

**KING COUNTY WATER DISTRICT NO. 90**

**KING COUNTY, WASHINGTON**

**RESOLUTION NO. 1070**

**A RESOLUTION** of the Board of Commissioners of King County Water District No. 90, King County, Washington, providing for a special charge to customers residing in unincorporated King County resulting from King County instituting a rental charge for infrastructure located in County right-of-way.

**WHEREAS**, On November 7, 2016, King County (the County) passed Ordinance 18403 requiring utilities, including the District, to pay for their ability to use the County's right-of-way for placement of utility infrastructure; the County refers to this payment as "franchise compensation" and is akin to annual rent charged for the use of the right-of-way. Such charge is levied against only those portions of utility infrastructure within unincorporated King County; and

**WHEREAS**, The District, in partnership with several other water-sewer districts, entered into litigation against the County seeking to have the court declare that the "franchise compensation" was not authorized or otherwise valid under the law; and

**WHEREAS**, The districts successfully challenged the "franchise compensation" to the King County Superior Court with a finding that the charge was not authorized by law; however, the Washington State Supreme Court reversed that decision and found that the County could impose the "franchise compensation" against the districts; and

**WHEREAS**, King County sent the District an "Estimation of Franchise Compensation" on March 23, 2018, calculating the "franchise compensation" amount due to King County on an annual basis of \$175,246.00; the District disputes the calculation and will engage further with King County in determining the appropriate charge amount, if any; and

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**SUBJECT: King County Franchise Compensation**

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**WHEREAS,** The District Commissioners have the powers “to fix rates and charges for water” service pursuant to RCW 57.08.005 and to “provide for revenues by fixing rates and charges” including classifying customers pursuant to RCW 57.08.081; and

**WHEREAS,** The District has determined that the “franchise compensation” is chargeable to only that class of customer within unincorporated King County; and

**WHEREAS,** The District has calculated the amount due under the County calculation from the date the “franchise compensation” was instituted to present is approximately \$40.00 per customer within unincorporated King County, with an ongoing rate of \$3.00 per month;

**WHEREAS,** The District will negotiate further with King County and appropriate adjustments to the rate, including additional charges or credits, will be passed on to customers within unincorporated King County;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of King County Water District No. 90, King County, Washington, as follows:

**SECTION 1:** District staff is directed to not collect “franchise compensation” charges incurred prior to January 7, 2020, from customers within unincorporated King County, in the amount of \$40.00, pending further negotiations with King County or further decision of the Commissioners.

**SECTION 2:** District staff is directed to collect monthly franchise compensation charges from each customer within unincorporated King County beginning with the first billing after January 7, 2020, in the amount of \$3.00 per month, billed bi-monthly. Such funds will be held by the District pending final negotiation with King County, or further decision of the Commissioners.


**SECTION 3:** District staff is directed to notify customers within unincorporated King County of the “franchise compensation” charge, including the history, litigation, amount and status of such charge, and to provide customers with information that may be helpful to them giving input to King County regarding the adoption and institution of the charge.

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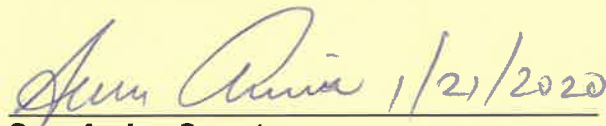
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**ADOPTED** by the Board of Commissioners of King County Water District No. 90, King County, Washington, at a regular open public meeting thereof on the 7th day of January, 2020.

  
**Byron Murgatroyd, President**

  
**Pete Eberle, Vice-President**

  
**Sam Amira, Secretary**

