

April 6, 1995

Introduced by: LOUISE MILLER  
Proposed No: 95 - 306

CLT:jl

ORDINANCE NO. **11822**

AN ORDINANCE approving a franchise for Starcom Service Corporation to construct, operate and maintain a fiber optic telecommunication system in King County Council District 3 and authorizing the Executive to execute the franchise agreement.

STATEMENT OF FACTS:

1. Starcom Service Corporation has filed an application for a franchise in council district 3 to construct, operate and maintain a fiber optic telecommunication system in accordance with R.C.W. 36.55.010.

2. Starcom is constructing a fiber optic telecommunication transmission line from Vancouver, British Columbia to Seattle, using Burlington Northern Railroad right-of-way from the King-Snohomish County line, around the east and south sides of Lake Washington, into Seattle.

3. Starcom is authorized by the Washington Utilities and Transportation Commission to provide telecommunication services in Washington. Starcom intends to operate as a wholesale telecommunications company, offering digital private line service on a private contract carrier basis. Starcom's anticipated customer base would include large users of long distance services, such as major corporations and large governments.

4. Starcom's requested franchise area includes only the single intersection where Willows Road (139th Avenue NE) crosses Burlington Northern Railroad right-of-way. While it is uncertain whether King County or Burlington Northern holds superior property rights at this location, Starcom and King County agreed that it was in their respective interests to proceed with the processing of a franchise.

5. Starcom's franchise application was referred to the relevant county departments for review.

6. King County and Starcom Service Corporation have negotiated a mutually acceptable franchise agreement which has the approval of the department of public works, roads division and the prosecuting attorney's office.

7. The King County executive has recommended approval of the franchise.

**BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:**

**SECTION 1.** The granting of a franchise to Starcom Service Corporation to construct, operate and maintain a fiber optic telecommunications system within King County is hereby approved. The King County executive is authorized to enter into and execute the fiber optic telecommunications franchise, which by this reference is fully incorporated herein. Said franchise shall include all of the general and special conditions required by the county.

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**SECTION 2.** If within 30 days after the granting of this franchise, the applicant shall have failed to sign the written acceptance incorporated herein, then the rights and privileges granted herein shall be forfeited and said franchise shall be null and void.

INTRODUCED AND READ for the first time this 24<sup>th</sup> day of April, 1995.

PASSED by a vote of 12 to 0 this 19<sup>th</sup> day of June, 1995.

KING COUNTY, COUNCIL  
KING COUNTY, WASHINGTON

Kent Pullen  
Chair

ATTEST:

Gerald G. Peterson  
Clerk of the Council

APPROVED this 29<sup>th</sup> day of June, 1995.

[Signature]  
King County Executive

Attachments:

A. Franchise Agreement

## UTILITIES

FRANCHISE NO. \_\_\_\_\_

In the matter of the application for a franchise to operate, maintain, repair, and construct fiber optic telecommunication transmission and service lines and appurtenances in, over, along, and under County roads and rights-of-way in King County, Washington.

STARCOM SERVICE CORPORATION has filed an application for a franchise to operate, maintain, repair and construct transmission, distribution and service lines and appurtenances in, over, along, and under County roads and appropriate rights-of-way located within the unincorporated portion of the area described in attached Exhibit "A" for the purpose of transmitting video, data and voice signals. The King County Council held a public hearing on the application on the 19<sup>th</sup> day of June, 1995.

Legal notice of the franchise application and of the hearing has been given as is required by law.

The King County Council, having considered the interests proposed and advanced, and finding that the granting of this franchise is in the public interest, ORDERS that a fiber optic telecommunication system franchise be granted to STARCOM SERVICE CORPORATION, the Grantee, subject to the conditions set forth in Exhibit "B" attached hereto, this franchise and Ordinance No. 11822. This franchise grants the right, privilege, authority and franchise, subject to conditions, to operate, maintain, repair, and construct transmission, distribution and service lines and appurtenances as a part of its fiber optic telecommunication transmission and distribution system in, over, along, and under County roads and rights-of-way located within the area described in Exhibit "A".

This franchise is granted subject to all of the terms and conditions contained herein, in Ordinance 11822 and Exhibit "B", and shall expire in 10 years on June 19, 2005, unless automatically renewed as provided in Section 3 of Exhibit B.

KING COUNTY, WASHINGTON

BY \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

The undersigned accept all the rights, privileges, and duties of this franchise subject to all terms, conditions, stipulations, and obligations as described in Ordinance \_\_\_\_\_ and Exhibit B attached hereto and with these references incorporated herein.

\_\_\_\_\_  
GRANTEE

BY \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

EXHIBIT "A"

That portion of King County, Washington, described as follows:

That portion of 139th Avenue Northeast (Willows Road) crossing the Burlington Northern Railroad Company right-of-way in the southeast quarter of the northeast quarter of the northwest quarter of Section 27, Township 26 North, Range 5 East, Willamette Meridian, in King County Washington; and any other County right-of-way necessary to accomplish any relocation required under Section 13 of Exhibit B.

EXHIBIT "B"TERMS AND CONDITIONS APPLICABLE TO UTILITY FRANCHISES GRANTED BY  
KING COUNTY

THIS FRANCHISE is subject to the following terms and conditions:

1. DEFINITIONS

References to any County official or office also refer to any official or office that succeeds to any or all of the responsibilities of the named official or office. References to laws or "applicable laws" include federal, state and local laws and regulations adopted pursuant to those laws; unless otherwise stated, references to laws includes laws now in effect, as the same may be amended from time to time, and new laws. In addition, the following definitions shall apply:

Cable System. The term "Cable System" is used as defined in King County Code 6.27A.010(J), as amended.

County Road Rights-of-Way. The term "County Road Rights-of-Way" includes any road, street, avenue, alley or compatible utility easement located within the area described in the attached Exhibit "A". It does not include recreational and natural trails.

Council. The term "Council" refers to the King County Council, acting in its official capacity.

Director. The term "Director" refers to the chief executive of the King County Department of Public Works.

Fiber Optic Telecommunication System. The term "Fiber Optic Telecommunication System" refers to a facility and terrestrial network that uses light waves to provide dedicated, digital transmission services for video, graphic, data, and other information signals.

Grantee. The term "Grantee" refers to STARCOM SERVICE CORPORATION, its officers, agents, employees, contractors and sub-contractors, its successors and those assignees approved pursuant to paragraph 19 of Exhibit "B".

King County. The term "King County" includes its elected officials, officers, employees and agents.

Other Governing Body. The term "Other Governing Body" refers to any public official or other public board or body as may have the power and jurisdiction to permit or regulate the installation and maintenance of utilities and other facilities in, under, over, across, and along any of the County property described in Exhibit "A".

Utility. The term "Utility" refers either to the Grantee or, depending on the context, to any other person, firm, or corporation, public or private, which may hold a franchise to maintain and operate similar facilities in, under, over, across, and along any of the County property described in Exhibit "A".

## 2. ACCEPTANCE BY GRANTEEES OF TERMS AND CONDITIONS

The full acceptance of this franchise and all of its terms and conditions, as signified by the Grantee's unconditioned signing of the franchise document, shall be filed with the Clerk of the Council within thirty (30) days from \_\_\_\_\_, 19\_\_\_\_, by the Grantee. Full acceptance of this franchise is a condition precedent to its taking effect, and unless this franchise is accepted within the time specified, this grant will be null and void and have no force or effect.

## 3. AUTOMATIC RENEWAL AND EARLY TERMINATION

This franchise shall be in effect for a period of ten (10) years from the effective date of this franchise and shall be automatically renewed every five years thereafter, for a maximum term of twenty-five (25) years, unless either party provides the other party with a notice of termination at least one (1) year prior to the termination date of this agreement or any subsequent renewal date; provided that before the Grantee expands its service beyond wholesale telecommunications service and begins providing direct services or other types of services to customers within the County, the franchise shall be subject to renegotiation and amendment.

## 4. ACTIVITIES OF AFFILIATES

The Grantee promises, warrants and guarantees, as a condition of exercising the privileges granted by this franchise, that any Affiliate or joint venture or partner of the Grantee involved in the management or operation of the fiber optic telecommunications system in the County will comply with the terms and conditions of this franchise.

## 5. NON-EXCLUSIVE FRANCHISE

This franchise is not exclusive. It does not prohibit King County from granting franchises for other public or private utilities, in, under, over, across, and along any County property, including County Road Rights-of-Way.

This franchise does not prevent or prohibit King County from constructing, altering, maintaining or using any County Road Rights-of-Way covered by this franchise. King County retains full power to make all changes, relocations, repair, maintenance, etc., as it may deem fit.

## 6. JURISDICTION

This franchise is intended to convey limited rights and interest only as to those roads and rights-of-way in which King County has an actual interest. It is not a warranty of title or of interest in County Road Rights-of-Way. It does not provide the Grantee any interest in any particular location within the right-of-way and it does not confer rights other than as expressly provided in the grant or as mandated by federal, state or local law.

Whenever any of the County Road Rights-of-Way as designated in this franchise, by reason of the subsequent incorporation of any Town or City, or extension of the limits of any Town or City, shall fall within the City or Town limits, this franchise shall continue in force and effect until such time as the incorporation and/or annexation is complete according to applicable State law. Thereafter, the rights and responsibilities of the Grantee shall be as set forth in RCW 35.13.280 or RCW 35.02.160, as amended.

None of the rights granted to the Grantee shall affect the jurisdiction of King County over County Road Rights-of-Way or the County's power to perform work upon its roadways, rights-of-way or appurtenant drainage facilities including by constructing, altering, renewing, paving, widening, grading, blasting or excavating.

All of the rights herein granted shall be subject to and governed by this franchise; provided, however, that nothing in this franchise may be construed in any way as limiting King County's rights to adopt ordinances which are necessary to protect the health, safety and welfare of the general public.



## 7. REGULATION OF USE AND CONTROL

This franchise does not deprive King County of any powers, rights, or privileges it now has or may later acquire in the future to regulate the use of and to control the County Road Rights-of-Way covered by this franchise.

## 8. EMINENT DOMAIN

This franchise and the limited rights and interests for the operation, maintenance, repair, and construction of Grantee's transmission, distribution and service lines and appurtenances are subject to the exercise of eminent domain. In the event of an exercise of eminent domain by King County, the value to be attributed to all the rights and interests granted under this franchise shall not exceed the actual amount the Grantee paid to King County in obtaining this franchise.

## 9. ENFORCEMENT

Failure of King County on one or more occasions to exercise a right or to require compliance or performance under this franchise or any applicable law, shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance, unless such right has been specifically waived in writing. Failure of King County to enforce or exercise its rights under any provision of this franchise or applicable law does not constitute a waiver of its right to enforce or exercise a right in any other provision of this franchise or applicable law.

## 10. INDEMNITY AND HOLD HARMLESS

In consideration for the benefits conferred upon the Grantee by this franchise, the Grantee agrees to defend, indemnify and hold King County harmless as follows:

- (a) Full indemnification together with costs of defense for claims, suits and judgments arising from injuries or damage due to the sole negligence of the Grantee.
- (b) Indemnification together with costs of defense for claims, suits and judgments arising from injuries or damage due to the concurrent negligence of King County and the Grantee, but only to the extent of the Grantee's negligence.
- (c) Indemnification together with costs of defense for claims, suits and judgments arising from injuries or damage to the Grantee's employee(s) alleged to be caused by the

concurrent negligence of King County and the Grantee. However, this section is valid and enforceable only to the extent of the Grantee's negligence.

The Grantee understands that these indemnity provisions shall apply to claims from which the Grantee would otherwise be able to claim immunity under Title 51, RCW, and that this understanding has been mutually negotiated by the parties.

In the event that King County incurs costs to enforce any provision of this indemnification/hold harmless agreement, they shall be recoverable in full from the Grantee.

For the purposes of this section the terms "costs" include reasonable attorney's fees and all expenses incurred in anticipation of and/or in proceeding with litigation; and "injury" includes death, injury to person and damage to property.

King County shall give the Grantee timely written notice of the making of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this section. In the event any such claim arises, the County or any other indemnified party shall tender the defense thereof to the Grantee and the Grantee shall have the duty to defend, settle or compromise any claims arising hereunder and the County shall cooperate fully therein.

Notwithstanding the above, the County shall have no obligation to tender a defense as a condition of the indemnity where there is a material conflict between the interests of the Grantee and King County.

The County may require the Grantee to execute specific and additional indemnifications in connection with issuing any permits related to performance under this agreement.

#### 11. INSURANCE REQUIREMENTS

The Grantee must have adequate insurance during the entire term of the franchise against claims for injuries to persons or damages to property which in any way relate to, arise from, or are connected with the holding of the franchise by the Grantee, its agents, representatives, contractors, subcontractors and employees. As of the date that the Grantee applies for a permit to work in County right-of-way, the Grantee must have insurance coverage in place in the amounts and form specified below and shall maintain at least that coverage throughout the franchise term.

The Grantee must carry commercial general liability, automobile liability and stop gap or employers liability coverage, each in minimum limits of not less than one million dollars (\$1,000,000). All policies must name King County as an additional insured.

All policies shall be placed with insurers having a Bests' rating of no less than A:VIII or, if not rated by Bests', with surpluses equivalent to or greater than Bests' A:VIII rating. Grantee shall send copies of certificates, endorsements or other adequate evidence of compliance to the Property Services Division and the Office of Risk Management prior to the issuance of any permits.

## 12. VACATION

If at any time King County, in accordance with RCW Chapter 36.87, and as hereinafter amended, vacates any County Road Rights-of-Way covered by this franchise, King County will not be held liable for any damages or loss to the Grantee by reason of such vacation. King County may, after giving ninety (90) day's written notice to the Grantee, terminate this franchise with respect to any County Road Rights-of-Way vacated. Alternatively, King County, at its sole discretion, may in its vacation proceedings reserve an easement for the Grantee pursuant to the terms and conditions of this franchise.

## 13. REPAIR, REMOVAL OR RELOCATION

All equipment, lines and appurtenances which are used in the operation, maintenance, repair or construction of the Grantee's system and which are located within the County's rights-of-way shall be considered to be part of the Grantee's system and shall be the Grantee's responsibility. The Grantee hereby covenants, at its own expense, to repair, remove or relocate existing facilities including all appurtenant facilities and service lines connecting its services to users within County Road Rights-of-Way if such repair, removal, or relocation is required by King County for any County road purpose. Such repair, removal or relocation shall not be unreasonably required. If King County requires the Grantee to relocate its system, it shall use its best efforts to identify an alternate course such that Grantee may remain within King County right-of-way.

In addition to any other notice required under this Agreement, King County shall provide reasonable notice of any requirement for repair, removal or relocation of the Grantee's facilities. For projects that are a part of the County's capital improvement program, in addition to any other notice given to the grantee of the franchise, the County shall provide a vertical and horizontal profile of the roadway and drainage facilities within it, both existing and as proposed by the County, and the proposed construction schedule; notwithstanding any permit conditions that may later be applied to the County project, this initial design information shall be given at least 180 days before construction is scheduled to begin, except in cases of urgent construction or emergencies. The grantee shall respond to this notice, and to any later notices of revised designs based on permit conditions, within thirty (30) days by providing to the County the best available

information as to the location of the Grantee's facilities within the area proposed for the public works project.

King County shall make available to the Grantee, upon request, a copy of its six-year transportation improvement program in order to minimize both utility customer and road user inconvenience should future road improvements require adjustment or relocation of the Grantee's facilities.

If King County requires relocation of the Grantee's facilities to a location outside the right-of-way described in Attachment A, and the facilities are to be relocated to other County right-of-way mutually acceptable to the Grantee and King County, then this franchise shall be amended by modifying Attachment A to show the new location.

On any King County road project, should the Grantee become aware of federal, state or other financial assistance available to defray the costs of utility displacement or relocation, King County agrees, upon written notice from the Grantee of such availability, to apply for such assistance funding on behalf of the Grantee so long as such funding obtained will not reduce the amount of federal, state or other funds provided to King County for the affected road project. In the event the County applies for and receives assistance funds specifically for utility relocation from a granting agency, the Grantee shall be reimbursed to the extent of those assistance funds received. If the Grantee accepts such reimbursement, the Grantee agrees to be bound to all grant conditions as reflected in any agreements between King County and the granting agency executed for that purpose.

#### 14. REQUIREMENT OF CONSTRUCTION PERMITS

The Grantee, its successors or assigns, has the right, privilege and authority to enter the County Road Rights-of-Way for the purpose of operating, maintaining, repairing, or constructing its transmission, distribution and service lines, and appurtenances, on the condition permits approved by the Director and Property Services Division are obtained. The Grantee shall obtain all required permits before commencing any construction, reconstruction, maintenance or other work or property use. Applications for work permits shall be presented to the Property Services Division (a paper copy and a digital copy), which shall be accompanied by a map copies of plans, blueprints, cross-sections, or further detailing of work to be done. In the event of an emergency, the Grantee may immediately commence the necessary work and shall apply the next business day for the work permit. Any work done, whether by Grantee, its contractors, or third parties will include necessary paving, patching, grading, and any other reasonably necessary repair or restoration to the County Road Rights-of-Way. All work shall be done to the reasonable satisfaction of the Director.

Since all equipment, lines and appurtenances which are used in the operation, maintenance, repair or construction of the Grantee's service and which are located within the County Road Rights-of-Way shall be considered to be part of the Grantee's system and the responsibility of the Grantee, all permits for the operation, maintenance, repair or construction of said system shall be applied for and given in the name of the Grantee, who will be responsible for all work done under the permit. The Grantee remains responsible whether the work is done by the Grantee, its contractors, or by third parties.

The Grantee shall post and maintain a bond to King County in the amount sufficient for any road repair or restoration. The amount of the bond shall be set by the Director and must be filed with the Property Services Division before a permit will be issued.

#### 15. RESTORATION OF COUNTY ROAD RIGHTS-OF-WAY

After work on, over, under or adjacent to County Road Rights-of-Way, the Grantee is responsible for and will leave all County Road Rights-of-Way in as good a condition as they were before any work was done. In the event that the Grantee, its contractors, or third parties working under permit should fail to restore County Road Rights-of-Way to the satisfaction of the Director, King County may make such repairs or restorations as are necessary to return the County Road Rights-of-Way to their pre-work condition. Except in the case of an emergency, King County shall first notify the Grantee of the needed repairs or restoration and provide an opportunity for the Grantee to perform the repairs or restoration before King County does the work. Upon presentation of an itemized bill for repairs or restorations, including the costs of labor and equipment, the Grantee will pay the bill within thirty (30) days. If suit is brought upon the Grantee's failure to pay for repair and restoration, and if judgment in such a suit is entered in favor of King County, then the Grantee shall pay all of the actual costs, including interest from the date the bill was presented, disbursements, and attorney's fees and litigation related costs incurred.

#### 16. PERFORMANCE OF WORK

The Grantee covenants that in consideration for the rights and privileges granted by this franchise, all work performed by the Grantee on County Road Rights-of-Way shall conform to all County requirements including, but not limited to, the requirements of the current edition of the County Road Standards in force when the work is performed and all traffic control shall also conform to the current edition of the manual of Uniform Traffic Control Devices in force when the work is performed.

## 17. BLASTING REQUIREMENTS

The right to operate, maintain, repair and construct Grantee's transmission, distribution and service lines and appurtenances granted by this franchise, does not preclude King County, its agents or contractors from blasting, grading, or doing other road work contiguous to the Grantee's lines, and appurtenances. Except in the case of an emergency, the Grantee will be given ten business days written notice of any blasting so that the Grantee may protect its lines and appurtenances. If the Grantee notifies the County within ten business days that the facilities will have to be relocated to protect them from blasting, the County will defer the blasting for up to ninety (90) days from the date of the original notice. In no event will the Grantee be given less than two business days written notice of any blasting. Notification of any excavation shall be provided through the One-Call System as provided by RCW 19.122, as hereinafter amended.

## 18. SURVEY MARKERS AND MONUMENTS

It shall be the responsibility of the Grantee performing any construction work in the County rights-of-ways to restore any survey markers or monuments disturbed by such construction in accordance with RCW 58.09.130, and as hereinafter amended.

## 19. ASSIGNMENT

The Grantee shall notify the King County Property Services Division in writing of its intent to assign the franchise at least one hundred and twenty (120) days prior to the effective date of the assignment. The Grantee shall not have the right to assign this franchise, except to a wholly-owned subsidiary or affiliate, provided such company is incorporated in the State of Washington, without the consent of the King County Council given by Ordinance. Council approval of the assignment may be made subject to the assignee's acceptance of new or modified terms of the franchise.

No assignment shall be effective unless an acceptance by the assignee of all rights, conditions, terms, provisions, and responsibilities contained within the franchise, as well as insurance and surety bonds which the County deems necessary to be posted are received in the assignee's name.

Notwithstanding the foregoing, nothing in this Agreement shall prohibit the Grantee from consenting to a lien being placed upon the Grantee's existing facilities; the Grantee shall have the right to assign this franchise to a lender for purposes of security in connection with financing provided to the Grantee.

20. RESERVATION OF RIGHTS

King County specifically reserves for itself the right to impose a utility tax or other taxes on the Grantee if such taxing authority is granted by the State of Washington and the local option is exercised by the King County Council.

King County also specifically reserves the right to exercise authority it has or may acquire in the future to secure and receive fair market compensation for the use of its real property. If King County elects to exercise such authority, the fair market compensation requirement shall be imposed by ordinance not less than one hundred eighty (180) days after written notice ("Compensation Notice") is delivered to the Grantee, said Compensation Notice identifying with specificity the definition, terms and/or formula to be used in determining such fair market compensation. Acceptance of King County's definition, terms and/or formula identified in the Compensation Notice will occur if the Grantee accepts in writing within thirty (30) days of receipt of the Compensation Notice; or, if Grantee takes no action in writing within thirty (30) days of receipt of the Compensation Notice; in which case the applicable ordinance that the King County Council passes will be determinative.

Nothing in this section shall be construed as an agreement by the Grantee of King County's right to exercise authority it has or may acquire in the future to secure and receive fair market compensation for the use of its real property. Nothing in this section shall be construed to prohibit the Grantee from challenging, in King County Superior Court or a court of competent jurisdiction, the legality of such right.

Grantee's rejection of the definition, terms, and/or formula identified in the Compensation Notice will only occur if such rejection is in written form, identifying with specificity the grounds for such rejection, and delivered to King County within thirty (30) days after receipt of the Compensation Notice, in which case the below identified arbitration terms will apply:

- A. The Grantee and King County will select one arbitrator each, and the two selected arbitrators will select a third arbitrator. If the two arbitrators have not selected a third arbitrator within thirty (30) days after the selection of the last selection of the two, either the Grantee or King County may apply to the presiding judge of the King County Superior Court for the appointment of a third arbitrator. Each arbitrator will be a member of the American Institute of Real Estate Appraisers, of the Society of Real Estate Appraisers, of some equivalent body, or an attorney licensed to practice law in the State of Washington. Any appraiser arbitrator shall be licensed

as an appraiser by the State of Washington. The three arbitrators will determine the method for determining the fair market compensation for the County real property used by the Grantee. The decision of a majority of the arbitrators will bind both the Grantee and King County. At the conclusion of the arbitration, the arbitrators will submit written reports to the Grantee and King County which shall contain all pertinent evidence that led to their conclusion together with an explanation of their reasoning for such conclusion.

- B. The cost of the arbitration will be divided equally between the Grantee and King County. In the event that the question of fair market compensation is not resolved prior to the effective date specified by the ordinance authorizing said compensation, the arbitration decision will be applied retroactively to the effective date in the ordinance. The Grantee will pay the retroactive sum plus interest in the amount of twelve percent (12%) per annum.

Nothing in this franchise may be construed to limit the exercise of authority now or later possessed by the County or any other governing body having competent jurisdiction to fix just, reasonable and compensatory rates or other requirements for services under this franchise. Nothing in this section shall be construed to prohibit the Grantee from challenging, in King County Superior Court or a court of competent jurisdiction, the authority of the County or any other governing body to fix rates or other requirements for services.

## 21. EXPIRATION AND RENEWAL

If the Grantee has not applied for a renewal of this franchise before it expires or if the franchise is revoked, King County has the right to remove or relocate any lines and appurtenances of the Grantee as is reasonably necessary for the public's health, welfare, safety, or convenience including, but not limited to, the safe operation of County roads, franchise holders, or for the construction, renewing, altering, or improving of any County Road Rights-of-Way, or for the installation of lines and/or facilities of other franchise holders, acknowledging that King County's rights to remove or relocate the lines at the original location described in Attachment A may be subject to the rights of Burlington Northern Railroad, or its successors.

Except in the case of emergencies, King County shall provide the Grantee ninety (90) days written notice of the requirement for removal or relocation. If the Grantee does not remove or relocate its lines within ninety (90) days, the Grantee shall be liable for the costs incurred in any removal or relocation of its lines and appurtenances under this section. Costs include the



expense of labor and equipment, provided that any removal is effected within two (2) years from the expiration date of this franchise.

Upon expiration of this franchise and until such time as the lines are removed from County Road Rights-of-Way, the grantee shall continue to be responsible for the maintenance of the Grantee's existing facilities in the County Road Rights-of-Way. This section and Sections 10, 11, 13-16, 18 and 27 of this franchise shall continue in force until such time as the lines are removed from County Road Rights-of-Way.

## 22. COMPLIANCE WITH LAWS

Grantee shall conform to all applicable federal, state and local laws and regulations including but not limited to the State Environmental Policy Act and King County environmental standards and ordinances.

## 23. NON-DISCRIMINATION CLAUSE

In all hiring or employment made possible or resulting from this franchise agreement, there shall be no discrimination against any employee or applicant for employment because of sex, sexual orientation, age, race, color, creed, national origin, marital status or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification, and this requirement shall apply to but not be limited to the following: employment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

No person shall be denied, or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this agreement on the grounds of sex, sexual orientation, race, color, creed, national origin, age except minimum age and retirement provisions, marital status, or the presence of any sensory, mental or physical handicap.

Any violation of this provision shall be considered a violation of a material provision of this agreement and shall be grounds for cancellation, termination or suspension in whole or in part, of the agreement by the County and may result in ineligibility for further County agreements.

The Grantee shall make the best efforts to make opportunities for employment and/or contracting services available to women and minority persons. The Grantee recognizes that King County has a policy of promoting affirmative action, equal opportunity and has resources available to assist Grantee in these efforts.

obtaining an additional franchise from King County which conforms to the requirements of K.C.C. 6.27A.

## 27. SEVERABILITY

This franchise gives effect to purposes and uses which are consistent with economical and efficient services rendered in the public interest. If any provision of this franchise, or its application, is determined to be invalid by a court of law, then the remaining provisions of this franchise shall continue and remain valid unless the dominant purpose of the franchise would be prevented or the public interest is no longer served.