

ORDINANCE O-21-7

BE IT ENACTED BY THE QUORUM COURT OF GARLAND COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE APPROVING AN INTERLOCAL GOVERNMENTAL COOPERATIVE AGREEMENT BETWEEN GARLAND COUNTY, ARKANSAS AND THE CITY OF HOT SPRINGS, ARKANSAS, PURSUANT TO A.C.A. §§25-20-101 ET SEQ. AND A.C.A. §§ 26-74-401 ET SEQ.; AUTHORIZING THE COUNTY JUDGE TO EXECUTE SAID AGREEMENT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, the Garland County Quorum Court has determined that continued growth and development of the unincorporated areas of Garland County is in the best interest of Garland County and its citizens; and

WHEREAS, the Quorum Court of Garland County and the Board of Directors of the City of Hot Springs have determined that the continued growth and development within Hot Springs and its environs, extending throughout the countywide geographical boundaries of Garland County, is to the mutual benefit of Garland County, Hot Springs, and its residents and businesses; and

WHEREAS, Hot Springs owns, maintains, and operates a municipal waterworks system pursuant to A.C.A. §§14-234-101 et seq.; and

WHEREAS, Hot Springs owns, maintains, and operates a municipal sewage collection and treatment system pursuant to A.C.A. §§14-235-201 et seq.; and

WHEREAS, Garland County does not own, operate or provide water and/or sewer services to the unincorporated areas of Garland County; and

WHEREAS, Garland County and Hot Springs acknowledge that the extension of the municipally owned waterworks and sewage systems throughout Garland County, less and except any service areas of another established district or municipal provider, provides the requisite infrastructure for the economic development of both Garland County and Hot Springs; and

WHEREAS, the parties hereto desire to enter into an Interlocal Governmental Cooperative Agreement pursuant to A.C.A. §§25-20-101 et seq. for the purpose of delineating the provision of water and sewer collection, and the allocation of the revenue collected from the countywide sales and use tax(es) as approved by the countywide electorate.

WHEREAS, Garland County levies a countywide one-half percent (0.5%) sales and use tax pursuant to A.C.A. § 26-74-402, as approved by the voters of Garland County, Arkansas on November 22, 1993; and

WHEREAS, Garland County and Hot Springs acknowledge that the provision of utility services such as the waterworks and sewage systems owned, maintained, and operated by Hot Springs has a positive impact on the revenue collected from the countywide sales and use tax(es) as approved by the countywide electorate; and

WHEREAS, Garland County and Hot Springs desire to provide for an equitable allocation of the revenue collected from the countywide levy of sales and use taxes, as same is positively impacted by the provision of utility services such as the waterworks and sewage systems owned, maintained, and operated by Hot Springs; and

WHEREAS, A.C.A. § 26-74-409(c) provides: “Funds received by the counties pursuant to the provisions of this subchapter may be used by the counties for any purpose for which the county general fund or county road fund may be used, including allocating portions to municipalities located therein;” and

WHEREAS, Garland County and Hot Springs have negotiated an Interlocal Governmental Cooperative Agreement to accomplish the intents and purposes set forth herein, and a copy is attached hereto as Exhibit 1; and

NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF GARLAND COUNTY, ARKANSAS; THAT:

ARTICLE 1. AUTHORITY

The Garland County Judge is hereby authorized and directed to execute the attached Interlocal Governmental Cooperative Agreement on behalf of Garland County, Arkansas, and is further authorized to take such actions as necessary, now and in the future, to carry out the intents and purposes as stated therein.


ARTICLE 2. EMERGENCY CLAUSE

Adoption of this Ordinance and the services to be provided under the associated Interlocal Governmental Cooperative Agreement are essential to the public health, safety, and welfare of Garland County and the citizens therein. An emergency is therefore declared to exist, and this Ordinance shall be in full force and effect from and after the time of its passage.

ARTICLE 3. CODIFICATION

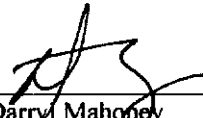
This ordinance shall be codified in the Garland County Code of Ordinances and the sections may be re-numbered and re-lettered to accomplish such intention.

ATTEST:



Sarah Smith
Garland County Clerk

APPROVED:



Darryl Mahoney
Garland County Judge





SPONSOR:



Justice of the Peace

DATE:

02/04/2021


Esther Nelson

Mary
X-3

Matt Meyer

John R. Johnson

**INTERLOCAL GOVERNMENTAL
COOPERATIVE AGREEMENT**

THIS AGREEMENT, entered into this ____ day of _____, 2021, also referred to as an Interlocal Governmental Cooperative Agreement, is made by and between GARLAND COUNTY, ARKANSAS, hereinafter referred to as "Garland County" and the CITY OF HOT SPRINGS, ARKANSAS, hereinafter referred to as "Hot Springs," with the parties agreeing as follows:

WHEREAS, the Quorum Court of Garland County and the Board of Directors of the City Hot Springs have determined that the continued growth and development within Hot Springs and its environs, extending throughout the countywide geographical boundaries of Garland County, is to the mutual benefit of Garland County, Hot Springs, and its residents and businesses; and

WHEREAS, Hot Springs owns, maintains, and operates a municipal waterworks system pursuant to *A.C.A. §§14-234-101 et seq.*; and

WHEREAS, Hot Springs owns, maintains, and operates a municipal sewage collection and treatment system pursuant to *A.C.A. §§14-235-201 et seq.*; and

WHEREAS, Garland County and Hot Springs acknowledge that the extension of the municipally owned waterworks and sewage systems throughout Garland County, less and except any service areas of another established district or municipal provider, provides the requisite infrastructure for the economic development of both Garland County and Hot Springs; and

WHEREAS, Garland County levies a countywide one-half percent (0.5%) sales and use tax pursuant to *A.C.A. § 26-74-402*, as approved by the voters of Garland County, Arkansas on November 22, 1993; and

WHEREAS, Garland County and Hot Springs acknowledge that the provision of utility services such as the waterworks and sewage systems owned, maintained, and operated by Hot Springs has a positive impact on the revenue collected from the countywide sales and use tax(es) as approved by the countywide electorate; and

WHEREAS, Garland County and Hot Springs desire to provide for an equitable allocation of the revenue collected from the countywide levy of sales and use taxes, as same is positively impacted by the provision of utility services such as the waterworks and sewage systems owned, maintained, and operated by Hot Springs; and

WHEREAS, *A.C.A. § 26-74-409(c)* provides:

“Funds received by the counties pursuant to the provisions of this subchapter may be used by the counties for any purpose for which the county general fund or county road fund may be used, including allocating portions to municipalities located therein;” and

WHEREAS, the parties hereto desire to enter into this Interlocal Governmental Cooperative Agreement for the purpose of delineating the allocation of the revenue collected from the countywide sales and use tax(es) as approved by the countywide electorate.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, AND IN ACCORDANCE WITH THE TERMS, CONDITIONS, AND OTHER MATTERS SET FORTH WITHIN THIS AGREEMENT THE PARTIES AGREE AS FOLLOWS:

1.0 TERM OF AGREEMENT.

The term of this Agreement shall begin April 1, 2021 and shall inure to the benefit of the parties hereto for the period during which Garland County levies and collects a countywide sales and use tax pursuant to *A.C.A. § 26-74-402*.

2.0 MUNICIPAL UTILITIES EXTENSIONS AND CONNECTIONS.

During the term of this Agreement, and subject to the provisions provided herein, Hot Springs shall implement and maintain an extension and connection policy that provides access to its waterworks and sewage systems within the unincorporated areas of Garland County, and which do not lie within another established district or municipality, in the same manner as that provided within the corporate limits of Hot Springs. Access to the waterworks and/or sewage systems of the City of Hot Springs shall be voluntary. No residents or property owners in the unincorporated areas of Garland County shall be involuntarily required to connect to the waterworks and/or sewage systems of the City of Hot Springs under this Agreement.

2.1 Non-discriminatory Limitations.

Access to the waterworks and sewer systems owned, maintained, and operated by Hot Springs within the unincorporated areas of Garland County, and which do not lie within another established district or municipality, shall be subject to the same regulations and limitations as may from time to time apply within the corporate limits of Hot Springs.

2.2 Rates.

The schedule of rates for water supplied to nonresident consumers shall be established by the legislative body of Hot Springs pursuant to *A.C.A. §14-234-110*. Provided, however, the rate differential between city customers and non-city customers shall remain fixed at the rate differential first established for the duration of this Agreement.

The schedule of rates for sewer services provided to nonresident consumers shall be established by the legislative body of Hot Springs Pursuant to *A.C.A. §14-234-111(d)*. Provided, however, the rate differential between city customers and non-city customers shall remain fixed at the rate differential first established for the duration of this Agreement.

3.0 ALLOCATION OF SALES AND USE TAX PROCEEDS.

During the term of this Agreement, and subject to the provisions provided herein, Garland County shall exercise its authority under *A.C.A. § 26-74-402* to allocate a portion of its funds collected thereunder to Hot Springs as calculated herein.

3.1 Previous Fiscal Year Baseline.

The parties acknowledge that each utilizes the calendar year as their respective fiscal years, and agree that the previous Fiscal Year shall be used to established as a baseline for sales and use tax revenue derived by Garland County pursuant to *A.C.A. § 26-74-402*. To that end, the parties agree to designate that net sum, once it has been verified by the State of Arkansas, as the baseline for any allocation of such sales and use tax revenue derived by Garland County pursuant to *A.C.A. § 26-74-402* under this Agreement. Any net annual collections up to or equaling the product of this baseline, as multiplied by 1.036 for the previous annual fiscal year, shall not be subject to allocation under this Agreement. See paragraph 3.3 for such calculation. For purposes of this Agreement, the parties agree to rely upon the net figures verified by the Arkansas Department of Finance and Administration by March 15th of each year for the parties' previous fiscal year.

3.2 2020 Census Per Capita.

The parties agree that the verified results of the 2020 Census shall be relied upon to establish the initial *per capita* population of Hot Springs relative to the overall population of Garland County for purposes of this Agreement. Thereafter, the parties shall rely upon the verified results of any future census by the U.S. Census Bureau during the term of this Agreement to establish the *per capita* population of Hot Springs relative to the overall population of Garland County.

3.3 Per Capita Allocation of Sales and Use Tax Proceeds in excess of 2020 Baseline.

During the term of this Agreement, and subject to the provisions provided herein, Garland County shall exercise its authority under *A.C.A. § 26-74-402* to allocate a *per capita* portion of any net funds collected thereunder in excess of the established previous fiscal year baseline to Hot Springs. The parties acknowledge that such allocation would be submitted to Hot Springs at such time as the then current fiscal year collections have been duly verified, as set forth in the foregoing paragraphs. The formula for calculating the allocation of such net sales and use tax revenue derived by Garland County pursuant to *A.C.A. § 26-74-402* shall be as follows:

Current net collections – (previous fiscal year x 1.036) = amount subject to allocation (if any)

By way of example, should the net sales and use tax revenue derived by Garland County pursuant to *A.C.A. § 26-74-402* for the Fiscal Year 2023, as verified by the Arkansas Department of Finance and Administration by March 15, 2024, exceed the product of the net sales and use tax revenue derived by Garland County pursuant to *A.C.A. § 26-74-402* for the Fiscal Year 2022 multiplied by 1.036, then Garland County shall remit a *per capita* allocation of the excess to Hot Springs on April 1, 2024. Conversely, should the net sales and use tax revenue derived by Garland County pursuant to *A.C.A. § 26-74-402* for the Fiscal Year 2023, as verified by the Arkansas Department of Finance and Administration by March 15, 2024, not exceed the product of the net sales and use tax revenue derived by Garland County pursuant to *A.C.A. § 26-74-402* for the Fiscal Year 2022 multiplied by 1.036, then Garland County shall not be obligated to remit a *per capita* allocation of same to Hot Springs for the Fiscal Year 2023. The parties shall continue this process using each succeeding fiscal year during the term of this Agreement to determine if a *per capita* allocation to Hot Springs shall be due on April 1st of each then current year following the respective previous fiscal years.

4.0 APPROVAL.

This Agreement, having been approved by the Garland County Quorum Court by # _____, and the Hot Springs Board of Directors by # _____, the parties have entered into this Interlocal Governmental Cooperative Agreement pursuant to authority granted by their respective governing bodies.

APPROVED:

Garland County, Arkansas

By: _____ Date: _____
Garland County Judge

City of Hot Springs, Arkansas

By: _____ Date: _____
Mayor

POSSIBLE EXAMPLES OF ALLOCATION OF ANY GROWTH ABOVE 3.6% OF PREVIOUS YEAR

<u>Reconcile Date</u>	<u>Previous Year Net (Jan-Dec)</u>	<u>Less 3.6% growth above previous year</u>	<u>Subject to per capita allocation</u>
4.1.2021	2020 \$32,000,000	N/A	N/A
4.1.2022	2021 \$33,600,000 (up 5%)	minus (1.036 x 32,000,000 = 33,152,000)	= 336,000(448,000x0.75)
4.1.2023	2022 \$35,280,000 (up 5%)	minus (1.036 x 33,600,000 = 34,809,600)	= 470,400
4.1.2024	2023 \$36,691,200 (up 4%)	minus (1.036 x 35,280,000 = 36,550,080)	= 141,120
4.1.2025	2024 \$37,791,936 (up 3%)	minus (1.036 x 36,691,200 = 38,012,083)	= -0-
4.1.2026	2025 \$39,681,532 (up 5%)	minus (1.036 x 37,791,936 = 39,152,445)	= 529,087
4.1.2027	2026 \$41,665,608 (up 5%)	minus (1.036 x 39,681,532 = 41,110,067)	= 555,541
4.1.2028	2027 \$43,332,232 (up 4%)	minus (1.036 x 41,665,608 = 43,165,569)	= 166,663