ORDINANCE NO. 2025-04

AN ORDINANCE TO WAIVE THE COMPETITIVE BIDDING REQUIREMENTS FOR THE REPAIR AND INSTILLATION OF A WATER PUMP FOR THE WATER TREATMENT PLANT; DECLARING AN EMERGENCY; AND, FOR OTHER PURPOSES.

WHEREAS, the Atkins City Council recognizes that the water pump (S/N K2W2-076278 & 100hp motor) currently installed at the Water Treatment Plant is outdated and in need of repair, and possibly in need of complete replacement;

WHEREAS, the City is authorized and empowered under the provisions of Arkansas Code Annotated Section § 14-58-104(6) to waive competitive bidding requirements for the replacement of parts and labor for repairs of machinery and equipment.

WHEREAS, the City is authorized and empowered under the provisions of Arkansas Code Annotated Section § 14-58-303(B) to waive competitive bidding requirements in exceptional situations where the bidding requirements are deemed not feasible or practical.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATKINS, ARKANSAS:

SECTION 1. The Atkins City Council hereby authorizes the mayor or his designees to enter into a contract with Layne Christensen Company for the inspection, repair, and replacement of the water pump at the Water Treatment Plant. Layne Christensen Company is knowledgeable of the replacement parts and labor required for the repair of above-described water pump. The repairs, replacement, and work performed on the above-described water pump will be almost identical to the repairs, replacement, and work performed on the North Wastewater Treatment Plant described in Atkins Ordinance No. 25-2 passed March 11, 2025.

SECTION 2. The Atkins City Council hereby waives competitive bidding in accordance with A.C.A §14-58-104(b) which provides that replacement parts and labor for repairs of machinery and equipment may be purchased without soliciting bids.

SECTION 3. It is unknown whether the total price of the replacement parts and labor will exceed the sum of $35,000.00 without first removing and inspecting the current water pump. Therefore, the city finds that the requirements of competitive bidding are not feasible or practical under the circumstances and hereby waives competitive bidding requirements in accordance with A.C.A §14-58-303(b).

SECTION 4. All ordinances, resolutions, and parts thereof in conflict herewith are hereby repealed to extent of such conflict.

SECTION 5. EMERGENCY CLAUSE: This ordinance is necessary for the protection of the peace, health and safety of citizens of Atkins, Arkansas, and therefore, an emergency is

declared to exist, and this ordinance shall go into effect from and after its passage and approval.

DATED AND PASSED this 8th day of July, 2025.

ROWDY SWEET, MAYOR

ATTEST:

ANGELA SINGLETON, CITY CLERK

CITY OF ATKINS SEAL POPE COUNTY ARKANSAS

FILED
Angela Singleton, City Clerk
City of Atkins
Date: 7-8-25

WATER RESOURCES
Post Office Box 1210
Stuttgart, AR 42160-1210
Phone: 870-673-1591
Fax: 870-673-2990

CONFIRMING ORDER

The undersigned Purchaser hereby instructs Layne Christensen Company to proceed with the work described subject to the rates on the attached sheet with the understanding that the Terms and Conditions incorporated as part of this Confirming Order and with the specific understanding that Contractor will not be held liable for any damage in any way whatsoever for failure to complete the described work, nor for any injury or damage resulting from Contractor's efforts to perform such work, or for any delay on Contractor's part in completing same. All work described herein will be provided on a cost plus basis and/or at the hourly rates described below. All quotes indicated, if any, are estimates based on the best information available prior to beginning work. As the scope of work changes, revised quotations will not be issued unless requested. Purchaser's pumps, motors, parts and/or accessories may be stored by Contractor for thirty (30) days from the date of invoice or other written notice from Contractor. After said thirty (30) days, disposal of any such equipment may be made by Contractor without incurring any liability.

Pump Number _____ **Well Number** _____ **Job Number** _____

DESCRIPTION OF WORK

A budgetary estimate to pull, repair, and reinstall pump S/N K2W2 - 076278 & 100hp motor is $30,000 +/-. Additional work requested by the client will be based on the below confirming order rates.

SCHEDULE OF HOURLY, DAILY AND OTHER RATES

Unit	Straight Time	Overtime
X-Heavy Pump Service Rig w/ Crew (50,000# and larger)	$589	$684
Heavy Pump Service Rig w/ Crew (30,000 to 49,999#)	$578	$672
Medium Pump Service Rig w/ Crew (up to 29,999#)	$549	$642
Crane Truck w/ Operator (30,000 to 49,999#)	$260	$294
Field Superintendent or Operations Manager (+ mileage)	$247	$315
Motor Technician Offsite Labor	$154	$187
Service Technician w/ Service Truck	$184	$218
Shop Machinist, Welder, or Equipment Mechanic (Offsite)	$189	$239
Helper On/Off Site	$140	$171

Unit	Straight Time	Overtime
Heavy Duty Drill Rig w/Crew (100,000# and Larger)	$1295	$1563
Medium Duty Drill Rig w/ Crew (30,000 to 100,000#)	$829	$1110
Backhoe w/ Operator	$186	$220
Tractor Trailer Combination with Driver	$236	$305
Welding Truck with Welder	$199	$267
Flat Bed Truck with Driver	$185	$229
Trucking Permits	Cost Plus 15%	
Subsistence (Per Man Per Day)	$290	

Holiday Rate is Double Straight Time Rate

All Units are Fueled, Less Applicable Fuel Surcharges

* Flat Rate X-Heavy Pump Rig w/ Crew	$6,000/Day
** Flat Rate Heavy Pump Rig w/ Crew	$5,800/Day
*** Flat Rate Medium Pump Rig w/ Crew	$5,525/Day

FLAT RATES NOT TO EXCEED 10 HOURS TOTAL PORTAL TO PORTAL

All Repair Materials, Special tools, Rentals, and Other Outside Services will be quoted on a per job basis as required by the scope of work

Note: Except where noted, all rig operations noted above include crew complements not to exceed three (3) men. Any additional personnel will be added at the prescribed rates shown above. Repair materials, consumables, and supplies will be billed in additional to above rates. All rates exclude subsistence. All materials utilized and equipment furnished will be billed in accordance with the attached Terms and Conditions. Overtime rates apply to all hours worked before or after Contractor's normal work hours (7:00AM to 4:00 PM, M-F), and for all hours worked on Saturdays and Sundays. The stated rates are not all inclusive as additional equipment utilized will be charged at stated hourly or daily rates. The above rates are subject to Federal, State and Local Sales and Use Taxes. All rates are subject to change without notice.

The person signing below represents that he/she is authorized to enter into this Quotation & Contract ("Contract") on behalf of the Company and has received the Provider's Standard Terms & Conditions (Attachment A), which are incorporated here by reference. This Contract, including the Standard Terms & Conditions, are accepted by the following:

Purchaser

Entity Name: _____

Billing Address: _____

Phone Number: _____

Signature: _____

Printed Name and Title: _____

Date: _____

Email: _____

Layne Christensen Company

Signature: Garrhett Wilbourn

Printed Name and Title: Garrhett Wilbourn - Account Manager

Date: 6/25/2025

STANDARD TERMS & CONDITIONS FOR PROPOSAL

1. Applicability. These terms and conditions are incorporated into the proposal (collectively, the "Contract") from Layne Christensen Company ("Provider") to furnish equipment, labor, materials, products and/or services ("Work") to you ("Company"). The Contract comprises the entire agreement between the parties, and supersedes all prior or contemporaneous communications, understandings, agreements, negotiations, representations and warranties. The Contract prevails over any of Company's general terms and conditions of purchase, regardless of whether or when Company may have submitted a purchase order or contract.

2. Payment. Provider's agreement to perform Work hereunder is conditioned upon Company's satisfaction of Provider's credit terms, as determined in Provider's sole discretion. Payment terms are net 30 days from date of Provider's invoice or sooner as may be required by applicable law. Late payments shall accrue a finance charge of one and one-half percent (1½%) per month or the highest rate allowable by law, whichever is less. Provider shall be entitled to stop work and recover all costs and expenses, including reasonable attorneys' fees, arising out of Company's failure to make all payments due under this Contract in a timely manner.

3. Taxes. Company is responsible for payment of all taxes and duties not specifically assumed in writing by Provider in the Contract. Company agrees to defend, indemnify and hold Provider harmless from any damages and expenses related to any levy or attempted levy of any other taxes on Provider.

4. Suspension; Termination. In addition to any other remedies available to Provider, Provider may suspend or terminate this Contract with immediate effect upon written notice to Company, if Company: (i) fails to pay any amount when due under this Contract (or any other agreement Company has with Provider); (ii) has not otherwise performed or complied with any of these terms (or complied with the terms of any other agreement Company has with Provider); (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors; or (iv) exhibits other adverse credit conditions that are unsatisfactory to Provider, as determined by Provider in its sole discretion.

5. Shipment; Delivery. Unless otherwise agreed in writing, all Work purchased by Company shall be FOB Provider's plant sourcing the Contract. If FOB Destination, the Company agrees to provide suitable roadways or approaches to points of delivery. Provider reserves the right to cease deliveries if Provider concludes, in its sole opinion, that the roadways or approaches are unsatisfactory. In the event Company contracts delivery beyond curb line, Company assumes liability for damages to sidewalks, driveways or other property, loss and expense incurred as a result of such deliveries to the maximum extent allowed by law. Prices quoted herein are based on prompt unloading of trucks. Delays of more than 20 minutes are subject to an additional charge. Company also agrees to provide a safe, suitable work area for Provider and its employees.

6. Title and Risk of Loss. Title and risk of loss passes to Company at the time any Work is loaded into Company's, or Company's agents', vehicles, barges or other modes of transport, in the case of FOB Plant sales, or in the case of Provider's delivery, upon delivery or performance of the Work.

7. Warranty. Provider warrants the Work will conform to any applicable plans and specifications. **PROVIDER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THOSE OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSES**. Company shall verify that Provider's Work complies with the plans and specifications prior to installation. Changes to the plans and specifications shall be made by written change order and Provider shall be entitled to an equitable price adjustment for such changes. The express limited warranty set forth herein shall be void if Company fails to pay Provider in full for the Work provided by Provider pursuant to this Contract or fails to provide Provider timely written notice following discovery of defective Work and a reasonable opportunity to cure.

8. Time. Provider shall make reasonable efforts to provide the Work by the specified delivery date and provide notice to Company of any expected delays. Provider is not responsible for any delays including, but not limited to, labor disputes, repairs to machinery, fire, flood, inclement weather, inability to obtain transportation, fuel, electric power, or operating materials or machinery at reasonable cost; or by reason of any other cause beyond its control, including the inability to produce Work meeting any applicable specification or requirement. Company shall equitably compensate Provider for additional costs incurred as a result of delays outside Provider's control. In the event any such delay, Provider reserves the right to determine the order of priority of delivering to its purchasers.

9. Modification. No amendment or modification of this Contract shall be valid or enforceable unless in writing and signed by the party sought to be charged, and no prior or current course of dealing between the parties, or any usage of trade or custom of the industry shall modify or supplement the terms and conditions of this Contract.

10. No Waiver. Provider's failure to exercise any right hereunder shall not impair or waive Provider's privilege of exercising such right to any subsequent time or times.

11. Damages. Provider's liability for any damages related to this Contract shall be limited to, at Provider's option, (i) replacement of defective Work or (ii) an equitable refund of prior payments by Company. **IN NO EVENT SHALL PROVIDER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WITH REGARD TO ANY CLAIM ARISING OUT OF OR RELATING TO THIS CONTRACT.** It is further understood that Provider shall not be responsible for any damage to or deterioration of any of its Work, whether completed or in process, resulting from any cause or causes beyond its reasonable control, including but not limited to design, failure of subgrade or other subsurface conditions, or failure or inadequacy of any labor or materials not furnished and installed by Provider, whether or not such failure or inadequacy was or could have been known at the time its Work was undertaken, or for any Work performed under adverse weather conditions.

12. Indemnity. To the maximum extent permitted by applicable law, Company shall defend, indemnify and hold Provider, its officers, employees, agents, insurers, sureties, and affiliates, harmless from any and all losses, damages, expenses (including attorneys' fees), claims, suits, liabilities, fines and remedial or clean-up costs arising out of: (i) Company's breach of this Contract or (ii) any act or omission by or on behalf of Company, its employees, contractors, and/or agents.

13. Applicable Law. This Contract, and the rights, duties, obligations and remedies of the parties shall be governed by or construed in accordance with the laws of the state where the Project is located.

14. Work Conditions. Provider shall have no responsibility for any site condition unless it was ascertainable through a visual pre-bid examination of the Project site or disclosed in writing to Provider prior to the execution of the Contract. Provider shall be entitled to rely on the design documents and specifications as being accurate and complete and shall not be responsible for errors or deficiencies in such documents. If Provider's Work is dependent upon or must be undertaken in conjunction with the work of others, such work shall be so performed and completed as to permit Provider to perform its Work in a normal uninterrupted single shift operation. Unless a time for the performance of Provider's Work is specified, Provider shall undertake the Work in the course of its normal operating schedule. Provider shall not be liable for any failure to undertake or complete the Work for causes beyond its control, and Provider may suspend the Work for causes beyond its control, including but not limited to fire, flood or other casualty; the presence on or beneath the Project site of utilities, facilities, substances, or objects, including but not limited to any substance that in Provider's opinion is hazardous or toxic or the reporting, remediation, or clean-up of which is required by any law or regulation; labor disputes or other disagreements; and accidents or other mishaps, whether affecting this Work or other operations in which Provider is involved, directly or indirectly. If, for causes beyond Provider's control, Provider's Work is not completed within twelve (12) months after the date of Company's acceptance of the Contract, Provider may cancel this Contract. In such event: (i) Provider shall be relieved of any further obligation with respect to the balance of the Work and (ii) Provider shall be entitled to receive final and complete payment for all Work performed by Provider through the date of cancellation within fifteen (15) days thereafter.

15. Miscellaneous. Unless otherwise specified in writing, Company shall be responsible for inspecting and testing the Work and confirming that the Work complies with the applicable specifications at Provider's facility prior to directing shipment. All funds paid to Company from a third party for Provider's Work shall be deemed in trust for the payment of Provider. Safety Data Sheets and product label information are available at Provider's office or Provider's website. Company agrees to draw to the attention of any persons handling or using the Work or having access to the Work while in Company's possession or to whom Company sells the Work or any part thereof any Safety Data Sheets or label information, or any other literature or packaging relating to the Work.

16. MANDATORY BINDING ARBITRATION. ALL CLAIMS OR CONTROVERSIES ARISING OUT OF OR RELATED TO THIS CONTRACT SHALL BE SUBMITTED TO AND RESOLVED BY BINDING ARBITRATION BY A SINGLE ARBITRATOR IN THE COUNTY AND STATE WHERE THE PROJECT IS LOCATED; PROVIDED, HOWEVER, A PANEL OF THREE ARBITRATORS SHALL RESOLVE ALL DISPUTES WHERE THE AMOUNT IN CONTROVERSY EXCEEDS $5 MILLION ("LARGE DISPUTES"). THE AMERICAN ARBITRATION ASSOCIATION (AAA) SHALL CONDUCT THE ARBITRATION PURSUANT TO AAA'S CONSTRUCTION INDUSTRY ARBITRATION RULES. THE COSTS OF THE ARBITRATION SHALL BE BORNE EQUALLY BY THE PARTIES. NOTWITHSTANDING ANY LANGUAGE TO THE CONTRARY IN THE CONTRACT, THE PARTIES AGREE: THAT THE UNDERLYING AWARD MAY BE APPEALED PURSUANT TO THE AAA'S OPTIONAL APPELLATE ARBITRATION RULES ("APPELLATE RULES"); THAT THE UNDERLYING AWARD RENDERED BY THE ARBITRATOR(S) SHALL, AT A MINIMUM, BE A REASONED AWARD; AND THAT THE UNDERLYING AWARD SHALL NOT BE CONSIDERED FINAL UNTIL AFTER THE TIME FOR FILING THE NOTICE OF APPEAL PURSUANT TO THE APPELLATE RULES HAS EXPIRED. EACH PARTY AFFIRMATIVELY AGREES TO THE ARBITRATION PROVISION SET FORTH HEREIN AND INTENDS THAT THIS PARAGRAPH SATISFIES THE ARBITRATION REQUIREMENTS OF ANY APPLICABLE LAW.