

**KING COUNTY WATER DISTRICT NO. 125
KING COUNTY, WASHINGTON**

RESOLUTION NO.07-09-26-413

RESOLUTION OF THE BOARD OF COMMISSIONERS OF KING COUNTY WATER DISTRICT NO. 125, KING COUNTY, WASHINGTON, APPROVING AN INTERLOCAL AGREEMENT WITH VALLEY VIEW SEWER DISTRICT REGARDING THE SHARING OF COSTS RELATED TO CERTAIN LITIGATION WITH THE CITY OF TUKWILA.

WHEREAS, King County Water District No. 125 ("Water District") and Valley View Sewer District, formerly known as Val Vue Sewer District ("Sewer District")(collectively the "Districts") are both required by the City of Tukwila ("City") to obtain right of way use permits for construction, maintenance and repair of district facilities in City right of way; further, when the districts alter the appearance of or disturb the surface or subsurface of the City right of way, they must pay to the City a "pavement mitigation" fee ("fee") based on the total square feet of the impacted pavement per lane and on the condition of the existing pavement; and

WHEREAS, the Water District refused to pay the fee, after concluding that the fee is illegal; thereafter, the City demanded payment of the fee by a deadline, and threatened sanctions against the Water District if payment of the fee was not made; and

WHEREAS, on July 11, 2007, the Water District filed a Complaint for Declaratory Judgment and Relief in King County Superior Court (King County Cause No. 07-2-22797-1KNT) ("lawsuit"), arguing, among other things, that the fee is an unconstitutional taking, is an unconstitutional tax, violates due process and that the City has waived its right to collect the fee; the Water District also requested that the Court declare that the fee is illegal and void, permanently enjoin the City against collection of the fee, and award any other appropriate relief; and

WHEREAS, Valley View is impacted by the fee in the same manner as the Water District and, consequently, Valley View has determined to join the Water District as a party plaintiff in the prosecution of the lawsuit, and to share the expenses of the lawsuit equally with the Water District as set forth in a "Joint Cost Sharing Agreement" in the form attached hereto as **Exhibit A** and incorporated herein by this reference (the "Interlocal Agreement"); and

WHEREAS, the districts are authorized by Chapter 39.34 RCW, RCW 57.08.005(11) and 57.08.044 to enter into the Interlocal Agreement; now, therefore,

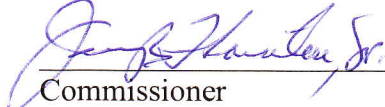
BE IT RESOLVED, by the Board of Commissioners of King County Water District No. 125, King County, Washington, as follows:

1. The Interlocal Agreement in the form attached hereto as **Exhibit A** is hereby approved.

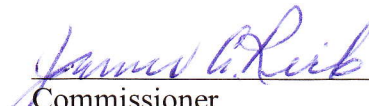
2. Commissioner Jerry Thornton, as the President of the Water District Board of Commissioners, is authorized and directed to execute the Interlocal Agreement on behalf of the Water District.

ADOPTED by the Board of Commissioners of King County Water District No. 125, King County, Washington, at a regular open public meeting thereof held on the 26th day of September, 2007.

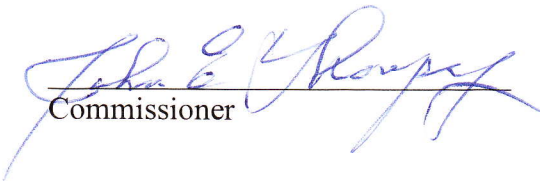
Board of Commissioners
King County Water District No. 125



Commissioner



Commissioner



Commissioner