City of Fort Smith Water Resources

MEMORANDUM

TO: Jeff Dingman, Acting City Administrator

CC: Maggie Rice, Deputy City Admi9nistrator

FROM: Lance A. McAvoy, Director of Water Resources

DATE: February 16, 2026

SUBJECT: Review and Discussion of the Draft Non-Retail (Wholesale) Surplus User Water Agreement

SUMMARY

In 2024, the City of Fort Smith passed water rate adjustments for both retail and non-retail customers. Since that time, City staff has worked with the City Attorney to develop a new, standardized non-retail surplus water user agreement for use with all such customers. The past agreements contained different requirements and also varied in the length of term of the agreement. The Draft Non-Retail Surplus User Water Agreement will be presented at the February 24, 2026, Board of Directors' Study Session.

The City has three wholesale water users who currently have special conditions in their contracts and would not currently fall under the non-retail surplus water user category. Those three wholesale customers are Barling Water Department which has a contract current until 2032, Van Buren who has a special contract that designates them as an ordinary water user due to the Lee Creek water rights they provided Fort Smith in 1984, and Fort Chaffee MTC which has a special designation due to the land deeded over to Fort Smith. These three water users do not have a maximum amount of water they may purchase from the City.

A non-retail surplus water user (User) is a wholesale purchaser of water from Fort Smith. When the User entered into agreement with the City, they did so as a surplus water user meaning, they were purchasing the excess water the City can produce and does not use during the year. Currently, the City does have a surplus during most of the year, and there are no other available sources of drinking water for these Users.

Most of our non-retail surplus water user agreements have long since expired. The table below provides the current status of each agreement.