

FACTSHEET

TITLE: Resolution adopting proposed AGREEMENT REGARDING ANNEXATION FEES BETWEEN RURAL WATER DISTRICT NO. 1, LANCASTER COUNTY, NEBRASKA, AND THE CITY OF LINCOLN, NEBRASKA, requested by the Director of Planning.

SPONSOR: Planning Department

BOARD/COMMITTEE: N/A

STAFF RECOMMENDATION: Approval

FINDINGS OF FACT:

1. This is a request to adopt an agreement between Rural Water District #1 (RWD) and the City of Lincoln which would resolve a longstanding disagreement over the fee charged to land annexed within the District's boundary. RWD #1 serves a large area of southeastern Lancaster County and parts of Cass and Otoe Counties. The District serves approximately 1,600 agricultural and acreage residential customers in addition to providing water to Roca, Bennet and Panama. The RWD states that it is protected from incursions into boundaries per federal statute 7 U.S.C. 1926(b), that in general prohibits local governments from limiting or curtailing water service from a rural water district that has a federal loan. The RWD consistently uses federal rural area loans to construct capital improvements.
2. History to 2010:
 - June 22, 1970 - City Council approved petition to incorporate RWD #1.
 - 1993-1994 - First annexations by City into RWD boundaries for land south of Pine Lake Road and west of 40th Street. Issue of RWD reimbursement was not addressed.
 - 1999 - RWD proposed to City an Interlocal Agreement regarding annexation reimbursement. After several months of discussion, no agreement was reached.
 - September, 1999 - City Council approved first annexation agreement requiring developer to "pay all the cost needed to obtain District No. 1's approval for the City to furnish water" to the land within the RWD boundaries. RWD had established a reimbursement policy of \$5,000 per existing customer and \$3,500 per 20 acres of vacant land.
 - 2008-2009 - City and RWD staff meet several times to discuss a potential agreement covering a large area rather than individual reimbursements. Ultimately, both sides could not agree on a reimbursement amount.
 - June, 2010 - RWD adopted new policy requiring \$12,174.93 per three acres annexed.
3. The new fee established in 2010 would have had a negative impact on the growth of Lincoln and of the City of Hickman. So, City and RWD staff met again to discuss a resolution. In other states, this dispute over the proper fee amount has been litigated between cities and rural water districts. However, in 2012, both parties agreed to set up an informal discussion group. The group met from January to May, 2013. The group included representatives from the RWD, City of Lincoln staff and Hickman, plus one County Commissioner and two representatives of Lincoln developers. The group worked out a proposed agreement that all members thought was a good compromise and would allow for the growth of Lincoln and Hickman with reasonable compensation of the RWD for their investment in the area. This agreement will replace a fee established by the RWD in June 2010 that was over \$4,000 per acre with a proposed fee of \$315 per acre for agricultural land.

4. Major points of proposed agreement:

- A fee of \$6,300 per RWD customer will be charged at time of annexation. Inflation will be added annually starting in January, 2015. The inflation factor will be based on the “Consumer Price Index for All Urban Consumers” (CPI-U).
- For any property that has an existing RWD customer, the fee will be charged regardless if the property is one acre or 20 acres.
- For land that is not a RWD customer, the fee would be charged at one customer per 20 acres. So the per acre fee would be \$315 per acre for land that is not currently a RWD customer.
- For existing RWD customers, the fee charged would be reduced 10% annually for every complete year that the RWD customer remains being actively served after annexation. When the City of Lincoln is the applicant, the maximum amount for existing customers will be determined in advance, but not paid until the 10 years is complete. For private customers, the amount paid would be held in escrow by the District. Example: If a house continued to remain a paying RWD customer for five full years after annexation, 50% of the fee would be refunded.
- A \$750 application fee will be required, regardless of the size of the land to be released. Multiple properties could be included within one application.

5. City staff, along with representatives of the RWD and Hickman, briefed the City Council and County Board on the proposed agreement on September 10, 2013. The proposed agreement was approved by the RWD Board on September 11, 2013. A similar agreement between the City of Hickman and the RWD is scheduled for action in October, 2013.

FACTSHEET PREPARED BY: Jean L. Preister

DATE: September 16, 2013

REVIEWED BY: Marvin Krout, Director of Planning

DATE: September 16, 2013

REFERENCE NUMBER: FS\CC\2013\RWD Agreement