

RESOLUTION NO. R-29-16

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LETTER OF TERMINATION REGARDING THE LOCAL INCENTIVES DEFINITIVE AGREEMENT AUTHORIZED BY RESOLUTION NO. R-108-10; AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY FROM THE CITY TO FACILITATE THE CONVEYANCE OF PROPERTY AT 8201 CHAD COLLEY BOULEVARD

WHEREAS, the City of Fort Smith, Arkansas is party to a Local Incentives Definitive Agreement (the "Agreement"), as authorized by Resolution No. R-108-10 on June 15, 2010; and

WHEREAS, such Agreement enumerated specific obligations on behalf of the parties to the Agreement, which include the City of Fort Smith, the Fort Chaffee Redevelopment Authority, Sebastian County, the Fort Smith Regional Chamber of Commerce, and Mitsubishi Power Systems Americas, Inc. ("MHPSA"), related to an economic development project at 8201 Chad Colley Boulevard in Fort Smith, Arkansas, a property more particularly described on Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, the City of Fort Smith, as per its obligations under the Agreement, participated as Issuer in Act 9 Financing resulting in the issuance of Industrial Development Revenue Bonds (the "Bonds") to facilitate the economic development project, and

WHEREAS, as per the process of the Act 9 Financing, the City took legal ownership of the property until such time as the Bonds are satisfied per the terms of the associated Lease Agreement and PILOT Agreement; and

WHEREAS, the terms of the Lease Agreement and PILOT Agreement related to the Act 9 Financing were satisfied with Mitsubishi Power Systems Americas, Inc. payment of the Bonds on February 29, 2016; and

WHEREAS, although the project never fully developed as intended by the parties, all parties to the Agreement have cooperated to recruit a new project to the facility that will make use of the constructed facility, will create new jobs in Fort Smith, and will have a positive impact on the economies of Fort Smith, Sebastian County, and the State of Arkansas.

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

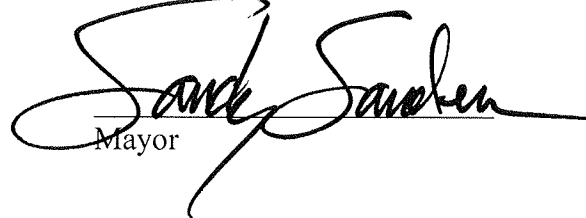
Section 1. Upon verification of successful conveyance of the property located at 8201 Chad Colley Boulevard to a third party purchaser, the Mayor is hereby authorized to execute the Termination Letter, attached hereto and incorporated by reference, agreeing to the termination of the Local Incentives Definitive Agreement authorized by Resolution No. R-108-10 on June 15, 2010 and the termination of the PILOT Agreement entered into for purposes of Act 9 Financing; and

Section 2. The Mayor is hereby authorized to execute any documents as may be required of the city in order to facilitate the conveyance of property at 8201 Chad Colley Boulevard in Fort Smith, more particularly described on Exhibit "A" attached hereto and incorporated herein; and

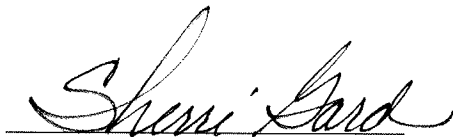
Section 3. This Resolution shall be effective immediately upon its passage.

ADOPTED by the Board of Directors of the City of Fort Smith on this 1<sup>st</sup> day of March, 2016.

APPROVED:

  
Mayor

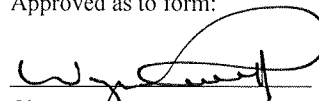
ATTEST:

  
City Clerk

(SEAL)



Approved as to form:

  
City Attorney

No publication required

**EXHIBIT "A"**

**Lot 1, Mitsubishi Addition to the City of Fort Smith, Sebastian County, Arkansas according to plat filed February 11, 2011, being more particularly described as follows: Part of the Southeast Quarter of the Northwest Quarter, part of the Southwest Quarter of the Northeast Quarter, part of the Northwest Quarter of the Southeast Quarter, part of the Northeast Quarter of the Southwest Quarter, part of the Northwest Quarter of the Southwest Quarter and part of the Southwest Quarter of the Northwest Quarter, all in Section 8, Township 7 North, Range 31 West, Fort Smith District of Sebastian County, Arkansas, being more particularly described as follows: Commencing at the Northwest Corner of said Southeast Quarter of the Northwest Quarter; thence South 86 degrees 47 minutes 18 seconds East, 213.99 feet along the North line of said Southeast Quarter of the Northwest Quarter; thence South 03 degrees 12 minutes 42 seconds West, 72.92 feet to the point of beginning. Thence South 86 degrees 49 minutes 41 seconds East, 308.90 feet to the Southwest Corner of Lot 1, Mars Petcare at Chaffee Crossing; thence continuing South 86 degrees 49 minutes 41 seconds East, 1230.08 feet along the South line of said Lot 1 to the Southeast Corner of said Lot 1; thence continuing South 86 degrees 49 minutes 41 seconds East, 97.22 feet; thence South 02 degrees 36 minutes 14 seconds West, 188.11 feet; thence South 40 degrees 11 minutes 50 seconds West, 1463.50 feet; thence South 49 degrees 48 minutes 10 seconds East, 814.44 feet to a point on the Westerly right of way of the relocated Highway 71; thence South 44 degrees 33 minutes 17 seconds West, 337.13 feet along said Westerly right of way; thence South 39 degrees 07 minutes 26 seconds West, 533.84 feet along said right of way; thence South 88 degrees 06 minutes 21 seconds West, 185.43 feet along said right of way; thence North 74 degrees 47 minutes 45 seconds West, 455.62 feet along said right of way; thence South 30 degrees 50 minutes 16 seconds West, 43.78 feet along said right of way to a point on the Northerly right of way of Custer Boulevard; thence 315.17 feet along the arc of a curve to the right in said Northerly right of way, said curve having a radius of 1410.00 feet and being subtended by a chord having a bearing of North 52 degrees 39 minutes 49 seconds West and a distance of 314.52 feet; thence North 46 degrees 15 minutes 36 seconds West, 779.44 feet along said right of way; thence 206.94 feet along the arc of a curve to the left in said right of way, said curve having a radius of 1740.00 feet and being subtended by a chord having a bearing of North 49 degrees 40 minutes 02 seconds West and a distance of 206.81 feet; thence 73.22 feet along the arc of a curve to the right in said right of way, said curve having a radius of 50.00 feet and being subtended by a chord having a bearing of North 11 degrees 07 minutes 29 seconds West and a distance of 66.85 feet to a point on the Easterly right of way of Chad Colley Boulevard; thence North 30 degrees 49 minutes 29 seconds East, 1365.98 feet along said Easterly right of way; thence 345.80 feet along the arc of a curve to the left in said right of way, said curve having a radius of 3080.00 feet and being subtended by a chord having a bearing of North 27 degrees 36 minutes 30 seconds East and a distance of 345.62 feet; thence North 24 degrees 23 minutes 31 seconds East, 101.23 feet along said right of way to the point of beginning according to survey by Global Surveying Consultants, Inc. dated February 25, 2016**