

City Council Agenda Items
and
Contracts, Leases or Agreements

12/6/2011

City Council Meeting Date
Agenda Items Only

David Jurgens
Submitted By

Utilities
Division

Utilities
Department

Action Required:

Resolution approving the sale of one permanent and one temporary construction easements to the Springdale Water and Sewer Commission for the north section of the Highway 265 widening project between Joyce Boulevard and the northern City limits.

\$ (3,000.00)
Cost of this request

N/A
Category / Project Budget

Sale of Assets
Program Category / Project Name

5400-0940-6881-02
Account Number

Funds Used to Date

Water/Sewer
Program / Project Category Name

Project Number

\$ -
Remaining Balance

Water and Sewer
Fund Name

Budgeted Item

Budget Adjustment Attached

D. Jurgens
Department Director

3 Nov 11
Date

Previous Ordinance or Resolution # _____

A. Jordan
City Attorney

Nov 4, 2011
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Becken
Finance and Internal Services Director 11-6-2011
Date

Received in City
Clerk's Office 11-04-11A08:49 RCVD
WJ

Alan Man
Chief of Staff 11-7-11
Date

Received in
Mayor's Office
ENTERED
11/7/11
[Signature]

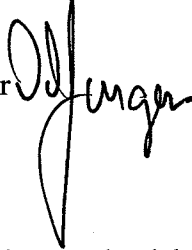
Lionel Jordan
Mayor 11/8/11
Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
Water/Sewer Committee



Date: November 3, 2011

Subject: Crossover Road- Northern Section- Springdale Water Utilities Easement Acquisition

RECOMMENDATION

City Administration recommends approving the sale of one permanent and one temporary construction easements to the Springdale Water and Sewer Commission for the north section of the Highway 265 AHTD widening project between Joyce Boulevard and the northern City limits.

BACKGROUND

AHTD is widening Crossover Road (Highway 265) between Joyce Boulevard and the northern City limits. They do not allow utilities to remain inside their easement. The area north of Clear Creek receives water service from the Springdale. Just like the City of Fayetteville, Springdale is being required to relocate their utility lines, so they need to acquire land owned by the City for their new easements. This land was purchased by the Water Department in the 1940's as part of Lake Fayetteville.

DISCUSSION

Springdale is relocating their water lines on the east side of Highway 265. To move their lines, they require one permanent easement of 0.383 acres on one tract of land valued at \$2,400, and one temporary construction easements valued at \$600. The values were established by an appraisal performed by Reed & Associates, and are consistent with Springdale's offers for the remainder of this project. The City's land agents have reviewed this easement; it meets all criteria we would apply when acquiring our own easements.

Sale of City property must comply with §34.27 of Fayetteville's Code of Ordinances, which the City Attorney is recommending be modified due to its complexity and expense. In this case, the cost of specifically complying with the ordinance as currently written would cost almost as much as the revenues received from the sale. This proposed sale complies with the City Attorney's recommended modification of the ordinance, but does not comply with the ordinance as it exists without the proposed modifications.

BUDGET IMPACT

As the land was purchased by the Water/Sewer fund, revenues received from this sale must be entered into the Water/Sewer fund. This will reflect a \$3000 in Water/Sewer revenue.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE SALE OF A PERMANENT WATER/SEWER EASEMENT OF 0.383 ACRES AND A TEMPORARY CONSTRUCTION EASEMENT ADJOINING THE PERMANENT WATER/SEWER EASEMENT ALONG HIGHWAY 265 TO THE SPRINGDALE WATER AND SEWER COMMISSION FOR \$3,000.00

WHEREAS, due to the widening of Highway 265, the Springdale Water and Sewer Commission needs to move their mains and thus must acquire new permanent water/sewer easements and temporary construction easements from property owners along Highway 265 including the City of Fayetteville; and

WHEREAS, Springdale Water and Sewer Commission has offered an appraised value of \$2,400.00 for the permanent water/sewer easement and \$600.00 for the temporary construction easement; and

WHEREAS, our City Land Agents have many years of experience in valuing and obtaining water/sewer easements, have examined the Springdale appraisal, and have determined it is consistent with offers to other land owners and constitutes fair compensation for our citizens.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the sale of a permanent water/sewer easement of 0.383 acres and a temporary construction easement adjoining the permanent water/sewer easement along Highway 265 to the Springdale Water and Sewer Commission for \$3,000.00 and authorizes Mayor Jordan to execute the Easement Deed attached to this Resolution to convey these easements to the Springdale Water and Sewer Commission.

PASSED and **APPROVED** this 6th day of December, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT the undersigned **City of Fayetteville, Arkansas, a municipal corporation**, Grantor, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to us in hand paid by the **Springdale Water and Sewer Commission, Springdale, Arkansas**, does hereby grant, bargain and sell unto the said **Springdale Water and Sewer Commission, Springdale, Arkansas**, and unto its successors and assigns, an easement for a water transmission line(s), and/or sewer collection or force main line(s), over, under or across the hereinafter described land in Washington County, Arkansas, to-wit:

PROPERTY DESCRIPTION (Parcel No. 765-13206-010):

Adjusted Tract "B" as per Survey Filed at File Record #2007-00030612 of the Records of the Circuit Clerk and Ex-Officio Recorder, of Washington County, Arkansas):

A part of the Southeast Quarter of the Northwest Quarter and a part of the Southwest Quarter of the Northwest Quarter Section 18, Township 17 North, Range 29 West, Washington County, Arkansas, being more particularly described as follows:

Commencing at a found iron pin at the Northwest corner of said Southeast Quarter of the Northwest Quarter; thence South $87^{\circ}24'50''$ East 148.91 feet to a point; thence South $02^{\circ}35'10''$ West 40.44 feet to the POINT OF BEGINNING, said point being twenty-five (25) feet southerly and perpendicular to the centerline of Ivey Road; thence parallel with said centerline of Ivey Road South $87^{\circ}24'50''$ East 1166.20 feet to the east line of the said Southeast Quarter of the Northwest Quarter; thence along the said east line of the Southeast Quarter of the Northwest Quarter South $03^{\circ}17'49''$ West 1295.02 feet to the Southeast corner of the said Southeast Quarter of the Northwest Quarter; thence along the South line of the said (40) acre tract North $87^{\circ}23'54''$ West 1375.78 feet to a point, said point being fifty-five feet (55') easterly of and perpendicular to the centerline of Arkansas Highway Number 265; thence northerly, parallel to the said centerline of Arkansas Highway Number 265 along a curve to the left an arc length of 69.95 feet, said curve having a central angle of $03^{\circ}20'16''$ and a radius of 1200.92 feet along with a chord bearing and distance of North $17^{\circ}44'15''$ West 69.95 feet to a point; thence continuing parallel with said centerline North $19^{\circ}27'19''$ West 832.81 feet to a point and the beginning of a curve to the right, said curve having a central angle of $19^{\circ}25'22''$ and a radius of 763.51 feet; thence continuing parallel with said centerline along said curve and arc length of 258.82 feet and a chord bearing and distance of North $09^{\circ}44'17''$ West 257.58 feet to a point; thence South $86^{\circ}19'22''$ East 402.43 feet to a point; thence North $03^{\circ}39'50''$ East 213.06 feet to a point, said point being twenty-five feet southerly of and perpendicular to the centerline of Ivey Road, thence parallel to said centerline of Ivey Road South $87^{\circ}24'50''$ East 201.09 feet to a point; thence

South 02°35'08" West 102.85 feet to a point; thence North 87°24'50" West 114.47 feet to a point; thence South 02°35'08" West 165.94 feet to a point; thence South 87°24'50" East 387.78 feet to a point; thence North 02°35'08" East 165.93 feet to a point; thence North 87°24'50" West 263.31 feet to a point; thence North 02°35'08" East 102.85 feet to the POINT OF BEGINNING, containing 44.90 acres more or less.

Together with a utility easement twenty feet in width with a centerline located 35 feet southerly of and parallel to the centerline of Ivey Road and a utility easement twenty feet in width with a centerline located 65 feet easterly of and parallel to the centerline of Arkansas Highway Number 265.

The above described Tract "B" is a part of the lands conveyed by B.B. and Kate Brogden to The City of Fayetteville, Arkansas, a Municipal Corporation on July 14th, 1949 said lands being described in Deed Record Book 402 at Page 263 of the Records of the Circuit Clerk and Ex-Officio Recorder, of Washington County, Arkansas. The description of which is herewith cited below:

The southeast quarter of the northwest quarter, and a part of the southwest quarter of the northwest quarter, and a part of the northwest quarter of the southwest quarter of section eighteen (18), township seventeen (17) north, range twenty nine (29) west, Beginning at a lime stone rock at the southwest corner of said northwest quarter of the southwest quarter of section 18, thence east 525 feet to the center of the Old Missouri Road, for a beginning corner of the lands herein conveyed, thence north eleven degrees .05 minutes east 373.5 feet, thence north six degrees 35 minutes east 795 feet, thence north six degrees and fifty minutes east 951 feet, thence north two degrees east 558 feet, thence east 525.22 feet, thence south one hundred sixty rods, thence west 843.18 feet to the place of beginning, containing 77.5 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

Part of the Fractional Southwest Quarter of the Northwest Quarter and part of the Fractional Northwest Quarter of the Southwest Quarter of Section 18, Township 17 North, Range 29 West, Washington County, Arkansas, more particularly described as follows:

Commencing at a half inch rebar being used as the Southeast corner of the Fractional Southwest Quarter of the Northwest Quarter and also being used as the Northeast corner of the Fractional Northwest Quarter of the Southwest Quarter of Section 18, Township 17 North, Range 29 West thence South 02° 40' 21" West along the East line of the Fractional Northwest Quarter of the Southwest Quarter of Section 18 also being the West line of Lot 48 of Clear Creek Acres, a Subdivision in Washington County a distance of 128.93 feet to a point on the Easterly right of way line of Arkansas State Highway 265 as established by AHTD Job 040518 for the POINT OF BEGINNING; thence North 15°20'09" West along said right of way line a distance of 135.68 feet to a point; thence North 19°04'08" West along said right of way line a distance of 411.27 feet to a point; thence North 20°28'29" West along said right of way line a distance of 198.13 feet to a point; thence North 19°22'12" West along said right of way line a distance of 304.76 feet to a point said point being the beginning of a curve to the right and said point also being on the East side of an existing 20' easement which is parallel and contiguous with State Highway 265 as shown on a plat of survey which is filed at the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas at File# 2007-00030612; thence leaving the right of way as

established by AHTD Job 040518 and following along said easement a curve distance of 248.35 feet to the right, having a radius of 743.51 feet, the chord of which bears North 09°48'04" West for a distance of 247.19 feet; to a point on the common line between Washington County, Arkansas Assessor's Parcel numbers 765-13206-020 & 765-13206-010; thence leaving said easement line South 86°19'26" East along the common line between Washington County, Arkansas Assessor's Parcel numbers 765-13206-020 & 765-13206-010 a distance of 1.31 feet to a point; thence leaving said common line between Washington County, Arkansas Assessor's Parcel numbers 765-13206-020 & 765-13206-010; thence South 05°12'05" East a distance of 61.56 feet to a point; thence South 13°51'33" East a distance of 187.85 feet to a point; thence South 20°28'29" East a distance of 499.42 feet to a point; thence South 19°04'08" East a distance of 411.94 feet to a point; thence South 15°20'09" East a distance of 90.03 feet to a point said point being on the East line of the Fractional Northwest Quarter of the Southwest Quarter of Section 18 also being on the West line of Lot 48 of Clear Creek Acres, a Subdivision in Washington County; thence along said line South 02°40'21" West, a distance of 48.52 feet to the POINT OF BEGINNING, containing in all 16,684 square feet (0.383 acres) more or less as shown on plans prepared by Springdale Water Utilities and referenced as SWU 11-005.

TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION:

Part of the Fractional Southwest Quarter of the Northwest Quarter and part of the Fractional Northwest Quarter of the Southwest Quarter of Section 18, Township 17 North, Range 29 West, Washington County, Arkansas, more particularly described as follows:

Commencing at a half inch rebar being used as the Southeast corner of the Fractional Southwest Quarter of the Northwest Quarter and also being used as the Northeast corner of the Fractional Northwest Quarter of the Southwest Quarter of Section 18, Township 17 North, Range 29 West thence South 02° 40' 21" West along the East line of the Fractional Northwest Quarter of the Southwest Quarter of Section 18 also being the West line of Lot 48 of Clear Creek Acres, a Subdivision in Washington County a distance of 80.41 feet to a point on the above described PERMANENT EASEMENT for the POINT OF BEGINNING; thence North 15°20'09" West along said easement a distance of 90.03 feet to a point; thence North 19°04'08" West along said easement a distance of 411.94 feet to a point; thence North 20°28'29" West along said easement a distance of 499.42 feet to a point; thence North 13°51'33" West along said easement a distance of 187.85 feet to a point; thence North 05°12'05" West along said easement a distance of 61.56 feet to a point on common line between Washington County, Arkansas Assessor's Parcel numbers 765-13206-020 & 765-13206-010; thence leaving said easement line South 86°19'26" East along the common line between Washington County, Arkansas Assessor's Parcel numbers 765-13206-020 & 765-13206-010 a distance of 10.12 feet to a point; thence leaving said common line between Washington County, Arkansas Assessor's Parcel numbers 765-13206-020 & 765-13206-010 South 05°12'05" East a distance of 59.24 feet to a point; thence South 13°51'33" East a distance of 186.51 feet to a point; thence South 20°28'29" East a distance of 498.96 feet to a point; thence South 19°04'08" East a distance of 412.39 feet to a point; thence South 15°20'09" East a distance of 59.59 feet to a point said point being on the East line of the Fractional Northwest Quarter of the Southwest Quarter of Section 18 also being on the West line of Lot 48 of Clear Creek Acres, a Subdivision in Washington County; thence along said line South 02°40'21" West, a distance of 32.35 feet to the POINT OF BEGINNING, containing in all 12,337 square feet (0.283 acres) more or less as shown on plans prepared by Springdale Water Utilities and referenced as SWU 11-005.

Together with the right of ingress and egress across adjacent lands for the purpose of laying, repairing, inspecting, maintaining, removing, or replacing, said water transmission line(s) and/or sewer collection or force main line(s), and the right of exercising all other rights necessary to carry out the purposes for which this Easement is created.

TO HAVE AND TO HOLD the above described easement and rights unto said Grantee, its successors and assigns, forever or until said right of way is abandoned.

And Grantor agrees to warrant and forever defend all and singular the above described easement and rights unto said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or seek to claim the same or any part thereof.

This Easement is declared to and does inure to the benefit of the public generally, and shall be binding upon the successors in title to the lands herein described or any other part thereof, their mortgagees, lessees, heirs, administrators, executors, successors, and assigns.

IN WITNESS WHEREOF, the hands and seals of Grantor, are hereunto set this the _____ day of _____, 2011.

**CITY OF FAYETTEVILLE, ARKANSAS
A Municipal Corporation**

by: _____
Lionald Jordan, Mayor

by: _____
Sondra Smith, City Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS }
 }
 }**SS**
COUNTY OF WASHINGTON }

On this the _____ day of _____, 2011, before me, _____, the undersigned Notary Public, personally appeared **Lionald Jordan** and **Sondra Smith**, known to me (or satisfactorily proven) to be the person whose names are subscribed to the within instrument, who acknowledged themselves to be the **Mayor** and **City Clerk**, respectively, of the **City of Fayetteville, Arkansas, a Municipal Corporation**, and that they, as such **Mayor** and **City Clerk**, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

THIS EXHIBIT IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED PERMANENT AND TEMPORARY EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.

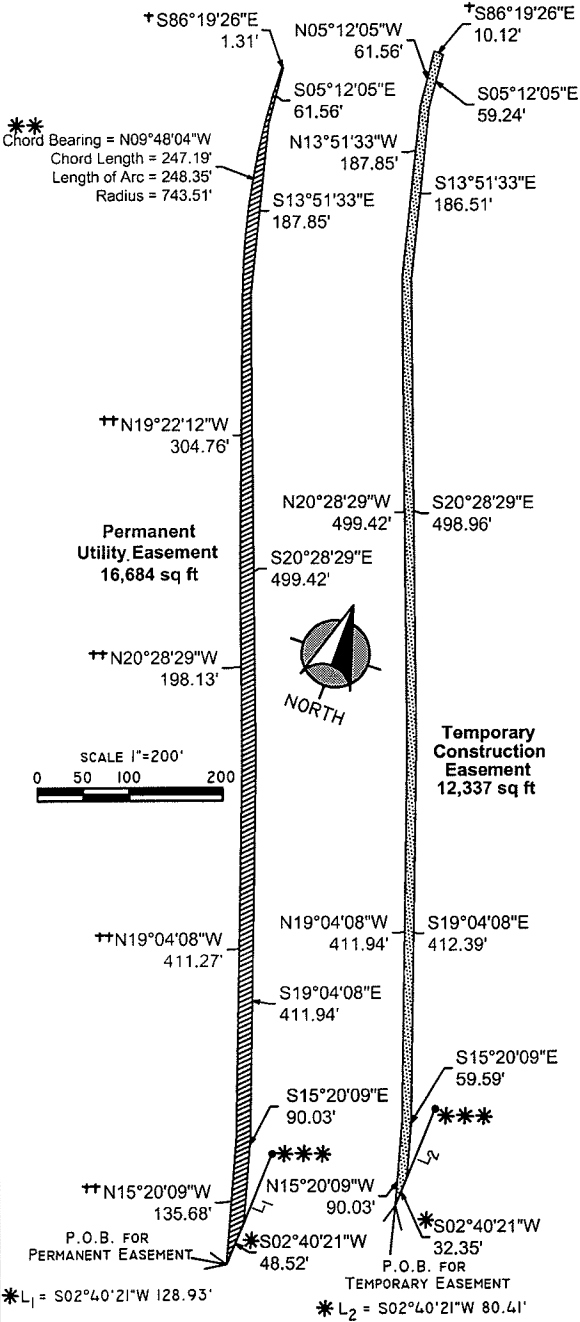


BASIS OF BEARINGS
AHTD PROJECT 040518

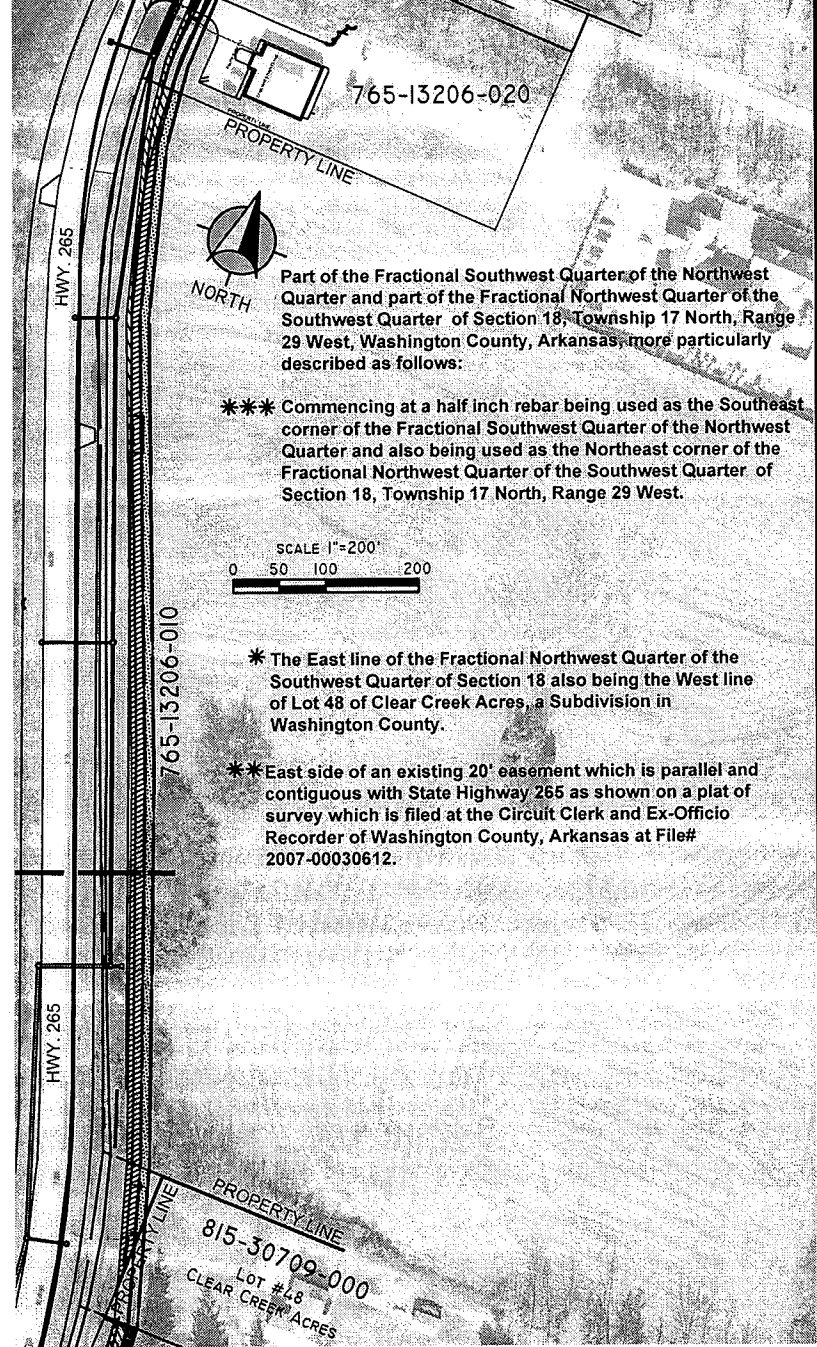
UTILITY EASEMENT PLAT
WASHINGTON CO. ASSESSOR'S PARCEL
765-13206-010

LANDS CONTAINED IN ADJUSTED TRACT B AS PER SURVEY FILED AT FILE RECORD #2007-00030612 BEING A PART OF THE LANDS CONVEYED BY B.B. AND KATE BROGDEN TO THE CITY OF FAYETTEVILLE, ARKANSAS A MUNICIPAL CORPORATION ON JULY 14TH, 1949

EASEMENT GEOMETRY & SECTIONAL TIE



OVERALL PROPERTY VIEW



CITY OF FAYETTEVILLE, ARKANSAS, A MUNICIPAL CORPORATION

† The common line between Washington County, Arkansas Assessor's Parcel numbers 765-13206-020 & 765-13206-010.
†† The Easterly right of way line of Arkansas State Highway 265 as established by AHTD Job 040518

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT	WATER MAIN RELOCATION	
SOUTH CITY LIMITS - HWY. 412 (SPRINGDALE) (S) JOB 040518 F.A.P. ROUTE 265 SECTION 2 WASHINGTON COUNTY	Highway 265 Water Relocation Ivey Lane to Clear Creek Drive	
SPRINGDALE WATER UTILITIES 526 OAK ST. - P.O. BOX 769 SPRINGDALE, AR. 72765-0769 (479) 751-5751	DATE, AUGUST, 2011 APPROVED DRAWN BY, LFG	AHTD Tract #41 SCALE (AS NOTED)

Letter of Transmittal

To: Matt Casey / City of Fayetteville / Engineering Department

CC: File

From: Mike Imes

Date: 10/25/2011

Re: Easement acquisition for the Highway 265 Water and Sewer Relocation Project – Ivey Lane South to Clear Creek Drive – Tract No. 41

As discussed by phone earlier this morning, the Arkansas State Highway and Transportation Department has plans to widen Highway 265 from Highway 412 south to the Fayetteville City Limits. In doing so, it has become necessary for the Springdale Water Utilities to relocate their existing mains to outside of the newly acquired rights-of-way which necessitates the acquisition of additional easements along the route.

Please find enclosed for your use, the appraisal provided by Reed and Associates for the city property located just south of 5374 North Crossover Road (Arkansas State Highway 265) in Fayetteville, Arkansas. I have included with the appraisal, the easement document (with exhibit) that we are trying to secure from the City of Fayetteville as well as a "special consideration form" reflecting the compensation amounts that the Springdale Water Utilities is offering. To better understand why we are seeking the additional easement, I have also included plan page which shows the proposed water main relocation across the City of Fayetteville property in detail.

I do appreciate your offer of getting these documents to the right personnel and I will be happy to address any questions or concerns that your or anyone else may have regarding them. I may be reached either by emailing me at mimes@springdalewater.com or by calling my direct line at (479) 927-4178 or my cell phone at (479) 856-1503.

Again, I look forward to hearing from you and wish to thank you in advance for your prompt attention to this matter.

**SPRINGDALE WATER UTILITIES
SPECIAL CONSIDERATIONS**

Job Title: Highway 265 Water & Sewer Relocation – Ivey Lane South to Clear Creek Drive

Tract No.: 41

Parcel No.: 765-13206-010 W.D. Book 402 Page 263

Property Owner: City of Fayetteville, Arkansas, a municipal corporation (Lionald Jordan, Mayor)

Property Address: East side of S Old Missouri Road just South of Ivey Lane

Springdale, AR 72764 Phone No. (479)

Mailing Address: 113 W Mountain Street

Fayetteville, AR 72701 Phone No. (479) 575-8330

In consideration for the dedication of the easement the Springdale Water Utilities agrees to the following:

1) Monetary compensation per appraisal by Reed & Associates, Inc. is established at: \$3,000.00

(Note: Permanent easement @ \$2,400.00 + temporary construction easement @ \$600.00)

2) Contractor will put the land and barbed wire fencing located within both the permanent utility easement and the temporary construction easement back to as near original condition as possible and in accordance with the project plans and specifications.

It is agreed that neither party hereto is relying upon any oral or written information or representations made by the other prior to the signing of the easement unless expressly provided herein, and that the easement constitutes the entire agreement between the parties and same shall not be hereafter amended or modified unless reduced to writing and signed by the parties hereto. _____

R/W Agent: _____ Date: _____

Property Owner(s): _____ Date: _____

_____ Date: _____

