

- The next Committee Meeting will be held on Monday, November 1st, 2021 in the Tiered Training Room located at 201 Spring Street, Springdale, Arkansas.
- Committee agendas will be available on the Friday before this meeting.

SPRINGDALE CITY COUNCIL
REGULAR MEETING
TIERED TRAINING ROOM
2ND FLOOR OF NEW CRIMINAL JUSTICE BUILDING
Wednesday, October 27th, 2021

5:55 p.m. Pre Meeting Activities

Pledge of Allegiance
 Invocation – Mike Lawson

6:00 p.m. **OFFICIAL AGENDA**

1. *Large Print* agendas are available.
2. Call to Order – Mayor Doug Sprouse
3. Roll Call – Debbie Pounders in lieu of Denise Pearce
4. Recognition of a Quorum.
5. Comments from Citizens
 The Council will hear brief comments from citizens present at the meeting during this period on issues not on the Agenda. No action will be taken tonight. All comments will be taken under advisement.
6. Approval of Minutes – October 12th, 2021: **Minutes located at the back of Agenda. Pgs. 57-65**
7. Procedural Motions
 - A. Entertain Motion to read all Ordinances and Resolutions by title only.
 - B. Entertain Motion to dispense with the rule requiring that ordinances be fully and distinctly read on three (3) different days for ordinances listed on this agenda as *item number(s) **9A and 12.** Motion must be approved by two-thirds (2/3) of the council members).*
8. **Quarterly Economic Development Report.** Presented by Scott Edmondson, VP of Economic Development at the Springdale Chamber of Commerce.
9. Planning Commission Report and Recommendation by Patsy Christie, Director of Planning and Community Development
 - A. **An Ordinance** amending Ordinance No. 3307 the same being the Zoning Ordinance of the City of Springdale, Arkansas, and the plat pertaining thereto by rezoning certain lands located at 5324 Elm Springs Road from Agricultural District (A-1) to Thoroughfare Commercial District (C-5) and declaring an emergency. **Pgs. 1-3**
 - B. **A Resolution** approving a Conditional Use for Yuliana Cuervas at 3360 North Thompson as set forth in Ordinance No. 4030. **Pgs. 4-5**
 - C. **A Resolution** approving a Conditional Use for Elevated Auto Spa at 855 Clayton Street as set forth in Ordinance No. 4030. **Pgs. 6-7**

- D. **A Resolution** approving a Conditional Use for Barry and Stephanie Bryant at 5962 West County Line Road as set forth in Ordinance No. 4030. Pgs. 8-9
- E. **A Resolution** approving a waiver of street improvements, drainage, curbs, gutters and sidewalks as set forth in Ordinance No. 3725 to Office/Warehouse-Hwy 112 and Marchant Road in connection with L21-29 a large scale development. Pgs. 10-11

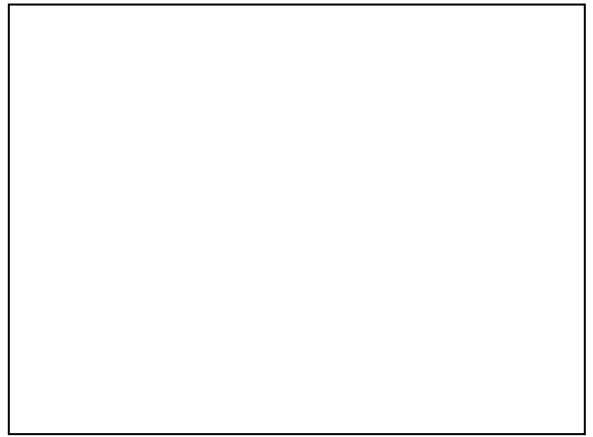
10. Finance Committee by Chairman Jeff Watson

- A. **A Resolution** authorizing the Mayor to enter into a professional services agreement with BKD, LLP, and Disaster Recovery Services, LLC, for accounting services associated with American Rescue Plan Act (ARPA) funds received by the City of Springdale, Arkansas. Forwarded from Committee with recommendation for approval. Presented by Colby Fulfer, Chief of Staff. Pg. 12
- B. **A Resolution** designating a portion of American Rescue Plan Act (ARPA) Funds, received by the City of Springdale, Arkansas as lost revenue in accordance to the guidance provided by the United States Treasury. Forwarded from Committee with recommendation for approval. Presented by Colby Fulfer, Chief of Staff. Pg. 13
- C. **A Resolution** to authorize Hazard Pay from the American Rescue Plan Act (ARPA) lost revenue funds for Police and Fire department staff that have been and remain in direct contact with the public during the COVID-19 Pandemic. Forwarded from Committee with recommendation for approval. Presented by Colby Fulfer, Chief of Staff. Pg. 14
- D. **A Resolution** authorizing the expenditure of funds to acquire a portion of land from the Loneta M. Blevins Trust for the Dixieland Road Street Project (Apple Blossom to Wagon Wheel Road), Project No. 18BPS14. Forwarded from Committee with recommendation for approval. Presented by Ernest Cate, City Attorney. Pgs. 15-16
- E. **A Resolution** authorizing the City Attorney to settle a condemnation lawsuit wherein David Arthur and Sharon Arthur are defendants. Forwarded from Committee with recommendation for approval. Presented by Ernest Cate, City Attorney. Pgs. 17-20
- F. **A Resolution** authorizing the Mayor and City Clerk to enter into an Addendum to a Railroad Crossing Easement Agreement with the Arkansas & Missouri Railroad Company (AMRR) as part of the Maple Avenue Extension (Project 18BPS2). Forwarded from Committee with recommendation for approval. Presented by Ernest Cate, City Attorney. Pgs. 21-27
- G. **A Resolution** authorizing the Mayor to execute a Memorandum of Agreement with the Arkansas Natural Resources Commission pertaining to costs associated with the decommission and remediation of Wastewater Treatment Facilities in the territory formerly known as Bethel Heights, and assuring the payment of said costs by the Springdale Water and Sewer Commission. Forwarded from Committee with recommendation for approval. Presented by Heath Ward, Executive Director at SWU. Pgs. 28-29
- H. **A Resolution** designating and authorizing the Mayor and Executive Director of Springdale Water Utilities to execute certain documents in connection with funding administered by the Arkansas Natural Resources Commission. Forwarded from Committee with recommendation for approval. Presented by Heath Ward, Executive Director of SWU. Pgs. 30-35

11. Committee of the Whole

A Resolution overturning the Planning Commission denial of a Conditional Use for a use Unit 4 Cultural, Recreational, and Health Facilities (campground) in an SF-2 Low/Medium Density Single Family Residential District and approving a said Conditional Use at 1815 Bitter Lane for Brothers Rentals, LLC and Taldo Properties, LLC as set forth in Ordinance No. 4030. Forwarded from Committee without recommendation for approval. Presented by Patsy Christie, Director of Planning and Community Development. Pgs. 36-42

12. **An Ordinance** authorizing the City Clerk to file a Clean-Up Lien for the removal of overgrown brush and debris on property located within the City of Springdale, Arkansas (2401 Trudi and 1209 Young), and declaring an emergency. Pgs. 43-56
13. Comments from Council Members.
14. Comments from City Attorney.
15. Comments from Mayor.
16. Adjournment.



ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 3307 THE SAME BEING THE ZONING ORDINANCE OF THE CITY OF SPRINGDALE, ARKANSAS, AND THE PLAT PERTAINING THERETO BY REZONING CERTAIN LANDS FROM AGRICULTURAL DISTRICT (A-1) TO THOROUGHFARE COMMERCIAL DISTRICT (C-5) AND DECLARING AN EMERGENCY.

WHEREAS, the Planning Commission of the City of Springdale, Arkansas, Washington County, gave notice required by law and set a hearing date of October 5, 2021 for hearing the matter of a petition of Connie Burnett (UStorage Elm Springs Road), requesting that the following described tract of real estate to be zoned from Agricultural District (A-1) to Thoroughfare Commercial District (C-5).

Layman's Description: 5324 Elm Springs Road

Legal Description: A part of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section Thirty-Three (33), Township Eighteen (18) North, Range Thirty (30) West, being more particularly described as follows: From the Southeast (SE) corner of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of said Section Thirty-Three (33), run North 88 degrees 25 minutes 43 seconds West along the Forty (40) line 330 feet to the Point of Beginning, and running thence North 88 degrees 25 minutes 43 seconds West along the same Forty (40) line 165.0 feet; thence North 1 degree 11 minutes 37 seconds East 660.0 feet; thence South 88 degrees 25 minutes 43 seconds East 345.0 feet; thence South 1 degree 11 minutes 37 seconds West 430.00 feet, to the Point of Beginning, and containing 3.45 acres, more or less, subject to The Elm Springs Road Right-of-Way along the South property line, and subject to any other easements of record. With said lands more commonly known as 5324 Elm Springs Rd., Springdale, Arkansas 72762-7864.

THIS DEED IS MADE TO CORRECT A SCRIVENER'S ERROR IN THE LEGAL DESCRIPTION CONTAINED IN THE EXECUTRIX'S DEED DATED OCTOBER 4, 2013, AND FILED FOR RECORD OCTOBER 7, 2013, RECORDED AS INSTRUMENT 2013-00034231.

AND WHEREAS, after notice as required by law, the Springdale Planning Commission held a hearing and after hearing arguments for and against such rezoning, recommends to the Springdale City Council that the area described herein should be rezoned from Agricultural District (A-1) to Thoroughfare Commercial District (C-5) for the purposes of that Zoning Ordinance would be more properly carried out by such rezoning, and that unless granted, citizens of Springdale will suffer irreparable harm and damage, and will be substantially deprived of the use of their property.

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

SECTION 1: That Ordinance No. 3307, the Amendments thereto, and the Zoning Plat pertaining thereto of the City of Springdale, Arkansas, should be and the same is amended as follows:

From Agricultural District (A-1) to Thoroughfare Commercial District (C-5)

SECTION 2: That all ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: EMERGENCY CLAUSE: It is hereby declared that an emergency exists and this ordinance, being necessary for the preservation of the health, safety and welfare of the citizens of Springdale, Arkansas shall be in effect immediately upon its passage and approval.

PASSED AND APPROVED THIS _____ DAY OF _____, 2021

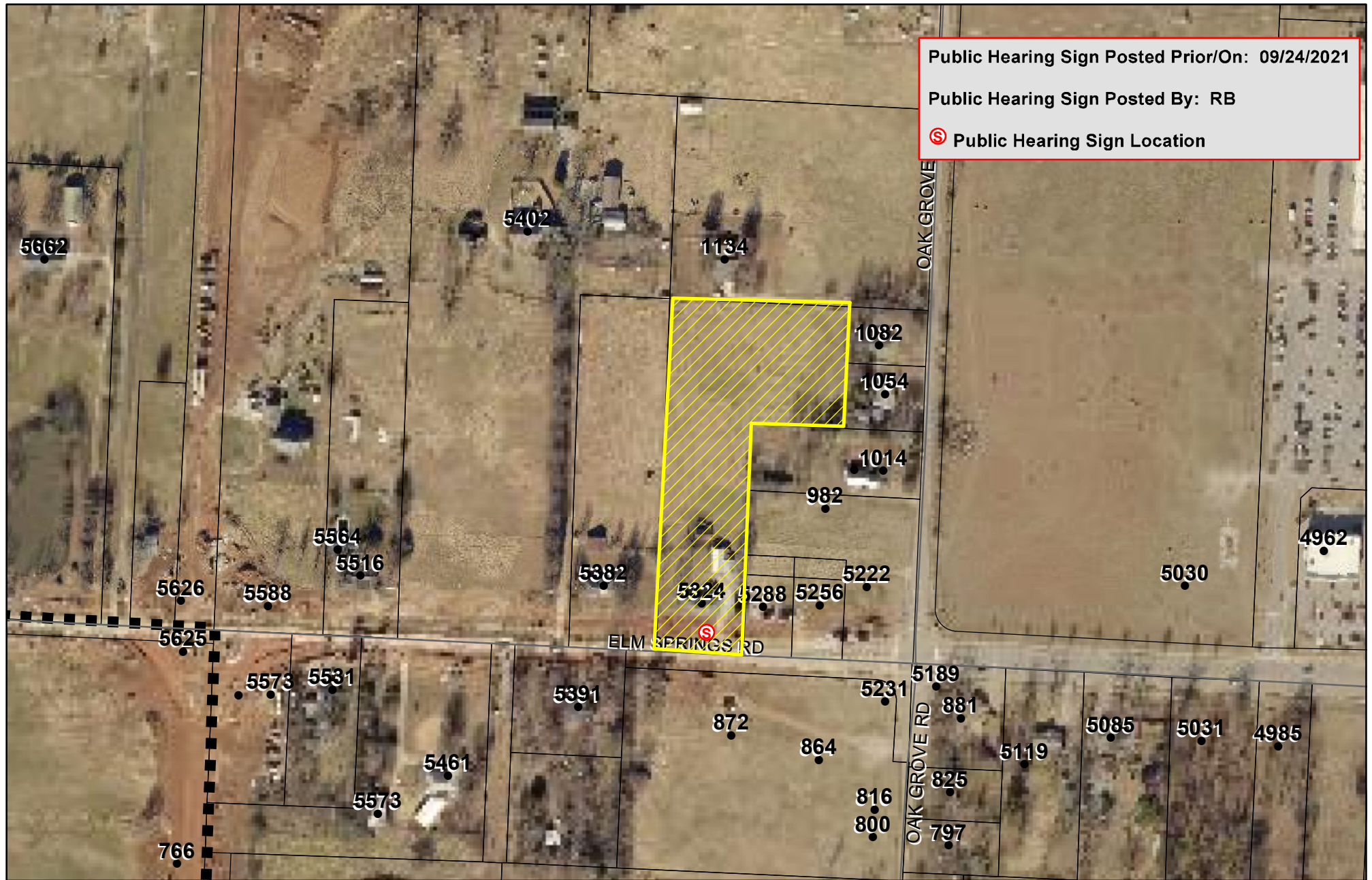
Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest Cate, City Attorney



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Feet
For Location Reference Only

FILE NO. R21-55
APPLICANT: Connie G. Burnett (UStorage Elm Springs Rd)
REQUEST: Rezoning from A-1 to C-5

PLANNING COMMISSION MEETING
October 5, 2021

RESOLUTION NO. _____

**A RESOLUTION APPROVING A CONDITIONAL USE FOR
YULIANA CUEVAS AT 3360 NORTH THOMPSON AS
SET FORTH IN ORDINANCE NO. 4030**

WHEREAS, Ordinance #4030 amending Chapter 130 (Zoning Ordinance) of the Springdale Code of Ordinance provides that an application for a conditional use on appeal must be heard first by the Planning Commission and a recommendation made to the City Council; and

WHEREAS, the Planning Commission held a public hearing on October 5, 2021, on a request by Tim and Jo Anna Ruda (Yuliana Cuevas) for Use Unit 41 (Automobile Sales) in a General Commercial District (C-2).

WHEREAS, following the public hearing the Planning Commission by a vote of eight (8) yes and one (1) no recommends that a Conditional Use be granted to with the following conditions: must provide site plan.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE, that the City Council hereby grants a conditional use to with the following conditions: must provide site plan.

- 1) **Same site plan for previously approved conditional use. Request was made for landscaping to be added to the site with approval. Landscaping not shown on Site plan.**

PASSED AND APPROVED THIS _____ DAY OF _____, 2021.

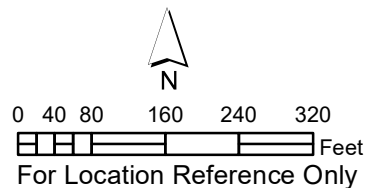
Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest Cate, City Attorney



FILE NO. C21-27
APPLICANT: Tim & Jo Anna Rueda (Yuliana Cuevas)
REQUEST: Conditional Use - Use Unit 41 (Auto Sales)
in a C-2

PLANNING COMMISSION MEETING
 October 5, 2021

RESOLUTION NO. _____

**A RESOLUTION APPROVING A CONDITIONAL USE FOR
ELEVATED AUTO SPA AT 855 CLAYTON STREET AS
SET FORTH IN ORDINANCE NO. 4030**

WHEREAS, Ordinance #4030 amending Chapter 130 (Zoning Ordinance) of the Springdale Code of Ordinance provides that an application for a conditional use on appeal must be heard first by the Planning Commission and a recommendation made to the City Council; and

WHEREAS, the Planning Commission held a public hearing on October 5, 2021, on a request by Ferguson-Sunset LTD (Elevated Auto Spa) for Use Unit 41 (Automobile Sales) in a General Commercial District (C-2).

WHEREAS, following the public hearing the Planning Commission by a vote of nine (9) yes and zero (0) no recommends that a Conditional Use be granted to with the following conditions: site plan needs to show adequate parking for existing use and auto sales.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE, that the City Council hereby grants a conditional use to with the following conditions: must provide site plan.

- 1) **Site Plan needed to show adequate parking for existing use and auto sales.**

PASSED AND APPROVED THIS _____ DAY OF _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest Cate, City Attorney



Public Hearing Sign Location



RESOLUTION NO. _____

**A RESOLUTION APPROVING A CONDITIONAL USE FOR
BARRY AND STEPHANIE BRYANT AT 5962 WEST
COUNTY LINE ROAD AS SET FORTH IN ORDINANCE
NO. 4030**

WHEREAS, Ordinance #4030 amending Chapter 130 (Zoning Ordinance) of the Springdale Code of Ordinance provides that an application for a conditional use on appeal must be heard first by the Planning Commission and a recommendation made to the City Council; and

WHEREAS, the Planning Commission held a public hearing on October 5, 2021, on a request by Barry and Stephanie Bryant for a Tandem lot in an Agricultural District (A-1).

WHEREAS, following the public hearing the Planning Commission by a vote of nine (9) yes and zero (0) no recommends that a Conditional Use be granted to with the following conditions: no conditions set.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE, that the City Council hereby grants a conditional use to with the following conditions: must provide site plan.

PASSED AND APPROVED THIS _____ DAY OF _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest Cate, City Attorney

RESOLUTION NO. _____

A RESOLUTION APPROVING A WAIVER OF STREET IMPROVEMENTS, DRAINAGE, CURBS, GUTTERS AND SIDEWALKS AS SET FORTH IN ORDINANCE NO. 3725 TO OFFICE/WAREHOUSE- HWY 112 & MARCHANT ROAD. IN CONNECTION WITH L21-29 A LARGE SCALE DEVELOPMENT.

WHEREAS, Ordinance #3047 provides for the waiver of street improvements, drainage relating thereto, curbs, gutters and sidewalks to be first heard by the Planning Commission and a recommendation made to the City Council, with any waivers to be granted by the City Council only; and

WHEREAS, the Planning Commission reviewed a request for waiver of street improvements to including drainage improvements related thereto, curbs, gutters, sidewalks and street lights in connection with L21-29, a Large Scale Development for Office/Warehouse-Hwy 112 & Marchant Road and the Planning Commission recommends approval of the waiver request.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE, that the City Council hereby:

Option 1: Grants a waiver of street improvements to Marchant Road including drainage improvements related thereto, curbs, gutters, sidewalks and street lights in connection with L21-29, a Large Scale Development for Office/Warehouse- Hwy 112 & Marchant Road.

Option 2: Denies a waiver of street improvements to Marchant Road including drainage improvements related thereto, curbs, gutters, sidewalks and street lights in connection with L21-29, a Large Scale Development for Office/Warehouse- Hwy 112 & Marchant Road.

Option 3: Approves payment in lieu of improvements to Marchant Road in connection with L21-29, a Large Scale Development for Office/Warehouse- Hwy 112 & Marchant Road with estimated cost to be submitted by the developer's engineer for confirmation by the Planning Department.

Option 4: Denies a waiver and allow a Bill of Assurance for a period not to exceed _____ years for street improvements to Marchant Road including drainage improvements related thereto, curbs, gutters, sidewalks and street lights to be built in connection with L21-29, a Large Scale Development for Office/Warehouse- Hwy 112 & Marchant Road.

PASSED AND APPROVED THIS _____ DAY OF _____, 2020.

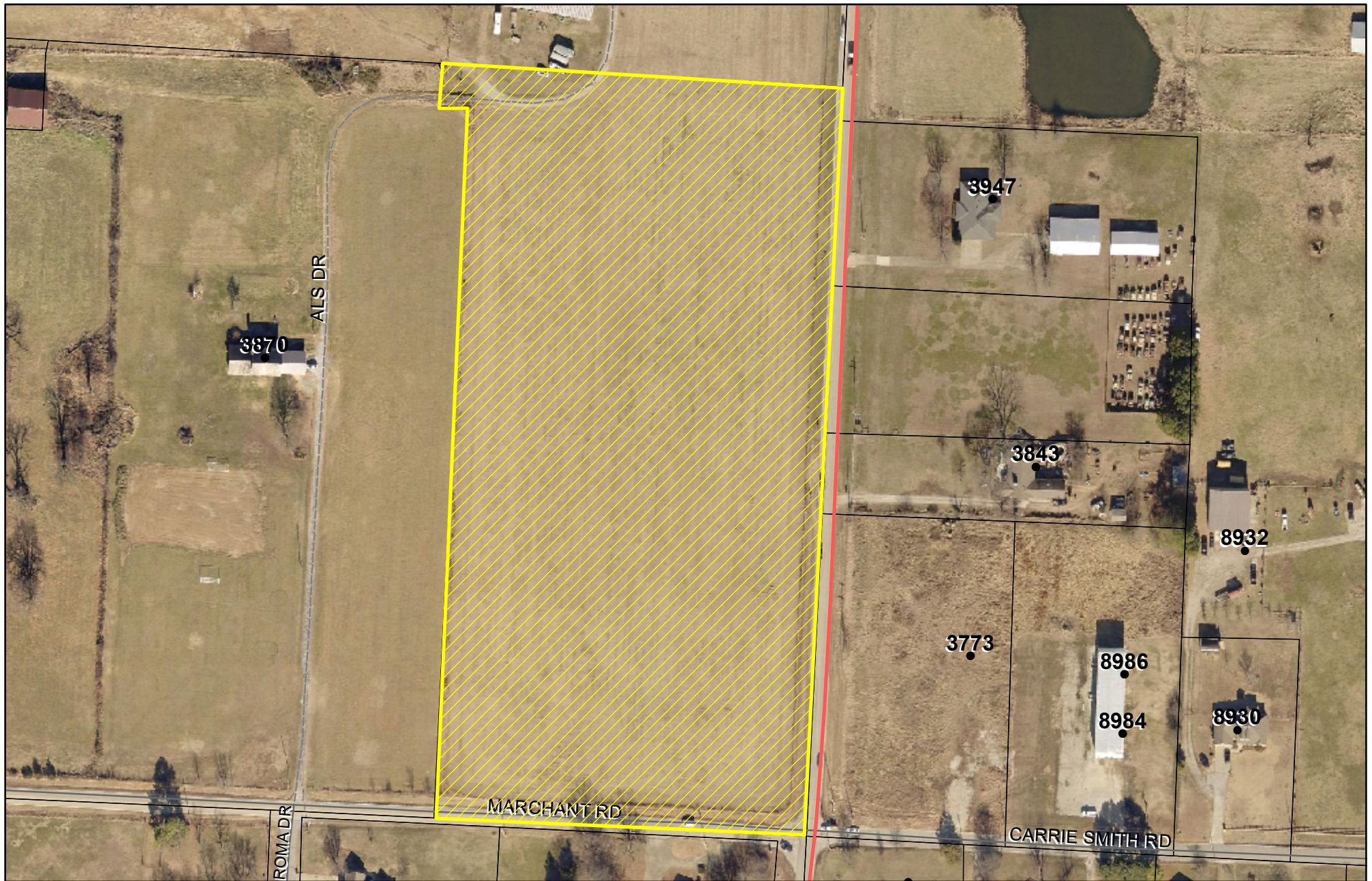
Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest Cate, City Attorney



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 For Location Reference Only

FILE NO. W21-15
APPLICANT: Hwy 112 & Marchant Rd - Office/Warehouse
REQUEST: Waiver of street improvements for Marchant Rd

PLANNING COMMISSION MEETING
 October 5, 2021

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH BKD, LLP, AND DISASTER RECOVERY SERVICES, LLC, FOR ACCOUNTING SERVICES ASSOCIATED WITH AMERICAN RESCUE PLAN ACT (ARPA) FUNDS RECEIVED BY THE CITY OF SPRINGDALE.

WHEREAS, the City of Springdale, Arkansas, has received funds from the American Rescue Plan Act (ARPA), and anticipates that further funds will be received;

WHEREAS, the City wishes to ensure that proper documentation and procedures are followed related to the receipt and expenditure of ARPA funds received by the City of Springdale, and to ensure the City's ongoing compliance with ARPA;

WHEREAS, pursuant to Section 2-201 of the Code of Ordinances of the City of Springdale, Arkansas, accounting services have been declared to be professional services, pursuant to Ark. Code Ann. §19-11-801(c), thereby eliminating the requirement of competitive bidding for these professional services;

WHEREAS, the City of Springdale has undertaken steps to seek accounting services related to its ARPA funds, and have evaluated the qualifications of entities providing these services;

WHEREAS, BKD, LLP, and Disaster Recovery Services, LLC, are uniquely suited to provide accounting services associated with the City's ARPA funds;

WHEREAS, the City of Springdale wishes to enter into a professional services agreement with BKD, LLP, and Disaster Recovery Services, LLC, for accounting services associated with the City's ARPA funds;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE, ARKANSAS that the Mayor is hereby authorized to execute a professional services agreement with BKD, LLP, and Disaster Recovery Services, LLC, for accounting services associated with the American Rescue Plan Act (ARPA), said services to paid from ARPA funds as provided in the professional services agreement.

PASSED AND APPROVED this _____ day of _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest B. Cate, CITY ATTORNEY

RESOLUTION NO. _____

A RESOLUTION DESIGNATING A PORTION OF AMERICAN RESCUE PLAN ACT (ARPA) FUNDS, RECEIVED BY THE CITY OF SPRINGDALE, ARKANSAS AS LOST REVENUE IN ACCORDANCE TO THE GUIDANCE PROVIDED BY THE UNITED STATES TREASURY.

WHEREAS, the City of Springdale, Arkansas has received \$10,675,798 in ARPA funding from the United States Treasury, and;

WHEREAS, the City of Springdale, Arkansas has identified what the United States Treasury categorizes as lost revenue during the pandemic in 2020, and;

WHEREAS, the City of Springdale, Arkansas has followed proper procedures and calculations provided by the Arkansas Municipal League and the United States Treasury to identify lost revenue, and;

WHEREAS, the City of Springdale, Arkansas has confirmed that \$9,236,788 is eligible to be designated as Lost Revenue, and;

WHEREAS, Lost Revenue is a primary use of ARPA funds according to Treasury guidance, and;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE, ARKANSAS that \$9,236,788 of funding received through the American Rescue Plan Act (ARPA) in 2021 be designated as Lost Revenue funds.

PASSED AND APPROVED this ____ day of _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest B. Cate, CITY ATTORNEY

RESOLUTION NO. _____

A RESOLUTION TO AUTHORIZE HAZARD PAY FROM THE AMERICAN RESCUE PLAN ACT (ARPA) LOST REVENUE FUNDS FOR POLICE AND FIRE DEPARTMENT STAFF THAT HAVE BEEN AND REMAIN IN DIRECT CONTACT WITH THE PUBLIC DURING THE COVID-19 PANDEMIC.

WHEREAS, the City of Springdale, Arkansas has been directly affected by the COVID-19 global pandemic; and

WHEREAS, the City of Springdale, Arkansas continued to provide emergency services to its residents during the COVID-19 pandemic; and

WHEREAS, exposure to COVID-19 has led to illness, hospitalization and fatalities; and

WHEREAS, the Administration believes exposure to COVID-19 to be hazardous; and

WHEREAS, the City of Springdale, Arkansas desires to show its appreciation through monetary means to our police and fire staff who worked in direct and continuous contact with the public; and

WHEREAS, the City of Springdale, Arkansas desires to use a portion of the \$9,236,788 American Rescue Plan Act (ARPA) funds designated as lost revenue.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE, ARKANSAS authorizes hazard pay totaling up to \$675,000.00 to eligible Police and Fire Department staff that have been and remain in direct contact with the public during the COVID-19 pandemic.

PASSED AND APPROVED this _____ day of _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest B. Cate, CITY ATTORNEY

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS TO ACQUIRE A PORTION OF LAND FROM THE LONETA M. BLEVINS TRUST FOR THE DIXIELAND ROAD STREET PROJECT (APPLE BLOSSOM TO WAGON WHEEL ROAD), PROJECT NO. 18BPS14.

WHEREAS, the City of Springdale is in need of acquiring a portion of a tract of land for the Dixieland Road Street Project (Apple Blossom to Wagon Wheel Road), Project No. 18BPS14, Tract 2, said land being owned by the Loneta M. Blevins Trust;

WHEREAS, the City of Springdale has determined by appraisal that the sum of \$347,600.00 is the estimated just compensation for the property needed from the Blevins Trust;

WHEREAS, the property owner has extended a counter-offer that the City pay the sum of \$400,000.00 to acquire the lands needed for the project, said amount being additional compensation based on an increase in the market value of the property since the City's appraisal was conducted;

WHEREAS, it is the recommendation of the City Attorney and the Mayor's Office that the City Council approve the additional sum of \$52,400.00 to acquire the property needed from the Blevins Trust, as this amount is reasonable, is justified, and will avoid the cost, expense, and risk of filing an eminent domain action and a trial;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that the City is hereby authorized to acquire a portion of a tract of land for the Dixieland Road Street Project (Apple Blossom to Wagon Wheel Road), Project No. 18BPS14, Tract 2, said land being owned by the Loneta M. Blevins Trust, for the total sum of \$400,000.00 to be paid from the 2018 Street Bond Program.

PASSED AND APPROVED this ____ day of _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest B. Cate, CITY ATTORNEY

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY
TO SETTLE A CONDEMNATION LAWSUIT WHEREIN
DAVID ARTHUR AND SHARON ARTHUR ARE
DEFENDANTS.**

WHEREAS, the City of Springdale has filed a lawsuit against David Arthur and Sharon Arthur to condemn easements across property owned by the Arthurs for the 40th Street Extension (Falcon Road to Spring Creek Bridge, Project 18BPS4, Tract 19);

WHEREAS, the City of Springdale deposited the sum of \$6,850.00 into the Registry of the Court as estimated just compensation for the easements across the property;

WHEREAS, the property owner has extended a counter-offer that the City pay the sum of \$11,850.00 to acquire the lands needed for the project, said amount being consistent with compensation paid for other easements for the Project;

WHEREAS, it is the recommendation of the City Attorney and the Mayor's Office that the City Council approve the additional sum of \$5,000.00 to acquire the property needed from the Arthurs, as this amount is reasonable, is justified, and will avoid the cost, expense, and risk of a trial;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that the City Attorney is hereby authorized to settle the Arthur condemnation lawsuit for the total sum of \$11,850.00, with the additional \$5,000.00 to be paid from the 2018 Street Bond Fund.

PASSED AND APPROVED this ____ day of _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest B. Cate, CITY ATTORNEY

Springdale v. David and Sharon Arthur (Washington Co. 04CV-20-2323)

Property Address: 3028 North 40th Street

Project: 18BPS4; 40th Street Extension (Falcon Road to Spring Creek Bridge)

SETTLEMENT OFFER

The following information is provided for settlement purposes only.

Background:

The Arthurs have owned this property consisting of 14 acres and a 1,620-sf home for over 30 years. The City took an 8,463-sf right-of-way, plus a 6,296-sf utility easement from the property. In addition, the project will result in the loss of two trees and 346 sf of gravel drive.

Appraisals

The Reed & Associates (“Reed”) appraisers determined that the property was well-suited for future residential development. They appraised the property at \$0.55 per sf. It is important to note that their appraisal was completed on December 3, 2019, before the taking and shortly before the unprecedented appreciation in local real estate values began. The exposure times of the comparable sales used, which occurred years prior to taking, were much longer than those seen in the current market. If they update their appraisal for trial, it is almost certain that their opinion of just compensation will significantly increase.

The Reed appraisers acknowledge that the City acquired 8,463 sf of right-of-way from the Arthurs, but they determined that the Arthurs were only entitled to compensation for 6,296 sf of the land taken. They do not provide significant support for this opinion. Also, they acknowledge that the City acquired 6,296 sf in a permanent utility easement, but they reduced the compensation

owed from \$0.55 per sf for this area of land to \$0.14. Arkansas law is clear that the City must pay full compensation for the acquisition of an easement that constitutes a serious interruption to the common uses of the property is equal to a taking of the property. The easement acquired by the City from the Arthurs allows the City to “lay, construct, remove, reconstruct, enlarge, maintain, inspect, repair and operate utility lines, including electric, water, sewer, drainage and other utilities, and appurtenances thereto, and to construct, alter or grade the easement as required with right of way of ingress and egress to and from” the land. In other words, the city, and other utilities, will be able to do whatever they feel is necessary to the land to use it for utility service. The easement also prevents the Arthurs from constructing any building, structures or other improvements or planting any trees in the easement. Clearly, the easement is a serious interruption of the Arthurs use of the land and they should be fully compensated for it.

The land value determined by the Reed appraisal is low. It should be noted that these same appraisers valued land that was also suited to residential development near this property at \$1.05 per sf. That was in the Dollie McCollough and Earlene Baker cases that went to trial. Mark Risk, an appraiser who has evaluated several properties in this area, determined that a similar parcel was worth \$1.20 per sf. It should be noted that these were all 2018 valuations.

Potential Trial Outcome:

Reed & Associates assessed just compensation owed at **\$6,850.00**. This valuation did not include any compensation for 1,987 sf of the property that was taken for the right-of-way and only allowed for 25% of the value of the 6,296-sf easement that was acquired. If you apply their valuation to all the land taken, the just compensation owed is **\$10,467.45**. We feel an independent appraisal will support a land value more than \$1.00 per sf which would result in compensation owed of **\$17,209.00**. The landowners have deferred hiring an appraiser to facilitate settlement

because if they incur the cost of an appraisal, the city stands to reimburse them for that cost at trial. At trial they will be entitled to pre-judgment interest and “the costs occasioned by the assessment” (under Ark. Code Ann. §18-15-303(c)) which would be at least \$3,000.00 but could be more as determined by the Court. The total judgment would be more than **\$20,209.00**.

For settlement purposes only, my clients have authorized me to accept settlement of their damages, including severance damages, pre-judgment interest, and the costs of assessment at **\$11,850.00**. The city has previously tendered \$6,850.00 of the \$11,850.00. The total additional compensation for settlement would be **\$5,000.00**.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN ADDENDUM TO A RAILROAD CROSSING EASEMENT AGREEMENT WITH THE ARKANSAS & MISSOURI RAILROAD COMPANY (AMRR) AS PART OF THE MAPLE AVENUE EXTENSION (PROJECT 18BPS2).

WHEREAS, on August 27, 2019, the City Council for the City of Springdale, Arkansas, passed Resolution No. 86-19, authorizing the Mayor and City Clerk to execute a Railroad Crossing Easement Agreement with the Arkansas & Missouri Railroad Company (AMRR) relating to the construction of a new railroad crossing as part of the Maple Avenue Extension Project (18BPS2);

WHEREAS, the new railroad crossing has been constructed on Maple Avenue as part of the Maple Avenue Extension Project (18BPS2);

WHEREAS, the City and AMRR wish to enter into an Addendum to the Railroad Crossing Easement Agreement, a copy of which is attached hereto and incorporated by reference, to provide for improvements to existing railroad crossings in the City of Springdale;

WHEREAS, AMRR has agreed to the terms of the attached addendum to the Railroad Crossing Easement Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS that the Mayor and City Clerk are hereby authorized to execute the Addendum to the Railroad Crossing Easement Agreement, attached hereto, with the Arkansas & Missouri Railroad Company, relating to improvements to existing railroad crossings in the City of Springdale;

PASSED AND APPROVED this _____ day of _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest B. Cate, City Attorney

ADDENDUM TO RAILROAD CROSSING EASEMENT AGREEMENT

DATED AUGUST 27, 2019

BETWEEN AMRR AND THE CITY OF SPRINGDALE

This Addendum, made and entered into this ____ day of _____, 2021, by and between the City of Springdale, Arkansas (hereinafter "City") and the Arkansas and Missouri Railroad Company, (hereinafter "AMRR"),

WITNESSETH:

WHEREAS, City and AMRR entered into a Railroad Crossing Easement Agreement (hereinafter "Agreement") dated August 27, 2019 concerning a new crossing at Maple Street; and

WHEREAS, pursuant to the terms of that Agreement, the new crossing was constructed; and

WHEREAS, the City and AMRR wish to amend the Agreement to provide that the City will fund various improvements and/or repairs to existing railroad crossings in the City of Springdale in lieu of the insurance requirement contemplated in the Agreement.

NOW, THEREFORE, the parties hereby agree to the following Addendum to the Agreement:

1. This addendum only applies to paragraph 7 of the Agreement and all other provisions of the Agreement except as specifically modified herein remain in full force and effect.
2. In lieu of the insurance requirements provided in paragraph 7 of the Agreement, the City agrees to fund improvements to existing railroad crossings within the City limits in an amount not to exceed Three Million Dollars over a six-year period from the date of this agreement (\$1.5 Million in years 1-3 and \$1.5 Million in years 4-6). The City understands that ARDOT may be involved in this process but also understands that other improvements outside the purview of ARDOT will be contemplated and included. The term "improvements" is general in

nature and can include any improvement to a crossing including drainage improvements or other improvements or repairs to the infrastructure.

3. Either party may propose improvements or repairs and the parties will endeavor to agree on the scope and estimated costs within 60 days from the date of the proposal. The date of each proposal shall be the benchmark to establish in which 3-year period the improvement or repair will apply. The parties acknowledge there are difficulties associated with Covid 19, manpower, sourcing and delivery of materials so the actual completion of the improvements or repairs may fall beyond the end of either 3-year period. Thus, the benchmark is the date of the proposals.
4. The representatives of each party that will make proposals and agree to the scope and costs will be the Mayor of the City (currently Doug Sprouse) and the President of AMRR (currently Caren Kraska). In the event the President's position becomes vacant for any reason then the AMRR representative will be the Chief Engineer on an interim basis (currently Jeromy Houchin). Upon adoption of this Addendum by Resolution of the Springdale City Council, the Mayor will be authorized to recommend the improvements or repairs contemplated by this addendum and seek funding approval by the Council as required by Arkansas law. The City acknowledges its monetary commitment agreed to herein and will not disapprove projects for the purpose of avoiding this commitment.
5. The City's monetary commitment will include amounts not covered by state/federal funds and/or grants and amounts it is obligated to pay towards any matching funds that may be associated with state/federal funds and/or grants.
6. In the event the City desires to provide city resources, manpower or equipment toward completion of a project, the parties will agree to an amount to be associated with the resources, manpower or equipment furnished and the City will be given a credit for that amount toward their monetary commitment agreed to herein.
7. The City agrees to provide administrative support (which would involve submitting invoices or reimbursement requests prepared by AMRR if

required by the grant process) and sponsorship of AMRR grant applications for improvements in Washington and Benton County, regardless of the purpose of the grant.

8. The City agrees to close the Caudle Avenue crossing to vehicular traffic simultaneously with the opening of the Maple Street crossing, and to undertake vacating any right-of-way associated with the closing of the Caudle Avenue crossing as soon as possible by approval of the City Council as required by Arkansas law.
9. Both parties acknowledge that the signatories below have the appropriate authority to sign on behalf of the party they represent.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this ____ day of _____, 2021.

SIGNATURES AND ACKNOWLEDGMENTS FOLLOW ON SUBSEQUENT PAGES

CITY OF SPRINGDALE, ARKANSAS

Approved by: _____

Signature

DOUG SPROUSE

Print Name

MAYOR, CITY OF SPRINGDALE, ARKANSAS

Title

ACKNOWLEDGMENT

STATE OF ARKANSAS)

COUNTY OF _____)

On this _____ day of _____, 2021, before me, the undersigned, a Notary Public, duly commissioned, qualified, and acting, within and for said County and State, appeared in person, DOUG SPROUSE, to me personally well-known who stated that he is the Mayor for the **CITY OF SPRINGDALE, ARKANSAS**, and is duly authorized in his capacity to execute the foregoing instrument and for and in the name and behalf of the City of Springdale, Arkansas, and further stated and acknowledged that he/she had so signed, executed, and delivered said foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and year stated above.

Notary Public

My Commission Expires: _____

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CITY OF SPRINGDALE, ARKANSAS

Approved by: _____
Signature

DENISE PEARCE

Print Name

CITY CLERK

Title

ACKNOWLEDGMENT

STATE OF ARKANSAS)

COUNTY OF _____)

On this _____ day of _____, 2021, before me, the undersigned, a Notary Public, duly commissioned, qualified, and acting, within and for said County and State, appeared in person, DENISE PEARCE, to me personally well-known who stated that she is the CITY CLERK for the **CITY OF SPRINGDALE, ARKANSAS**, and is duly authorized in her capacity to execute the foregoing instrument and for and in the name and behalf of the City of Springdale, Arkansas, and further stated and acknowledged that she had so signed, executed, and delivered said foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and year stated above.

Notary Public

My Commission Expires: _____

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ARKANSAS & MISSOURI RAILROAD COMPANY

Approved by: _____
Signature

Caren L. Kraska
Print Name

President
Title

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) §§
COUNTY OF WASHINGTON)

On this _____ day of _____, 2021, before me, the undersigned, a Notary Public, duly commissioned, qualified, and acting, within and for said County and State, appeared in person, **CAREN L. KRASKA**, to me personally well-known who stated that she is the President of **ARKANSAS & MISSOURI RAILROAD COMPANY** and is duly authorized in her capacity to execute the foregoing instrument and for and in the name and behalf of Arkansas & Missouri Railroad Company, and further stated and acknowledged that she had so signed, executed, and delivered said foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and year stated above.

Notary Public

My Commission Expires:

RESOLUTION NO. ____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF AGREEMENT WITH THE ARKANSAS NATURAL RESOURCES COMMISSION PERTAINING TO COSTS ASSOCIATED WITH THE DECOMMISSION AND REMEDIATION OF WASTEWATER TREATMENT FACILITIES IN THE TERRITORY FORMERLY KNOWN AS BETHEL HEIGHTS, AND ASSURING THE PAYMENT OF SAID COSTS BY THE SPRINGDALE WATER AND SEWER COMMISSION.

WHEREAS, the Springdale Water and Sewer Commission ("the Commission") currently owns, operates and maintains wastewater collection and treatment facilities serving residential, commercial and industrial customers within the City of Springdale and surrounding areas;

WHEREAS, in August of 2020, the City of Bethel Heights was consolidated into the City of Springdale pursuant to Ark. Code Ann. §14-40-1201, *et. seq.*;

WHEREAS, due to the aforementioned consolidation, the City of Springdale acquired two wastewater treatment facilities and an associated sewage collection system of the former City of Bethel Heights;

WHEREAS, the Commission is currently providing public sewer collection and treatment of the wastewater generated in the territory formerly known as Bethel Heights, and is conveying said wastes to treatment facilities of the Commission for ultimate disposal;

WHEREAS, it is the desire of the Commission to fully decommission and remediate the former treatment works of Bethel Heights and to provide a permanent interconnection between the collection systems to Springdale for the ultimate treatment and disposal of wastewater;

WHEREAS, the staff of Springdale Water Utilities has completed plans and specifications for said work to decommission and remediate the treatment works and has completed plans and specifications for the design and construction of a permanent connection between the two collection systems (hereinafter referred to as "the Project");

WHEREAS, in an effort to finance the remediation and construction contemplated herein for the Project, Springdale Water Utilities has made application to the State Revolving Loan Fund consisting of a not to exceed loan in the amount of \$2,054,083.00 and a loan with principal forgiveness in the amount not to exceed of \$1,000,000.00;

WHEREAS, the nature of the loan requires that it be made to and approved by the governing body of the City of Springdale;

WHEREAS, the Commission has committed to repay to the City of Springdale all loans, bonds, indebtedness and all other costs associated with the remediation of the former Bethel Heights treatment works and sewer main line work associated with the interconnection of the two collection systems; and

WHEREAS, the Commission understands the commitment and requirements of the City of Springdale in executing a Memorandum of Agreement with the Arkansas Natural Resources Commission establishing certain provisions, procedures and schedules to be utilized throughout the Project and the Commission agrees to repay all costs associated with said Project to the City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that the Mayor is hereby authorized to execute a Memorandum of Agreement with the Arkansas Natural Resources Commission, a copy of which is attached hereto and incorporated herein by reference, pertaining to costs associated with the remediation of the former Bethel Height wastewater treatment facilities and sewer main line

work associated with the interconnection of the two collection systems; said Memorandum of Agreement to be signed upon the Springdale Water and Sewer Commission adopting a Resolution agreeing to repay all costs associated therewith to the City.

PASSED AND APPROVED this ____ day of _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED:

Ernest B. Cate, City Attorney

RESOLUTION NO. ____

**A RESOLUTION DESIGNATING AND AUTHORIZING
THE MAYOR AND EXECUTIVE DIRECTOR OF
SPRINGDALE WATER UTILITIES TO EXECUTE
CERTAIN DOCUMENTS IN CONNECTION WITH
FUNDING ADMINISTERED BY THE ARKANSAS
NATURAL RESOURCES COMMISSION.**

WHEREAS, the Springdale Water and Sewer Commission ("the Commission") currently owns, operates and maintains wastewater collection and treatment facilities serving residential, commercial and industrial customers within the City of Springdale and surrounding areas;

WHEREAS, the City Council has determined that it is in the best interest of the City and its inhabitants to apply for assistance from the Arkansas Natural Resources Commission (the "ANRC"), in order to make certain improvements to the System;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that:

Section 1. That the Mayor of the City, as a Signatory Agent or the successor of said Agent, is hereby authorized and directed to make application for assistance administered by the ANRC and to execute, when approved by the City Council, a bond purchase agreement and instruments issued or made pursuant thereto on behalf of the City from time to time.

Section 2. That the Executive Director of Springdale Water Utilities, as a Signatory Agent or the successor of said Agent, is hereby authorized to execute, for and on behalf of the City, all other documents and certificates required.

PASSED AND APPROVED this ____ day of _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED:

Ernest B. Cate, City Attorney

MEMORANDUM OF AGREEMENT

Between

**The Arkansas Natural Resources Commission and
the City of Springdale**

**Agreement No. 01366-CWRLF-L and 01367-CWRLF-F
Project No. WRD-004-252**

The Memorandum of Agreement, hereinafter referred to as the MOA, will establish the project funding, and the planning and design schedule for the wastewater improvements funded by the State Revolving Loan Fund programs, hereinafter referred to as the RLF. Where noted some applications are specific for the Clean Water Revolving Loan Fund program, CWRLF, or the Drinking Water State Revolving Loan Fund Program, DWSRF.

I. INTRODUCTION AND PURPOSE:

- A. The **City of Springdale** hereinafter referred to as the "BORROWER," is applying for funding assistance from the Clean Water Revolving Loan Fund Program (CWRLF) administered by the Arkansas Natural Resources Commission, hereinafter referred to as the ANRC.
- B. Project funding, along with planning and design requirements of the program, must be fulfilled and the RLF application must be certified complete in accordance with the program requirements of the ANRC.
- C. The purpose of this MOA is to establish project funding and define the conditions and terms under which planning, design and application documents will be submitted by the BORROWER and reviewed by the ANRC.

II. GENERAL PROVISIONS:

- A. Funds have been approved from the RLF program. Funding shall consist of a loan in an amount not to exceed **\$2,054,083.00** with a maximum **twenty (20) year** repayment and a loan with principal forgiveness in an amount not to exceed **\$1,000,000.00** of which the total amount will be in the form of principal forgiveness. The interest rate will be determined at the time the bond term sheet is provided. At loan closing, ANRC will forgive the principal forgiveness amount. If, for any reason, the Borrower does not utilize the entire Funding Amount, then in such event the Principal Forgiveness Amount will be reduced proportionally to equal the amount of actual funds disbursed.

- B. Approval is contingent upon the Borrower establishing and maintaining a depreciation reserve fund in an amount equal to ten percent (10%) of the combined principal amount of the bonds (**\$305,408.00**). The depreciation reserve fund is to be accumulated at a rate equal to six percent (6%) of the gross monthly revenue of the system. This fund is for the replacement or repairs to the system and may not be used without prior written consent from ANRC. Once the Fund reaches the specified amount, the Borrower may suspend deposits into the Fund. When funds are withdrawn from the Fund, the monthly deposits will resume until the Fund again reaches the specified amount.
- C. Any change in project cost, source of funds, scope of services, or any other significant change in the project or application must be reported by the BORROWER or its designated representative to and approved by the ANRC by written amendment to this agreement. Any change not approved by ANRC shall be cause for discontinuing the project.
- D. The applicable federal and state statutes, and the Environmental Protection Agency, hereinafter referred to as the EPA, and ANRC rules and regulations will be complied with through all phases of this project. These requirements include, but are not limited to, Davis Bacon Wage Act (DBA), State Environmental Review Process (SERP), Disadvantaged Business Enterprise (DBE), American Iron and Steel (AIS) and Signage.
- E. No document submittal date contained herein shall take precedence over document submittal dates contained in any EPA, ANRC, or the Arkansas Department of Health, hereinafter referred to as the ADH, compliance schedule.
- F. The refusal of ANRC to accept and review project documents submitted in violation of this MOA schedule does not discharge the BORROWER from meeting any requirements of its compliance schedule.
- G. If the BORROWER fails to meet a date contained in the submittal schedule and has not requested a change to that date in accordance with Section IV.B of this MOA, then the ANRC may add up to one percent (1.0%) to the combined rate of any loan agreement that the BORROWER may enter into based on this MOA.
- H. The BORROWER must sign, attest, and return this MOA to certify the BORROWER's intent to meet these conditions by **November 01, 2021**. if the BORROWER desires further consideration be given to its project.

III. PROCEDURES:

- A. The detailed project funding requirements for this RLF project will be in accordance with the official bond documents, including system revenues

and loan security.

- B. The BORROWER will develop all planning and design documents in accordance with the requirements of EPA, ADH, ADEQ and ANRC rules and regulations.
- C. All agreements for planning and design engineering services shall contain a damages paragraph addressing the nonperformance or negligence of the consulting engineering firm as required by the ANRC. This paragraph shall incorporate the submittal schedule from this MOA as a part of the agreement and provide protection to the BORROWER for failure of performance by the consulting engineering firm. The executed agreement shall be submitted to ANRC for review and approval of this paragraph when this MOA is signed by the BORROWER.
- D. The BORROWER will submit all planning, design and application documents under the schedule presented on the following page.

SUBMITTAL SCHEDULE	Receipt Date
A. Procurement Certification	11/01/2021
B. Professional Services Agreements	12/01/2021
C. Draft Environmental Information Document (EID)	12/01/2021
D. I & I Analysis (CWRLF only)	N/A
E. Draft Facility Plan	N/A
F. Proposed User Rate Ordinance or Resolution	11/12/2019
G. Proposed Sewer Use Ordinance (CWRLF only)	N/A
H. Final EID with Public Participation	02/01/2022
I. Final Facility Plan	N/A
J. First Submittal of Plans and Specifications (P&S)	10/25/2021
K. Enacted User Rate Ordinance or Resolution	11/12/2019
L. Enacted Sewer Use Ordinance (CWRLF only)	N/A
M. Final Plans and Specifications (P&S)	11/08/2021

* NOTE: At this time, review public participation requirements:

- Public meetings require a thirty (30) day notice.

~~If project receives a categorical exclusion, the above note does not apply and may be removed.~~

TARGET DATES		Receipt Date
A.	Loan Certification	02/15/2022
B.	Loan Closing	05/16/2022
C.	Bid Award	05/16/2022
D.	Start Construction	06/01/2022
E.	Certified Completion (Final Inspection)	10/01/2023
F.	Disbursement Cut-off Date	10/15/2023

IV. REVISIONS:

Revision(s) of dates contained in the Submittal Schedule above can be made, if requested fifteen (15) days prior to the scheduled date, and upon the determination by ANRC that adequate justification for those revisions has been supplied.

The Commission may remind the applicant, through written notification, of each document due date at least 30 days prior to its scheduled submittal.

V. EFFECTIVE DATE:

This agreement will be in effect on the date executed by ANRC.

For the Arkansas Natural
Resources Commission

For the City of
Springdale, Arkansas

A. Mark Bennett, III
Chief, WRDD

Doug Sprouse, Mayor

Date

Date

RESOLUTION NO. _____

A RESOLUTION OVERTURNING THE PLANNING COMMISSION DENIAL OF A CONDITIONAL USE FOR A USE UNIT 4 CULTURAL, RECREATIONAL, AND HEALTH FACILITIES (CAMPGROUND) IN AN SF-2 LOW/MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT AND APPROVING A SAID CONDITIONAL USE AT 1815 BITTER LANE FOR BROTHERS RENTALS, LLC AND TALDO PROPERTIES, LLC AS SET FORTH IN ORDINANCE NO. 4030

WHEREAS, Ordinance #4030 amending Chapter 130 (Zoning Ordinance) of the Springdale Code of Ordinance provides that an application for a conditional use on appeal must be heard first by the Planning Commission and a recommendation made to the City Council; and

WHEREAS, the Planning Commission held a public hearing on September 7, 2021 on a request by Brothers Rentals, LLC and Taldo Properties, LLC for a conditional use for a Use Unit 4: Cultural, Recreational, and Health Facilities (campground) in a Low/Medium Density Single Family Residential District (SF-2) at 1815 Bitter Lane; and

WHEREAS, following the public hearing the Planning Commission by a vote of 6-no and 2-yes the conditional use was denied; and

WHEREAS, an appeal was filed Brothers Rentals, LLC and Taldo Properties, LLC for a conditional use for a Use Unit 4: Cultural, Recreational, and Health Facilities (campground) and was heard by the City Council on October 12th and tabled to a Committee of the Whole on October 18th at which time a scaled down request was presented and reviewed.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE, that the City Council hereby grants a conditional use to Brothers Rentals LLC and Taldo Properties, LLC for a Use Unit 4: Cultural, Recreational, and Health Facilities (Campground) in a Low/Medium Density Single Family Residential District (SF-2) at 1815 Bitter Lane with the following conditions:

- 2 camper van/RV sites only, 26' maximum length camper with a 4 person maximum per vehicle; no public camp sites.
- Operation Plan as follows:
 - To rent 2 camper van spots on a nightly basis, for no more than 5 continuous nights, 4 people max per vehicle
 - To use an online platform for bookings (such as hipcamp.com or exploreeden.com) that holds guests and hosts to certain standards, requires the guest to acknowledge rules set by the host prior to booking, and states check in /check out procedures.
- Rules/acknowledgments on platform to include:
 - Van campers/RVs 26' max in length, no trailers
 - No tent sites
 - Primitive site and has no restroom facilities. Any toilet activity must be done in van/camper vehicle/RV or in guests own portable toilet, and waste must be packed out. No dumping of any waste materials allowed on the site.
 - No dumpster onsite and all trash must be packed out.
 - One approved fire pit, and guest must agree to check the following website and make sure there are no burn bans in either Benton or Washington County prior to lighting any fire.
<https://www.arkfireinfo.org/m/>
 - Fire must be contained within the fire pit, and guest shall attempt to keep the flame at 2 feet or lower. Guests will agree to use provided wood only or wood pieces no longer than 2 feet. Guests may only

gather dead wood that is onsite and on the ground, and must stay within the boundaries of the camp property. A fire extinguisher and rain barrel with hose are located at the metal barn 17' south of the fire pit.

- Acknowledgment to avoid private property by staying on Fitzgerald Mountain trails or within Fitzgerald Mountain camp boundaries. Boundaries are marked by Bitter Lane and goat farm fence to the North, Fence to the South, and signs on Butterfield trail.
- Acknowledgment that the site is located in the city limits of Springdale and no person is authorized for the use of any sound devices that produces a loud and raucous noise in violation of city ordinance, or violates any other city ordinances.
- Required signage delineating the boundaries of the site and safety information
 - Onsite signs designating arrival to the property via Bitter Lane
 - Onsite tags that must be filled out with reservation name/date and be posted at site
 - Onsite signs designating the North and South edges of the property at Butterfield Trail
 - Onsite signs at the fire pit reiterating safety instructions, and alerting guests to location of the fire extinguisher and the rain barrel with hose
 - Onsite signs no dumping of any waste materials allowed on the site.

PASSED AND APPROVED THIS _____ DAY OF _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest Cate, City Attorney

Conditional Use Permit Request to Allow Camping at 1815 Bitter Lane, a parcel zoned SF-2
Updates to request made after October 12th 2021 Appeal to the City Council
Property owned by Brothers Rentals, LLC and Taldo Properties, LLC
Request made by Zach Brothers / Brothers Rentals, LLC of 222. W. Allen Ave.

Please Note

My request has changed to 2 camper van/RV sites only, 26 feet max length, 4 people max per vehicle, NO CAMP SITES. This should alleviate the sanitation concerns. Hipcamp.com states the following on their platform: “If you aren't able to offer a toilet option right away, you can make your listing RV-only as Rvs are self contained.” This will allow time to investigate the feasibility of building a proper restroom facility onsite in the future.

<https://www.hipcamp.com/journal/hosting/hosting-requirements-beginners-guide-to-toilets-on-hipcamp/>

Operation Plan:

-To rent 2 camper van spots on a nightly basis, for no more than 5 continuous nights, 4 people max per vehicle

-To use an online platform for bookings (such as hipcamp.com or exploreeden.com) that holds guests and hosts to certain standards, requires the guest to acknowledge rules set by the host prior to booking, and states check in /check out procedures

<https://www.hipcamp.com/en-US/hipcamperstandards>

<https://www.hipcamp.com/en-US/hoststandards>

-Rules/acknowledgments on platform to include:

- *Van campers/RVs 26' max in length, no trailers

- *No tent sites

- *This site is primitive and has no restroom facilities. Van campers/RV's must have self contained toilet option.

- *There is no dumpster onsite and all trash must be packed out.

- *There is one approved fire pit, and guest must agree to check the following website and make sure there are no burn bans in either Benton or Washington County prior to lighting any fire.

<https://www.arkfireinfo.org/m/>

Fire must be contained within the fire pit, and guest shall attempt to keep the flame at 2 feet or lower. Guests will agree to use provided wood only or wood pieces no longer than 2 feet.

Guests may only gather dead wood that is onsite and on the ground, and must stay within the boundaries of the camp property. A fire extinguisher and rain barrel with hose are located at the metal barn 17' South of the fire pit.

- *Acknowledgment to avoid private property by staying on Fitzgerald Mountain trails or within Fitzgerald Mountain camp boundaries. Boundaries are marked by Bitter Lane and goat farm fence to the North, Fence to the South, and signs on Butterfield trail.

- *Acknowledgment that the site is located in the city limits of Springdale and that city required quiet hours are between 11PM and 7AM

-To have onsite signs designating arrival to the property via Bitter Lane

-To have onsite tags that must be filled out with reservation name/date and be posted at site

-To have onsite signs designating the North and South edges of the property at Butterfield Trail

-To have onsite signs at the fire pit reiterating safety instructions, and alerting guests to location of the fire extinguisher and the rain barrel with hose

Site plan (map separate)

- 2 20'x40' Camper van/RV spots at the East end of bitter lane where it terminates on a gravel area
- 1 trail connecting Camper van/RV spots to Butterfield trail
- 1 fire pit no larger than 3feet x 3feet, in a clearing 17 feet North of the onsite Metal Barn

Public Statement:

I would like to thank all who have been involved in the process of determining the feasibility of allowing public camping on the land at 1815 Bitter Lane in Springdale. I'm thankful to those who were for the project, and I can appreciate the concerns of those who were against. I believe camping is a positive and healthy activity, and I believe the beauty of Fitzgerald Mountain and the proximity to the trails makes the subject property a good fit. Based on the feedback of the neighbors, the planning commission, the city council, and others, I am withdrawing my request to allow public tent camping. At this time, I plan to limit camping to personal use, and pursue a conditional use permit to allow 2 self contained RV parking spots. Since the overwhelming concern seems to be about sanitation issues, I plan to do a feasibility study for an onsite restroom.







ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY CLERK TO FILE A CLEAN-UP LIEN FOR THE REMOVAL OF OVERGROWN BRUSH AND DEBRIS ON PROPERTY LOCATED WITHIN THE CITY OF SPRINGDALE, ARKANSAS AND DECLARING AN EMERGENCY

WHEREAS, the following real property located in Springdale, Washington County, Arkansas, is owned as set out below:

PROPERTY OWNER: Jesus Estrada
LEGAL DESCRIPTION: Lot Sixteen (16) Block (2), Neff Subdivision, Phase One, Springdale, Washington County, Arkansas as shown on Plat record "3" at Page 484
LAYMAN'S DESCRIPTION: 2401 Trudi
PARCEL NO.: 815-23714-000

PROPERTY OWNER: Kimberly Asher
LEGAL DESCRIPTION: Lot numbered Thirty-two (32) in Block Numbered Five (5), in the Carter Addition to the City of Springdale, Arkansas, as per plat of said Addition on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas
LAYMAN'S DESCRIPTION: 1209 Young
PARCEL NO.: 815-20881-000

WHEREAS, the owner was given notice, pursuant to Ark. Code Ann. §14-54-903, of the unsightly and unsanitary conditions on the properties described above, and instructed to clean the properties in accordance with Sections 42-77 and 42-78 of the Springdale Code of Ordinances;

WHEREAS, the property owner of record did not abate the situation on these properties, and as a result, the City of Springdale was required to abate the conditions on these properties and incurred cost as follows, and as shown in the attached Exhibits:

\$332.96 clean-up costs and \$29.32 administrative costs – 2401 Trudi (815-23714-000)
\$1,732.05 clean-up cost and \$29.32 administrative costs-1209 Young (815-20881-000)

WHEREAS, the property owners have been given at least 30 days written notice of the public hearing in accordance with Ark. Code Ann. §14-54-903, as shown in the attached Exhibits;

WHEREAS, Ark. Code Ann. §14-54-904 authorizes the City Council to assert a clean-up lien on these properties to collect the amounts expended by the City in cleaning up these properties;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, pursuant to Ark. Code Ann. §14-54-904, the City Council certifies that the following real property shall be placed on the tax books of the Washington County Tax Collector as delinquent taxes and collected accordingly:

\$362.28, plus 10% for collection – 2401 Trudi (Parcel No.815-23714-000)
\$1,761.37 plus 10% for collection-1209 Young Street (815-20881-000)

Emergency Clause. It is hereby declared that an emergency exists and this ordinance, being necessary for the preservation of the health, safety and welfare of the citizens of Springdale, Arkansas, shall be in effect immediately upon its passage and approval.

PASSED AND APPROVED this _____ day of _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:



Ernest B. Cate, CITY ATTORNEY



CITY ABATEMENT-2021 - - 8/13/2021 11:39 AM (LOGAN-CODE 2)

Form Started: 8/13/2021 11:42:24 AM
Form Submitted: 8/13/2021 11:42:24 AM
Status: CITY ABATEMENT
Order # CTRU 2401-04

Form Fields:

Property Address
Before Picture

2401 Trudi
Attached Data



Type of Abatement
Date of Abatement
Officer on Site-

Lien
8/13/2021 10:39 AM
L. West

Labor Rate Recovery
Employee
EB Benefit Rate

Lewis Pickett
\$14.64

Method of Compliance
1 Method of Compliance

Junk and Trash Removal from Curb

Equipment Used
Equipment
660 New Bulky Waste Truck

660/652 New Bulky Waste Truck
\$200

Time of Abatement in Hours
Number of Temporary Laborers
Temporary Labor Rate Recovery
Employee labor recovery per hour
Total Employee Cost
Equipment Cost per hour
Total Equipment Cost
Disposal Cost Recovery
Number of Tires Removed (\$2 Each)
Number of Electronics Removed (\$10 Each)
Containers of Chemicals (\$1 Each)
Freon Removal Recovery (\$20 each)
Total Cost of Abatement

1
0
0
14.64
14.64
200
200
\$118.32
0
0
0
0
332.96

At the property of 2401 Trudi, junk and trash including old building materials, trash bags and other items were removed from the property.
Attached Data

Items Removed from Property

Final Photos





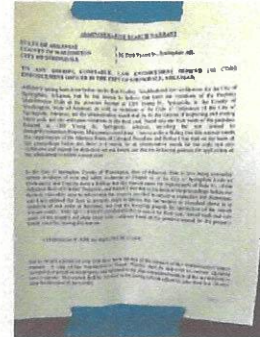
CITY ABATEMENT-2021 - - 8/13/2021 9:28 AM (RANDY-CODE 4)

Form Started: 8/13/2021 12:17:30 PM
Form Submitted: 8/13/2021 12:17:30 PM
Status: CITY ABATEMENT
Order # CYOU1209-05

Form Fields:

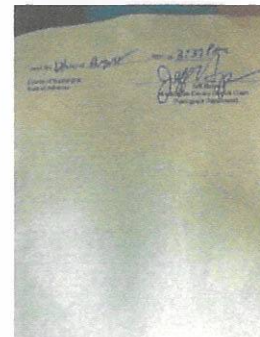
Property Address
Before Picture

1209 Young
Attached Data



Before Picture

Attached Data



Before Picture

Attached Data



Before Picture

Attached Data



Type of Abatement

Date of Abatement

Officer on Site-

Lien

8/13/2021 8:28 AM

J. Oliver

Labor Rate Recovery

Employee

HH Benefit Rate

PW Benefit Rate

JM Benefit Rate

Henry Hernandez, Peter Wilson, Horatio Jose Mejia

\$54.84

\$32.48

\$13.59

Method of Compliance



1

Method of Compliance

Mowing, Junk and Trash Removal from Curb, Property
Clean Up - Junk and Trash

Equipment Used

Equipment

753-Hustler Midmount

748 Grasshopper

660 New Bulky Waste Truck

780 Tractor

781 Tractor

6023 Service Pick Up Truck

6050 1-ton Work Truck-Landscaping

753-Hustler Midmount, 748 Grasshopper, 660/652 New
Bulky Waste Truck, 780 Tractor, 781 Tractor, 6023 Service
Pick Up Truck, 6050 1-ton Work Truck Landscaping

\$40

\$55

\$200

\$55

\$55

\$35

\$35

Time of Abatement in Hours

3

Number of Temporary Laborers

3

Temporary Labor Rate Recovery

216

Employee labor recovery per hour

100.91

Total Employee Cost

302.73

Equipment Cost per hour

365

Total Equipment Cost

1095

Disposal Cost Recovery

\$118.32

Number of Tires Removed (\$2 Each)

0

Number of Electronics Removed (\$10 Each)

0

Containers of Chemicals (\$1 Each)

0

Freon Removal Recovery (\$20 each)

0

Total Cost of Abatement

1732.05

Items Removed from Property

General junk and trash including, household trash, broken
indoor furniture, indoor carpet/rugs from behind house,
plastic buckets, rotten boards, tree limbs, and several
trash bags piled up in backyard area.

Final Photos

Attached Data



Final Photos

Attached Data



Final Photos

Attached Data



Final Photos

Attached Data



Ernest B. Cate
City Attorney
ecate@springdalear.gov

Taylor Samples
Senior Deputy City Attorney
tsamples@springdalear.gov

David D. Phillips
Deputy City Attorney
dphillips@springdalear.gov

Ryan Renauro
Deputy City Attorney
rrenauro@springdalear.gov



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OFFICE OF CITY ATTORNEY

201 Spring Street • Springdale, Arkansas 72764
Phone (479) 750-8173 • Fax (479) 750-4732
www.SpringdaleAR.gov

Giselle Gonzalez
Case Coordinator/Victim Advocate
ggonzalez@springdalear.gov

Steve Helms
Investigator
shelms@springdalear.gov

Lynda Belvedersi
Administrative Legal Assistant
lbelvedersi@springdalear.gov

Jacque Roth
File/Discovery Clerk
jroth@springdalear.gov

September 14, 2021

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND REGULAR MAIL**

5378
Jesus Estrada
2401 Trudi
Springdale, AR 72762

5721
PennyMac Loan Services, LLC
Registered Agent: CT Corporation Systems
124 West Capitol Avenue, Suite 1900
Little Rock, AR 72201

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

RE: Notice of clean-up lien on property located at 2401 Trudi, Springdale, Washington County, Arkansas, Tax Parcel No. 815-23714-000

Dear Property Owner/Lienholder:

On July 23, 2021, notice was posted on property located at 2401 Trudi, Springdale, Arkansas, that the property was in violation of Springdale City Ordinance 42-77 and 42-78, and needed to be remedied within seven (7) days. Notice was mailed to the owner of record on July 23, 2021, that the City intended to seek a clean-up lien on this property pursuant to Ark. Code Ann. §14-54-903 if the violations were not remedied. The notice also applied to any violations that may be found on the property within the next 12 months.

Subsequent to the above-referenced violation notice being issued, a city code violation was found to have existed on the property. As a result, the City of Springdale took action to remedy the violations on the property, as is allowed by Ark. Code Ann. §14-54-903, on or about August 13, 2021. As of this date, the total costs incurred by the City of Springdale to clean this property are \$332.96. I have enclosed an invoice evidencing the abatement costs incurred and paid by the City of Springdale to clean this property. Also, in accordance with Ark. Code Ann. §14-54-

903(c)(4), administrative fees may be added to the total costs incurred by the City of Springdale, which will include certified mailing fee in the amount of \$7.16 per letter and a filing fee in the amount of \$15.00 to the Washington County Circuit Court.

This is to notify you that in the event this amount is not paid to the City of Springdale on or before October 26, 2021, a hearing confirming the amount of the lien will be held before the Springdale City Council pursuant to Ark. Code Ann. §14-54-903 to determine the amount of the clean-up lien to which the City is entitled for cleaning up the property. The hearing confirming the amount of the lien will be held Tuesday, October 26, 2021, at 6:00 p.m. in the City Council Chambers at the City Administration Building, 201 Spring Street, Springdale, Arkansas. If this amount is paid prior to the hearing, no lien will be pursued.

Please remit the total sum of \$347.28, which includes \$332.96 for cleaning up the property and \$14.32 for certified mailings to the City of Springdale by the date listed above. Payment must be made payable to the City of Springdale and presented to the attention of Lynda Belvedresi, Springdale City Attorney's Office, 201 Spring Street, Springdale, AR 72764. If you fail to pay this amount before the hearing, then an additional \$15.00 will be added for the costs of filing the ordinance with the Circuit Clerk's Office. .

If you desire to contest the amount sought above, you will need to contact Neighborhood Services Division at 479-756-7712 for an appointment and you will be given a court date in Springdale District Court where you will have the opportunity to state your case before the District Court Judge.

This letter is also being mailed by regular mail to Jesus Estrada at the address above. Delivery of that letter by the U.S. Postal Service shall warrant service should the certified letter be returned.

If you should have any questions, please let me know.

Sincerely,


Ernest Cate
City Attorney

Enclosures
EC:lb

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3.

Print your name and address on the reverse so that we can return the card to you.

Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

ennyMac Loan Services, LLC

CT Corporation Systems Regist. Agent

24 West Capitol, Suite 1900

ittle Rock, AR 72201

9590 9402 5688 9346 5657 97

Article Number (Transfer from service label)

7019 2970 0000 7254 5721

S Form 3811, July 2015 PSN 7530-02-000-9001

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X CT CORPORATION

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☒ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

USPS TRACKING #

9590 9402 5688 9346 5657 97

United States Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

Office of the City Attorney

201 NORTH SPRING STREET

SPRINGDALE, ARKANSAS 72764

2401 Trudi

First-Class Mail

Postage & Fees Paid

USPS

Permit No. G-10

Page 53

Ernest B. Cate
City Attorney
ecate@springdalear.gov

Taylor Samples
Senior Deputy City Attorney
tsamples@springdalear.gov

David D. Phillips
Deputy City Attorney
dphillips@springdalear.gov

Ryan Renauro
Deputy City Attorney
rrenauro@springdalear.gov



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Investigator
shelms@springdalear.gov

Lynda Belvedersi
Administrative Legal Assistant
lbelvedersi@springdalear.gov

Jacque Roth
File/Discovery Clerk
jroth@springdalear.gov

September 14, 2021

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND REGULAR MAIL**

Kimberly Asher ⁵⁷⁴⁵
1209 Young Street
Springdale, AR 72764

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

BancorpSouth Bank ⁵⁷⁵²
2800 Cantrell Road, Ste. 100
Little Rock, AR 72202

RE: Notice of clean-up lien on property located at 2109 Young Street, Springdale,
Washington County, Arkansas, Tax Parcel No. 815-20881-000

Dear Property Owner/Lienholder:

On May 13, 2021, notice was posted on property located at 2109 Young Street, Springdale, Arkansas, that the property was in violation of Springdale City Ordinance 42-77 and 42-78, and needed to be remedied within seven (7) days. Notice was mailed to the owner of record on May 13, 2021, that the City intended to seek a clean-up lien on this property pursuant to Ark. Code Ann. §14-54-903 if the violations were not remedied. The notice also applied to any violations that may be found on the property within the next 12 months.

Subsequent to the above-referenced violation notice being issued, a city code violation was found to have existed on the property. As a result, the City of Springdale took action to remedy the violations on the property, as is allowed by Ark. Code Ann. §14-54-903, on or about August 13, 2021. As of this date, the total costs incurred by the City of Springdale to clean this property are \$1,732.05. I have enclosed an invoice evidencing the abatement costs incurred and paid by the City of Springdale to clean this property. Also, in accordance with Ark. Code Ann. §14-54-903(c)(4), administrative fees may be added to the total costs incurred by the City of Springdale, which will include certified mailing fee in the amount of \$7.16 per letter and a filing fee in the amount of \$15.00 to the Washington County Circuit Court.

This is to notify you that in the event this amount is not paid to the City of Springdale on or before October 26, 2021, a hearing confirming the amount of the lien will be held before the Springdale City Council pursuant to Ark. Code Ann. §14-54-903 to determine the amount of the clean-up lien to which the City is entitled for cleaning up the property. The hearing confirming the amount of the lien will be held Tuesday, October 26, at 6:00 p.m. in the City Council Chambers at the City Administration Building, 201 Spring Street, Springdale, Arkansas. If this amount is paid prior to the hearing, no lien will be pursued.

Please remit the total sum of \$1,746.37, which includes \$1732.05 for cleaning up the property and \$14.32 for certified mailings to the City of Springdale by the date listed above. Payment must be made payable to the City of Springdale and presented to the attention of Lynda Belvedresi, Springdale City Attorney's Office, 201 Spring Street, Springdale, AR 72764. If you fail to pay this amount before the hearing, then an additional \$15.00 will be added for the costs of filing the ordinance with the Circuit Clerk's Office. .

If you desire to contest the amount sought above, you will need to contact Neighborhood Services Division at 479-756-7712 for an appointment and you will be given a court date in Springdale District Court where you will have the opportunity to state your case before the District Court Judge.

This letter is also being mailed by regular mail to Kimberly Asher at the address above. Delivery of that letter by the U.S. Postal Service shall warrant service should the certified letter be returned.

If you should have any questions, please let me know.

Sincerely,



Ernest Cate
City Attorney

Enclosures
EC:lb

-455401

2109 Young

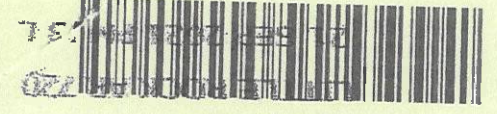
• Sender: Please print your name, address, and ZIP+4® in this box •
OFFICE OF THE
CITY ATTORNEY
201 NORTH SPRING STREET
SPRINGDALE, ARKANSAS 72764



United States
Postal Service

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USPS TRACKING #

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

BancorpSouth Bank
2800 Cantrell Road, Ste. 100
Little Rock, AR 72202



9590 9402 5688 9346 5657 59

Article Number (Transfer from service label)

7019 2970 0000 7254 5752

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X ☐ Agent
☐ Addressee

B. Received by (Printed Name) TB CIA C. Date of Delivery 9-20-21

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature	☐ Priority Mail Express®
☐ Adult Signature Restricted Delivery	☐ Registered Mail™
☐ Certified Mail®	☐ Registered Mail Restricted Delivery
☐ Certified Mail Restricted Delivery	☒ Return Receipt for Merchandise
☐ Collect on Delivery	☐ Signature Confirmation™
☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery

The City Council of the City of Springdale met in regular session on Tuesday, October 12, 2021, in the tiered training room in the new Criminal Justice Building. Mayor Doug Sprouse called the meeting to order at 6:00 p.m.

Roll call was answered by:

Doug Sprouse	Mayor
Brian Powell	Ward 1
Amelia Williams	Ward 3
Jeff Watson	Ward 3
Mike Overton	Ward 2
Mike Lawson	Ward 4
Kevin Flores	Ward 2
Randall Harriman	Ward 1
Mark Fougerousse	Ward 4
Ernest Cate	City Attorney
Denise Pearce	City Clerk/Treasurer

Department heads present:

Mike Irwin	Fire Chief
Frank Gamble	Assistant Police Chief
Wyman Morgan	Director of Financial Services
Patsy Christie	Planning & Comm. Dev. Director
Brad Baldwin	Public Works & Eng. Director
John Oliver	Community Engagement
Mike Chamlee	Chief Building Official
Chad Wolf	Parks & Recreation Director
Colby Fulfer	Chief of Staff

APPROVAL OF MINUTES

Council Member Harriman moved the minutes of the September 28, 2021 City Council meeting be approved as presented. Council Member Williams made the second.

There was a voice vote of all ayes and no nays.

ORDINANCES AND RESOLUTIONS READ BY TITLE ONLY

Council Member Williams made the motion to read all Ordinances and Resolutions by title only and to dispense with the rule requiring that ordinances be fully and distinctly read on three (3) different days for all items listed on this agenda. Council Member Harriman made the second.

The vote:

Yes: Powell, Williams, Watson, Overton, Lawson, Flores, Harriman, Fougerousse

No: None

APPEAL BY ZACH BROTHERS ON DECISION BY PLANNING COMMISSION TO DENY A CONDITIONAL USE APPEAL FOR A PERMIT TO ALLOW CAMPING AT 1815 BITTER LANE

Zach Brothers presented an appeal on Planning Commission's decision on September 7, 2021 to deny his conditional use request for a permit to allow camping at 1815 Bitter Lane, a six acre parcel of land at the base of Fitzgerald Mountain and runs westward nearly to the top of a mountain that is covered with mountain bike trails. Since that meeting, Mr. Brothers has revised his request. He is now requesting two large reserved parking spots (20' x20') that will accommodate an RV up to 30' (estimate up to 4 people

per vehicle), three reserved camp sites approximately 10 x 12 (estimate up to 4 people per site) and four additional reserved parking spots (12' x 20'). There will only be one community fire pit no more than 3' by 3'. He is looking to getting a rain barrel system with a hose at the bottom. There is no water on the property.

When asked about restrooms for the patrons, Mr. Brothers said he plans to direct people to the Bayyari Park Restrooms located in the park. They are located 1/4 mile away. He also plans to have an outhouse area with a portable toilet in it. A porta-potty service is a third option if this does not work.

Discussion was held on hipcamping. Hipcampers are used to primitive camping and "packing it out". They would have to agree to pack out their waste and dispose of it similar to how one might dispose of a baby diaper.

Patsy Christie said this is a conditional use for the property and if anyone expresses concern after it is approved it can be revisited by the Planning Commission or City Council. The approval of this is based on certain conditions set by City Council.

Ramona Latham, 1840 Dodd Avenue, spoke on behalf of her neighbors. They are opposed to a campground on the back of their property. This property is zoned SF-2 and they were denied a request for a home occupation at their home a few years ago. She feels like this primitive campground with no amenities and a bucket for a toilet will bring property values down. This campground and trail system does not even compare with the Coler Campground in Bentonville which is a gated campground under the Peel Foundation who has spent millions of dollars to build a state of the art system with paved walking and bike trails that intertwine with bridges over a meandering stream with bathroom and shower facilities for the campground. It has a coffee shop as well as a pavilion for picnicking.

Ms. Latham asked that the City Council uphold Planning Commission's decision to deny this request.

Janet Haley, 2500 Dodd Avenue, spoke on behalf of her family that lives next to this property. She listed several reasons on why this is not a good location for a primitive campground. She presented a petition signed by neighbors asking for this to be denied. Their primary concern is no electricity or restroom facilities.

Parks Director Chad Wolf said the bathrooms in Bayyari Park are opened from 6:30 a.m. to 10:00 p.m. every day. In the winter months, the bathrooms are usually shut down.

After discussion, Council Member Harriman made the motion to deny the conditional use request by Zach Brothers for camping at 1815 Bitter Lane. Council Member Overton made the second.

The vote:

Yes: Overton, Harriman, Fougrousse

No: Williams, Watson, Lawson, Flores, Powell

Motion failed 3-5.

Council Member Watson made the motion to table and refer the appeal back to the City Council committee meeting on Monday, October 18, 2021 at 5:30 p.m. where Mr. Brothers can present a revised site plan with conditions he is proposing for the site. Council Member Flores made the second.

The vote:

Yes: Watson, Overton, Lawson, Flores, Harriman, Fougrousse, Powell, Williams

No: None

RESOLUTION NO. 122-21 – AUTHORIZING THE CITY ATTORNEY TO SETTLE A
CONDEMNATION LAWSUIT WHEREIN LINDSEY CORREA IS DEFENDANT
(PROJECT NO. 18BPS12, TRACT 23)

Council Member Jeff Watson presented a Resolution authorizing the City Attorney to settle a condemnation lawsuit wherein Lindsey Correa is defendant, Har-Ber Avenue Extension project, 48th Street to Gutensohn Street, (Project No. 18BPS12, Tract 23).

RESOLUTION NO. ____

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SETTLE A CONDEMNATION LAWSUIT WHEREIN LINDSEY
CORREA IS DEFENDANT (PROJECT NO. 18BPS12, TRACT 23).**

WHEREAS, the City of Springdale has filed a lawsuit against Lindsey Correa to condemn property for the Har-Ber Avenue Extension Project (48th St. to Gutensohn St.)(Project No. 18BPS12, Tract 23);

WHEREAS, the City of Springdale deposited the sum of \$445,000.00 into the Registry of the Court as estimated just compensation for the full taking of the property;

WHEREAS, the property owner has extended a counter-offer that the City pay the total sum of \$550,000.00 to acquire the lands needed for the project, said amount being based on an appraisal conducted on behalf of the property owner;

WHEREAS, it is the recommendation of the City Attorney and the Mayor's Office that the City Council approve the additional sum of \$105,000.00 to acquire the property needed from the property owner, as this amount is reasonable, is justified, and will avoid the cost, expense, and risk of a trial;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that the City Attorney is hereby authorized to settle the Lindsey Correa condemnation lawsuit for the total sum of \$550,000.00, with the additional \$105,000.00 to be paid from the 2018 Street Bond Fund.

PASSED AND APPROVED this ____ day of October, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest B. Cate, CITY ATTORNEY

Council Member Flores moved the Resolution be adopted. Council Member Lawson made the second.

The vote:

Yes: Overton, Lawson, Flores, Harriman, Fougrousse, Powell, Williams, Watson

No: None

The Resolution was numbered 122-21.

RESOLUTION NO. 123-21 – AUTHORIZING AN UPDATE TO THE 2015 DOWNTOWN MASTER PLAN, ACCEPTANCE OF GRANT FUNDS TO SUPPORT THE UPDATE AND AUTHORIZING THE MAYOR AND THE CITY CLERK TO ENTER INTO A CONTRACT FOR CONSULTANT SERVICES WITH H3 STUDIO AND A MEMORANDUM WITH THE DOWNTOWN SPRINGDALE ALLIANCE PUBLIC OUTREACH AND INVOLVEMENT

Planning Director Patsy Christie presented a Resolution authorizing and update to the 2015 Downtown Master Plan, acceptance of grant funds to support the update and authorizing the Mayor and the City Clerk to enter into a contract for consultant services with H3 Studio and a memorandum with the Downtown Springdale Alliance Public Outreach and Involvement.

RESOLUTION NO. ____

A RESOLUTION AUTHORIZING AN UPDATE TO THE 2015 DOWNTOWN MASTER PLAN, ACCEPTANCE OF GRANT FUNDS TO SUPPORT THE UPDATE AND AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT FOR CONSULTANT SERVICES WITH H3 STUDIO AND A MEMORANDUM WITH THE DOWNTOWN SPRINGDALE ALLIANCE PUBIC OUTREACH AND INVOLVEMENT

WHEREAS, in December 2015, the Downtown Springdale Master Plan was adopted to serve as the City's official guide for future development of the downtown area; and

WHEREAS, since its adoption the plan has served as a strong impetus for development and consensus building among private investors to begin executing their own development plans to renovate commercial buildings, apartments and other residential development in the downtown area, and

WHEREAS, an update of the plan is needed to continue the current revitalization momentum to maintain a vibrant mix of residential, retail, commercial, dining, entertainment, medical, and public uses in a workable environment that enhances Springdale's economy, quality of life, and sense of place, and

WHEREAS, the update process will be designed to highlight the implementation of the adopted plan and build on the strength of those enhanced assets with the goal to continue planning for a complete community that is vibrant, sustainable, built on social capital with equitable opportunities for all citizens while leveraging public investment to attract developers and clear the path for additional private investments, and,

WHEREAS, by providing visionary and implementable solutions that are market-based, community supported Downtown Springdale will be positioned for continued success, and

WHEREAS, the Plan update will include robust and comprehensive public outreach and engagement activities conducted through an agreement with the Downtown Springdale Alliance that will, over the course of several months, effectively assess the knowledge and expertise of the residents, stakeholders and visitors to the downtown to enhance the vision, and

WHEREAS, the firm of H3 Studio, Inc. provided professional services needed for the preparation and adoption of the 2015 Downtown Master Plan and it is the desire of the City use their historical knowledge and perspective on downtown Springdale to enter to a contract for the update, and

WHEREAS, the Walton Family Foundation and the Tyson Family Foundation supports the City's desire to update the Downtown Master Plan and have approved funding assistance through grants to assist the City's efforts.

NOW, THEREFORE, BE IT RESOLVED BY THE SPRINGDALE DOWNTOWN ALLIANCE, that

1. The Mayor and City Clerk are hereby authorized accept a \$63,000 grant from the Walton Family Foundation for the development of an update to the 2015 Downtown Springdale Master Plan.
2. The Mayor and City Clerk are hereby authorized accept a \$33,000 grant from the Tyson Family Foundation for the development of an update to the 2015 Downtown Springdale Master Plan.
3. That funding in the amount of \$34,000 is made available through the City's General Operating Fund to match grant funds outlined above making the total cost of the 2022 update to the Downtown Master Plan be set at \$130,000.
4. The Mayor and City Clerk are hereby authorized to finalize negotiations and enter into an agreement with H3 Studio for the 2022 update of the Downtown Master Plan in an amount not to exceed \$100,000.
5. The Mayor and City Clerk are hereby authorized to enter into a memorandum of understanding with the Downtown Springdale Alliance for the implementation of robust and comprehensive public outreach and engagement activities in an amount not to exceed \$30,000.

PASSED AND APPROVED this ____ day of October, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest Cate, City Attorney

Council Member Williams moved the Resolution be adopted. Council Member Flores made the second.

The vote:

Yes: Lawson, Flores, Harriman, Fougrousse, Powell, Williams, Watson, Overton

No: None

The Resolution was numbered 123-21.

ORDINANCE NO. 5650 – AUTHORIZING THE CITY CLERK TO FILE A CLEAN-UP LIEN FOR THE REMOVAL OF OVERGROWN BRUSH AND DEBRIS ON PROPERTY LOCATED AT 1502B N. PLEASANT WITHIN THE CITY OF SPRINGDALE, WASHINGTON COUNTY, ARKANSAS, AND DECLARING AN EMERGENCY

City Attorney Ernest Cate presented an Ordinance authorizing the City Clerk to file a clean-up lien for the removal of overgrown brush and debris on property located at 1502B

N. Pleasant within the City of Springdale, Washington, County, Arkansas, and declaring an emergency.

The owners are Solomon Salazar and Erika Mendoza.

After reading the title of the Ordinance, Council Member Williams moved the Ordinance “Do Pass”. Council Member Lawson made the second.

The vote:

Yes: Flores, Harriman, Fougrousse, Powell, Williams, Watson, Overton, Lawson

No: None

Council Member Powell moved the Emergency Clause be adopted. Council Member Lawson made the second.

The vote:

Yes: Harriman, Fougrousse, Powell, Williams, Watson, Overton, Lawson, Flores

No: None

The Ordinance was numbered 5650.

ORDINANCE NO. 5651 – AUTHORIZING THE CITY CLERK TO FILE A CLEAN-UP LIEN FOR THE REMOVAL OF OVERGROWN BRUSH AND DEBRIS ON PROPERTY LOCATED AT 2913 ROWAN PLACE WITHIN THE CITY OF SPRINGDALE, BENTON COUNTY, ARKANSAS, AND DECLARING AN EMERGENCY

City Attorney Ernest Care presented an Ordinance authorizing the City Clerk to file a clean-up lien for the removal of overgrown brush and debris on property located at 2913 Rowan Place within the City of Springdale, Benton County, Arkansas, and declaring an emergency.

The owner is BVH Holdings LLC.

After reading the title of the Ordinance, Council Member Williams moved the Ordinance “Do Pass”. Council Member Lawson made the second.

The vote:

Yes: Fougrousse, Powell, Williams, Watson, Overton, Lawson, Flores, Harriman

No: None

Council Member Powell moved the Emergency Clause be adopted. Council Member Harriman made the second.

The vote:

Yes: Powell, Williams, Watson, Overton, Lawson, Flores, Harriman, Fougrousse

No: None

The Ordinance was numbered 5651.

ORDINANCE NO. 5652 – CALLING FOR THE ANNEXATION OF SURROUNDING LANDS PURSUANT TO ARKANSAS CODE ANNOTATED §14-40-501, ET SEQ

City Attorney Ernest Cate presented an Ordinance calling for the annexation of 55 tracts of surrounding lands pursuant to Arkansas Code Annotated §14-40-501, et. seq. located east of George Anderson Road, around Howard Anderson Road and off Hylton Road, next to Fayetteville city limits, Washington County.

The boundaries of the city limits of the City of Springdale have changed over time, causing certain lands which are not in the City of Springdale to become surrounded by land which is located in the City of Springdale and the City of Fayetteville.

Ark. Code Ann. §14-40-501(a)(1)(B) provides that if the incorporated limits of two (2) or more municipalities have completely surrounded an unincorporated area, the governing body of the municipality with the greater distance of city limits adjoining the unincorporated area's perimeter may propose an ordinance calling for the annexation of the land surrounded by the municipalities. The City of Springdale has the greater distance of city limits adjoining the unincorporated area's perimeter.

It would be in the public interest for the City of Springdale to provide municipal services, such as police protection, fire protection, etc., to these surrounded lands, and these surrounded lands qualify for annexation pursuant to Ark. Code Ann. §14-40-302. A hearing date will be set for November 23, 2021, at 6:00 p.m. to hear the issue of the annexation of the surrounded lands.

After reading the title of the Ordinance, Council Member Flores moved the Ordinance “Do Pass”. Council Member Lawson made the second.

The vote:

Yes: Williams, Watson, Overton, Lawson, Flores, Harriman, Fougrousse, Powell

No: None

The Ordinance was numbered 5652.

RESOLUTION NO. 124-21 – SETTING A HEARING DATE ON A PETITION BY MT NWA VENTURES LLC TO ABANDON A PORTION OF A UTILITY EASEMENT IN THE CITY OF SPRINGDALE, WASHINGTON COUNTY, ARKANSAS

City Attorney Ernest Cate presented a Resolution setting a hearing date on a petition by MT NWA Ventures LLC to abandon a portion of a utility easement located on part of Lot 3A, Worth Lane Commercial Park Subdivision in the City of Springdale, Washington County, Arkansas.

RESOLUTION NO. ____

**A RESOLUTION SETTING A HEARING DATE ON A PETITION
TO ABANDON A PORTION OF A UTILITY EASEMENT IN THE
CITY OF SPRINGDALE, WASHINGTON COUNTY, ARKANSAS.**

WHEREAS, MT NWA Ventures, LLC, has petitioned for the abandonment of a portion of a utility easement on a part of Lot 3A, Worth Lane Commercial Park Subdivision, to the City of Springdale, Washington County, Arkansas, as per plat of said addition on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, as Plat Record 23A-269, and being more particularly described as follows:

SPRINGDALE CITY COUNCIL
OCTOBER 12, 2021

A part of Lot 3A, Worth Lane Commercial Park, City of Springdale, Washington County, Arkansas, as shown on Boundary Survey for MT NWA Ventures, LLC, completed September 9, 2021, by Engineering Services as work order number 21975, and being further described as follows: Beginning at the Southeast Corner of said Lot 3A, thence along the South line of said Lot 3A, N87°07'00"W a distance of 20.00 feet; thence leaving the South line of said Lot 3A, N01°48'39"E a distance of 118.35 feet; thence S88°11'21"E a distance of 20.00 feet to a point on the east line of said Lot 3A; thence along the east line of said Lot 3A, S01°48'39"W a distance of 118.73 feet to the point of beginning, containing 0.05 acres (2,371 sq. ft.), more or less.

WHEREAS, the City Council finds that a hearing date should be set on the request to abandon the portion of the utility easement;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that November 23, 2021, at 6:00 p.m. is set as the date and time for the City Council to hear the petition; that the City Clerk shall give notice of the date and time of said hearing as required by law.

PASSED AND APPROVED this ____ day of October, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest B. Cate, CITY ATTORNEY

Council Member Lawson moved the Resolution be adopted. Council Member Watson made the second.

The vote:

Yes: Watson, Overton, Lawson, Flores, Harriman, Fougrousse, Powell, Williams

No: None

The Resolution was numbered 124-21.

CITY COUNCIL MEETING DATE CHANGED

Due to a lot of the city officials being in a meeting in Washington, D.C., Council Member Watson made the motion to move the Tuesday, October 26, 2021 City Council meeting to Wednesday, October 27, 2021. Council Member Flores made the second.

The vote:

Yes: Overton, Lawson, Flores, Harriman, Fougrousse, Powell, Williams, Watson

No: None

ADJOURNMENT

Council Member Williams made the motion to adjourn. Council Member Lawson made the second.

After a voice vote of all ayes and no nays, the meeting adjourned at 7:27 p.m.

Doug Sprouse, Mayor

Denise Pearce, City Clerk/Treasurer