

## **MOUNTAIN HOME CITY COUNCIL REGULAR MEETING AGENDA**

**THURSDAY, FEBRUARY 1<sup>ST</sup>, 2024 @ 5 P.M.  
COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING  
720 HICKORY STREET, MOUNTAIN HOME, ARKANSAS**

Pledge of Allegiance

Prayer

Roll call

Revised minutes from the January 4<sup>th</sup> Council meeting

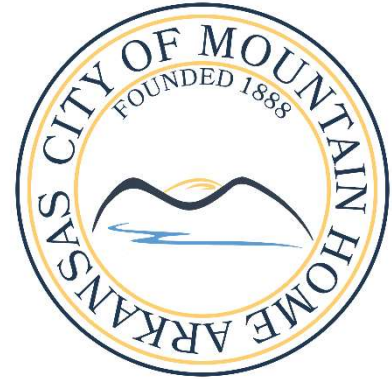
Minutes from the January 18<sup>th</sup> Council meeting

Committee reports

Bank reconciliations

Agenda additions

Announcements



### **OLD BUSINESS**

### **NEW BUSINESS**

***A RESOLUTION AMENDING RESOLUTION NO. 2022-12 PROVIDING FOR AND ADOPTING A BUDGET FOR THE CITY OF MOUNTAIN HOME, ARKANSAS FOR THE TWELVE (12) MONTHS BEGINNING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2023, APPROPRIATING MONEY FOR EACH AND EVERY ITEM OF EXPENDITURE, presented by Alma Clark***

***STUDY ON THE CITY'S WATER AND SEWER RATES, presented by Kirby Rowland and Steve Hill***

***ARKANSAS GAME AND FISH COMMISSION'S INTEREST REGARDING CERTAIN CITY PROPERTY, presented by Hillrey Adams***

***A RESOLUTION DESIGNATING ECONOMIC DEVELOPMENT AS A PROFESSIONAL SERVICE UNDER A.C.A. 19-11-801, presented by Roger Morgan***

### **COMMENTS**

### **ADJOURN**

**Respectfully submitted,  
Scott Liles, City Clerk**

REVISIONS ARE **IN RED**

MINUTES

REGULAR CITY COUNCIL MEETING – Thursday, January 4th, 2024

1. The Mountain Home City Council met in regular session on January 4th, 2024, in the Council Chambers of the Municipal Building. Mayor Hillrey Adams called the meeting to order at 6 p.m.
2. **CITY OFFICIALS IN ATTENDANCE** Mayor Hillrey Adams, City Clerk Scott Liles, City Attorney Roger Morgan, Police Chief Eddie Griffin, Fire Chief Kris Quick and Parks Director Daniel Baxley.
3. **MEDIA IN ATTENDANCE** Caroline Spears of the Baxter Bulletin. The meeting was also streamed on Facebook by XL-7 TV.
4. **IN MEMORIAM** *Following the Pledge of Allegiance, in lieu of a prayer a moment of silence was observed for the late Calvin Czeschin, who passed away Wednesday at the age of 88. Czeschin was a longtime community leader whose interests included the Mountain Home Telephone Company (later the Yelcot Communications), several area banks and the Ultimate Auto Group family of car dealerships. He was also an original member of the Mountain Home Land Group, which owns the Big Creek Golf and Country Club. In 2021, the City Council recognized Czeschin's birthday of December 8 as Calvin Czeschin Day in recognition of his contributions to the City.*
5. **ROLL CALL** After observing the moment of silence, the following Council members were present for the roll call: Bob Van Haaren, Susan Stockton, Jennifer Baker, Carry Manuel, Jim Bodenhamer and Nick Reed. Absent were Wayne Almond and Paige Evans.
6. **DECEMBER 21<sup>st</sup> MINUTES** Council member Jennifer Baker made a motion to approve the minutes from the December 21, 2023 meeting. The motion was seconded by council member Susan Stockton. The vote was recorded as follows: Bob Van Haaren, *Susan Stockton, Jennifer Baker, Carry Manuel, Jim Bodenhamer and Nick Reed* – Yes. *The motion was carried, and the December 21<sup>st</sup> minutes were declared adopted.*
7. **NEW BUSINESS**

**A RESOLUTION SETTING FORTH ORGANIZATION FOR THE CITY OF MOUNTAIN HOME, ARKANSAS** State law requires local governments to adopt an organizational resolution at the body's first meeting in January. The resolution establishes the meeting dates and times for the City Council, details the particulars of a typical Council meeting and establishes Council committees. The only notable change to the City of Mountain Home's proposed organizational resolution is changing the Council's meeting times from 6 p.m. on the first and third Thursdays of the month to 5 p.m. on the same dates. Council

member Jennifer Baker made a motion to adopt the proposed resolution and was seconded by Council member Carry Manuel. *The vote was recorded as follows: All present – Yes. The resolution was declared adopted and numbered Resolution 2024-1. Beginning with the Jan. 18 meeting, the Council will begin meeting at 5 p.m.*

**A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF MOUNTAIN HOME TO ATTACH LIENS TO CERTAIN PROPERTIES LOCATED AT THE ADDRESSES SPECIFIED IN THIS RESOLUTION FOR THE PURPOSE OF COLLECTING MONIES WHICH ARE OWED THE CITY OF MOUNTAIN HOME FOR ENFORCEMENT OF ORDINANCE NO. 2020-20**

If approved, this resolution would allow the City to attach a \$9,058.51 cleanup lien to property owned by Caleb Woodell at 1700 Rossi Road. The City recently stepped in to clean up the property, and that process required eight trips to the landfill, one trip to dispose of waste tires and the rental of a commercial dumpster. The City would recoup its money if the landowner pays the City or when the property is sold to a new owner. Council member Bob Van Haaren made a motion to adopt the resolution and drew a second from Council member Nick Reed. *The vote was recorded as follows: All present – Yes. The resolution was declared adopted and numbered Resolution 2024-2.*

**REQUEST FROM THE MOUNTAIN HOME POLICE DEPARTMENT TO DISPOSE OF EQUIPMENT**

Police Chief Eddie Griffin asked the Council's permission to dispose of a half-dozen pieces of equipment. Those items included an IBM ThinkPad (Serial #AF-1CFRX, property tag #0507); a John Deere riding lawnmower (LA110 Automatic 42-inch); a 16-foot, dual-axle Special Response Team trailer (VIN#5BFCC18268J033202); a 5,500-watt Briggs & Stratton generator (Serial #1016315789); a 5,700-watt McCulloch generator (Serial #2005H0023752) and a remote area lighting system (Serial #017673 and 017674). The ThinkPad and lighting system will be destroyed while the rest will be sold at auction. *Council member Jennifer Baker made a motion to approve the Police Department's request, and drew a second from Council member Bob Van Haaren. The vote was recorded as follows: All present – Yes. The Police Department's request to dispose of the equipment was approved.*

***CLERK'S NOTE*** *The original minutes from the Jan. 4 City Council meeting were approved on Jan. 18, 2024, but afterwards it was noted that the voting to dispose of the Police Department equipment was not included in that draft of the minutes. On Feb. 1, the Council voted to amend the existing minutes to add the results of that vote to the record; that addition is reflected above.*

**COULTER CELEBRATION OF LIGHTS** Mayor Hillrey Adams reported that the Coulter Celebration of Lights welcomed 9,045 cars in 2023 and collected \$38,300 in donations. As with previous years, 25 percent of that revenue will go towards Arkansas State University-Mountain Home scholarships, while the rest cover operating costs and expansions.

**8. ADJOURN**

With no further business to come before the council, Mayor Hillrey Adams declared the meeting adjourned at 6:14 p.m.

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**HILLREY ADAMS, MAYOR**

**ATTEST:**

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**SCOTT LILES, CITY CLERK**

**MINUTES**  
**REGULAR CITY COUNCIL MEETING – Thursday, January 18th, 2024**

1. The Mountain Home City Council met in regular session on January 18th, 2024, in the Council Chambers of the Municipal Building. Mayor Hillrey Adams called the meeting to order at 5:02 p.m.
2. **CITY OFFICIALS IN ATTENDANCE** Mayor Hillrey Adams, City Clerk Scott Liles, City Attorney Roger Morgan, Police Chief Eddie Griffin, Public Works Director Steve Hill and Parks Director Daniel Baxley.
3. **MEDIA IN ATTENDANCE** Chris Fulton of the Mountain Home Observer. The meeting was also streamed on Facebook by XL-7 TV.
4. **ROLL CALL** Following the Pledge of Allegiance and an invocation, the following Council members were present for the roll call: Bob Van Haaren, Susan Stockton, Paige Evans, Carry Manuel, Jim Bodenhamer and Nick Reed. Absent were Jennifer Baker and Wayne Almond.
5. **JANUARY 4<sup>th</sup> MINUTES** Council member Nick Reed made a motion to approve the minutes from the Jan. 4, 2024, meeting. The motion was seconded by council member Susan Stockton. The vote was recorded as follows: *Bob Van Haaren, Susan Stockton, Carry Manuel, Jim Bodenhamer and Nick Reed – Yes. Paige Evans – Abstain. The motion was carried, and the January 4<sup>th</sup> minutes were declared adopted.*
6. **NEW BUSINESS**

**A RESOLUTION WAIVING COMPETITIVE BIDDING AND AUTHORIZING THE PURCHASE OF A 2024 FORD MAVERICK FROM ULTIMATE FORD OF MOUNTAIN HOME, FOR A SUM OF \$23,376** If approved, this would allow the Parks Department to purchase a 2024 Ford Maverick pickup truck without having to bid the item out. The truck in question is available from Ultimate Auto Group for below the state bid amount. If purchased, the Maverick will replace an early 2000s Chevy Suburban currently used by the Parks Department. Council member Bob Van Haaren made a motion to adopt the Resolution and was seconded by Council member Carry Manuel. *The vote was recorded as follows: All present – Yes. The resolution was declared adopted and numbered Resolution 2024-3.*

**A RESOLUTION WAIVING COMPETITIVE BIDDING AND AUTHORIZING THE PURCHASE OF A 2023 DODGE RAM 5500 REGULAR CAB 4x4 CHASSIS FROM RED RIVER DODGE CHRYSLER JEEP OF HEBER SPRINGS FOR A SUM OF \$90,839** If approved, this Resolution would allow the Water Department to purchase a 2023 Dodge RAM 5500 pickup truck without having to bid the item out. A 5500 is available from a Heber Springs dealership, and this model is not available through state bidding. If purchased, the truck will be used in the field by one of the City's water crews. Council member Jim Bodenhamer made a

motion to approve the Resolution, and drew a second from Council member Bob Van Haaren. *The vote was recorded as follows: All present – Yes. The resolution was declared adopted and numbered Resolution 2024-4.*

**ANIMAL CONTROL** Chris Fulton asked to address the Council about the City’s animal control service, which is contracted out to the county. His family had an injured dog show up at their house Monday, and it was not picked up by animal control until Thursday. The Fultons’ request for animal control to pick up the dog were turned down twice by the City, which cited a lack of kennel space to house the dog. Chris Fulton asked the Council to consider updating its Ordinances to provide a better animal service to residents. Revenue from pet licenses, which currently go into the General Fund, could be used to build additional kennels and support the City’s animal control efforts, he suggested.

**IN MEMORIAM** Council member Jim Bodenhamer wished to note the passing of former City officials Bonnie Conley and James ‘Jim’ Whalen. Whalen, who passed away Jan. 14 at the age of 84, served on the City Council for one term. Conley, who passed away on Jan. 16 at the age of 76, served as the City’s Treasurer for 28 years before retiring.

**AGFC PROPERTY SWAP** Mayor Hillrey Adams reported that the Arkansas Game & Fish Commission was interested in possibly swapping pieces of property with the City. The final details of the swap were being negotiated and would likely be presented to the Council at the Feb. 1 meeting for their approval, he said.

**7. ADJOURN**

With no further business to come before the council, Mayor Hillrey Adams declared the meeting adjourned at 5:17 p.m.

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**HILLREY ADAMS, MAYOR**

**ATTEST:**

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**SCOTT LILES, CITY CLERK**

Water and Wastewater Committee Meeting  
November 21, 2023

**Baxter Recycling:** The Mayor presented special guest Paul Neal from Baxter Recycling. Paul, Baxter Recycling's Board, the Mayor, Waste Connections, and others have had discussions over the last few months regarding recycling and funding options. Over the past year the City has accumulated several thousand dollars from Waste Connections for the recycling carts. The City approved payments from the account to be paid to Baxter Recycling each month as the funds are received. The City also approved selling one of our excess trucks to Baxter Recycling and they utilized proceeds from a grant to pay for it.

The Mayor learned from Baxter Recycling's board that there are serious ongoing funding issues. Waste Connections was brought in for a meeting to see if they could assist. In order for Waste Connections to help with funding, a fee would have to be tacked on to the monthly trash billing and then passed on to Baxter Recycling. There would be administrative or handling fees charged to collect and forward the funds, so not the best option.

After further conversations, the Mayor suggested looking for some form of permanent funding. Paul asked if the City could set aside annual funding similar to what the County (\$50,000) does for them. The Mayor feels annual funding could be an issue as it would depend on annual City Council approval. As Council members change, approval and amounts could change. What the Mayor proposed for a permanent revenue stream is something in conjunction with the Water/Sewer Department billing. He suggested an option of adding \$.50-\$1.00 to the monthly billing for the sole purpose of recycling and adding the fee into the annual ordinance establishing rates.

Paul indicated that labor costs have contributed to current issues – minimum wage has increased. Inflation has increased overhead (i.e. disposable gloves have doubled in price). They are unable to increase the income accordingly, because they are at the mercy of the current market price. Unfortunately, market prices have dropped over the last few years. In some cases, they barely break even on some products.

They currently process about 3 million pounds (15,000 tons) of recycling. If they go out of business, the material will have to be landfilled or trucked somewhere else to be processed. They currently pick up from about 300 businesses free of charge.

They currently employ about 50 clients (disabled) and 15 staff. Medicaid funding assists with staff salaries, transportation, overhead, and educational materials. The recycling revenue has never covered all expenses and Medicaid funding has decreased because enrollment has decreased. Enrollment has decreased because the process for a client to work at the center has become more difficult.

The Mayor said they also discussed an income option similar to the County's Animal Control fund. It's voluntary and generates about \$60-65,000 annually. Would recycling do better? He also encouraged Paul to collaborate with the Food Bank of North Central Arkansas and their Board of Directors. They are great at finding funds and writing grants. They also have tremendous community support. Another option Paul mentioned was charging Waste Connections a sorting fee, which would be passed on to the customer.

When asked how much needed to be raised, Paul indicated \$75,000-100,000 annually.

There are approximately 8,400 meters inside the City. At \$0.25 per meter, per month, there could be approximately \$25,200 raised annually. Bob Van Haaren stated that the City is already looking at some sizeable fee increases associated with water/sewer in the near future. It might be more beneficial to tack the fee to the trash side of the bill vs. the meter side. Act 605 is forcing the City to implement large increases over the next couple of years.

The Mayor feels the community as a whole doesn't realize what a resource Baxter Recycling is and we need to do a better job of promoting it.

#### **Project report: Steve**

7<sup>th</sup>, Colledge, and Bryant – Needs to get with Alma for update.

Lead and Copper Project: Kirby from Garver provide data packet. The City should be in good shape to provide what the State is requiring. The next piece is determining the location, how many there are, and how to go about selecting a sample set of the data.

Morris St. / N Church Water Line Upgrade: To date have spent \$252,000+. Wrapping project up. Still have a few hundred feet of pipe and some connections to make, which will require a shut down. Hope to finalize it over the next couple of weeks and start clean up.

Sewer projects: Making headway on Circle Dr. To date have spent \$268,000+. Have 756' of 8" line left to lay and 7 manholes to set. The project was shortened by 37' due to discovering a 6" service line close by.

390 Force Main Project: To date have spent \$344,600+. Have 2,309' left to complete. Have crossed over into the field parallel with Buzzard Roost Cutoff. Hope to have completed by Christmas.

SW Sewer Line Extension: Kirby delivered 100% plans today, so can start ordering materials. There are still some outstanding easements to deal with and need to get Entergy to provide power to the lift station. Hopeful to break ground during the first quarter of 2024.



### **Revenue and Expense Report: Steve**

Still bringing in more revenue than expenses overall, but the Water fund is still strongly supporting the Sewer fund. During next week's Budget Workshop, committee members may be able to see a breakdown of Water Revenue vs. Sewer Revenue.

There have been some significant unexpected expenses – Church St. extension was not planned. Hospital Drive was approximately \$38,000 that we had not planned for this year. Both VAC trucks have been down. One is back, but the 2020 truck is in Memphis and the pump needed isn't scheduled to arrive for 40 days. It is not under warranty, so looking at about \$40,000 to repair. The 2020 truck has had several issues, so there have been discussions of selling it and buying something different.

Water Loss Report: Dropped down to 19.3% in October. Leak on Hospital Drive has been repaired. Leak at Trailer Park on Hwy 5 (2" service) has been repaired. They both appeared to have been leaking for quite some time, so the repairs are driving the numbers down. However, there are still 25 open work orders for known leaks.

### **Update from Kirby (Garver):**

Wastewater plant project from 2019 is COMPLETE.

Water Intake Project: Lake Norfolk Corp of Engineers – since 2014 we have a nationwide permit to do the water intake project and an easement for right-of-way, which gives us permission to cut down trees and clear the site. One thing still to be done is Real Estate Out Grant. Kirby has a copy of the Finding of No Significant Impact report. Once it is finished and signed, we'll be fully permitted. He's hopeful that Congress will fight through some appropriation deals and there will be money to continue the project design.

Allocation project: Nothing to add until the COE does the White River Master Plan, which could be three years away.

2024 Improvements Project: Met with ADFA re: sales tax exemption. They told us we wouldn't get an opinion until 2024. We discussed looking at using a sales tax attorney, reviewing previous opinions, and working with contractor to get a lot of the exemption done. Discussed adding a SCATA System – working on the contract amendment. The TOLM group was selected to enter into negotiations as CMAR. Hope to have something to present to Counsel on December 7<sup>th</sup>.

SW Collection System: Plans submitted to City and Health Department. Waiting on 404 Permit. Hope to break ground during the first quarter of 2024. Need to amend contract for construction services - Project started out as a \$9Mil project, but some expected funding was not received, so project was scaled back. The City will be constructing, but this amendment would allow Garver to assist in permitting issues and the design and implementation of the

SCADA system. Almost half of this contract is for the SCADA, which was not in the original project, and \$9,000 is for cultural resources.

Master Plan: Received information from UALR State Data Center. The projected population for Baxter County in 2050 is 41,969 citizens. That is approximately 5,000 less than the previous study. The projected growth of Baxter County is only 350+ over the next 25 years. The City was projected to have a population of 13,041 in 2025 and grow to 14,028 by 2050. The numbers are obviously off somewhere, so Kirby feels confident in the projections he has done.

Lead and Copper Rule: Draft turned into the City. There are about 400 sites that need to be physically tested, but it's all over the County. Currently, testing is to be completed by October.

Rates Study: Synopsis completed. Mentioned Sewer Deficits – 2022 was 27% deficit, 2023 is projected at 39%. Bond rates have gone up substantially. Revenue and Expenses have been projected. There is a current recommendation of 18%+ CPI. Steve recommended planning for an 18%+ CPI over the next three years and reviewing it every year for adjustments.

After some discussion, Paige Evans suggested a 3-5 bullet point fact sheet regarding the impending increases be put together and given to Council members, so everyone can share the same concise information. She also suggested a brief statement as to what happened and why the City didn't increase the rates for many years.

Steve stated a culmination of several things are driving the rate increase:

- City is behind in raising rates – Fix past mistake of good intentions/Water side covered Sewer.
- 605 forcing – Regulatory.
- WWTP needs rehabilitation (transfer away from chlorine to UV) – Sustainability.

Nick Reed recommended including rate increase numbers from other cities as a comparison. Mountain Home is not as far behind as some others.

Paige wanted to confirm that we CANNOT use general funds to “bail us out”. Sewer must pay for itself per 605.

Steve reiterated that sustainability is crucial.

#### **Updates from Steve:**

Ordinance 599 amendment: Consolidate and streamline, add increases on tapping fees and deposits. We're currently losing money on tapping fees. Fees have not been updated since 2007. Proposing eliminating 1-1/2" meters. Also, increase Residential Deposits from \$125 to \$155. Fee has not increased since 2007. The minimum bill has increased since that time and the new deposit amount will now cover losses (approximately 2 months of charges).

Scott Liles stated that once the ordinance is amended, it will have water and sewer rates, along with other information the customer needs.

Budget: Plan to add 6 additional staff for next year.

- Water Dept: Proactive leak detection and repair. A lot of 2" galvanized pipe needs to be replaced. Currently have one water construction crew that handles capital projects and one repair crew that handles leaks. There is an average of 25 work orders a month, so not gaining ground.
- Sewer: Still have an I & I problem. Was being significantly addressed, but have backed away from over the last year or so. We have equipment that hasn't been deployed in over a year. Would like to have people to put out in the field.

Kirby added that a Correction Action Plan was required by the Department of Energy and Environment a few years ago. They threatened to do a Consent Order if the City didn't reduce their I&I. The City worked on it diligently for three years and reduced overflows from 85 down to 15-20. However, in the final report, the City said they would continue to do to reduce as in the past three years. Kirby cautioned not to let things go until it became a problem again. Steve said it's a lack of manpower to stay on top of everything. Steve is putting plans into place, but more manpower is needed.

- Four positions will be construction related and two positions will be condition assessment and maintenance related (maintenance, data collection, analysis, etc.).

Paige asked how long it has been since staff was increased. Steve thinks 10 years, but will check.

Update: Water/Sewer added two (2) position in 2013-2014.

## **Water / Wastewater Committee Meeting December 19, 2023**

### **Revenue and Expense Report: Steve**

Ending November 20, 2023 - \$2,440,103.94 in Cash/Revenue account. Seems to be holding steady. Noted that Operating Expenses/Repair and Replacement Maintenance of Equipment went over budget, due to having to repair both Vector trucks. A budget adjustment has been made to accommodate.

### **Discussion on Vector truck: Steve**

Repairs were about \$33,000 on 2020 truck this time. It has been to Memphis for repair five times since its purchase in 2020. Truck was purchased for approximately \$360,000 and then we spent \$20,000 in upgrades. Not sure of the total cost of repairs over time, but Steve is checking into replacing it. Steve has been in contact with a vendor that is looking for something with less computerized equipment. Another option is leasing vs. purchasing.

### **Project report: Steve**

Dyer St. and Circle Dr. – 378' of 8" pipe and 2 manholes remain to be installed. Then cleanup, restoration, and final punch list items. Estimated completion of project is mid-January 2024.

N. Church Water Line Upgrade: All tie-ins have been completed. All customers are being served from newly installed mains. Street cuts and crossings have been filled temporarily with cold mix until able to do asphalt in the spring. Remaining: Repair "dug through" driveway aprons, cleanup, restoration, and final punch list items.

390 Force Main Project: All pipe has been installed. Pressure testing completed last week. Cut over was done this morning.

### Upcoming Projects:

- 10<sup>th</sup> and Jay – Start mid-January.
- KFC Sanitary Sewer Line – Investigating options for CIPP lining instead of trench and replace.
- SW Sewer Collections Project – Started ordering materials. Have 4,420' of 8" and 4" force main to install, along with a new lift station with SCADA. There will also be two highway crossings, which will be 12" gravity sewer that will be capped on each end and ready for future growth.

## **Water Loss Report: Steve**

Water Loss for November jumped to 33.5%. Steve does not have a logical explanation for the significant increase. His operational plan is to work diligently to get the known leaks repaired before winter sets in, which may mean a delay in moving a crew to the 10<sup>th</sup> and Jay project. Overall, the average water loss is still in line for the year at 25.7%.

## **Update from Kirby (Garver):**

Wastewater Plant Project from 2019 is COMPLETE. Final documents are being processed.

## Water Intake Project:

- Easement acquisition on Dabney property is still outstanding.
- Received Nationwide Permit and Easement for Right-of-Way for the Intake Project.
- Still pending is the District Level USACE approvals for: (anticipated District approval in Spring of 2024)
  - o USACE Real Estate Outgrant Agreement, which includes:
    - Regulatory Requirements
    - Section 408
    - National Environmental Policy Act
    - Section 106
- One of the 2024 Appropriations Bills currently being considered in the United States Congress contains a Congressionally Directed Spending request of \$1 million for the design of the Lake Intake, Transmission Main, and Water Treatment Plant project.
- An additional amount will have to cost-shared by the City to supplement the \$1 million from the Appropriation Bill for the project design.

Allocation project: No further action will be taken on an allocation request until the Lake Norfolk Master Plan Update has been completed by the USACE.

## Wastewater Treatment Plant 2024 Improvements Project:

- An opinion from the Arkansas Department of Finance and Administration (ADFA) is not expected until 2024. The City's option of proceeding with their own exemption opinion is being examined (this is allowed by ADFA).
- An Engineering Agreement Amendment for the complete revamp of the WWTP system SCADA is under review for inclusion to the project.
- TOLM contractor has been approved as the CMAR for this project. Have had several meetings with them and are outlining target dates for guaranteed maximum price list at the 30% level for January 16, 2024.
- This project will require a National Pollutant Discharge Elimination System (NPDES) permit modification and Construction Permit from the Arkansas Department of Energy and Environment – Division of Environmental Quality and approval by the Arkansas Department of Health (ADH).

#### SCADA Services and Design Services Contract discussion:

- Steve: SCADA Design Services are being added to Garver's contract (ethernet, wireless, 900mgh radio, software, integration, etc.)
- Kirby: SCADA has two parts:
  - o Hardware designed by Garver and built by contractor (panels, radios, monitoring equipment).
  - o Programming (software designed by Garver).
- Steve: Wants to present contract amendment to Council this week so Garver can deliver a 30% SCADA design to TOLM, so TOLM can get material pricing for the system. \$149,000 for additional design services and \$244,000 for SCADA application services. Amendment will take existing contract price from \$1,958,000 to \$2,351,000.
- Kirby: Project cost of SCADA will be around \$2,067,000. Along with the current \$10 Mil Bond Issue, we're looking at doing another \$10 Mil Bond Issue that will cover the project, engineering, and CMAR. There will also be some money left over from the previous project that can be used for this project.
- Paige: Wasn't original cost projection \$10 Mil?
- Kirby: Yes, but since then it was decided that the UV needed to be inside a building (additional \$5 Mil), SCADA (additional \$2 Mil), along with other additions/changes. Inflationary costs have also increased significantly.
- Steve: To date all costs have been estimated. Once the CMAR establishes costs, we will be able to adjust the design and materials.
- Bob: Why was Vac Truck Dump Facility taken out of plan?
- Kirby: That was a decision made by the City. The City decided to take care of it on their own.
- Steve: There are two components that could be deferred to another time: UV Disinfectant and full SCADA upgrade. Parts of the SCADA upgrade have to be done. If we don't do the UV Disinfectant, there are some upgrades that have to happen at the chlorine scrubber building, however, the safety and environmental issues will still be present. On January 16<sup>th</sup>, we'll receive a GNP that will give us a good idea of the costs and we'll get another in a couple of months for 60% of the design. As the design is occurring, we'll receive updates on costs, so by April or May, we should have a really clear picture of where we are headed.

#### Sewer Rate Increase Discussion:

- Steve: This is all tied to some decisions we'll have to make related to the sewer rates in 2024. With this project, Act 605 and the coming legislation, this committee will be making the decision on whether to increase the sewer rates by 15% or 21% over the next 2-3 years. Cost to the customer is the most important part – we want to provide the best customer service, which means we have to protect our infrastructure and still be mindful of the costs and escalating things that happen to real people in our community. We're in better shape than a lot of communities across Arkansas and across the country. Because the committee has been proactive over the past two years, it does shorten the timeframe to bring the rates in line.

- Nick: Where are we at with Bullet point items to discuss with citizens?
- Steve: I hope to have those ready for all of you by first part of January.
  - o Act 605: Driving a lot of decisions. We had a plan, but legislation is dictating a tighter time frame.
  - o 2006-2013?: There were no rate increases during those years.
  - o Comparing to other cities and utilities: Greenwood is increasing 200+%.
- Paige: Where did 605 legislation come from?
- Kirby: Some water utilities were not taking care of business and they started having poor water quality. In some cases, money was being taken and it was creating health hazards. They were going under and Arkansas Water has taken over several systems. Legislature felt they needed to stop it to prevent a serious outbreak of problems. The fact that you now have to take 5% of your revenue and put it an account is an unexpected whammy.
- Steve: Water revenues have been supporting the Sanitary, so our issue is not on the Water side. Act 605 states that that these two funds must be self-sustaining, so we have to get revenue on the Sewer side to be more in line with what it takes to operate a sewer collection system and a wastewater treatment plant. We've started putting a foundation in place in the 2024 budget for the 5%. We're being proactive.

#### SW Collection System:

- Received final permits from Corp of Engineers and Cultural Resource Agencies that project can now proceed.
- Project plans are still under review by the Arkansas Department of Health (ADH) for their approval.
- The City is in the process of obtaining the needed easements.

#### Master Plan:

- The final Master Plan document is under review by the City.
- This project will require approval by the ADH and ANRC.
- Finally received Census data and incorporated it into report.
- Incorporated some work done on water tanks as to when work and repairs may be done.
- Should have report ready for release in early 2024.

#### Lead and Copper Rule:

- The water system inventory involving the identifying and delineating of the initial classifications (non-lead and unknown materials) of the service lines has been completed. A Draft Technical Memorandum has been completed and delivered to the City for their review. The final date for the inventory and physical inspection results is due to the Arkansas Department of Health by October 2024.
- EPA is in the process of revising the Lead and Copper Rule for what is going to be needed after completion of the system inventory requirement of the Rule. These initial changes have not yet been released.
- Kirby and Steve will work together to develop a plan to meet the requirements.

Steve: We will have an inventory to deliver in October 2024. I hope to minimize the number of unknowns in that inventory, which will help determine what their percentages will be as far as what we have to replace and the timelines. Ironically, the Federal EPA kept reminding us that the States have the ability to shorten or condense timelines, so instead of two years to complete the changes, we could have significantly less.

#### Rate Study:

- The City Water and Sewer Rate Study has been completed in DRAFT form and is under review and discussion with the City.
- With all the variables (Act 605, bond issues, CMAR, interest rates, etc.), we will wait until after February when the new CPI numbers come out before issuing final report.

#### Discussion:

- Steve: We are planning for the worst-case scenario – 21 to 21.5% increase every year (2024, 2025, 2026).
- Kirby: Until you see the audit and what expenses have been, it's hard to determine the exact rate increase needed. Last year there were 19% and 22% increases in expenses, but I don't think we'll see that this year. It changes dramatically from one year to the next. If you do these increases accordingly, you will find your water rates, water surpluses will be in good shape because you will not be using that money for sewer now.
- Kirby: Doesn't recommend using "percentage" verbiage regarding rate increases. Using a dollar amount of \$4.97 increase is a softer hit than 22% increase. When you include trash in bill, customers may assume there will be a 22% increase of overall bill instead of just to a line item.



## **Water / Wastewater Committee Meeting January 16, 2024**

**Roll call:** Bob Van Haaren, Nick Reed, Paige Evans, Steve Hill, Mayor Hillrey Adams, Alma Clark, and Kirby Rowland (by phone).

### **Revenue and Expense Report: Steve**

December 2023 – Nothing significant to report. Cash account is doing well. We continue to put monies into Water/Sewer Expansion Funds and Depreciation, as normal. There are some ARPA funds left, but those will be expending shortly as we gear up for the SW Sewer Project.

### **Water Loss Report: Steve**

Water Loss for December was 36.3%. Annual water loss average for 2023 was 26.6%, which is slightly above the 2022 average of 25%. Water and Sewer crews have been working diligently on known leaks. With the recent freezing temperatures, we may experience an up-tick in leaks once thawing begins.

### **Project report: Steve**

#### Projects completed in latter 2023:

- 390 Force Main – there may be a few outstanding invoices, but project is complete.
- Morris and Church Sewer Line – Will have some reseeding to do in Spring after Street Dept. does paving.
- Hargrave Water Line

7<sup>th</sup> St. / College / Bryant Water Main Upgrade: Has been on hold, but will start soon. Currently working with Planning and Engineering on the 7<sup>th</sup> St. design.

Ohio and Connie: Small section needs to be looped in appropriately. Need to meet briefly with Planning and Engineering before beginning.

Lead and Copper Project: – Been on pause waiting on new terms from EPA. Now that information has been released, we need to start in earnest to make sure we're in compliance. Kirby will provide further information in his update.

Morris and Church Street: In 2023 we spent \$127,846.66 for a total project cost to-date of \$296,816.66.

10<sup>th</sup> and Jay: Just starting project and have spent \$1,315.67 to date.

Circle Drive Sewer: All customers are on new line and doing cleanup now. In 2023 we spent \$309,917.12. Overall project cost to-date is \$345,712.83.

SW Sewer Extension: We've been getting easements and purchasing materials. To-date we have spent \$179,148.60.

**Update from Kirby (Garver):**

Wastewater Plant Project from 2019 is complete. Final documents are being processed.

Lake Norfolk Water Intake Project: (No new updates)

- District Level USACE approvals still pending. Anticipated District approval in Spring of 2024.

Allocation Project: No new updates. It's all tied to the new White River Comprehensive Master Plan update, which has not been started yet.

Wastewater Treatment Plant 2024 Improvements Project:

- We just received the 30% submittal on the GMP from the contractor. We'll review it and discuss it in a meeting next week.
- We are also getting pricing to replace the screw pumps. They lift the wastewater at the head of the plant and are vital to its operation. A recent electrical storm damaged the control/electrical equipment significantly and they have since become a priority. The plan is to install them as soon as we can get them.
- We will be meeting with the Arkansas Health Department with the 30% and 60% GMP plans and then with Arkansas Department of Energy and Environment (ADEQ) at 60% to ensure the permitting process is ongoing. Working with them throughout the process instead of waiting until we're at 100% to start will ensure timely permit approvals.

SW Collection System:

- Project plans are still under review by the Arkansas Department of Health (ADH).
- The City is in the process of ordering materials and obtaining the needed easements.

Master Plan:

- The final Master Plan document is under review by the City.
- This project will require approval by the ADH and ANRC.

Lead and Copper Rule:

- The EPA has released their updated requirements. Some of the requirements have been postponed, but some are more stringent. Some of the requirements could extend to 2034, however, the October 2024 requirement of having inventory and investigation completed did NOT change. As soon as the new requirements have

been reviewed by Kirby and Steve, a game plan will be put in place to get started on the work.

Rate Study:

- The City Water and Sewer Rate Study has been completed in DRAFT form and is under review and discussion with the City.

Rate Study Discussion:

Recommendation to the committee is going to be 21.7% total rate increase, which is CPI plus 18% for sewer rates. Water rate increase recommendation is CPI.

Draft bullet points for community discussion as requested:

- No water or sewer rate increases from 2010 to 2016.
- In 2017, Council implemented a plan to address the deficiencies. (10-year plan?)
- Arkansas Act 605 has compressed timeline to have both water and sewer funds self-sufficient by July 2026.
- 2010-2016 CPI increase was just over 10% with no increase in water or sewer rates. This is a compounding issue.
- Comparison of similar towns: Greenwood, AR, just passed their increases. For 2024, an average user's monthly bill will increase by \$22.00. In 2025, they are expecting an additional \$8.00 per month.
- At 21.7% for sewer, we are proposing a 2024 increase of \$4.80-\$7.03 increase per month for the average user. There would be an additional \$6.00-\$8.88 increase per month in 2025 for the average user.
- He would like to include a chart that compares other similar cities to Mountain Home, but this is difficult to obtain.

Our situation is unique. Water Fund is currently good, but the Sewer Fund side. By 2026 the Water Revenues will no longer be allowed to subsidize the Sewer side. We put money into the Expansion Fund and Depreciation Fund, but those numbers must increase due to the 5% of revenue rule of Act 605. The good news is that we have been setting side funds we just have to adjust.

A conversation regarding comparing to other water/sewer utilities ensued. There is debate on the usefulness of this information. Some believe that our customers will only be concerned about the impact to them. Others can see that giving information about other utilities can help customers see that we are not as bad off as others. In general, it's good for people to know that Act 605 is affecting every city in the State of Arkansas.

Important information – Act 605 leaves us no choice and our predecessors went six years without doing increases. If they had been following the CPI all along, we wouldn't be looking at near what we're looking at now. The public got a good deal for a long time and now we have to catch up.

For the last few several years (2017) we have been raising the rates based on the CPI. That shows that we have been aware and working towards bringing the rates in line. If we continued, it would have taken about six years, however, Act 605 compresses that timeline to two or three years.

Kirby made the point that inflation was less this past year. That will help with the rate study. Your expansions went way up on water and sewer – 22% increase in expenses on the sewer side in 2022. 2023 will probably be less than that, so each year that we do the study will give us a good picture and we may not have to do a 21% increase next year. Revenues are continuing to go up because you did CPI. If your expenses come down or don't increase significantly, that can change the rate structure, which means you may not have to increase rates as much.

Steve said that thanks to Alma for putting a chart together that shows the rate changes for 2024. Looking at the chart, the rate study is showing CPI 3.7% increase with an additional 18% on the sewer for 2024, which is an overall 21.7% increase. The average user's (4,500 gal per month) bill would go from \$32.41 to \$39.44 in 2024. Steve then asked committee, "Do you feel we should do the 21.7% increase or round it up to 22% for 2024?" Everyone on the committee agreed to stay with the 21.7% increase.

Will continue to work on the one-sheet public discussion information. Schedule-wise, we'll present the Rate Study from Garver at the first Council Meeting in February and then recommend an ordinance change to include the rate increases for 2024 at the second Council Meeting in February.

Steve also noted that water/sewer committee members have been "brought along for the ride" and gone through this. There are several others on the Council who have not had that opportunity, so Steve plans to meet with them individually to provide them with the same information to make sure they have as much knowledge on this subject as possible.

Meeting adjourned at 5:20 p.m.

Street Committee  
January 16, 2024 – 12:30 p.m.

The meeting was called to order at 12:29 p.m.; present were Scott Manchester, Assistant Director of Streets; Jim Bodenhamer and Susan Stockton, Committee members; Arnold Knox and Steve Hill.

Scott distributed the Street Department Year End Report, and it was reviewed. The Street Report for December was also reviewed.

Scott reported, work has stopped for the time being at the Access Road to the community center. The total spent as of December 31 is \$220,764.89.

The Bike Path Phase 2 has been completed to Wade Street. There is approximately \$53,000 from the grant, to be reimbursed to the city when the project is closed out and sent to ARDOT. The total cost as of December 31 is \$413,085.69.

At the Community Center location, after red clay had been hauled in for the gym pad last month, it is now ready for the contractors to begin their work. Scott reported there are crews working at the pool pad area and digging out for parking lots for contractors to park their vehicles and

equipment. The cost to the Community Center is \$268,927.27.

North Church Street rebuild is just about complete. All culvert, curbing and sidewalks are in, and new asphalt will go down in the spring. The cost to North Church Street is \$143,119.38.

The Morris Street rebuild is going well. The cost through December 31 is \$64,433.21. All the curbs are in, and the crew is working on pouring new sidewalk. Landscaping will follow and new asphalt will be placed in the spring, the same as North Church St.

The Christmas Light display at ASU totaled \$4,954.18 this year. This included putting up the lights and decorations, and then taking them down.

Maintenance for the month of December totaled \$19,311.67. This includes sign maintenance, crack sealing, trimming limbs, etc.

The Budget Summary was reviewed.

The traffic signal at 62 and 6<sup>th</sup> street was discussed. This light was taken out *early* January 1. Scott reported the poles are order and will take approximately 12 weeks to receive.

The light heads will not take long but will have to wait for the poles to arrive. At this time, there are Stop signs placed for a 4 way stop at that intersection. Susan asked if there had ever been a consideration of making that intersection a left turn arrow onto W. 6<sup>th</sup> (West Rd). Arnie told the Committee, the first delivery date for a pole was to be about 12 months. If that was the case, the intersection would have a request for a left turn onto W. 6<sup>th</sup> St. He added a redesign takes a lot of time to get through the highway department. He said there is a way to get a left turn in there, but it will still take a redesign of the intersection. The main priority is to get the pole back up and later to consider the intersection redesign, somewhat like the Club Boulevard light. Jim asked if the person involved in the accident would reimburse the city, and if there is a total cost for replacement. Arnie said it has been submitted to their insurance company, and there is an estimate of \$18,000 for materials.

Jim asked if there had been any response from ARDOT on the request for a traffic study coming out of Big Creek onto Highway 62 West, due to the new Community Center being built. Arnie said ARDOT will not begin any kind of traffic study until it is in place, built and completed. He added, we will keep petitioning for a study.

Scott reported the future projects for 2024 to the Committee are planned as follows: Besides crews working at McCabe

Park, Katherine Drive and Deer Path, both in Carlile Highlands have spring issues where water runs constantly; they will be rebuilt to take care of that problem; Delwood Lane will be rebuilt; The Street Department is assisting the Baxter County Sheriff's with a headwall for their new parking lot; and RV layouts for the upcoming eclipse. Arnie told the Committee the Mayor has asked to have some parking spaces made "dry camping" on the asphalt at the parks.

Jim asked if the Street Department has the laydown machine ordered. Arnie said they are a special build, and it is was told it may arrive this summer, but could be as long as spring of 2025.

The recent snowfall was discussed, Scott said the guys did a great job clearing the streets.

Scott told Susan he hadn't forgotten about the intersection at 1<sup>st</sup> and Leatherwood. He said they signs he was planning on using are being used at the 6<sup>th</sup> Street intersection for the time being.

The meeting was adjourned at 12:51 p.m.



**RESOLUTION NO. 2024-XX  
AMENDING 2023 BUDGET  
For the City of Mountain Home, Arkansas**

**A RESOLUTION AMENDING RESOLUTION #2022 - 12 PROVIDING FOR AND ADOPTING A BUDGET  
FOR THE CITY OF MOUNTAIN HOME, ARKANSAS FOR THE TWELVE (12) MONTHS BEGINNING  
JANUARY 1, 2023 AND ENDING DECEMBER 31, 2023, APPROPRIATING MONEY FOR EACH  
AND EVERY ITEM OF EXPENDITURE.**

**WHEREAS**, the City Council has made a comprehensive study and review of the proposed budget, and

**WHEREAS**, it is the opinion of the City Council that the schedules and exhibits of financial information prepared and reviewed revealing anticipated revenues and expenditures for the calendar year appear to be as accurate as possible for budgetary purposes.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF MOUNTAIN HOME, ARKANSAS:**

**Section 1.** This resolution shall be known as the budget resolution for the City of Mountain Home, Arkansas for the twelve (12) month period beginning January 1, 2023, and ending December 31, 2023, reflecting actual revenues and expenditures as hereinafter set forth below. All revenues herein are actual and all appropriations are calculated upon available revenues.

<u>REVENUES</u>	<u>BUDGET</u> 2023	<u>EXPENDITURES</u>	<u>BUDGET</u> 2023
GENERAL	\$14,154,987.42	GENERAL	\$5,220,514.32
MOUNTAIN HOME CEMETERY	\$81,090.73	PLANNING & ENGINEERING	\$659,074.11
FIRE DEPT. APPARATUS FUND	\$392,179.02	FIRE	\$2,762,587.02
FIRE DEPT DONATION FUND	\$130,907.28	POLICE	\$2,996,545.41
PARKS & REC SALES TAX FUND	\$4,030,688.90	COURTS	\$489,389.26
PUBLIC SAFETY TAX	\$7,097,740.09	YOUTH CENTER	\$574,640.23
PAYROLL FUND	\$11,476.76	PARKS	\$1,452,237.07
STREET	\$8,801,180.07	MOUNTAIN HOME CEMETERY	\$81,090.73
WATER & SEWER DEPARTMENT	\$17,683,361.44	FIRE DEPT. APPARATUS FUND	\$392,179.02
BREATHALYZER	\$10,787.13	FIRE DEPT DONATION FUND	\$130,907.28
CRIMINAL JUSTICE	\$31,142.39	PARKS & REC SALES TAX FUND	\$4,030,688.90
COURT AUTOMATION	\$6,119.99	PUBLIC SAFETY TAX	\$7,097,740.09
AMENDMENT 80	\$41,381.79	PAYROLL FUND	\$11,476.76
DWI/DRUG CONTROL FUND	\$8,875.95	STREET	\$8,801,180.07
ELECTRONIC WARRANT	\$1,311.88	WATER DEPARTMENT	\$10,916,787.30
		SEWER DEPARTMENT	\$4,924,275.61
		WATER TREATMENT PLANT	\$1,842,298.53
		BREATHALYZER	\$10,787.13
		CRIMINAL JUSTICE	\$31,142.39
		COURT AUTOMATION	\$6,119.99
		AMENDMENT 80	\$41,381.79
		DWI/DRUG CONTROL FUND	\$8,875.95
		ELECTRONIC WARRANT	\$1,311.88
<b>TOTAL REVENUE</b>	<b>\$52,483,230.84</b>	<b>TOTAL EXPENDITURES</b>	<b>\$52,483,230.84</b>
2022 COUNTY SALES TAX COLLECTIONS	\$3,217,920.53	2022 COUNTY SALES TAX COLLECTIONS	\$3,217,920.53
2022 CITY SALES TAX COLLECTIONS	\$14,706,126.27	2022 CITY SALES TAX COLLECTIONS	\$14,706,126.27

**Section 2. Annual Budget Adopted by Reference.** The Annual Budget for calendar year 2023, Identified as "2023 Annual Budget, Mountain Home, Arkansas" is hereby adopted by reference. A copy of said budget shall be filed in the office of the City Clerk and shall be available for inspection and copying by any person during normal working hours.

**Section 3. Expenditures Restricted to Specified Funds.** No expropriation of funds shall be made other than as specified in this Resolution, nor shall any expenditure be made any other way other than specified in this Resolution, or an amendment thereto.

**Section 4. Transfers.** Any transfers of monies between various funds of the City of Mountain Home shall be made only with prior approval of the Mountain Home City Council with the exception of all transfers already budgeted in this Resolution.

**Section 5.** The respective amounts of funds for each and every item of expenditure classification herein proposed in the budget for 2023 are hereby approved by the City of Mountain Home, Arkansas, and are hereby authorized and appropriated for the purposes herein set forth for the calendar year ending December 31, 2023.

**APPROVED AND ADOPTED THIS 1st DAY OF FEBRUARY, 2024**

\_\_\_\_\_  
**HILLREY ADAMS, MAYOR**

ATTEST:

\_\_\_\_\_  
**SCOTT LILES, CITY CLERK**



4701 Northshore Drive  
North Little Rock, AR 72118

TEL 501.376.3633  
FAX 501.372.8042

www.GarverUSA.com

February 1, 2024

Mr. Steve Hill, Director of Public Works  
Ms. Alma Clark, Director of Finance and Treasury  
City of Mountain Home  
720 South Hickory Street  
Mountain Home, Arkansas 72653

Re: Year 2023 Water & Wastewater Rate Review  
(2022 Audit)

Dear Steve:

We have reviewed the financials for the Mountain Home Water & Wastewater Systems as indicated by the 2022 Audited Financial Statement and incorporated that information into the attached Water and Wastewater Projection of Operating Expenses and Income spreadsheets. We also adjusted the projected years 2023 to 2026 based on trends from 2017 to 2022, also as shown in the attached spreadsheets. The following observations below describe an analysis of the developed numbers in the spreadsheets.

**Water System Spreadsheet:**

**Analysis:**

- Operating expenses increased 18.9% in 2022. For projecting future expenses, an average increase rate of 3.12% was used (calculated and averaged from the last 6 years).
- Capital Expenses in 2022 were \$250,193. At the City's direction, projected yearly Capital Expenses were set at \$325,000.
- Water revenue increased in 2022 by 5.48%. For projecting future revenue, an average increase rate of 3.78% was used (calculated and averaged from the last 6 years).
- The water system has shown a Net Income surplus for many years. In 2022 the Net Income surplus dropped almost 34% from the previous year due mainly to increased operating expenses.

Note that the 2017 Revenue Bond was paid off in 2023.

**Act 605 - Retail Water Provider Oversight Act**

- The State of Arkansas in 2021 enacted Act 605, Retail Water Provider Oversight Act, which contains several rate study requirements for a water provider. For a city with the population size of Mountain Home, the City shall obtain and submit a rate study that addresses:

### Comprehensive Cost Analysis

- Operation and Maintenance Expenses
- Financing Expenses
- Required Reserves
- Depreciation Expenses
- Future Capital Expenses
- Preparation of an Annual Audit

### Comprehensive Revenue Earnings Analysis

- Available Cash Balance
- Non-rate revenue
- Rate revenue without recommended increases/With recommended rate increases
- Debt service coverage rates
- Annualized revenue requirement

### Asset management Plan

#### Chosen Rate Design

#### Recommendations for Any Changes to the Provider's Operations

#### Certification by the Entity Performing the Rate Study that Such Study Complies with act 605 and the Rules

- ✓ The first submittal for this Act is due July 1, 2026 and to be submitted every 5 years thereafter.
  - ✓ Note that Act 605 is currently for water systems, however, it does affect wastewater systems that rely on water revenue to compensate for wastewater deficits (as noted in the wastewater analysis below).
  - Act 605 added a requirement for placing 5% of yearly Water Revenues in a "Refurbishment and Replacement Account". The City currently has two similar accounts as follows:
    - Depreciation Expense
      - \$13,000 total deposited monthly = \$156,000 yearly
      - Split evenly between the Water and Wastewater Account = \$78,000 yearly each
    - Capital Expense
      - \$12,000 total deposited monthly = \$144,000 yearly
      - Split evenly between the Water and Wastewater Account = \$72,000 yearly each
- Total yearly amount available for Refurbishment and Replacement for Water = \$150,000.

For 5% of Revenues to be placed in the above account(s), the following amounts are projected to be needed:

<u>Year</u>	<u>Projected Revenue</u>	<u>Projected 5% of Revenue</u>	<u>Current Amount</u>	<u>Projected Deficit Amount Required</u>
2023	\$5,510,744	\$275,537	\$150,000	\$125,537
2024	\$5,719,012	\$285,951	\$150,000	\$135,951
2025	\$5,935,150	\$296,758	\$150,000	\$146,758
2026	\$6,159,457	\$307,973	\$150,000	\$157,973

These projected deficit amounts required are reflected in the attached Projection of Operating Expenses and Income spreadsheets.

- ✓ It is recommended that the Refurbishment and Replacement Account requirement be administered as follows:
  - Establish separate Depreciation and Capital Expense accounts for water and wastewater to avoid any conflict with Act 605.
  - In discussion with the City, the additional Projected Deficit Amount Required, as noted above, to meet the 5% of Revenue requirement for water would be deposited in the designated water Depreciation account.

**Water Rate Adjustment**

- ✓ It is recommended that the existing water rates be maintained with the following provisions:
  - Continuation of the City applying the Consumer Price Index (CPI – South Region) to the water rates. This yearly increase moderates the inflationary cost of materials and services the City uses to provide service to the consumers.

**Wastewater System Spreadsheet:**

**Analysis:**

- Operating expenses increased 22.06% in 2022. For projecting future expenses, an average increase rate of approximately 2.94% was used (calculated and averaged from the last 6 years).
- Capital Expenses in 2022 were \$489,432. At the City’s direction, projected yearly Capital Expenses were set at \$500,000.
- Wastewater revenue increased 8.69% in 2022. For projecting future revenue, an average increase of 3.61% was used (calculated and averaged from the last 6 years).

- The wastewater system operational expenses and income analysis has shown a Net Income deficit for over 15 years. In 2020 the net income deficit exceeded 30%. Instead of applying a large one-time rate increase to eliminate the deficit, the City established 2 adjustments to help reduce this continuing deficit:
  - The City increases the rates each year in an amount equal to the Consumer Price Index (CPI – South Region). This yearly increase moderates the inflationary cost of materials and services the City uses to provide service to the consumers.
  - The City began an additional rate increase amount that would be spread over a period of several years. Starting in 2021, the City started increasing the wastewater rates an additional 5% per year so that the impact on the rate payers would be minimized versus a one-time large increase.
- The wastewater Net Income deficits in previous years were being remedied by using the Net Income surpluses from the water side. With the enactment of Act 605, the ability of a City to use water surplus funds to cover wastewater deficits will not be allowed. The wastewater system will have to be self-sustaining by 2026. This will require larger rate increases in the next 3 years to allow the wastewater revenue to be adequate to compensate for the wastewater expenses.
- The 2020 Revenue Bond payments for the recently completed work at the wastewater treatment plant (WWTP) will end by the year 2029. The initial 2022 Revenue Bond that was obtained for additional work at the WWTP (designated WWTP 2024 Improvements) was a 20 year bond and those payments will end in the year 2042.
- In early 2023, a further review of the planned additional work at the WWTP along with conditions of the existing equipment combined with the high inflationary price increases being seen on equipment costs necessitated the need for additional funding for the project. To accomplish these recommended improvements, a second \$10 million 20 year bond issue will be needed.



It is recommended that the following parameters be implemented/continued:

- As noted for the water system above, establish separate Depreciation and Capital Expense accounts for water and wastewater.
- Every year the City places \$78,000 in a Depreciation Account and \$72,000 in a Capital Expense Account for a total of \$150,000. It is recommended that the funding amounts to these accounts continue.
- Issue a \$10 million 20 year bond to complete the WWTP 2024 Improvements project.

### **Wastewater Rate Adjustment**

For 2022, the operating expenses, debt service, and capital expense were all above the previous year. This resulted in larger increases in the wastewater Net Income deficit. The following measures are recommended for the wastewater Net Income revenues to compensate for the wastewater expense:

- ✓ Continuation of the City applying the Consumer Price Index (CPI – South Region) addition to the wastewater rates that moderates the inflationary cost of materials and services the City uses to provide service to the consumers.
- ✓ Based on the projections shown, the current 5% yearly increase will need to be adjusted to 18% per year for the next 3 years. Examination of the operating expenses and revenue for each year will continue in order to confirm that Revenue will meet operation, maintenance, construction materials, and debt service costs. Further rate adjustments may be required.

## **General**

### **Debt Service Coverage**

The City currently has Revenue Bonds for water and wastewater. A certain percent Debt Service Coverage has to be maintained and is as noted below from the bond covenants:

“In the Indenture (hereinafter defined), the City has covenanted to fix and maintain rates for System services which shall produce Net Revenues (along with City sales and use tax moneys deposited to the City’s Water and Sewer Enterprise Fund) at least equal to (i) 115% of the amount necessary to pay annual principal and interest requirements on all indebtedness to which System revenues are pledged, and (ii) the amount, if any, needed to make required deposits to any debt service reserve fund created in connection with any indebtedness to which System revenues are pledged.”

The bond coverage is determined each year in the City’s annual audit. From the Audited Financial Statements for the year ending December 31, 2022, the Debt Service Coverage was 149%.

### **Lake Norfolk Intake, Water Transmission Main and Water Treatment Plant Project**

The Opinion of Probable Construction Cost for the Lake Norfolk Water Intake, Water Transmission Main, and Water Treatment Plant project is \$110 million. The project is currently in review by the United States Army Corps of Engineers (USACE) for approval to design. A Congressional Directed Spending (CDS) amount to assist in the project design has been included in one of the 2024 Congressional Appropriations Bills.

If the CDS amount becomes available the City will need to decide on proceeding with the project and will be required to cost share needed additional funding. Engineering services, which will be needed Initially and throughout the project, is estimated at \$9 million, and will require further financing to cost share this with the CDS funding. A further rate analysis would need to be completed to confirm the rate structure can provide that funding and to meet the requirements of Act 605.

Mr. Steve Hill  
Ms. Alma Clark  
February 1, 2024  
Page 6 of 6

**Water and Wastewater Master Plan Update**

The DRAFT 2024 Water and Wastewater Master Plan Update is currently under review by the City. The Update document examines the projected growth and water/wastewater utility needs for that growth to the year 2050. These rate analyses do not address all of the projects denoted in the Update. As the Update is further evaluated and the prioritization of projects to meet the needs is determined, a further analysis of the operating expenses and income of both the water and wastewater systems may be required.

If you have any questions, please feel free to contact me.

Sincerely,

GARVER, LLC



Kirby B. Rowland, PE  
Senior Project Manager

cc: Mayor Hillrey Adams

**MOUNTAIN HOME WATER AND SEWER DEPARTMENT  
PROJECTION OF OPERATING EXPENSES AND INCOME**

**WATER SYSTEM**

February, 2024

EXPENSES	2026	2025	2024	2023	2022**	2021	2020	2019	2018	2017
Operating Expense	3,789,705	3,674,958	3,563,686	3,455,782	3,351,146	2,840,947	2,868,743	2,890,649	2,752,683	2,873,609
% Change	3.12%	3.12%	3.12%	3.12%	18.90%	-0.97%	-0.76%	5.01%	-4.21%	-0.05%
2017 Bond Debt Service Interest				1,103	13,843					
2017 Bond Debt Service Principal				252,000	749,000	780,360	825,303	607,520	786,473	1,173,421
2020 Bond Debt Service Interest	7,183	9,063	10,745	12,185	12,848					
2020 Bond Debt Service Principal	132,300	129,885	127,785	99,750	46,200					
One Time Payment										
Capital Expense	\$ 325,000	\$ 325,000	\$ 325,000	\$ 325,000	\$ 250,193	\$ 177,958	\$ 414,331	\$ 303,907	\$ 215,599	\$ 380,041
Total Water Expense	4,254,188	4,138,906	4,027,216	4,145,820	4,423,230	3,799,265	4,108,377	3,802,076	3,754,755	4,427,071
REVENUE										
Water Revenue	6,159,457	5,935,150	5,719,012	5,510,744	5,310,061	5,034,009	4,634,118	4,540,254	4,618,058	4,411,098
% Change	3.78%	3.78%	3.78%	3.78%	5.48%	8.63%	2.07%	-1.68%	4.69%	2.92%
<b>NET INCOME (LESS 5% OF REVENUE PER YEAR FOR ACT 605 REQUIREMENTS)</b>	<b>1,597,297</b>	<b>1,499,487</b>	<b>1,405,846</b>	<b>1,089,387</b>	<b>808,831</b>	<b>1,156,744</b>	<b>447,741</b>	<b>660,178</b>	<b>785,303</b>	<b>(93,973)</b>
Surplus / (Deficit) %	25.93	25.26	24.58	19.77	15.23	22.98	9.66	14.54	17.01	(2.13)
2017 Bond - \$3,463 Mil Refi @ 7 year 2020 Bond - \$8,809 Mil @ 10 Year ** - Bond Debt Service Interest Removed from Operating Expense Line Item										
Numbers in Black are Based on the Audit Numbers Numbers in Red are Future Projections										





**Chris Racey**  
Chief of Staff

**Ben Batten**  
Deputy Director



**Brad Carner**  
Deputy Director

**Spencer Griffith**  
Deputy Director

## Arkansas Game and Fish Commission

**Austin Booth**  
Director

January 26, 2024

Mayor Hillrey Adams  
720 South Hickory Street  
Mountain Home, AR 72653

Re: Letter of Intent to Purchase the City of Mountain Home's Police Station Property,  
424 West 7th St., Mountain Home, AR 72653.

Dear Mayor Adams:

As you are aware, the Arkansas Game and Fish Commission (AGFC) has been in search of premises to serve as a new office facility for our area personnel and enable AGFC to better serve the citizens and natural resources of North Central Arkansas. In furtherance of that objective, my staff and I have been pursuing negotiations with you and your staff to acquire from the City of Mountain Home the property currently being used as the headquarters for the Mountain Home Police Department. This "Police Station Property" includes the building and land at 424 West 7th Street, which is also described as all of Lot 35 and part of Lot 34 in the Village Subdivision, Section 8, Township 19 North, Range 13 West, Mountain Home, Arkansas. We understand this property totals 3.0815 acres, more or less.

This letter represents AGFC's good faith intention to work towards the preparation and execution of a binding Purchase Agreement with the City that will set forth the terms and conditions for completing this acquisition. From previous conversations, we understand that the negotiated price for the City's sale of the property is \$1,118,000. Additionally, it is understood that the City is interested in acquiring ownership from AGFC of the north seven acres (which will be split from AGFC's existing 14-acre tract) located at 187 Hilltop Lane and Highway 412/62, Mountain Home, Arkansas, and is willing to accept conveyance of that acreage in exchange for crediting AGFC \$220,000 towards the price of the Police Station Property (reducing the total amount owed by AGFC to \$898,000).

If you and other City officials concur, my staff and I would like to move forward with presenting this acquisition proposal to the AGFC Commissioners for approval at their next Commission Meetings, which are scheduled for February 14-15, 2024, in Little Rock. On the other hand, if there has been misunderstanding about any of the above stated information or the City no longer wishes for AGFC to move forward with the acquisition process, then please notify me accordingly. This letter is not to be construed as a binding agreement on either party.

Should you have any questions, please do not hesitate to contact me at your earliest convenience at (501) 223-6323 or [Austin.Booth@agfc.ar.gov](mailto:Austin.Booth@agfc.ar.gov). Thank you and your staff for your cooperative efforts with this

2 Natural Resources Drive, Little Rock, AR 72205  
833-345-0325 | 501-207-0326 | [agfc.com](http://agfc.com)

important matter, and we look forward to successfully completing this property transaction for the City's and AGFC's mutual benefit.

Sincerely,



Austin Booth  
Director

cc: Chris Racey, Chief of Staff  
Ben Batten, Deputy Director  
Jim Goodhart, General Counsel  
Mike Cantrell, Chief of Operations  
Kevin Mullen, Asst. Chief of Operations

Prepared by: Roger L. Morgan  
of Sanders, Morgan, Clarke & Floyd PLLC, Attorneys at Law  
PO Box 2308, Mountain Home, AR 72654

## OFFER & ACCEPTANCE

DATE: \_\_\_\_\_, 2024.

1. The undersigned, herein called the Buyer, offers to buy, subject to the terms set forth herein, the following property:

All of Block 13 in TRUMAN'S ADDITION to the town of Mountain Home, Baxter County, Arkansas, as shown by the recorded plat.

2. The Buyer will pay \$720,000.00 for the property, payable as follows:

The Buyer shall pay to the Seller the sum of \$500,000.00 at closing and shall transfer good and merchantable title to the 7 acres fronting Highway 62 West that the Buyer is acquiring from the Arkansas Game and Fish Commission. Seller and Buyer agree that the value assigned to said 7 acre shall be the sum of \$220,000.00.

3. Special Conditions:

a) The parties shall equally share the settlement fee associated with this closing. All other costs shall be paid as is customary for closings in Baxter County, AR.

b) The parties agree that closing shall be on or about March 15, 2024.

c) The closing of this transaction shall be contingent upon the following,  
to wit:

i) Approval of the terms and conditions of this Offer and Acceptance by the City Council of the City of Mountain Home, AR;

ii) The City selling and closing the real estate upon which the Mountain Home Police Department is situated to the Arkansas Game and Fish Commission;

iii) The City receiving good and merchantable title from the Arkansas Game and Fish Commission to 7 acres fronting Highway 62 West in Mountain Home.

4. Conveyance shall be made to Buyer, or as directed by Buyer, by general warranty deed, except it shall be subject to recorded restrictions and easements, if any, which do not materially affect the value of the property.

5. Seller shall furnish, at Seller's cost, a policy of title insurance in the amount of the purchase price. If objections are made to title, Seller shall have a reasonable time to meet the objections or to furnish title insurance.

6. Buyer herewith tenders \$\_\_\_\_\_ as earnest money, to become a part of the purchase price upon acceptance. If this offer is not accepted or if title requirements are not fulfilled, this sum shall be promptly returned to Buyer. However, should Buyer fail to fulfill his obligations as provided herein, the earnest money may become liquidated damages, which fact shall not preclude Seller from asserting other legal rights which he may have because of such breach.

7. Taxes and special assessments, due on or before the closing date, shall be paid by the Seller. Current general taxes and special assessments shall be pro-rated as of closing date based upon the last tax statement. Insurance, interest and rental payments shall be pro-rated as of the date of closing.

8. Buyer certifies that it has inspected the property, and is not relying upon any warranties, representations or statements of the Seller as to age or physical condition of improvements. The risk of loss or damage to the property by fire or other casualty occurring up to the time of transfer of title on the closing date is assumed by Seller.

9. This Offer is binding upon Buyer if accepted within 3 days from date.

BUYER

CITY OF MOUNTAIN HOME,  
ARKANSAS

\_\_\_\_\_  
BY: HILLREY ADAMS, Mayor

\_\_\_\_\_  
SCOTT LILES, City Clerk

Contact Info:

Phone # \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

The above offer is accepted on \_\_\_\_\_, 2024.

SELLER

F5 INVESTMENTS, LLC

\_\_\_\_\_  
BY: ROB FINLEY, Managing Member

Contact Info:

Phone # \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Email: \_\_\_\_\_

**RESOLUTION NO. 2024-x**

**A RESOLUTION DECLARING ECONOMIC DEVELOPMENT SERVICES  
TO BE AN “OTHER PROFESSIONAL SERVICE” PURSUANT TO  
ARKANSAS CODE ANNOTATED 19-11-801**

**WHEREAS**, Economic Development within the City of Mountain Home, AR is beneficial to the citizens of the City as well as existing businesses within the City of Mountain Home;

**WHEREAS**, proving a plan for economic development for the City is a service which is difficult for the City to obtain pursuant to bidding procedures provided for by the State of Arkansas; and

**WHEREAS**, Economic Development should be defined as an "other professional service" as provided for by in Arkansas Code Annotated 19-11-801.

**NOW, THEREFORE BE IT RESOLVED  
BY THE CITY COUNCIL OF THE CITY OF MOUNTAIN HOME, TO WIT:**

1. That economic development services contracted for by the City of Mountain Home, Arkansas, shall be and hereby are classified as “other professional services” pursuant to Arkansas Code Annotated 19-11-801.
2. That economic development services contracted for by the City of Mountain Home shall be procured and obtained by the City pursuant to the procedures set forth in Arkansas Code Annotated 19-11-801 through 19-11-807.

**PASSED AND APPROVED THIS 1<sup>st</sup> DAY OF FEBRUARY, 2024.**

---

**HILLREY ADAMS, MAYOR**

**ATTEST:**

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**SCOTT LILES, CITY CLERK**

(B) This preference shall have no application with respect to competing bids if both bidders are firms resident in Arkansas, as defined in this section.

(C)(i) All public agencies shall be responsible for carrying out the spirit and intent of this section in their procurement policies.

(ii) Any public agency which, through any employee or designated agent, is found guilty of violating the provisions of this section or committing an unlawful act under it, shall be guilty of a misdemeanor.

(D) Notwithstanding any other provisions of Arkansas law, upon conviction that person shall be subject to imprisonment for not more than six (6) months or a fine of not more than one thousand dollars (\$1,000), or both.

(E)(i) If any provision or condition of this subchapter conflicts with any provision of federal law or any rule or regulation made under federal law pertaining to federal grants-in-aid programs or other federal aid programs, such provision or condition shall not apply to such federal-supported contracts for the purchase of commodities to the extent that the conflict exists.

(ii) However, all provisions or conditions of this subchapter with which there is no conflict shall apply to contracts to purchase commodities to be paid, in whole or in part, from federal funds.

(c)(1)(A) This section applies only to projects designed to provide utility needs of a county or municipality.

(B) Those projects shall include without limitation pipeline installation, sanitary projects, and waterline, sewage, and water works.

(2) To the extent that federal purchasing laws or bidding preferences conflict, this subchapter does not apply to projects related to supplying water or wastewater utility services, operations, or maintenance to a federal military installation by a municipality of the state.

**History.** Acts 1979, No. 482, § 76; 1981, No. 600, § 29; 1983, No. 760, § 2; A.S.A. 1947, § 14-293; Acts 1989, No. 477, § 2; 1989 (3rd Ex. Sess.), No. 45, § 1; 1991, No. 846, § 1; 1991, No. 855, § 1; 1993, No. 263, § 1; 1993, No. 678, §§ 1, 2; 2001, No. 1237, § 43; 2003, No. 487, § 11; 2015, No. 147, § 2; 2019, No. 910, § 497.

**Publisher's Notes.** Acts 1983, No. 760, § 1, provided that, on March 24, 1983, printing, stationery, and supplies subject to Ark. Const. Amend. 54 would be subject to the provisions of the Arkansas Preference Law (Acts 1979, No. 482, as amended).

Acts 1989, No. 477, § 1, provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the bidder's preference for firms resident in Arkansas on purchases of commodities by public agencies has been declared unconstitutional because of the vague definition of 'firm resident in Arkansas'; that the bidder's preference law is beneficial to the state; and corrective legislation should be enacted to reinstate bidder's preference law. Therefore, the purpose of this act is to redefine 'firm resident in Arkansas' in Arkansas Code 19-11-259 in order to correct constitutional deficiencies."

**Amendments.** The 2003 amendment substituted "means" for "shall mean" throughout (a); redesignated the subdivisions in (a) in alphabetical order; and made stylistic changes.

The 2015 amendment redesignated the former language of (c)(1) as (c)(1)(A); substituted "This section applies only" for "The provisions of this section shall only apply" in (c)(1)(A); redesignated former (c)(2) as (c)(1)(B) and substituted "without limitation" for "but shall not be limited to"; and added present (c)(2).

The 2019 amendment substituted "Division of Workforce Services Law" for "Department of Workforce Services Law" in (a)(2)(B)(ii).

## RESEARCH REFERENCES

**U. Ark. Little Rock L.J.** Note, Public Contracts — Standing of Unsuccessful Bidders to Sue. *Walt Bennett Ford, Inc. v. Pulaski County Special School District*, 274 Ark. 208, 624 S.W.2d 426 (1981). 5 U. Ark. Little Rock L.J. 431.

## CASE NOTES

### ANALYSIS

Factual Determination.  
Sale of School Buses.

#### Factual Determination.

The question presented as to whether a dealer was entitled to a preference under former statute was factual, depending upon the circumstances in each particular case. *Stebbins & Roberts, Inc. v. Pulaski Glass & Mirror Co.*, 233 Ark. 449, 345 S.W.2d 912 (1961) (decision under prior law).

#### Sale of School Buses.

This section applies to a contract for the sale of 18 school buses to a school district, since a school district is a subdivision of a state. *Walt Bennett Ford, Inc. v. Pulaski County Special Sch. Dist.*, 274 Ark. 208, 624 S.W.2d 426 (1981).

### 19-11-261. Cooperative purchase of paper products for local governments.

(a)(1) All cities, counties, and school districts shall participate in a cooperative purchasing program for the purchase of paper products.

(2) The program shall be administered by the State Procurement Director.

(b)(1) The director shall promulgate rules for administration of the program.

(2) The rules shall be reviewed by the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees of the committees.

**History.** Acts 1991, No. 749, § 4; 1997, No. 179, § 18; 2001, No. 1237, § 46; 2019, No. 315, § 1784.

**Amendments.** The 2019 amendment substituted "rules" for "regulations" in (b)(1) and (b)(2).

## SUBCHAPTER 8 — PROCUREMENT OF PROFESSIONAL SERVICES

### SECTION.

19-11-801. Policy — Definitions.

19-11-802. Annual statements of qualifications and performance data — Restrictions on competitive bidding.

19-11-803. Evaluation of qualifications.

19-11-804. Selection.

19-11-805. Negotiation of contracts.

19-11-807. Design-build construction — Definitions.

### 19-11-801. Policy — Definitions.

(a) It is the policy of the State of Arkansas that state agencies shall follow the procedures stated in this section, except that competitive bidding shall not be used for the procurement of legal, architectural, engineering, construction management, and land surveying professional consultant services if:

(1) State agencies not exempt from review and approval of the Building Authority Division shall follow



procedures established by the division for the procurement of architectural, engineering, land surveying, and construction management services; and

(2) Institutions of higher education exempt from review and approval of the division shall follow procedures established by their governing boards for the procurement of architectural, engineering, land surveying, and construction management professional consultant services.

(b) It is the policy of the State of Arkansas and its political subdivisions that political subdivisions shall follow the procedures stated in this section, except that competitive bidding shall not be used for the procurement of legal, financial advisory, architectural, engineering, construction management, and land surveying professional consultant services.

(c) For purposes of this subchapter, a political subdivision of the state may elect to not use competitive bidding for other professional services not listed in subsection (b) of this section with a two-thirds ( $\frac{2}{3}$ ) vote of the political subdivision's governing body.

(d)(1) As used in this section, "construction management" means a project delivery method based on an agreement in which a state agency, political subdivision, public school district, or institution of higher education acquires from a construction entity a series of services that include, but are not limited to, design review, scheduling, cost control, value engineering, constructability evaluation, preparation and coordination of bid packages, and construction administration.

(2) "Construction management" includes, but is not limited to:

(A)(i) "Agency construction management", in which a political subdivision selects a construction manager to serve as an agent for the purpose of providing administration and management services.

(ii) The construction manager shall not hold subcontracts for the project or provide project bonding for the project;

(B) "At-risk construction management", in which the construction entity, after providing agency services during the preconstruction period, serves as the general contractor and the following conditions are met:

(i) The construction manager provides a maximum guaranteed price;

(ii) The political subdivision holds all trade contracts and purchase orders; and

(iii) The portion of the project not covered by the trade contracts is bonded and guaranteed by the construction manager; and

(C)(i) "General contractor construction management", in which the construction entity, after providing agency services during the preconstruction period, serves as the general contractor.

(ii) The general contractor shall hold all trade contracts and purchase orders and shall bond and guarantee the project.

(e) As used in this subchapter:

(1) "Political subdivision" means counties, school districts, cities of the first class, cities of the second class, incorporated towns, and all other bodies politic; and

(2) "Other professional services" means professional services not listed in subsection (b) of this section as defined by a political subdivision with a two-thirds ( $\frac{2}{3}$ ) vote of its governing body.

**History.** Acts 1989, No. 616, § 1; 1995, No. 429, § 1; 1995, No. 1331, § 1; 2003, No. 1315, § 8; 2005, No. 2154, § 1; 2005, No. 2171, § 1; 2019, No. 910, § 6114; 2023, No. 818, §§ 1, 2.

**Amendments.** The 2003 amendment rewrote (a); and deleted (c). The 2005 amendment by No. 2154 inserted present (a) and made related changes.

The 2005 amendment by No. 2171 substituted "that state agencies" for "and its political subdivisions that state agencies and political subdivisions" in (a); rewrote (b); and added (c) and (d).

The 2019 amendment deleted "of the Department of Finance and Administration" following "Building Authority Division" in (a)(1).

The 2023 amendment substituted "political subdivision" for "public school district" in (d)(2)(A)(i) and (d)(2)(B)(ii); and added "and all other bodies politic" in (e)(1).

**Cross References.** Projects exceeding two million dollars, § 14-58-1001.

## CASE NOTES

### ANALYSIS

In General.

Bid.

Competitive Bidding.

Consideration of Price.

#### In General.

Acts 1989, No. 616 does not require a political subdivision to accept the price finally offered by the most qualified firm during negotiations. The Act specifically provides for termination of negotiations with the top firm if the contracting authority is unable to negotiate a contract it considers fair and reasonable. The contracting authority then proceeds to the next most qualified firm and begins negotiations anew. This process allows the contracting authority to negotiate the most fair and reasonable price with the most qualified firm in accordance with the stated policy of the legislature. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

#### Bid.

The term "bid" generally refers to an offer to perform a contract for work and labor or supplying materials or goods at a specified price. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

#### Competitive Bidding.

Competitive bidding is defined as bids which are submitted as a result of public notice and advertising of an intended sale or purchase. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

Acts 1989, No. 616 expressly and unequivocally prohibits the use of competitive bidding in the procurement of professional engineering services. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

#### Consideration of Price.

Acts 1989, No. 616 prohibits the consideration of price in the procurement of professional services until the most qualified firms have been selected and negotiations have begun with the best qualified firm. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

### 19-11-802. Annual statements of qualifications and performance data — Restrictions on competitive bidding.

(a) In the procurement of professional services, a state agency or political subdivision which utilizes these services may encourage firms engaged in the lawful practice of these professions to submit annual

statements of qualifications and performance data to the political subdivision or may request such information as needed for a particular public project.

(b) The state agency or political subdivision shall evaluate current statements of qualifications and performance data of firms on file or may request such information as needed for a particular public project whenever a project requiring professional services is proposed.

(c)(1) The political subdivision shall not use competitive bidding for the procurement of legal, financial advisory, architectural, engineering, construction management, and land surveying professional consulting services.

(2) A political subdivision shall not use competitive bidding for the procurement of other professional services with a two-thirds (⅔) vote of its governing body.

(d)(1) A public school district that utilizes construction management services shall encourage construction management firms to submit to the school district annual statements of qualifications and performance data or may request such information as needed for a particular public project.

(2) The public school district shall evaluate current statements of qualifications and performance data on file with the school district or when submitted as requested whenever a project requiring professional services of a construction manager is proposed.

(3) The public school district shall not use competitive bidding for the procurement of professional services of a construction manager.

(e)(1) A request for statements of qualifications and performance data under this section may be used for certain procurements through a request for qualifications other than legal, architectural, engineering, construction management, land surveying, and interior design services if the:

(A) State Procurement Director approves the use of a request for qualifications and determines that it is the most suitable method of procurement; and

(B) Approval of the director under subdivision (e)(1)(A) of this section is submitted to the Legislative Council for review.

(2) In determining whether a request for qualifications under this subsection is the most suitable method of procurement, the director shall consider, based on information submitted by the requesting state agency:

(A) Why the request for qualifications is the most suitable method of procurement;

(B) Why cost should not be considered in the procurement; and

(C) How the cost of the contract will be controlled if cost is not a factor in the procurement.

**History.** Acts 1989, No. 616, § 2; 1995, No. 429, § 2; 1995, No. 1331, § 2; 2003, No. 1315, § 9; 2005, No. 2171, § 2; 2019, No. 419, § 13.

**Amendments.** The 2003 amendment inserted "state agency or" in (a) and (b); made a stylistic change in (a); and substituted "legal, architectural, engineering, construction management, and land surveying professional consulting services" for "professional services" in (c).

The 2005 amendment redesignated former (c) as present (c)(1); inserted "financial advisory" in present (c)(1); and added (c)(2).

The 2019 amendment added (e).

#### CASE NOTES

**Cited:** *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

#### 19-11-803. Evaluation of qualifications.

In evaluating the qualifications of each firm, the state agency or political subdivision shall consider:

(1) The specialized experience and technical competence of the firm with respect to the type of professional services required;

(2) The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;

(3) The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules and deadlines; and

(4) The firm's proximity to and familiarity with the area in which the project is located.

**History.** Acts 1989, No. 616, § 3; 2003, No. 1315, § 10.

**Amendments.** The 2003 amendment inserted "state agency or" preceding "political" in the introductory paragraph.

#### CASE NOTES

**Cited:** *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

#### 19-11-804. Selection.

(a) The state agency or political subdivision shall select three (3) qualified firms.

(b) The state agency or political subdivision shall then select the firm considered the best-qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.

**History.** Acts 1989, No. 616, § 4; 2003, No. 1315, § 11.

**Amendments.** The 2003 amendment inserted subdivision designations, and inserted "state agency or" preceding "political" in (a) and (b).

#### CASE NOTES

##### ANALYSIS

Competitive Bidding.  
Consideration of Price.

##### Competitive Bidding.

Acts 1989, No. 616 expressly and unequivocally prohibits the use of competitive bidding in the procurement of professional engineering services. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

##### Consideration of Price.

Acts 1989, No. 616 prohibits the consideration of price in the procurement of professional services until the most qualified firms have been selected and negotiations have begun with the best qualified firm. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

#### 19-11-805. Negotiation of contracts.

(a) For the basis of negotiations, the state agency or political subdivisions and the selected firm shall jointly prepare a detailed, written description of the scope of the proposed services.

(b)(1)(A) If the state agency or political subdivision is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated.

(B) The state agency or political subdivision shall then undertake negotiations with another of the qualified firms selected.

(2)(A) If there is a failing of accord with the second firm, negotiations with the firm shall be terminated.

(B) The state agency or political subdivision shall undertake negotiations with the third qualified firm.

(c) If the state agency or political subdivision is unable to negotiate a contract with any of the selected firms, the state agency or political subdivision shall reevaluate the necessary professional services, including the scope and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with the provisions of this subchapter.

(d) When unable to negotiate a contract for construction management, a public school district also shall perform a reevaluation of services in accordance with subsection (c) of this section.

(C) Construction contracting shall be performed by a contractor qualified and licensed under Arkansas law; and

(3) "Design-build contract" means the contract between the school district and a design-builder to furnish the architecture, engineering, and related services as required and to furnish the labor, materials, and other construction services for the same project.

(b)(1) Any school district may use design-build construction as a project delivery method for building, altering, repairing, improving, maintaining, or demolishing any structure, or any improvement to real property owned by the school district.

(2) The design-builder shall contract directly with subcontractors and shall be responsible for the bonding of the project.

(3) A project using design-build construction shall comply with state and federal law.

(c) The Division of Public School Academic Facilities and Transportation shall develop and promulgate rules consistent with the provisions of this section concerning the use of design-build construction by school districts.

**History.** Acts 1989, No. 616, § 5; 1995, No. 429, § 3; 1995, No. 1331, § 3; 2003, No. 1315, § 12.

**Amendments.** The 2003 amendment inserted "state agency or" in (a), (b)(1)(A), (b)(1)(B), (b)(2)(B) and (c); and substituted "the" for "such" in (b)(2)(A).

**History.** Acts 2005, No. 2155, § 1.

#### CASE NOTES

##### In General.

Acts 1989, No. 616 does not require a political subdivision to accept the price finally offered by the most qualified firm during negotiations. The Act specifically provides for termination of negotiations with the top firm if the contracting authority is unable to negotiate a contract it considers fair and reasonable. The contracting authority then proceeds to the next most qualified firm and begins negotiations anew. This process allows the contracting authority to negotiate the most fair and reasonable price with the most qualified firm in accordance with the stated policy of the legislature. *Graham v. Forrest City Hous. Auth.*, 304 Ark. 632, 803 S.W.2d 923 (1991).

#### 19-11-807. Design-build construction — Definitions.

(a) As used in this section:

(1) "Design-build" means a project delivery method in which the school district acquires both design and construction services in the same contract from a single legal entity, referred to as the "design-builder", without competitive bidding;

(2)(A) "Design-builder" means any individual, partnership, joint venture, corporation, or other legal entity that is appropriately licensed in the State of Arkansas and that furnishes the necessary design services, in addition to the construction of the work, whether by itself or through subcontracts, including, but not limited to, subcontracts for architectural services, landscape architectural services, and engineering services.

(B) Architectural services, landscape architectural services, and engineering services shall be performed by an architect, landscape architect, or engineer licensed in the State of Arkansas.

## TITLE 20 PUBLIC HEALTH AND WELFARE

### SUBTITLE 2. HEALTH AND SAFETY

#### CHAPTER 7

### STATE BOARD OF HEALTH — DEPARTMENT OF HEALTH

#### SUBCHAPTER 1 — GENERAL PROVISIONS

##### SECTION.

20-7-136. Statewide fluoridation program — Definition.

20-7-137. Soccer goal safety — Definition.

#### 20-7-136. Statewide fluoridation program — Definition.

(a) As used in this section, "water system" means a facility including without limitation a parent system, consecutive system, or other system that holds, treats, and supplies water directly or through a consecutive system or consecutive systems to five thousand (5,000) persons or more.

(b) The company, corporation, municipality, county, government agency, or other entity that owns or controls a water system shall control the quantity of fluoride in the water so as to maintain a fluoride content established by the Department of Health.