



City of Conway, Arkansas Ordinance No. <u>0-13-75</u> Doc#2013- 14457
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Faulkner County
RHONDA WHARTON
FAULKNER COUNTY CIRCUIT CLERK
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by.

\_D.C.

AN ORDINANCE GRANTING A FRANCHISE TO SIGMA INVESTMENTS, LLC, TO UTILIZE SPECIFIC ALLEY RIGHT-OF-WAY ON THE SOUTH SIDE OF OAK STREET JUST WEST OF 1011 OAK STREET IN BLOCK 5, ROBINSON'S PLAN TO THE CITY OF CONWAY; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES:

Whereas, Sigma Investments, LLC, desires to be able to construct an entrance for the disabled compliant with the Americans with Disabilities Act (ADA) to serve the buildings located at 1009 and 1011 Oak Street, and

Whereas, the City of Conway owns the entire alley, and

Whereas, based on the dimensions of the proposed handicapped entrance, it does not appear that such an entrance would impede or hamper any current use or activity in the alley, and

Whereas, construction of an ADA compliant handicapped accessible entrance at this location would serve a public purpose.

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

Section 1: That a franchise is hereby granted from the City of Conway, Arkansas to the owners of the Western 1/3 of Lots 1 and 2, Block 5 of the Robinson's Plan and/or the owner's successors and assigns for fifty (50) years, for the placement of an ADA compliant handicap entrance for the disabled on public right-of-way on the south side of Oak Street adjacent to said Western 1/3 of Lots 1 and 2, Block 5 of the Robinson's Plan to the City of Conway, Arkansas.

Section 2: That the franchise area shall be granted as described: Starting at the Northwest corner of Lot 1, Block 5, Robinson's Plan; thence Southeasterly 30 feet along the west property line of Lot 1 to the point of beginning; thence Southwesterly 6 feet; thence Southeasterly 15 feet; thence Northeasterly 6 feet; thence Northwesterly 15 feet to the point of beginning. A solid structure for the purposes of an ADA compliant handicap entrance may be constructed in said franchise easement no higher than the finish floor elevation of the building immediately adjacent to said franchise or in any case no higher than four feet above the sidewalk or surrounding pavement.

Section 3: That the structure permitted by this franchise shall be constructed, erected, maintained, repaired and operated in a strict compliance with all state, federal and City codes, ordinances, and regulations for the life of the franchise and shall be approved as to its design by the city engineer. Further, the exterior vertical surfaces of the handicap entrance must be constructed out of brick, decorative block, or architecturally molded concrete as approved by the city engineer.

Section 4: That the City of Conway assumes no maintenance responsibility for the permitted handicap entrance. The City shall not be responsible for damage to the handicap entrance by the City or by utility (public or franchised private) crews while performing normal maintenance work in the public right-of-way or easements. The City assumes no liability for personal inquiry or property damages as of a result of the placement of the permitted handicap entrance and the applicant shall indemnify and hold the City harmless from actions, claims, costs, damages, and expenses to which the City may be subjected arising out of the placement of the permitted handicap entrance in the public right-of-way.

Section 5: That upon notice from the appropriate city departments (as established by the Mayor), the franchisee shall remove the permitted items from the public right-of-way or easement at their own expense for any public improvement project or if the situation becomes a public nuisance.

Section 6: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

Section 7: That it is ascertained and declared that it is necessary for the public peace and welfare of the citizens of the City of Conway, Arkansas an emergency is hereby declared to exist and this ordinance shall take effect and be in force from and after its passage and publication and shall benefit and run in favor of all future owners of the property and their successors and assigns.

PASSED this 23<sup>rd</sup> day of July, 2013.

Approved:

Attest:

City Clerk/Treasurer