions may result in the revocation of the digital face authorization of the permit (following due process including notice to comply).

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING APPENDIX A, SECTION XVI OF THE  
FORT SMITH MUNICIPAL CODE REGARDING THE CITY OF FORT SMITH  
EDUCATION REIMBURSEMENT POLICY**

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

Section 1: The Fort Smith Municipal Code Section XVI (D) is amended to read as follows:

**Section XVI. - Benefits**

D. Tuition Reimbursement - The City of Fort Smith supports employees who wish to continue their education to secure increased responsibility and growth within their professional careers. In keeping with this philosophy, the City has established a reimbursement program for expenses incurred through approved and accredited learning institutions. Employees participating in the Program must meet certain requirements for participation:

- Employee must be a Full Time regular employee.
- Employee must have one full year of service with the City before the first class begins.
- Employee must agree to continue working for the City for at least one full year after the degree is obtained. If this qualification is not met, the employee agrees to reimburse the City the full cost of education reimbursements received.
- Management and Program Administrator approval is required prior to participation.
- Participating employees must maintain acceptable job performance, as determined by their managers throughout their course of study.
- Managers and employees are responsible for adherence to City policy. Failure to do so may result in disciplinary action up to and including termination.

The City will reimburse coursework up to a maximum of \$4,000 per year incurred by an employee for continuing education through an accredited program that either offers growth in an area related to his or her current position or might lead to promotional opportunities. This education may include college credit courses, continuing education unit courses, seminars and certification tests.

1. Supplies, books and classroom equipment, and other fees will be the responsibility of the employee. The City will only reimburse College credit course hour fees and/or flat tuition of courses.
2. Upon completion of the course, an employee will provide a completion certificate from the accredited institution to the Director of Human Resources within thirty (30) days. The employee must secure a passing grade of "A" or "B" or obtain a certification to receive 100% reimbursement. Completion of the course with a grade of "C" will be reimbursed

at a rate of 50%. If the employee does not complete the course, or completes the course with less than a grade of "C", no reimbursement will be given. Expenses must be validated by receipts, and a copy of the final grade card or certification must be presented to show hours or certification received.

3. Course work must be scheduled so as not to interfere with the employee's regularly scheduled working hours.
4. The City shall ask an employee to sign a release authorizing the City to solicit the required documentation and/or information from a designated third party. Providing false information may result in loss of eligibility for benefits and/or disciplinary action in accordance with the City's Code of Conduct.
5. Availability of Funds – all reimbursement for education expenses is made to the extent to which budgeted funds are available. Due to budget considerations, the City may limit the number of employees annually who participate in this program.

**Procedures**

To receive tuition reimbursement, employees shall follow the procedures listed here:

- The employee must provide his or her manager with information about the course for which he or she would like to receive reimbursement. If this is a college course, a completed degree plan shall be included with the course information.
- The pre-approval section of the tuition reimbursement form shall be completed and all the appropriate signatures obtained prior to enrolling.
- The employee must then take the form to HR, and a copy will be added to the employee's file. The employee will maintain the original until he or she has completed the course. The employee can then enroll in the course.
- After completion of the course, the employee shall resubmit the original tuition reimbursement form with the reimbursement section filled out, including appropriate signatures, as well as receipts and evidence of a passing grade or certification attached.
- The HR department will then coordinate the reimbursement with the Accounting department.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to form:

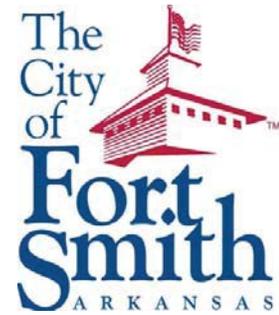


\_\_\_\_\_  
City Attorney  
Publish 1 time

# Memo

To: Carl Geffken, City Administrator  
CC: Jeff Dingman, Deputy City Administrator  
From: Jennifer Walker, Finance Director  
Date: 10/28/2016  
Re: Education Reimbursement Policy

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City Staff requests that the Education Reimbursement Policy item be tabled until the regular meeting scheduled on November 15, 2016.

## RESOLUTION NO. \_\_\_\_\_

A RESOLUTION REPEALING RESOLUTION NO. R-43-16; AUTHORIZING THE OFFERING OF WATER AND SEWER REVENUE BONDS TO REFUND ALL OR A PORTION OF THE CITY'S OUTSTANDING WATER AND SEWER REVENUE BONDS, SERIES 2007 AND WATER AND SEWER REFUNDING AND CONSTRUCTION REVENUE BONDS, SERIES 2008; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Fort Smith, Arkansas (the "City") owns and operates a water and sewer system (the "System") and has outstanding Water and Sewer Revenue Bonds, Series 2007 (the "Series 2007 Bonds") and Water and Sewer Refunding and Construction Revenue Bonds, Series 2008 (the "Series 2008 Bonds") that are payable from and secured by revenues of the System; and

WHEREAS, in order to achieve debt service savings, it is in the best interest of the City to refund all of the Series 2007 Bonds and the non-refunding portion of the Series 2008 Bonds (the "Refunding"); and

WHEREAS, the Refunding can be accomplished by the issuance of the City's Water and Sewer Refunding Revenue Bonds, Series 2016 (the "Bonds"); and

WHEREAS, pursuant to the authority granted in the Arkansas statutes authorizing the issuance of the Bonds, including particularly A. C. A. §16-164-409, the City has determined to sell the Bonds on a negotiated basis to Stephens Inc. and Raymond James & Company, Inc. as underwriters (the "Underwriters"), with Stephens Inc. serving as book running manager; and

WHEREAS, the Bonds and associated management fees shall be allocated between the Underwriters as follows: Stephens Inc. - 50% of Bonds and management fees; and Raymond James & Company, Inc. - 50% of Bonds and management fees;

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

Section 1. Resolution No. R-43-16 is hereby repealed.

Section 2. The offering of the Bonds by the Underwriters as set forth herein is hereby authorized in order to achieve an appreciable level of savings for the City.

Section 3. The officials of the City are authorized to cooperate with the Underwriters, and Friday, Eldredge & Clark, LLP, as Bond Counsel, in the preparation of a preliminary official statement and bond ordinance and are further authorized to execute such writings and take such actions as may be appropriate to the offering of the Bonds.

Section 4. As the issuance of the Bonds is, under Arkansas law, subject to the approval of the Board of Directors, by ordinance, any sale of the Bonds will be subject to the approval of the Board of Directors.

This Resolution passed this \_\_\_\_\_ day of November, 2016.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to form:



\_\_\_\_\_  
City Attorney, NPR

CERTIFICATE

The undersigned, City Clerk of the City of Fort Smith, Arkansas (the “City”), hereby certifies that the foregoing is a true and compared copy of a resolution passed at a regular session of the Board of Directors of the City, held at the regular meeting place of the Board at \_\_\_\_\_ o’clock p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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City Clerk

(SEAL)

# Memo



To: Carl E. Geffken, City Administrator  
From: Jeff Dingman, Deputy City Administrator  
Date: 10/28/2016  
Re: Resolution Authorizing Series 2016 Water & Sewer Refunding Bonds

---

Presented for the Board's consideration at its November 1, 2016 regular meeting is a Resolution that repeals Resolution No. R-43-16 and authorizes the offering of Water and Sewer Revenue Bonds to refund outstanding bonds. The City's bond underwriters have identified an opportunity to realize approximately \$5.46 million in net present value debt service savings.

The Resolution repeals Resolution R-43-16, authorizes the advance refunding of outstanding Water and Sewer Revenue Bonds, Series 2007; and a partial advance refunding of outstanding Water and Sewer Refunding and Construction Revenue Bonds, Series 2008. Preliminary numbers indicate a bond issue in the par amount of \$56.675 million.

The Series 2008 bonds (current outstanding balance of about \$110 million) originally provided for both refunding of previous debt and funds for new projects. The proposed action only refunds a portion of the Series 2008 bonds (approximately \$41.06 million of the outstanding approximately \$110 million), because only the portion of the Series 2008 bonds that were issued for new projects at the time are eligible for advance refunding on a tax-exempt basis.

This refunding will be accomplished by the issuance of Water and Sewer Refunding Revenue Bonds, Series 2016 to replace the eligible outstanding bonds at a significant savings. The current market conditions and available interest rates will allow refunding the \$86.85 million in outstanding debt service (total, including all principal & interest payments) with new debt service in the amount of approximately \$80.29 million. After negative arbitrage considerations, the net present value benefit of this refunding is approximately \$5.46 million over the term of the issue.

The preliminary estimate of the gross debt service comparison for the Series 2007 bonds and the eligible Series 2008 bonds is attached for your information.

The repeal of the previous authorizing resolution and the adoption of the current proposed is due to the reallocation of the underwriting percentages. The proposed Resolution authorizes Stephens, Inc. and Raymond James & Associates to each underwrite 50% of the bonds, with Stephens, Inc. serving as manager. As this is a refunding of existing debt at a better interest rate and keeping the original timeline, this action will reduce the City's debt service obligations and have a positive impact to the City's overall financial position.

City officials will continue to work with the bond counsel and underwriters to prepare the Preliminary Official Statement and a bond ordinance for consideration by the Board at the November 15 regular meeting.

Please contact me at your convenience if you have general questions regarding this agenda item.

## City of Fort Smith, AR

Water and Sewer Revenue Refunding Bonds  
Series 2016

### Gross Debt Service Comparison

Date	Principal	Coupon	Interest	New D/S	Old D/S	Savings
10/01/2017	1,600,000.00	3.000%	1,757,148.34	3,355,823.65	3,813,950.02	458,126.37
10/01/2018	1,845,000.00	3.000%	2,277,637.50	4,122,637.50	4,579,740.02	457,102.52
10/01/2019	1,900,000.00	3.000%	2,222,287.50	4,122,287.50	4,579,246.26	456,958.76
10/01/2020	2,795,000.00	3.000%	2,165,287.50	4,960,287.50	5,417,556.26	457,268.76
10/01/2021	2,880,000.00	3.000%	2,081,437.50	4,961,437.50	5,418,137.50	456,700.00
10/01/2022	2,965,000.00	3.000%	1,995,037.50	4,960,037.50	5,417,087.50	457,050.00
10/01/2023	3,055,000.00	3.000%	1,906,087.50	4,961,087.50	5,421,337.50	460,250.00
10/01/2024	4,135,000.00	3.000%	1,814,437.50	5,949,437.50	6,408,662.50	459,225.00
10/01/2025	4,260,000.00	5.000%	1,690,387.50	5,950,387.50	6,406,575.00	456,187.50
10/01/2026	4,510,000.00	5.000%	1,477,387.50	5,987,387.50	6,450,000.00	462,612.50
10/01/2027	4,745,000.00	5.000%	1,251,887.50	5,996,887.50	6,450,625.00	453,737.50
10/01/2028	3,980,000.00	5.000%	1,014,637.50	4,994,637.50	5,296,600.00	301,962.50
10/01/2029	4,180,000.00	5.000%	815,637.50	4,995,637.50	5,299,250.00	303,612.50
10/01/2030	4,385,000.00	5.000%	606,637.50	4,991,637.50	5,296,250.00	304,612.50
10/01/2031	4,605,000.00	5.000%	387,387.50	4,992,387.50	5,297,500.00	305,112.50
10/01/2032	4,835,000.00	3.250%	157,137.50	4,992,137.50	5,297,250.00	305,112.50
<b>Total</b>	<b>\$56,675,000.00</b>	<b>-</b>	<b>\$23,620,460.84</b>	<b>\$80,294,136.15</b>	<b>\$86,849,767.56</b>	<b>\$6,555,631.41</b>

### PV Analysis Summary (Gross to Gross)

Gross PV Debt Service Savings	6,223,585.01
Transfers from Prior Issue Debt Service Fund	(762,790.00)
Contingency or Rounding Amount	1,324.69
<b>Net Present Value Benefit</b>	<b>\$5,462,119.70</b>
Net PV Benefit / \$58,635,000 Refunded Principal	9.315%
Net PV Benefit / \$56,675,000 Refunding Principal	9.638%

### Refunding Bond Information

Refunding Dated Date	12/29/2016
Refunding Delivery Date	12/29/2016

Please be advised that there can be no assurance as to the future direction of interest rates. As such, the information provided is preliminary and subject to change.

10/13/2016 | 1:57 PM

**Stephens Inc.**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE 2016 BUDGET

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

WHEREAS, the Board of Directors approved the 2016 budget on December 1, 2015 by Ordinance No. 88-15; and

WHEREAS, the City of Fort Smith Sanitation Department finds it necessary to purchase an Electronic Arm Gate/Barrier, and to amend the 2016 budget as follows:

<u>Account:</u>	<u>From:</u>	<u>To:</u>	<u>Variance:</u>
8 yd Front Load Cont. 6303-303-2104	\$110,000	\$90,000	(\$20,000)
Electronic Arm/Gate 6303-309-2104	0	20,000	\$20,000

NOW, THEREFORE, the 2016 budget is hereby amended as detailed above.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF NOVEMBER, 2016.

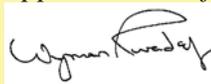
APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

*Approved as to form:*



\_\_\_\_\_  
*No publication required*



## MEMORANDUM

TO: Carl Geffken, City Administrator  
City of Fort Smith

CC: Jeff Dingman, Deputy City Administrator

FROM: Mark R. Schlievert, Director of Sanitation  
City of Fort Smith

DATE: October 21, 2016

RE: Sanitation Department Request for Barrier Gate

The Sanitation Department requests approval for adding an additional line item to 6303, (Commercial Collection) Capital Outlay for FY 2016 budget in the amount of \$20,000 using funds transferred from another capital line item in this program. This request would be for an electronic gate located by the Sanitation Department's administration building.

Customer drive off events have become a problem in recent months causing the Sanitation Department to close all roads leading out of the landfill except the scale house road. As a result, there is an increased amount of traffic at the scale house causing delays and some confusion. With approval of this request, the Sanitation Department will have a separate access road for the collection vehicles as well as guest and administration, thus reducing the confusion and delays at the scale house.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING A CONTRACT FOR THIRD PARTY  
ADMINISTRATOR SERVICES FOR THE  
CITY'S EMPLOYEE HEALTH COVERAGE**

---

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

SECTION 1: The Agreement with Meritain Health to continue to provide TPA Services for the year 2017 for the Self-Funded Health Coverage program for employees of the City of Fort Smith, Arkansas is accepted.

SECTION 2: The City Administrator or his designee is hereby authorized to execute all documents necessary to contract TPA services.

This Resolution adopted this 1<sup>st</sup> day of November 2016.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

*Approved as to form:*



\_\_\_\_\_  
*No publication required*

# MEMORANDUM

**TO:** Carl Geffken, City Administrator

**FROM:** Naomi E. Roundtree, Director of Human Resources

**DATE:** November 1, 2016

**SUBJECT:** Self-Funded Health Coverage TPA Resolution

The renewals for the City's TPA Administrative Services Cost are attached. The estimated cost for our current TPA, Meritain, is increasing by 3% from \$336,243 to \$347,229, with a 3 year fixed cost. In conjunction with the VOYA reinsurance, we are guaranteed no lasers for the next two years, 2017 and 2018.

In review of the other option, Allegiance/Cigna, the increase in administrative services cost would be 2% from \$336,243 to \$344,493, but we would be required to utilize their reinsurance carrier, Cigna, which only guarantees no lasers for one year, 2017. The 1% difference between carriers equates to \$8,208 over the course of the next three years, whereas the potential cost for lasers after the 2017 year could be much more.

I am recommending the City stay with its current TPA, Meritain, because there is not a sufficient difference in administrative fees or service capabilities to warrant a change of TPA, in addition to the potential savings over the next two years due to no lasers through the proposed reinsurance carrier, Voya. There is strong satisfaction on the part of the HR team with Meritain's performance over the first three years of service and employees feel comfortable with Meritain and the level of service they receive through their program.

I recommend approval of this resolution.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION APPROVING SPECIFIC EXCESS  
INSURANCE AND AGGREGATE EXCESS INSURANCE FOR THE  
CITY'S EMPLOYEE HEALTH COVERAGE**

---

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

SECTION 1: The Agreement with (VOYA) ReliaStar Life Insurance Company to provide Specific Excess Insurance and Aggregate Excess Insurance for the year 2017 for the Self-Funded Health Coverage program for employees of the City of Fort Smith, Arkansas is accepted.

SECTION 2: The City Administrator or his designee is hereby authorized to execute all documents necessary to bind coverage.

This Resolution adopted this 1<sup>st</sup> day of November 2016.

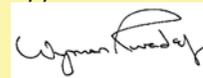
APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

*Approved as to form:*



\_\_\_\_\_  
*No publication required*

# MEMORANDUM

**TO:** Carl Geffkin, City Administrator

**FROM:** Naomi E. Roundtree, Director of Human Resources

**DATE:** November 1, 2016

**SUBJECT:** Self-Funded Health Coverage Reinsurance Resolution

The renewals for the City's specific and aggregate stop loss are attached. I am recommending Voya because they performed well in previous years that we utilized their services and they are choosing not to laser either of the two large potential claims we have for the next two years. Please note that several carriers provided stop loss coverage quotes but all included lasers for the two large potential claims, with the exception of Allegiance, who only guaranteed the upcoming year to be laser-free, not the following year as well.

I recommend approval of this resolution.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION APPROVING CLAIM SERVICE, SPECIFIC EXCESS INSURANCE,  
AND AGGREGATE EXCESS INSURANCE FOR THE  
CITY'S WORKER'S COMPENSATION COVERAGE**

---

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

SECTION 1: The Agreement with Central Adjustment Corporation, Inc., to continue to provide Claims Administration for the year 2017 for the Self-Insured Worker's Compensation program for employees of the City of Fort Smith, Arkansas is accepted.

SECTION 2: The Agreement with Safety National Insurance to continue to provide Specific Excess Insurance and Aggregate Excess Insurance for the year 2017 for the Self-Insured Worker's Compensation program for employees of the City of Fort Smith is accepted.

SECTION 3: The Mayor, his signature being attested by the City Clerk, is hereby authorized to execute all documents necessary to contract the claims service and the specific excess insurance and the aggregate excess insurance services as set forth in Sections 1 and 2 above.

This Resolution adopted this 1<sup>st</sup> day of November 2016.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

*Approved as to form:*



\_\_\_\_\_  
*No publication required*

# MEMORANDUM

**TO:** Carl Geffken, City Administrator

**FROM:** Naomi E. Roundtree, Director of Human Resources

**DATE:** November 1, 2016

**SUBJECT:** **Worker's Compensation Specific and Aggregate Stop Loss Resolution**

We did not ask for bids for our Worker's Compensation Administration, which is currently managed by Central Adjustment Company, Inc. and has been for several years. There is no rate change for their services this year, which is an annual fee of \$41,513.58.

The renewals for the City's Worker's Compensation specific and aggregate stop loss are attached. The estimated cost for our current stop loss coverage is increasing by 8% from \$101,946 to \$109,616. The increase is partially due to the rise in payroll dollar from \$41,285,715 to \$43,556,429, which represented a 5.4% increase.

The bid from Midwest offered a lower Retention by \$50,000 for A/O but a 21% increase in premium from \$101,946 to \$123,036.

I am recommending the City stay with Central Adjustment Company, Inc. for our Worker's Compensation Administration because the rates have not increased and the service has been highly rated by the HR department.

I would also recommend the City stay with Safety National, our current Worker's Compensation Specific Aggregate Stop Loss carrier because the percentage increase in premium is under 3% whereas the bid from Midwest in premium is not comparable.

I recommend approval of this resolution.

RESOLUTION ACCEPTING THE BID OF AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH KRAUS CONSTRUCTION COMPANY, LLC FOR THE CONTRACT WATER USERS' WATER LINE RELOCATION

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

SECTION 1: The bid of Kraus Construction Company, LLC for the Contract Water Users' Water Line Relocation, Project 16-17-C1, is hereby accepted.

SECTION 2: The Mayor is hereby authorized to execute a contract with Kraus Construction Company, LLC in the amount of \$198,326.00, for performing said work.

This Resolution adopted this \_\_\_\_\_ day of November 2016.

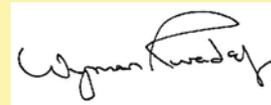
APPROVED:

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_ npr



## INTER-OFFICE MEMO

**TO:** Carl Geffken, City Administrator

**DATE:** October 25, 2016

**FROM:** Robert Roddy, Interim Director of Utilities

**SUBJECT:** Contract Water Users' Water Line Relocation  
Project Number 16-17-C1

This project consists of the replacement and realignment of approximately 670 linear feet of 10-inch water main and the construction of a check valve and vault. The existing water main alignment is in jeopardy of collapse due to destabilization of slopes on the east side of Highway 71. An exhibit showing the project location is attached.

The low bid for the project was submitted by Kraus Construction Company, LLC in the amount of \$198,326.00. A bid tabulation showing the bidders and their bid amounts is attached along with a Resolution accepting the bid of and authorizing a contract with Kraus Construction Company, LLC. Funds are available for this project from the 2014 sales and use tax bonds issued for water improvements.

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

attachment

Pc: Jeff Dingman

## Bid Tabulation Sheet

### Project Name

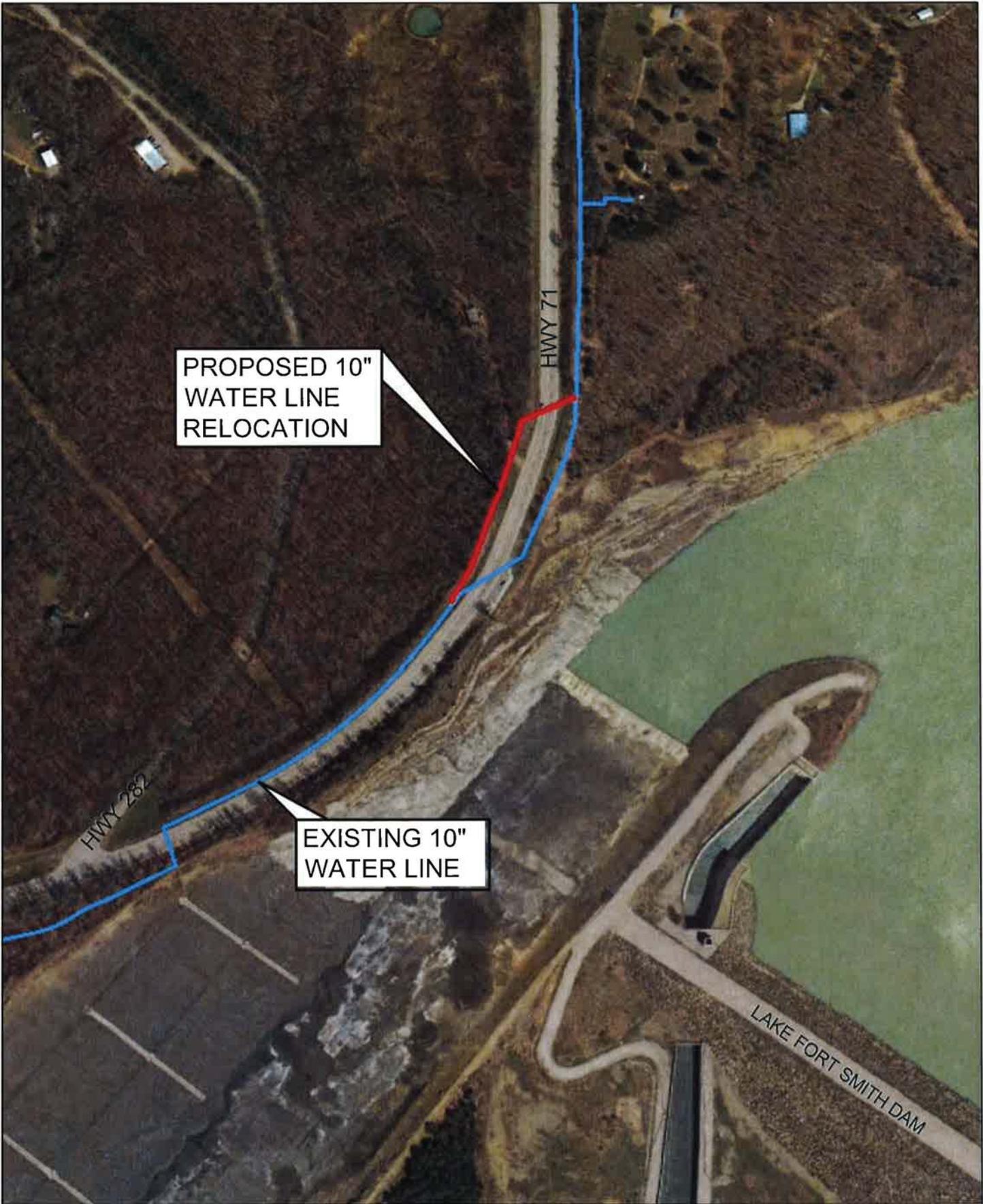
Contract Water Users' Water Line Relocation  
Project Number 16-17-C1

### Bid Opening

October 25, 2016  
10:00 A.M.

### Bids Received

Kraus Construction Fort Smith, Arkansas	\$198,326.00
Goodwin & Goodwin Fort Smith, Arkansas	\$231,643.00
Crawford Construction Van Buren, Arkansas	\$234,664.00
Forsgren, Inc. Fort Smith, Arkansas	\$243,712.00
T-N-T, Inc. Van Buren, AR	\$267,885.00
A.J. Greenwood Van Buren, Arkansas	\$270,713.00
Brothers Construction Van Buren, Arkansas	\$283,460.00
Main Construction Van Buren, AR	No Bid
CMD Group Norcross, GA	No Bid
Goines Enterprises, Inc. Joplin, MO	No Bid
Horizontal Boring & Tunneling Co. Exeter, NE	No Bid
M. Phillips Construction Magazine, AR	No Bid



**CONTRACT WATER USERS  
WATER LINE RELOCATION**  
Project Number 16-17-C1



## **Comprehensive Plan Goal Supported By Water Projects**

- Ensure adequate, well-maintained infrastructure, public safety, and public facilities for all development and prevent development ahead of infrastructure and service provision. (FLU-1.4)
- 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-5.1)
- Implement an infrastructure Asset Management Program as a tool for management of the utility department's water and sewer systems and to track, manage, and schedule necessary facility upgrades and improvements. (TI-5.1.1)
- Ensure that utility and infrastructure systems can meet the city's long-term needs. (TI-5.2)
- Coordinate land use planning and capital programming to ensure infrastructure improvements and extensions are phased to support the future land use pattern. (TI-5.2.1)
- Adopt criteria for prioritizing funding to infrastructure-related capital improvement projects. (TI-5.2.4)
- Provide new facilities in a manner that protects investments in existing facilities and promotes orderly growth. (PFS-4.2)

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AUTHORIZATION  
NUMBER TWO TO THE AGREEMENT WITH BURNS & MCDONNELL FOR  
STAFF AUGMENTATION SERVICES FOR THE UTILITIES DEPARTMENT  
AUTHORIZED BY RESOLUTION R-63-16 ADOPTED ON MAY 17, 2016

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

SECTION 1: Authorization Number Two to the Agreement with Burns & McDonnell  
for staff services for the Utilities Department, which Agreement was approved by Resolution R-  
63-16, is hereby approved for services for the Utilities Department until June 30, 2017.

SECTION 2: The Mayor is hereby authorized to execute, his signature being attested by  
the City Clerk, Authorization Number Two in an amount not to exceed \$341,000.00

This Resolution adopted this \_\_\_\_\_ day of November 2016.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
npr

# Memo



**To:** Carl E. Geffken, City Administrator  
**From:** Jeff Dingman, Deputy City Administrator  
**Date:** 10/28/2016  
**Re:** Authorization No. 2/extension of agreement with Burns & McDonnell

---

On the November 1 regular agenda for consideration is a Resolution authorizing the Mayor to execute Authorization No. 2 to the agreement with Burns & McDonnell for staff augmentation services for the Utility Department as authorized by Resolution R-63-16 adopted on May 17, 2016. Authorization No. 2 and its three exhibits are attached.

The May resolution anticipated a 90-day period and was for an amount not to exceed \$94,376. It authorized the city administrator to negotiate details, and Authorization No. 1 describing services to be provided was signed. As we have been through one round of recruitment for identification of a department head, and have started a second round, it is evident that we will need the Board to authorize funding to extend the staff augmentation services provided by Burns & McDonnell for a 42-week period ending June 30, 2017.

The attached resolution authorized acceptance and approval of Authorization No. 2, which is for an amount not to exceed \$341,000. There are seven separate tasks identified in the authorization, each with an associated amount, that are described in the exhibits attached to the authorization document. The fees will be paid by the Water/Sewer Operating fund.

Please contact me if you have questions related to this agenda item.



**AUTHORIZATION FOR PROFESSIONAL SERVICES AGREEMENT  
ENGINEER-OWNER AGREEMENT**

**Authorization No.:** 2

**Date:** October 25, 2016

In accordance with the AGREEMENT for PROFESSIONAL ENGINEERING SERVICES dated \_\_\_\_\_ between City of Fort Smith, Arkansas (hereinafter called OWNER) and Burns & McDonnell Engineering Company, Inc. (hereinafter called ENGINEER), OWNER hereby authorizes ENGINEER to proceed with the following services:

**SECTION 1 - SCOPE OF SERVICES**

1.1 The Scope of Services to be provided by ENGINEER, in connection with this Authorization, is as follows:

Staff Augmentation services for the Fort Smith utility. See the attached Scope of Services associated with this Authorization No. 2 dated 10/24/2016. (Attachment A)

1.2 OWNER will provide, in connection with this Authorization, the following:

1.2.1 Work area located at the Utility headquarters which will include all the necessary office equipment that is typically available to the office and Director staff of the Utility.

1.2.2 Clerical staff to assist in the normal functions of the role of Director including filing, typing, report generation, verbal and written communication and all other duties to facilitate the normal functions of the Utility office.

**SECTION 2 – PERIOD OF SERVICES**

2.1 ENGINEER will proceed with providing Professional Engineering Consulting Services upon receipt of Notice to Proceed evidenced by execution of this agreement by Owner. The services will be provided for a 42 week period ending June 30, 2017. The Agreement may be extended beyond the 90 day service period upon mutual written agreement of ENGINEER and OWNER.

**SECTION 3 – COMPENSATION**

3.1 OWNER shall compensate ENGINEER for providing the services set forth herein in accordance with the terms of Attachment B – Schedule of Hourly Professional Services Billing Rates. The maximum payment for the Scope of Services defined herein shall not exceed \$341,000.00.

3.2 The maximum amount to be paid to ENGINEER includes a total allowance amount of \$16,000 for Optional Services not yet authorized by OWNER that may be required throughout the course of work. This allowance amount will not be utilized by ENGINEER unless specifically authorized in writing by OWNER to perform Optional Services. Optional Services will not be performed, nor is the ENGINEER approved to utilize any allowance monies unless the OWNER provides written authorization to ENGINEER that includes the scope of work for each optional task to be performed and a maximum billing limit for compensation that has been mutually agreed upon.

**SECTION 4 – LIMITATION OF LIABILITY**

4.1 To the fullest extent permissible by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of ENGINEER, its officers, directors, shareholders, employees, agents, and consultants, and any of them, to OWNER and anyone claiming by, through or under OWNER, for any and all claims, losses, liabilities, costs or damages whatsoever arising out of, resulting from or in any way related to the Project or this Agreement from any form of negligence, professional errors or omissions (including breach of contract or warranty) of ENGINEER, its officers, directors, employees, agents or consultants, or any of them, SHALL NOT EXCEED the total compensation actually received by ENGINEER under this Agreement (including all Task Orders), or the



sum of Three Hundred Forty-One Thousand Dollars (\$341,000.00), whichever is greater. The parties agree that specific consideration has been given by the ENGINEER for this limitation and that it is deemed adequate.

**SECTION 5 – INDEMNIFICATION**

5.1 Subject to the provisions of Sections 4 of this Agreement, ENGINEER agrees to indemnify OWNER for damages, costs and expenses (including reasonable attorney’s fees) but only to the extent caused by the negligent acts, errors or omissions of ENGINEER, its officers, directors, shareholders, employees, agents, and consultants, and any of them. Nothing in this Agreement shall require ENGINEER to provide a defense of the OWNER against any claim, suit or complaint.

5.2 OWNER agrees to indemnify ENGINEER for damages, costs and expenses (including reasonable attorney’s fees) but only to the extent caused by the negligent acts, errors or omissions of OWNER, its officers, directors, shareholders, Contractors, employees, agents, and consultants, and any of them.

**SECTION 6 – WARRANTY**

6.1 No warranty, express or implied, is included in this Agreement or regarding any drawing, specification, or other work product or instrument of service or oral or written representation by ENGINEER or its employees or consultants.

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

**ENGINEER: Burns & McDonnell Engineering Company, Inc.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTACHMENT A  
SCOPE OF SERVICES  
AUTHORIZATION NO. 2**

Design Professional: Burns and McDonnell

Owner: City of Fort Smith, Arkansas

Project: Staff Augmentation Services

The City of Fort Smith is currently in the process of transitioning long-time leadership of the Water & Wastewater Utility while at the same time, beginning implementation of a new and significant Consent Decree with the U.S. EPA. Burns & McDonnell understands and recognizes the importance of City's on-going efforts to identify and recruit candidates with appropriate experience and leadership capabilities to effectively lead the organization during this critical time in its' history. In support of the City's efforts to identify the next generation utility leadership, Burns & McDonnell offers to continue providing assistance to the Board and Administration by providing staff augmentation services for a 42 week period ending June 30, 2017 as described below.

**A. Staff Augmentation Services**

**A.1 Interim Utility Director Responsibilities**

Engineer will provide a full or part-time Interim Utility Director during the leadership transition, providing guidance and leadership with regard to operating procedures and operational needs of the Utility. Although the organization is mature and has operated successfully for many years, events are dynamic, especially as the organization goes through its Consent Decree implementation. Tasks could include daily operations support and guidance, policy and strategy reviews requested by the Board and Administration; review and support of implementation and operational activities as it relates to the Consent Decree and other capital projects/programs; review and support of operations necessary to provide adequate customer service and comply with environmental mandates; and confirmation of emergency response procedures to ensure timely response with corrective measures if needed.

Engineer would be available to support Board Meetings and Work Sessions and would report on completed activities during the reporting period and proposed activities for the next reporting period. The purpose of this reporting is to share utility activities as well as inform, educate and receive direction from the Board and Administration. Engineer would also be available to conduct the City's review of Consent Decree deliverables, such as the Utility's Overflow Response Plan, due 12 months after lodging of the agreement.

**A.2 Support management and coordination of consultant services.**

The Utility is in the midst of rapid capital investment and Consent Decree implementation. As a result there will be multiple consultants providing services to the Utility. It is essential that staff manage the direction and completion of these contracts, and, more importantly, maximize the benefits of these projects while minimizing the cost to the community. Upon

request, for new contracts Burns & McDonnell will support staff in the management and selection of engineering consultants and construction contractors through the City's prescribed procurement policies. For existing contracts, Engineer will support staff in providing guidance and direction throughout project completion. Engineer will attend monthly project meetings and, as part of Engineer's report to the Board and Administration, provide an executive level summary defining capital program activities for each reporting period.

**A.3 Support staff assignments and activities.**

Engineer will support daily operation of the Utility by managing or supporting senior Utility staff on operational activities. This will include conducting weekly staff meetings with the supervisory staff and notification of the Board and Administration regarding operational issues that have major utility impact. Additional support may be provided to the Utility through guidance, mentoring, evaluation of staff capabilities and development needs, and conducting training activities.

**A.4 Coordinate with various Federal and State agencies as required.**

The utility has a number of coordination and communications requirements required by State and Federal agencies. Some of the communications are regular and routine while others are occasional or as dictated by an event. Engineer will support the Utility by preparing reporting schedules, monitoring reporting activities, providing review and guidance on reporting documents, and meeting with regulatory officials. Upon request, additional assistance will be provided by supporting the Utility when emergency notifications are required to be sent to the State regarding utility issues.

**A.5 Maintain contact with the public regarding customer service matters.**

It is essential that a utility develop and maintain good relations with its customers. Often as rates increase to support Consent Decree implementation, the Utility's communications need to both improve and increase in frequency to meet increased customer expectations. Upon request, Engineer will provide support in managing customer issues as well as developing proactive communications strategies to build customer confidence and awareness. Reporting will document the status, number and nature of complaints, as well as proposed solutions; documentation and recommendations to improve the customer service process; and proposed communications strategies to improve customer satisfaction.

**A.6 Represent the Utility before the Board of Directors.**

The Board sets policy and overall direction of the Utility. As a result, Utility staff must be prepared to provide information, answer questions, make presentations, and attend meetings to give recommendations to the Board on operational issues, performance and future Utility needs. Burns & McDonnell will support this process by developing a planning schedule and list of issues to be brought to the Board for consideration. This schedule will provide for better understanding of utility needs and adequate time for the Board to adjust policy accordingly. Upon request, Engineer will attend Board meetings and work sessions and support the Utility to address Board questions and responses related to contractual and ordinance related items.

**A.7 Provide additional supervisory support as needed.**

As noted above, utilities function through lines of authority. The four deputy director positions in Fort Smith are responsible for the day-to-day operations of the utility with an Interim Director providing oversight and guidance of utility operations. In support of this role, Engineer will conduct weekly meetings with staff to become aware of issues and support appropriate action to provide service to the community. The Engineer's staff will support, mentor and guide the deputy directors as needed or directed by the Board and Administration. Engineer will also be available to assist the Administration in recruiting a permanent director and could help facilitate the integration of the permanent director into the Utility to expedite the transition process.

(End of Attachment A)

Task #	Description	Interim Utility Director	Utility Administration	Utility Operations	Utility Rate Specialist	Regulatory Specialist	Customer Service & Strategic Communications	Total Hours	Total Labor Billings	Direct Expense Tech Charge	Direct Expense Travel	Subcontract Expenses	Total Expenses	Total Fee
<b>Staff Augmentation Services</b>		(Hrs)	(Hrs)	(Hrs)	(Hrs)	(Hrs)	(Hrs)							
1	Interim Utility Director Responsibilities	40	16	16	0		0	72	\$16,072	\$396	\$45,135		\$45,531	\$61,603
2	Support Management & Coordination of Consultant Services	152	0	32	26		0	210	\$47,540	\$1,155	\$0		\$1,155	\$48,695
3	Support Staff Assignments & Operational Activities	256	60	60	0		5	381	\$85,207	\$2,096	\$0		\$2,096	\$87,303
4	Coordinate with Federal & State Agencies	24	8	8	0	40	0	80	\$17,344	\$440	\$0		\$440	\$17,784
5	Support Managing Customer Service Matters	32	0	0	0		80	112	\$21,264	\$616	\$0		\$616	\$21,880
6	Present Utility Needs to Board of Directors	102	52	52	24		0	230	\$51,206	\$1,265	\$0		\$1,265	\$52,471
7	Provide Supervisory Support for Utility Operations	128	48	48	0		0	224	\$50,032	\$1,232	\$0		\$1,232	\$51,264
<b>Authorization No. 2 Total</b>		<b>734</b>	<b>184</b>	<b>216</b>	<b>50</b>	<b>40</b>	<b>85</b>	<b>1309</b>	<b>\$288,665</b>	<b>\$7,200</b>	<b>\$45,135</b>	<b>\$0</b>	<b>\$52,335</b>	<b>\$341,000</b>

## Attachment B

### Schedule of Hourly Professional Service Billing Rates

<u>Position Classification</u>	<u>Classification Level</u>	<u>Hourly Billing Rate</u>
General Office*	5	\$61.00
Technician*	6	\$74.00
Assistant*	7	\$84.00
	8	\$116.00
	9	\$135.00
Staff*	10	\$151.00
	11	\$164.00
Senior	12	\$182.00
	13	\$201.00
Associate	14	\$210.00
	15	\$222.00
	16	\$227.00
	17	\$231.00

**NOTES:**

1. Position classifications listed above refer to the firm's internal classification system for employee compensation. For example, "Associate", "Senior", etc., refer to such positions as "Associate Engineer", "Senior Architect", etc.
2. For any nonexempt personnel in positions marked with an asterisk (\*), overtime will be billed at 1.5 times the hourly labor billing rates shown.
3. Project time spent by corporate officers will be billed at Level 17 rate plus 25%.
4. For outside expenses incurred by Burns & McDonnell, such as authorized travel and subsistence, and for services rendered by others such as subcontractors, the client shall pay the cost to Burns & McDonnell plus 7%.
5. A technology charge of \$9.95 per labor hour will be billed for normal computer usage, computer aided drafting (CAD), long distance telephone, fax, photocopy and mail services. Specialty items (such as web and video conferencing) are not included in the technology charge.
6. Monthly invoices will be submitted for payment covering services and expenses during the preceding month. Invoices are due upon receipt. A late payment charge of 1.5% per month will be added to all amounts not paid within 30 days of the invoice date.
7. The services of contract/agency personnel shall be billed to Owner according to the rate sheet as if such contract/agency personnel is a direct employee of Burns & McDonnell.
8. The rates shown above are effective for services through December 31, 2016, and are subject to revision thereafter.

FTSMITH916.DOC



October 24, 2016

TO: Members of the Board of Directors  
Members of the Animal Services Advisory Board

RE: Appointment:

Mr. Ken O'Donnell has resigned his position effective Thursday, September 29th, 2016 and Ms. Tonya Rogers has resigned her position effective Tuesday, October 11<sup>th</sup>, 2016 on the Animal Services Advisory Board. 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 November 9<sup>th</sup>, 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](http://www.fortsmithar.gov) and click on boards and commissions.

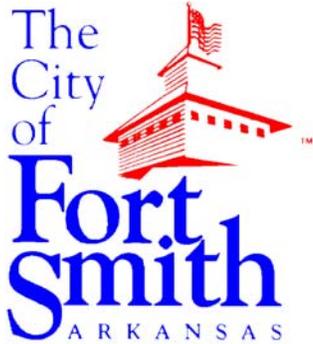
Sincerely,

A handwritten signature in blue ink that reads "Carl E. Geffken". The signature is written in a cursive style with a large, stylized "G" at the end.

Carl Geffken  
City Administrator

623 Garrison Avenue  
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Mayor – Sandy Sanders

City Administrator – Carl Geffken

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**

**November 1, 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**

Moment of Silence in honor of former city administrator Ray Gosack

## **ROLL CALL**

- All present
- 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 OCTOBER 18, 2016 REGULAR MEETING**

**APPROVED** as written

## **ITEMS OF BUSINESS:**

1. Presentation of proposed 2017 Budget  
**Presentation only.**
2. Public hearing and ordinance to close, vacate and abandon a portion of Street right-of-way located in Sulphur Spring Town, an addition to the City of Fort Smith, Arkansas *(South 12<sup>th</sup> Street ~ applicant: Evangel Temple)*  
**APPROVED** 6 in favor, 0 opposed, 1 abstention (Hutchings) / Ordinance No. 71-16

3. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*illumination of business signs*)  
**APPROVED** 6 in favor, 0 opposed, 1 abstention (Catsavis) as amended to correct typographical error in 27-704-9(a) from “billboard” to “sign” / Ordinance No. 72-16
4. Ordinance amending Appendix A, Section XVI of the Fort Smith Municipal Code regarding the City of Fort Smith Education Reimbursement Policy ~ *Pennartz/Lorenz placed on agenda at the September 27, 2016 study session / Tabled to the November 1, 2016 regular meeting at the October 4, 2016 regular meeting ~*  
**TABLED** to the November 15, 2016 regular meeting 7 in favor, 0 opposed
5. Resolution repealing Resolution No. R-43-16; authorizing the offering of Water and Sewer Revenue Bonds to refund all or a portion of the City’s outstanding Water and Sewer Revenue Bonds, Series 2007 and Water and Sewer Refunding and Construction Revenue Bonds, Series 2008; and prescribing other matters relating thereto  
**APPROVED** 4 in favor (Good, Lorenz, Pennartz & Settle), 3 opposed (Lau, Catsavis & Hutchings) / Resolution No. R-160-16
6. Consent Agenda
  - A. Ordinance amending the 2016 Budget (*Sanitation Department*)  
**APPROVED** 6 in favor, 1 opposed (Settle) / Ordinance No. 73-16
  - B. Resolution authorizing a contract for third party administrator services for city’s employee health coverage  
**APPROVED** 5 in favor, 2 opposed (Pennartz & Settle) / Resolution No. R-161-16
  - C. Resolution approving specific excess insurance and aggregate excess insurance for the City’s employee health coverage  
**APPROVED** 5 in favor, 2 opposed (Pennartz & Settle) / Resolution No. R-162-16
  - D. Resolution approving claim service, specific excess insurance and aggregate excess insurance for the City’s worker’s compensation coverage  
**APPROVED** 5 in favor, 2 opposed (Pennartz & Settle) / Resolution No. R-163-16
  - E. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Kraus Construction Company, LLC for the Contract Water Users’ Water Line Relocation (\$198,326.00 / *Utility Department / Budgeted – 2014 Sales and Use Tax Bond*) ♦  
**APPROVED** 4 in favor, 3 opposed (Catsavis, Pennartz & Settle) / Resolution No. R-164-16

- F. Resolution authorizing the Mayor to execute Authorization No. 2 to the agreement with Burns & McDonnell for staff augmentation services for the Utility Department as authorized by Resolution R-63-16 adopted on May 17, 2016 (\$341,000.00 / Utility Department / Budgeted Water and Sewer Operating Funds)

**APPROVED** 5 in favor, 2 opposed (Pennartz & Settle) / Resolution No. R-165-16

**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**

7:21 p.m.

**MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING**

**TUESDAY ~ NOVEMBER 1, 2016 ~ 6:00 P.M.**

**FORT SMITH PUBLIC SCHOOLS SERVICE CENTER**

The meeting was called to order by Mayor Sandy Sanders, presiding. In lieu of an invocation, a moment of silence was held in honor of former city administrator Ray Gosack, who recently passed away. Such was followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Keith Lau, Andre' Good, Mike Lorenz, George Catsavis, Tracy Pennartz, Kevin Settle and Don Hutchings. 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 October 18, 2016 regular meeting was presented for approval. Pennartz, seconded by Lorenz, moved approval of the minutes as written. The members 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 presentation of proposed 2017 Budget.

Director of Finance Jennifer Walker advised the copies of the proposed budget had been provided to the Mayor and Board prior to the meeting. The budget review sessions are scheduled for 6:00 p.m., November 14 and 17, Bartlett Community Room, Fort Smith Police Department.

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Mayor Sanders announced that this was the time and place set for a public hearing to close, vacate and abandon a portion of South 12<sup>th</sup> Street, located in Sulphur Spring Town Addition. Notice of the public hearing had been duly published as required by law. Following the public hearing, consideration of an ordinance authorizing same would be given (Item No. 2).

Director of Development Services Wally Bailey briefed the Board on the item advising such is per the application of Shannon Reith of Studio 6 Architects, agent for Evangel Temple. The purpose of the proposed abandonment is to facilitate construction of a new parking lot associated with the church's proposed new worship center, which will be located at the southeast corner of the intersection of Towson Avenue and Dodson Avenue. All franchise utilities and appropriate City departments have been notified of the proposed closure, along with property owners within three-hundred (300) feet of the subject location. No objections to the proposed closure have been conveyed. In keeping with the Board's policy, all applicants requesting right-of-way abandonments are required to execute a memorandum of understanding (MOU), which has already been executed by the applicant. The MOU stipulates the applicant or their assigns will not make any claims for compensation in the event the City exercises the power of eminent domain to reclaim the abandoned right-of-way.

There being no individual present to address the Board, Mayor Sanders closed the public hearing.

Settle, seconded by Good, 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

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for the readings to occur on the same date. The City Clerk read the ordinance for its readings.

Prior to the vote, Director Pennartz requested a brief clarification of the actual closure location whereby Mr. Bailey provided such.

The motion remaining on the floor and the members all voting affirmatively, with the exception of Director Hutchings who abstained, the Mayor declared the motion carried. Good, seconded by Pennartz, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, with the exception of Director Hutchings who abstained, the Mayor declared the motion carried and the ordinance and the emergency clause were adopted and given Ordinance No. 71-16.

Item No. 3 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*illumination of business signs*).

Mr. Bailey briefed the Board on the item advising the Planning Department staff received a number of citizen concerns about the brightness level of some electronic message center (EMC) signs. The City of Fort Smith Unified Development Ordinance (UDO) regulates the brightness levels for outdoor advertising signs (billboards), but not for signs located at a business. The proposed amendments address the matter and requires that EMC signs shall not operate at brightness levels of more than 0.3 foot candles of ambient light, each display on a digital face must have a light sensing device, etc. Similar language is used by the Arkansas Highway and Transportation Department (AHTD) to govern brightness levels of billboards along interstates and State highways. Staff reviewed information from the International Sign Association (ISA), regulations from other

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municipalities and also requested input from sign contractors. In addition, staff looked at developing criteria for retrofitting existing signs that would be nonconforming as a result of the proposed new regulation. The proposed amendments also include situations and criteria that will require an existing sign to be brought into compliance with the new brightness level requirement. Upon approval, signs will be required to be brought into compliance only if any one (1) of the situations described in the following proposed Section 27-704-9(c) occur:

1. More than fifty-percent (50%) of the sign is destroyed and the destruction is other than the facial copy replacement. A nonconforming sign shall be deemed to be more than 50% destroyed if the estimated cost of reconstruction or repair exceeds 50% of the replacement as determined by the Director.
2. The sign is remodeled or altered in a manner not in compliance with these regulations.
3. Replacement of the sign or sign electronics.
4. A structural change is made to the sign or sign structure and/or support elements.
5. The sign is moved or relocated, except where the sign is relocated as a result of a street or utility improvement project.
6. The sign becomes a danger to the public or is unsafe.
7. The sign constitutes a traffic hazard not created by the relocation or widening of streets.

The Planning Commission reviewed the proposed amendments at their September and October meetings and voted eight (8) in favor and zero (0) opposed to recommend such to the Board of Directors for consideration.

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Unfortunately, a typographical error was discovered within the proposed amendments, specifically Section 27-704-9(a) whereby "...digital billboard..." should've been "...digital sign..." Due to such, Mr. Bailey requested a motion to amend the aforementioned section to ensure the verbiage is corrected.

Lau, 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.

Prior to the vote, Director Settle spoke in favor of requiring existing signs to comply with the proposed regulation, provided such is not an excessive/undue burden to the business owner.

Mr. Bailey advised staff considered such; however, after consultation with the city attorney, it was determined that such could potentially create a legal issue if business owners are required to retrofit existing signs.

Director Hutchings expressed much appreciation to City staff for their efforts to address concerns of the residents and requested a brief explanation of "legal non-conforming."

Mr. Bailey simply advised that legal non-conforming is a phrase best described as "*being grandfathered in.*" In this instance, if a business owner is currently in compliance with the City's regulation regarding illumination of signs, they would not be required to comply with a newly adopted regulation. He reiterated that compliance with the new regulation would only be required if any one (1) of the situations described in the proposed Section 27-704-9(c) exists.

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Upon adoption and if a business sign is determined to not meet the new standard with regard to the brightness level of their sign, Director Pennartz conveyed much confidence and faith that any Fort Smith business owner will voluntarily address the matter.

Hutchings, seconded by Pennartz, moved to amend the item to correct the aforementioned typographical error in Section 27-704-9(a), i.e. from "...*digital billboard*..." to "...*digital sign*..." The members all voting affirmatively, the Mayor declared the motion carried and the aforementioned section stood amended.

Hutchings, seconded by Settle, moved adoption of the ordinance as amended. The members all voting affirmatively, with the exception of Director Catsavis who abstained, the Mayor declared the motion carried. Pennartz, seconded by Settle, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, with the exception of Director Catsavis who abstained, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given Ordinance No. 72-16.

Item No. 4 was an ordinance amending Appendix A, Section XVI of the Fort Smith Municipal Code regarding the City of Fort Smith Education Reimbursement Policy ~ *Pennartz/Lorenz placed on agenda at the September 27, 2016 study session / Tabled to the November 1, 2016 regular meeting at the October 4, 2016 regular meeting ~*

Mayor Sanders advised staff recommends the matter be tabled to the November 15, 2016 regular meeting; therefore, opened the floor for a motion authorizing same.

Hutchings, seconded by Pennartz, moved to table consideration of the item to the November 15, 2016 regular meeting. The members all voting affirmatively, the Mayor declared the motion carried.

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Item No. 5 was a resolution repealing Resolution No. R-43-16; authorizing the offering of Water and Sewer Revenue Bonds to refund all or a portion of the City's outstanding Water and Sewer Revenue Bonds, Series 2007 and Water and Sewer Refunding and Construction Revenue Bonds, Series 2008; and prescribing other matters relating thereto.

City Administrator Carl Geffken briefed the Board on the item advising the proposed resolution repeals Resolution No. R-43-16, authorizes the advance refunding of outstanding Water and Sewer Revenue Bonds, Series 2007; and a partial advance refunding of outstanding Water and Sewer Refunding and Construction Revenue Bonds, Series 2008. Preliminary numbers indicate a bond issue in the par amount of \$56.675 million. The Series 2008 bonds (current outstanding balance of about \$110 million) originally provided for both refunding of previous debt and funds for new projects. The proposed action only refunds a portion of the Series 2008 bonds (approximately \$41.06 million of the outstanding approximately \$110 million), because only the portion of the Series 2008 bonds that were issued for new projects at the time, are eligible for advance refunding on a tax-exempt basis. The current market conditions and available interest rates will allow refunding the \$86.85 million in outstanding debt service (total, including all principal & interest payments) with new debt service in the amount of approximately \$80.29 million. After negative arbitrage considerations, the net present value benefit of this refunding is approximately \$5.46 million over the term of the issue. The repeal of the previous authorizing resolution and the adoption of the current proposed is due to the reallocation of the underwriting percentages. The proposed resolution authorizes Stephens, Inc. and Raymond James & Associates to each underwrite

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fifty-percent (50%) of the bonds, with Stephens, Inc. serving as manager. As this is a refunding of existing debt at a better interest rate and keeping the original timeline, this action will reduce the City's debt service obligations and have a positive impact to the City's overall financial position. City officials will continue to work with the bond counsel and underwriters to prepare the Preliminary Official Statement.

The following individual was present to address the Board:

- Philip Merry  
Fort Smith, Arkansas

Re: Recommended the Board retain the appropriation between Stephens, Inc. and Raymond James & Associates at the current 80/20 split rather than the proposed change to 50/50. He encouraged the Board to consider the long-standing partnership between Stephens, Inc. and the city of Fort Smith citing "*performance is key.*" Stephens, Inc. has made numerous commitments to the community by donating to multiple non-profit organizations and have also been responsible for bringing many jobs to Fort Smith; therefore, he recommended the Board consider the aforementioned and urged the Board to defeat the proposed resolution.

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

Prior to the vote, Director Good conveyed he's not "*totally opposed*" to the proposed reallocation of the current 80/20 to 50/50 for underwriting services. If the City Administrator feels such is in the best interest of the city, the Board should follow his lead; however, he noted that such should be based on a financial savings to the City, not "*just because.*"

Director Lorenz reiterated the comments of Director Good reminding all that refinancing the bonds, as well as the proposed reallocation between Stephens, Inc. and

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Raymond James & Associates, will result in a significant savings to the City of Fort Smith. He further expressed much appreciation to Stephens, Inc. for all they've done for the city of Fort Smith; however, if a change in the allocation will ensure a greater financial savings, he conveyed no objection to the proposed reallocation.

Director Hutchings conveyed much appreciation to Raymond James & Associates for their past, present and future service to the city of Fort Smith; however, he expressed great concern that the proposed reallocation implies that Stephens, Inc. has either done something wrong or under-performed for the City of Fort Smith. Although no objection was conveyed regarding the refinancing of existing bonds, he spoke in opposition to the proposed reallocation for underwriting services provided by Stephens, Inc. and Raymond James & Associates, and questioned why the matter is continually being presented to the Board for consideration.

Director Lau requested a brief explanation of a past incident whereby Raymond James & Associates was unable to adequately fulfil their underwriting responsibilities regarding previous City's bonds.

Mr. Ron Pyle with Raymond James & Associates provided a brief explanation of the matter, which occurred in 2011. He conveyed much assurance that Raymond James & Associates will perform well for the City of Fort Smith and spoke in favor of the proposed item.

Mr. Dennis Hunt with Stephens, Inc. also addressed the Board and provided a brief summary of their underwriting responsibilities with regard to the City's bonds. Stephens, Inc. contacted the City of Fort Smith in 2015 and advised of a potential savings if the City

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refinanced its existing bonds; however, it was further recommended that such not be initiated at that particular time due to the current interest rates. In early 2016, it was determined the time was appropriate to move forward with the matter; therefore, in April 2016, the Board approved Resolution No. R-43-16, which contained the existing 80/20 split between Stephens, Inc. and Raymond James & Associates. Stephens, Inc. considered such as a commitment by the City and initiated the required actions based on said commitment citing a lot of work has already been completed to date.

Due to the aforementioned allegation of wrong doing or under-performance by Stephens, Inc., Mr. Hunt conveyed assurance Stephens, Inc. does not feel the proposed reallocation is due to such. In July 2016, he was made aware that soon after Mr. Geffken assumed his duties as city administrator (May 2016), Mr. Pyle contacted Mr. Geffken and requested they meet to discuss the now proposed reallocation. Courteous discontent was conveyed regarding the matter citing the aforementioned commitment made by the City; however, *"the game has now changed."*

Regarding the total savings associated solely on the proposed reallocation, Mr. Hunt further noted the savings to the City of Fort Smith is anticipated to be approximately \$100,000.

If the proposed reallocation will result in a financial savings for the City of Fort Smith, Director Pennartz conveyed no objection to such and conveyed her intent to vote in favor of the item.

Administrator Geffken conveyed much assurance the proposed reallocation is not presented for consideration due to any wrong doing or under-performance by Stephens,

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Inc. In fact, he expressed great confidence that both firms will perform at their best to ensure the City's bonds are adequately marketed and overseen with the utmost professionalism and expertise; however, he feels the existing allocation of 80/20 does not provide "enough motivation" to ensure the best performance for the City of Fort Smith citing the proposed 50/50 split will ensure both firms are "equally motivated." The City of Fort Smith does not currently have a financial advisor on staff; however, he anticipates the employ of such in the near future. When such is accomplished, the City's financial advisor will oversee such matters; therefore, this should be the last time the Board will be required to determine the subject allocations.

The motion remaining on the floor, the members voted as follows: ayes - Good, Lorenz, Pennartz and Settle; nays - Lau, Catsavis and Hutchings. The Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-160-16.

The consent agenda (Item No. 6) consisting of the following items was presented for consideration:

- A. Ordinance amending the 2016 Budget (*Sanitation Department*)
- B. Resolution authorizing a contract for third party administrator services for city's employee health coverage
- C. Resolution approving specific excess insurance and aggregate excess insurance for the City's employee health coverage
- D. Resolution approving claim service, specific excess insurance and aggregate excess insurance for the City's worker's compensation coverage
- E. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Kraus Construction Company, LLC for the Contract Water Users' Water Line Relocation (\$198,326.00 / Utility Department / Budgeted - 2014 Sales and Use Tax Bond) ♦ *Future Fort Smith*

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- F. Resolution authorizing the Mayor to execute Authorization No. 2 to the agreement with Burns & McDonnell for staff augmentation services for the Utility Department as authorized by Resolution R-63-16 adopted on May 17, 2016 (\$341,000.00 / Utility Department / Budgeted Water and Sewer Operating Funds)

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

Prior to the vote and regarding Item No. 6E, Director Settle inquired who the line is supplying water to and expressed great concern with the City of Fort Smith paying for the project to supply a contract water user, specifically with 2014 Sales Tax Bonds.

Director Pennartz questioned if the City of Fort Smith owns the subject transmission line and who is responsible for the maintenance of such.

Interim Director of Utilities Bob Roddy advised the transmission line provides water to contract users of Winslow, Chester and Lake Fort Smith State Park. With regard to ownership, the City of Fort Smith owns the transmission line and such has been in place for decades. Much understanding was conveyed regarding utilization of City funds to address the subject line; however and regardless, the Utility Department is trying to make sure there is no disruption in water service to its contract users.

Since the transmission line services water contract users, Director Lau inquired if the amount included within a water contract includes enough to address repairs and further questioned if providing the transmission line to water users is a "bad investment" for the City of Fort Smith.

Mr. Roddy advised he's confident the rate associated with water contract users most likely includes an amount to address maintenance of the transmission line. He further

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confirmed and conveyed his opinion that providing and maintaining a transmission line for contract users is a bad investment.

City Attorney Jerry Canfield advised use of the transmission line is limited to only those who maintain a water contract with the City of Fort Smith. The policy regarding water contract users was developed many years ago in an attempt to be neighborly and assist/provide nearby municipalities with water. Regardless, general issues regarding contract users is under the purview of and controlled by the City of Fort Smith.

With regard to Item No. 6F, Director Pennartz expressed concern that a Director of Utilities has not yet been employed. The proposed agreement extends through June 2017; therefore, she questioned if concern exists that the position may not be filled by June.

Administrator Geffken advised eleven (11) applicants have been received for the subject position thus far and conveyed much confidence the position will be filled prior to June 2017. Even upon selection of the most qualified individual, a learning curve is to be anticipated; therefore and due to Burns and McDonnell's expertise regarding the Consent Decree, the Department of Justice (DOJ), and Environmental Protection Agency (EPA), he urged the importance of retaining the services of Burns and McDonnell, at least temporarily until the new Director of Utilities is up-to-speed. Assurance was conveyed that he will move with due diligence to appoint a new Director of Utilities to ensure the proposed agreement can be concluded prior to June 2017.

The motion to adopt the consent agenda remaining on the floor, the members voted as follows:

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### Item No. 6A

All voted affirmatively, with the exception of Director Settle who voted "no."

### Items No. 6B, 6C, 6D, 6F

All voted affirmatively, with the exception of Directors Pennartz and Settle who voted "no."

### Item No. 6E

All voted affirmatively, with the exception of Directors Catsavis, Pennartz and Settle who voted "no."

The Mayor declared the motion carried and the ordinance and resolutions were adopted with the ordinance given Ordinance No. 73-16 and the resolutions numbered R-161-16 through R-165-16 respectively.

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

- Mayor Sanders

Re: Advised of an upcoming Planning Commission meeting scheduled for 6:00 p.m., Thursday, November 10, 2016 at the Fort Smith Convention Center.

- Director Hutchings

Re: Extended much appreciation for the moment of silence held in honor of former city administrator Ray Gosack at the beginning of the meeting. He further conveyed much gratitude for the outpouring of support by the entire community regarding Mr. Gosack's passing.

- Director Good

Re: Regarding Item No. 1, i.e. presentation of the proposed 2017 Budget, he requested confirmation that such "*...is a living, breathing document that can be changed*" if necessary.

Administrator Geffken responded affirmatively citing the Board may offer additions, deletions or amendments to the document and staff will accommodate their request.

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- Administrator Geffken

Re: Announced several applicants for the position of Director of Utilities have been received in the second round of considerations and interviews will be scheduled in the near future.

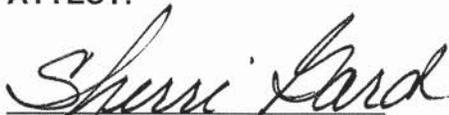
Mayor Sanders noted the monthly Town Hall meeting will be held immediately following adjournment and encouraged those wishing to address the Board to sign up at the City Clerk's desk.

There being no further business to come before the Board, Pennartz 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 7:21 p.m.

**APPROVED:**

  
MAYOR

**ATTEST:**

  
CITY CLERK