

ORDINANCE NO. 2004-11

AN ORDINANCE APPROVING THE PARTICIPATION BY THE CITY OF ELM SPRINGS IN THE NORTHWEST ARKANSAS CONSERVATION AUTHORITY; APPROVING THE SECOND AMENDED AGREEMENT BETWEEN THE MEMBER CITIES OF THE NORTHWEST ARKANSAS CONSERVATION AUTHORITY; APPROVING THE POWERS THEREIN CREATED; AND AUTHORIZING THE MAYOR AND CLERK TO EXECUTE AND DELIVER SAID AGREEMENT; AND DECLARING AN EMERGENCY.

WHEREAS, Title 14, Chapter 233 of the Arkansas Code as amended, permits any two or more Arkansas municipalities, any two or more counties, or any one or more Arkansas municipalities together with any one or more Arkansas counties to create, establish, and become a member of a solid waste disposal authority for the purpose of controlling, collecting, storing, removing, handling, reducing, disposing of, treating, and otherwise dealing in and concerning solid waste as that term is defined in the Joint County and Municipal Solid Waste Disposal Act, Ark. Code Ann. §§14-233-101 et seq. (hereinafter the "Act") and for the purposes stated in the Act; and,

WHEREAS, pursuant to Title 14, Chapter 233 of the Arkansas Code, the Cities of Rogers and Springdale, Arkansas, did enter into an agreement and thereby created and established the Northwest Arkansas Conservation Authority (herein referred to as the "Authority") pursuant to the Act and for the purposes stated in the Agreement and permitted by the Act, both as currently stated and as may from time to time be amended or supplemented; and,

WHEREAS, the Cities of Bentonville, Rogers and Springdale entered into an Amended Agreement whereby Bentonville was then considered a member of the Authority; and,

WHEREAS, pursuant to Title 14, Chapter 233 of the Arkansas Code, the Cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers and Springdale, Arkansas, (herein referred to as the "Members") desire to amend the Agreement and hereby expand the membership of the Authority pursuant to the Act, so as to include the Cities of Bethel Heights, Cave Springs, Elm Springs and Lowell; and,

WHEREAS, the Northwest Arkansas Conservation Authority Second Amended Agreement (herein referred to as the "Second Amended Agreement") in the form attached hereto as Exhibit A is submitted to the City Council; and,

WHEREAS, pursuant to Article X of the Agreement, the obligations of the Authority, including revenue bonds issued by the Authority, shall be payable from and secured by the revenues and property of the Authority, and shall not constitute a general or limited obligation of any Member; and,

WHEREAS, pursuant to Article XI of the Agreement, all amendments or modification to the Second Amended Agreement must be in writing; and,

WHEREAS, agreeing to participate does not bind the City to any particular service and that, pursuant to the Act and the Second Amended Agreement, a Member may withdraw from participation.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE, ARKANSAS;

Section 1. The City of Elm Springs has determined that it is in its best interest to become a member of the Northwest Arkansas Conservation Authority. The cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers and Springdale are proposed to be members of the Authority under the Second Amended Agreement. The powers granted to the Authority are those contained in the Act and the Second Amended Agreement. There are no limitations on the exercise of the powers granted, except those limitations contained in the constitutions of the United States and the State of Arkansas, and the statutes of Arkansas. The Board of Directors of the Authority shall be constituted as provided in the Second Amended Agreement. The Mayor of each participating city shall appoint the person(s) to the Board of Directors as enumerated in the Second Amended Agreement, which appointment shall become effective upon approval by the City Council.

Section 2. The Second Amended Agreement and the terms and conditions thereof are hereby approved.

Section 3. The Mayor is authorized to approve and sign an amended application, to be filed with the Secretary of State, to reflect the current membership of the Authority.

Section 4. The Mayor and Clerk are hereby authorized to execute and deliver the Second Amended Agreement.

Section 5. Emergency Clause. It is hereby declared that an emergency exists, and this Ordinance being necessary for the preservation of the health, safety, and welfare of the citizens of Elm Springs, Arkansas shall be effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 18 day of October, 2004.



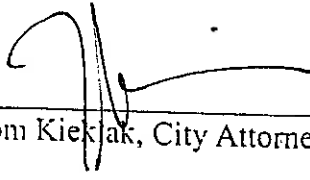
Jane Waters, Mayor

ATTEST:



Glenda Pettus, City Clerk

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'Tom Kiejak', written over a horizontal line.

Tom Kiejak, City Attorney

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2004-11 (the "NACA Ordinance") was, on the 21 day of October, 2004, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 21 day of October, 2004.

Jane Waters
Mayor

Glenda Pettus
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 21 Day of October, 2004.

Linda L. McVittie
Notary Public

My Commission Expires:

8-24-08

