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Title: Rules Implementing Franchise Compensation under Ordinance 18403

Effective Date: [Note: 30 days after filing with ARMMS]

Authorities: King County Code 6.27

Keywords: Franchise Compensation; Utilities; Right of Way

Sponsoring Agency: Facilities Management Division



King County

Signature: _____

Date signed: _____

I. Purpose

K.C.C. 6.27.080 requires that each electric, gas, water, and sewer utility operating under a franchise provide the county reasonable compensation in return for the right to use the right-of-way for the purposes of constructing, operating, maintaining, and repairing utility facilities and related appurtenances. This rule describes a standardized approach for determining franchise compensation.

II. Applicability and Audience

This rule applies to the Facilities Management Division when determining franchise compensation for electric, gas, water and sewer utilities.

III. Definitions

1. "Assessor" means the King County Assessor.
2. "Assessed Land Value" means the land value of parcels in the Franchise Area, as established by the Assessor, using parcels that are not exempt from property tax.
3. "Facilities Management Division" or "FMD" means the division within the Department of Executive Services responsible for issuing Utility franchises.
4. "Franchise Area" means the area in unincorporated King County for which the Utility requests a franchise.
5. "Franchise Compensation" shall be in the nature of rent and shall be paid annually. Franchise Compensation may be in the form of money, in-kind services or other nonmonetary benefits, accruing to King County. Franchise Compensation shall be provided in return for the valuable property right to use the right-of-way for the purposes of construction, operating, maintaining and repairing utility facilities and related appurtenances. (K.C.C. 6.27.080)
6. "Franchise Use Area" means the approximate amount of area within the ROW that will be available to accommodate the Utility's use.
7. "Geographic Information System" or "GIS" means the King County system which captures, stores, manipulates, and presents certain spatial and geographic data.
8. "Right-of-Way" or "ROW" means County road rights-of-way within unincorporated King County, whether maintained, unmaintained, opened, or unopened.
9. "Utility" means any organization that places electric, gas, water, or sewer infrastructure under, over, within, or across the ROW.

IV. Policy

1. Determination of Franchise Compensation

FMD shall make an estimate of Franchise Compensation for each Utility and provide that estimate to the Utility. The estimate will be provided after FMD has gathered sufficient information from the Utility, through its franchise application, to perform the basic estimation steps described below. The Utility shall thereafter have a reasonable opportunity to suggest adjustments to the estimate in order to reach agreement with King County on the amount and type of Franchise Compensation. A franchise will not be issued to a Utility that fails to reach an agreement on Franchise Compensation with the County.

The agreed upon Franchise Compensation will be included in the franchise agreement, and shall be subject to an annual inflationary adjustment to be agreed upon by the parties and to a full adjustment every five years. The full adjustment will be determined in the manner set forth in this Rule.

2. Methodology to Estimate Franchise Compensation

The estimate of Franchise Compensation for each Utility is based on the land value of the ROW within the Utility's Franchise Area and the approximate amount of area within the ROW that will be available to accommodate the Utility's use. FMD shall perform the following basic steps to estimate Franchise Compensation for each Utility:

- 2.1. Establish the per-square-foot value of the land adjacent to the ROW in the Franchise Area through the following steps:
 - 2.1.1. Divide the total Assessed Land Value of parcels adjacent to the ROW in the Franchise Area by the total square feet of such parcels, as provided by GIS.
 - 2.1.2. Adjust the resulting per-square-foot value of the land adjacent to the ROW in the Franchise Area by a factor reflecting the extent to which the Assessed Land Value in King County lags behind the fair market value of real estate in King County.
 - 2.1.2.1. FMD will determine the rate of adjustment and post this determination on the FMD website. FMD may also periodically reassess this determination and will post updates on the FMD website.
- 2.2. Establish the value of the Franchise Use Area for the Utility through the following steps:
 - 2.2.1. Calculate the Franchise Use Area by multiplying the approximate number of linear feet of the ROW available to be occupied by the Utility by the width of a typical utility easement.

- 2.2.2. Reduce the Franchise Use Area by multiplying the Franchise Use Area by a factor that accounts for facility location (aerial or underground).
- 2.2.3. Multiply the reduced Franchise Use Area by the adjusted per square foot value of land adjacent to the ROW calculated in Section 2.1.2, above. This is the value of the Franchise Use Area.
- 2.2.4. When performing the calculations in Section 2.2, the following criteria will be applied:
 - 2.2.4.1. The approximate number of linear feet of the ROW available to be occupied by the Utility will be the length of the ROW in the Franchise Area as determined by GIS. The County may reduce the number of linear feet used in the calculation, if the Utility provides verifiable information in its franchise application specifying the location of its facilities under, over, within or across the ROW.
 - 2.2.4.2. The width of a typical utility easement and the adjustment for aerial or underground facility locations will allow for:
 - a. Reasonable clearances from other utilities;
 - b. Modest and varied appurtenant uses in the ROW, such as sewer access facilities, water and sewer lines connecting to customers, meters, hydrants, power poles, and transformers; and
 - c. Reasonable access for construction, maintenance and repair.
 - 2.2.4.3. FMD will determine the width it assigns for a typical utility easement and the reduction for aerial or underground facility locations and post these determinations on the FMD website. FMD may periodically reassess these determinations, and will post updates on the FMD website.
 - 2.2.4.3.1 FMD may, on a case-by-case basis, adjust the assigned width of a typical utility easement and/or the reduction for aerial or underground facility location if the size and location of the Utility's facilities are significantly different than those contemplated in the development of this rule.
- 2.3. Calculate the estimated annual Franchise Compensation for the Utility by applying a rate of return to the value of the Franchise Use Area calculated in Section 2.2.3, above.

- 2.3.1. FMD will determine the rate of return and post this determination on the FMD website. FMD may periodically reassess this determination and will post updates on the FMD website.
- 2.4. Financial impact protection for residential customers.
 - 2.4.1. When the methodology produces an estimate of Franchise Compensation that is calculated to cost each residential customer more than a reasonable amount per month, FMD will reduce the estimated Franchise Compensation so that the financial impact on each residential customer does not exceed the financial impact protection amount.
 - 2.4.2. FMD will determine the financial impact amount and will post this determination on the FMD website. FMD may periodically reassess this determination, and will post updates on the FMD website.
- 2.5. Crossings. Some Utilities may occupy the ROW via only one or more crossings from one side of the ROW to the other side of the ROW. In these instances, the calculation of Franchise Compensation shall be the same as described above, with the following exceptions:
 - 2.5.1. In Section 2.1.1, divide the Assessed Land Value of the parcels adjacent to the ROW on each side of the crossing by the total square feet of such parcels, as provided by GIS.
 - 2.5.2. In Section 2.2.1, use the actual square footage of the area of the ROW where the crossing is located instead of multiplying the approximate number of linear feet available to be occupied by the Utility by the average width of a utility easement.
 - 2.5.3. Lateral connections to a facility within the ROW are not considered to be crossings.

V. Implementation Plan

This rule becomes effective for FMD on 30 days after it is filed with ARMMS. FMD is responsible for implementation of this rule. FMD shall post this rule on the Real Estate Services page of its website.

VI. Maintenance

This rule will be maintained by FMD or its successor agency.

VII. Consequences for Noncompliance

A franchise will not be issued to a Utility that fails to reach an agreement on Franchise Compensation with the County.