



City of Conway Council Agenda

Mayor Bart Castleberry
City Clerk Michael O. Garrett
City Attorney Chuck Clawson

<u>Council Meeting Date:</u>	September 26th, 2017
<u>5:30pm - Committee Meeting:</u>	No Committee Meeting
<u>6:30pm:</u>	Council Meeting
<u>Call to Order:</u>	Mayor Bart Castleberry
<u>Roll Call:</u>	Michael O. Garrett, City Clerk/Treasurer
<u>Minutes Approval:</u>	September 12th, 2017
<i>Approval of the monthly financial report ending August 31st, 2017</i>	

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 Isby

1. Report of Standing Committees:

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

1. Consideration to approve Dr. Ellen Hostetter appointment to the Conway Housing Board.
2. Ordinance appropriating funds for streets and improvements associated with 6th Street Overpass for the Street & Engineering Department.
3. Ordinance accepting and appropriating funds for the Spencer Street Brownfield Cleanup project administered in the Planning & Development Department.
4. Consideration to approve a request to allow the rezoning application for property located at 364 & 375 Denison Street to start over at the Planning Commission level.
5. Ordinance to rename a portion of Amity Rd, from the round-about [currently being constructed] to East Dave Ward Drive, to Crain Drive.
6. Ordinance to rename a portion of McNutt Rd, from Donnell Ridge Rd to Dave Ward Drive, to Old Military Road.
7. Ordinance to rezone property located at 2307 Stout Street from R-2 to MF-1.
8. Ordinance to rezone property located at 1517 Caldwell Street from R-2A to O-2.
9. Ordinance to rezone property located south of Lower Ridge Road and immediately east of Sun Valley Estates from A-1 to [Mathews Meadows] PUD.
10. Consideration to approve a conditional use permit to allow General Retail in an O-1 zoning district for property located at 2545 Prince Street.

B. Public Service Committee (Sanitation, Parks & Recreation, & Physical Plant)

1. Consideration to approve the bid for a water truck for the Conway Sanitation Department.
2. Consideration to approve the water tank demolition by Smith Communication located at Conway Station Park.
3. Consideration to enter into a ground lease agreement with Smith Communication for property located at Conway Station Park.
4. Ordinance authorizing personnel changes within the Conway Parks & Recreation Department.

C. Public Safety Committee (Police, Fire, District Court, Animal Welfare Unit, Communication Emergency Operations Center, Information Technology, & City Attorney)

1. Ordinance accepting and appropriating grant proceed funds from CAPDD (Central Arkansas Planning & Development District) received for the Conway Emergency Operations Center.
2. Ordinance accepting and appropriating grant funds from ASPCA (American Society for Prevention of Cruelty to Animals) for the Conway Animal Welfare Unit.

Adjournment



City of Conway, Arkansas
Monthly Financial Reports
August 31, 2017

City of Conway
 Monthly Financial Report - General Fund
 For the month ended August 31, 2017



Revenues	Budget	Month Activity	Year to Date	Encumbered	(Over)/Under Budget	% Expend/Collect
Ad Valorem Tax	3,900,000	88,627	1,407,609		2,492,391	36%
Payments in Lieu of Tax	20,000	15,000	15,000		5,000	75%
State Tax Turnback	930,000	56,074	677,796		252,204	73%
Insurance Tax Turnback - LOPFI	1,300,000	281,143	560,135		739,865	43%
Sales Tax	18,200,000	1,638,384	12,631,817		5,568,183	69%
Beverage Tax	400,000	-	275,487		124,513	69%
Franchise Fees	3,569,000	284,050	2,202,559		1,366,441	62%
Permits	401,000	28,502	324,974		76,026	81%
ACIEA Revenues	5,000	1,993	11,622		(6,622)	232%
Dog Tags & Fees	30,000	3,655	22,570		7,430	75%
Municipal Court Fines and Fees	1,153,400	66,136	668,755		484,645	58%
Law Enforcement	796,384	19,030	467,537		328,847	59%
Parks	561,800	67,366	479,123		82,677	85%
Interest Income	22,000	4,796	40,776		(18,776)	185%
Proceeds from Sale of Assets	-	-	3,995		(3,995)	-
Insurance Proceeds	34,673	2,277	41,721		(7,048)	120%
Donations	7,036	-	7,037		(1)	100%
Act 833 Revenue	90,000	-	-		90,000	0%
Miscellaneous Revenues	140,964	19,359	95,581		45,383	68%
Transfers from Other Funds	423,000	-	211,500		211,500	50%
Total Revenues	31,984,257	2,576,392	20,145,593	-	11,838,664	63%
Expenditures						
Admin (Mayor, HR)	668,175	44,677	389,248	6,548	272,378	58%
Finance	445,568	27,019	311,824	-	133,744	70%
City Clerk/Treasurer	188,989	10,316	85,545	-	103,444	45%
City Council	100,767	6,980	52,854	-	47,913	52%
Planning	424,906	26,509	234,551	183	190,172	55%
Physical Plant	526,445	39,279	298,228	4,663	223,554	57%
Fleet Maintenance	156,763	19,266	102,191	5,644	48,928	65%
Information Technology	1,216,155	75,301	667,655	19,105	529,395	55%
Permits and Inspections	717,073	60,835	429,409	89	287,575	60%
Nondepartmental	763,384	208,041	615,916	6,385	141,083	81%
Police	11,484,200	862,114	7,537,747	28,928	3,917,526	66%
CEOC	1,074,954	98,363	717,631	3,278	354,046	67%
Animal Welfare	486,307	32,934	268,917	24,063	193,326	55%
Municipal District Court	874,792	63,730	560,423	152	314,217	64%
City Attorney	474,152	34,073	284,912	120	189,120	60%
Fire	9,954,071	682,865	6,228,432	92,308	3,633,331	63%
Parks	3,009,319	218,320	1,726,764	57,375	1,225,180	57%
Total Expenditures	32,566,020	2,510,623	20,512,245	248,841	11,804,933	63%
Net Revenue/(Expense)	(581,762)		(366,652)			

*All figures are unaudited

Notes:

1) Budget column is current budget which includes all year-to-date adjustments, if any.

City of Conway
General Fund
2017



Fund Balance Appropriations

<u>Ordinance</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
O-17-14	1/24/17	Diversity training for police and fire	16,000
O-17-34	3/28/17	Fuel tank repair	2,600
O-17-40	4/11/17	Mosquito abatement program	150,000
O-17-41	4/11/17	Generator repairs at CEOC	6,664
O-17-42	4/11/17	Civil service testing	5,400
O-17-55	5/9/17	Repair roof at City Hall	125,000
O-17-62	5/23/17	Health benefit premium increase	140,241
O-17-72	6/27/17	Civil service testing	2,600
O-17-73	6/27/17	New HVAC unit at CEOC	15,000
			<u>\$ 463,505</u>

City of Conway
 Balance Sheet - General Fund
 For the month ended August 31, 2017



Cash - Operating	3,162,748
Cash - Reserve	2,011,965
Petty Cash	715
Taxes Receivable	3,362,084
Accounts Receivable	4,211,888
Due from Other Funds	31,156
Due from Street	21,746
Due from Component Unit	294,539
Fleet Inventory	15,539
Fuel Inventory	20,995
General Inventory	585
<i>Assets</i>	<u>13,133,962</u>
Accounts Payable	(51,636)
Salaries Payable	236,327
Insurance and Benefits Payable	63,952
Held for Others - Performance Bonds	12,700
Event Deposits	850
Due to Other Funds	5,768
Deferred Revenue	4,045,383
<i>Liabilities</i>	<u>4,313,343</u>
Fund Balance - Committed to cash flow	2,000,000
Fund Balance - Committed to reserve	2,000,000
Fund Balance - Unassigned	4,820,618
<i>Fund Balance</i>	<u>8,820,618</u>
<i>Total Liabilities & Fund Balance</i>	<u>13,133,962</u>

*All figures are unaudited

City of Conway
 Monthly Financial Report - Street Fund
 For the month ended August 31, 2017



	<u>Budget</u>	<u>Month</u> <u>Activity</u>	<u>Year to</u> <u>Date</u>	<u>Encumbered</u>	<u>(Over)/Under</u>		<u>%</u> <u>Expend/Collect</u>
					<u>Budget</u>		
Revenues							
Ad Valorem Tax	1,500,000	32,643	518,836		981,164		35%
Payments in Lieu of Tax	15,000	-	-		15,000		0%
State Tax Turnback	2,683,474	329,107	1,642,527		1,040,947		61%
AHTD 1/2 Cent Sales Tax Turnback	1,100,000	-	627,377		472,623		57%
Severance Tax	75,000	15,972	110,492		(35,492)		147%
Sales Tax	250,000	22,957	176,994		73,006		71%
Sign Permits	500	150	150		350		30%
Engineering Fees	5,000	3,450	13,850		(8,850)		277%
Insurance Proceeds	-	3,055	3,055		(3,055)		-
Interest Income	20,000	4,827	30,302		(10,302)		152%
Miscellaneous Revenues	1,505	-	2,330		(825)		=
Total Revenues	5,650,479	412,161	3,125,913	-	2,524,566		55%
Expenditures							
Personnel Costs	2,587,824	159,823	1,342,848	-	1,244,976		52%
Other Operating Costs	3,508,982	773,300	1,650,583	570,212	1,288,187		47%
Total Operating Costs	6,096,806	933,122	2,993,431	570,212	2,533,163		49%
Capital Outlay	93,338	-	21,344	-	71,994		23%
Total Expenditures	6,190,144	933,122	3,014,775	570,212	2,605,157		49%
Net Revenue/(Expense)	(539,665)		111,138				

*All figures are unaudited

Notes:

- 1) Budget column is current budget which includes all year-to-date adjustments, if any.

City of Conway
Street Fund
2017



Fund Balance Appropriations

<u>Ordinance</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
O-17-34	3/28/17	Fuel tank repair	2,600
O-17-47	5/9/17	Increased transportation for Boys & Girls Club	13,000
O-17-50	5/9/17	Finish Smith & Spencer Reconstruction	139,000
O-17-62	5/23/17	Health benefit premium increase	11,583

City of Conway
 Balance Sheet - Street Fund
 For the month ended August 31, 2017



Cash - Operating	4,513,669
Taxes Receivable	47,108
Accounts Receivable	1,375,074
<i>Assets</i>	<u>5,935,851</u>
Accounts Payable	(3,472)
Salaries Payable	18,500
Insurance and Benefits Payable	8,342
Due to Other Funds	10,841
Due to General	21,746
Deferred Revenue	1,375,073
<i>Liabilities</i>	<u>1,431,030</u>
<i>Fund Balance</i>	<u>4,504,821</u>
<i>Total Liabilities & Fund Balance</i>	<u>5,935,851</u>

*All figures are unaudited

City of Conway
 Monthly Financial Report - Sanitation
 For the month ended August 31, 2017



Revenues	<u>Budget</u>	<u>Month</u>		<u>Year to Date</u>	<u>Encumbered</u>	<u>(Over)/Under</u>	
		<u>Activity</u>	<u>Encumbered</u>			<u>Budget</u>	<u>% Expend/Collect</u>
Sanitation Fees	8,750,000	732,861	5,969,974		2,780,026	68%	
Proceeds - Recycled Materials	540,000	105,131	660,255		(120,255)	122%	
Landfill Fees - General	200,000	18,686	144,101		55,899	72%	
Insurance Proceeds	5,733	-	6,479		(746)	113%	
Loan Proceeds	-	1,850,743	1,850,743		(1,850,743)	-	
Interest Income	50,000	10,859	59,373		(9,373)	119%	
Proceeds from Sale of Assets	-	78,165	78,165		(78,165)	-	
Miscellaneous Revenues	-	-	15,482		(15,482)	-	
Total Revenues	9,545,733	2,796,446	8,784,572	-	761,161	92%	
Expenditures							
Personnel Costs	3,875,162	293,621	2,560,701	-	1,314,461	66%	
Other Operating Costs	<u>3,640,496</u>	<u>258,963</u>	<u>1,639,629</u>	<u>126,609</u>	<u>1,874,258</u>	<u>45%</u>	
Total Operating Costs	7,515,658	552,584	4,200,330	126,609	3,188,719	56%	
Capital Outlay	<u>4,169,969</u>	<u>-</u>	<u>137,352</u>	<u>115,430</u>	<u>3,917,188</u>	<u>3%</u>	
Total Expenditures	11,685,627	552,584	4,337,682	242,039	7,105,907	37%	
Net Revenue/(Expense)	(2,139,894)		<u>4,446,890</u>				

*All figures are unaudited

Notes:

- 1) Budget column is current budget which includes all year-to-date adjustments, if any.
- 2) Capital outlay is shown here for budgeting purposes, but only depreciation expense will be recorded at year end.

City of Conway
Sanitation Fund
2017



Fund Balance Appropriations

<u>Ordinance</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
O-17-62	5/23/17	Health benefit premium increase	\$ 31,212

City of Conway
 Balance Sheet - Sanitation
 For the month ended August 31, 2017



Cash - Operating	7,050,090
Petty Cash	200
Post Closure Cash Account	5,645,685
Accounts Receivable	(1,140)
Due from Other Funds	68
Due from Component Unit	750,000
General Inventory	2,122
Land & Buildings	2,484,109
Infrastructure	1,043,647
Machinery and Equipment	3,915,471
Vehicles	448,244
Deferred Outflows of Resources	1,454,446
<i>Assets</i>	<u>22,792,942</u>
Accounts Payable	1,818
Salaries Payable	41,143
Insurance and Benefits Payable	20,837
Compensated Absences	168,607
Net Pension Obligation	9,286,388
Deferred Inflows of Resources	637,180
Due to Other Funds	7,891
Landfill Close/Post Close	8,524,931
<i>Liabilities</i>	<u>18,688,794</u>
<i>Net Assets</i>	<u>4,104,148</u>
<i>Total Liabilities and Net Assets</i>	<u>22,792,942</u>

*All figures are unaudited

Note: Capital assets shown at book value (cost less accumulated depreciation).

City of Conway
 Monthly Financial Report - Airport
 For the month ended August 31, 2017



	<u>Budget</u>	<u>Month</u> <u>Activity</u>	<u>Year to</u> <u>Date</u>	<u>Encumbered</u>	<u>(Over)/Under</u> <u>Budget</u>	<u>%</u> <u>Expend/Collect</u>
Revenues						
Sales Tax	13,000	1,484	6,477		6,523	50%
Airport Fuel Sales	600,000	61,254	486,251		113,749	81%
T-Hangar Rent	118,000	13,943	68,118		49,882	58%
Community Hangar Rent	25,000	4,935	11,930		13,070	48%
Ground Leases	125,000	31,913	93,542		31,459	75%
Insurance Proceeds	3,681	-	-		3,681	0%
Miscellaneous Revenues	13,000	780	7,155		5,845	55%
Total Revenues	897,681	114,308	673,473	-	224,208	75%
Expenditures						
Personnel Costs	216,013	18,956	161,411	-	54,602	75%
Fuel for Resale	431,000	61,954	390,600	-	40,400	91%
Other Operating Costs	157,881	8,437	64,485	958	92,439	41%
Total Operating Costs	804,894	89,347	616,496	958	187,440	77%
Capital Outlay	-	-	-	-	-	-
Total Expenditures	804,894	89,347	616,496	958	187,440	77%
Net Revenue/(Expense)	92,787		<u><u>56,977</u></u>			

*All figures are unaudited

Notes:

- 1) Budget column is current budget which includes all year-to-date adjustments, if any.
- 2) Capital outlay is shown here for budgeting purposes, but only depreciation expense will be recorded at year end.

City of Conway
Airport Fund
2017



Fund Balance Appropriations

<u>Ordinance</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
O-17-59	5/23/17	Study of the Lollie levee	\$ 10,000
O-17-60	5/23/17	New windcone and pole	\$ 5,500
O-17-62	5/23/17	Health benefit premium increase	\$ 1,608
			<u>\$ 17,108</u>

City of Conway
 Balance Sheet - Airport
 For the month ended August 31, 2017



Cash - Operating	390,139
Taxes Receivable	2,020
Accounts Receivable - Fuel Vendor	48,561
Due from Other Funds	733
Land	1,607,274
Buildings	4,652,909
Machinery & Equipment	477,842
Vehicles	16,454
Infrastructure	25,425,821
Construction in Progress	52,066
<i>Assets</i>	<u>32,673,819</u>
Salaries Payable	2,268
Insurance and Benefits Payable	1,552
Compensated Absences	5,127
Due to General	800
Accrued Interest Payable	108,986
Notes Payable	2,750,000
<i>Liabilities</i>	<u>2,868,733</u>
<i>Fund Balance</i>	29,805,086
<i>Total Liabilities & Fund Balance</i>	<u>32,673,819</u>

*All figures are unaudited

Note: Capital assets shown at book value (cost less accumulated depreciation).

City of Conway
Monthly Financial Report - Major Project Funds
For the month ended August 31, 2017



Parks and Rec A&P Tax

Balance, 7/31/17	2,781,829
Receipts	293,260
Payments	(386,750)
Balance, 8/31/17	\$2,688,339

Pay as you go Sales Tax

Balance, 7/31/17	3,758,549
Receipts	305,519
Payments	(300,530)
Balance, 8/31/17	\$3,763,538

Street Impact Fees

Balance, 7/31/17	911,050
Receipts	22,645
Payments	-
Balance, 8/31/17	\$ 933,696

Parks Impact Fees

Balance, 7/31/17	438,134
Receipts	12,076
Payments	-
Balance, 8/31/17	\$ 450,210



Housing Authority of the City of Conway

MARYANN BOYD
Executive Director

September 19, 2017



Honorable Mayor Bart Castleberry & City Council
City of Conway
1201 Oak Street
Conway, AR 72032

Dear Mayor & City Council Members:

The Board of Commissioners met on September 18, 2017 and recommended Dr. Ellen Hostetter, Assistant Professor at University of Central Arkansas, be appointed to fill the vacancy on the Board.

Dr. Hostetter will be a great asset to the Board and the low income families and elderly, we serve. Conway Housing Authority Board requests the confirmation by the City Council on this appointment.

Sincerely,

Mary A. Boyd
Executive Director

CC: Dr. Ellen Hostetter



**City of Conway, Arkansas
Ordinance No. O-17-_____**

**AN ORDINANCE APPROPRIATING FUNDING FOR STREETS AND IMPROVEMENTS ASSOCIATED WITH THE
CENTRAL LANDING PROJECT; AND FOR OTHER PURPOSES**

Whereas, the Street Department did not utilize any of the proceeds of the Arkansas Highway and Transportation Department’s ½ cent sales tax in 2016; and

Whereas, the proceeds were put into the Street Fund Reserve at the end of the year; and

Whereas, the Street Department would like to spend these funds on Central Landing streets and improvements, namely the finishing of the 6th Street Overpass, in order to allow proceeds from the City’s ¼ cent pay as you go sales tax to be used for drainage improvements.

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

Section 1. The City of Conway shall appropriate \$1,000,000.00 from the Street Fund Balance Appropriation Account (002-201-4900) to the CIP – Miscellaneous Account (002-201-5990).

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

PASSED this 12th day of September 2017.

Approved:

Mayor Bart Castleberry

Attest:

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



**City of Conway, Arkansas
Ordinance No. O-17-_____**

AN ORDINANCE APPROPRIATING GRANT FUNDS FOR THE SPENCER STREET BROWNFIELD CLEANUP PROJECT, AND FOR OTHER PURPOSES;

Whereas, grant funds in the amount of \$8,734.67 were received from the U.S. Environmental Protection Agency in support of the Spencer Street Brownfield Cleanup Project and for other expenses;

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

Section 1: The City of Conway, Arkansas, shall accept and appropriate grant funds in the amount of \$7,582.95 from Federal Miscellaneous Grant Account (399-000-4200) to the Planning & Development Grant CIP-Land Improvements Account (399-105-5902) and \$1,151.72 from the Federal Miscellaneous Grant Account (399-000-4200) to the Planning & Development Miscellaneous Grant Account (399-105-5799). The City of Conway Project Management number is 399-105C.

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

PASSED this 26th day of September, 2017.

Approved:

Mayor Bart Castleberry

Attest:

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



CITY OF CONWAY
Planning and Development

1201 Oak Street
Conway, AR 72032

T 501.450.6105
F 501.450.6144

www.conwayplanning.org

September 18, 2017

MEMO

From: Bryan Patrick

To: Mayor and City Council

GPM Properties Rezoning R-2 to MF-3 364 and 375 Denison Street

A rezoning from Small Lot Duplex to Multifamily 3 was reviewed and approved unanimously by the Planning Commission at the July 17, 2017 Planning Commission meeting. The City Council heard the request at the July 25, 2017 meeting where it was denied.

This denial was due to concerns over existing storm water drainage and the possibility that the proposed multifamily project could create an additional drainage problem. The applicants have hired a licensed civil engineer to study the area's water flow and create a drainage report.

Due to new information from the storm water drainage study, the applicants would like to bring the rezoning request back to the Planning Commission for review. Ordinances O-00-13 and O-03-52 state that any planning related item denied by the City Council may not be reconsidered in less than 1 year unless it receives 6 positive votes of the City Council or 7 positive votes of the Planning Commission to rehear. Any request approved to return in less than one year will be handled like a new submission. All notifications and deadlines must be met.

The applicant's would like to bring this rezoning request back to the Planning Commission in either October or November 2017. A positive vote by 6 Council members is necessary.



**City of Conway, Arkansas
Ordinance No. O-17- _____**

AN ORDINANCE RENAMING A PORTION OF SOUTH AMITY ROAD TO CRAIN DRIVE; AND FOR OTHER PURPOSES:

Whereas, the City Council of the City of Conway, Arkansas desires to rename the portion of South Amity Road that lies south of the round-about, currently under construction to serve the future Lewis Ranch development, to the intersection of East Dave Ward Drive; and

Whereas, the construction of the new round-about and new road will result in two road segments being named South Amity Road.

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

Section 1: That the portion of South Amity Road that lies south of round-about currently being constructed to the intersection of East Dave Ward Drive be renamed to Crain Drive.

Section 2: This charge will become effective December 1, 2017.

Section 3: All ordinances in conflict herewith are repealed to the extent of the conflict.

PASSED this 26th day of September, 2017.

Approved:

Mayor Bart Castleberry

Attest:

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



S. Amity Rd. Realignment Proposed Renaming

 Segment to be Renamed Crain Dr.



Geographic Information Systems



City of Conway, Arkansas
Ordinance No. O-17- _____

AN ORDINANCE RENAMING A PORTION OF MCNUTT ROAD TO OLD MILITARY ROAD; AND FOR OTHER PURPOSES:

Whereas, the City Council of the City of Conway, Arkansas desires to rename the portion of McNutt Road that lies south of Dave Ward Drive (AR-60), and north of the intersection of Donnell Ridge Road; and

Whereas, McNutt Road currently terminates at the intersection of Donnell Ridge Road and continues south as Old Military Road; and

Whereas, street improvements have resulted in two different street segments named McNutt Road; and

Whereas, efficient and orderly street naming and address delineation is needed for prompt emergency response and navigation.

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

Section 1: That the portion of McNutt Road that lies south of Dave Ward Drive (AR-60), and north of Donnell Ridge Road be renamed to Old Military Road.

Section 2: Change will become effective November 1, 2017.

Section 3: All ordinances in conflict herewith are repealed to the extent of the conflict.

PASSED this 26th day of September, 2017.

Approved:


Mayor Bart Castleberry

Attest:

Michael O. Garrett
City Clerk/Treasurer



McNutt/Old Military Rd. Proposed Renaming

 Portion to be Renamed Old Military Rd.



Geographic Information Systems



City of Conway, Arkansas
Ordinance No. O-17- _____

AN ORDINANCE AMENDING SECTIONS 201.1 AND 201.3 OF THE CONWAY ZONING ORDINANCE TO REZONE PROPERTY LOCATED AT 2307 STOUT STREET FROM R-2 TO MF-1:

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 **R-2** symbols and indications as shown on the Zoning District Boundary Map in an area described as follows:

Lot 1 and the east 25 feet of Lot 2, Block 2, J.A. Hutto Addition to the City of Conway, Arkansas as shown on Plat of Record in Plat Book A, Page 108, records of Faulkner County, Arkansas, being the property located at 2307 Stout Street, Conway, AR 72032

to those of **MF-1**, 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 26th day of September, 2017.

Approved:

Mayor Bart Castleberry

Attest:

Michael O. Garrett
City Clerk/Treasurer



1201 OAK STREET • CONWAY, AR 72032
(501) 450-6105 • planningcommission@cityofconway.org

MEMO

To: Mayor Bart Castleberry
CC: City Council Members

From: Anne Tucker, 2017 Planning Commission Chairman
Date: September 19, 2017

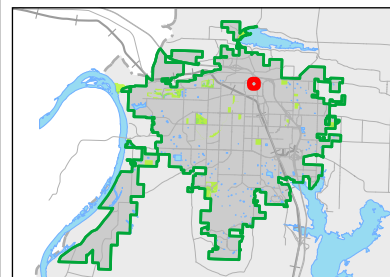
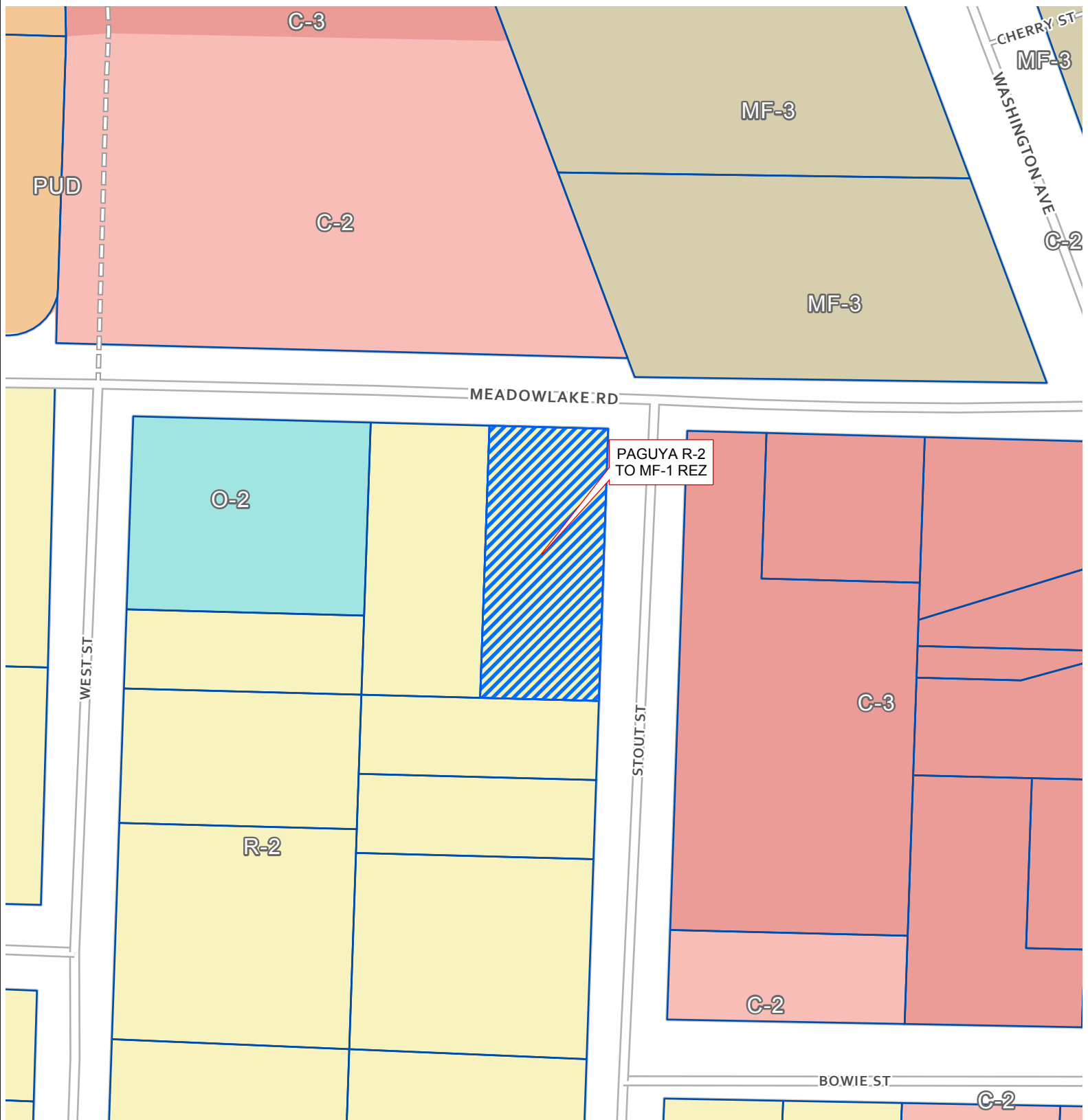
Re: Request to rezone from R-2 to MF-1 property located at 2307 Stout Street

Beau Wilcox, on behalf of Abraham Paguya, has requested to rezone from R-2 to MF-1 property located at 2307 Stout Street with the legal description:

Lot 1 and the east 25 feet of Lot 2, Block 2, J.A. HuPo Addition to the City of Conway, Arkansas as shown on Plat of Record in Plat Book A, Page 108, records of Faulkner County, Arkansas, being the property located at 2307 Stout Street, Conway, AR 72032

The Planning Commission reviewed this request at its regular meeting on September 18, 2017. The Planning Commission voted 8-2, that this request be forwarded to the City Council with a recommendation for approval. Commissioners Jerry Rye and Justin Brown voted in opposition.

Please advise if you have any questions.



DESCRIPTION	
PLANNING COMMISSION REVIEW	--
0.3 ac.	--

Residential	Industrial
R-1	MF-1
R-2A	MF-2
R-2	MF-3
HR	RMH
SR	
Commercial	Office
C-1	O-1
C-2	O-2
C-3	O-3
C-4	
Special	
SP	
S-1	
A-1	
PUD	
TJ	

City of Conway
Planning & Development

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www.cityofconway.org/pages/planning-development

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Feet
SEP 2017



**City of Conway, Arkansas
Ordinance No. O-17- _____**

AN ORDINANCE AMENDING SECTIONS 201.1 AND 201.3 OF THE CONWAY ZONING ORDINANCE TO REZONE PROPERTY LOCATED AT 1517 CALDWELL STREET FROM R-2A TO O-2:

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 **R-2A** symbols and indications as shown on the Zoning District Boundary Map in an area described as follows:

Lots 1 & 2, Block 26, Robinsons Plan

to those of **O-2**, 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 26th day of September, 2017.

Approved:

Mayor Bart Castleberry

Attest:

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



1201 OAK STREET • CONWAY, AR 72032
(501) 450-6105 • planningcommission@cityofconway.org

MEMO

To: Mayor Bart Castleberry
CC: City Council Members

From: Anne Tucker, 2017 Planning Commission Chairman
Date: September 19, 2017

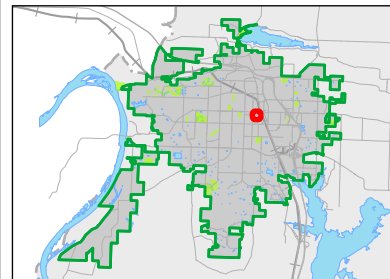
Re: Request to rezone from R-2A to O-2 property located at 1517 Caldwell Street

Jan Clark has requested to rezone from R-2A to O-2 property located at 1517 Caldwell Street with the legal descripon:

Lots 1 & 2, Block 26, Robinsons Plan

The Planning Commission reviewed this request at its regular meeCng on September 18, 2017. The Planning Commission voted 9-1, that this request be forwarded to the City Council with a recommendaCon for approval. Commissioner Jusn Br own voted in opposition.

Please advise if you have any quesCons.



DESCRIPTION

PLANNING COMMISSION
REVIEW
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0.33 ac.

Residential		Industrial	
R-1	MF-1	I-1	
R-2A	MF-2	RU-1	
R-2	MF-3	I-3	
HR	RMH		
SR			
Commercial		Office	
C-1	O-1		
C-2	O-2		
C-3	O-3		
C-4			
Special			
	SP		
	S-1		
	A-1		
	PUD		
	TJ		

City of Conway
Planning & Development

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www.cityofconway.org/pages/gis

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Feet
SEP 2017



City of Conway, Arkansas
Ordinance No. O-17- _____

AN ORDINANCE AMENDING SECTIONS 201.1 AND 201.3 OF THE CONWAY ZONING ORDINANCE TO REZONE PROPERTY LOCATED SOUTH OF LOWER RIDGE ROAD IMMEDIATELY EAST OF SUN VALLEY ESTATES FROM A-1 TO PUD:

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:

Land lying in a part of the E1/2 SW1/4 Section 32, T-6-N, R-13-W, Faulkner County, Arkansas more particularly described as follows:

Commencing at the NW corner of said E1/2 SW1/4 at a found 1" pipe, thence along the West line of said E1/2 SW1/4 S01°42'52"W 490.78 feet to a found pk nail on the centerline of Lower Ridge Road; thence leaving said West line along said centerline of road the following courses: S83°19'28"E 162.14 feet to a found pk nail; thence S84°49'55"E 58.24 feet to a found pk nail being the point of beginning; thence S84°51'52"E 220.69 feet to a found pk nail; thence S84°60'09"E 220.36 feet to a found pk nail; thence leaving said centerline of road S01°42'53"W 896.94 feet to a found iron pin; thence S01°44'06"W 1187.55 feet to a found T-post; thence N88°08'56" W 659.31 feet to a found 3/4" rebar at the SW corner of said E1/2 SW1/4; thence along the West line of said E1/2 SW1/4 N01°42'52"E 1184.15 feet to a found iron pin; thence N01°42'52"E 682.86 feet; thence S88°08'56"E 219.91 feet; thence N01°39'32"E 245.68 feet to the point of beginning; containing 30.62 acres more or less.

to those of **PUD**, 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 26th day of September, 2017.

Approved:

Mayor Bart Castleberry

Attest:

Michael O. Garrett
City Clerk/Treasurer



1201 OAK STREET • CONWAY, AR 72032
(501) 450-6105 • planningcommission@cityofconway.org

MEMO

To: Mayor Bart Castleberry
CC: City Council Members

From: Anne Tucker, 2017 Planning Commission Chairman
Date: September 19, 2017

Re: Request to rezone from A-1 to PUD property located south of Lower Ridge Road, immediately east of Sun Valley Estates

Frank Shaw has requested to rezone from A-1 to [Mathews Meadows] PUD property located at south of Lower Ridge Road, immediately east of Sun Valley Estates with the legal description:

Land lying in a part of the E1/2 SW1/4 Section 32, T-6-N, R-13-W, Faulkner County, Arkansas more particularly described as follows:

Commencing at the NW corner of said E1/2 SW1/4 at a found 1" pipe, thence along the West line of said E1/2 SW1/4 S01°42'52"W 490.78 feet to a found pk nail on the centerline of Lower Ridge Road; thence leaving said West line along said centerline of road the following courses: S83°19'28"E 162.14 feet to a found pk nail; thence S84°49'55"E 58.24 feet to a found pk nail being the point of beginning; thence S84°51'52"E 220.69 feet to a found pk nail; thence S84°60'09"E 220.36 feet to a found pk nail; thence leaving said centerline of road S01°42'53"W 896.94 feet to a found iron pin; thence S01°44'06"W 1187.55 feet to a found T-post; thence N88°08'56" W 659.31 feet to a found 3/4" rebar at the SW corner of said E1/2 SW1/4; thence along the West line of said E1/2 SW1/4 N01°42'52"E 1184.15 feet to a found iron pin; thence N01°42'52"E 682.86 feet; thence S88°08'56"E 219.91 feet; thence N01°39'32"E 245.68 feet to the point of beginning; containing 30.62 acres more or less.

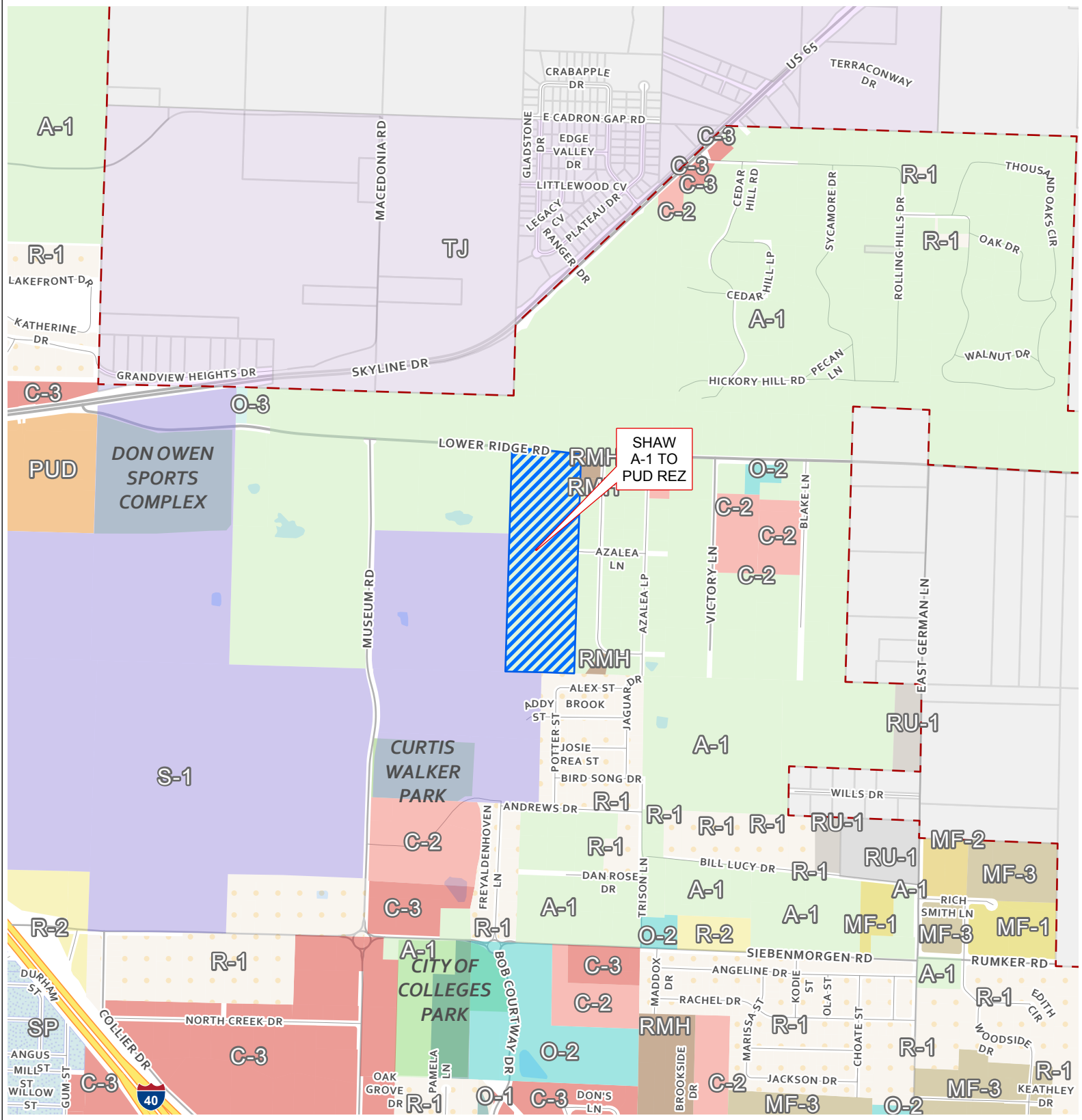
The Planning Commission reviewed this request at its regular meeting on September 18, 2017. The Planning Commission voted 9-1, that this request be forwarded to the City Council with a recommendation for approval with the Planned Unit Development Final Development Plan conditions listed below. Commissioner Justin Brown voted in opposition.

Mathews Meadows PUD Final Development Plan Conditions:

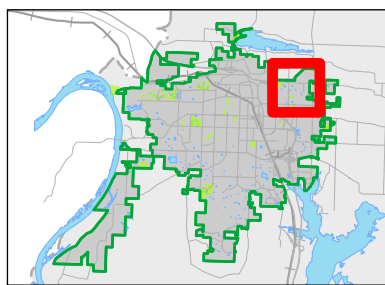
1. Exterior composed of brick, rock, or hardie board (cement fiber board).
2. Vinyl siding/shingles allowed on gables and dormers only.
3. 8/12 roof pitch or greater unless porches.
4. Garages cannot protrude past front of house more than 7 feet, unless side entry.
5. Architectural shingles or metal roofing only.
6. Minimum 9' ceilings.
7. Each home will be different.
8. PUD shall be generally developed as shown on the submitted site plan. Minor variations from the submitted plan shall be allowed for technical reasons. However, the density and intent of the site plan shall be followed.

9. Additional review of reduced street rights of way by the City Engineering and Planning Departments will be needed to ensure adequate space for utilities, sidewalks, drainage and street infrastructure. This review will be part of the planning process.
10. Planning shall be required. Any additional rights of way, sidewalks, etc. as required by the Subdivision Ordinance shall be dedicated and constructed. Any additional right of way per the Master Street Plan along Lower Ridge Road shall be dedicated as part of the planning process.
11. Setbacks, utility/pedestrian easements, public rights of way, etc shall be defined in the final development plan, plat, and PUD documents.
12. Pedestrian access shall be provided on the south and east to provide possible pedestrian access to elementary school.
13. Commercial lot shall be regulated as a C-2 Neighborhood Commercial District as specified in the Conway Zoning Ordinance. Additional uses as allowed in C-2 through the conditional use process may be requested per conditional use procedures without requiring a PUD amendment.
14. PUD may be developed in phases. Phases will be determined during the planning process.
15. Azalea Lane right of way must be improved by developer to meet Fire Code access requirements during the appropriate phase of development.

Please advise if you have any questions.



SHAW
A-1 TO
PUD REZ



DESCRIPTION	
PLANNING COMMISSION REVIEW	-
31.92 ac.	

Residential		Industrial	
R-1	MF-1	I-1	
R-2A	MF-2	RU-1	
R-2	MF-3	I-3	
HR	RMH		
SR			
Commercial		Office	
C-1	O-1	SP	
C-2	O-2	S-1	
C-3	O-3	A-1	
C-4		PUD	
		TJ	

City of Conway
Planning & Development

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Feet
SEP 2017

MEMO

To: Mayor Bart Castleberry
CC: City Council Members

From: Anne Tucker, 2017 Planning Commission Chairman
Date: September 19, 2017

Re: Request for a Conditional Use Permit to allow a General Retail in an O-1 zoning district for property located at 2545 Prince Street

Phil Dayer has requested a Conditional Use Permit to allow a General Retail in an O-1 zoning district for property located at 2545 Prince Street with the legal description:

A part of the northeast quarter (NE1/4) of the northwest quarter (NW1/4) of Section 11, Township 5 North, Range 14 West, Faulkner County, Arkansas, described as commencing at the NW corner of said E1/4, NW1/4 and run south 26.5 feet; thence N89°32'30"E along the south right of way of Prince Street 628.5 feet to the point of beginning; thence N89°32'30" along said right of way 56.0 feet to a found pipe; thence S00°20'40"E 100.00 feet; thence N89°32'30"E 38.0 feet to a found pipe; thence south 404.08 feet to an existing property line; thence west along said property line 134.0 feet; thence north 190.87 feet; thence N07°17'40"E 315.0 feet to the point of beginning containing 1.32 acres, more or less.

The Planning Commission reviewed this request at its regular meeting on September 19, 2017. The Planning Commission voted unanimously, that this request be forwarded to the City Council with a recommendation for approval with the following conditions:

Conditions attached to the new Conditional Use Permit:

1. General retail shall be allowed.
2. Driveway curb cuts shall meet development review standards. Cross access/shared access shall be used unless outstanding conditions warrant otherwise.
3. A brick wall must be constructed along the south property line to provide screening for residences. (Wall must be a minimum of 6 feet tall.)

Additionally, this property was previously granted a conditional use permit, No. 1277, in conjunction with 2 other adjacent properties. For the new conditional use permit to be granted to only to property located at 2545 Prince Street, the property will be removed from the previously issued conditional use permit No. 1277 and the conditions of the same should be amended as follows:

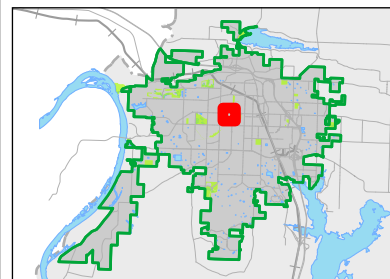
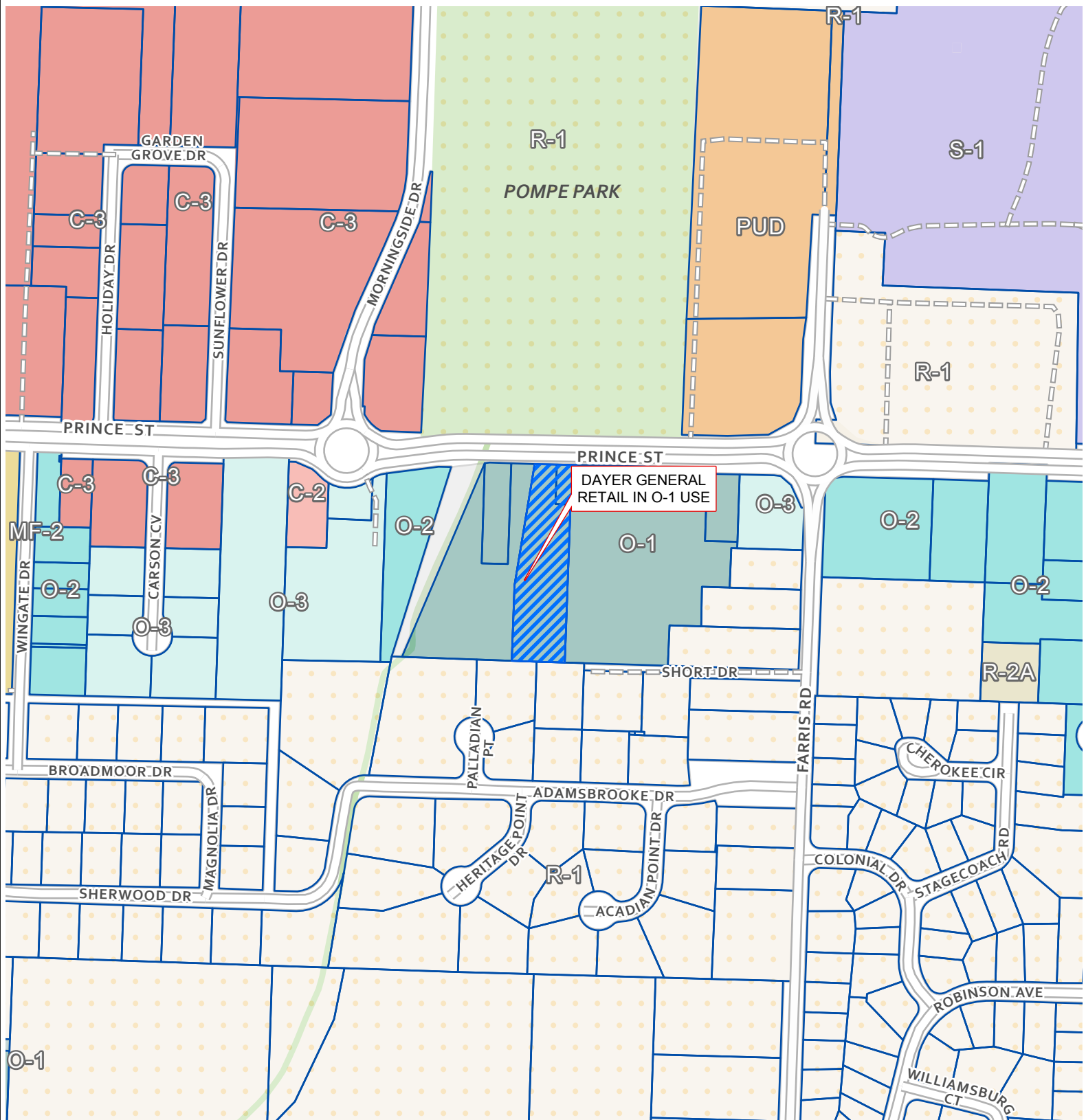
Amendments to Conditional Use Permit 1277:

1. ~~No more than 60% of the development's floor area may be used for retail.~~ The allowed 60% restricted retail area of the approved conditional use permit is prorated according to parcel size. The east parcel: 710-08411-000 or 2525 Prince Street shall have no more than 51.6% of the developable area used for restricted retail. The west parcels: 710-08413-000 2565 Prince Street and 710-08413-000 2555 Prince Street

shall have no more than 29.5% of the developable area used for restricted retail.

2. ~~The development must generally follow the conceptual site plan presented at the April 2008 Planning Commission meeting (see attachment). Key elements are interior parking, structure orientation to creek and trail, and the encouragement of plaza space and trail access points. The 2008 conceptual site plan is abandoned with the exception of encouragement of creek oriented structures, plazas, and trail access points.~~
3. A 30 foot green space buffer strip with no parking or structures on the south to buffer residences.
4. Dedication of a riparian buffer area 30 feet in width, measured east of and parallel to the eastern Tucker Creek floodway boundary, also to be used for pedestrian/bike trail easement purposes.
5. ~~Drive separation/access management—curb cuts are to have 300 feet of separation and a minimum of 150 feet from side lot lines unless outstanding conditions warrant other locations. Driveway curb cuts shall meet development review standards. Cross access/shared access shall be used unless outstanding conditions warrant otherwise.~~
6. ~~Office uses only are allowed on the east and south sides of the development.~~
7. A brick wall must be constructed along the south property line to provide screening for residences. (Wall must be a minimum of 6 feet tall.) **8 foot wooden privacy fence? Match any new fencing requirements.**

Please advise if you have any questions.



DESCRIPTION	
PLANNING COMMISSION REVIEW	--
1.42 ac.	

Residential	Commercial	Office	Industrial	Special
R-1	C-1	O-1	I-1	SP
R-2A	C-2	O-2	RU-1	S-1
R-2	C-3	O-3	I-3	A-1
HR	C-4		RMH	PUD
SR				TJ

City of Conway
Planning & Development

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Feet
SEP 2017

CONDITIONAL USE PERMIT

CITY OF CONWAY, ARKANSAS

PROPERTY DESCRIPTION / ADDRESS / LOCATION:

This property is located at 2515, 2525, 2545, and 2555 Prince Street, beginning approximately 186 feet west of the intersection of Prince Street and Farris Road, west to Tucker Creek, and has the legal description:

Part of the NE¼ NW¼ of Section 11, T-5-N, R-14-W, City of Conway, Faulkner County, Arkansas being more particularly described as follows:

Commencing at the NE corner of the NE¼ NW¼ of said Section 11; thence South, a distance of 25.00 feet to the south right-of-way line of Arkansas Highway No. 60; thence west along said south right-of-way line, a distance of 186.00 feet to the POINT OF BEGINNING; thence South, a distance of 202.00 feet; thence West, a distance of 14.00 feet; thence South, a distance of 100.00 feet; thence West, a distance of 70.00 feet; thence South, a distance of 100.00 feet; thence West, a distance of 80.00 feet; thence South, a distance of 102.00 feet; thence West 672.00 feet to the east bank of a creek; thence N21°04'33"E along said east bank, a distance of 540.13 feet to said south right-of-way line; thence East along said south right-of-way line, a distance of 641.77 feet to the POINT OF BEGINNING, containing 7.94 Acres (345,869 sq. ft.) more or less.

ZONING: O-1

CONDITIONAL USE PERMITTED FOR: Retail – Restricted in O-1 zoning

DATE OF COUNCIL MEETING ALLOWING PERMITTED USE: May 13, 2008

CONDITIONS ATTACHED TO PERMIT:

1. No more than 60% of the development's floor area may be used for retail.
2. The development must generally follow the conceptual site plan presented at the April 2008 Planning Commission meeting (*see attachment*). Key elements are interior parking, structure orientation to creek and trail, and the encouragement of plaza space and trail access points.
3. A 30 foot green space buffer strip with no parking or structures on the south to buffer residences.
4. Dedication of a riparian buffer area 30 feet in width, measured east of and parallel to the eastern Tucker Creek floodway boundary, also to be used for pedestrian/bike trail easement purposes.
5. Driveway separation/access management—curb cuts are to have 300 feet of separation and a minimum of 150 feet from side lot lines unless outstanding conditions warrant other locations.
6. Office uses only are allowed on the east and south sides of the development.
7. A brick wall must be constructed along the south property line to provide screening for residences. (Wall must be a minimum of 6 feet tall.)

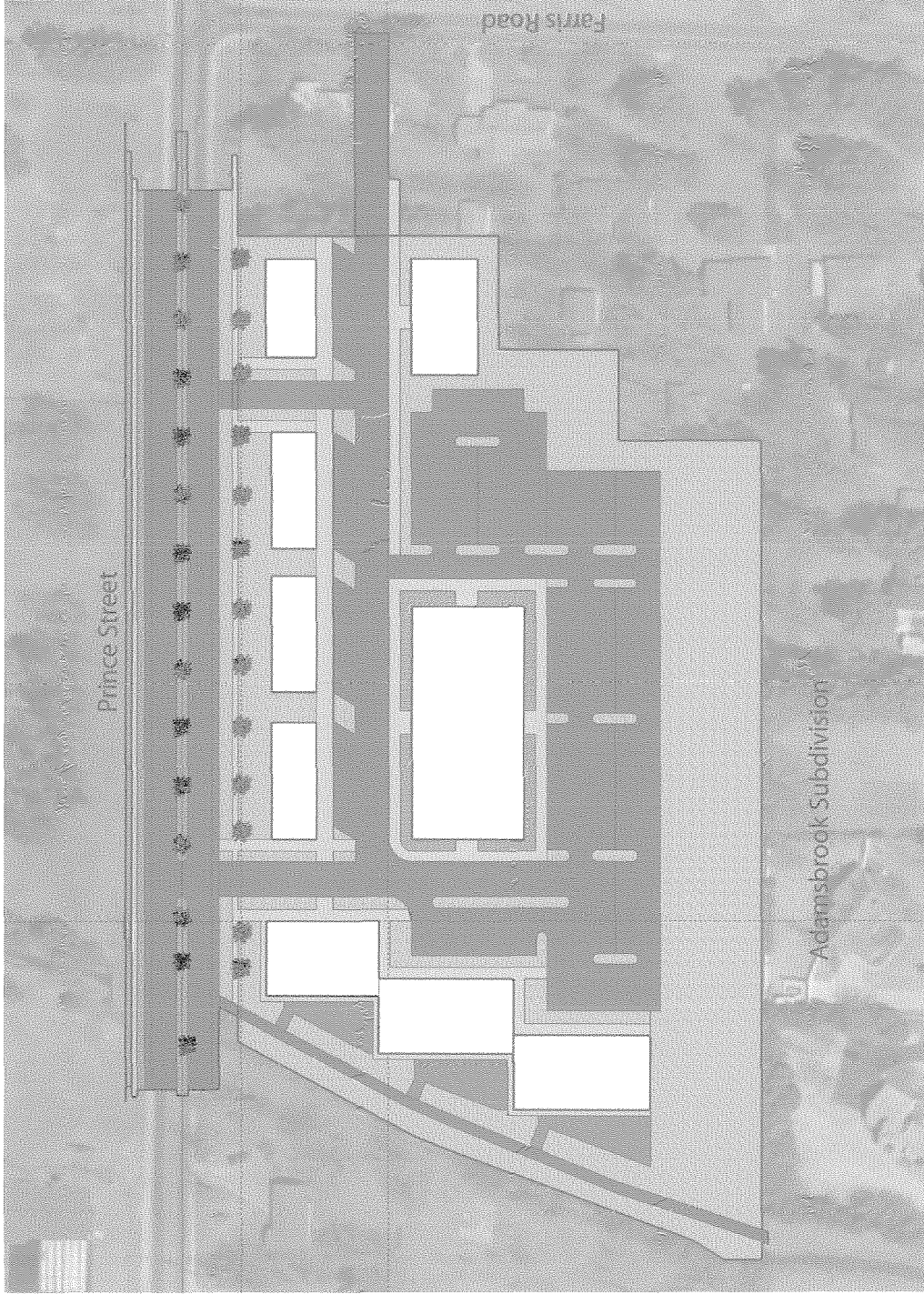
APPROVED:



Tab Townsell, Mayor



Date



Coffey et al Conditional Use Conceptual Site Plan

MEMO

City of Conway, Arkansas
Jamie Brice, Purchasing Manager
1201 Oak Street
Conway, AR 72032
www.cityofconway.org

To: Mayor Bart Castleberry and City of Conway Council
CC: Joe Hopper Nathan Davis Felicia Rogers Jack Bell
From: Jamie Brice
Date: September 18th, 2017
Re: Sanitation Water Truck Bid # 2017-22

Bids were received at 2:00 p.m. on Monday September 18th, 2017 at Conway City Hall to acquire a Water Truck to be used for dust suppression at the City of Conway Sanitation Department.

We received a total of one bid in the amount of \$37,500. I would like to recommend Council accept the bid from Shipley Motor Equipment Company. The 2017 Sanitation Enterprise Fund budget includes funding in the Machinery and Equipment Expenditure Account to purchase a Water Truck.

Sincerely,



Jamie Brice
Purchasing Manager
City of Conway

Department Head Acknowledgement

Name: JOSEPH HOPPER

Signature: 

Date: 09/18/2017

WATER TANK DEMOLITION AGREEMENT

THIS WATER TANK DEMOLITION AGREEMENT (the “Agreement”) is entered into this ____ day of _____, 2017 (the “Effective Date”), by and between the Conway Corporation, an Arkansas nonprofit corporation (“Conway Corp”), the City of Conway, Arkansas, an Arkansas municipal corporation (the “City”) and Smith Communications, LLC, an Arkansas limited liability company (“Smith”).

WHEREAS, Conway Corp owns and operates utilities, including electric, water, wastewater, cable, internet, telephone and security services within in the City with its principle place of business located at 650 Locust St., Conway, Arkansas;

WHEREAS, the City is an Arkansas municipality located within Faulkner County, Arkansas whereby its owns certain real property and provides services to its citizens;

WHEREAS, Smith is a provider of wireless telecommunications services with its principle place of business located at 520 N. College Ave., Fayetteville, Arkansas.

WHEREAS, Smith and Conway Corp wish to enter into this Water Tank Demolition Agreement to provide for the removal an existing water tank that is owned and operated by Conway Corp, but is situated on real property owned by the City, for mutual consideration set forth herein.

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

1. Definitions:

- (a) Contractor. A person or entity approved by Conway Corp and with the required licensing, experience, insurance and bonding to perform the removal of the Water Tank according to the Plans approved by Conway Corp.
- (b) Government Approvals. All governmental licenses, permits, approvals or other relief required, necessary or appropriate for removal and demolition of the Water Tank, including without limitations applications for permits.
- (c) Plans. The plans, drawings, submissions for the removal of the Water Tank which are approved by Conway Corp, the City and other required regulatory authorities and which are attached hereto as Exhibit “A”
- (d) Water Tank. A water tank/tower located off of Robins Street, City of Conway, Arkansas along with associated equipment and structures.
- (e) Work. The Removal of the Water Tank in accordance with the Plans.

2. Removal of Water Tank.

2.1 Smith shall be responsible, at its sole cost and expense, to pay for all costs and expenses related to the removal of the Water Tank in accordance with the Plans. The parties agree that Smith shall hire a Contractor to perform the Work and that Smith shall be responsible for the proper performance and completion of the Work in accordance with the Plans. All underground work required on the water main which is associated with the removal of the Water Tank, including the disconnection of the water main and the capping of the water line, shall be performed by Conway Corp.

2.2 Smith warrants and represents that such Services shall: (a) be performed in accordance with all applicable Federal, state and local laws, rules and regulations and shall be performed in a professional and workmanlike manner in accordance with applicable industry standards.

2.3 Smith shall hold title to all metals and materials from the Work and retain all compensation, if any, from the salvage of such metals and materials.

2.4 Smith warrants the Work shall be performed in accordance with the work schedule attached hereto as Exhibit "B".

3. Consideration.

3.1 In consideration for the removal of the Water Tank as provided herein, the City and Conway Corp agree to enter contemporaneous with this Agreement a Ground Lease Agreement in a form similar, or substantially similar to the attached Exhibit "C".

4. Independent Contractor.

4.1 Independent Contractor. Smith shall perform the Services hereunder as an independent contractor. Nothing contained herein shall be construed to constitute Smith or its employees as an agent, employee or representative of Conway Corp or the City. Nothing contained herein shall be construed to create or imply a joint venture or principal and agent relationship between the parties, and neither party shall have any right, power or authority to create any obligation, express or implied, on behalf of the other in connection with the performance of Work. Smith agrees to furnish all tools, materials, contractors and services, and to incur all associated expenses necessary, to perform the Work and other obligations under this Agreement. None of Smith's employees will be eligible for any Conway Corp or City employee benefits. Smith shall have sole responsibility for remitting taxes and providing benefits to its employees.

5. Insurance.

5.1 All Work shall be and remain the sole risk of Smith, and Conway Corp or the City shall not be liable for any damage to, or loss of, property arising from any act of God or any person, not from any other reason. Conway Corp or the City shall not be liable for any personal injury to Smith, its employees, agents, invitees, licensees, contractors, subcontractors, customers, clients, and subtenants arising from the Work.

5.2 At all times during the course of this Agreement, Smith at its sole cost and expense, shall obtain and keep in force insurance which may be required by any federal, state or local statute or ordinance of any governmental body having jurisdiction in connection with the Work. In addition to the above, Smith shall also provide insurance that meets or exceeds the following requirements of Conway Corp as set forth in the attached Exhibit "D".

6. Indemnity.

6.1 Smith shall defend (with legal counsel acceptable to Conway Corp and the City) indemnify and hold harmless Conway Corp and the City and their employees, agents, board members, officers, agents, servants and volunteers from all losses, costs, claims, causes of actions, demands and liabilities rising in relation to the Work. Such indemnification shall include the cost of investigation, all expenses of litigation, without limitation, attorney's fees and court costs. Smith's indemnification shall not be applicable to any gross negligence or willful misconduct of Conway Corp or the City.

7. Default.

7.1 The following shall be an Event of Default of the Agreement:

- a. Failure to cure, within thirty (30) days after written notice to Smith, any default by Smith in the performance or observance of, or compliance with, any material covenant, agreement, term or condition contained in this Agreement.
- b. Upon the entry of a judgment or decree approving a petition of an arrangement, liquidation, dissolution or similar relief relating to bankruptcy, an involuntary bankruptcy or insolvency of Smith and such judgment or decree remains un-vacated for thirty (30) days.

- c. Upon the filing of a voluntary petition in bankruptcy of any petition or answer seeking any arrangement, liquidation or dissolution relating to bankruptcy, insolvency or other relief for debtors by Smith, including any consent or acquiescence by Smith in the appointment of any trustee, receive or liquidation of Smith's assets or property.

8. Force Majeure.

8.1. Neither party shall be liable to the other for failure to perform their non-monetary obligations hereunder if and to the extent such failure to perform results from causes beyond their reasonable control, all of which causes herein are called "force majeure," including but not limited to strikes; civil disturbances; fires; floods; unusual climatic conditions; acts of God; or acts of a public enemy. Financial difficulty shall not be considered a cause beyond a party's control. The party unable to perform as a result of force majeure shall promptly notify the other at the beginning and ending of each such period and shall act with due diligence and in good faith to recommence performance at the earliest possible date. If any period of force majeure continues for thirty (30) days or more, either party shall have the right to terminate Services upon ten (10) days' prior written notice to the other party, provided that, the party relying on the force majeure to excuse its performance hereunder shall not have any such right to terminate, unless such party has been acting with due diligence and in good faith to recommence performance hereunder since occurrence of the force majeure.

9. Representations and Warranties.

9.1 Smith is a limited liability company duly organized under the laws of the State of Arkansas, is qualified to do business in the State of Arkansas and has all corporate powers and authority necessary to perform the obligations of this Agreement.

9.2 Smith shall obtain, and at all times during the Term of this Agreement keep in in good standing, any and all licenses and other permits legally required in the conduct of Smith's business.

9.3 Upon reasonable request, Smith shall attend any meeting of Conway Corp or the City regarding this Agreement.

9.4 Smith shall not knowingly violate any federal, state, municipal, county or other governmental law, ordinance, rule or regulation in performing its services under this Agreement, and Smith shall use reasonable diligence to comply with any and all such laws, ordinances, rules and regulations affecting the Work.

9.5 If Smith is apprised of any claim, demand, suit or other legal proceeding made or instituted or threatened against Conway Corp or the City on account of any matter directly connected with the Work, Smith shall promptly provide Conway Corp or the City with all information in its possession in respect thereof, and shall timely assist and cooperate with Conway Corp and the City in all reasonable respects in the defense of any such suit or other legal proceedings.

9.6 Smith shall perform all services and obligations with that standard of care, skill, and diligence reasonably expected from a person or entity in the business of the demolition of water tanks.

10. Notice. Any and all notices, demands, requests, consents, approvals, or communications required or permitted to be given hereunder, shall be in writing and shall be delivered by personal delivery, electronic mail (e-mail) transmission, facsimile transmission, overnight delivery, or via United States, certified or registered mail. Irrespective of the manner of delivery used, all such notices shall be properly addressed and directed, with postage or delivery charges prepaid, to the parties at their respective addresses or facsimile numbers set forth below or to such other address or facsimile number which the parties may from time to time designate in writing delivered in accordance with this provision:

If to City: City of Conway, Arkansas
ATTN: Current Mayor
1201 Oak Street
Conway, AR 72032
Email: _____

If to Smith: Smith Communications, LLC
ATTN: Mike Smith
520 N. College Ave

Fayetteville, AR 7201

Email: _____

If to Conway Corp: Conway Corporation

ATTN: President

650 Locust Street

Conway, AR 72034

Email: _____

Notices sent by personal delivery shall be deemed given upon actual receipt. Notices sent by facsimile transmission shall be deemed given on the date of transmission if such transmission is evidenced by an acknowledgment of receipt by the recipient's facsimile machine and a copy of the transmission is deposited in the United States mail as set forth above on the date of the transmission. Notices sent via email shall be deemed given upon actual receipt. Notices sent via overnight delivery shall be deemed given no later than five (5) business days from mailing.

11. Miscellaneous.

(a) Entire Agreement. This writing, and any exhibits attached hereto, constitutes the entire agreement of the parties with respect to the subject matter hereof and may not, be modified, amended or terminated except by a written agreement specifically referring to this Agreement signed by the party to be bound thereby.

(b) Amendment. Any provision of this Agreement may be amended only if such amendment is in writing and approved by Conway Corp, the City and Smith.

(c) Waiver. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

(d) Binding Effect. This Agreement shall be binding upon and inure to the benefit of each corporate party hereto, its successors and assigns and each individual party hereto and his heirs, personal representatives, successors and assigns. Otherwise, this Agreement shall not create any rights for the benefit of any third party.

(e) Other Covenants and Assurances. Each party hereto shall cooperate, shall take such further action and shall execute and deliver such further documents as may be reasonably requested by any other party hereto in order to carry out the provisions and purposes of this Agreement.

(f) Execution in Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall be deemed one original.

(g) Governing Law. This Agreement and all amendments thereof shall be governed by and construed in accordance with the law of the State of Arkansas without reference to choice of law principles.

(h) Choice of Forum, Venue, and Consent to Jurisdiction. Any and all claims or causes of action shall be filed only in the courts of the State of Arkansas for Faulkner County or the United States District Court for the Eastern District of Arkansas, which shall have exclusive jurisdiction over any disputes which arise between the parties under this Severance Agreement, whether in law or in equity. Each of the parties expressly agrees, consents, and stipulates that venue shall be exclusively within said courts. Each of the parties expressly agrees, consents and stipulates to the exercise of personal jurisdiction over it and subject matter jurisdiction over any such controversy arising between the parties being only in the courts listed herein.

(i) Joint Preparation. This Agreement shall be deemed to have been prepared jointly by the parties hereto, and any uncertainty or ambiguity existing herein shall not be interpreted against any party by reason of its drafting of the Agreement, but shall be interpreted according to the application of the general rules of interpretation for arm's length agreements.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date aforesaid.

CITY:

CITY OF CONWAY

By: _____

Bart Castleberry, Mayor

Attest:

Michael Garrett, City Clerk

SMITH:

Smith Communications, LLC, an Arkansas limited liability company

By: _____

Michael Smith, Authorized Member

CONWAY CORP:

Conway Corporation, Inc., an Arkansas nonprofit corporation

By: _____

Title: _____

EX A. - Plan for Removal of Water Tank

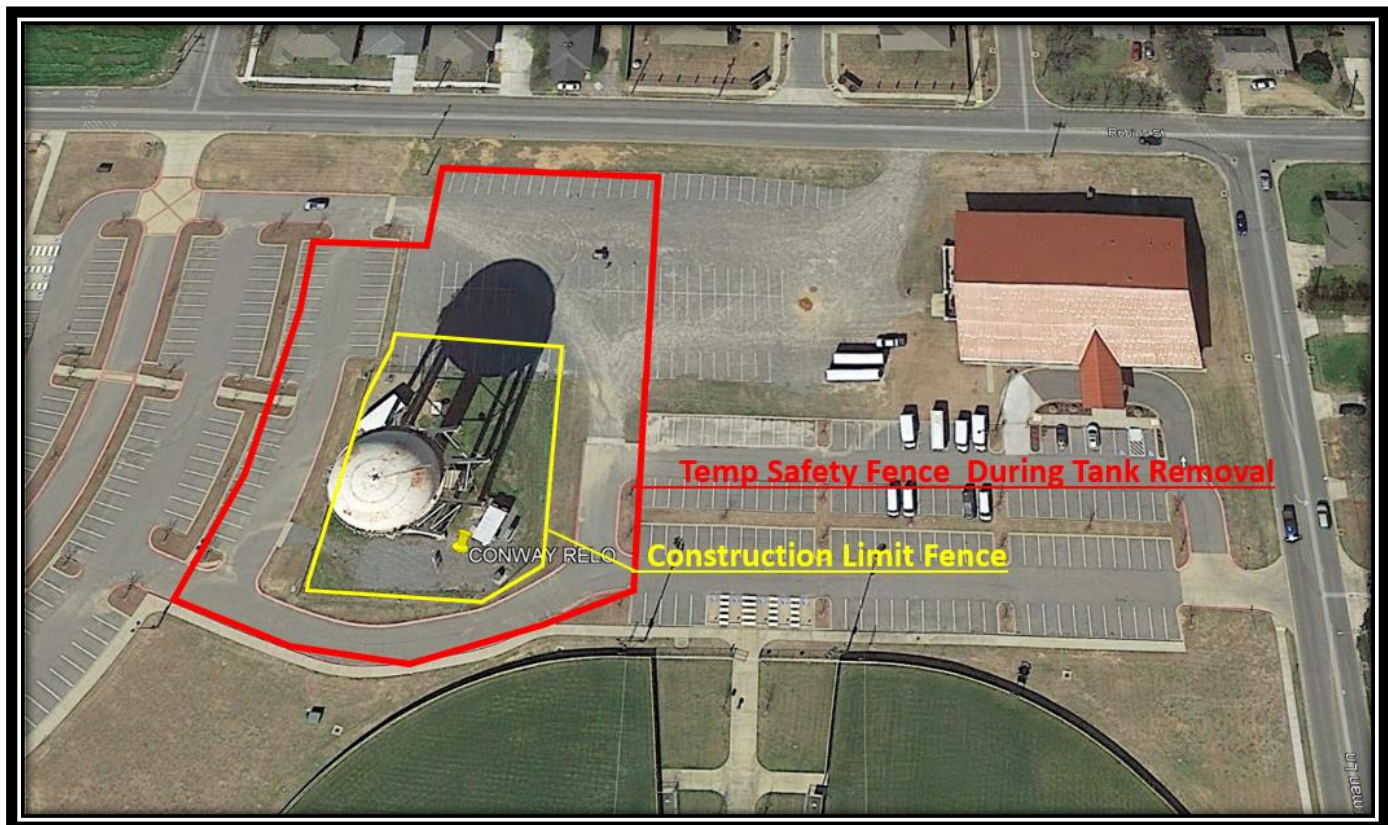
Water Tower Removal

As part of the Lease Agreement, Smith Communications will be responsible for the proper and safe Dismantle, Removal, Disposal and, Handling of the Tank Structure.

As part of the Lease Agreement and Demolition Agreement Smith Communications will contract with Iseler Demolition, Inc. to preform the removal and proper disposal of the above ground portions water tank. Iseler Demolition will adhere to current OSHA and EPA regulations by using normal and standard techniques and precautions regarding overall project safety and final removal disposal of the structure to the appropriate recycling facility of their selection, and will supply documentation of the materials acceptance by the recycling facility.

The basic steps and techniques Iseler uses in the removal of Water Tanks of this type will be: After Smith Communications works with the Carriers to turn down the existing cellular equipment and the protection of and Equipment Buildings and other Structures that are to remain in place.

Smith Communications, with the prior approval and scheduling with The City of Conway and Conway Corp. will then place temporary security fencing to create an enlarged construction area to include a large part of the North Gravel parking lot area (but not to interfere with Access into Boy's & Girl's Club Drive) and some other adjacent assess and parking areas as generally depicted below. This will be temporary security and safety measure – shown in Red and should only be in place for about 5 Days and then removed with the construction limits to be reduced and secured back to the Constructions Limit Fence – as shown in Yellow



EX A. - Plan for Removal of Water Tank

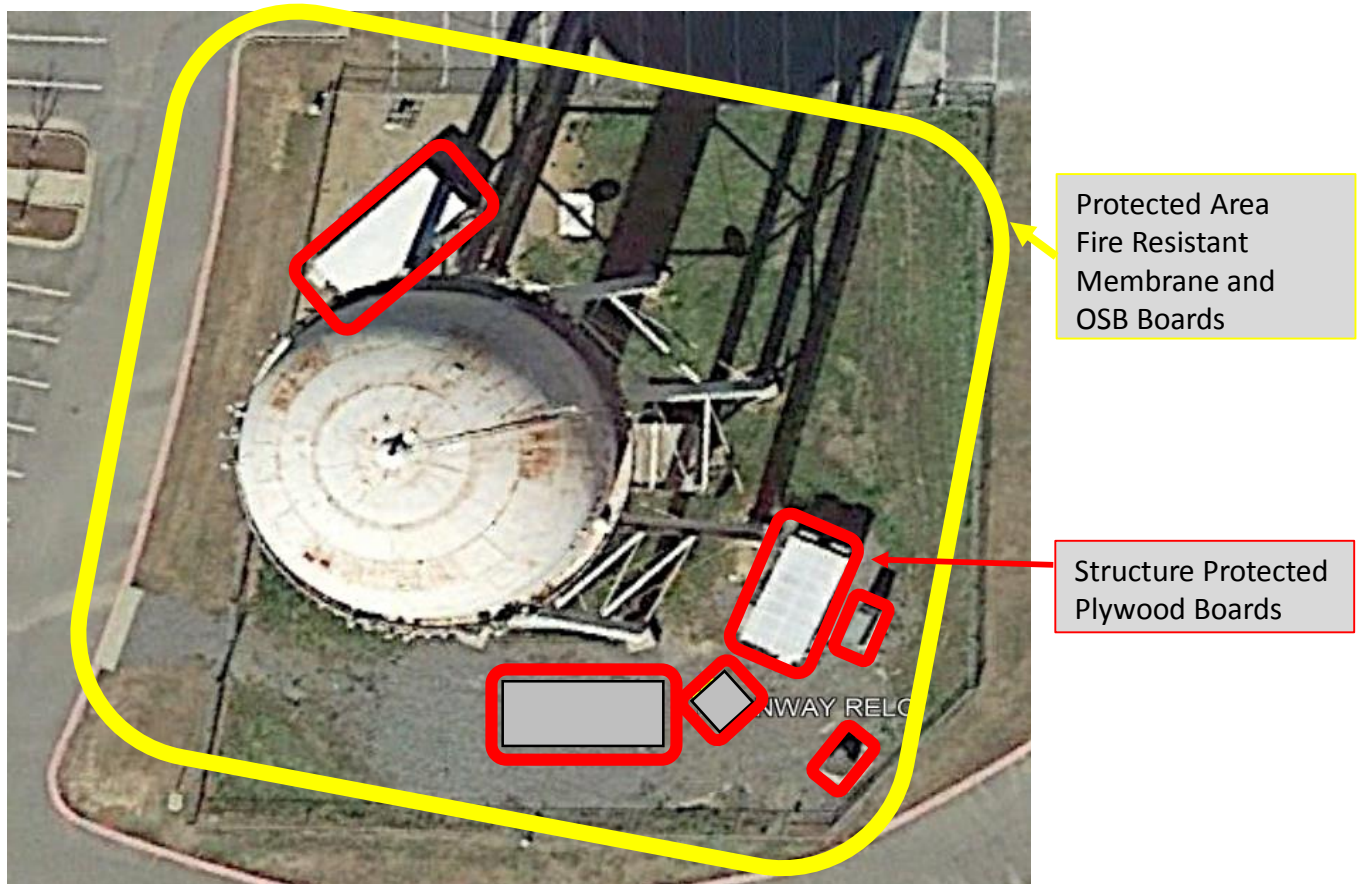
Water Tower Removal

Upon arrival Iseler Demolition will laydown a special fire resistant plastic to cover the area under and around the tank and to 20ft outside of the tank's perimeter (extension and adjustments for weather conditions to be reviewed and the time of tank removal and as necessary during demolition). To further protect the plastic barrier and other work areas, Iseler will place 530 4x8 sheets of OSB type fiber board on the ground. At the end of the demolition process the protective membrane and the OSB sheets will be also removed and disposed of in accordance with applicable standards.

Iseler Demolition Crews will through the use of a cutting torches and other tools cut into manageable sections and lower the pieces of the tower and then place them into transport containers where they await recycle. Through this process the tank will be dismantled down to the foundation level

At this point Iseler Demolition Crews will leave the site with the water tank and protective materials removed from the site and documentation of proper receipt at an appropriate facility. The area clean and free of debris.

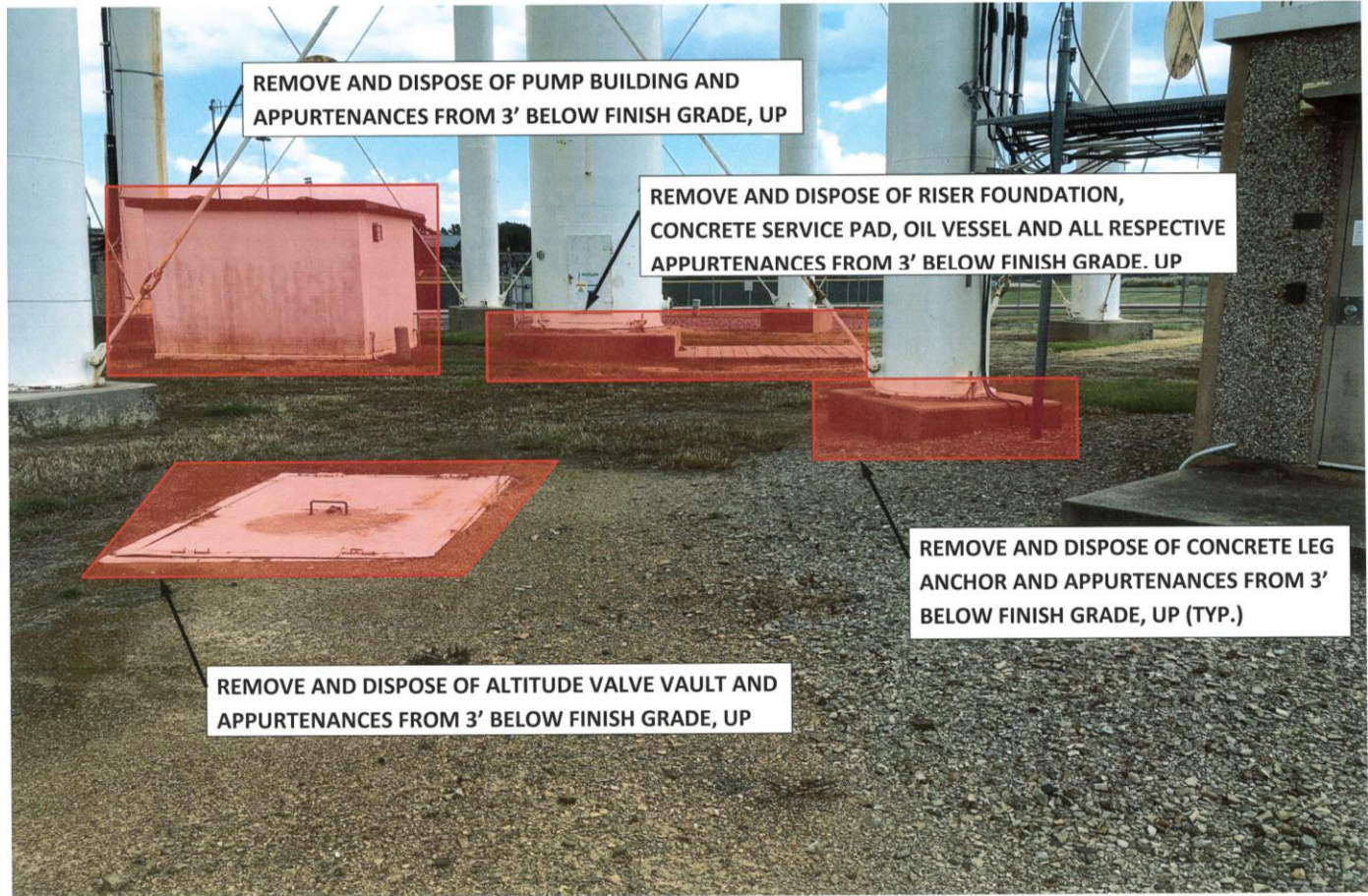
This part of the project is expected to take 3 calendar days from Iseler Crews "move in" to "move out"



EX A. - Plan for Removal of Water Tank

Water Tower Removal

After Isler Demolition Crews have cleared the area Smith Communications Crews then will begin the removal of the tank foundations and underground piping and other existing Conway Corp equipment and facilities to a depth of 3 feet below existing grade.



EX B. - Work Schedule Removal of Water Tank

On or about October 16th Smith Communications would begin to prep and stage for construction at the site.
November 1st Carrier Structures and Equipment to remain protective structures in place
November 10th new Tower Foundations and VZW equipment pads in place and protected
November 13th ~Dec 5th, Tank removal and New Tower Erection – This is a window that within period of 3~5 days will see the Isler Demolition Crews move in and remove the tank and move out then immediately after Isler crews clears Smith crews will erect tower and move VZW Building to new equipment pad. (This work should take about Approximately 10 Days During Window)
Immediately after this is Smith Crews will remove existing tank foundation and UG equipment and finish Fencing with the irrigation and landscaping to be completed by May 1st.

This Schedule is dependent on weather and Local Conway City & Corp date approvals for Final Scheduling.

GROUND LEASE AGREEMENT

Smith Communications, LLC
an Arkansas limited liability company

Tower and Wireless Communications Facility

Located at:

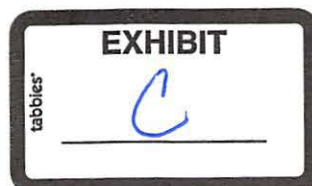
Conway Station Cell Tower
Conway
Faulkner County
Arkansas

Between

SMITH COMMUNICATIONS, LLC, an Arkansas
Limited liability company

And

City of Conway, Arkansas



GROUND LEASE AGREEMENT

This **GROUND LEASE AGREEMENT** (the "Lease") is entered into and effective on the ____ day of _____, 2017, by and between **the City of Conway, Arkansas**, (hereinafter collectively referred to as "Lessor" or "City"), and **SMITH COMMUNICATIONS, LLC**, a limited liability company organized and existing under the laws of the State of Arkansas (hereinafter referred to as "Lessee" or "Smith"), wherein the following mutual covenants and understandings are made and entered into upon the following terms and conditions:

WHEREAS, the City and Smith have entered into a Water Tank Demolition Agreement dated _____, 2017 (the "Demolition Agreement") to provide for the demolition and removal of an existing water tank on a portion of City owned real property so that Smith may construct, install and operate wireless telecommunications facilities thereon pursuant to the terms of this Agreement; and

WHEREAS, the Demolition Agreement sets forth certain understandings between the parties that are a condition precedent to the effective date of this Lease; and

WHEREAS, the City as Lessor and Smith as Lessee desire to enter into this Lease under the terms and conditions set forth hereinbelow.

W I T N E S S E T H

SECTION ONE DESCRIPTION OF PROPERTY

Lessor hereby lets and leases unto Lessee, and Lessee accepts from Lessor, subject to the terms and conditions contained herein, approximately .11 acres of real property described on Exhibit "A" attached hereto and made a part hereof and is depicted on a survey as Exhibit "B" attached hereto and made a part hereof (the "Site") which is a part of certain property of Lessor located off of Robins Street, City of Conway, Faulkner County, Arkansas, being more particularly described as part of the Section 13, Township 5 North, Range 14 West and is a part of Lessor's public recreation complex (hereinafter referred to as the "Parent Tract").

The Site also includes a thirty (30) foot wide access and utility easement described in the attached Exhibit "C" and depicted on the survey attached as Exhibit "B" and made a part hereof (Lessee's Right of Way #1) as well as a right for ingress and egress, seven days per week, twenty-four hours per day, on foot or motor vehicle, including trucks, along a thirty (30) foot wide right-of-way depicted on the attached hereto as Exhibit "D" and depicted on the survey attached as Exhibit "B" and made a part hereof ("Lessee's Right of Way #2") under and across the Parent tract; provided however

all new utilities servicing the Site must be placed underground at the Lessee's sole cost and expense. During the Term of this Lease, Lessor may at Lessor's expense, and with the consent of Lessee and Lessee's subtenants and utility providers, relocate the easement, as long as such relocation does not unreasonably interfere with the operation of Lessee's Facilities, relocate the easement to another location on Lessor's contiguous property extending from the nearest public right-of-way, together with the right to install, replace and maintain utility wires, poles, cables, conduits and pipes.

In the event any public utility is unable or unwilling to use the described right-of-way, Lessor hereby agrees to grant an additional reasonable right-of-way either to Lessee or directly to the public utility at no cost and in a location acceptable to either Lessee or the public utility; provided however all easements so granted shall be for underground utilities only and all such utilities shall be installed at Lessee's sole cost and expense. Lessor shall not be responsible for the cost of removing any trees, brush, rock or other obstacles in the right of way or the installation of any utilities for Lessee's use of the Site.

SECTION TWO TERM

This Lease shall be for an initial term of five (5) years beginning on the effective date of this Lease provided above (the "Initial Term"). This Lease shall automatically be extended for five (5) subsequent five (5) year terms (the "Renewal Terms") unless Lessee or Lessor terminates this Lease pursuant to the provision set forth herein. The Initial Term and any Renewal Term or Renewal Terms shall be collectively referred to as the "Lease Term" or "Term".

SECTION THREE RENT

Smith shall pay to the City the sum of One Thousand and No/100 Dollars (\$1,000.00) per month, due and payable at the 1st day of the month, for a total of Twelve Thousand and No/100 Dollars (\$12,000.00) as hereinafter adjusted annually (the "Rent"). Lease payments shall consist of twelve (12) equal monthly installments, with the first Rent payment due at the commencement of the Initial Term and subsequent payments due on the first (1st) day of each following month for the duration of the Lease. In addition, at the beginning of each five (5) year Renewal Term, the Rent shall increase by an amount equal to ten percent (10%) of the then existing Rent and hence forward shall be the amount known as the "Rent". The Rent shall constitute the total amount of money due to Lessor no matter the number of wireless carriers or other communication equipment who use or sublease the Site.

SECTION FOUR USE OF SITE

The Site and all easements, rights and privileges herein granted shall be used only for the purpose of constructing, installing, maintaining and operating the Facility and uses incidental thereto as depicted on the Site Plan attached hereto as Exhibit "E" and made a part hereof. Lessee shall not use the Site or the Easement for any other purpose without first having received the prior written consent of Lessor. Lessee shall construct the Facilities as depicted in the Site Plan that receives Final Approval by Lessor through its appropriate planning and development process, and shall not deviate from the Site Plan without the prior written consent of the Lessor. It is understood and agreed that all improvements shall be undertaken at Lessee's sole cost and expense and shall be performed in a good and workmanlike manner. Lessor hereby acknowledges and consents that Lessee and Lessee's Tenants may, at their sole discretion add, remove, replace or change equipment, on the Facilities, including antennas or antenna arrays, or add, as well as remove or replace the Facility, Tenants and number of Tenants, under the Lease and without the prior consent of the Lessor. Lessor agrees to execute as the owner of the Site, and not as an agent for Lessee, such documents, consents or agreements as may be necessary or required from time to time to secure Government Approval for the addition, removal or replacement of any such equipment, antenna or antenna array to the Facility or the Site provided that the addition, removal or replacement of any such equipment, antenna or antenna array shall be in conformity with the Final Approval of the Lessor and with the design and aesthetic regulations adopted by the City of Conway.

Lessor covenants that it shall not take any action that would adversely affect the status of the Site with respect to the proposed use by Lessee. In exercising its rights under this Lease, Lessee shall use commercially reasonable efforts to avoid any adverse construction, operation, maintenance or other impacts on the Site and Lessor's use and operation thereof for youth sports activities, and Lessee shall use commercially reasonable efforts to avoid any such impacts to youth sports activities on the Site and shall not park vehicles or use an approved areas of storage of equipment near the Site in after 5:00 PM on weekdays or on the weekends which would block or impede parking for youth sports activities. Lessor and the Lessee shall use best efforts to coordinate Lessee's entry upon the Site of for any necessary temporary storage of equipment or materials for construction. All staging areas for the construction of the Facilities shall be properly secured and maintained in a clean and workmen like manner, and all fencing and landscaping for the Site shall been maintained by Lessee. Any entry, work or other activities shall occur only at such time and in such manner, as may be required by Lessor to avoid any adverse impacts to youth sports. In cases of emergencies involving life or safety, Lessee may enter the Site without prior notice provided that Lessee notifies Lessor of the same as soon as practicable.

Lessee shall be responsible for maintaining the fence that surrounds the Facilities and the Site in a good and workmanlike manner. Lessor shall be responsible for maintaining the landscaping along the fencing that surrounds the Site.

**SECTION FIVE
OWNERSHIP OF SITE IMPROVEMENTS**

Ownership of the Facilities located on the Site shall remain with Lessee until the Term of this Lease expires, otherwise terminates, or a new Lease is agreed to. If no new Lease is agreed to, within one hundred and twenty (120) days after the end of such Term of this Lease, Lessee shall remove any or all of the Facilities from the Site and restore the Site to its prior condition unless a new Lease is agreed to, or both Lessor and Lessee agree that the Facilities shall remain on the Site. If the Facilities shall remain on the Site, the title to the Facilities shall vest in the Lessor without the need of additional action by the Lessor or Lessee.

**SECTION SIX
CONDITION OF PROPERTY**

Lessee acknowledges and agrees that the Site is leased in an “AS IS, WHERE IS” condition, without warranty of any kind, express or implied, including without limitation the warranty of merchantability or fitness for a particular purpose, subject to all defects, latent or patent, known and unknown, apparent or hidden, including environmental conditions and matters, which currently exist or may in the future arise. Lessee hereby waives all rights, remedies and causes of action against Lessor resulting from or relating to the condition of the Site. By executing this Lease, Lessee acknowledges that it has had the opportunity to inspect the Site, and is relying solely on that inspection, and not on any representation or warranty of the Lessor in leasing the Site, including the presence of any hazardous materials or other conditions that might render the Site unfit for its intended use.

**SECTION SEVEN
LESSEE’S RIGHT OF TERMINATION**

Lessee shall have the right to terminate this Lease if at any time there is no Carrier Sublease for the Facility at the Site, despite the reasonable efforts of Lessee to locate or secure a Carrier Sublease. Lessee can thus terminate the Lease by providing One Hundred and Eighty (180) days prior written notice to Lessor in conformance with the Notice requirements outlined in the Lease (the “Termination Right”). Upon the termination of the Lease as provided herein, within one hundred and twenty (120) days after the end of such Term of this Lease, Lessee shall remove any or all of the Facilities from the Site and restore the Site to its prior condition unless a new Lease is agreed to, or both Lessor and Lessee agree that the Facilities shall remain on the Site.

SECTION EIGHT

ENVIRONMENTAL

Lessee shall not cause or permit to be caused the use, storage, generation, escape, disposal or release of any Hazardous Substances or Hazardous Wastes in any manner not sanctioned by law. In all events, Lessee shall indemnify and hold Lessor harmless from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, any and all sums paid for settlement of claims, attorneys' fees, and consultants' and experts' fees) from the presence or release of any Hazardous Substances or Hazardous Wastes on the Site if caused by Lessee or persons acting under Lessee. Lessee shall execute such affidavits, representations and the like from time to time as Lessor may reasonably request concerning Lessee's best knowledge and belief as to the presence of Hazardous Substances or Hazardous Wastes on the Site.

Lessor shall not cause or permit the use, storage, generation, escape, disposal or release of any Hazardous Substances or Hazardous Wastes in any manner not sanctioned by law. Lessor shall execute such affidavits, representations and the like from time to time as Lessee may reasonably request concerning Lessor's best knowledge and belief as to the presence of Hazardous Substances or Hazardous Wastes on the Site.

For purposes of this Lease, the term "Hazardous Substances" shall be as defined in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 *et seq.*, and any regulations promulgated pursuant thereto, and as used to define "Hazardous Wastes" in the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.*, and any regulations promulgated thereto.

SECTION NINE INSURANCE

At all times during the Lease Term, Lessee, at its sole cost and expense, shall obtain and keep in force insurance which may be required by any federal, state or local statute or ordinance of any governmental body having jurisdiction in connection with the operation of Lessee's business upon the Site. In addition to the above, Lessee shall also provide insurance that meets or exceeds the following requirements of Conway Corp as set forth in the attached Exhibit "F."

SECTION TEN EMINENT DOMAIN

If any part of the Site is taken by eminent domain prior to construction, Lessor will notify Lessee of the taking within five days and Lessee will have the option to: (a) declare this Lease null and void with thereafter being no further liability or obligation by either of the parties hereunder; or (b) remain in possession of that portion of the Site not taken, in which event there shall be an equitable adjustment in rent on account of the portion of the Site so taken. With either option, Lessee has the ability to contest the

taking and directly proceed to obtain an award, or a portion of the award, allocated to Lessee's interest in the Site.

SECTION ELEVEN SALE OF PROPERTY

If at any time during the Lease Term, Lessor decides to sell all or part of the Site then such sale shall be under and subject to this Lease and Lessee's rights hereunder. Any sale by Lessor of the portion of the Site or the Easement shall be under and subject to the right of Lessee in and to the Easement.

SECTION TWELVE MEMORANDUM OF LEASE

Lessor acknowledges that Lessee intends to record a Memorandum of this Lease with the appropriate recording officer upon execution of this Lease. Lessor shall execute such a Memorandum promptly upon Lessee's request. Lessee agrees to immediately record a "Notice of Termination of Lease" when this Lease either is terminated by Lessor or the Lease expires.

SECTION THIRTEEN INDEMNIFICATION

Lessee shall defend (with legal counsel acceptable to Lessor) and indemnify and hold harmless Lessor, its employees, agents, board members, officers, agents, servants and volunteers from all losses, costs, claims, causes of actions, demands and liabilities rising in relation to from (a) any action by any Carrier pursuant to a Carrier's sublease, or with which Lessee has had negotiations concerning the Site and (b) Lessee's entry onto, or presence at, any Site. Such indemnification shall include the cost of investigation, all expenses of litigation, without limitation, attorney's fees and court costs. Lessee's indemnification shall not be applicable to any gross negligence or willful misconduct of Lessor.

Lessee hereby waives any right of recovery against Lessor or its officers, directors, employees and contractors for any claim, loss, liability, injury or damage that is covered by any policy of property insurance maintained by Lessee with regard to this Lease.

SECTION FOURTEEN COVENANT OF TITLE

Lessor covenants that Lessor is seized of good and sufficient title and interest to the Site and has full authority to enter into and execute this Lease. Lessor further covenants that to the knowledge of Lessor, without inquiry, (1) there are no aspects of title that might interfere with or be adverse to Lessee's interests in and intended use of the

Site and (2) title shall be such that Lessee will have the ability to obtain title insurance at regular rates.

SECTION FIFTEEN NON-INTERFERENCE

Lessor further covenants with the Lessee, subject to applicable law and to Lessor's consent, which shall not unreasonably be withheld, may remove obstructions on the Site or Easements, including but not limited to trees, bushes, vegetation or structures, which may encroach upon, interfere with or present a hazard to Lessee's use of Site.

SECTION SIXTEEN DEFAULT

In the event that there is a default by Lessee with respect to any of the provisions of this Lease or Lessee's obligations under the Lease, including the payment of Rent, Lessor shall give Lessee written notice of such default. After receipt of such written notice, Lessee shall have ten (10) days in which to cure any monetary default and thirty (30) days from the mailing of such notice of default in which to cure any non-monetary default. Lessee shall have such extended periods beyond the thirty (30) days for non-monetary defaults if the nature of the cure is such that it requires more than thirty (30) days and Lessee commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. In the event of three (3) or more monetary defaults in one (1) five (5) year Lease Term in which Lessor has provided notices of monetary default to Lessee and Lessee has cured the default as provided herein, the Lessor shall have the option to declare the Lease in default upon the occurrence of a 4th monetary default.

Lessor may not maintain any action or effect any remedies for default against Lessee unless and until Lessee has failed to cure the same within the time periods provided in this Section. Thereafter, Lessor shall have all rights and remedies provided at law or in equity.

SECTION SEVENTEEN ATTORNEYS FEES

In an action to enforce any rights pursuant to this Lease Agreement, the prevailing party shall be entitled to recover from the other party any reasonable costs and attorneys' fees incurred as a consequence of enforcing the provision of the lease, amount to be fixed by said court and shall be made part of the judgment or decree rendered.

SECTION EIGHTEEN NOTICES

Any and all notices, demands, requests, consents, approvals, or communications required or permitted to be given hereunder, shall be in writing and shall be delivered by personal delivery, electronic mail (e-mail) transmission, facsimile transmission, overnight delivery, or via United States, certified or registered mail. Irrespective of the manner of delivery used, all such notices shall be properly addressed and directed, with postage or delivery charges prepaid, to the parties at their respective addresses or facsimile numbers set forth below or to such other address or facsimile number which the parties may from time to time designate in writing delivered in accordance with this provision:

If to City: City of Conway
 ATTN: Current Mayor
 1201 Oak Street
 Conway, AR 72032
 Email: _____

If to Smith: Smith Communications, LLC
 ATTN: Mike Smith
 520 N. College Ave
 Fayetteville, AR 7201
 Email: _____

Notices sent by personal delivery shall be deemed given upon actual receipt. Notices sent by facsimile transmission shall be deemed given on the date of transmission if such transmission is evidenced by an acknowledgment of receipt by the recipient's facsimile machine and a copy of the transmission is deposited in the United States mail as set forth above on the date of the transmission. Notices sent via email shall be deemed given upon actual receipt. Notices sent via overnight delivery shall be deemed given no later than five (5) business days from mailing.

**SECTION NINETEEN
SUBLEASE**

Lessee shall be entitled to sublease space on or in the Facility to wireless carriers and entities or persons using over the air communication equipment. The Lessor hereby consents to such subleases, licenses or other occupancy agreements with respect to the Site or any Easement.

**SECTION TWENTY
PARTIAL INVALIDITY**

In the event any one or more of the provisions contained in the Lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Lease and this

Lease shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

**SECTION TWENTY-ONE
SUCCESSORS AND ASSIGNS**

Except as otherwise provided herein, this Lease shall extend to and bind the heirs, personal representatives, successors and assigns of the parties hereto.

**SECTION TWENTY-TWO
AD VALOREM TAXES**

Lessee agrees to pay for any documented increase in real estate or ad valorem taxes levied against the Site that are directly attributable to the improvements constructed by Lessee. Lessor agrees to provide Lessee any documentation evidencing the increase and how such increase is attributable to Lessee's use. Lessee reserves the right to challenge any such assessment, and Lessor agrees to cooperate with Lessee in connection with any such challenge. Lessee further agrees to pay any personal property taxes related to Lessee's Facility including equipment, improvements or other property located upon the Site or the Easements.

**SECTION TWENTY-THREE
MERGER**

This Lease contains the entire agreement between the parties and supersedes any prior or contemporaneous oral or written agreements which supplement or contradict the terms and provisions set forth herein.

**SECTION TWENTY-FOUR
MISCELLANEOUS**

(a) Entire Agreement. This writing, and any exhibits attached hereto, constitutes the entire agreement of the parties with respect to the subject matter hereof and may not, be modified, amended or terminated except by a written agreement specifically referring to this Lease signed by the party to be bound thereby.

(b) Amendment. Any provision of this Lease may be amended only if such amendment is in writing and approved by Lessee and Lessor.

(c) Waiver. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

(d) Binding Effect. This Lease shall be binding upon and inure to the benefit of each corporate party hereto, its successors and assigns and each individual party hereto and his heirs, personal representatives, successors and assigns. Otherwise, this Lease shall not create any rights for the benefit of any third party.

(e) Other Covenants and Assurances. Each party hereto shall cooperate, shall take such further action and shall execute and deliver such further documents as may be reasonably requested by any other party hereto in order to carry out the provisions and purposes of this Lease.

(f) Execution in Counterparts. This Lease may be executed in one or more counterparts, all of which taken together shall be deemed one original.

(g) Governing Law. This Lease and all amendments thereof shall be governed by and construed in accordance with the law of the State of Arkansas without reference to choice of law principles.

(h) Choice of Forum, Venue, and Consent to Jurisdiction. Any and all claims or causes of action shall be filed only in the courts of the State of Arkansas for Faulkner County or the United States District Court for the Eastern District of Arkansas, which shall have exclusive jurisdiction over any disputes which arise between the parties under this Severance Agreement, whether in law or in equity. Each of the parties expressly agrees, consents, and stipulates that venue shall be exclusively within said courts. Each of the parties expressly agrees, consents and stipulates to the exercise of personal jurisdiction over it and subject matter jurisdiction over any such controversy arising between the parties being only in the courts listed herein. Prior to the filing of any claim or cause action, the parties shall engage in good faith in non-binding mediation in order to resolve disputes regarding or relating to this Lease.

(j) Joint Preparation. This Ground Lease Agreement shall be deemed to have been prepared jointly by the parties hereto, and any uncertainty or ambiguity existing herein shall not be interpreted against any party by reason of its drafting, but shall be interpreted according to the application of the general rules of interpretation for arm's length agreements.

IN WITNESS WHEREOF, the parties hereto have executed this Lease effective as of the date aforesaid.

City:
CITY OF CONWAY, ARKANSAS:

By: _____
Bart Castleberry, Mayor

Attest:

Michael Garrett, City Clerk

SMITH:
Smith Communications, LLC, an Arkansas limited liability company

By: _____
Michael Smith, Authorized Member

Exhibit "D"

Without limiting any obligation or liabilities of Contractor, Contractor, at its own expense, shall provide and maintain during the term of this Agreement insurance coverage from an insurance company with an A.M. Best rating of A- or above in forms and amounts as follows:

(a) Worker's Compensation Insurance in accordance with all applicable state, federal and maritime laws, including Employer's Liability Insurance in the amounts of not less than:

\$500,000 Bodily Injury for each accident
\$500,000 Bodily Injury by disease, each employee
\$500,000 Bodily Injury by disease, policy limit

The policy shall be endorsed to include a waiver of subrogation in favor of Conway Corporation and the City of Conway its affiliated and associated companies. Notwithstanding applicable statutory exemptions, Worker's Compensation Insurance shall be maintained regardless of the number of employees employed by Contractor or the type of work performed.

(b) Commercial General Liability Insurance including Contractual Liability Coverage, covering liability assumed (including, but not limited to, liability of Conway, Contractor's Protective Liability Coverage for work sublet, Products/Completed Operations Coverage, Broad Form Property Liability Coverage, Personal Injury Liability Coverage and Explosion, Collapse and Underground "XCU" Hazards, in the amount of not less than \$1,000,000 per occurrence / \$2,000,000 aggregate for Bodily Injury and Property Damage applying to each project or job location where work is performed for or on behalf of Conway Corporation or the City.

(c) Commercial Automobile Liability Insurance including all owned, hired, leased, borrowed, assigned and non-owned vehicles, (Symbol 1) in the amount of not less than \$1,000,000 per occurrence.

(d) Excess/Umbrella Liability Insurance following the form of the liability insurance as required in paragraphs (a), (b) and (c) above, in the amount of not less than \$5,000,000 per occurrence.

(e) Builder's Risk/Installation Floater in an amount not less than the total cost of materials and supplies used in the project. Coverage should be provided on an all risk (special) form including the perils of testing. Conway Corporation and the City shall be added as an additional insured.

Contractor's insurance policies required by part b through e above shall include Conway Corporation and its affiliated and associated companies as additional insureds as well as the City with respect to Contractor's liability arising from all acts performed or permitted under this Agreement. Contractor hereby waives all rights of recourse, including any right to which another may be subrogated, against Conway Corporation or the City for bodily injury including death and property damage. All of Contractor's policies of insurance shall be primary insurance and non-

contributing with any other insurance maintained by Contractor and its affiliated and associated companies. The policies shall provide Conway Corporation and the City with at least thirty (30) days prior written notice of cancellation or change in limits of liability. Contractor shall provide Conway Corporation and the City with certificates of insurance issued to Conway Corporation and the City evidencing coverage currently in effect upon execution of this Agreement and for the duration of this Agreement.

Contractor shall be liable for all acts and omissions of its contractors and subcontractors. Contractors and subcontractors must meet the requirements of parts a through e as a condition to the contracting or subcontracting of any work. The Contractor or subcontractor may provide such insurance, or Contractor may provide such insurance on behalf of each Contractor or subcontractor by means of separate and individual policies.

Contractor waives, and each insurer of Contractor shall waive, any rights of subrogation and all rights of recourse against Conway Corporation and City and its affiliated and associated companies, with respect to any bodily injury (including death) or property damage or Worker's Compensation benefits or related medical payments.

GROUND LEASE AGREEMENT

Smith Communications, LLC
an Arkansas limited liability company

Tower and Wireless Communications Facility

Located at:

Conway Station Cell Tower
Conway
Faulkner County
Arkansas

Between

SMITH COMMUNICATIONS, LLC, an Arkansas
Limited liability company

And

City of Conway, Arkansas

GROUND LEASE AGREEMENT

This **GROUND LEASE AGREEMENT** (the "Lease") is entered into and effective on the ___ day of _____, 2017, by and between **the City of Conway, Arkansas**, (hereinafter collectively referred to as "Lessor" or "City"), and **SMITH COMMUNICATIONS, LLC**, a limited liability company organized and existing under the laws of the State of Arkansas (hereinafter referred to as "Lessee" or "Smith"), wherein the following mutual covenants and understandings are made and entered into upon the following terms and conditions:

WHEREAS, the City and Smith have entered into a Water Tank Demolition Agreement dated _____, 2017 (the "Demolition Agreement") to provide for the demolition and removal of an existing water tank on a portion of City owned real property so that Smith may construct, install and operate wireless telecommunications facilities thereon pursuant to the terms of this Agreement; and

WHEREAS, the Demolition Agreement sets forth certain understandings between the parties that are a condition precedent to the effective date of this Lease; and

WHEREAS, the City as Lessor and Smith as Lessee desire to enter into this Lease under the terms and conditions set forth hereinbelow.

W I T N E S S E T H

SECTION ONE DESCRIPTION OF PROPERTY

Lessor hereby lets and leases unto Lessee, and Lessee accepts from Lessor, subject to the terms and conditions contained herein, approximately .11 acres of real property described on Exhibit "A" attached hereto and made a part hereof and is depicted on a survey as Exhibit "B" attached hereto and made a part hereof (the "Site") which is a part of certain property of Lessor located off of Robins Street, City of Conway, Faulkner County, Arkansas, being more particularly described as part of the Section 13, Township 5 North, Range 14 West and is a part of Lessor's public recreation complex (hereinafter referred to as the "Parent Tract").

The Site also includes a thirty (30) foot wide access and utility easement described in the attached Exhibit "C" and depicted on the survey attached as Exhibit "B" and made a part hereof (Lessee's Right of Way #1) as well as a right for ingress and egress, seven days per week, twenty-four hours per day, on foot or motor vehicle, including trucks, along a thirty (30) foot wide right-of-way depicted on the attached hereto as Exhibit "D" and depicted on the survey attached as Exhibit "B" and made a part hereof ("Lessee's Right of Way #2") under and across the Parent tract; provided however

all new utilities servicing the Site must be placed underground at the Lessee's sole cost and expense. During the Term of this Lease, Lessor may at Lessor's expense, and with the consent of Lessee and Lessee's subtenants and utility providers, relocate the easement, as long as such relocation does not unreasonably interfere with the operation of Lessee's Facilities, relocate the easement to another location on Lessor's contiguous property extending from the nearest public right-of-way, together with the right to install, replace and maintain utility wires, poles, cables, conduits and pipes.

In the event any public utility is unable or unwilling to use the described right-of-way, Lessor hereby agrees to grant an additional reasonable right-of-way either to Lessee or directly to the public utility at no cost and in a location acceptable to either Lessee or the public utility; provided however all easements so granted shall be for underground utilities only and all such utilities shall be installed at Lessee's sole cost and expense. Lessor shall not be responsible for the cost of removing any trees, brush, rock or other obstacles in the right of way or the installation of any utilities for Lessee's use of the Site.

SECTION TWO TERM

This Lease shall be for an initial term of five (5) years beginning on the effective date of this Lease provided above (the "Initial Term"). This Lease shall automatically be extended for five (5) subsequent five (5) year terms (the "Renewal Terms") unless Lessee or Lessor terminates this Lease pursuant to the provision set forth herein. The Initial Term and any Renewal Term or Renewal Terms shall be collectively referred to as the "Lease Term" or "Term".

SECTION THREE RENT

Smith shall pay to the City the sum of One Thousand and No/100 Dollars (\$1,000.00) per month, due and payable at the 1st day of the month, for a total of Twelve Thousand and No/100 Dollars (\$12,000.00) as hereinafter adjusted annually (the "Rent"). Lease payments shall consist of twelve (12) equal monthly installments, with the first Rent payment due at the commencement of the Initial Term and subsequent payments due on the first (1st) day of each following month for the duration of the Lease. In addition, at the beginning of each five (5) year Renewal Term, the Rent shall increase by an amount equal to ten percent (10%) of the then existing Rent and hence forward shall be the amount known as the "Rent". The Rent shall constitute the total amount of money due to Lessor no matter the number of wireless carriers or other communication equipment who use or sublease the Site.

SECTION FOUR USE OF SITE

The Site and all easements, rights and privileges herein granted shall be used only for the purpose of constructing, installing, maintaining and operating the Facility and uses incidental thereto as depicted on the Site Plan attached hereto as Exhibit "E" and made a part hereof. Lessee shall not use the Site or the Easement for any other purpose without first having received the prior written consent of Lessor. Lessee shall construct the Facilities as depicted in the Site Plan that receives Final Approval by Lessor through its appropriate planning and development process, and shall not deviate from the Site Plan without the prior written consent of the Lessor. It is understood and agreed that all improvements shall be undertaken at Lessee's sole cost and expense and shall be performed in a good and workmanlike manner. Lessor hereby acknowledges and consents that Lessee and Lessee's Tenants may, at their sole discretion add, remove, replace or change equipment, on the Facilities, including antennas or antenna arrays, or add, as well as remove or replace the Facility, Tenants and number of Tenants, under the Lease and without the prior consent of the Lessor. Lessor agrees to execute as the owner of the Site, and not as an agent for Lessee, such documents, consents or agreements as may be necessary or required from time to time to secure Government Approval for the addition, removal or replacement of any such equipment, antenna or antenna array to the Facility or the Site provided that the addition, removal or replacement of any such equipment, antenna or antenna array shall be in conformity with the Final Approval of the Lessor and with the design and aesthetic regulations adopted by the City of Conway.

Lessor covenants that it shall not take any action that would adversely affect the status of the Site with respect to the proposed use by Lessee. In exercising its rights under this Lease, Lessee shall use commercially reasonable efforts to avoid any adverse construction, operation, maintenance or other impacts on the Site and Lessor's use and operation thereof for youth sports activities, and Lessee shall use commercially reasonable efforts to avoid any such impacts to youth sports activities on the Site and shall not park vehicles or use an approved areas of storage of equipment near the Site in after 5:00 PM on weekdays or on the weekends which would block or impede parking for youth sports activities. Lessor and the Lessee shall use best efforts to coordinate Lessee's entry upon the Site of for any necessary temporary storage of equipment or materials for construction. All staging areas for the construction of the Facilities shall be properly secured and maintained in a clean and workmen like manner, and all fencing and landscaping for the Site shall been maintained by Lessee. Any entry, work or other activities shall occur only at such time and in such manner, as may be required by Lessor to avoid any adverse impacts to youth sports. In cases of emergencies involving life or safety, Lessee may enter the Site without prior notice provided that Lessee notifies Lessor of the same as soon as practicable.

Lessee shall be responsible for maintaining the fence that surrounds the Facilities and the Site in a good and workmanlike manner. Lessor shall be responsible for maintaining the landscaping along the fencing that surrounds the Site.

**SECTION FIVE
OWNERSHIP OF SITE IMPROVEMENTS**

Ownership of the Facilities located on the Site shall remain with Lessee until the Term of this Lease expires, otherwise terminates, or a new Lease is agreed to. If no new Lease is agreed to, within one hundred and twenty (120) days after the end of such Term of this Lease, Lessee shall remove any or all of the Facilities from the Site and restore the Site to its prior condition unless a new Lease is agreed to, or both Lessor and Lessee agree that the Facilities shall remain on the Site. If the Facilities shall remain on the Site, the title to the Facilities shall vest in the Lessor without the need of additional action by the Lessor or Lessee.

**SECTION SIX
CONDITION OF PROPERTY**

Lessee acknowledges and agrees that the Site is leased in an “AS IS, WHERE IS” condition, without warranty of any kind, express or implied, including without limitation the warranty of merchantability or fitness for a particular purpose, subject to all defects, latent or patent, known and unknown, apparent or hidden, including environmental conditions and matters, which currently exist or may in the future arise. Lessee hereby waives all rights, remedies and causes of action against Lessor resulting from or relating to the condition of the Site. By executing this Lease, Lessee acknowledges that it has had the opportunity to inspect the Site, and is relying solely on that inspection, and not on any representation or warranty of the Lessor in leasing the Site, including the presence of any hazardous materials or other conditions that might render the Site unfit for its intended use.

**SECTION SEVEN
LESSEE’S RIGHT OF TERMINATION**

Lessee shall have the right to terminate this Lease if at any time there is no Carrier Sublease for the Facility at the Site, despite the reasonable efforts of Lessee to locate or secure a Carrier Sublease. Lessee can thus terminate the Lease by providing One Hundred and Eighty (180) days prior written notice to Lessor in conformance with the Notice requirements outlined in the Lease (the “Termination Right”). Upon the termination of the Lease as provided herein, within one hundred and twenty (120) days after the end of such Term of this Lease, Lessee shall remove any or all of the Facilities from the Site and restore the Site to its prior condition unless a new Lease is agreed to, or both Lessor and Lessee agree that the Facilities shall remain on the Site.

SECTION EIGHT

ENVIRONMENTAL

Lessee shall not cause or permit to be caused the use, storage, generation, escape, disposal or release of any Hazardous Substances or Hazardous Wastes in any manner not sanctioned by law. In all events, Lessee shall indemnify and hold Lessor harmless from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, any and all sums paid for settlement of claims, attorneys' fees, and consultants' and experts' fees) from the presence or release of any Hazardous Substances or Hazardous Wastes on the Site if caused by Lessee or persons acting under Lessee. Lessee shall execute such affidavits, representations and the like from time to time as Lessor may reasonably request concerning Lessee's best knowledge and belief as to the presence of Hazardous Substances or Hazardous Wastes on the Site.

Lessor shall not cause or permit the use, storage, generation, escape, disposal or release of any Hazardous Substances or Hazardous Wastes in any manner not sanctioned by law. Lessor shall execute such affidavits, representations and the like from time to time as Lessee may reasonably request concerning Lessor's best knowledge and belief as to the presence of Hazardous Substances or Hazardous Wastes on the Site.

For purposes of this Lease, the term "Hazardous Substances" shall be as defined in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 *et seq.*, and any regulations promulgated pursuant thereto, and as used to define "Hazardous Wastes" in the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.*, and any regulations promulgated thereto.

SECTION NINE INSURANCE

At all times during the Lease Term, Lessee, at its sole cost and expense, shall obtain and keep in force insurance which may be required by any federal, state or local statute or ordinance of any governmental body having jurisdiction in connection with the operation of Lessee's business upon the Site. In addition to the above, Lessee shall also provide insurance that meets or exceeds the following requirements of Conway Corp as set forth in the attached Exhibit "F".

SECTION TEN EMINENT DOMAIN

If any part of the Site is taken by eminent domain prior to construction, Lessor will notify Lessee of the taking within five days and Lessee will have the option to: (a) declare this Lease null and void with thereafter being no further liability or obligation by either of the parties hereunder; or (b) remain in possession of that portion of the Site not taken, in which event there shall be an equitable adjustment in rent on account of the portion of the Site so taken. With either option, Lessee has the ability to contest the

taking and directly proceed to obtain an award, or a portion of the award, allocated to Lessee's interest in the Site.

**SECTION ELEVEN
SALE OF PROPERTY**

If at any time during the Lease Term, Lessor decides to sell all or part of the Site then such sale shall be under and subject to this Lease and Lessee's rights hereunder. Any sale by Lessor of the portion of the Site or the Easement shall be under and subject to the right of Lessee in and to the Easement.

**SECTION TWELVE
MEMORANDUM OF LEASE**

Lessor acknowledges that Lessee intends to record a Memorandum of this Lease with the appropriate recording officer upon execution of this Lease. Lessor shall execute such a Memorandum promptly upon Lessee's request. Lessee agrees to immediately record a "Notice of Termination of Lease" when this Lease either is terminated by Lessor or the Lease expires.

**SECTION THIRTEEN
INDEMNIFICATION**

Lessee shall defend (with legal counsel acceptable to Lessor) and indemnify and hold harmless Lessor, its employees, agents, board members, officers, agents, servants and volunteers from all losses, costs, claims, causes of actions, demands and liabilities rising in relation to from (a) any action by any Carrier pursuant to a Carrier's sublease, or with which Lessee has had negotiations concerning the Site and (b) Lessee's entry onto, or presence at, any Site. Such indemnification shall include the cost of investigation, all expenses of litigation, without limitation, attorney's fees and court costs. Lessee's indemnification shall not be applicable to any gross negligence or willful misconduct of Lessor.

Lessee hereby waives any right of recovery against Lessor or its officers, directors, employees and contractors for any claim, loss, liability, injury or damage that is covered by any policy of property insurance maintained by Lessee with regard to this Lease.

**SECTION FOURTEEN
COVENANT OF TITLE**

Lessor covenants that Lessor is seized of good and sufficient title and interest to the Site and has full authority to enter into and execute this Lease. Lessor further covenants that to the knowledge of Lessor, without inquiry, (1) there are no aspects of title that might interfere with or be adverse to Lessee's interests in and intended use of the

Site and (2) title shall be such that Lessee will have the ability to obtain title insurance at regular rates.

SECTION FIFTEEN NON-INTERFERENCE

Lessor further covenants with the Lessee, subject to applicable law and to Lessor's consent, which shall not unreasonably be withheld, may remove obstructions on the Site or Easements, including but not limited to trees, bushes, vegetation or structures, which may encroach upon, interfere with or present a hazard to Lessee's use of Site.

SECTION SIXTEEN DEFAULT

In the event that there is a default by Lessee with respect to any of the provisions of this Lease or Lessee's obligations under the Lease, including the payment of Rent, Lessor shall give Lessee written notice of such default. After receipt of such written notice, Lessee shall have ten (10) days in which to cure any monetary default and thirty (30) days from the mailing of such notice of default in which to cure any non-monetary default. Lessee shall have such extended periods beyond the thirty (30) days for non-monetary defaults if the nature of the cure is such that it requires more than thirty (30) days and Lessee commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. In the event of three (3) or more monetary defaults in one (1) five (5) year Lease Term in which Lessor has provided notices of monetary default to Lessee and Lessee has cured the default as provided herein, the Lessor shall have the option to declare the Lease in default upon the occurrence of a 4th monetary default.

Lessor may not maintain any action or effect any remedies for default against Lessee unless and until Lessee has failed to cure the same within the time periods provided in this Section. Thereafter, Lessor shall have all rights and remedies provided at law or in equity.

SECTION SEVENTEEN ATTORNEYS FEES

In an action to enforce any rights pursuant to this Lease Agreement, the prevailing party shall be entitled to recover from the other party any reasonable costs and attorneys' fees incurred as a consequence of enforcing the provision of the lease, amount to be fixed by said court and shall be made part of the judgment or decree rendered.

SECTION EIGHTEEN NOTICES

Any and all notices, demands, requests, consents, approvals, or communications required or permitted to be given hereunder, shall be in writing and shall be delivered by personal delivery, electronic mail (e-mail) transmission, facsimile transmission, overnight delivery, or via United States, certified or registered mail. Irrespective of the manner of delivery used, all such notices shall be properly addressed and directed, with postage or delivery charges prepaid, to the parties at their respective addresses or facsimile numbers set forth below or to such other address or facsimile number which the parties may from time to time designate in writing delivered in accordance with this provision:

If to City: City of Conway
 ATTN: Current Mayor
 1201 Oak Street
 Conway, AR 72032
 Email: _____

If to Smith: Smith Communications, LLC
 ATTN: Mike Smith
 520 N. College Ave
 Fayetteville, AR 7201
 Email: _____

Notices sent by personal delivery shall be deemed given upon actual receipt. Notices sent by facsimile transmission shall be deemed given on the date of transmission if such transmission is evidenced by an acknowledgment of receipt by the recipient's facsimile machine and a copy of the transmission is deposited in the United States mail as set forth above on the date of the transmission. Notices sent via email shall be deemed given upon actual receipt. Notices sent via overnight delivery shall be deemed given no later than five (5) business days from mailing.

**SECTION NINETEEN
SUBLEASE**

Lessee shall be entitled to sublease space on or in the Facility to wireless carriers and entities or persons using over the air communication equipment. The Lessor hereby consents to such subleases, licenses or other occupancy agreements with respect to the Site or any Easement.

**SECTION TWENTY
PARTIAL INVALIDITY**

In the event any one or more of the provisions contained in the Lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Lease and this

Lease shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

**SECTION TWENTY-ONE
SUCCESSORS AND ASSIGNS**

Except as otherwise provided herein, this Lease shall extend to and bind the heirs, personal representatives, successors and assigns of the parties hereto.

**SECTION TWENTY-TWO
AD VALOREM TAXES**

Lessee agrees to pay for any documented increase in real estate or ad valorem taxes levied against the Site that are directly attributable to the improvements constructed by Lessee. Lessor agrees to provide Lessee any documentation evidencing the increase and how such increase is attributable to Lessee's use. Lessee reserves the right to challenge any such assessment, and Lessor agrees to cooperate with Lessee in connection with any such challenge. Lessee further agrees to pay any personal property taxes related to Lessee's Facility including equipment, improvements or other property located upon the Site or the Easements.

**SECTION TWENTY-THREE
MERGER**

This Lease contains the entire agreement between the parties and supersedes any prior or contemporaneous oral or written agreements which supplement or contradict the terms and provisions set forth herein.

**SECTION TWENTY-FOUR
MISCELLANEOUS**

(a) Entire Agreement. This writing, and any exhibits attached hereto, constitutes the entire agreement of the parties with respect to the subject matter hereof and may not, be modified, amended or terminated except by a written agreement specifically referring to this Lease signed by the party to be bound thereby.

(b) Amendment. Any provision of this Lease may be amended only if such amendment is in writing and approved by Lessee and Lessor.

(c) Waiver. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

(d) Binding Effect. This Lease shall be binding upon and inure to the benefit of each corporate party hereto, its successors and assigns and each individual party hereto and his heirs, personal representatives, successors and assigns. Otherwise, this Lease shall not create any rights for the benefit of any third party.

(e) Other Covenants and Assurances. Each party hereto shall cooperate, shall take such further action and shall execute and deliver such further documents as may be reasonably requested by any other party hereto in order to carry out the provisions and purposes of this Lease.

(f) Execution in Counterparts. This Lease may be executed in one or more counterparts, all of which taken together shall be deemed one original.

(g) Governing Law. This Lease and all amendments thereof shall be governed by and construed in accordance with the law of the State of Arkansas without reference to choice of law principles.

(h) Choice of Forum, Venue, and Consent to Jurisdiction. Any and all claims or causes of action shall be filed only in the courts of the State of Arkansas for Faulkner County or the United States District Court for the Eastern District of Arkansas, which shall have exclusive jurisdiction over any disputes which arise between the parties under this Severance Agreement, whether in law or in equity. Each of the parties expressly agrees, consents, and stipulates that venue shall be exclusively within said courts. Each of the parties expressly agrees, consents and stipulates to the exercise of personal jurisdiction over it and subject matter jurisdiction over any such controversy arising between the parties being only in the courts listed herein. Prior to the filing of any claim or cause action, the parties shall engage in good faith in non-binding mediation in order to resolve disputes regarding or relating to this Lease.

(j) Joint Preparation. This Ground Lease Agreement shall be deemed to have been prepared jointly by the parties hereto, and any uncertainty or ambiguity existing herein shall not be interpreted against any party by reason of its drafting, but shall be interpreted according to the application of the general rules of interpretation for arm's length agreements.

IN WITNESS WHEREOF, the parties hereto have executed this Lease effective as of the date aforesaid.

City:
CITY OF CONWAY, ARKANSAS:

By: _____
Bart Castleberry, Mayor

Attest:

Michael Garrett, City Clerk

SMITH:
Smith Communications, LLC, an Arkansas limited liability company

By: _____
Michael Smith, Authorized Member

CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED that on this day came before me, the undersigned, a Notary Public duly commissioned, qualified and acting, within and for the said County and State, the within named **Bart Castleberry** being the e person authorized by said municipal corporation to execute such instrument, stating his capacity in that behalf, to me personally known, who stated that he was the **Mayor** of the **City of Conway, Arkansas**, and was duly authorized in said capacity to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ____ day of _____, 2017.

My Commission Expires:

Notary Public

Exhibit "A"

Smith Communications
Conway Station Cell Tower

SURVEYED PROPERTY DESCRIPTION

Lessee's Land Space

Part of the Northwest Quarter of the Northeast Quarter of Section 13, Township 5 North, Range 14 West, Faulkner County, Arkansas being more particularly described as follows:

Commencing at the Northeast Corner of the Northwest Quarter of the Northeast Quarter. Thence along the East line of said Forty, South 01 degrees 30 minutes 46 seconds West, 280.10 feet. Thence leaving said East line, West, 482.47 feet to the Point of Beginning. Thence South 53 degrees 46 minutes 16 seconds East, 20.20 feet. Thence South 00 degrees 11 minutes 23 seconds West, 39.84 feet. Thence South 40 degrees 26 minutes 31 seconds West, 23.52 feet. Thence South 89 degrees 53 minutes 03 seconds West, 59.86 feet. Thence North 00 degrees 00 minutes 28 seconds West, 47.83 feet. Thence North 40 degrees 47 minutes 33 seconds East, 29.03 feet. Thence North 89 degrees 59 minutes 20 seconds East, 40.00 feet to the Point of Beginning, containing 0.11 of an acre and subject to any Easements of Record.

Exhibit "C"

SURVEYED PROPERTY DESCRIPTION

Lessee's Right of Way #1

A 30.00 foot Access and Utility Easement in part of the Northwest Quarter of the Northeast Quarter of Section 13, Township 5 North, Range 14 West, Faulkner County, Arkansas being 15.00 feet each side of a centerline and being more particularly described as follows:

Commencing at the Northeast Corner of the Northwest Quarter of the Northeast Quarter. Thence along the East line of said Forty, South 01 degrees 30 minutes 46 seconds West, 280.10 feet. Thence leaving said East line, West, 482.47 feet. Thence South 53 degrees 46 minutes 16 seconds East, 20.20 feet. Thence South 00 degrees 11 minutes 23 seconds West, 39.84 feet. Thence South 40 degrees 26 minutes 31 seconds West, 23.52 feet. Thence South 89 degrees 53 minutes 03 seconds West, 20.00 feet to the Point of Beginning. Thence South 00 degrees 06 minutes 57 seconds East, 21.39 feet. Thence around a curve to the right having a radius of 170.09 feet, and subtended by a chord bearing and distance of North 86 degrees 39 minutes 48 seconds West, 99.06 feet. Thence North 69 degrees 44 minutes 02 seconds West, 19.29 feet. Thence around a curve to the right having a radius of 26.76 feet, and subtended by a chord bearing and distance of North 24 degrees 46 minutes 09 seconds West, 37.82 feet. Thence North 20 degrees 11 minutes 43 seconds East, 37.97 feet. Thence around a curve to the left having a radius of 314.86 feet, and subtended by a chord bearing and distance of North 10 degrees 51 minutes 41 seconds East, 102.14 feet. Thence North 01 degrees 31 minutes 38 seconds East, 114.34 feet. Thence North 88 degrees 27 minutes 01 seconds West, 102.50 feet. Thence around a curve to the right having a radius of 25.00 feet, and subtended by a chord bearing and distance of North 44 degrees 04 minutes 14 seconds West, 34.97 feet. Thence North 00 degrees 18 minutes 34 seconds East, 57.58 feet to the centerline of Robins Street and the Point of Termination.

Exhibit "D"

SURVEYED PROPERTY DESCRIPTION

Lessee's Right of Way #2

A 30.00 foot Utility Easement in part of the Northwest Quarter of the Northeast Quarter of Section 13, Township 5 North, Range 14 West, Faulkner County, Arkansas being 15.00 feet each side of a centerline and being more particularly described as follows:

Commencing at the Northeast Corner of the Northwest Quarter of the Northeast Quarter. Thence along the East line of said Forty, South 01 degrees 30 minutes 46 seconds West, 280.10 feet. Thence leaving said East line, West, 482.47 feet. Thence South 89 degrees 59 minutes 20 seconds West, 28.23 feet to the Point of Beginning. Thence North 09 degrees 12 minutes 38 seconds West, 267.10 feet to the Point of Termination

Exterior Fence to be combination of Brick Columns with a Lower Brick Wall and Upper Composite Fence Material Between Columns

Final Design and Materials to be approved by City of Conway Planning Commission as part of CUP Process.

Irrigation System and Landscaping Materials to be provided and Installed by Smith and Maintained by City of Conway.

Final Design and Materials / Species to be approved by City of Conway Parks Department and City of Conway Planning Commission as part of CUP Permit Process.

*CENTER OF TOWER
LAT: 35°04'34.51"
LONG: 92°26'35.42"
ELEVATION: 307.61'*

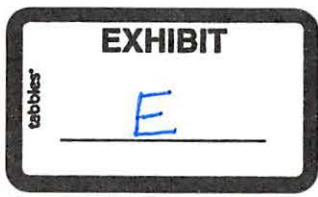


Exhibit “F”

[Insert Insurance Reports acceptable to Conway and Conway Corp]



City of Conway, Arkansas
Ordinance No. O-17-_____

AN ORDINANCE AUTHORIZING PERSONNEL CHANGES WITHIN THE CONWAY PARKS & RECREATION DEPARTMENT; AND FOR OTHER PURPOSES:

Whereas, the Conway Parks & Recreation Department has determined that here is a need to reorganize the department and is requesting the following reclassifications within the department; and

Whereas, the changes will enable the department to increase proficiency and to meet the growing demands of the public, which will provide a higher level of service to the citizens of Conway; and

Whereas, the reclassifications will have no financial impact to the 2017 Conway Parks and Recreation Budget; and

Whereas, the reclassifications will not affect the authorized staffing levels with the Conway Parks and Recreation Department.

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

Section 1. The authorized positions in the Conway Parks and Recreation Department are changed to reflect the following reclassifications;

- Reclassify one full time Programs Manager to a full time Programs & Marketing Manager
- Reclassify one full time Beaverfork/Programs Manager to a full time Lake Beaverfork Caretaker

Section 2. The City of Conway shall appropriate an amount of \$200.00 from Parks and Recreation Part-Time Employee Salaries (001.140.5113) to the Conway Parks and Recreation Full Time Salaries (001.140.5111)

Section 3. All ordinances in conflict herewith are repealed to the extent of the conflict.

PASSED this 26th day of September 2017.

Approved:

Mayor Bart Castleberry

Attest:

Michael O. Garrett
City Clerk/Treasurer



**City of Conway, Arkansas
Ordinance No. O-17-_____**

AN ORDINANCE ACCEPTING AND APPROPRIATING GRANT PROCEEDS AWARDED TO THE CITY OF CONWAY POLICE DEPARTMENT-CONWAY EMERGENCY OPERATIONS CENTER; AND FOR OTHER PURPOSES:

Whereas, the City of Conway/Faulkner County has been awarded a grant in the amount of \$58,816 by the Central Arkansas Planning and Development District to renovate the Conway Emergency Operations Center with serves the City of Conway and Faulkner County.

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

Section 1. The City of Conway shall accept grant proceeds in the amount of \$58,816 from CAPDD and appropriate into State Grant Revenue account 399-000-4201 and CIP-Building Improvements Expense account 399-125-5904.

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

PASSED this 26th day of September, 2017.

Approved:

Mayor Bart Castleberry

ATTEST:

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



**City of Conway, Arkansas
Ordinance No. O-17-_____**

**AN ORDINANCE ACCEPTING AND APPROPRIATING GRANT FUNDS FROM ASPCA FOR THE
CONWAY ANIMAL WELFARE UNIT; AND FOR OTHER PURPOSES**

Whereas, the City of Conway has been awarded funds in the amount of \$40,000.00 through the American Society for Prevention of Cruelty to Animals (ASPCA) for outdoor rotation run upgrades for the Conway Animal Welfare Unit.

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

Section 1. The City of Conway shall accept all grant proceeds totaling \$40,000 and appropriate from 399.000.4752, State Grant Revenue account into 399.127.5904, AWU Building Improvements expense accounts.

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

PASSED this 26th day of September, 2016.

Approved:

Mayor Bart Castleberry

Attest:

Michael O. Garrett
City Clerk/Treasurer