

PROPOSED MOTION

No. 13063

A MOTION authorizing the County Executive to enter into a contract with Loveless and Associates for a franchise to construct, maintain and operate a water system.

WHEREAS, Loveless and Associates has properly filed an application for a franchise to construct, maintain and operate a water system, and

WHEREAS, the application has been referred to the County Executive for investigation of the feasibility thereof and the checking of the plans and description of the location thereof, and

WHEREAS, the County Executive has recommended approval of said franchise

NOW THEREFORE, be it moved by the Council of King County:

The County Executive is hereby authorized to enter into and execute the attached water system franchise contract for Loveless and Associates, which by this reference, is incorporated herein as part of the Motion. Said franchise includes name of applicant, term of franchise, condition of franchise, location and nature of franchise.

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

PASSED this 16th day of July 1973

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

*Mary J. Owen*  
ACTING Chairman

ATTEST:

*Dorothy G. Owens*  
Deputy Administrator - Clerk of the Council

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In the matter of the application of

LOVELESS AND ASSOCIATES

to lay down, construct, maintain and operate a system of cast iron, steel, asbestos cement & reinforced plastic water mains, laterals and service pipes.

L 1198

KING COUNTY, WASHINGTON, granting franchise rights to LOVELESS AND ASSOCIATES for watermain installations, maintenance and operation:

The application of LOVELESS AND ASSOCIATES, Grantee, for a franchise to lay down, construct, maintain and operate a single line of iron pipes and iron lateral pipe along, under and across such County roads, streets, avenues, boulevards, alleys and public places hereinafter described, having come on regularly to be heard on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and it having been made to appear to the King County Council, hereinafter called the "Council" that all of said streets, avenues, boulevards, alleys, public places and public roads and highways lie outside the limits of any incorporated town or city and that due and legal notice of said application and of the hearing had been given by posting and publication and in manner and as required by law, and the Council having considered said application and being advised in the premises:

NOW, THEREFORE, King County, Washington, pursuant to Ordinance No. \_\_\_\_\_ duly and regularly enacted by its Council on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, hereby grants to said LOVELESS AND ASSOCIATES

hereinafter called the "Grantee", and to its successors and assigns, subject to all the terms and conditions, hereof; for the term of 25 years from the date hereof; the right, privilege, authority and franchise for itself, its successors and assigns, to lay down, construct, maintain and operate a single line of cast iron, steel, asbestos cement and reinforced plastic water mains, laterals and service pipe along, under and across such County roads (where pipes cross such paved roads, pipes shall be placed in steel jackets) together with all necessary equipment of every sort necessary for the delivery of water to consumers upon the following County roads, streets, avenues, boulevards, alleys and public places:

The location and nature of the franchise being more particularly described as follows:  
The South  $\frac{1}{2}$  of the N.E.  $\frac{1}{4}$  and the S.E.  $\frac{1}{4}$  of Section 22 Twp. 24 N., R 7 E.W.M.

This franchise is granted upon the following express terms and conditions, to-wit:

1. Whenever any of the streets, avenues, alleys, county roads or public places as designated in this franchise by reason of the subsequent incorporation or extension of same of any city or town within the territory hereinbefore described, shall fall within the city or town limits, then all the rights, privileges and franchise herein granted shall terminate in respect to said streets, avenues, alleys, County roads and public places so annexed, but this franchise shall continue in force and effect in respect to all such streets, avenues, alleys, County roads, and public places not so annexed.

And in the event the territory, covered by this grant, shall at any time during the term of this franchise be included within the territory of any incorporated city or town, the authorities of said city or town shall have the right at their discretion to acquire by purchase or condemnation any or all of such mains, laterals, service pipe, and equipment, etc., comprising the Grantee's water system at a price to be based upon the reasonable value of same at that time, without any additional value for the franchise or any unexpired period thereof.

2. The Grantee shall have the right and authority to enter upon the above mentioned streets, avenues, alleys, county roads and public places for the purpose of construction work, making extensions of mains and laterals, connecting same with consumers service pipes, repair equipment, maintain and operate said lines, charge and collect toll for delivery of water, and make such rules and regulations governing same as may be in conformity with such state statutes and regulations as are now in force or as may hereafter be enacted or adopted, governing such utilities.
3. The Grantee may lay, construct, maintain and operate a single line or double line of pipe or partly single and partly double line of pipe and the Council may, upon a showing by the Grantee of its necessity, change a single to a double pipe line, all construction and installation work to be under the supervision and pass the inspection of the King County Director of Public Works, hereinafter called the "Director".
4. The Grantee for itself, its successors or assigns, shall commence construction work under this franchise, within six (6) months from and after the date of passage thereof. If at the end of five (5) years from and after the granting of this franchise, the Grantee its successors or assigns, shall not have laid, constructed and have in operation upon any of the alleys, streets, avenues, county roads or public places as herein designated, a line of watermains, laterals or service pipes, then in that event, the rights hereby conferred upon the Grantee shall cease and terminate so far as unoccupied streets, roads, etc., are concerned.
5. The location of all mains, laterals, service pipe and appurtenances, their depth below surface of ground or grade of any county road, street, avenue, alley or public place, shall be determined and fixed by the Director and before any work is done by the Grantee under this franchise, it shall first file with the Director an application for permit to do such work, accompanied by blue prints (permit form and blue prints in triplicate) showing the position and location of all mains, laterals, service pipes, extensions, meter boxes, plugs, sandpipes, etc., sought to be constructed, laid, installed or erected at the time, showing their relative positions to existing county road, street, alley, right of way or property lines, upon prints drawn to scale, designating said roads or streets by their names and number, showing width of same, giving outline of local improvements, such as sidewalks, curbs, gutters, shoulders of roadway, ditches, paved roadways, roadways to property line turnouts, parking strips, telephone or electric distribution poles, conduits, sewer or water pipe lines, etc., as may exist on ground sought to be occupied.

The Grantee shall specify the class and type of material used shown in detail plans, equipment to be used and mode of safeguarding and facilitating the public traffic during construction. All such material and equipment shall be of first class, of the type and kind and manner of excavation, construction installation, backfill, and temporary structures; as traffic turnouts, road obstructions, etc., shall meet with the approval of, pass all requirements of, and be constructed under the supervision of the Director. The said Grantee shall pay to the County all costs of and expenses incurred in the examination, inspection and supervision of such work, on account of the granting of said permit.

6. The Grantee shall leave all streets, avenues, alleys, roads or public places, after laying and installing mains and doing construction work making repairs to equipment etc., in as good and safe condition in all respects as they were before the commencement of such work by the Grantee, its agents or contractors, or when such work has met with the approval of the Director.  
In case of any damage to said streets, avenues, alleys, county roads, or public places, or to paved or planked roadways, turnouts, gutters, ditches, wood or concrete walks, drain pipes, hand or embankment rails, bridges, trestles, wharves or landings, by the Grantee, the said Grantee agrees to immediately repair said damage at its own sole cost and expense. King County may at any time do, order and have done any and all work considered necessary to restore to a safe condition any such street, avenue, alley, road, or public place left by the Grantee, or agents, in a condition dangerous to life or property and the Grantee upon demand shall pay to the County all costs of such construction or repair and of doing such work.
7. The Grantee hereby agrees for itself, its successors and assigns, to protect and save harmless King County from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person or persons, corporation or property by reason of any faulty construction, defective material, or equipment, or maintenance, or by the improper occupation of said right of way by the said Grantee or by reason of the negligent, improper, or faulty manner of safeguarding any excavation, temporary turnouts, or inefficient operation by the Grantee of water pipe lines over said streets, avenues, alleys, roads and public places as hereinbefore designated and in case that suit or action is brought against the said King County for damages arising out of or by reason of any of the above mentioned causes the Grantee, its successors, or assigns will, upon notice to it or them of the commencement of said action, defend the same at its or their sole cost and expense and in case judgment shall be rendered against King County in suit or action, will fully satisfy said judgment within ninety (90) days after the said suit or action shall have finally been determined if determined adversely to King County.  
The Grantee hereby agrees, for itself, its successors and assigns, to repair any damage to the County roads over which it holds a franchise, and all other county improvements caused by the failure of the Grantees work during the life of this franchise.  
Failure on the part of the Grantee to promptly repair the damaged work upon notice from the Director to do so, shall be warrant for the county to make the necessary repairs and charge same to the Grantee.  
Acceptance of the work by the County at the time of completion shall be no defense for avoidance of this covenant.  
PROVIDED, that the Grantee, its successors and assigns shall have the right to employ its or their own counsel in any cause or action and be given the management of the defense thereof.
8. The laying, construction, maintenance and operation of the said Grantee's system of water mains, laterals, service pipe, etc., granted under this franchise shall not preclude King County, its accredited agents, or its contractors, from blasting, grading, or doing other necessary road work contiguous to the said Grantee's pipe lines, provided that the Grantee shall have twenty-four (24) hours notice of said blasting or excavating in order that said Grantee may protect its line of pipe and property.

9. If, at any time, King County, deeming it advisable to improve any of its streets, avenues, alleys, county roads or public places, as hereinbefore designated, by grading or regrading, planking or paving same, or altering, changing, repairing, or reimproving same, the Grantee, upon written notice by King County shall, at its or their own expense, immediately so raise, lower, or move line of pipes to conform to such new grades as may be established, or place said pipes in such location, or positions as shall cause the least interference with any such improvements or work thereon as contemplated by King County and the said County shall in no wise be held liable for any damages to said Grantee that may occur by reason of the County's improvements, repairs or maintenance or by the exercise of any rights so reserved in this section or grant. If King County shall improve such streets, avenues, alleys, county roads or public places, the Grantee shall on written notice by King County, at its own expense replace such pipe or pipes as may be in or through the improved subgrade of such improvement, with pipe or pipes of such material as shall conform to the specifications for the improvement of such streets, avenues, alleys, county roads or public places.
10. This grant or privilege shall not be deemed or held to be an exclusive franchise. It shall in no manner prohibit King County from granting other franchises of a like nature or franchises for other public or private utilities, over, along, across, under and upon any of the streets, avenues, alleys, roads or public places as herein enumerated, and shall in no wise prevent or prohibit King County using any of said streets, roads, etc., or affect its jurisdiction over them or any part of them, with full power to make all necessary changes, relocations, repairs, maintenance, etc., of same as it deems fit.
11. All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors and assigns of the Grantee, and all privileges of the Grantee shall inure to successors and assigns equally as if they were specifically mentioned wherever the Grantee is mentioned.
12. If the Grantee itself, its successors or assigns, shall willfully violate or fail to comply with any of the provisions of this grant, or through willful or unreasonable neglect fail to heed or comply with any notice given the Grantee under the provisions of this grant, then the said Grantee, its successors or assigns shall forfeit all rights conferred hereunder and this franchise may be revoked or annulled by King County.
13. King County reserves for itself the right at any time upon forty-eight (48) hours written notice to the Grantee to so change, amend, modify or amplify any of the provisions or conditions herein enumerated to conform to any state statute, or county regulation, relating to the public welfare, health, safety or highway regulation as may hereinafter be enacted, amended, adopted, changed, etc., and this franchise may be terminated at any time if same is not operated or maintained in accordance with its provisions, or at all.
14. In consideration of the granting of this franchise by King County to the Grantee, the Grantee for itself, its successors and assigns, hereby contracts and agrees to save King County harmless from any liability of whatsoever nature arising out of any damage and/or destruction done or suffered to be done to Grantee's watermains, valves, pipes or other fittings of whatsoever nature placed upon, along, or under the county road right of way or to any other person or property injured or damaged as the result of the use or occupation of any part of the county road right of way by Grantee under the terms of this franchise. This paragraph shall be construed to mean that the Grantee accepts this franchise and any rights conferred hereunder for the use and occupation of any portion of the right of way, at its own risk, and agrees to assume responsibility for any damage occasioned to Grantee, or to any other person by King County in the maintenance and/or construction work performed by King County upon the roadways described above and which would not have occurred but for the presence on said roadways of the Grantee's pipes or other property mentioned above.

15. If at any time King County shall install a line of pipes for sewage and drainage, upon any of the streets, avenues, alleys, county roads or public places herein described, the Grantee, upon written notice by King County, shall temporarily remove its line of water pipes at its own expense during said installation and replace same at its own sole cost and expense under the supervision of King County.
16. Before any work is performed under this franchise, the Grantee shall reference all monuments and markers of every nature relating to subdivisions, plats, highway and all other surveys. The reference points shall be so located that they will not be disturbed during the Grantee's operations under this franchise. The method of referencing these monuments or other points to be referenced shall be approved by the Director before placement. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit and as directed by the Director. The cost of monuments or other markers lost, destroyed, or disturbed and the expense of replacement by approved monuments shall be borne by the Grantee.
17. If within thirty (30) days after the granting of this franchise the Grantee shall have failed to sign the incorporated written acceptance hereof, then the herein granted rights and privileges shall be deemed forfeited and be declared null and void.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

BY: \_\_\_\_\_  
JOHN D. SPELIMAN, County Executive

ATTEST:

\_\_\_\_\_  
Clerk of the Council

The undersigned hereby accepts all the rights and privileges of the above-granted franchise subject to all the terms, conditions, stipulations and obligations contained therein.

\_\_\_\_\_  
Grantee

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

CJL:EM:jb  
10-28-70