

RESOLUTION NO. 1075

A JOINT RESOLUTION ADOPTING AN AGREEMENT BETWEEN THE CITY OF OSAWATOMIE, KANSAS AND MIAMI COUNTY RWD #1 FOR THE TRANSFER OF 327 ACRES OF CITY-OWNED PROPERTY TO THE CITY'S WATER SERVICE TERRITORY

THIS AGREEMENT made and entered into this 22nd day of December, 2022 by and between the City of Osawatomie, Kansas and Miami County RWD #1.

WHEREAS, the City owns and operates a water supply and distribution system which produces an adequate supply of water, which water has been approved by the Kansas Department of Health and Environment for domestic uses and fire protection; and

WHEREAS, Miami County Rural Water District #1 owns, operates and maintains a water system, consisting of water mains and distribution lines within the boundaries of their service territory; and

WHEREAS, due to annexation, the City's boundary overlaps RWD #1's boundary as shown on Exhibit "A" which is attached hereto and incorporated by reference, and hereinafter referred to as "overlap territory"; and

WHEREAS, RWD #1 does not currently have the capacity to provide water service in the overlap territory at the expected density of development contemplated and RWD #1 believes it is not financially feasible for them to do so in the foreseeable future; and

WHEREAS, the City has the facilities and capability to provide water service to the overlap territory; and

WHEREAS, the City and RWD #1 are subject to K.S.A. §12-541 and desire to enter into an agreement as authorized by that statute.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

1. DEFINITIONS. The following words and phrases as used in this agreement shall have the meanings as follows:

(a) "Overlap Territory shall mean the territory where the City of Osawatomie's boundary overlaps RWD #1's boundary as indicated on Exhibit "A".

2. WATER SERVICE TO AREAS WITHIN OVERLAP TERRITORY.

(a) Miami County RWD #1 agrees, that due to annexation, a portion of the City of Osawatomie's corporate limits is located within the boundaries of RWD #1, and RWD #1 will not serve or offer water service to any land within the City, which land is Overlap Territory as indicated on Exhibit "A".

(b) The City of Osawatomie agrees it will not serve or offer water service to any land located within the boundaries of Miami County RWD #1 and outside the Overlap Territory.

(c) No compensation is due or shall be paid by the City to RWD #1 on account of this transfer of water service territory. The City agrees to reimburse RWD #1 for its reasonable fees and expenses incurred, including its attorney's and engineering fees in an amount not to exceed **\$2,500 (Two Thousand, Five Hundred Dollars)** as it relates to this transfer of service territory.

(d) In addition, the parties have shown in Exhibit "A" certain facilities of RWD #1 in the Overlap Territory which shall be retained under the ownership and control of RWD #1 despite the annexations and service of the property, as these facilities serve other areas of RWD #1 outside of the City, pursuant to K.S.A. §12-541(d).

3. **TERM.** The term of this agreement shall be perpetual.
4. **RELEASE OR MODIFICATION.** Any release or modification of this agreement or additional obligations assumed by any party in connection with the agreement shall be binding only if in writing and signed by each party or an authorized representative of each party.
5. **ASSIGNMENT OF RIGHTS.** The rights of each party under this agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.
6. **ENTIRE AGREEMENT.** This agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding on either party except to the extent incorporated into this agreement.

IN WITNESS WHEREOF, the City and Miami County RWD #1, respectively, have caused this agreement to be duly executed, the day and year first herein written.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 22nd day of December, 2022, a majority voting in favor of.

APPROVED and signed by the Mayor.

Nick Hampson, Mayor

(SEAL)

ATTEST:

Tammy Seamands, City Clerk

APPROVED and signed by the Chairman of Miami County RWD #1 on December 8, 2022.

Pete Peuser, Chairman

RESOLUTION 1075 EXHIBIT A – OVERLAP TERRITORY
(outlined in blue)

Parcel 1: 1473500002010000



Parcel 2: 1473600001024000



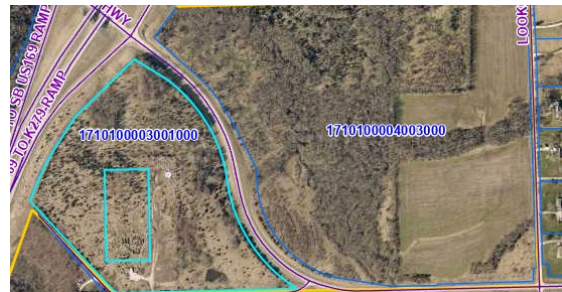
Parcel 3: 1710100001005020



Parcel 4a: 1710100004003000

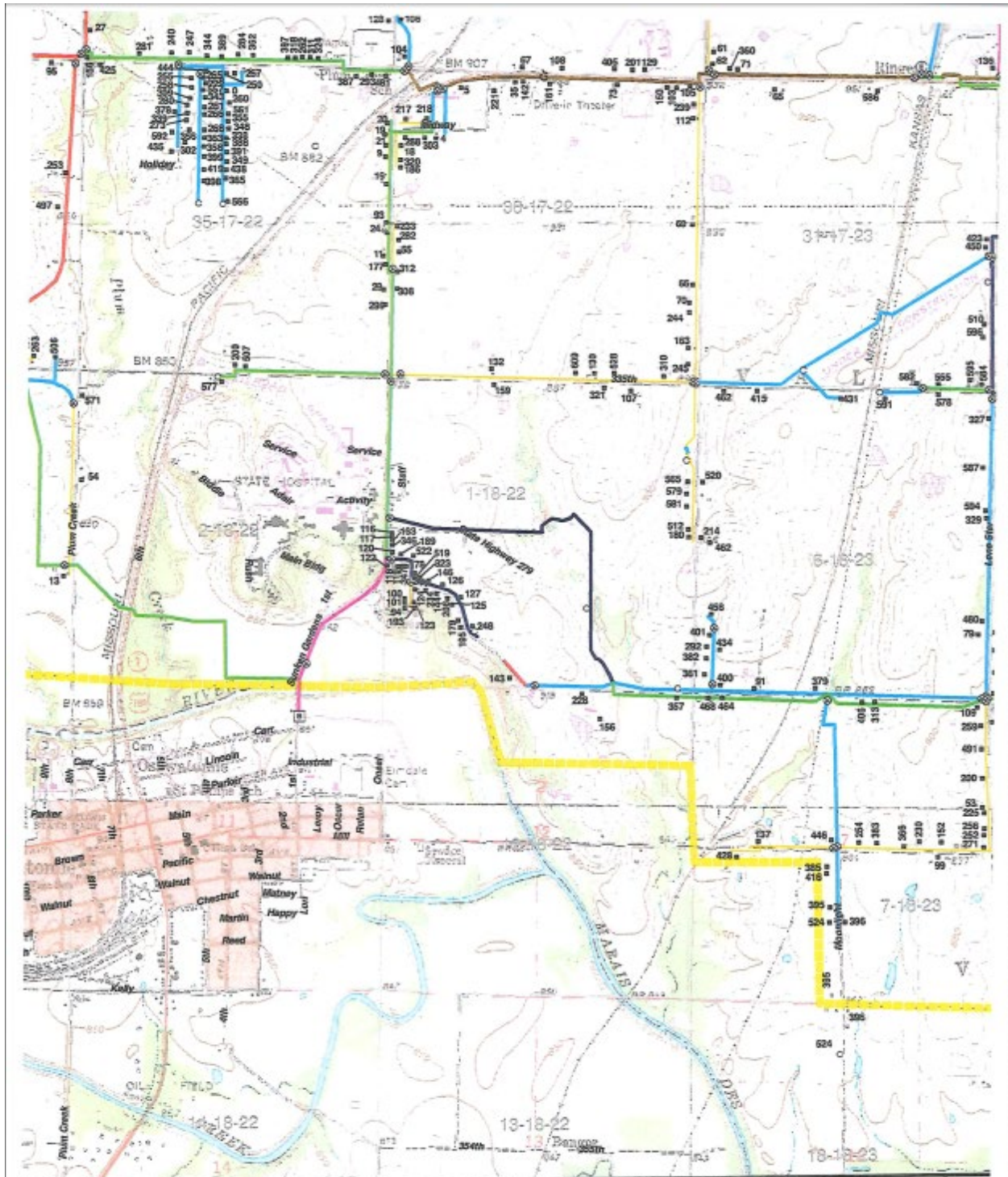


Parcel 4b: 1710100003001000



RESOLUTION 1075 EXHIBIT A cont.

Existing RWD #1 Infrastructure to be retained by RWD #1 to continue servicing its existing customers unless otherwise agreed to by the Parties in accordance with the terms of this agreement.



ITIVE DRIVE - TOPEKA, KANSAS
5.272.2252 - FAX 785.272.7349
WWW.BARTWEST.COM

RURAL WATER DISTRICT NO. 1
MIAMI COUNTY, KS