

CITY COUNCIL REGULAR SESSION

Ordinance authorizing the assumption of King County Water District No. 1; execution of an assumption and dissolution agreement with King County Water District No. 1; providing for severability; and establishing an effective date.

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EXECUTIVE SUMMARY

This Ordinance will authorize the assumption of King County Water District No.1 (“District”) consistent with the requirements of chapter 35.13A RCW and as contemplated under a 2004 Interlocal Agreement with the District and the City’s 2016 Water System Plan.

RECOMMENDATION

Move to adopt Ordinance No. 6722

BACKGROUND/ANALYSIS

Background

At its January 17 meeting, Council directed staff to prepare an Ordinance for the assumption of King County Water District No. 1.

The King County Water District No. 1 (“District”) service area covers the north half of the Town of Yarrow Point, providing water service to approximately 210 homes. The District first approached the City about the possibility of an assumption due to increasing State water quality standards, and recognizing the City was already providing water service to the rest of Yarrow Point and neighboring communities.

In 2004, the City Council approved an Interlocal Agreement (ILA) with the District for the “Purchase of Water Supply, System Improvements, and Maintenance and Operations.” The primary purpose of the agreement was to lead to “...the eventual assumption of the District’s water facilities and service area by the City and the dissolution of the District.” The ILA was twice amended to provide for cost sharing to construct a backup emergency intertie, for the City to directly bill the District’s customers on the same rate schedule as other Bellevue customers, and to modify the Indemnification/Hold Harmless section to reflect billing and operations and maintenance arrangements.

Per the ILA, and prior to the City’s operation and maintenance of the system, the District was required to make certain improvements/changes to its system, pay all applicable fees and charges, adopt all resolutions for City water-related programs to be carried out within the District, and disburse all District surplus cash assets. By May 2022, the District had met these commitments.

District Condition

Since 2005, the City has operated and maintained the District’s system in every respect as though it is a

part of its own water system, including billing the District's customers based on City water rates. As such, the District has no employees. In addition, the City is responsible for all District matters/responsibilities (e.g. capital improvements, management, water quality, enforcement, customer service, etc.), including liabilities related to the operation and maintenance of the District. The City does not expect the District will incur any additional debts or liabilities.

Pursuant to the last certification provided by the District to the Washington State Auditor's Office, the District has no outstanding third-party debts and liabilities, and it is not involved in any lawsuits.

Next Steps – Assumption Process

The assumption process is prescribed by statute. Pursuant to RCW 35.13A.111, the City is expressly authorized to assume the District. The City must adopt an ordinance to assume jurisdiction over all of the District. Upon assumption, all real and personal property, franchises, rights, and assets shall become the property of the City subject to all financial, statutory, and/or contractual obligations of the District.

Additionally, the City Council must approve execution of a contract consistent with RCW 35.13A.070. The District and City have prepared an Assumption and Dissolution Agreement ("Agreement") that satisfies the requirements of the statute. See Attachment A. On January 11, 2023, the District adopted Resolution 2023-01, approving the Agreement. This Agreement must also be approved by an ordinance of the City Council.

Any ordinance adopted by the City to facilitate the assumption may not take effect for 90 or more days. Thirty days after the effective date of the ordinance, and consistent with the interlocal and RCW 35.13A.080, the City and District will file a joint petition in King County Superior Court to formally dissolve the District.

In the present case, pursuant to RCW 35.13A.115(4), the contemplated assumption is not subject to a referendum given it is effected pursuant to a contract with a water district.

POLICY & FISCAL IMPACTS

Policy Impact

Revised Code of Washington

RCW 35.13A.111 authorizes the City to assume water districts, with fewer than 250 customers and located outside its jurisdictional limits, pursuant to the terms and conditions of an assumption agreement that is mutually acceptable to the City and District.

Bellevue Water System Plan (2016)

Bellevue is supportive of assuming the District, and it may assume operation of a water district provided the following conditions are met: (1) the district or private system is located within the City's water service area; (2) the district's system facilities meet the City's performance criteria and engineering standards; and (3) the assumption is permitted by State law. All these criteria are satisfied in the present case.

Fiscal Impact

There is no fiscal impact associated with assuming King County Water District No. 1. The District has paid all requisite fees/charges (capital recovery charges, operating and capital facility renewal and replacement reserves, regional capital facilities charges) and made all system upgrades required by the City. The District has no outstanding debts or liabilities given the City has been operating/managing the system since 2005. Additionally, the water rates paid by the District's service area residents includes all costs needed to support and improve the system.

OPTIONS

1. Adopt the Ordinance authorizing the assumption of King County Water District No. 1; execution of an assumption and dissolution agreement with King County Water District No. 1; providing for severability; and establishing an effective date.
2. Do not adopt the Ordinance and provide alternative direction to staff.

ATTACHMENTS

- A. Assumption and Dissolution Agreement
Proposed Ordinance No. 6722

AVAILABLE IN COUNCIL LIBRARY

Interlocal Agreement between City and KCWD No. 1
Amendment No. 1 to Interlocal Agreement between City and KCWD No. 1
Amendment No. 2 to Interlocal Agreement between City and KCWD No. 1
KCWD No. 1 Resolution 2023-01