



April 2, 2014

The Honorable Tab Townsell, Mayor  
and Members of the City Council  
City of Conway, Arkansas  
1201 Oak Street  
Conway, AR 72032

Dear Ladies and Gentlemen:

The Board of Directors of the Conway Corporation, in conformance with Resolution 88-11, published a legal notice in the Log Cabin Democrat on February 7, 2014, advertising for nominees to the Conway Corporation Board of Directors. (A copy of that legal notice is enclosed.)

As of March 8, 2014, the expiration of the nominating period, seven nominations had been received.

The Conway Corporation Board of Directors met on April 1, 2014, and Mr. Ray Kordsmeier was elected to succeed Ms. Lori Ross, whose term expires May 8, 2014.

As mandated by the Articles of Incorporation of the Conway Corporation, it is my pleasure to submit to the Conway City Council for its ratification and approval the election of Mr. Ray Kordsmeier.

We respectfully request your favorable consideration.

Sincerely,

Richard Arnold  
Chief Executive Officer  
Conway Corporation

RA:na

Enclosure

**NOTICE**

Conway Corporation, operators of Conway's electric, water, wastewater, cable, Internet and telephone systems, publishes the following notice:

Conway Corporation is accepting nominations for a seven-year term on its board of directors. Nominations will be accepted at the office of the Chief Executive Officer of the Corporation, 1307 Prairie Street, Conway, Arkansas 72034, on or before March 8, 2014. The nomination shall be in writing and shall include the following information: (1) Name and address of person making nomination; (2) Name and address of nominee; (3) Personal background information, qualifications, and the reason(s) the nominee wishes to be considered; (4) Signatures of nominator and nominee, if different.

Information included in all applications will become public information.

Nominee must be a Conway citizen desiring to serve the community without compensation, philosophically in tune with municipal ownership of utility systems, free of conflicts of interest, and firmly established in Conway.

# PROOF OF PUBLICATION

STATE OF ARKANSAS }  
County of Faulkner } ss

I, Cynthia Crabb do hereby certify that I am the Business Manager of the **Log Cabin Democrat**, a daily newspaper published in the City of Conway, Arkansas, and having a bonafide circulation in Faulkner County, Arkansas, that said newspaper has been published at regular intervals continuously during a period of at least twelve (12) months

prior to the date of publication of the annexed Conway Corporation

and is in all respects eligible and qualified to publish legal notices under the provisions of Act 152 of the 1937 Acts of the General Assembly of the State of Arkansas as amended by Act 263 of the 1937 Acts of the General Assembly of the State of Arkansas.

I further certify that said legal advertisement, a copy of which is hereby attached, was published in said newspaper for 1 insertions on the following days, to-wit:

Feb 7, 2014  
....., 20.....  
....., 20.....  
....., 20.....



Subscribed and sworn to this 13th day of February, 2014  
Cynthia Crabb  
[Signature]  
Notary Public

My commission expires Oct 23 2012

Fees for Printing, \$ 57.15  
Cost of Proof, \$ -  
Total, \$ 57.15



**City of Conway, Arkansas**  
**Ordinance No. O-14- \_\_\_\_\_**

**AN ORDINANCE AMENDING SECTIONS 201.1 AND 201.3 OF THE CONWAY ZONING ORDINANCE TO REZONE PROPERTY LOCATED AT 3615 PRINCE STREET FROM A-1 TO MF-3:**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS THAT:**

**Section 1:** The Zoning District Boundary Map of the Conway Land Development Code be amended by changing all the **A-1** symbols and indications as shown on the Zoning District Boundary Map in an area described as follows:

Part of the NE¼ NE¼ of Section 9, Township 5 North, Range 14 West, Faulkner County, Arkansas, described as beginning at the Northeast corner of said NE¼ NE¼; thence South 0 degrees 33 minutes West along the East line of said NE¼ NE¼ 245.0 feet; thence South 89 degrees 29 minutes 25 seconds West parallel to the North line of said NE¼ NE¼ 105.0 feet to the point of beginning; thence continuing South 89 degrees 29 minutes 25 seconds West 105.0 feet; thence North 0 degrees 33 minutes 00 seconds East 197.57 feet (deeded 204.0 feet) or to the South right of way of State Highway #60; thence along said right of way in a curve to a point North 86 degrees 04 minutes 38 seconds East 105.30 feet; thence leaving said right of way South 0 degrees 33 minutes 00 seconds West 203.84 feet to the point of beginning, conveyed to DT Real Estate, LLC by deed recorded in the official records of Faulkner County, Arkansas, as Document #2012-2369, being the property located at 3615 Prince Street, Conway, Arkansas 72034.

to those of **MF-3**, and a corresponding use district is hereby established in the area above described and said property is hereby rezoned.

**Section 2:** All ordinances in conflict herewith are repealed to the extent of the conflict.

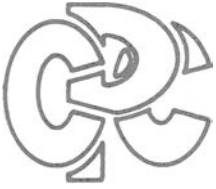
**PASSED** this 8<sup>th</sup> day of April, 2014.

**Approved:**

\_\_\_\_\_  
**Mayor Tab Townsell**

**Attest:**

\_\_\_\_\_  
**Michael O. Garrett**  
**City Clerk/Treasurer**



# CONWAY PLANNING COMMISSION

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1201 OAK STREET CONWAY, AR 72032 (501) 450-6105

March 18, 2014

Council Members  
Conway, AR 72032

Dear Council Members:

DT Real Estate, LLC request for a rezoning from A-1 to MF-3 for property that is located at 3615 Prince Street with the legal description:

Part of the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 9, Township 5 North, Range 14 West, Faulkner County, Arkansas, described as beginning at the Northeast corner of said NE $\frac{1}{4}$  NE $\frac{1}{4}$ ; thence South 0 degrees 33 minutes West along the East line of said NE $\frac{1}{4}$  NE $\frac{1}{4}$  245.0 feet; thence South 89 degrees 29 minutes 25 seconds West parallel to the North line of said NE $\frac{1}{4}$  NE $\frac{1}{4}$  105.0 feet to the point of beginning; thence continuing South 89 degrees 29 minutes 25 seconds West 105.0 feet; thence North 0 degrees 33 minutes 00 seconds East 197.57 feet (deeded 204.0 feet) or to the South right of way of State Highway #60; thence along said right of way in a curve to a point North 86 degrees 04 minutes 38 seconds East 105.30 feet; thence leaving said right of way South 0 degrees 33 minutes 00 seconds West 203.84 feet to the point of beginning, conveyed to DT Real Estate, LLC by deed recorded in the official records of Faulkner County, Arkansas, as Document #2012-2369, being the property located at 3615 Prince Street, Conway, Arkansas 72034.

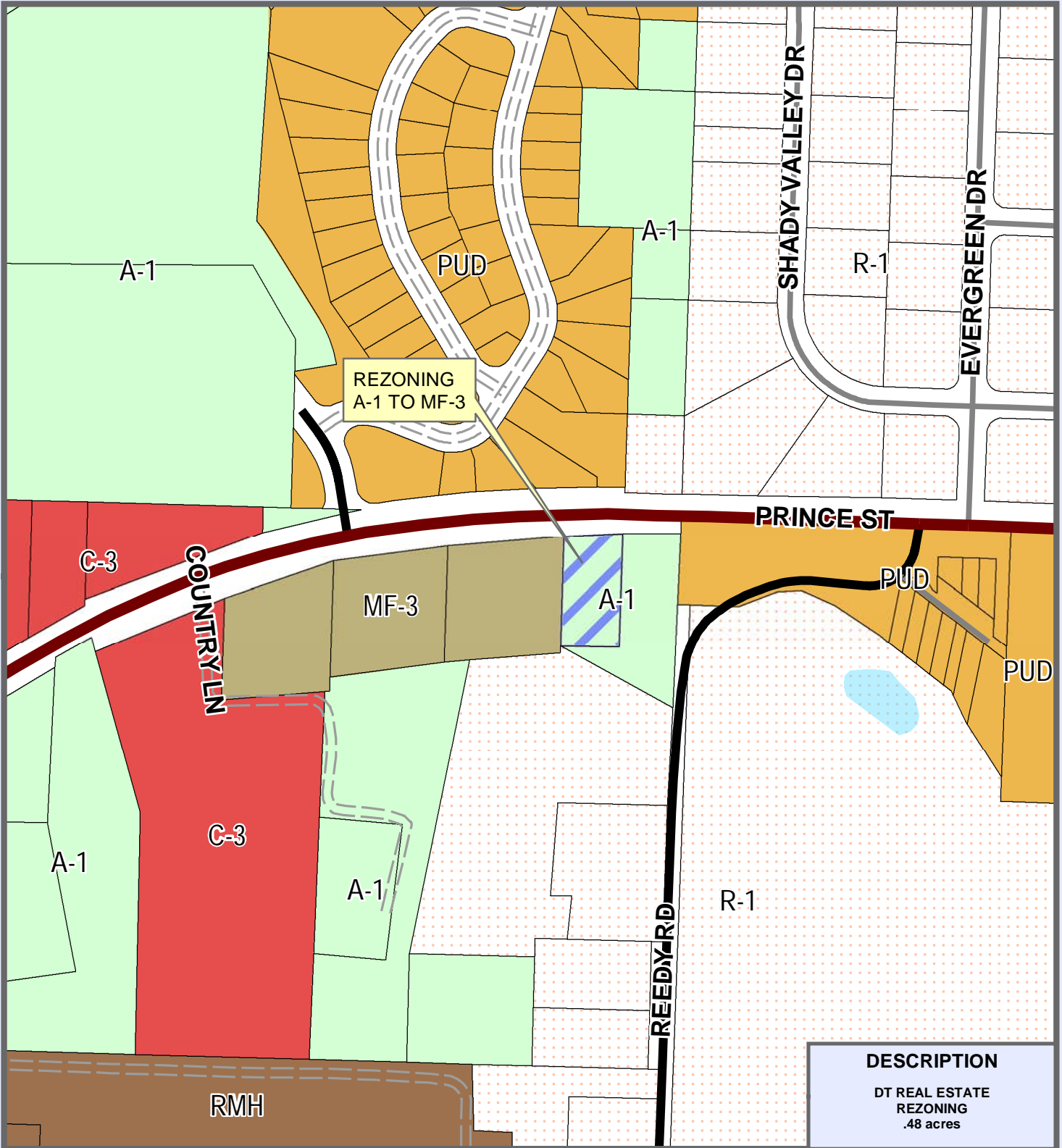
was reviewed by the Planning Commission at its regular meeting on March 17, 2014. This rezoning request failed in a 2 – 7 vote on the motion to approve the rezoning that was made by Jon Arms and seconded by Anne Tucker. Matthew Brown and Anne Tucker were the only votes for the motion. DT Real Estate has requested to appeal this denial to the City Council at its meeting on Tuesday, April 8, 2014.

Submitted by,

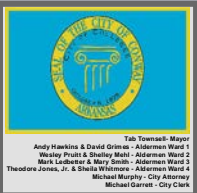
Jeff Allender, Chair  
Planning Commission

# CITY OF CONWAY

## DT REAL ESTATE LLC REZONE A-1 TO MF-3

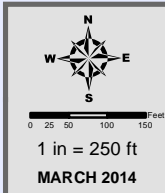


**DESCRIPTION**  
 DT REAL ESTATE  
 REZONING  
 .48 acres



INTERSTATE	LOT LINE	Residential	Industrial
MAJOR ARTERIAL	STREAMS	R-1	I-1
MINOR ARTERIAL	LAKES & PONDS	R-2A	I-2
COLLECTOR	CITY LIMITS	R-2	I-3
RESIDENTIAL		HR	RMH
PRIVATE ROAD		SR	
INTERSTATE RAMP		Commercial	Office
RAILROADS		C-1	O-1
		C-2	O-2
		C-3	O-3
		C-4	PUD
			TJ

Special
SP
S-1
A-1
PUD
TJ



THIS MAP WAS PREPARED BY THE CITY OF CONWAY PLANNING AND DEVELOPMENT DEPARTMENT FOR ITS USE AND MAY BE REVISED AT ANY TIME WITHOUT NOTIFICATION TO ANY USER. THE CITY OF CONWAY PLANNING AND DEVELOPMENT DEPARTMENT DOES NOT GUARANTEE THE CORRECTNESS OR ACCURACY OF ANY FEATURES ON THIS MAP. CITY OF CONWAY ASSUMES NO RESPONSIBILITY IN CONNECTION THEREWITH.

CONTACT INFORMATION  
 WWW.CONWAYPLANNING.ORG/GIS  
 E-MAIL: Jason.Lyon@CityOfConway.org



City of Conway  
 Street and Engineering Department  
 100 East Robins Street  
 Conway, AR 72032

B. Finley Vinson, PE, PTOE  
 Traffic Engineer  
[finley.vinson@cityofconway.org](mailto:finley.vinson@cityofconway.org)  
 501-450-6165

April 2, 2014

Mayor Tab Townsell  
 City Hall  
 1201 Oak Street  
 Conway, Arkansas 72032

Re: Traffic Signal Modifications  
 Oak Street & Harkrider Street

Dear Mayor Townsell,

Bids were received at 10:00 AM, Thursday, March 27, 2014 at Conway City Hall for the above referenced project. This project involves modification of the traffic signal at Oak Street and Harkrider Street to accommodate widening of the west side of the intersection. In addition, the project includes the replacement of the existing, old and damaged wiring, the installation of yellow flashing arrows, and the installation of a battery back-up system. Three bids were received and are listed below. Details are included on the enclosed bid tab.

All Service Electric, Inc.	\$49,987.50
DeSoto County Electric, Inc.	\$58,239.00
L.E.G. Enterprises, Inc.	\$58,267.11

I recommend award of this project to the low bidder All Service Electric, Inc. of Hot Springs, Arkansas in the amount of \$49,987.50.

Please advise if you have questions or need additional information.

Sincerely,

B. Finley Vinson, PE, PTOE

**TRAFFIC SIGNAL MODIFICATIONS FOR OAK STREET & HARKRIDER STREET  
CONWAY, ARKANSAS**

**SUMMARY OF BIDS RECEIVED MARCH 27, 2014 @ 10AM**

ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNITS	All Service Electric, Inc.		Desoto County Electric, Inc.		L.E.G. Enterprises, Inc.		Engineer's Estimate	
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
1	Removal and Disposal of Walks	15	S.Y.	\$ 60.00	\$ 900.00	\$ 30.00	\$ 450.00	\$ 30.00	\$ 450.00	\$ 30.00	\$ 450.00
2	Unclassified Excavation	1	C.Y.	\$ 240.00	\$ 240.00	\$ 258.00	\$ 516.00	\$ 1,500.00	\$ 1,500.00	\$ 100.00	\$ 100.00
3	Mobilization	1	L.S.	\$ 2,951.00	\$ 2,951.00	\$ 2,800.00	\$ 2,800.00	\$ 2,509.11	\$ 2,509.11	\$ 2,500.00	\$ 2,500.00
4	Maintenance of Traffic	1	L.S.	\$ 1,900.00	\$ 1,900.00	\$ 4,000.00	\$ 4,000.00	\$ 4,250.00	\$ 4,250.00	\$ 2,500.00	\$ 2,500.00
5	Concrete Walks	15	S.Y.	\$ 120.00	\$ 1,800.00	\$ 60.00	\$ 900.00	\$ 65.00	\$ 975.00	\$ 90.00	\$ 1,350.00
6	System Local Controller (8 Phases)	1	E.A.	\$ 4,000.00	\$ 4,000.00	\$ 7,000.00	\$ 7,000.00	\$ 5,550.00	\$ 5,550.00	\$ 8,000.00	\$ 8,000.00
7	Traffic Signal Head, LED (3 Section)	2	E.A.	\$ 350.00	\$ 700.00	\$ 700.00	\$ 1,400.00	\$ 425.00	\$ 850.00	\$ 300.00	\$ 600.00
8	Traffic Signal Head, LED (4 Section)	4	E.A.	\$ 375.00	\$ 1,500.00	\$ 800.00	\$ 3,200.00	\$ 525.00	\$ 2,100.00	\$ 300.00	\$ 1,200.00
9	Countdown Pedestrian Signal Head, LED	2	E.A.	\$ 300.00	\$ 600.00	\$ 400.00	\$ 800.00	\$ 325.00	\$ 650.00	\$ 400.00	\$ 800.00
10	Traffic Signal Cable (3C/14 A.W.G.)	130	L.F.	\$ 1.50	\$ 195.00	\$ 1.20	\$ 156.00	\$ 1.75	\$ 227.50	\$ 1.50	\$ 195.00
11	Traffic Signal Cable (5C/14 A.W.G.)	430	L.F.	\$ 2.00	\$ 860.00	\$ 1.40	\$ 602.00	\$ 2.00	\$ 860.00	\$ 1.50	\$ 645.00
12	Traffic Signal Cable (7C/14 A.W.G.)	850	L.F.	\$ 2.50	\$ 2,125.00	\$ 1.60	\$ 1,360.00	\$ 2.35	\$ 1,997.50	\$ 2.00	\$ 1,700.00
13	Traffic Signal Cable (20C/14 A.W.G.)	750	L.F.	\$ 3.75	\$ 2,812.50	\$ 4.40	\$ 3,300.00	\$ 3.65	\$ 2,737.50	\$ 4.00	\$ 3,000.00
14	Non-Metallic Conduit (1.25")	70	L.F.	\$ 12.00	\$ 840.00	\$ 10.00	\$ 700.00	\$ 11.00	\$ 770.00	\$ 12.00	\$ 840.00
15	Non-Metallic Conduit (3")	150	L.F.	\$ 15.00	\$ 2,250.00	\$ 14.00	\$ 2,100.00	\$ 22.50	\$ 3,375.00	\$ 25.00	\$ 3,750.00
16	Non-Metallic Conduit (3" Bored)	165	L.F.	\$ 35.00	\$ 5,775.00	\$ 35.00	\$ 5,775.00	\$ 27.50	\$ 4,537.50	\$ 40.00	\$ 6,600.00
17	Concrete Pull Box (Type 2 HD)	5	E.A.	\$ 675.00	\$ 3,375.00	\$ 900.00	\$ 4,500.00	\$ 750.00	\$ 3,750.00	\$ 750.00	\$ 3,750.00
18	Traffic Signal Mast Arm and Pole with Foundation (38')	1	E.A.	\$ 8,609.00	\$ 8,609.00	\$ 7,600.00	\$ 7,600.00	\$ 9,250.00	\$ 9,250.00	\$ 8,000.00	\$ 8,000.00
19	Traffic Signal Ped Pole with Foundation	1	E.A.	\$ 1,550.00	\$ 1,550.00	\$ 2,200.00	\$ 2,200.00	\$ 2,250.00	\$ 2,250.00	\$ 1,500.00	\$ 1,500.00
20	Video Cable	1,000	L.F.	\$ 4.25	\$ 4,250.00	\$ 7.00	\$ 7,000.00	\$ 4.50	\$ 4,500.00	\$ 5.00	\$ 5,000.00
21	Electrical Conductors-In-Conduit (2C/6 A.W.G.)	100	L.F.	\$ 3.50	\$ 350.00	\$ 2.00	\$ 200.00	\$ 4.25	\$ 425.00	\$ 3.00	\$ 300.00
22	Electrical Conductors-In-Conduit (1C/8 A.W.G., EGC)	420	L.F.	\$ 1.00	\$ 420.00	\$ 2.00	\$ 840.00	\$ 1.65	\$ 693.00	\$ 1.50	\$ 630.00
23	Electrical Conductors for Luminaires (2C/12 A.W.G., EGC)	320	L.F.	\$ 1.75	\$ 560.00	\$ 2.00	\$ 640.00	\$ 1.75	\$ 560.00	\$ 2.00	\$ 640.00
24	Battery Backup System	1	E.A.	\$ 1,425.00	\$ 1,425.00	\$ 200.00	\$ 200.00	\$ 3,500.00	\$ 3,500.00	\$ 4,000.00	\$ 4,000.00
<b>TOTAL</b>					<b>\$ 49,987.50</b>		<b>\$ 58,239.00</b>		<b>\$ 58,267.11</b>		<b>\$ 58,050.00</b>



City of Conway  
Street and Engineering Department  
100 East Robins Street  
Conway, AR 72032

Ronnie Hall, P.E.  
City Engineer  
[ronnie.hall@cityofconway.org](mailto:ronnie.hall@cityofconway.org)  
501-450-6165

April 3, 2014

Mayor Tab Townsell  
1201 Oak Street  
Conway, Arkansas 72032

**RE: Utility Relocations  
Conway Loop South Interchange**

Dear Mayor Townsell:

An overhead Entergy electric power line is conflicting with the work on the Sturgis Road Overpass. This utility is located in a private easement outside the limits of the existing street right of way and is thus eligible for compensation for relocation.

I have enclosed the "Agreement to Change Existing Facilities" submitted by Entergy. As noted the cost of the relocation is \$11,545.97. I am requesting your approval on the agreement and approval to pay the \$11,545.97 for the relocation.

All work on this project has stopped until the electric power line is relocated.

Please advise if you have questions or need additional information.

Thanks,  
Ronnie Hall, P.E.



**AGREEMENT TO CHANGE EXISTING FACILITIES**

THIS AGREEMENT, made and entered into on 3/26/14, by and between CITY OF CONWAY ("Customer") of the City of CONWAY, County of FAULKNER, Arkansas, and Entergy Arkansas, Inc., ("EAI" or the "Company");

1. Company, will within a reasonable time, change existing electric facilities as follows:  
**INSTALL 3 POLES, 2 SPANS OF 2-4 ACSR PRIMARY, 4 ANCHORS, AND REMOVE FACILITES OVER PROPOSED BRIDGE AT STURGIS ROAD JUST SOUTH OF SIDEBOTTOM, ALONG WITH OBTAINING NEW R/W AND CLEARING R/W**  


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2. CUSTOMER, having requested the aforementioned work, and in consideration of the facilities to be provided by Company, does hereby agree to contribute to Company prior to construction cash in the amount of \$11,545.97.
3. It is not intended that Customer will acquire any rights or interest in the facilities of Company by reason of this payment toward the cost of the aforementioned work.
4. CUSTOMER shall obtain all necessary rights of way, and complete the applicable form(s) supplied by Company, from all property owners over which the line shall be located granting to Company, its successors and assigns, the rights and privileges to construct, maintain and operate said line. Such completed forms shall be appropriately signed and delivered to Company prior to construction.
5. It is expressly understood that said rights of way and all electrical facilities erected for serving Customer under this Agreement shall always be and remain the property of Company, and Company has the right to serve any other customers from said line or any extension thereof at any time.
6. Other Provisions: ENTERGY WILL OBTAIN R/W FOR NEW LINE, EXISTING LINE CAN BE REFEED FROM DIFFERENT CIRCUIT.

CITY OF CONWAY

ENTERGY ARKANSAS, INC.

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

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

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

Approved: \_\_\_\_\_

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

DIS WR#	<u>606826</u>	Project #:		Business Unit:	A0000
Department:	<u>ENGR</u>	Resource:		Activity:	<u>1EOC</u>
Physical Location:	<u>DAR</u>	Location:		Account Number:	<u>N/A</u>
Residential	No	Commercial	No	Industrial	No



City of Conway  
Street and Engineering Department  
100 East Robins Street  
Conway, AR 72032

Ronnie Hall, P.E.  
City Engineer  
[ronnie.hall@cityofconway.org](mailto:ronnie.hall@cityofconway.org)  
501-450-6165

April 2, 2014

Mayor Tab Townsell  
1201 Oak Street  
Conway, Arkansas 72032

**RE: Right of Way Acquisition  
South Donaghey – Favre Lane Roundabout**

Dear Mayor Townsell:

We have prepared preliminary plans for the Roundabout at South Donaghy and Favre Lane as shown on the attached plan. We have developed legal descriptions for additional Right of Way required to construct the Roundabout. Coats Appraisal Service has provided an appraised value for two of the three tracts with the amount as shown below:

Tract 1 – Fore Co., Inc. & Shadowstorm, LLC - 14,532 Sq. Ft. - \$35,000  
Tract 2 - Jordan & David Haas - 714 Sq. Ft. - \$2,200  
Tract 3 – Butch & Tammy Freeman – 1,081 Sq. Ft. - \$3,400 (using same \$/S.F.  
as Tract 2 above)

An offer letter for the above amount along with the appraisal report was submitted to the Tract 1 and Tract 2 owners.

I am requesting approval to acquire this right of way at the appraised market value amounts listed above.

In addition, in an effort to avoid unnecessary project delays, I am requesting that you authorize the City Attorney to proceed with the necessary steps to acquire this right of way using condemnation proceeding. The usual negotiation period may delay the right of way acquisition for more than 30 days. This would make it more challenging to complete the project before the start of school.

Please advise if you are in agreement with this request.

Thanks,  
Ronnie Hall, P.E.



# City of Conway Council Agenda

Mayor Tab Townsell  
City Clerk Michael O. Garrett  
City Attorney Michael Murphy

## City Council Members

Ward 1 Position 1 – Andy Hawkins  
Ward 1 Position 2 – David Grimes  
Ward 2 Position 1 – Wesley Pruitt  
Ward 2 Position 2 – Shelley Mehl  
Ward 3 Position 1 – Mark Ledbetter  
Ward 3 Position 2 – Mary Smith  
Ward 4 Position 1 – Theodore Jones Jr.  
Ward 4 Position 2 – Shelia Whitmore

**Council Meeting:** Tuesday, April 8<sup>th</sup>, 2014

**5:30pm - Committee:** Street Department Project Update

6:30pm - Council Meeting

Call to Order: Mayor Tab Townsell

Roll Call: City Clerk/Treasurer Michael O. Garrett

Minutes Approval: March 18<sup>th</sup>, & March 25<sup>th</sup>, 2014

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## 1. Report of Standing Committees:

### A. Community Development Committee (Planning, Zoning, Permits, Community Development, Historic District, Streets, & Conway Housing Authority)

1. Consideration to accept the nomination of Ray Kordsmeier to the Conway Corporation board of Directors for a seven year term.
2. Ordinance to rezone property located at 3615 Prince Street from A-1 to MF-3.
3. Consideration to approve the bids received for traffic signal improvements at Oak Street and Harkrider Street.
4. Consideration to enter into an agreement with Entergy to relocate electric power lines along Sturgis Road at South Interchange.
5. Consideration to approve the appraisal values for right of way required for South Donaghey – Favre Lane roundabout.
6. Resolution authorizing the City Attorney to proceed with condemnation to acquire Tract 1 Right of Way on South Donaghey.
7. Consideration to approve quotes received for asphalt paving for 2014 Projects.
8. Consideration to approve quotes received for 5 year Loan for financing Western Loop South Interchange (Structures & Grading).
9. Ordinance authorizing the Mayor and City Clerk to enter into a 5 year financing agreement to fund the Western Loop South Interchange (Structures & Grading).

**B. Public Safety Committee (Police, Fire, District Court, CEOC, Information Technology, City Attorney, & Animal Welfare)**

1. Consideration to accept the nomination of Jerry Gipson for the position on the MEMS Board of Directors as the City of Conway representative.
2. Consideration to approve travel for sixteen full time clerks and judges at District Court.
3. Consideration to approve bids received for CNG kits for the Conway Police Department.
4. Ordinance accepting donated funds from the Rescue Waggin' program for the Conway Animal Welfare Unit.

**New Business:**

1. Discussion of the notification of the termination letter for airport services for the existing Conway Municipal Airport.

**Old Business:**

1. Ordinance to regulate and license door to door solicitors and peddlers for the City of Conway.

**Special Announcement:**

- o City Council Workshop Meeting II - April 15<sup>th</sup>, 2014 @ 5:30pm – CPD/Upstairs Conference Room.

**Adjournment**

Parcel 2  
Lot 10 Marliese Manor  
Jordan & David Haas  
Parcel 711-12504-011  
Area Before ROW Taking = 0.479  
Area After ROW Taking = 0.463

South Donaghey  
(SH 60 Spur)

Tract 2 ROW  
714.4 S.F. (0.016 Ac.)

Tract 3 ROW  
1081.5 S.F. (0.025 Ac.)

Northwest Corner  
NW 1/4, SW 1/4 Section 24  
T-5-N, R-14-W

Southeast Corner  
SE 1/4, NE 1/4 Section 23  
T-5-N, R-14-W

Favre Lane

N=2632'  
E=11765'

Tract 1 Right of Way  
(14,531.56 Sq. Ft. (0.334 Ac.))

Parcel 1  
Fore Co., Inc. &  
Shadowstorm Properties, LLC  
Parcel 711-12564-000  
Area before ROW Taking = 4.241 Ac.  
Fore Co., Inc. &

City of Conway, Arkansas  
Proposed ROUNDABOUT  
Favre Ln. - South Donaghey Ave.  
RIGHT OF WAY PLAN  
March 10, 2014

South Donaghey (SH 60S)  
(80' ROW)

37" E 920.38'  
EASEMENT 880.37'

2157  
395.46  
COMP



**City of Conway, Arkansas  
Resolution No. R-14-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO ACT PURSUANT TO ARKANSAS CODE ANNOTATED §18-15-201 *ET SEQ.*, AND OTHER STATE STATUTORY AUTHORITY TO SEEK CONDEMNATION BY EMINENT DOMAIN PROCEEDINGS OF CERTAIN PROPERTIES DESCRIBED HEREIN FOR THE PUBLIC PURPOSE OF CONSTRUCTING AND MAINTAINING STREET, ROAD AND BOULEVARD RIGHT OF WAY AND ALL NECESSARY AND PROPER EASEMENTS RELATED THERETO FOR THE CITY OF CONWAY’S SOUTH DONAGHEY AND FAVRE LANE INTERSECTION PROJECT.**

**Whereas**, the City of Conway, Arkansas, is a city of the First Class duly organized and existing as a municipal corporation under the laws of the State of Arkansas. The City of Conway (“the City”) has its principal place of business within the borders of Faulkner County, Arkansas. Under Arkansas law, the City is empowered under Arkansas Code Annotated § 18-15-201, *et seq.*, and other statutory authority to condemn real property by eminent domain for the purposes of streets, parks, boulevards, and public buildings (among other lawful purposes); and

**Whereas**, as part of the planning, construction and maintenance of the City’s right of way at the intersection of South Donaghey and Favre Lane adjacent to the property owned by Fore Company, Inc. and Shadowstorm Properties, LLC (“the Project”), the City is in the process of planning and developing sufficiently wide and safe roads, streets, boulevards and necessary and proper rights of way within the statutory areas relative to the corporate limits of Conway as set out in A.C.A. § 18-15-201(a)(2), the City Council for the City of Conway has found and determined that it is necessary for public purposes to acquire the real properties described herein upon which to construct and maintain said roadway, street and utility easements. Being unable to reach an agreement and compromise as to the amount of just compensation to pay the landowner, it is now necessary for public purposes to acquire the real properties described herein upon which to construct and maintain said roadway and utility easements. Because the City has established a legitimate public purpose for said properties, it is empowered under ACA §18-15-201 to seek condemnation through eminent domain of the properties as described herein and to properly compensate the owners of said lands pursuant to state law.

**Whereas**, to secure timely access to said real properties, however, it is necessary that eminent domain authority be declared, established, and exercised for the purpose of the construction, maintenance, and public use of the improved roadway, streets, boulevards, utilities, rights of way, and appropriate appurtenances developed thereto. As well and on behalf of the public, the City must continue ownership and control of the real property described herein, as necessary for the public purposes of continued maintenance, traffic control, safety, drainage and necessary and proper services throughout the affected areas and properties described herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:**

**Section 1:** The City Council for the City of Conway hereby finds and determines that it is necessary for public purposes to acquire the real properties owned by certain landowners described herein upon which to construct and maintain said roadway, streets, boulevards and necessary easements. Being unable to reach an agreement and compromise as to the amount of just compensation to pay the respective landowners, it is

necessary for public purposes to acquire the real properties owned by these landowners described herein upon which to construct and maintain said roadway, streets, boulevards, utilities and necessary easements. Because the City has established a legitimate public purpose for said properties, the City is empowered under Ark. Code Ann. §18-15-201 to seek condemnation through eminent domain of the properties described herein and to properly compensate the owners of said lands pursuant to state law.

**Section 2:** Fore Company, Inc. and Shadowstorm Properties, LLC are corporation and partnerships located in the City of Conway in Faulkner County, Arkansas, which owns real estate upon and along the Project area which is needed for the Project, more particularly described below:

**A parcel of land situated in the Northwestern Corner of the NW ¼, SW ¼ Section 24, T-5-N, R-14-W, Faulkner County, Arkansas being more particularly described as follows:**

**Commencing at the Northwest Corner of said NW 1/4, SW 1/4 Section 24, thence S88°38'16"E, along the north line of said NW 1/4, SW 1/4 Section 24, 40.00 feet to the Point of Beginning; thence continuing S88°38'16"E, along said north line of said NW 1/4, SW 1/4 Section 24, 200.00 feet; thence S01°52'48"W 40.00 feet; thence N88°38'16"W, 67.43 feet; thence S60° 08'01"W, 88.17 feet; thence S38° 54'04"W, 95.66 feet to the easterly right of way line (80' ROW)of South Donaghey (State Highway 60 Spur); thence N01° 52'48"E along said east Right of Way line 161.57 feet to the Point of Beginning and containing 0.334 acres (14,531.56 Sq. Ft.) more or less.**

**Together with the rights, easements and privileges in or to said lands that may be required for the full enjoyment of the right herein granted.**

**Section 3:** The City is further in need of Temporary Construction Easements for the Project, as more particularly described above, from the landowners as identified and detailed above.

**Section 4:** To secure timely access to said real properties, however, it is necessary that eminent domain authority be declared, established, and exercised for the purpose of the construction, maintenance, and public use of the improved roadway, streets, boulevards, utilities, rights of way, necessary and proper easements and appropriate appurtenances developed thereto. As well and on behalf of the public, the City must continue ownership and control of the real property described herein, as necessary for the public purposes of continued maintenance, traffic control, safety and necessary and proper rights of way and easements throughout the affected areas and properties described herein.

**Section 5:** The Office of the City Attorney of the City is hereby authorized to act on behalf of the City and initiate statutory proceedings for eminent domain and condemnation of the lands described herein for the purposes stated herein, up to and including filing appropriate legal pleadings and process in those courts of law having jurisdiction over such process and proceedings.

**PASSED** this 8<sup>th</sup> day of April, 2014.

**Approved:**

**Attest:**

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**Mayor Tab Townsell**

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**Michael O. Garrett**  
**City Clerk/Treasurer**

**MEMORANDUM**

TO: MAYOR TAB TOWNSELL

FROM: RONNIE HALL, P.E.  
CITY ENGINEER

DATE: April 3, 2014

REFERENCE: Asphalt Purchasing

Act 756 of 2009 allows cities to obtain asphalt (as well as motor fuels) without soliciting bids. In order to secure a contractor for our asphalt paving work I obtained quotes from several contractors. The results of the quotes for several our 2014 paving projects are as follows:

Rogers Group

In Place Asphalt Surface (PG 70-22)	\$73.40/Ton	
In Place Asphalt Surface (PG 64-22)	\$68.70/Ton	
In Place Asphalt Binder (PG 64-22)	\$56.00/Ton	
<b>TOTAL FOR PROJECTS LISTED</b>		<b>\$681,917</b>

Redstone Construction.

In Place Asphalt Surface (PG 70-22)	\$79.00/Ton	
In Place Asphalt Surface (PG 64-22)	\$75.00/Ton	
In Place Asphalt Binder (PG 64-22)	\$73.00/Ton	
<b>TOTAL FOR PROJECTS LISTED</b>		<b>\$753,085</b>

Asphalt Pavers, Inc.

In Place Asphalt Surface (PG 70-22)	\$81.00/Ton	
In Place Asphalt Surface (PG 64-22)	\$75.00/Ton	
In Place Asphalt Binder (PG 64-22)	\$7.00/Ton	
<b>TOTAL FOR PROJECTS LISTED</b>		<b>\$762,900</b>

As you may recall we have an unresolved dispute between the City and Rogers Group regarding failure of several street project on which the Rogers Group furnished a crushed stone base (Toad Suck Quarry) that appears to have significant quality issues.

The Rogers Group has not responded to our 2011 request to correct the problem on Tyler except a one sentence letter declaring the project a "bad design" and to offer to provide the asphalt paving at \$60.00 per ton (market price) for a rehab.

Attached is a brief description of the Rogers Group pavement failure issues that occurred in 2008 and 2009.



2008 - 2010 Pavement Failure Summary (Draft)  
Prepared by Ronnie Hall, P.E.  
Conway City Engineer

The Rogers Group provided a portion of the Crushed Stone Base Course and the Asphalt Paving for the following projects in the 2008 and 2009 time period.

1. Tyler Street Reconstruction from Eve Lane to Sena Dr. (JCI Construction)
  - a. Filled in gaps between segments of Tyler Street constructed by Developer (at Bay Hill Drive and along Canterbury Subdivision)
2. Salem Road Reconstruction from Nutter Chapel to Greens at Nutter Chapel. (J's Construction)
  - a. About 50% of the crushed stone thickness for the north 1,000 feet from Nutter Chapel to Whirlwind Dr. was from Toad Such Quarry.
  - b. Webco Crushed Stone was used for the (initial layer of crushed stone) remaining 50% of the north 1,000 feet and all the south 3,000 feet.
3. Favre Lane from Salem Road to West Side of Ellen Smith School. (Paladino Construction)
  - a. Paving and compaction of crushed stone by Asphalt Pavers Inc.
4. Salem Road in the Greens at Nutter Chapel (Rush Hal Developer – Landex contractor)
5. Pebble Beach Dr – Salem Road to Hilton Dr. (Rush Hal Developer – Landex contractor)
  - a. Pebble Beach Dr. from Salem to Nutter Chapel was constructed by the same contractor but Crushed Stone Base Course was from the Greenbrier Quarry.
6. Salem Road – New Railroad Overpass to Old Morrilton Highway (Tom Lindsey Contractor)
7. Salem Road Railroad Overpass Approaches – Tom Lindsey Contractor – AHTD managed project.

The following developed after the winter of 2008-2009:

1. Tyler Street Project had almost complete failure of the Asphalt Pavement.
2. The north 1,000 feet of the Salem Road between Nutter Chapel and Greens have failed (no failures have occurred to date on the southern 3,000 feet section of this project which had Webco crushed stone).
3. Favre Lane between Salem Road and Josh had numerous pavement failures.
4. Salem Road (Binder course of asphalt only) and the section of Pebble Beach east of the Roundabout had numerous failures (no failures to date in Pebble Beach west of the Roundabout where Greenbrier quarry crushed stone was used).
5. Salem Road (binder course only) from the RR Overpass to Old Morrilton developed spotted failures.
6. The AHTD had the contractor remove the Toad Suck Quarry crushed stone base course from the approaches to the Salem Road RR Overpass.

After notification of the failures and numerous meeting, the Rogers Group secured the services of a consultant that provided them with a recommendation of stabilization of the crushed stone base course with fly ash as one of three alternatives to address the low support characteristic of the Toad Suck Crushed Stone.

In the fall of 2010, the Rogers Group removed the asphalt pavement and processed fly ash into the crushed stone base course and repaved the following streets: Tyler Street (Eve to Sena), Salem Road (Nutter Chapel to Whirlwind), Favre Lane (Salem to Josh), Salem (inside Greens at Nutter Chapel) and Pebble Beach (Salem to Hilton Dr.). The contractor (JCI) also added “french

drains” along Tyler Street to enhance drainage of the base course. The Rogers Group removed the binder course from Salem Road (RR Overpass to Old Morrilton Highway) and provided an additional thickness of asphalt binder course and surface course to compensate for the low crushed stone support value.

After the winter of 2010-2011, the same type pavement failures developed throughout the section of Tyler Street that was repaired, spotted failures developed in the section of Salem Road in the Greens at Nutter Chapel and spotted failures developed in Pebble Beach east of the Roundabout. Now pavement failures are developing throughout Favre Lane from Salem to Ellen Smith School.

It appears that the only section of street stabilized with Fly Ash that did not develop failures was the north 1,000 feet of the Salem Road (Nutter Chapel to Whirlwind) where 50% of the base course was Webco crushed stone and the fly ash blending process mixed the two base courses that resulted in a more stable base.

From comparison of the various projects with work performed by several contractors, it appears that the selection of fly ash stabilization by the Rogers Group did not address the problem.

The AHTD did not provide us with information on why the crushed stone base course was removed from the approaches to the Salem Road Railroad Overpass.

Laboratory test (provided by Garner Engineering) indicate that much of the crushed stone on the streets where pavement failure occurred contained excessive fines and a support value well below that of the other local quarries.

At the several meeting and conversations following the 2nd round of 2010 pavement failures, the Rogers Group personnel aggressively attempted to assign the blame to the city declaring a “bad design”. This “bad design” seems to be the case only in projects where Toad Suck material was used.

On the numerous other City of Conway projects constructed in the same time period using the same design (but crushed stone base course from Greenbrier or Webco Quarry) the streets have not failed. These include Stanly Russ Rd, Sturgis Rd, the Meadows and Museum north of Siebenmorgen, In addition, the older segments of Tyler Street that fall between the new section constructed in 2008, do not show any pavement failures and are the same design and have been exposed to the same traffic and saturated ground conditions.

I suppose it would be appropriate for the following questions to be answered by the Rogers Group before declaring the “unresolved dispute” ended.

1. Did an issue with crushed stone base course material quality exist at the Toad Suck Quarry in 2008 and 2009.
2. Did the 2010 Fly Ash stabilization properly address the problem in the several projects where an attempt was made to stabilize the base course?
3. Should the Conway taxpayers pay the cost of correcting the pavement failures resulting from the low support value of the crushed stone material and following failed attempt to correct the problem?
4. Is the Rogers Group willing to properly correct the failures of West Tyler Street?

**CITY OF CONWAY, ARKANSAS**  
**ASPHALT & RELATED WORK**  
**ASPHALT TO BE USED DURING 2014**

TABULATION OF QUOTES RECEIVED April 2, 2014 2:00 PM

DESCRIPTION	ESTIMATED QUANTITY	UNITS	Rogers Group		Redstone Construction		Asphalt Pavers, Inc.		2013 Low Quote (Redstone)	
			UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
1 ASPHALT HOT MIX SURFACE COURSE (70-22 PG)	7,000.00	TON	\$73.40	\$513,800.00	\$79.00	\$553,000.00	\$81.00	\$567,000.00	\$76.00	\$532,000.00
2 ASPHALT HOT MIX BINDER COURSE (64-22 PG)	1,310.00	TON	\$68.70	\$89,997.00	\$75.00	\$98,250.00	\$75.00	\$98,250.00	\$74.00	\$96,940.00
3 ASPHALT HOT MIX BINDER COURSE	1,395.00	S.Y.	\$56.00	\$78,120.00	\$73.00	\$101,835.00	\$70.00	\$97,650.00	\$69.00	\$96,255.00
TOTAL AMOUNT				\$681,917.00		\$753,085.00		\$762,900.00		\$725,195.00



City of Conway  
Street and Engineering Department  
100 East Robins Street  
Conway, AR 72032

Ronnie Hall, P.E.  
City Engineer  
[ronnie.hall@cityofconway.org](mailto:ronnie.hall@cityofconway.org)  
501-450-6165

April 3, 2014

Mayor Tab Townsell  
1201 Oak Street  
Conway, Arkansas 72032

**RE: 5 Year Financing  
Conway Loop South Interchange**

Dear Mayor Townsell:

As you know the balance in the "Pay as you go" sales tax account is inadequate to fund the West Loop South Interchange Project and related engineering cost. The usual monthly revenue for the "Pay as you go" account is needed to pay the Prince Street Loan payment as well as the engineering cost associated with the Proposed Street Improvements related to added cross Interstate 40 routes and enhanced access to Cantrell Filed Redevelopment.

Payments for the Loop Project will be coming due around the end of this month. Thus, arrangements should be made to pay those bills.

I recommend that we secure a 5 year financing for this project in the amount of \$3,000,000. This would cover the project construction cost of \$2,324,679.82 plus the estimated construction observation cost of \$300,000 with a small contingency.

Mike Garrett will provide quotes for the loan from lending institutions at the meeting and a draft ordinance is included for consideration.

Please advise if you have questions

Thanks,  
Ronnie Hall, P.E.



**City of Conway, Arkansas**  
**Ordinance No. O-14-\_\_\_\_\_**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF A PROMISSORY NOTE TO PROVIDE SHORT-TERM FINANCING UNDER AMENDMENT NO. 78 TO THE ARKANSAS CONSTITUTION FOR CERTAIN INFRASTRUCTURE IMPROVEMENTS TO THE CITY OF CONWAY STREET SYSTEM; PROVIDING FOR PAYMENT OF THE PRINCIPAL AND THE INTEREST ON THE NOTE; APPROPRIATING FUNDS FROM GENERAL REVENUES; REIMBURSING THE CITY'S "PAY AS YOU GO FUNDS" FOR A PORTION OF PREVIOUS COSTS INCURRED FOR MAKING IMPROVEMENTS TO AND RIGHT-OF-WAY ACQUISITION FOR THE CONWAY LOOP SOUTH INTERCHANGE PROJECT; REPEALING ANY OTHER ORDINANCES IN CONFLICT HEREWITH; DECLARING AN EMERGENCY AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.**

**WHEREAS**, the City of Conway, Arkansas (the "City") is authorized and empowered under the provisions of Amendment No. 78 to the Arkansas Constitution ("Amendment No. 78") and Act No. 1808 of 2001 (codified as Arkansas Code Annotated § 14-78-101, *et seq.*, the "Act"), to incur tax exempt short term financing obligations maturing over a period of, or having a term not to exceed five (5) years for the purpose of acquiring, constructing, installing and renting real property or tangible personal property having an expected useful life of more than one year; and

**WHEREAS**, it is proposed that the City issue its Promissory Note in the principal amount up to \$3,000,000 (the "Note") under Amendment No. 78 and the Act for the purpose of providing financing for all or a portion of the cost for certain infrastructure improvements and related engineering for the City of Conway, specifically improvements to Western Loop South Interchange (the "Project"); and

**WHEREAS**, the City has expended from its "Pay as You Go Funds," as authorized by award of the contract in that amount of \$2,324,679.82 for Structures and Grading for the Western Loop South Interchange to Thomco, Inc. (at its February 25, 2014 meeting) and approved approximately \$300,000 as payment to Garver Engineers for Construction Observation Services (at its March 11, 2014 meeting) for this Project and it is proposed that the City reimburse said "Pay as You Go Funds" a portion of the specific costs incurred for infrastructure improvements and engineering associated with this Project from the proceeds of this Loan; and

**WHEREAS**, the City intends to arrange for the loan (the "Loan") from a financial institution (the "Lender") and to issue the Promissory Note to the Lender at a price of par in consideration for the Loan.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS THAT:**

**Section 1:** The City of Conway City Council (the "City Council") hereby finds that the Project is real or tangible personal property having a useful life of more than one year. The City Council further finds that the sum of the principal amount of the proposed Promissory Note and the outstanding principal amount of the City's other promissory notes issued under the authority of Amendment 78 do not exceed five percent (5%) of the assessed value of taxable property located within the City as determined by the last tax assessment completed before the issuance of the proposed Promissory Note.

**Section 2:** Under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment No. 78 and the Act, the issuance of the Promissory Note in the principal amount of up to \$2,000,000 is hereby authorized for the purpose of financing a portion of the cost of the Project.

The Note shall be dated the date of its issuance and shall bear interest on the outstanding principal amount at a fixed rate of 1.92% per annum (calculated on the basis of the actual number of days elapsed in a year of 365 days (366 days in a leap year). The Note shall be repaid within five years from the first draw thereunder, and the Note shall commence to bear interest as of such date as contemplated by Arkansas Code Annotated § 14-78-102(4) and § 14-78-104(d), respectively. The Note shall be issued in fully registered form.

**Section 3:** The City may reimburse its “Pay as You Go Funds,” a portion of the specific costs incurred for infrastructure improvements and right-of-way acquisition associated with this Project from the proceeds of this Loan.

**Section 4:** The Lender has been selected by the Mayor, and approved by the City Council, based upon the commitment or proposal for the Loan that the Mayor has determined to have the lowest cost to the City after soliciting proposals or commitments for the Loan and receiving such proposals and commitments on April 3<sup>rd</sup>, 2014 from at least three financial institutions having offices in Faulkner County.

**Section 5:** The first draw on the borrowings will occur on or about May 1, 2014 and the City will execute the Promissory Note immediately prior to such draw. Interest will begin to accrue on only the amount borrowed as of the date of each draw.

**Section 6:** As provided in Amendment No. 78, the debt service payments on the Note shall be charged against and paid from the general revenue of the City within five years, but not later than five (5) years from the date of the first draw when the obligation commences to bear interest, as contemplated by Arkansas Code Annotated § 14-78-102(4) and § 14-78-104(d), respectively. For the purpose of making the annual debt service, there is hereby, and shall be, appropriated to pay the Promissory Note, an amount of general revenue of the City sufficient for such purposes. The City's Director of Finance is hereby authorized and directed to withdraw from the general revenues of the City the amounts and the times necessary to make the annual debt service payments on the Promissory Note. Such funds may be provided by pay as you go funding provided by the Quarter Cent Sales and Use Tax dedicated to major street projects or any other funds typically available for infrastructure improvements to the City of Conway street system.

**Section 7:** The Mayor and City Clerk, for and on the behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance execution, and delivery of the Note, and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance. The Mayor and City Clerk are hereby further authorized and directed, for and on behalf of the City, and to execute all papers, documents, certificates, and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof. The City covenants that it shall not take any action or suffer or permit any action to be taken or conditions to exist which causes or may cause the interest payable on the Note to be included in gross income for federal income tax purposes. Without limiting the generality of the foregoing, the City covenants that the proceeds of the Note will not be used directly or indirectly in such manner as to cause the Note to be treated as “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”). The City covenants that it will submit to the Secretary of the Treasury of the United States, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Note is issued, a statement as required by Section 149(e) of the Code. The Note is hereby designated as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3)(B) of the Code. The City represents that the aggregate principal amount of its qualified tax-exempt obligations (excluding “private activity bonds” within the meaning of Section 141 of the Code which are not “qualified 501(c)(3) bonds” within the meaning of Section 145 of the Code), including those of its subordinate entities issued in calendar year 2014 are not expected to exceed \$10,000,000. The City represents that it has not used or permitted the use of, and covenants that it will not use or permit the use of the proceeds of the Note, in such manner as to cause the Note to be “private activity bonds” within the meaning of Section 141 of the

Code. The City covenants that it will take no action which would cause the Note to be “federally guaranteed” within the meaning of Section 149(b) of the Code. Nothing in this Article shall prohibit investments in bonds issued by the United States Treasury.

**Section 8:** The City covenants that it will not reimburse itself from proceeds of the Note for costs paid prior to the date the Note is issued except in compliance with U. S. Treasury Regulation 1.150-2 (the “Regulation”). The adoption of Ordinance No. O-09-103 constituted the City’s “official intent” for purposes of the Regulation.

**Section 9:** In the event any title, section, paragraph, item, sentence, clause, phrase, or word of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

**Section 10:** All ordinances or resolutions of the City in conflict herewith, including specifically Ordinance No. O-09-103 (except to the extent provided in Section 8 hereof) and Ordinance No. O-13-61, are hereby repealed to the extent of such conflict.

**Section 11:** Funds provided through the issuance of the Promissory Note are hereby appropriated and budgetary authority is provided for the Project in an amount up to \$3,000,000.

**SECTION 12:** Funds provided be appropriated from the Conway Loop South Interchange Project Improvements and Engineering – 2014 Loan Fund Loan Proceeds account (613-201-4370) into the Conway Loop South Interchange Project Improvements – 2014 Loan Fund CIP – Miscellaneous account (613-201-5990) as money borrowed and received for the project in an amount of up to \$3,000,000.

**SECTION 13:** This ordinance is necessary for the protection of the public peace, health and safety and that in order to avoid project delays to this Project, it is essential to the ability of the City to efficiently conduct business and have the necessary funds to pay for this Project and therefore, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

**PASSED** on this 8<sup>th</sup> day of April, 2014.

**Approved:**

**Attest:**

\_\_\_\_\_  
**Mayor Tab Townsell**

\_\_\_\_\_  
**Michael O. Garrett**  
City Clerk/Treasurer



# MEMO

**TO:** Mayor Tab Townsell

**CC:** City Council Members  
Chief Mike Winter

**FROM:** Felicia Rogers

**DATE:** April 2<sup>nd</sup>, 2014

**SUBJECT:** MEMS Board of Directors

**Message:**

All,

Chief Mike Winter would like to recommend Battalion Chief Jerry Gipson for the position on the MEMS Board of Directors as the City of Conway representative. Chief Gipson is an EMT Intermediate, has worked for years on the ambulance, and has served in the training division of the Conway Fire Department as the EMS coordinator for 5 years. Chief Winter feels his knowledge and dedication to the Conway Fire Department and the EMS service would serve the city well in this position.

Thank you for your consideration





**NINTH JUDICIAL DISTRICT  
FAULKNER COUNTY DISTRICT COURT  
CONWAY DEPARTMENT**

*The Russell L. "Jack" Roberts District Court Building  
810 Parkway St  
Conway, Arkansas 72034*

*Telephone: (501) 450-6112  
FAX: (501) 450-6184*

**David L. Reynolds**  
District Judge – Div I  
**Susan K. Weaver**  
District Judge – Div II

**Donna Rappold**  
Head Clerk Div I  
**Beth Thomas**  
Head Clerk Div II

**MEMORANDUM**

**TO:** City Council

**FROM:** District Court

**DATE:** 04/02/2014

**SUBJECT:** Request for consideration to approve travel for District Court and reimbursement cost from court automation fund.

This request of \$3,172.36, from court automation, is for travel of full time court clerks to attend overnight training on April 24<sup>th</sup>, in Rogers, AR. The training is provided by the Administrative Office of the Courts as part of a certification process. The training includes technology related information including the new e-citation program that is being implemented by Conway Police Department as well as the State Police. These expenses can be covered by the court automation fund as they relate to new court technology that has been implemented in our court.

The breakdown is as follows:

Travel for 16 full time clerks and 2 Judges

Hotel	\$129.39 X 10	\$1293.90 plus tax
Food	\$46 X 18	\$828
Fuel	358.86 mi X 7	\$1055.46
Total Cost		\$3,172.36

## MEMORANDUM

**TO:** City Council Members/Mayor Tab Townsell  
**FROM:** Chief A.J. Gary  
**DATE:** March 31, 2014  
**SUBJECT:** Acceptance of Bids

Bids were opened March 26, 2014 for CNG conversion kits to be installed on seven (7) Police Chevrolet Tahoes; the following bid was received:

- Crain Automotive      \$ 91,045.50

I respectfully request that the City of Conway accept this bid from Crain Automotive.

Thank you for your consideration.



**City of Conway, Arkansas  
Ordinance No. O-14-\_\_\_\_**

**AN ORDINANCE ACCEPTING DONATED FUNDS TO THE CONWAY ANIMAL WELFARE SHELTER;  
AND FOR OTHER PURPOSES**

**Whereas**, Petsmart has donated funds in the amount of \$3129.30, to the Conway Animal Welfare Shelter to cover the expense of pet care given to the animals who go through the Rescue Waggin program; and

**Whereas**, the Conway Animal Welfare Shelter needs these funds to replenish their expense account in order to continue providing pet care to animals participating in the program and;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY,  
ARKANSAS THAT:**

**Section 1.** The City of Conway shall accept the donated funds and appropriate to the AWU spay/neuter miscellaneous supply account, 223.127.5699.

**Section 2.** All ordinances in conflict herewith are repealed to the extent of the conflict.

**PASSED** this 8<sup>th</sup> day of April, 2014.

**Approved:**

\_\_\_\_\_  
**Mayor Tab Townsell**

**Attest:**

\_\_\_\_\_  
**Michael O. Garrett  
City Clerk/Treasurer**



**City of Conway, Arkansas**  
**Ordinance No. O-14-\_\_\_\_\_**

**AN ORDINANCE TO PROTECT AGAINST CRIMINAL ACTIVITY, INCLUDING FRAUD AND BURGLARY, MINIMIZE THE UNWELCOME DISTURBANCE OF CITIZENS AND THE DISRUPTION OF PRIVACY AND TO OTHERWISE PRESERVE THE PUBLIC HEALTH, SAFETY AND WELFARE BY REGULATING, CONTROLLING AND LICENSING DOOR-TO-DOOR SOLICITORS AND PEDDLERS; REPEALING THOSE PORTIONS OF ORDINANCE NO. A-169 IN CONFLICT HEREWITH; REPEALING ANY OTHER ORDINANCES IN CONFLICT HEREWITH; AND-FOR OTHER PURPOSES.**

**WHEREAS**, the City of Conway, Arkansas (the "City") is authorized and empowered under the provisions of Arkansas Code Annotated § 14-54-103 to regulate and license soliciting persons, hawkers and peddlers, as those terms are commonly applied; and

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS THAT:**

**SECTION 1: Definitions.**

The following words, terms, and phrases, and their derivations, when used in the Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(a) *Canvasser* means any person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.

(b) *Charitable* means and includes the words patriotic, philanthropic, social service, health, welfare, benevolent, educational, civic, cultural or fraternal, either actual or purported.

(c) *Chief* means the Chief of the Conway Police Department.

(d) *City* means the City of Conway, Arkansas.

(e) *Contributions* mean and include the words alms, money, subscription, property or other donations under the guise of a loan or money or property.

(f) *Department* means the Conway Police Department.

(g) *Peddler* means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. This definition also includes any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of the scheme to evade the provisions of this Ordinance. Peddler does NOT include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good, or service that is offered to a resident for purchase at a location away from his/her residence or at a time different from the time of visit.

(h) *Peddling* includes all activities ordinarily performed by a peddler as indicated under paragraph (g) of this Section.

(i) *Person* means a natural person or any firm, corporation, association, club, society or other organization.

(j) *Solicitor* means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition also includes any person who, without invitation, goes upon private property, to request contribution of funds or anything of value, or sell goods or services for political, charitable, religious, or other non-commercial purposes.

(k) *Solicitation* includes all activities ordinarily performed by a solicitor as indicated under paragraph (j) of this Section.

## **SECTION 2: Permit Requirements and Exemptions.**

It shall be unlawful for any person eighteen (18) years of age or older to engage in peddling or solicitation activities within the City of Conway, Arkansas, without first obtaining a permit issued by the Conway Police Department; provided, however, that the following are exempted from the provisions of this Section:

(a) Any solicitation made upon premises owned or occupied by an organization upon whose behalf the solicitation is made;

(b) Any communication by an organization soliciting contributions solely from persons who are members of the organization at the time of such solicitation;

(c) Any solicitation in the form of a collection at a regular meeting, assembly or service of a charitable person.

(d) Any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected shall be turned over to the named beneficiary.

(e) A "canvasser" as defined in SECTION 1.

## **SECTION 3. Permit for Sponsoring Juvenile Peddlers.**

(a) No person under the age of eighteen (18) years of age shall be permitted to engage in peddling except as provided in this Section.

(b) A permit shall be obtained by a sponsoring person, company or organization for the conduct of any peddling or solicitation activities involving, in whole or in part, a sales force of (1) or more persons under eighteen (18) years of age.

(c) The sponsor shall be responsible for supervising and controlling the conduct of all persons, including juveniles, peddling under the sponsor's permit.

(d) The sponsor shall provide to each individual in its sales force a badge or other easily readable form of identification which identifies the name of the sponsor and the name of the individual. The sponsor shall require all individuals in its sales force to wear such identification so that it is clearly visible at all times when the individuals are peddling or soliciting.

(e) The sponsor shall comply with the child labor law requirements of the State of Arkansas Department of Labor, including but not limited to Arkansas Code Annotated § 11-6-101 *et seq.*

#### **SECTION 4. Permit Application.**

Every person subject to the provisions of this Ordinance shall file with the Chief of the Conway Police Department an application in writing on a form to be furnished by the Department, which shall provide the following information:

(a) Proof of age, address and identification of the applicant, to be provided through the applicant's driver's license, articles of incorporation (for sponsors), or other legally recognized form of identification;

(b) A brief description of the business or activity to be conducted;

(c) The hours and location for which the right to peddle or solicit is desired;

(d) If employed, the name, address and telephone number of the employer; or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or principal, as the case may be;

(e) A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details thereof;

(f) Proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulation, including but not limited to Ark. Code Ann. § 26-77-102, would exempt the applicant from the licensing requirements of the Ordinance; and

(g) Two (2) photographs of the applicant which shall have been taken within sixty (60) days immediately prior to the date of filing of the application and accurately depicts the applicant. The photographs shall measure 2 inches by 2 inches and show the head and shoulders of the applicant in a clear and distinguishing manner.

#### **SECTION 5. Fees.**

At the time the application is filed with the Department, the applicant shall pay a fee to cover the cost to the City of processing the application and investigating the facts stated therein. The fee shall be \$\_\_\_\_\_ dollars for each solicitor or peddler or sponsor for Juvenile Peddlers pursuant to Section 3.

#### **SECTION 6. Application Review and Permit Issuance.**

(a) Upon receipt of an application, the Chief, or authorized representative, shall review the application as deemed necessary to ensure the protection of the public health, safety and general welfare.

(b) If the Chief finds the application to be satisfactory, the Chief shall endorse his approval on the application and shall, upon payment of the prescribed fee, deliver the required permit to the applicant.

(c) The permit shall show the name, address and photograph of the permittee, the class of permit issued, the kind of goods or services to be sold or delivered, the date of issuance, and the length of time that the permit shall be in effect. The permit shall also show the permit number and identifying description of any vehicle to be used in carrying on the business for which the permit is issued.

(d) A record of all permits issued shall be maintained by the Department for a period of two (2) years and shall otherwise conform to the City's record retention policies and state law pursuant to Ark. Code Ann. § 14-2-203 *et seq.*

**SECTION 7. Denial of Permit.**

(a) Upon the Chief's review of the application, the Chief may refuse to issue a permit to the applicant under this Ordinance for any of the following reasons:

(1) The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;

(2) An investigation reveals that the applicant falsified information on the application;

(3) The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, such conviction being entered within the five (5) years preceding the date of application or has an active arrest warrant or otherwise a fugitive of justice;

(4) The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five (5) years immediately preceding the date of application;

(5) There is no proof as to the authority of the applicant to serve as an agent to the principal; or

(6) The applicant has been denied a permit under this Ordinance within the immediate past year, unless the applicant can and does show to the satisfaction of the Chief that the reasons for such earlier denial no longer exist.

(b) The Chief's disapproval and the reasons for disapproval shall be noted on the application, and the applicant shall be notified that his application is disapproved and that no permit will be issued. Notice shall be mailed to the applicant at the address shown on the application form, or at the applicant's last known address.

**SECTION 8. Permit Expiration.**

All permits issued under the provisions of this Ordinance shall expire ninety (90) days from the date of issuance, unless an earlier expiration date is noted on the permit.

**SECTION 9. Identification Badges.**

(a) At the same time the permit is issued, the Chief shall issue to each permittee a badge, which shall be worn by the permittee in such a way as to be conspicuous at all times while the permittee is soliciting or peddling in the City.

(b) A canvasser, otherwise exempt from the provisions of this Article, may request the issuance of an identification badge from the City for the purpose of assuring city residents of the canvasser's good faith.

**SECTION 10. Permit Exhibition.**

Every person required to obtain a permit under the provisions of this Ordinance shall exhibit the permit when requested to do so by any prospective customer or Department employee.

**SECTION 11. Transfer Prohibited.**

It shall be unlawful for any person other than the permittee to use or wear any permit or badge issued under the provisions of this Ordinance.

**SECTION 12. Entry Upon Premises Unlawful.**

It shall be unlawful for any person, whether licensed or unlicensed, while conducting the business of a canvasser, peddler, or solicitor, to enter upon any residential premises in the City where the owner, occupant or person legally in charge of the premises has posted, at the entry to the premises, or at the entry to the principal building on the premises in a manner which reasonably conveys notice to a person who enters the premises, a decal or sign bearing the words "No Peddlers," "No Solicitors," "No Trespassing" or words of similar import. Violation of this section does not preclude prosecution under state law for criminal trespass.

**SECTION 13. Hours of Solicitation.**

No person, while conducting the activities of a peddler or solicitor, whether licensed or unlicensed, shall enter upon any private property, knock on doors or otherwise disturb persons in their residences between the hours of 8:00 p.m. and 8:00 a.m. In establishing 8:00 p.m. as a reasonable time for cessation of these activities at residential premises, the City Council hereby finds that such time is consistent with the Arkansas Rules of Criminal Procedure, Rule 13.2, regarding nighttime search warrants.

**SECTION 14. Permit Revocation.**

Any permit issued under this Ordinance may be revoked or suspended by the Chief, after notice and hearing, for any of the following reasons:

- (a) Fraud, misrepresentation or false statement contained in the application for a permit;
- (b) Conducting peddling or solicitation activities in such a manner as to create a public nuisance, constitute a breach of the peace or endanger the health, safety or general welfare of the public.

**SECTION 15. Notice and Hearing.**

Notice of a hearing for a revocation of a permit issued under this Ordinance shall be provided in writing and shall set forth specifically the grounds for the proposed revocation and the time and place of the hearing. Notice shall be hand-delivered, mailed, postage prepaid, to the permittee at the address shown on the permit application or at the last known address of the permittee.

**SECTION 16. Appeals**

(a) Any person aggrieved by the action or decision of the Chief to deny, suspend or revoke a permit applied for under the provisions of this Ordinance shall the right to appeal such action or decision to the Mayor or authorized representative within fifteen (15) days after the notice of the action or decision has been mailed to the person's address as shown on the permit application form, or to his last known address.

(b) An appeal shall be taken by filing with the Chief a written statement setting forth the grounds for the appeal.

(c) The Chief shall transmit the written statement to the Mayor within ten (10) days of its receipt and the Mayor shall set a time and place for a hearing on the appeal.

(d) A hearing shall be set not later than twenty (20) days from the date of receipt of the appellant's written statement.

(e) Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.



(f) The decision of the Mayor on the appeal shall be final and binding on all parties concerned.

**SECTION 17. Claims of Exemption.**

Any person claiming to be legally exempt from the regulations set forth in this Ordinance, or from the payment of an application fee, shall cite to the Chief the statute or other legal authority under which exemption is claimed and shall present to the Chief proof of qualification for such exemption.

**SECTION 18. Violations and Penalty.**

(a) Violation of any of the provisions of this Ordinance shall be treated as a violation, and shall, upon conviction, be punishable by a fine of Two Hundred Fifty (\$250.00) Dollars.

(b) The penalty for subsequent offenses that occur within twelve (12) months of the prior offense shall be Five Hundred (\$500.00) Dollars.

(c) Each day of a continuing violation of the provisions of this Ordinance may be treated as a separate offense.

**SECTION 19. Severability.**

The provisions of this Ordinance are declared to be severable. In the event any title, section, paragraph, item, sentence, clause, phrase, or word of this Ordinance is declared or adjudged to be invalid or unconstitutional by a court of competent jurisdiction, such decision, declaration or adjudication shall not be affect the remaining sections, sentences, clauses, phrases or portions of this Ordinance, but they shall remain in full force and effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part.

**SECTION 20: Repealing Clause.**

That all ordinances or resolutions or portions thereof of the City in conflict herewith are hereby repealed to the extent of such conflict, including those portions of Ordinance A-169 in conflict herewith.

**SECTION 21: Effective Date of Ordinance.**

This Ordinance shall be in full force and effect from and after its passage and publication and shall have an effective date of May 1, 2014.

**Passed** on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**Approved:**

\_\_\_\_\_  
**Mayor Tab Townsell**

**Attest:**

\_\_\_\_\_  
**Michael O. Garrett**  
**City Clerk/Treasurer**