

RESOLUTION NO. 24-09

A RESOLUTION AUTHORIZING AN AGREEMENT FOR TEMPORARY PROVISION OF UTILITY SERVICES PERTAINING TO A PROPOSED BOUNDARY ADJUSTMENT BETWEEN THE CITY OF ROGERS AND THE CITY OF CAVE SPRINGS; AND FOR OTHER PURPOSES.

WHEREAS the Rogers Waterworks and Sewer Commission (“the Commission”) has been empowered by the Rogers City Council to oversee efficient operation of the Rogers Water Utilities (“RWU”), and has full authority to set policies and procedures for RWU in a manner consistent with existing law and public policy; and

WHEREAS the City of Rogers and the City of Cave Springs are negotiating a boundary adjustment in the Highway 112 area; and

WHEREAS the City of Rogers has requested that RWU plan for the orderly transfer of water services and sewer services to Cave Springs in those portions of Rogers that will be detached and annexed into the City of Cave Springs (“proposed annexation area”); and

WHEREAS the City of Cave Springs additionally anticipates annexing a certain parcel currently located in an unincorporated area of Benton County, Arkansas (Benton County Parcel No. 18-09153-00) currently owned by Three Flags Investments, LLC and requests that the City of Rogers temporarily extend water service and sewer service to the parcel for purposes of facilitating development of the parcel and incorporation of the parcel into the City of Cave Springs, such temporary provision of services having the potential to resolve that certain litigation brought by Three Flags Investments, LLC against the City of Rogers, the Commission and RWU currently pending in the Benton County Circuit Court; and

WHEREAS the Commission, having duly considered the matter, believes that the City of Rogers should enter into an Agreement for the orderly transfer of water service and sewer service in the proposed annexation area, and for, potentially, resolving the above-referenced litigation.

NOW THEREFORE, BE IT RESOLVED BY THE ROGERS WATERWORKS AND SEWER COMMISSION OF THE CITY OF ROGERS, ARKANSAS:

Section 1. The Rogers Waterworks and Sewer Commission hereby authorizes The Chairman of the Rogers Waterworks and Sewer Commission and the Superintendent of the Rogers Water Utilities to coordinate with the City of Rogers to prepare and negotiate the terms of a satisfactory Agreement for Temporary Provision of Utility Services with the City of Cave Springs, governing the terms and conditions of temporary provision of water service and sewer service in the proposed annexation area and for, potentially, resolving the above-referenced litigation.

Section 2. The Chairman of the Rogers Waterworks and Sewer Commission and the Superintendent of the Rogers Water Utilities are hereby authorized, but not directed, to sign an Agreement for Temporary Provision of Utility Services on behalf of the Rogers Waterworks and Sewer Commission and the Rogers Water Utilities, respectively. The Chairman of the Rogers Waterworks and Sewer Commission and the Superintendent of the Rogers Water Utilities are authorized to approve the final form and content of the Agreement, their approval to be evidenced by their signatures thereon.

Section 3. This Resolution authorizes, but does not require, entering into an Agreement described herein. Neither the Chairman of the Commission nor the Superintendent of the Rogers Water Utilities are required to sign an Agreement if a satisfactory agreement cannot be obtained.

Section 4. Any steps taken to resolve the above-referenced litigation do not constitute any admission of liability or wrongdoing whatsoever on the part of the Commission and RWU. This Resolution does not constitute any modification, waiver or compromise in any way of any legal position taken or defense asserted by the Commission and RWU in the above-referenced litigation.

Section 5. Severability Provision- In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Resolution shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Resolution as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Resolution shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

Section 6. Repeal of Conflicting Resolutions- All resolutions of the Rogers Waterworks and Sewer Commission, or parts of resolutions of the Rogers Waterworks and Sewer Commission, in conflict herewith are hereby repealed to the extent of such conflict.

PASSED AND APPROVED this 18th day of March 2024.

Peter Farmer, Chairman

ATTEST:

Brent Dobler, Acting Secretary