



City of Conway, Arkansas
Resolution No. R-23-50

A RESOLUTION AUTHORIZING THE MAYOR OF CONWAY TO SIGN AN AGREEMENT FOR AN IMPACT FEE CREDIT AGREEMENT BETWEEN RUSH-HAL DEVELOPMENT, LLC, THE HAROLD HALTER CRAFTON REVOCABLE TRUST, AND THE CITY OF CONWAY, ARKANSAS FOR LANDS END SUBDIVISION PHASE II; AND FOR OTHER PURPOSES

WHEREAS, the Impact Fee Ordinance as amended by Ordinance No. O-04-38, passed on the 27th day of April 2004 states that “All impact fee credits shall have a reading at one regularly scheduled City Council meeting prior to its passage and approval at any subsequent regularly scheduled City Council meeting”; and

WHEREAS, the Impact Fee Credit Agreement was presented and provided to the City Council of the City of Conway on the 8th day of August, 2023 at a regularly scheduled meeting; and

WHEREAS, the Impact Fee Credit Agreement was reviewed by the City Engineer, Director of Planning and Development, and the City Attorney, and appears to demonstrate all minimum requirements as defined in Section 12 of the City of Conway Subdivision Code; and

WHEREAS, the applicant has requested said impact fees to be payable to be applicable to another development pursuant to the City of Conway, Subdivision Ordinance Section 12.K.5; and

WHEREAS, Land’s End is a multiphase development at the intersection of Padgett Road and Tyler Street for which the City requested full extension of Tyler Street to the west end of the Land’s End addition, lengthening the street to follow the Master Street Plan in which requisite ancillary construction of storm drain, sidewalks, etc. were also completed.

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

Section 1. The City Council of the City of Conway authorizes the Mayor of Conway to sign said agreement to authorize said Impact Fee Credit Agreement.

Section 2. The Director of Permitting or a representative thereof, in conjunction with the Director of Planning and Development, shall maintain a record of impact fees credited and notify the developer, or subsequent owner of the development as defined within Section 12 of the City of Conway Subdivision Code, when all fees are expended.

Section 3. Herein authorized is the use of impact fee credits for the Land’s End Subdivision Phase II which may be utilized for impact fees of a similar type within Charleston Place, a Rush-Hall development, for which any such use shall be deducted from the total impact fees for Land’s End Subdivision Phase II impact fee credit until otherwise exhausted.

Section 4. The maximum impact fees credited per this contract shall be defined herein as an attachment of this resolution, also known as “Exhibit A”. Also see Exhibits B & C herein.

PASSED this 12th day of September 2023.

APPROVED:



Mayor Bart Castleberry

ATTEST:



Michael O. Garrett
City Clerk/Treasurer

Exhibit A: Impact Fee Credit Agreement (1 of
3)

IMPACT FEE CREDIT AGREEMENT

THIS IMPACT FEE CREDIT AGREEMENT, (hereinafter referred to as this "*Agreement*") is entered into between **Rush-Hal Development, LLC**, an Arkansas Limited Liability Company, the **Crafton-Fowler Family Limited Partnership LLLP**, an Arkansas Limited Liability Limited Partnership, and **Harding-Crafton Investment Properties, LLC**, an Arkansas Limited Liability Company (hereinafter collectively referred to as "*the Applicant*"), and the **City of Conway, Arkansas** (hereinafter referred to as the "*City*") to be effective as of _____, 2023 (the "*Effective Date*").

RECITALS:

A. The applicant is the developer of Lands End Phases I & II, an addition to the City of Conway, Phase II of which is recorded on Deed of Record filed on January 24, 2023, in the real estate records of Faulkner County, Arkansas, as Document Number P202300992 (along with future phases, if any, hereinafter referred to as the "*Neighborhood*'

B. Lands End is a multiphase development at the intersection of Padgett Road and Tyler Street. The city requested full extension of Tyler Street to the west end of the Lands End addition, lengthening the street to follow the Master Street Plan. Requisite ancillary construction of storm drain, sidewalks, etc. are agreed to be completed as demonstrated in Exhibit "A" as attached and incorporated hereto. The applicant has conveyed the roadways of the development in fee simple to the City.

C. The City has enacted Ordinance 0-03-98, levying road and park impact fees upon Impact-Generating Development within the City of Conway (hereinafter referred to as the "*Ordinance*").

D. Pursuant to Article VI. Section 12(K)(l)(a) of the Ordinance, developers of major roadway improvements (as defined by the Ordinance) are entitled to credits (hereinafter referred to as the "*Credit*") against impact fees otherwise payable under the Ordinance ("*Impact Fees*" - both street and park).

E. The City and The Applicant desire to enter into this Agreement to evidence their determination that the street work on Tyler Street is a Major Roadway System Improvement, that

Exhibit A: Impact Fee Credit Agreement (2 of 3)

development within the Neighborhood and all properties included in Exhibit "B" as attached and incorporated hereto are entitled to the Credit and the amount of the Credit.

NOW, THERFORE, in consideration of the recitals herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The street work for Tyler Street with the subdivision of Lands End is a Major Roadway System Improvement (as defined by the Ordinance), qualifying the Neighborhood and The Applicant for the Credit;
2. The City hereby acknowledges that The Applicant is eligible for a Credit in the amount of \$210,038.81. The amount of the Credit is determined pursuant to Section 12(K.)(2) of the Ordinance based on the cost of construction and development of the Roadway System;
3. The City hereby approves awarding the Applicant a Credit to offset Road Impact Fees, not to exceed \$210,038.81 (the "Awarded Credit"), otherwise applicable to Impact-Generating Development (as defined by the Ordinance) within the Subdivision, in addition to current and future phases of the real properties attached in Exhibit "B" as attached and incorporated hereto. The Applicant shall have the exclusive right to use the Awarded Credit, provided that the Applicant may in its sole discretion assign the right to use the designated amount of the Awarded Credit to offset the Road Impact Fee applicable to a project developed by the assignee within the Subdivision and current and future phases of the real properties attached in Exhibit "B" as attached and incorporated hereto. Any such assignment shall be in writing signed by the Applicant or its successors and assigns and delivered to the City Planning Department or other department serving as administrator of Road Impact Fees. The Awarded Credit shall also be available to the Applicant and its designated successors and assigns to offset Road Impact Fees applicable to Impact-Generating Development in any and all future phases of the Subdivision, in addition to current and future phases of the real properties attached in Exhibit "B" as attached and incorporated hereto.
4. The Applicant will not be reimbursed for any excess Credit beyond the Road Impact Fees that would otherwise be due from the Applicant or its assigns from Impact Generating Development in the above referenced property.

[Signature Page Follows]

Exhibit A: Impact Fee Credit Agreement (3 of 3)

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date and year first written above.

Rush-Hal Development, LLC

Harding-Crafton Investment Properties, L.L.C.

By: _____
Harold H. Crafton, Operating Manger

By -----
Harold H. Crafton, Manager

Crafton-Fowler Family Limited Partnership LLLP

By: _____
Harold H. Crafton, General Partner

City of Conway, Arkansas

By: _____
Bart Castleberry, Mayor

ATTEST:

By: _____
City Clerk/Treasurer

THIS INSTRUMENT PREPARED BY:

Landon T. Sanders
Ark. Bar No. 2016131
306 Salem Rd., Suite 106
Conway, Arkansas 72034



Landon T. Sanders, J.D. Attorney-at-Law
Preston T. Sanders, J.D. Attorney-at-Law

Costs Incurred by Applicant,
Rush-Hal Development, LLC, Crafton-Fowler Family Limited Partnership
LLLP, and Harding-Crafton Investment Properties, LLC

The Applicant incurred costs in the amount of **\$210,038.81** for the following:

Street improvements for Tyler Street starting at the intersection of Tyler Street & Southwinds Drive; thence west to the intersection of Tyler Street & Lands End Drive. Project area as seen in **Exhibit B below.**



Exhibit B: Project Area



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Exhibit "C"
TO
IMPACT FEE CREDIT AGREEMENT

1. *LANDS END SUBDIVISION - ALL PHASES, INCLUDING BUT NOT LIMITED TO THE THE FOLLOWING DESCRIPTION FOR PHASE 2;*

A part of the E1/2 NE1/4, Section 06, T-05-N, R-14-W, Faulkner County, Arkansas, being more particularly described as follows:

Beginning at a set mag nail for the SW corner of said E1/2 NE1/4; Thence along the West line of said E1/2 NE1/4 N01°59'07"E a distance of 1363.10' to a set 1/2" rebar w/cap (1363); thence leaving said West line S88°00'37"E a distance of 330.99' to a set 1/2" rebar w/cap (1363); Thence N02°01'35"E a distance of 162.69' to a set 1/2" rebar w/cap (1363); Thence S88°25'04"E a distance of 98.88' to a set 1/2" rebar w/cap (1363); Thence N01°34'56"E a distance of 170.00' to a set 1/2" rebar w/cap (1363); Thence S88°25'04"E a distance of 227.32' to a found RDF cap for the NW corner of Lands End Subdivision Phase 1; Thence along the boundary of said subdivision the following calls: S02°01'35"W a distance of 1164.75' to a found RDF cap; Thence N88°11'34"W a distance of 106.33' to a found RDF cap; Thence with a curve turning to the right with an arc length of 44.09', with a radius of 28.00', with a chord bearing of N43°04'59"W, with a chord length of 39.67' to a found RDF cap; Thence N02°01'35"E a distance of 4.79' to a found RDF cap; Thence N88°11'34"W a distance of 50.00' to a found RDF cap; Thence S02°01'35"W a distance of 5.00' to a found RDF cap; Thence with a curve turning to the right with an arc length of 43.88', with a radius of 28.00', with a chord bearing of S46°55'01"W, with a chord length of 39.52' to a found RDF cap; Thence N88°11'34"W a distance of 106.54' to a found RDF cap; Thence S02°01'35"W a distance of 491.23' to a found RDF cap; Thence S88°11'44"E a distance of 106.55' to a found RDF cap; Thence S01°48'16"W a distance of 40.00' found mag being on the South line of said E1/2 NE1/4; Thence leaving said boundary line and along said South line N88°11'44"W a distance of 436.71' to the point of beginning, containing 18.53 acres, more or less.

2. *LUXE LANDING, otherwise described as:*

Part of the Southeast Quarter of the Northeast Quarter of Section 21, Township 5 North, Range 14 West, Faulkner County, Arkansas, being more particularly described as follows: Commencing at the Southeast Corner of the Southeast Quarter Northeast Quarter, thence along the East line of said Southeast Quarter Northeast Quarter North 02 Degrees 10 Minutes 08 Seconds East a Distance of



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748.00 feet to the point of beginning, thence continue along said East Line North 02 Degrees 10 Minutes 08 Seconds East a distance of 467.94 feet, thence leaving said East Line North 87 degrees 38 Minutes 13 Seconds West a distance of 63.38 feet, thence South 76 Degrees 37 Minutes 35 Seconds West a Distance of 108.46 feet; Thence South 64 Degrees 23 Minutes 16 Seconds West a Distance of 306.43 feet, thence South 68 Degrees 06 Minutes 12 Seconds West a Distance of 69.23 feet, thence South 21 Degrees 36 minutes 41 Seconds East a Distance of 294.50 feet, Thence South 88 Degrees 03 Minutes 00 Seconds East a Distance of 383.45 feet to the point of beginning, containing 4.11 acres, more or less.

3. Part of the $W\frac{1}{2} W\frac{1}{2} SW\frac{1}{4}$; Section 33, T6N, R13W, Faulkner County, Arkansas being more particularly described as follows: Beginning at the Southwest corner of said $W\frac{1}{2} W\frac{1}{2} SW\frac{1}{4}$; thence North 01 degrees 35 minutes 38 seconds East along the West line of said $W\frac{1}{2} W\frac{1}{2} SW\frac{1}{4}$, a distance of 2089.55 feet to the center line of Lower Ridge Road; thence South 86 degrees 44 minutes 56 seconds East, along said center line, a distance of 659.53 feet to a point on the East line of said $W\frac{1}{2} W\frac{1}{2} SW\frac{1}{4}$; thence South 01 degrees 28 minutes 18 seconds West along said east line, a distance of 2071.22 feet to the Southeast corner of said $W\frac{1}{2} W\frac{1}{2} SW\frac{1}{4}$; thence North 88 degrees 20 minutes 29 seconds West along the South line of said $W\frac{1}{2} W\frac{1}{2} SW\frac{1}{4}$, a distance of 663.67 feet to the point of beginning.

4. 1550 Old Military Road- York Military Road Property.

Part of the $NW\frac{1}{4} SW\frac{1}{4}$ of Section 22, T5N, R14W, Faulkner County, Arkansas, being more particularly described as follows: Beginning at the West $\frac{1}{4}$ corner of said Section 22; thence run South 89 degrees 37 minutes 11 seconds East, 25.00 feet to the East right of way line of Old Military Road and also the point of beginning; thence continue South 89 degrees 37 minutes 11 seconds East, 466.69 feet; thence South 00 degrees 00 minutes 00 seconds West, 466.70 feet; thence North 89 degrees 37 minutes 11 seconds West, 466.69 feet to the East right of way line of Old Military Road; thence North 00 degrees 00 minutes 00 seconds East along said right of way line 466.70 feet to the point of beginning, containing 5 acres, more or less.



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5. Part of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, Township 5 North, Range 14 West, Faulkner County, Arkansas being more particularly described as follows: Commencing at the Northwest corner of said NW $\frac{1}{4}$ SW $\frac{1}{4}$ run from thence South & 7 degrees 39 minutes 07 seconds East, along the North line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$, 491.69 feet to the point of beginning; thence continue along said North line, 663.35 feet; thence run South 01 degree 52 minutes 10 seconds West, parallel to the West line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$ 1322.72 feet to the South line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$; thence run North 87 degrees 35 minutes 32 seconds West, along said South line, 1130.05 feet to the East right of way line of Old Military Road; thence run North 01 degree 52 minutes 10 seconds East, parallel to the West line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$, 854.84 feet; thence leaving said right of way, run South 87 degrees 39 minutes 07 seconds East, parallel to the North line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$, 466.69 feet; thence run North 01 degree 52 minutes 10 seconds East parallel to the West line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$, 466.70 feet to the point of beginning. Said tract contains 29.30 acres, more or less.

6. Lot 1-R Sunderlin Park Subdivision Replat as shown on plat of record in Faulkner County Plat Book J at Page 262.

AND

Part of the W $\frac{3}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4, Township 5 North, Range 14 West, Faulkner County, Arkansas described as beginning at the Northwest corner of said W $\frac{3}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$; thence along the North line of said W $\frac{3}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, North 89 degrees 52 minutes 18 seconds East 781.76 feet to the point of beginning; thence continuing North 89 degrees 52 minutes 18 seconds East 205.72 feet to the Northeast corner of said W $\frac{3}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$; thence along the East line of said W $\frac{3}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, South 0 degrees 43 minutes 35 seconds West 620.69 feet; thence South 89 degrees 52 minutes 18 seconds West 184.72 feet; thence North 1 degree 12 minutes 45 seconds East 620.74 feet to the point of beginning.

(Commonly known as 4551 & 4553 W Tyler Street, Conway, AR 72034)

7. Tract 1: Part of the N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 6, Township 5 North, Range 14 West, Faulkner County, Arkansas, described as commencing at the Southeast Corner of said N $\frac{1}{2}$ NW $\frac{1}{4}$ and run North 89 degrees 54 minutes 49 seconds West along the South line of said N $\frac{1}{2}$ NW $\frac{1}{4}$ a distance of 877.3 feet to the point of beginning; thence continue North 89 degrees 54 minutes 49 seconds West 188.7 feet; thence



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North 02 degrees 53 minutes 39 seconds West 436.56 feet; thence South 89 degrees 54 minutes 49 seconds East 210.75 feet; thence South 436 feet to the point of beginning.

AND

Part of the NE 1/4 NW 1/4 of Section 6, Township 5 North, Range 14 West, Faulkner County, Arkansas, described as beginning at the Southwest corner thereof and run thence North 160 feet; thence North 69 degrees 07 minutes 55 seconds East 259.95 feet; thence South 2 degrees 53 minutes 40 seconds East 253.3 feet to the South line of the NE 1/4 NW 1/4; thence North 89 degrees 54 minutes 49 seconds West along the South line of said NE 1/4 NW 1/4 255.69 feet to the point of beginning.

AND

Part of the NE 1/4 NW 1/4 of Section 6, Township 5 North, Range 14 West, Faulkner County, Arkansas, described as beginning at the Southeast corner thereof, and run North 89 degrees 54 minutes 49 seconds West along the South line of said NE 1/4 NW 1/4 877.3 feet to a found pipe; thence North 329.97 feet; thence North 69 degrees 09 minutes 46 seconds East 816.25 feet; thence North 74 degrees 56 minutes 56 seconds East to the East line of the NE 1/4 NW 1/4, Section 6; thence South to the point of beginning.

AND

SE 1/4 NW 1/4 of Section 6, Township 5 North, Range 14 West, Faulkner County, Arkansas.

AND

Part of the W 1/2 NE 1/4 of Section 6, Township 5 North, Range 14 West, Faulkner County, Arkansas, described as commencing at the Northeast corner of the NW 1/4 NE 1/4, Section 6, Township 5 North, Range 14 West and run thence South 375.0 feet along the East line of said NW 1/4 NE 1/4 to the point of beginning; thence South 78 degrees 00 minutes 54 seconds West 547.87 feet; thence South 74 degrees 56 minutes 56 seconds West to the West line of said NW 1/4 NE 1/4; thence South along the West line to the Southwest corner of the W 1/2 NE 1/4; thence East along the South line of the W 1/2 NE 1/4 to the Southeast corner of said W 1/2 NE 1/4; thence North along the East line of said W 1/2 NE 1/4 to a point which is 375.0 feet South of the Northeast corner of said W 1/2 NE 1/4, which point is the point of beginning.



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Tract 2:

All that prui of the SE 1/4 SE 1/4 Section 31, T6N, R14W, Faulkner County, Arkansas, lying South of State Hwy #319.

Tract 3:

A tract of land lying in the SW 1/4 NW 1/4 Section 5, T5N, R14W, Faulkner County, Arkansas better described as beginning at the Northwest corner of said SW 1/4 NW 1/4 thence along the North line of said SW 1/4 NW 1/4 N01^h 89 degrees 03 minutes 58 seconds East 30.00 feet; thence leaving said North line South 00 degrees 10 minutes 55 seconds East 777.29 feet; thence North 83 degrees 49 minutes 46 seconds West 30.19 feet to the West line of said SW 1/4 NW 1/4; thence along said West line North 00 degrees 10 minutes 55 seconds West 773.56 feet to the true point of beginning.

AND

Part of the SE 1/4 of the NE 1/4 of Section 6, Township 5 North, Range 14 West, Faulkner County, Arkansas, more particularly described as follows: Beginning at a point 903.5 feet West of the Southeast corner of said SE 1/4 NE 1/4 and running thence West 150 feet; thence North 290.4 feet; thence East 150 feet; thence South 290.4 feet to the point of beginning.

AND

Part of the SE 1/4 NE 1/4, Section 6, Township 5 North, Range 14 West, Faulkner County, Arkansas, described as beginning at the Southeast corner of said SE 1/4 NE 1/4; thence South 89 degrees 35 minutes 00 seconds West along the South line of said SE 1/4 NE 1/4 828.50 feet to the point of beginning; thence continuing South 89 degrees 35 minutes 00 seconds West 75.0 feet; thence North 00 degrees 25 minutes 00 seconds West 290.40 feet; thence South 89 degrees 35 minutes 00 seconds West 150.0 feet; thence North 00 degrees 25 minutes 00 seconds West 850.0 feet; thence North 89 degrees 35 minutes 00 seconds East 350.0 feet; thence South 00 degrees 25 minutes 00 seconds East 390.40 feet; thence South 89 degrees 35 minutes 00 seconds West 125.0 feet; thence South 00 degrees 25 minutes 00 seconds East 750.0 feet to the point of beginning.

AND

Prui of the E 1/2 NE 1/4, Section 6, Township 5 North, Range 14 West, Faulkner County, Arkansas, described as beginning at the Southeast corner of the SE 1/4 NE



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1/4, Section 6; thence along the South line of said SE 1/4 NE 1/4 South 89 degrees 35 minutes 00 seconds West 420.30 feet to the point of beginning; thence continue South 89 degrees 35 minutes 00 seconds West 408.20 feet; thence North 00 degrees 25 minutes 00 seconds West 750.0 feet; thence North 89 degrees 35 minutes East 125.0 feet; thence North 00 degrees 25 minutes 00 seconds West 390.40 feet; thence South 89 degrees 35 minutes 00 seconds West 350.0 feet; thence South 00 degrees 25 minutes 00 seconds East 1,140.40 feet to the South line of said SE 1/4 NE 1/4; thence South 89 degrees 35 minutes 00 seconds West along the South line 274.20 feet to the Southwest corner of said SE 1/4 NE 1/4; thence North 00 degrees 02 minutes 15 seconds East 2,697.20 feet to the Northwest corner of the NE 1/4 NE 1/4 Section 6; thence North 89 degrees 12 minutes 14 seconds East along the North line of said NE 1/4 NE 1/4, 1,326.01 feet to the Northeast corner of said NE 1/4 NE 1/4; thence South 2,394.97 feet to a point 311.0 feet North of the Southeast corner of said SE 1/4 NE 1/4; thence South 89 degrees 35 minutes 00 seconds West 420.30 feet; thence South 311.0 feet to the point of beginning.

LESS AND EXCEPT THE FOLLOWING DESCRIBED LANDS:

Part of the SE 1/4 NE 1/4 of Section 6, Township 5 North, Range 14 West, Faulkner County, Arkansas, more particularly described as beginning at the Southeast corner of said SE 1/4 NE 1/4; thence along the East line of said SE 1/4 NE 1/4 North 00 degrees 10 minutes 55 seconds West 311.00 feet to the point of beginning; thence leaving said East line South 89 degrees 23 minutes 57 seconds West 98.62 feet; thence North 00 degrees 13 minutes 48 seconds West 133.62 feet; thence North 89 degrees 21 minutes 00 seconds East 98.81 feet to the East line of said SE 1/4 NE 1/4; thence along said East line South 00 degrees 10 minutes 55 seconds East 233.70 feet to the point of beginning.

8. CHARLESTON PLACES BDIVISIO - \$13,281.00 of Credits may be assigned to Charleston Place Subdivision.