

SCHEDULED MEETINGS to be held in the Multi-Purpose Room #236, second floor of the City Administration Building, 201 Spring Street:

- Monday, October 21st, 5:30 p.m. is the next Committee meetings.
 - Committee agendas will be available on Friday, October 18th, 2013.

SPRINGDALE CITY COUNCIL
REGULAR MEETING
TUESDAY, OCTOBER 8TH, 2013

5:55 p.m. Pre Meeting Activities

Pledge of Allegiance
Invocation – **KATHY JAYCOX**

6:00 p.m. **OFFICIAL AGENDA Pg's 1-2**

1. *Large Print* agendas are available at the back of the room, next to the main entrance
2. Call to Order - Mayor Doug Sprouse
3. Roll Call – City Clerk Denise Pearce

Recognition of a Quorum
4. Comments from Citizens

The Council will hear brief comments from citizens during this period on issues not on the agenda. No action will be taken tonight. All comments will be taken under advisement.
5. Approval of Minutes
 - a) September 24th, 2013 **Pg's 3-15**
6. 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 numbers....7-A & B....8..* (Motion must be approved by two-thirds (2/3) of the council members).
7. Planning Commission Recommendations by Planning Director Patsy Christie:
 - A. **An Ordinance** amending Article 2, Section 12 of the zoning ordinance of the City of Springdale, Arkansas, declaring an emergency; and for other purposes. **Pg's 16-21**
 - B. **An Ordinance** amending Chapter 130 of the Code of Ordinances of the City of Springdale, Arkansas, to adopt the southwest Springdale Overlay District, declaring an emergency; and for other purposes. (Documents for this agenda item have been placed in Dropbox.) **Pg's 22-23**
8. Ordinance Committee Report and Recommendation by Chairman Mike Overton:

An Ordinance amending section 110-77 and section 110-79 of the Code of Ordinances of the City of Springdale, Arkansas; declaring an emergency and for other purposes, presented by Ernest Cate, City Attorney. **Pg's 24-25**
9. Finance Committee Report and Recommendations by Chairman Brad Bruns:
 - A. **A Resolution** authorizing the execution for a lease agreement for a copier for the Springdale Public Works Department. **Pg's 26-37**

B. **A Resolution** authorizing the extension of a land lease for a Cell Tower located in the Luther George Grove Street Park. **Pg's 38-53**

10. Street and CIP Report and Recommendations by Chairman Rick Evans:

A. **A Resolution** appropriating Capital Improvement Funds for a fence at Bobby Hopper Park. **Pg's 54-55**

B. **A Resolution** approving construction payment for Don Tyson Interchange. **(Resolution will be made available on Monday, October 7th.)**

11. **A Resolution** endorsing the participation of American Tubing, Inc., in the Sales and Use Tax Refund Program authorized by the Consolidation Incentive Act of 2003 and Arkansas Code of Ann. 15-4-2706(d), presented by, Ernest Cate, City Attorney. **Pg's 56-57**

12. Comments from Department Heads.

13. Comments from Council Members.

14. Comments from City Attorney.

15. Comments from Mayor Sprouse.

16. Adjournment.

SPRINGDALE CITY COUNCIL
SEPTEMBER 24, 2013

The City Council of the City of Springdale met in regular session on September 24, 2013, in the City Council Chambers, City Administration Building. Mayor Doug Sprouse called the meeting to order at 6:00 p.m.

Roll call was answered by:

Doug Sprouse	Mayor
Brad Bruns	Ward 3
Jeff Watson	Ward 3
Mike Overton	Ward 2
Eric Ford	Ward 1
Mike Lawson	Ward 4
Rick Evans	Ward 2
Jim Reed	Ward 1
Kathy Jaycox	Ward 4
Ernest Cate	City Attorney
Denise Pearce	City Clerk/Treasurer

Department heads present:

Wyman Morgan	Director of Finance & Admin.
Patsy Christie	Planning Director
Kathy O'Kelley	Police Chief
Mike Irwin	Fire Chief
Rick McWhorter	Parks and Recreation Director
Mike Chamlee	Building Inspector
Mark Gutte	Information Services Director
Marcia Ransom	Library Director
Gina Kincy	Human Resource Director

PROCLAMATION – “ELIZABETH RICHARDSON CENTER DAY”

Mayor Sprouse presented a proclamation proclaiming September 27, 2013 as the “Elizabeth Richardson Center Day”.

CITIZEN COMMENTS

Ron Mynett, Springdale resident, requested that something be done with some dead trees around the trail at Lake Springdale that are very dangerous and need to be removed.

Lori Burke, 1506 Backus Avenue, received a letter from the City of Springdale regarding some dead trees on her property. She said at this time she is unable to pay for someone to cut them down. She said she is doing the best that she can and does not want to get a citation. She is asking for help in this matter.

Kirk Siefert, amateur Hamm Radio Operator, acknowledged help he received from Fire Chief Mike Irwin and Fire Station 1 employees. Mr. Siefert sponsors licensing classes and testing for new and upgrading operators. It is hard to find a location for these classes and Fire Chief Irwin graciously allowed them to utilize a training room for a class.

APPROVAL OF MINUTES

Alderman Jaycox moved the minutes of the August 27, 2013 and September 10, 2013 City Council meetings be approved as presented. Alderman Reed made the second.

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

AGENDA ITEM ADDED

Alderman Overton made the motion to add an ordinance regarding the zoning ordinance to tonight's agenda, making it item 12C. Alderman Jaycox made the second.

The vote:

Yes: Reed, Jaycox, Bruns, Watson, Overton, Ford, Lawson, Evans

No: None

ORDINANCES AND RESOLUTIONS READ BY TITLE ONLY

Alderman Reed 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. Alderman Jaycox made the second.

The vote:

Yes: Jaycox, Bruns, Watson, Overton, Ford, Lawson, Evans, Reed

No: None

APPEAL OF THE PLANNING COMMISSION'S DECISION TO DENY A REZONING REQUEST BY DOW WORSHAM FOR PROPERTY LOCATED AT 987 S. GUTENSOHN

An appeal of the Planning Commission's decision to deny a rezoning request by Dow Worsham for property located at 987 S. Gutensohn was taken off the City Council agenda indefinitely.

City Attorney Ernest Cate said while talking to Mr. Worsham, who wanted to table this item tonight until the next Council meeting, found that Mr. Worsham had not followed proper procedure in notifying adjacent property owners and also had not stated in his appeal why he felt the Planning Commission was in error on their decision.

Mr. Cate said in his opinion this should not have been put on the agenda because they did not comply with the appeal procedures in the city ordinance.

Mr. Worsham was not at the meeting tonight. Mr. Cate told them they would have to be present if they wanted to table the appeal.

RESOLUTION NO. 141-13 – AUTHORIZING THE FIRE CHIEF TO ENTER INTO AN AGREEMENT WITH SUTPHEN CORPORATION TO PURCHASE A NEW LADDER FIRE TRUCK AND A NEW FIRE ENGINE

Fire Chief Mike Irwin presented a Resolution authorizing the Fire Chief to enter into an agreement with Sutphen Corporation to purchase a new ladder fire truck and a new fire engine in the amount of \$1,372,706.91. The funds have been appropriated from the Capital Improvement Program.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FIRE CHIEF TO ENTER INTO AN AGREEMENT TO PURCHASE A NEW LADDER FIRE TRUCK AND A NEW FIRE ENGINE.

WHEREAS, funds have been appropriated from the Capital Improvement Program (CIP) for the purchase of a new ladder fire truck and a new fire engine;

WHEREAS, the Sutphen Corporation has agreed to furnish the following fire apparatus to the Fire Department of the City of Springdale, Arkansas:

- 1) One Sutphen Custom Heavy Duty Rescue Pumper, complete and delivered;
- 2) One Sutphen SL-75 Quint, complete and delivered.

WHEREAS, the purchase price for the fire apparatus referred to herein are \$1,412,695.40, with a discounted price of \$1,372,706.91 for upfront payment in full.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that the Fire Chief is hereby authorized to enter into a an agreement for the purchase of the fire apparatus referred to herein, and the purchase of said apparatus is hereby authorized in the amount of \$1,372,706.91.

PASSED AND APPROVED this _____ day of _____, 2013.

Doug Sprouse, MAYOR

ATTEST:

Denise Pearce, CITY CLERK

APPROVED:

Ernest B. Cate, CITY ATTORNEY

Alderman Reed moved the Resolution be adopted. Alderman Jaycox made the second.

The vote:

Yes: Bruns, Watson, Overton, Ford, Lawson, Evans, Reed, Jaycox

No: None

The Resolution was numbered 141-13.

ORDINANCE NO. 4737 – REZONING .24 ACRES OWNED BY RAUL AND REYNALDA LEMUS, LOCATED AT 721 TURNER, FROM MF-12 TO C-1 AND DECLARING AN EMERGENCY

Planning Director Patsy Christie presented an Ordinance rezoning .24 acres owned by Raul and Reynalda Lemus, located at 721 Turner Street, from MF-12 to C-1 and declaring an emergency.

After reading the title of the Ordinance, Alderman Reed moved the Ordinance “Do Pass”. Alderman Evans made the second.

The vote:

Yes: Watson, Overton, Ford, Lawson, Evans, Reed, Jaycox, Bruns

No: None

Alderman Evans moved the Emergency Clause be adopted. Alderman Reed made the second.

The vote:

Yes: Overton, Ford, Lawson, Evans, Reed, Jaycox, Bruns, Watson

No: None

The Ordinance was numbered 4737.

RESOLUTION NO. 142-13 – APPROVING A CONDITIONAL USE APPEAL BY JIM CASH FOR A USE UNIT 4 (CULTURAL, RECREATIONAL AND HEALTH FACILITY) IN AN A-1 ZONE AT 5392 HIGHWAY 112 AS SET FORTH IN ORDINANCE NO. 4030

Planning Director Patsy Christie presented a Resolution approving a conditional use appeal by Jim Cash for a Use Unit 4 (Cultural, Recreational and Health Facility) in an A-1 zone at 5392 Highway 112 as set forth in Ordinance No. 4030.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONDITIONAL USE AT 5392 HIGHWAY 112 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 3, 2013, on a request by Jim Cash for a Use Unit 4 (Cultural, Recreational and Health facility) in an Agricultural District (A-1)

WHEREAS, following the public hearing the Planning Commission by a vote of eight (8) yes and zero (0) no recommends that a conditional use be granted to Jim Cash for a Use Unit 4 (Cultural, Recreational and Health facility) in an Agricultural District (A-1) with the following conditions – All Building and Fire Codes must be met.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE that the City Council hereby grants a conditional use to Jim Cash for a Use Unit 4 (Cultural, Recreational and Health facility) in an Agricultural District (A-1) with the following conditions – All Building and Fire Codes must be met.

PASSED AND APPROVED THIS _____ DAY OF _____, 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest Cate, City Attorney

Alderman Reed moved the Resolution be adopted. Alderman Evans made the second.

The vote:

Yes: Ford, Lawson, Evans, Reed, Jaycox, Bruns, Watson, Overton

No: None

The Resolution was numbered 142-13.

ORDINANCE NO. 4738 – AMENDING ARTICLE 6, SECTION 1.1 OF THE ZONING ORDINANCE OF THE CITY OF SPRINGDALE, ARKANSAS; AND DECLARING AN EMERGENCY (SUPPLEMENTAL DISTRICT REGULATIONS FOR AGRICULTURAL ZONING DISTRICTS)

City Attorney Ernest Cate presented an Ordinance amending Article 6, Section 1.1 of the Zoning Ordinance of the City of Springdale, Arkansas. Article 6, Section 1 of the Zoning Ordinance contains supplemental district regulations for the agricultural zoning district.

The amendment states no materials or supplies associated with the uses allowed shall be stored or kept within fifty (50) feet of the property line of any residential district.

Planning Commission held a public hearing on September 3, 2013 and recommended approval.

After reading the title of the Ordinance, Alderman Reed moved the Ordinance “Do Pass”. Alderman Evans made the second.

The vote:

Yes: Watson, Overton, Ford, Lawson, Evans, Reed, Jaycox, Bruns

No: None

Alderman Evans moved the Emergency Clause be adopted. Alderman Reed made the second.

The vote:

Yes: Overton, Ford, Lawson, Evans, Reed, Jaycox, Bruns, Watson

No: None

The Ordinance was numbered 4738.

ORDINANCE NO. 4739 – TO WAIVE COMPETITIVE BIDDING TO REHAB THE REMAINING NINE (9) CHRISTMAS SCENES FOR CITY DISPLAYS

Parks Director Rick McWhorter presented an Ordinance to waive competitive bidding to rehab the remaining nine (9) Christmas scenes for city displays. Get Lit, LLC has proposed to have the 9 scenes powder coated and restrung with LED lights with the amount not to exceed \$32,000.00.

\$32,000.00 of the \$290,000 of CIP funds previously appropriated for a Christmas light drive through display will be appropriated for rehabbing and lighting of Christmas scenes and the balance of \$258,000.00 is returned from appropriation for park land acquisition.

After reading the title of the Ordinance, Alderman Jaycox moved the Ordinance "Do Pass". Alderman Evans made the second.

The vote:

Yes: Jaycox, Bruns, Watson, Overton, Ford, Lawson, Evans, Reed

No: None

Alderman Evans moved the Emergency Clause be adopted. Alderman Jaycox made the second.

The vote:

Yes: Bruns, Watson, Overton, Ford, Lawson, Evans, Reed, Jaycox

No: None

The Ordinance was numbered 4739.

RESOLUTION NO. 143-13 – APPROPRIATING CAPITAL IMPROVEMENT FUNDS FOR THE SPRINGDALE PUBLIC LIBRARY (METAL SHELVING/TECHNOLOGY IMPROVEMENTS)

Library Director Marcia Ransom presented a Resolution appropriating capital improvement funds for the Springdale Public Library.

RESOLUTION NO. _____

A RESOLUTION APPROPRIATING CAPITAL IMPROVEMENT FUNDS FOR THE SPRINGDALE PUBLIC LIBRARY

WHEREAS, the Library Director has requested funds for metal shelving, display units, bookcarts and audio visual improvements for the Springdale Public Library, and

WHEREAS, these improvements are supported and recommended by the Springdale Public Library Foundation Board, and

WHEREAS, the Springdale Public Library is important to the quality of life for our citizens;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that \$100,425.00 of capital improvement funds is hereby appropriated for the capital improvements in the Springdale Public Library.

PASSED AND APPROVED this ____ day of September, 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest Cate, City Attorney

Alderman Overton moved the Resolution be adopted. Alderman Jaycox made the second.

The vote:

Yes: Watson, Overton, Ford, Lawson, Evans, Reed, Jaycox, Bruns

No: None

The Resolution was numbered 143-13.

RESOLUTION NO. 144-13 – AUTHORIZING THE ENGAGEMENT OF BKD, LLP FOR THE 2013 AUDIT

Finance Chairman Brad Bruns presented a Resolution authorizing the engagement of BKD, LLP, for the 2013 Audit.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ENGAGEMENT OF BKD, LLP FOR THE 2013 AUDIT

WHEREAS, the City of Springdale is required to have an annual audit performed of its financial statements; and

WHEREAS, the City of Springdale's 2006 Series and 2012 Series Bond Ordinances require that the audit be performed in accordance with Government Auditing Standards issued by the Comptroller General of the United States and applicable state law; and

WHEREAS, the firm of Frost, PLLC performed the 2008 through 2012 audits of the City of Springdale, and

WHEREAS, it is the desire of the City of Springdale to have the 2013 audit conducted by BKD, LLP, and

WHEREAS, negotiations with this firm resulted in a proposed fee of \$70,000 for the 2013 audit, and

WHEREAS, accounting and auditing services have been declared to be professional services in Sec. 2-201 of the Springdale Code of Ordinances,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that the audit of the financial statements of the City of Springdale be performed in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States and that the City retain the firm of BKD, LLP to perform the 2013 audit of the City of Springdale, including the Springdale Water and Waste Water Department, for a fee of \$70,000.

PASSED AND APPROVED this ____ day of September, 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest B. Cate, City Attorney

Alderman Bruns moved the Resolution be adopted. Alderman Reed made the second.

The vote:

Yes: Overton, Ford, Lawson, Evans, Reed, Jaycox, Bruns, Watson

No: None

The Resolution was numbered 144-13.

RESOLUTION NO. 145-13 – TO LEVY WASHINGTON COUNTY AD VALOREM TAXES OF THE CITY OF SPRINGDALE, ARKANSAS

City Attorney Ernest Cate presented a Resolution to levy 2013 Washington County Ad Valorem Taxes of the City of Springdale, Arkansas.

RESOLUTION NO. _____

A RESOLUTION TO LEVY WASHINGTON COUNTY AD VALOREM TAXES OF THE CITY OF SPRINGDALE, ARKANSAS.

WHEREAS, governing bodies of the municipalities of the State of Arkansas are required by law to levy ad valorem taxes at their regular meeting in October of each year; and,

WHEREAS, certain levies are needed to properly finance the operation of the City of Springdale, Arkansas.

WHEREAS, all property taxes and voluntary taxes will be collected by the Tax Collector of Washington County.

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

SECTION 1: That the following levies be approved for collection in the year 2014 and that copies of this Resolution be sent to the County Clerk and Tax Collector of Washington County.

The 2013 property tax levy to be collected by the Washington County Tax Collector are as follows:

	REAL ESTATE	PERSONAL PROPERTY
GENERAL FUND	.0047	.0047
FIREMEN'S PENSION	.0005	.0005
POLICEMEN'S PENSION	.0005	.0005
TOTAL	<u>.0057</u>	<u>.0057</u>

SECTION 2: The 2013 voluntary taxes to be collected by the City Clerk are as follows:

	REAL ESTATE	PERSONAL PROPERTY
CITY FIRE FUND	.0015	.0015
LIBRARY	.001	.001
TOTAL	<u>.0025</u>	<u>.0025</u>

SECTION 3: The voluntary taxes will be printed in the Washington County Tax Collector's office and shall be billed and collected by the Washington County Tax Collector's office.

PASSED AND APPROVED this _____ day of _____, 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest B. Cate, City Attorney

Alderman Jaycox moved the Resolution be adopted. Alderman Reed made the second.

The vote:

Yes: Ford, Lawson, Evans, Reed, Jaycox, Bruns, Watson, Overton

No: None

The Resolution was numbered 145-13.

**RESOLUTION NO. 146-13 – TO LEVY BENTON COUNTY AD VALOREM TAXES
OF THE CITY OF SPRINGDALE, ARKANSAS**

City Attorney Ernest Cate presented a Resolution to levy 2013 Benton County Ad Valorem Taxes of the City of Springdale, Arkansas.

RESOLUTION NO. _____

**A RESOLUTION TO LEVY BENTON COUNTY AD
VALOREM TAXES OF THE CITY OF
SPRINGDALE, ARKANSAS.**

WHEREAS, governing bodies of the municipalities of the State of Arkansas are required by law to levy ad valorem taxes at their regular meeting in October of each year; and,

WHEREAS, certain levies are needed to properly finance the operation of the City of Springdale, Arkansas.

WHEREAS, all property taxes except for voluntary taxes will be collected by the County Clerk and Tax Collector of Benton County. All voluntary taxes will be collected by the City Clerk/Treasurer.

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

SECTION 1: That the following levies be approved for collection in the year 2014 and that copies of this Resolution be sent to the County Clerk and Tax Collector of Benton County.

The 2013 property tax levy to be collected by the Benton County Tax Collector are as follows:

	REAL ESTATE	PERSONAL PROPERTY
GENERAL FUND	.0047	.0047
FIREMEN'S PENSION	.0005	.0005
POLICEMEN'S PENSION	.0005	.0005
TOTAL	<u>.0057</u>	<u>.0057</u>

SECTION 2: The 2013 voluntary taxes to be collected by the City Clerk are as follows:

	REAL ESTATE	PERSONAL PROPERTY
CITY FIRE FUND	.0015	.0015
LIBRARY	.001	.001
TOTAL	<u>.0025</u>	<u>.0025</u>

SECTION 3: The voluntary taxes will be printed by the City Clerk's office for those residents of Springdale, Arkansas, and shall be billed and collected by the City Clerk's office for the City of Springdale, Arkansas.

PASSED AND APPROVED this ____ day of _____, 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest B. Cate, City Attorney

Alderman Reed moved the Resolution be adopted. Alderman Jaycox made the second.

The vote:

Yes: Ford, Lawson, Evans, Reed, Jaycox, Bruns, Watson, Overton

No: None

The Resolution was numbered 146-13.

RESOLUTION NO. 147-13 – SETTING A HEARING DATE ON A PETITION BY
TOMMY JONES TO ABANDON A PORTION OF A UTILITY EASEMENT ON 5590
PEYTON PLACE IN THE CITY OF SPRINGDALE

City Attorney Ernest Cate presented a Resolution setting a hearing date on a petition by Tommy Jones to abandon a portion of a utility easement on 5590 Peyton Place in the City of Springdale, 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, ARKANSAS.**

WHEREAS, Tommy Jones has petitioned for the abandonment of a portion of a utility easements described as follows:

The southern five (5) feet of an existing ten (10) foot utility easement located along the north property line of Lot 54, Parkers' Place Subdivision Phase II, of the City of Springdale, Washington County, Arkansas.

LAYMAN'S DESCRIPTION: 5590 Peyton Place
Springdale, Washington County,
Arkansas

PARCEL NO.: 815-39228-000

WHEREAS, the City Council finds that a hearing date should be set;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that October 8, 2013 at 6:00 p.m. be 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, as required by law.

PASSED AND APPROVED this _____ day of September, 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest B. Cate, CITY ATTORNEY

Alderman Jaycox moved the Resolution be adopted. Alderman Bruns made the second,

The vote:

Yes: Evans, Reed, Jaycox, Bruns, Watson, Overton, Ford, Lawson

No: None

The Resolution was numbered 147-13.

ORDINANCE NO. 4740 – 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, AT 307 CLEVELAND STREET, 2911 FALCON ROAD, 3331 GLENBROOK LOOP, 1893 TUSCANY AVENUE AND 4102 WATKINS AVENUE

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 within the City of Springdale, Arkansas, at 307 Cleveland Street, 2911 Falcon Road, 3331 Glenbrook Loop, 1893 Tuscan Avenue and 4102 Watkins Avenue.

After reading the title of the Ordinance, Alderman Jaycox moved the Ordinance “Do Pass”. Alderman Evans made the second.

The vote:

Yes: Reed, Jaycox, Bruns, Watson, Overton, Ford, Lawson, Evans

No: None

Alderman Reed moved the Emergency Clause be adopted. Alderman Evans made the second.

The vote:

Yes: Jaycox, Bruns, Watson, Overton, Ford, Lawson, Evans, Reed

No: None

The Ordinance was numbered 4740.

BOBBY HOPPER FENCE

Alderman Jaycox said she had experienced two young children almost being run over on East Huntsville Avenue near the Bobby Hopper Park where a child was following a ball out into the street. This is a very dangerous situation because the soccer field is located right next to the street.

Alderman Jaycox asked that a fence be built around the park immediately before something bad happens to a child.

Parks Director McWhorter said they are in the process of applying for a grant to make improvements to the park. He talked to the State Parks and Tourism Department and they said they would not do a 50/50 match if the fence was built before receiving the grant. The amount proposed for a six foot high fence would be \$24,500 for 490 linear feet.

Discussion was held on whether or not a fence would take care of the problem.

Alderman Reed made the motion to take money out of the CIP Park money and build a fence around the park. Alderman Jaycox made the second.

Due to the estimated amount for the fence, Parks Director McWhorter was asked to solicit quotes and/or bids depending on the result of the quotes. He was also asked to close the northern field closest to the street immediately and then present the quotes at the Street and CIP Committee on Monday, October 7, 2013.

Aldermen Reed and Jaycox withdrew their motions.

NEW DIRECTOR OF HUMAN RESOURCES

Gina Kincy was introduced to City Council as the new Director of Human Resources.

ADJOURNMENT

Alderman Reed made the motion to adjourn. Alderman Jaycox made the second.

After a voice vote of all ayes and no nays, the meeting adjourned at 7:10 p.m.

Doug Sprouse, Mayor

Denise Pearce, City Clerk/Treasurer

That which is underlined is added and that which is stricken through is deleted.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ARTICLE 2,
SECTION 12 OF THE ZONING ORDINANCE OF
THE CITY OF SPRINGDALE, ARKANSAS,
DECLARING AN EMERGENCY; AND FOR
OTHER PURPOSES.**

WHEREAS, Article 2, Section 12 of the Zoning Ordinance of the City of Springdale, Arkansas, contains the regulations and procedures associated with the consideration of conditional use requests on lands in the City of Springdale, Arkansas;

WHEREAS, Article 2, Section 12 of the Zoning Ordinance of the City of Springdale, Arkansas, is in need of revision;

WHEREAS, it is in the best interest of the City of Springdale, Arkansas, that Article 2, Section 12 of the Zoning Ordinance of the City of Springdale, Arkansas, be amended;

WHEREAS, a public hearing was held before the Springdale Planning Commission on October 1, 2013, after notice was given of said hearing as required by law.

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

Section 1: Article 2, Section 12 of the Zoning Ordinance of the City of Springdale, Arkansas, is hereby amended to read as follows:

Sec. 12. – Conditional uses on appeal to planning commission.

The planning commission shall hear at a scheduled public hearing only such conditional use as is specifically authorized to pass on by the terms of Article 4 of this chapter; shall decide such questions as are involved in determining whether such conditional uses shall be recommended for approval to the city council; and shall recommend approval, modify or deny conditional uses at its discretion with the conditions and safeguards as are appropriate under this ordinance. Approval of a conditional use shall not be granted as a matter of right, but shall be granted only in situations where said use is in harmony with the character of the neighborhood and zone in which it shall be located and the structure in which it is to operate meets building and fire codes as adopted by the City. Once a conditional use is approved that conditional use is personal to the applicant and is limited to the location to which it was approved and may only be changed to another conditional use through further action of the planning commission and the city council. Once a

conditional use is approved that use may continue so long as it abides by the findings of this subsection and any special conditions placed upon the use by the planning commission and the city council.

If a complaint is filed with the planning commission by an adjoining property owner or city employee concerning an alleged violation of a conditional use, the planning commission shall notify the property owner of the complaint and schedule a public hearing. If after the public hearing the planning commission finds a violation to exist and that violation is not corrected within thirty (30) days, the planning commission may vote to discontinue the conditional use. The property owner shall be notified of the action of the planning commission and shall have fifteen (15) days from the date of the notice to discontinue the use or file and appeal with the city council. The filing of an appeal stays all proceeding and the city council shall make the final determination.

A conditional use may be changed to a use by right in the zoning district upon approval by the planning commission and the city council. The conditional use application shall indicate that the applicant is requesting that the conditional use be made a use by right on the subject property and the planning commission shall recommend approval, modify or deny the use by right at its discretion with the conditions and safeguards as are appropriate under this section.

Under no circumstances shall any action of the planning commission or city council be considered as the granting of a variance of any provision of any other protective code adopted by the city.

The following procedures shall be followed before a conditional use may be granted:

- a. *Written application.* A written application for a conditional use shall be submitted to the planning director with a fee, as determined by resolution of the city council, to recover costs of public notices and other expenses, and shall contain the following information:
 1. The name, address and phone number of the applicant. An applicant, other than an individual, must submit formal documentation indicating who is authorized to represent the company or organization.
 2. The status of the applicant, profit or non-profit. For non-profit organizations executed and filed documentation must be submitted verifying non-profit status.
 3. The name of the record title holder of the property, along with a copy of the warranty deed, and an indication, by the signing of the application for conditional use, that the title holder is aware of the conditional use being sought. For record title holders that indicate ownership other than by a

single person, formal documentation indicating who is authorized to represent the company or organization is required.

4. Legal description and street address of the property involved.
5. The specific use unit (pursuant to Article 5) for which the conditional use is sought on appeal.
6. A description of the conditional use sought and the reasons why it should be approved.
7. A statement obtained from the Chief Building Official and Fire Marshal indicating compliance of the structure to adopted building and fire codes for the proposed conditional use or required upgrades and/or improvements required for use of the structure for the proposed conditional use.
8. A notarized statement by the property owner and applicant recognizing all structural alterations requirements that must be completed inspected and approved prior to occupancy of the structure.
- ~~7~~9. The effect the proposed conditional use will have on the character of the neighborhood and its residents.
- ~~8~~10. The zoning classification of the property.
- ~~9~~11. The names and addresses of all adjacent property owners of the property subject to the conditional use permit.
- ~~10~~12. Evidence in the form of a signed affidavit, that notice has been given to all adjacent property owners of the project subject to the conditional use after the application has been accepted and placed on the planning commission agenda. The applicant shall be responsible for providing such notice by certified mail, return receipt requested, to the last known address of such record owner(s) as certified by a licensed abstractor or a licensed land surveyor within the past sixty (60) days.
- ~~11~~13. The required affidavit and supporting exhibits (mailing receipts, list of property owners of record and copy of notice) shall be filed with the planning office no later than seven (7) days prior to the meeting.
- ~~12~~14. A site plan must be attached in conformance with Article 2, section 13.

b. *Notice and public hearings.* An application for conditional use approval shall be noted on the published agenda of the next regularly scheduled planning commission meeting, at which time a public hearing shall be held by the planning commission on the proposed conditional use, after:

1. A notice has been published in a newspaper of general circulation in the city at least one time fifteen (15) days prior to the public hearing, which notice sets forth the time and place of such hearing and the conditional use proposed.
2. The adjacent property owners subject to the conditional use request have been notified by certified mail, return receipt

requested, at least ten (10) days prior to said hearing by the applicant and an affidavit and supporting exhibits are filed with the planning office not later than seven (7) days prior to the hearing.

3. The Planning Department will post NOTICE OF PUBLIC HEARING sign(s) on said property for which a public hearing has been set at least ten (10) days prior to the hearing indicating the date and time of the hearing. Such sign(s) shall be clearly visible, unobstructed to the passing general public, and posted on or near the front property line.
4. The applicant shall be present at the meeting for the matter to be considered. If the applicant is unable to attend, written authorization from the applicant authorizing representation must be presented to the commission for the matter to be considered. Any decisions made by the designated agent shall be binding on the landowner.

c. *Development standards and review guidelines.* In carrying out the purposes of this section, the following development standards and design specifications shall be applicable to the conditional use review and approval. The appropriateness of these standards shall be determined at the discretion of the planning commission and for each specific conditional use location.

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.
2. Off-street parking and loading areas where required, with particular attention to the items mentioned above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district.
3. The proposed structure(s) is or can be made compliant with adopted building and fire codes for the proposed use.
- ~~34.~~ Refuse and service areas, with particular reference to the item in 1 and 2.
- ~~45.~~ Utilities, with reference to locations, availability and compatibility.
- ~~56.~~ Screening and buffering with reference to type, dimension and character.
- ~~67.~~ Sign, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
- ~~78.~~ Yard requirements and other open space requirements.
- ~~89.~~ The size and shape of the site, including the size, shape and arrangement of proposed structures in keeping with the intent of this chapter.
- ~~910.~~ Proposed landscaping meeting the requirements of this chapter. Landscaping may be increased in accordance with

the judgment of the planning commission to accomplish the desired protective and aesthetic effect.

1011. General compatibility with adjacent properties and other property in the general district.

- d. *Planning commission recommendations.* The planning commission shall review conditional use applications at a scheduled public hearing, at which time interested persons may appear and offer information in support of or against the proposed conditional use. The planning commission may then take one of the following actions: approve the conditional use permit as submitted; approve the conditional use with modifications; or deny the conditional use. The planning commission may impose conditions and restrictions upon the premises benefited by a conditional use permit as may be necessary to reduce or minimize the injurious effects of the conditional use. The conditional use must insure compatibility with the surrounding property to better carry out the general intent of this regulation.
- e. *City council action.* If the planning commission approves the conditional use as submitted, or approves the conditional use with modifications, the conditional use will be referred to the city council for consideration. The city council, by majority vote, may take one of the following actions: approve the conditional use as submitted by the planning commission; approve the conditional use with modifications; deny the conditional use; or, return the proposed conditional use to the planning commission for further study and recommendation. If action is not taken by the city council within sixty (60) days of the planning commission's submission of the proposed conditional use to the city council, then the applicant shall be required to re-petition for the conditional use.
- f. *Appeal.* Any person who is aggrieved by the decision of the planning commission to deny a conditional use application shall have the right to appeal to the city council by submitting a written request to the city clerk within fifteen (15) days, along with an affidavit stating that adjacent property owners have been notified of the appeal to the city council. The appeal will be placed on the city council agenda no later than the second meeting following the filing of the appeal.
- g. *Re-petitions.* No petitions for a specific conditional use which was denied shall be reconsidered by the planning commission within twelve (12) months from the date of final disapproval thereof, unless there is written evidence submitted to the planning commission which justifies reconsideration.
- h. *Conditions binding.* No conditional use which has been approved shall begin operation until all requirements imposed by the planning commission and city council have been met

and a certificate of occupancy has been issued. The violation of any condition so imposed shall constitute grounds for revocation of the conditional use authorization. Such conditions may include time limits for exercise of the conditional use authorization; otherwise, any exercise of such authorization must commence within sixty (60) days. No conditional use authorized by the planning commission or city council shall be subsequently submitted to the board of adjustment for a variance. Amendments or changes to a conditional use authorization must follow the same process as the original conditional use. No building permit shall be issued except in conformance with the provisions of this section.

Section 2: All other provisions of Article 2, Section 12 of the Zoning Ordinance of the City of Springdale, Arkansas, not specifically amended by this Ordinance shall remain in full force and effect.

Section 3: Emergency Clause: The implementation of the amended ordinance will be unreasonably delayed if not allowed to take affect immediately, and therefore an emergency is hereby declared to exist and this ordinance shall become effect immediately upon its passage and approval.

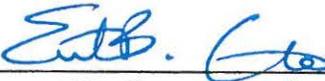
PASSED AND APPROVED this _____ day of _____, 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:



Ernest B. Cate, City Attorney

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 130 OF THE CODE OF ORDINANCES OF THE CITY OF SPRINGDALE, ARKANSAS, TO ADOPT THE SOUTHWEST SPRINGDALE OVERLAY DISTRICT, DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, that portion of the City of Springdale, Arkansas, that is located south of Highway 412 West and west of Interstate 540 (Southwest Springdale) is largely undeveloped property, but has a high potential for development within the next few years;

WHEREAS, the City of Springdale, Arkansas, has made an investment in Southwest Springdale through the construction of Arvest Ballpark and infrastructure improvements including the I-540 Don Tyson Interchange Project and pending improvements to 56th Street;

WHEREAS, having an overlay district for development in Southwest Springdale would serve to enhance the aesthetic beauty of the City, and consequently, the economic value of property and general welfare of the citizens of the City of Springdale, Arkansas;

WHEREAS, it is in the best interests of the citizens and property owners of the City of Springdale, Arkansas, that the "Southwest Springdale Overlay District" be adopted and implemented into the Zoning Ordinance of the City of Springdale, Arkansas, as Article 4, Section 5.5;

WHEREAS, a public hearing was held before the Springdale Planning Commission on October 7, 2013, after notice was given of said hearing as required by law;

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

Section 1. That a certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Springdale, Arkansas, for inspection and view by the public, and being marked and designated as "Southwest Springdale Overlay District", be and is hereby added to Chapter 130 of the Code of Ordinances of the City of Springdale, Arkansas, as Article 4, Section 5.5, and each and all of the regulations, provisions, penalties, conditions and terms of said document are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance.

Section 2: All other provisions of Chapter 130 of the Code of Ordinances of the City of Springdale, Arkansas, not specifically amended by this Ordinance shall remain in full force and effect.

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 _____, 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:



Ernest B. Cate, CITY ATTORNEY

ORDINANCE NO. _____

**AN ORDINANCE AMENDING SECTION 110-77
AND SECTION 110-79 OF THE CODE OF
ORDINANCES OF THE CITY OF SPRINGDALE,
ARKANSAS; DECLARING AN EMERGENCY;
AND FOR OTHER PURPOSES.**

WHEREAS, Section 110-77 of the Code of Ordinances of the City of Springdale, Arkansas, contains the provisions and regulations regarding the issuance of permits for parades, demonstrations, and block parties in the City of Springdale, Arkansas;

WHEREAS, Section 110-79 of the Code of Ordinances of the City of Springdale, Arkansas, provides who is to be notified of the issuance of a permit under Section 110-77 of the Code of Ordinances of the City of Springdale, Arkansas;

WHEREAS, Section 110-77 of the Code of Ordinances of the City of Springdale, Arkansas, should be amended to require that any parade or demonstration route be approved by the City of Springdale Street & Public Facilities Department prior to the issuance of a permit by the Springdale Police Department;

WHEREAS, Section 110-79 of the Code of Ordinances of the City of Springdale, Arkansas, should be amended to required that the City of Springdale Street & Public Facilities Department be notified upon the issuance of a permit under Section 110-77 of the Code of Ordinances of the City of Springdale, Arkansas;

WHEREAS, it is in the best interest of the citizens of the City of Springdale, Arkansas, to amend Section 110-77 and Section 110-79 of the Code of Ordinances of the City of Springdale, Arkansas;

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

Section 1: Section 110-77 of the Code of Ordinances of the City of Springdale, Arkansas, is hereby amended to read as follows:

Sec. 110-77. –Authority to issue; application

The chief of police, or in his absence the next highest ranking officer of the police force on duty, shall have the authority to issue permits as required in this article, and in the issuance thereof shall require a written application to be filed not less than 24 hours in

advance of the parade, picket line or group demonstration on a form prescribed by the police department that shall require the application to be signed by the person filing the application. The applicant shall therein state the proposed place, time, purposes and size of the proposed parade, picket line or group demonstration, and whether any minors below the age of 18 years will participate. The applicant must obtain approval from the Street & Public Facilities Department for any proposed parade or demonstration route prior to applying for a permit.

Section 2: Section 110-79 of the Code of Ordinances of the City of Springdale, Arkansas, is hereby amended to read as follows:

Sec. 110-79. –Officials to be notified upon issuance.

Immediately upon the issuance of a permit under this article, the chief of police should give notice thereof to the following:

- (a) The mayor;
- (b) The city attorney; ~~and~~
- (c) The fire chief; ~~and~~
- (d) The director of street & public facilities.

Section 3: All other provisions of Chapter 110 of the Code of Ordinances of the City of Springdale, Arkansas, not specifically amended by this ordinance shall remain in full force and effect.

Section 4: 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 _____, 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:



Ernest B. Cate, City Attorney

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE EXECUTION OF LEASE
AGREEMENT FOR A COPIER FOR THE SPRINGDALE PUBLIC
WORKS DEPARTMENT**

WHEREAS, the copier/printer/scanner & fax machine used by the Public Works Department staff has become unreliable and needs to be replaced, and

WHEREAS, the lease agreement with Dotcom Leasing, LLC for the existing Sharp MX-2700N will expire in 14 months and efforts to replace the equipment under the terms of the existing lease agreement have not been successful, and

WHEREAS, quotes were submitted by three (3) companies a copy of which is attached, and

WHEREAS, Digital Printing Solutions has submitted the lowest quote for a new Toshiba e-Studio 3055c in the amount of \$233.15 per month which provides all of the functionality required (copier, printer, fax and a scanner) as specified and includes provisions to buyout the remaining \$1,688.85 on the existing Sharp MX-2700N copy machine, and

WHEREAS, the provisions of the existing lease agreement with Dotcom Leasing, LLC provides an end of lease purchase option of \$1.00 (one dollar) to purchase the leased Sharp MX-2700N which can be placed into service in the Public Works Signalization Division office to copy "C" size traffic signal plans;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that the Mayor is hereby authorized to enter into a 60 month lease agreement with Digital Printing Solutions for a new Toshiba e-Studio 3055c in the amount of \$233.15 per month which includes a service agreement for the term of the lease.

PASSED AND APPROVED this ___th day of October 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:



Ernest Cate, City Attorney

Springdale Public Works Department
 Bid Tabulation Sheet
 Lease Agreement 60-Month Complete Output System
 Bids Evaluated on Thursday September 19, 2013

Company Name	Copier Model Submitted	Machine Demo Provided (yes or no)	Base Price (cost in dollars per month)	Black & White Allowance Per Month (copies per month)	Color Copy Allowance per Month (copies per month)	Black & White Overage Billed per Page (cost per page in dollars)	Color Overage Billed per Page (cost per page in dollars)	Maximum Annual Percentage Adjustment (percentage)	Comments After Examination of Submittals	Monthly Billing based on Average (1,429) B&W & Average 564 Color/Month	Total Cost of Five Year Lease Based on Average Monthly copies of 1,429 b&w and 564 color
Copy World	Canon ADV 2225/2230	NO	\$ 256.00	1500	500	\$ 0.0170	\$ 0.0770	Zero	Submittal Number One - Includes Check for \$2,000 for existing lease buy out	\$ 260.93	\$ 15,655.68
Copy World	Sharp MX3115N	NO	\$ 235.00	2500	500	\$ 0.0130	\$ 0.0850	Zero	Submittal Number Two - Includes Check for \$2,000 for existing lease buy out	\$ 240.44	\$ 14,426.40
Professional Business Systems	Konica Minolta Bizhub C224e	NO	\$ 256.00	1500	500	\$ 0.0150	\$ 0.0750	Zero	Submittal Includes Check for \$1,688.85 for buy out of current lease agreement with Copy World	\$ 260.80	\$ 15,648.00
Digital Printing Solutions	TOSHIBA e-STUDIO 3055c	NO	\$ 205.00	1500	500	\$ 0.0100	\$ 0.0695	Zero	Submittal does not include a check for buy out of current lease agreement with Copy World	\$ 209.45	\$ 12,566.88
Digital Printing Solutions	TOSHIBA e-STUDIO 3055c	NO	\$ 233.15	1500	500	\$ 0.0100	\$ 0.0695	Zero	Submittal Includes Check for \$1,688.85 for buy out of current lease agreement with Copy World	\$ 237.60	\$ 14,255.88



digital printing solutions

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September 26, 2013

Presented to:

Mr. Sam Goade
Springdale Public Works Department

Received by
EMAIL
09-26-13
@ 3:45 p.m

Proposal:

New Toshiba eStudio3055C with Fax Board
\$233.15 per month/60 months
Price is fixed for term of contract
Includes 1,500 8 ½ x 11 B\W copies/prints
Includes 500 8 ½ x 11 Color copies/prints

includes Copy World
LEASE Buyout.

Complete Coverage Maintenance:

Includes All Service & Supplies
Excludes Paper, Staples & Abuse
B\W Overages billed @ \$0.01
Color Overages billed @ \$0.0695



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September 19, 2013

Presented to:

Mr. Sam Goade
Springdale Public Works Department

Proposal:

New Toshiba eStudio3055C with Fax Board
\$205.00 per month/60 months
Price is fixed for term of contract
Includes 1,500 8 ½ x 11 B\W copies/prints
Includes 500 8 ½ x 11 Color copies/prints

Complete Coverage Maintenance:

Includes All Service & Supplies
Excludes Paper, Staples & Abuse
B\W Overages billed @ \$0.01
Color Overages billed @ \$0.0695

Sam Goade

From: Sam Goade [sgoade@springdalear.gov]
Sent: Thursday, September 26, 2013 2:59 PM
To: 'David Hale'
Cc: 'Cindy Harris'; 'Doug Sprouse'
Subject: RE: Scanned image from Copy World Dispatch
Attachments: Work Sheet for Copier Lease Proposals September 2013.xls

Hi David,

I have reviewed the copier lease quotes with Mayor Sprouse. We have decided to accept your quote and enter into a 60 month lease with the Toshiba e-Studio 3055c contingent upon approval by resolution by the City Council. Cindy and I would like to see the machine in your office in Rogers before we move forward. Do you have this model machine available for a demo in Rogers? If so, we could run up there anytime on Tuesday October 1st or Wednesday morning October 2nd. The process for finalizing the deal will include a resolution for consideration by the City Council to authorize me to terminate the existing lease with Copy World and enter into a five-year lease with Digital Printing Solutions. The resolution would most likely be on the October 22nd City Council meeting agenda. I could attempt to get it on the October 8th City Council meeting agenda. Also, since the other quotes included provisions to "buyout" the existing copier lease from Copy World (Dotcom Leasing LLC) it would be helpful if you could submit to me an alternate quote that would include the buyout. At the time we were accepting quotes the lease buyout amount was \$1,688.85. My math comes up with a figure of \$28.15 per month over the 60 month lease period to be added to your quote of \$205 per month for a total of \$233.15 per month to include the lease buyout amount. I have attached a copy of the bid tabulation sheet for your consideration.

Thanks,

Sam

Sam Goade
Public Works Director
Springdale Public Works Department
269 E. Randall Wobbe Lane
Springdale, Arkansas 72764

Phone 479-750-8135
Fax 479-750-8504

-----Original Message-----

From: David Hale [<mailto:dhale@dpsone.com>]
Sent: Tuesday, September 24, 2013 9:30 AM
To: 'Sam Goade'
Subject: RE: Scanned image from Copy World Dispatch

I look forward to hearing from you. Thank you again for allowing DPS to quote this item.

David T. Hale
President
Digital Printing Solutions, Inc.
2018 Town West Drive
Rogers, AR 72756
479.644.4004

-----Original Message-----

From: Sam Goade [<mailto:sgoade@springdalear.gov>]
Sent: Tuesday, September 24, 2013 8:59 AM
To: 'David Hale'
Subject: RE: Scanned image from Copy World Dispatch

Thanks David. Hopefully I can meet with Mayor Sprouse tomorrow or Thursday and make a final decision.

Sam

Sam Goade
Public Works Director
Springdale Public Works Department
269 E. Randall Wobbe Lane
Springdale, Arkansas 72764

Phone 479-750-8135
Fax 479-750-8504

-----Original Message-----

From: David Hale [<mailto:dhale@dpsone.com>]
Sent: Tuesday, September 24, 2013 8:53 AM
To: 'Sam Goade'
Subject: RE: Scanned image from Copy World Dispatch

Good morning Sam.

The Service Agreement states you may terminate by written notice at least 30 days before renewal.

Please let me know if you have additional questions. Thank you.

David T. Hale
President
Digital Printing Solutions, Inc.
2018 Town West Drive
Rogers, AR 72756
479.644.4004

-----Original Message-----

From: Sam Goade [<mailto:sgoade@springdalear.gov>]
Sent: Tuesday, September 24, 2013 7:40 AM
To: 'David Hale'
Subject: FW: Scanned image from Copy World Dispatch

Hi David,

I think we finally got our hands on the "Terms and Conditions" portion of our Copy World lease.

Thanks,

Sam

Sam Goade
Public Works Director
Springdale Public Works Department
269 E. Randall Wobbe Lane
Springdale, Arkansas 72764

Phone 479-750-8135
Fax 479-750-8504

-----Original Message-----

From: scan@ [mailto:scan@]
Sent: Monday, September 23, 2013 11:48 AM
To: Brad Benton
Subject: Scanned image from Copy World Dispatch

Reply to: scan@cpyworld.com <scan@cpyworld.com> Device Name: Copy World Dispatch Device
Model: MX-C311
Location: Not Set

File Format: PDF (Medium)
Resolution: 200dpi x 200dpi

Attached file is scanned image in PDF format.

Use Acrobat(R)Reader(R) or Adobe(R)Reader(R) of Adobe Systems Incorporated to view the document.

Adobe(R)Reader(R) can be downloaded from the following URL:

Adobe, the Adobe logo, Acrobat, the Adobe PDF logo, and Reader are registered trademarks or trademarks of Adobe Systems Incorporated in the United States and other countries.

<http://www.adobe.com/>

Sam Goade

From: David Hale [dhale@dpsone.com]
Sent: Thursday, September 19, 2013 1:41 PM
To: 'Sam Goade'
Subject: RE: Copier Lease - Springdale Public Works

Sam,

Thank you again for allowing us the opportunity to bid on your current office equipment needs.

1. The monthly lease payment of \$205.00 includes service, 1,500 B|W copies/prints, 500 Color copies/prints, and overages at the quoted rates
2. Yes, the Toshiba eStudio3055C is new with no copy/print counts
3. The quote is based on your choice of 4 drawers or 2 drawers and 1 large capacity feeder
4. The machine is owned by DPS and will not be sold to a 3rd party vendor
5. DPS will install the machine, network your workstations, and provide training at no addition expense
6. Yes
7. Yes, if DPS is unable to fix the machine to the standards you requested at bid

Please let me know if you have additional questions. Thank you again for this opportunity.

David T. Hale
President
Digital Printing Solutions, Inc.
2018 Town West Drive
Rogers, AR 72756
479.644.4004

From: Sam Goade [mailto:sgoade@springdalear.gov]
Sent: Thursday, September 19, 2013 12:18 PM
To: 'David Hale'
Cc: 'Cindy Harris'; 'Doug Sprouse'
Subject: RE: Copier Lease - Springdale Public Works

Hi David,

Thank you for meeting with Cindy and I this morning to go over your copier lease proposal. I have the following questions some of which may be redundant based on our conversation of this morning and if so I apologize in advance:

- It is my understanding that the Service Agreement is included in your monthly lease payment of \$205.00. Is that correct?
- The proposed Toshiba eStudio 3055c with Fax Board is a new machine, never used as a demo and no copy counts recorded. Is that correct?
- The machine shown on the brochure included with your quote has two (2) standard size Cassettes and one (1) large Cassette. Does your quote include this Cassette configuration? If not please describe the Cassette(s) configuration included with your quote.
- The machine is owned outright by your company and there will be no "third party lease" involved whatsoever. is this correct?
- The machine will be set up, programmed and networked with our existing in-house users by your company at no additional cost including all necessary training for our personnel. Is that correct?

- Would you be willing to include an unconditional guarantee for the life of the lease such that if the equipment does not perform to our satisfaction you will replace it with an ideal model or equipment equal to or greater than comparable features and capabilities?
- Would you be willing to include a termination addendum with the lease that provides an option of canceling the lease without penalty at any time during the term of the lease provided we give a thirty (30) day written notice as to the problems and reason for termination provided DPS having thirty (30) days from the date of the written notice to address and correct the problems?

I have completed a comparison of the four quotes I have in hand and will be prepared to go over them with Mayor Sprouse sometime next week. It appears that you have submitted the lowest quote confirming that my assumptions stated above are correct.

Thanks,

Sam

Sam Goade

Public Works Director

Springdale Public Works Department
269 E. Randall Wobbe Lane
Springdale, Arkansas 72764

Phone 479-750-8135
Fax 479-750-8504

From: David Hale [<mailto:dhale@dpsone.com>]
Sent: Thursday, September 12, 2013 12:23 PM
To: 'Sam Goade'
Subject: RE: Copier Lease - Springdale Public Works

Thank you.

David T. Hale

President
Digital Printing Solutions, Inc.
2018 Town West Drive
Rogers, AR 72756
479.644.4004

From: Sam Goade [<mailto:sgoade@springdalear.gov>]
Sent: Thursday, September 12, 2013 12:23 PM
To: 'David Hale'
Cc: 'Cindy Harris'; Doug Sprouse
Subject: RE: Copier Lease - Springdale Public Works

Hi David,

That works for me. I have put it on my calendar for Tuesday September 17th at 2:00 p.m.

Thanks,

Sam

Sam Goade

Public Works Director
Springdale Public Works Department
269 E. Randall Wobbe Lane
Springdale, Arkansas 72764

Phone 479-750-8135
Fax 479-750-8504

From: David Hale [<mailto:dhale@dpsone.com>]
Sent: Thursday, September 12, 2013 12:14 PM
To: 'Sam Goade'
Subject: RE: Copier Lease - Springdale Public Works

Would Tuesday afternoon at 2:00 work for you? Thank you for the opportunity to meet.

David T. Hale
President
Digital Printing Solutions, Inc.
2018 Town West Drive
Rogers, AR 72756
479.644.4004

From: Sam Goade [<mailto:sgoade@springdalear.gov>]
Sent: Thursday, September 12, 2013 10:20 AM
To: dhale@dpsone.com
Cc: 'Cindy Harris'; Doug Sprouse
Subject: Copier Lease - Springdale Public Works

Hi David,

I met with Mayor Sprouse this morning about our existing copier lease with Copy World for our copy machine at Springdale Public Works. The Mayor recommended that I contact you to set up a meeting to look at our existing equipment and to get a quote from Digital Printing Solutions for a new copier, service agreement and lease agreement. When would you be available to drop by for a visit? We are located at 269 E. Randall Wobbe Lane. You can reach me on my City cell phone at 479-601-4270.

Thanks,

Sam

Sam Goade

Public Works Director
Springdale Public Works Department
269 E. Randall Wobbe Lane
Springdale, Arkansas 72764

Phone 479-750-8135
Fax 479-750-8504

- > Up to 35 PPM
- > Color MFP
- > Med/Large Workgroup
- > Copy, Print, Scan, Fax
- > Secure MFP



e-STUDIO™ 2555c/3055c/3555c

e-STUDIO 2555c/3055c/3555c

TOSHIBA
Leading Innovation ➔



Color MFP
Up to 35 PPM
Medium/Large Workgroup
Copy, Print, Scan, Fax
Secure MFP

Specifications

Copying Process	Indirect Electrostatic Photographic Transfer System with Internal Transfer Belt
Copying Type	LED Head Printing
Copy/Print Resolution	600 x 600 dpi (600 x 1200 - PS3 only)
Copy/Print Speed	25/25, 30/30, 35/35 PPM Color/B&W
Warm-Up Time	Approx. 27 Seconds
First Copy Out Time	8.1-6.4 Seconds Color/B&W
Max Duty Cycle	100K-150K-175K Copies
Multiple Copying	Up to 999 Copies
Acceptable Paper Size and Weight	Cassette: S1-R to LD (16 lb Bond - 140 lb Index) Bypass: 3.9" x 5.8" to LD (16 lb Bond - 100 lb Cover) S1-R to 12" x 4.7" Banner (17 lb-100 lb) PEP: S1-R to LD (16 lb Bond - 140 lb Index), LCF: L1 (17 lb - 28 lb Bond)
Memory (Max)	Main Memory: 2 GB HD: 160 GB (Security SED Drive)
Reduction/Enlargement	25% to 400%
Bypass	100-Sheet "Smart" Bypass (16 lb Bond - 100 lb Cover)
Control Panel	Color 9" LCD Touch Panel
Paper Supply	Up to 3,200-Sheet Input Capacity Standard 2 x 550-Sheet Cassettes 100-Sheet Bypass 1 x 550-Sheet PEP (3rd Cassette) 1 x 550-Sheet Cassette (4th Cassette) for PEP Optional 1 x 2,000-Sheet LCI
Duplex	Standard Automatic Duplex Unit (16 lb Bond - 140 lb Index)
Dimensions	Approx. 23" x 25.3" x 31" (W x D x H)
Weight	Approx. 166.4 lbs.
CMYK Toner Yield	CMY: 28K, BK: 32K
Power Supply	120 V, 15 Amps
Power Consumption	Maximum 1.5 kW

Print Specifications

PDL Support	PCL6 and PostScript 3, XPS
Operating Systems	Netware 6.5, Windows XP, Vista, 7, Windows Server 2003, 2008, 2008R2, Citrix MetaFrame, Macintosh, Linux, UNIX, AS400, SAP
Protocol Support	IPX, SPX, TCP/IP, AppleTalk, NetBIOS Over TCP/IP, LPR/LPD, IPP, SMB, SNMP, Netware, Port 9100
Drivers	Server 2003/2008/2008R2/2012, Windows XP, Vista, 7, 8, Macintosh 10.2, 10.3, 10.4, 10.5, 10.6, 10.7, AS400 LPH & Port 9100, SAP R/3, Unix Filter
Connectivity	10/100/1000BaseT X Ethernet, (802.11b/g/n optional)
Device Management	TopAccess
Certification	Windows (Vista, 7, 2008, 2008R2, 2012) (WHQL) Novell, HiPOS (Novell), Citrix

Scan Specifications

Scan Resolution	100 dpi, 150 dpi, 200 dpi, 300 dpi, 400 dpi, 600 dpi
Scan Speed	73 SPM LT-Size @300 dpi, 50 SPM LT-Size @600 when copying, 73 SPM LT-Size @300 dpi (color scanning)
File Format	TIF, PDF, Secure PDF, JPEG, XPS

Facsimile Specifications

Compatibility	Super G3
Data Compression	MH, MH- MMR, JBIG
Transmission Speed	Approx. 3 Seconds Per Page
Fax Modem Speed	33.6 Kbps
Memory Transmission	100 Jobs, 2,000 Destinations Max 400 Destinations /Job
Scan Speed	7 Seconds Per Page, Maximum 73 SPM

E-Filing Specifications

Operation Method	Color Touch Screen Control Panel or Client PC
Number of Boxes	1 Public Box, 200 Private User Boxes
Capacity of Boxes	100 folders Per Box, 400 Documents Per Folder 200 Pages Per Document

Security (Standard)

Data Encryption	256 Bit AES (SED Hard Drive)
Authentication	LDAP, SMTP, Windows Server Domain, Local

Accessories (Options)

Additional Paper Options

Platen	KA1640PC
RAID# 100 Sheets	MH3025
Paper Tray Pedestal: 550-Sheet Pedestal, Statement-R to Ledger	KD1032N
Cassette Module: 550-Sheet Pedestal, Statement-R to Ledger	MY1039
Large Capacity Feeder (LCF): 2,000-Sheet Drawer, Letter	KD1031

Finishing Options

Saddle- Stitch Finisher	MJ1105
Tray 1 Stack Capacity: 3,000 Sheets + 250 Sheet Stationary Tray (LT)	
Staple Capacity: 50 Sheets	
60 Pages (6 Sheets) SS Booklets	
Multi-Position Hole Punch Unit for Saddle-Stitch Finisher	MJ6104
Multi-Position Console Finisher	MJ1107
Tray 1 Stack Capacity: 2,000 Sheets (LT)	
Staple Capacity: 50 Sheets	
Multi-Position Hole Punch Unit for Console Finisher	MJ6104
Inner Finisher	MJ1036N
2 Tray: 500 Sheets (LT)	
Staple Capacity: 50 Sheets	
Multi-Position Hole Punch Unit for Inner Finisher	MJ6007

Connectivity/Security Options

Backup Kit: Required with MJ1108 and MJ1107	KN2540
Fax Board	GD1370NX
2nd Line Fax	GD1260L
Wireless LAN Adapter	GN1000
Wireless Antenna	GN3010
Meta Scan Frontal connector: CONNECT	GS1010
IP Sec. Filter	GP1050
Advanced Scanning (ReRts)	GS1280VB
SharePoint Connector	GB1440
Exchange Connector	GB1450
Google Docs Connector	GB1540

Miscellaneous Options

Accessible Arm Handle	KK2550
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Corporate Office	9740 Irvine Blvd., Irvine, CA 92618-1631 Tel: 949-462-6000
East Coast*	959 Route 46 East, 6th Floor, Parsippany, NJ 07054 Tel: 973-316-2700
Midwest	8770 W. Bryn Mawr Ave., Suite 700, Chicago, IL 60631 Tel: 773-380-6000
South	2037 Bakers Mill Rd., Durham, NC 28019 Tel: 678-546-9388
West Coast*	9740 Irvine Blvd., Irvine, CA 92618 Tel: 949-462-6000
Web Site	www.business.toshiba.com

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10000 Irvine Blvd. #25270 Irvine, CA 92618-1631

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE EXTENSION
OF A LAND LEASE FOR A CELL TOWER
LOCATED IN THE LUTHER GEORGE GROVE
STREET PARK**

WHEREAS, the City of Springdale, Arkansas, is a party to a Lease Agreement (“the Lease”) with Fayetteville MSA Limited Partnership for the leasing of a cell tower site on property located in Luther George Grove Street Park, and

WHEREAS, the Lease and renewal options included in the first amendment expires on August 25, 2026, and American Tower, who has subleased this property from Fayetteville MSA Limited Partnership, desires to add additional renewal options, and

WHEREAS, American Tower has proposed two additional five year renewal options with an increase in the annual lease payment to \$12,800 on August 26, 2026, and \$13,200 on August 26, 2031, and

WHEREAS, these funds would be used to provide maintenance and upkeep on the Luther George Grove Street Park;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, THAT the City Clerk and Mayor are hereby authorized to execute The Second Amendment To Tower Site Lease Agreement with Fayetteville MSA Limited Partnership for the cell tower site located in the Luther George Grove Street Park.

PASSED AND APPROVED this 8th day of October, 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:



Ernest B. Cate, City Attorney

City of Springdale
 Cell Tower Site Payments
 September 9, 2013

	<u>Annual Rent</u>	
Current Contract		
08/26/96 to 08/25/01	4,000	
08/26/01 to 08/25/06	4,400	10.00%
08/26/06 to 08/25/11	4,800	9.09%
08/26/11 to 08/25/16	5,200	8.33%
 Contract Extension		
08/26/16 to 08/25/21	8,000	53.85%
08/26/21 to 08/25/26	8,400	5.00%
 Proposed Renewal Options		
08/26/26 to 08/25/31	12,800	52.38%
08/26/31 to 08/25/36	13,200	3.13%

THE SECOND AMENDMENT TO TOWER SITE LEASE AGREEMENT

This Second Amendment to Tower Site Lease Agreement (the "*Amendment*") is entered into on this _____ day of _____, 20____, by and between the City of Springdale ("*Lessor*") and Fayetteville MSA Limited Partnership, an Arkansas limited partnership d/b/a Verizon Wireless ("*Lessee*").

RECITALS

- A. George's, Inc., predecessor in interest to Lessor, and Fayetteville MSA Limited Partnership, by its General Partner, Alltel Mobile Communications of Northwest Arkansas, Inc., predecessor in interest to Lessee, entered into that certain Tower Site Lease Agreement dated August 23, 1996, as amended by that certain First Amendment to Option to Purchase Agreement dated July 8, 2008 (as amended, the "*Lease*"), whereby the Lessee leases a portion of the real property owned by Lessor located in Washington County, Arkansas (the "*Parent Parcel*"), such portion being more particularly depicted or described on Exhibit "A" hereto, together with certain easements for access and public utilities (collectively, the "*Leased Premises*"); and
- B. Lessee entered into that certain Lease and Sublease Agreement with American Towers, Inc. (now known as American Towers LLC) and other parties identified therein (the "*Sublease*"), dated April 2, 2001 whereby Lessee subleased the Leased Premises to American Towers, Inc.; and
- C. Lessor and Lessee desire to amend the terms of the Lease to extend the term thereof and to make the other changes that are set forth in this Amendment.

NOW, THEREFORE, in consideration of the foregoing recitals and mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

- 1. **Lease Term Extended.** In addition to any renewal options granted to Lessee in the Lease prior to this Amendment (such existing renewal options are referred to in this Amendment as "*Existing Renewal Terms*"), Lessee shall have the option to extend the Lease for each of two (2) additional five (5) year renewal terms (each a "*New Renewal Term*" collectively the "*New Renewal Terms*"). The first New Renewal Term will begin on August 26, 2026, which is the day following the expiration of the last remaining Existing Renewal Term. Unless the Lease is sooner terminated or not renewed by Lessee, the final expiration date of the Lease, after giving effect to this Amendment would be August 25, 2036. Notwithstanding anything to the contrary contained in the Lease, the Lease will automatically renew for any remaining Existing Renewal Terms, as well as for each of the successive New Renewal Terms, unless ninety (90) days before the expiration of the then current term, Lessee notifies Lessor in writing that Lessee elects not to renew the term of the Lease. References in this Amendment to "*Renewal Term*" shall refer collectively to the Existing Renewal Term(s) and the New Renewal Term(s).
- 2. **Rent.** Effective as of August 26, 2026, the rent payable from Lessee to Lessor under the Lease is hereby increased to Twelve Thousand Eight Hundred and No/100 Dollars per year (the "*Rent*"). Commencing August 26, 2031, and upon the commencement of each successive Renewal Term thereafter, the annual rent payable under the Lease is hereby increased by Four Hundred and No/100 Dollars (\$400.00). Rent and any other payments expressly required to be paid by Lessee to Lessor under the Lease and this Amendment shall continue to be paid to, and all taxable income from the same shall be reported by, City of Springdale AR.
- 3. **Memorandum of Lease:** If a Memorandum of Lease is not executed by Lessor at the same time Lessor executes this Amendment, then upon written request by Lessee, Lessor shall fully cooperate with Lessee and execute a Memorandum of Lease that is recordable within the jurisdiction in which the Leased Premises is located within thirty (30) days of Lessee's request therefore.

HIGHWAY 412 AT 71 SPRINGDALE / 98201

6. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States mail, certified, return receipt requested to the address set forth herein. Either party may change its notice address with 30 days written notice. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address of which no notice was given, shall be deemed to be receipt of any such notice.

Lessor: City of Springdale
201 Spring Street
Springdale, AR 72764

Lessee: Fayetteville MSA Limited Partnership, d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, NJ 07921
Attention: Network Real Estate

With copies to: American Tower
10 Presidential Way
Woburn, MA 01801
Attn: Land Management

and

American Tower
116 Huntington Avenue
Boston, MA 02116
Attn: Legal Department

7. **Signage:** Lessor grants to Lessee the right to install and maintain during the term of the Lease any identifying signs, and other types of signs, including but not limited to signs along any access road to the Leased Premises, on the Leased Premises; and any and all signs required by any governmental authority on the Leased Premises and on the Parent Parcel. Lessee agrees to minimize the size of such signs as reasonably required for readability and compliance with regulations or directives of any governmental authority.
8. **Governmental Approvals:** Lessor shall fully cooperate with Lessee and Lessee's Customers' efforts to obtain and maintain in effect all governmental approvals. Lessee shall perform all other acts and pay all reasonable expenses required to obtain any approvals deemed necessary by Lessee. Lessor irrevocably authorizes Lessee, Lessee's Customers, and their agents to file applications as Lessor's agent with governmental authorities, which applications relate to Lessee and Lessee's Customers' intended use of the Leased Premises, including but not limited to, land use and zoning applications. Lessor agrees not to oppose any requests for such approvals and agrees to execute in a timely manner, but no longer than 15 days after the request therefor, any documentation related to such approvals. Lessor's failure to comply with this provision shall constitute a material breach of the Lease.
9. **Estoppels:** Each party agrees to furnish to the other, within 30 days after request, such reasonable estoppel information as the other may reasonably request.
10. **Modification of Leased Premises:** Lessee shall have the right at Lessee's sole cost and expense without prior notice to, or consent of Lessor: (i) to modify, replace or repair any facilities, utilities, equipment, structures, towers, property or improvements ("*Improvements*") now or hereafter located on the Leased Premises; and (ii) to add additional Improvements on the Leased Premises. Improvements include, but are not limited to antennas, cabling, additional storage buildings, security fence of chain link or comparable construction,

HIGHWAY 412 AT 71 SPRINGDALE / 98201

cabinets and shelters. Any provision of the Lease that requires additional approval by Lessor, or additional consideration to be paid to Lessor, for the modification or addition of any Improvements is hereby deleted.

11. **Existing Subleases and Facilities.** Lessor hereby consents to (i) any prior or existing subleases and/or licenses of the Leased Premises, or a portion thereof, by Lessee, to any third party, and (ii) any existing structures, equipment, facilities, property or other improvements made or added to the Leased Premises by Lessee or its sublessees or licensees.
12. **Condition of Lease:** Lessor acknowledges and agrees that as of the date of this Amendment, there are no uncured defaults by Lessee under the terms of the Lease, and no known conditions which following the passage of time alone would constitute defaults under the terms of the Lease, and that the Lease is in full force and effect.
13. **Representations, Warranties and Covenants of Lessor.** Lessor hereby represents, warrants and/or covenants that: (i) Lessor and the persons signing this Amendment on behalf of Lessor have the authority to cause Lessor to enter into, and be bound by the terms of, this Amendment; and (ii) Lessor has good and marketable fee simple title to the Leased Premises and the Parent Parcel, and any other real property across which Lessor has granted, or may subsequently grant easement rights to Lessee, or Lessee's sublessees and/or licensees, (iii) Lessor shall deliver to Lessee such reasonable documentation requested by Lessee or Lessee's customers verifying the ownership truth and accuracy of the above representations of Lessor. The representations of Lessor made in this section shall survive the execution of this Amendment, and Lessor hereby agrees to indemnify Lessee for any damages, costs or charges of any kind incurred by Lessee as a result of the breach of the representations, warranties or covenants of Lessor made in the Lease and in this Amendment.
14. **Full Force and Effect; Entirety; Amendment.** Except as modified herein, the Lease and all the covenants, agreements, terms, provisions and conditions thereof remain in full force and effect and are hereby ratified and affirmed. This Amendment, together with the Lease, constitutes the entire agreement among the undersigned parties hereto. Any modification to this Amendment or the Lease must be in writing and signed and delivered by authorized representatives of the affected parties in order to be effective. In the event of a conflict between the terms of this Amendment and the terms of the Lease, the terms of this Amendment shall control.
15. **Capitalized Terms.** Any capitalized terms used in this Amendment, but not defined herein, shall have the meanings given to such terms in the Lease.
16. **Counterparts.** This Amendment may be executed in counterparts, each of which shall be an original and which together shall constitute one instrument. The parties agree that a scanned or electronically reproduced copy or image of this Amendment bearing the signatures of the parties hereto shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of the execution, terms and existence of this Amendment notwithstanding the failure or inability to produce or tender an original, executed counterpart of this Amendment and without the requirement that the unavailability of such original, executed counterpart of this Amendment first be proven.

[SIGNATURES APPEAR ON NEXT PAGE]

HIGHWAY 412 AT 71 SPRINGDALE / 98201

IN WITNESS WHEREOF, Lessor and Lessee have each executed this Amendment as of the dates written below.

LESSOR:
City of Springdale

LESSEE:
Fayetteville MSA Limited Partnership
an Arkansas limited partnership

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

HIGHWAY 412 AT 71 SPRINGDALE / 98201

EXHIBIT A
TO LEASE AMENDMENT

This Exhibit A may be replaced by an As-Built Survey, at Lessee's option, by inserting a new Exhibit A-1 hereto, depicting the Leased Premises, Access and Utilities Easements and if applicable, guy wire and guy anchor easements, which Exhibit A-1 shall replace this Exhibit A.

PARENT PARCEL

[To be replaced with legal description from Lessor's Deed]

HIGHWAY 412 AT 71 SPRINGDALE / 98201

EXHIBIT A
TO LEASE AMENDMENT (CONTINUED)

LEASED PREMISES

PROPERTY BOUNDARY DESCRIPTION FOR TOWER SITE:

Part of Lots 21 and 22, Block 2, Brooks Addition to the City of Springdale, Arkansas on record in Washington County Plat Book of Page 97 being part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section 36, Township 18 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, more particularly described as follows:

COMMENCING at a found monument the Southwest Corner of said Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4); THENCE South 88 degrees 34 minutes 47 seconds East along the South line of said Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4), 693.10 feet; THENCE North 01 degrees 25 minutes 13 seconds East, 771.23 feet to a set one-half inch rebar at the Southwest Corner of Lot 21, Block 2 of said Brooks Addition for the POINT OF BEGINNING; THENCE North 01 degrees 43 minutes 50 seconds East along the West line of said Lot 21, 70.00 feet to a set one-half inch rebar; THENCE South 88 degrees 28 minutes 19 seconds East, 70.00 feet to a set one-half inch rebar; THENCE South 07 degrees 43 minutes 50 seconds West, 70.00 feet to a set one-half inch rebar on the South line of said Lot 22; THENCE North 88 degrees 28 minutes 19 seconds West along the South line of said Lots 21 and 22, 70.00 feet to the Point of Beginning, containing 4,900 square feet or 0.112 acres, more or less.

ACCESS AND UTILITY EASEMENT

Lessee retains any and all access and utility easement(s) from the Leased Premises to the public right of way.

HIGHWAY 412 AT 71 SPRINGDALE / 98201

Prepared by and Return to:

American Tower
10 Presidential Way
Woburn, MA 01801
Attn: Land Management/Rachel Chipman, Esq.
ATC Site #: 98201
ATC Site Name: HIGHWAY 412 AT 71 SPRINGDALE
Assessor Parcel #: 815-20775-000

Prior Recorded Lease Reference:
Document No.: 98057221
State of: Arkansas
County of: Washington

MEMORANDUM OF LEASE

This **MEMORANDUM OF LEASE** (this "*Memorandum*") is entered into on the _____ day of _____, 20____ by and between the City of Springdale ("*Lessor*"), and Fayetteville MSA Limited Partnership, an Arkansas limited partnership d/b/a Verizon Wireless ("*Lessee*").

NOTICE is hereby given of the following described Lease as amended, for the purpose of recording and giving notice of the existence of said Lease. To the extent that notice of such Lease has previously been recorded, then this Memorandum shall constitute an amendment of any such prior recorded notice(s).

1. **Lease:** George's, Inc., predecessor in interest to Lessor, and Fayetteville MSA Limited Partnership, by its General Partner, Alltel Mobile Communications of Northwest Arkansas, Inc., predecessor in interest to Lessee, entered into that certain Tower Site Lease Agreement dated August 23, 1996, as amended by that certain First Amendment to Option to Purchase Agreement dated July 8, 2008 (as amended, the "*Lease*"), whereby the Lessee leases a portion of the real property owned by Lessor located in Washington County, Arkansas (the "*Parent Parcel*"), such portion being more particularly depicted or described on Exhibit "A" hereto, together with certain easements for access and public utilities and, if applicable, easements for guy wires and guy anchor easements (collectively, the "*Leased Premises*"), a memorandum of which was recorded on September 10, 1996 as Document Number 98057221 in the registry of Washington County, Arkansas.
2. **Expiration Date:** Subject to the terms of the Lease, and assuming the exercise by Lessee of all renewal options currently in the Lease, the final expiration date of the Lease would be August 25, 2036. Notwithstanding the foregoing, in no event shall Lessee be required to exercise any option to renew the term of the Lease.
3. **Leased Premises:** The Leased Premises, together with any access or utility easements granted to Lessee is described or depicted on Exhibit A, attached hereto. Exhibit A may be replaced by an as-built survey at Lessee's option, accurately depicting the Leased Premises, any applicable access and utility easements, and if applicable, guy wire and guy anchor easements, at which time the 'as built' survey shall be attached hereto as Exhibit A-1, and shall replace Exhibit A in its entirety.
4. **Additional Provisions.**

HIGHWAY 412 AT 71 SPRINGDALE / 98201

- a. **Government Approvals:** Lessor shall fully cooperate with Lessee and Lessee's sublessees and licensees ("Lessee's Customers") efforts to obtain and maintain in effect all governmental approvals. Lessee shall perform all other acts and pay all reasonable expenses required to obtain any approvals deemed necessary by Lessee. Lessor irrevocably authorizes Lessee, Lessee's Customers, and their agents to file applications as Lessor's agent with governmental authorities, which applications relate to Lessee and Lessee's Customers' intended use of the Leased Premises, including but not limited to, land use and zoning applications. Lessor agrees not to oppose any requests for such approvals and agrees to execute in a timely manner, but no longer than 15 days after the request therefor, any documentation related to such approvals. Lessor's failure to comply with this provision shall constitute a material breach of the Lease.
 - b. **Transfer/Assignment by Lessor.** The Lease provides that Lessor shall not transfer, assign, sell, or convey any or all interest of the Leased Premises or the Lease to any third party unless such party specifically assumes the terms of the Lease in writing at or before the time of such assignment, sale or conveyance, and prior to such transfer Lessee is notified of the transfer in writing. Any transfer by Lessor in violation of this provision shall render any such transfer (whether by operation of law or not), at the option of Lessee, invalid and void.
 - c. **License or Sublease by Lessee.** Lessee may sublet or license any part of the Leased Premises for any permissible use under the Lease at any time without notice to, or consent from, Lessor. Lessee and Lessee's sublessees and licensees shall be entitled to use the Leased Premises for any use not prohibited in the Lease, and the provisions of the Lease shall benefit Lessee's Customers.
5. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States mail, certified, return receipt requested to the address set forth herein. Either party may change its notice address with 30 days written notice. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address of which no notice was given, shall be deemed to be receipt of any such notice.

Lessor: City of Springdale
201 Spring Street
Springdale, AR 72764

Lessee: Fayetteville MSA Limited Partnership, d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, NJ 07921
Attention: Network Real Estate

With copies to: American Tower
10 Presidential Way
Woburn, MA 01801
Attn: Land Management

and

American Tower
116 Huntington Avenue
Boston, MA 02116
Attn: Legal Department

6. **Effect:** This Memorandum is not a complete summary of the terms and conditions contained in the Lease. Provisions in the Memorandum should not be used in interpreting the Lease provisions. In the event of a conflict between this Memorandum and the Lease, the Lease will control.

[SIGNATURE PAGE FOLLOWS]

HIGHWAY 412 AT 71 SPRINGDALE / 98201

IN WITNESS WHEREOF, Lessor and Lessee have each executed this Memorandum as of the day first above written.

LESSOR:
City of Springdale

WITNESSES:

By: _____
Print Name: _____
Title: _____

Signature
Print Name: _____

Signature
Print Name: _____

LESSEE:
Fayetteville MSA Limited Partnership
an Arkansas limited partnership

WITNESSES:

By: _____
Print Name: _____
Title: _____

Signature
Print Name: _____

Signature
Print Name: _____

HIGHWAY 412 AT 71 SPRINGDALE / 98201

LESSOR ACKNOWLEDGMENT

ACKNOWLEDGEMENT

State of _____)

County of _____)

On _____ before me, _____ (here insert name), a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

LESSEE ACKNOWLEDGMENT

HIGHWAY 412 AT 71 SPRINGDALE / 98201

ACKNOWLEDGEMENT

State of _____)

County of _____)

On _____ before me, _____ (here insert name), a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

EXHIBIT A
TO MEMORANDUM OF LEASE

This Exhibit A may be replaced by an As-Built Survey, at Lessee's option, by inserting a new Exhibit A-1 hereto, depicting the Leased Premises, Access and Utilities Easements and if applicable, guy wire and guy anchor easements, which Exhibit A-1 shall replace this Exhibit A.

PARENT PARCEL

[To be replaced with legal description from Lessor's Deed]

HIGHWAY 412 AT 71 SPRINGDALE / 98201

EXHIBIT A
TO MEMORANDUM OF LEASE (CONTINUED)

LEASED PREMISES

PROPERTY BOUNDARY DESCRIPTION FOR TOWER SITE:

Part of Lots 21 and 22, Block 2, Brooks Addition to the City of Springdale, Arkansas on record in Washington County Plat Book of Page 97 being part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section 36, Township 18 North, Range 50 West of the Fifth Principal Meridian, Washington County, Arkansas, more particularly described as follows:

COMMENCING at a found monument the Southwest Corner of said Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4); THENCE South 88 degrees 34 minutes 47 seconds East along the South line of said Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) 693.10 feet; THENCE North 01 degrees 25 minutes 13 seconds East 71.25 feet to a set one-half inch rebar of the Southwest Corner of Lot 21, Block 2 of said Brooks Addition for the POINT OF BEGINNING; THENCE North 01 degrees 43 minutes 50 seconds East along the West line of said Lot 21 70.00 feet to a set one-half inch rebar; THENCE South 88 degrees 28 minutes 19 seconds East 70.00 feet to a set one-half inch rebar; THENCE South 01 degrees 43 minutes 50 seconds West 70.00 feet to a set one-half inch rebar on the South line of said Lot 22; THENCE North 88 degrees 28 minutes 19 seconds West along the South line of said Lots 21 and 22 70.00 feet to the Point of Beginning, containing 1.900 square feet or 0.112 acres, more or less.

ACCESS AND UTILITY EASEMENT

Lessee retains any and all access and utility easement(s) from the Leased Premises to the public right of way.

RESOLUTION NO. _____

**A RESOLUTION APPROPRIATING
CAPITAL IMPROVEMENT FUNDS FOR A
FENCE AT BOBBY HOPPER PARK**

WHEREAS, the City Council is concerned about the safety of children playing in Bobby Hopper Park near Huntsville Avenue, and

WHEREAS, the Parks & Recreation Director obtained three quotes for the installation of a fence in Bobby Hopper Park along Huntsville Avenue, and

WHEREAS, the lowest quote was \$15,480.00 from FenceCo Inc.;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that \$15,480.00 of capital improvement funds reserved for park land acquisition is hereby appropriated for the installation of a fence in Bobby Hopper Park.

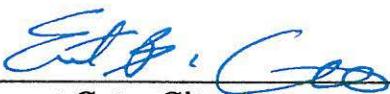
PASSED AND APPROVED this 8th day of October, 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:



Ernest Cate, City Attorney

Wyman Morgan

From: Rick McWhorter [rmcwhorter@springdalear.gov]
Sent: Friday, September 27, 2013 4:59 PM
To: Doug Sprouse
Cc: Wyman Morgan
Subject: Bobby Hopper Fence

I requested written quotes for Bobby Hopper Park fencing. The following quotes were received by 4:30 pm today:

FenceCo Inc.: \$15,480
Privacy Fence, Inc.: \$19,990
Modern Fence: \$19,600

These costs included all materials, labor, and taxes. I recommend FenceCo. Please let me know if I need to write a resolution for this. Thanks.

Dr. Rick McWhorter, CPRP
Director
Springdale Parks & Recreation
P.O. Box 42
Springdale, AR 72765
ph: 479-750-8185
fax: 479-750-8595

9/30/2013

RESOLUTION NO. _____

A RESOLUTION ENDORSING THE PARTICIPATION OF AMERICAN TUBING, INC., IN THE SALES AND USE TAX REFUND PROGRAM AUTHORIZED BY THE CONSOLIDATED INCENTIVE ACT OF 2003 AND ARK. CODE ANN. §15-4-2706(d).

WHEREAS, in order for a business to be eligible for the investment tax incentives contained in Ark. Code Ann. §15-4-2706(d), the governing body of the municipality in which the business is located must pass a resolution endorsing the participation of the business in the tax refund program; and

WHEREAS, Ark. Code Ann. §15-4-2706(d) provides that the governing body of the municipality must specify that the Department of Finance and Administration is authorized to refund local sales taxes to a business participating in the tax refund program; and

WHEREAS, American Tubing, Inc., of 2191 Ford Avenue, wishes to participate in, and be eligible for, the investment tax incentives contained in Ark. Code Ann. §15-4-2706(d), due to the expansion of its facility in the City of Springdale, Arkansas; and

WHEREAS, American Tubing, Inc., has agreed to furnish the City of Springdale all information necessary for its participation in the tax refund program.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that the participation of American Tubing, Inc., in the tax refund program contained in Ark. Code Ann. §15-4-2706(d) is hereby endorsed, and the Department of Finance and Administration is authorized to refund local sales taxes to American Tubing, Inc., and this resolution shall take effect immediately.

PASSED AND APPROVED this _____ day of _____, 2013.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:



Ernest B. Cate, CITY ATTORNEY