

12099

FRANCHISE NO. _____

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

The application of the Southwest Suburban Sewer District for a franchise to operate, maintain, repair and construct sewer mains and service lines, and appurtenances in, over, along, and under County roads and rights-of-way located within the area described in attached Exhibit "A" has been heard on this 2nd day of January, 1996. All of the property described in Exhibit "A" lies outside the limits of any incorporated Town or City.

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 franchise be granted to the Southwest Suburban Sewer District, the Grantee. This franchise grants the right, privilege, authority and franchise to operate, maintain, repair and construct main(s) and service lines and appurtenances as a part of its distribution system in, over, along, and under County roads and rights-of-way located within the area described in Exhibit "A".

12099

This franchise is granted subject to all of the terms and conditions contained within, and shall expire in twenty-five years on January 2, 2021.

Dated this 12th day of January, 1996.

KING COUNTY, WASHINGTON

BY Jerry Locke

TITLE EXECUTIVE

The undersigned accepts all the rights, privileges, and duties of this franchise subject to all terms, conditions, stipulations, and obligations contained within.

SOUTHWEST SUBURBAN SEWER
DISTRICT
GRANTEE

BY Steve Ardelli

TITLE GENERAL MANAGER

Dated this 1 day of FEBRUARY, 1996.

Exhibit "A"

Beginning on the north line of Section 6, Township 23 North, Range 4 East, W.M., at its intersection with the northerly extension of the east line of White Center Housing Project, King County Housing Authority, in the N E 1/4 of the N E 1/4 of said Section 6 (said point also being on the corporate boundary for the City of Seattle);

Thence southerly along said northerly extension and said east line following the corporate boundary for the City of Seattle to its intersection with the north margin of S W 100th Street;

Thence easterly continuing along the corporate boundary for the City of Seattle along said north margin and its easterly extension to its intersection with the northerly extension of the east margin of 1st Avenue South;

Thence southerly along said northerly extension and east margin of 1st Avenue South to its intersection with the north margin of South 108th Street;

Thence easterly along said north margin to its intersection with the northerly extension of the east line of Lot 5, Block 1A, Beverly Park Division No. 1, according to the plat thereof recorded in Volume 32 of plats, Page 1, records of King County, Washington;

Thence southerly along said northerly extension and said east line of Lot 5 and its southerly extension to its intersection with the north line of Lot 16, Block 1 of said plat of Beverly Park Division No.1;

Thence easterly along said north line to the east line thereof;

Thence southerly along said east line of Lot 16 and the east line of Lots 17 through 27 of said Block 1 to its intersection with the north margin of South 112th Street;

Thence easterly along said north margin to its intersection with the northerly extension of the west line of the east 1,519.17 feet of the north 193.75 feet of the N W 1/4 of Section 8 of said Township 23 North (said west line also being the northerly extension of the west line of the east 100 feet of Lot 1, Block D, Beverly Park Division No.3 unrecorded);

Thence southerly along said northerly extension and west line to the north line of Lot 1, King County Shortplat S90S0058, recording No. 9112229018;

Thence easterly along said north line to the east line of said Lot 1;

Thence southerly along said east line to the south line of said King County Shortplat S90S0058;

Thence easterly along said south line to the east line of Lot 2 of said King County Shortplat S90S0058;

Thence $S0^{\circ}00'43''W$ parallel with the east line of the N W 1/4 of the N W 1/4 of said Section 8, a distance of 800 feet to its intersection with the north line of the south 230 feet of the North 1/2 of the N W 1/4 of said Section 8;

Thence easterly along said north line to its intersection with the easterly margin of 5th Avenue South;

Thence southerly along said easterly margin to its intersection with the north margin of South 116th Street;

Thence easterly along said north margin to its intersection with the westerly margin of Secondary State Highway No. 1-K (Also Known As State Route 509);

Thence southerly along said westerly margin of Secondary State Highway No 1-K to its intersection with the south line of the north 212 feet of the S E 1/4 of the S W 1/4 of said Section 8 (Said south line also being the north line of Lot 4, Block B of the plat of Cedarhurst Division N. 3 unrecorded);

Thence easterly along said south line to the west line of the S W 1/4 of the S E 1/4 of Section 8, Township 23 North, Range 4 East, W.M.;

Thence continuing easterly along the south line of the north 212 feet of said S W 1/4 of the S E 1/4 of Section 8 (portion of said south line also being the north line of Lots 13 and 56, Block 7, Stimson Park Division No. 2 unrecorded) to its intersection with the west line of Lot 1, J L Pikes Addition, recorded in Volume 38 of plats, Page 8, records of King County, Washington (Said west line of Lot 1 being 133 feet westerly of the west margin of 10th Avenue South);

Thence southerly along said west line and the west line of lots 2 and 3 of said plat of J L Pikes Addition to the south line thereof;

Thence $S89^{\circ}17'37''W$, a distance of 30 feet to its intersection with the west line of the east 193 feet of the N W 1/4 of the S W 1/4 of the S E 1/4 of said Section 8;

Thence southerly along said west line 120 feet to its intersection with the westerly extension of the north line of Lot 4 of said plat of J L Pikes Addition;

Thence easterly along said westerly extension to the west line of said Lot 4 of J L Pikes Additions:

Thence southerly along said west line of Lot 4 and the west line of Lots 5 and 6 of said plat of J L Pikes Addition to the south line of said Lot 6;

Thence easterly along said south line and its easterly extension to its intersection with the east margin of 10th Avenue South;

Thence southerly along said east margin to its intersection with the north line of the south 580 feet of the S E 1/4 of the S W 1/4 of the S E 1/4 of said Section 8;

Thence easterly along said north line of the south 580 feet of the S E 1/4 of the S W 1/4 of the S E 1/4 of said Section 8 (A portion of said north line also being the north line of Lot 45, Block 6 of said unrecorded plat of Stimson Park Division No. 2), to its intersection with the east line of the West 1/2 of said S E 1/4 of the S W 1/4 of the S E 1/4 of said Section 8 (Said east line also being the centerline of said Block 6 of Stimson Park Division No. 2 unrecorded);

Thence northerly along said east line and the east line of the West 1/2 of the N E 1/4 of the S W 1/4 of the S E 1/4 of said Section 8 (A portion of said east line also being the centerline of Block 6 of said unrecorded plat of Stimson Park Division No. 2) to its intersection with the southern margin of South 124th Street;

Thence continuing northerly along said east line and the east line of the West 1/2 of the S E 1/4 of the N W 1/4 of the S E 1/4 of said Section 8 to its intersection with the south line of the north 630 feet of the N W 1/4 of the S E 1/4 of said Section 8 (Said point of intersection also being the northwest corner of Lot 13 of Block 5 of said unrecorded plat of Stimson Park Division No. 2);

Thence easterly along said south line (A portion of which is the north line of said Lot 13), to its intersection with the western margin of 12th Avenue South;

Thence northerly along said western margin and along its northerly extension to its intersection with the north margin of South 120th Street;

Thence easterly along said north margin to its intersection with the west line of Lot J, Watson Addition, according to the plat thereof recorded in Volume 37 of plats, Page 49, records of King County, Washington;

Thence northerly along said west line to the north line thereof;

Thence easterly along said north line and the north line of Lots K and L of said plat of Watson Addition to the east line thereof;

Thence southerly along said east line to its intersection with the north line of the south 13 feet of Lot 9, Block 14, Hillman's Garden Tracts, according to the plat thereof recorded in Volume 11 of plats, Page 6, records of King County, Washington;

Thence easterly along said north line and its easterly extension to its intersection with the east margin of 14th Avenue South;

Thence southerly along said east margin to its intersection with the south line of Lot 9, Block 13 of said plat of Hillman's Garden Tracts;

Thence easterly along said south line to its intersection with the east line of the west 110 feet of Lot 10 of said Block 13;

Thence southerly along said east line and its southerly extension to its intersection with the south margin of South 120th Street;

Thence easterly along said south margin to its intersection with the east line of the west 210 feet of the north 101.2 feet of the N E 1/4 of the N E 1/4 of the S E 1/4 of said Section 8 (Said east line also being the east line of the west 180 feet of Lot 52, Block 1, Stimson Park Division No. 1, unrecorded);

Thence south along said east line a distance of 71.2 feet to the south line thereof (A portion of said south line also being the south line of said Lot 52);

Thence westerly along said south line (Said south line being parallel to the north line of said S E 1/4 of Section 8) 10 feet to its intersection with the east line of the west 200 feet of the West 1/2 of the East 1/2 of said N E 1/4 of the S E 1/4 of Section 8;

Thence southerly along said east line to its intersection with the south line of the north 430 feet of said East 1/2 of the N E 1/4 of the S E 1/4 of Section 8 (Said south line also being the north line of Lot 45, Block 1 of said unrecorded plat of Stimson Park Division No. 1);

Thence westerly along said south line 20 feet to its intersection with the east line of the west 180 feet of said East 1/2 of the N E 1/4 of the S E 1/4 of Section 8;

Thence southerly along said east line to its intersection with the south line of the north 1,080 feet of said East 1/2 of the N E 1/4 of the S E 1/4 of Section 8 (A portion of said south line also being the south line of Lot 33, Block 1 of said unrecorded plat of Stimson Park Division No. 1);

Thence easterly along said south line to its intersection with the east line of the west 378 feet of said East 1/2 of the N E 1/4 of the S E 1/4 of Section 8 (Said point of intersection also being the northeast corner of Lot 26 of said Block 1);

Thence southerly along said east line and is southerly extension to its intersection with the south margin of South 124th Street;

Thence continuing southerly along the east line of the west 378 feet of the East 1/2 of the S E 1/4 of the S E 1/4 of said Section 8, to its intersection with the north line of the South 1,080 feet of said East 1/2 of the S E 1/4 of Section 8 (A portion of said north line also being the north line of Lot 13, Block 2 of said unrecorded plat of Stimson Park Division 1);

Thence easterly along said north line and its easterly extension to its intersection with the east margin of 16th Avenue South;

Thence southerly along said east margin to its intersection with the north margin of South 128th Street, said north margin also being the corporate boundary for the City of Burien;

Thence westerly along said north margin of South 128th Street and S W 128th Street following the corporate boundary line for the City of Burien to its intersection with the east margin of Ambaum Boulevard S W;

Thence northerly along said east margin, said east margin also being the corporate boundary line for the City of Burien, to its intersection with the east margin of 12th Avenue S W;

Thence continuing northerly along said east margin following the corporate boundary line for the City of Burien to its intersection with the north margin of S W 116th Street;

Thence westerly along said north margin following the corporate boundary line for the City of Burien to its intersection with the west margin of 30th Avenue S W;

Thence southerly along said west margin a distance of 30 feet to its intersection with the north line of Government Lot 3, in the N W 1/4 of Section 12, Township 23 North, Range 3 East, W.M., situated in King County, Washington;

Thence westerly along said north line continuing along the corporate boundary for the City of Burien to its intersection with the easterly margin of Seola Beach Drive S W, said easterly margin being on the corporate boundary line for the City of Seattle ;

Thence northerly, northeasterly and northerly along said easterly margin following the corporate boundary line for the City of Seattle to its intersection with the south margin of S W 106th Street;

Thence continuing northerly along the east margin of 30th Avenue S W following the corporate boundary line for the City of Seattle to its intersection with the north line of Section 1, Township 23 North, Range 3 East, W.M., said north line also being the centerline of S W Roxbury Street;

Thence easterly along said north line following the corporate boundary line for the City of Seattle to its intersection with the northerly extension of the east margin of 28th Avenue S W;

Thence southerly along said northerly extension and east margin to its intersection with the north line of Lot 8, Block 1 Gourlay's Half Acre Tracts, according to the plat recorded in Volume 24 of plats, Page 20, records of King County, Washington;

Thence easterly along said north line and the north line of Lot 13 of said Block 1 of Gourlay's Half Acre Tracts to its intersection with the west margin of 26th Avenue S W;

Thence northerly along said west margin and its northerly extension to its intersection with the centerline of S W Roxbury Street (Said centerline being the corporate boundary for the City of Seattle);

Thence easterly along said centerline following the corporate boundary for the City of Seattle to its intersection with the centerline of 21st Avenue S W;

Thence southerly along said centerline of 21st Avenue S W following the corporate boundary for the City of Seattle its intersection with the centerline of S W 98th Street;

Thence easterly along said centerline following the corporate boundary for the City of Seattle to its intersection with the southerly extension of the centerline of the alley in Block 2, Haines Heights, unrecorded;

Thence northerly along said southerly extension and centerline, continuing along the corporate boundary for the City of Seattle to its intersection with the centerline of S W Roxbury Street;

Thence easterly along said centerline and north line of Section 6, Township 23 North, Range 4 East, W.M., following the corporate boundary for the city of Seattle to the point of beginning.

Together with that portion of the N W 1/4 of Section 5, Township 22 North, Range 4 East, W.M., and also, together with that portion of the S W 1/4 of Section 29, Township 23 North, Range 4 East, W.M., and the West 1/2 of Section 32, Township 23 North, Range 4 East, W.M. all in King County, Washington, described as follows:

Beginning at the intersection of the south margin of South 192nd Street and east margin of 1st Avenue South (Said east margin also being the east corporate boundary line for the City of Normandy Park);

Thence easterly along said south margin of South 192nd Street to the southerly extension of the west line of the east 150 feet of the South 1/2 of the S W 1/4 of the S E 1/4 of the S W 1/4 of said Section 32 of Township 23 North;

Thence northerly along said southerly extension and west line to the north line of said South 1/2 (Said northline also begin the south line of Lots 1-9 of Normandy Villa, according to the plat thereof recorded in Volume 63 of plats, Page 8, records of King County, Washington);

Thence westerly along said north line to the east margin of 4th Avenue South;

Thence northerly along said east margin of 4th Avenue South to the south line of the North 1/2 of the S W 1/4 of said Section 32;

Thence easterly along said south line to the east line of the west 230 feet of the South 1/2 of the South 1/2 of the N E 1/4 of the S W 1/4 of said Section 32;

Thence northerly along said east line to the north line of said South 1/2 of the South 1/2;

Thence westerly along said north line to the east margin of 4th Avenue South;

Thence northerly along said east margin to the south margin of South 186th Street;

Thence easterly along said south margin to the east line of the N W 1/4 of the N E 1/4 of the S W 1/4 of said Section 32;

Thence northerly along said east line of said N W 1/4 to the south line of the N W 1/4 of Section 32, Township 23 North, Range 4 East, W.M.;

Thence continuing northerly along the west line of the S E 1/4 of the S E 1/4 of the N W 1/4 of said Section 32 to the northline of the South 1/2 of the South 1/2 of the S E 1/4 of the S E 1/4 of the N W 1/4 of said Section 32 (Said point also being the southeasterly corner of Lot 4, Lloyd's Manhattan Addition according to the plat thereof recorded in Volume 88 of plats, Page 34, records of King County, Washington);

Thence easterly along said north line to a point 130.28 feet from the west margin of 8th Avenue South;

Thence S04°52'27"W a distance of 75 feet;

Thence S83°56'35"E to the west margin of 8th Avenue South, said west margin also being the corporate boundary for the City of Seatac;

Thence northerly along said west margin to the southwesterly margin of Des Moines Way South, said southwesterly margin also being the corporate boundary for the City of Burien;

Thence northwesterly along said southwesterly margin of Des Moines Way South, continuing along the corporate boundary for the City of Burien to the westerly margin of Ambaum Boulevard South;

Thence northerly and northwesterly along said westerly and southwesterly margin following the corporate boundary line for the City of Burien to the southerly margin of South 174th Street;

Thence westerly along said margin following the corporate boundary for the City of Burien to the east margin of 1st Avenue South, said east margin being the corporate boundary delineation between the City of Burien and the City of Normandy Park;

Thence southerly along said east margin following the corporate boundary of the City of Normandy Park to the point of beginning.

TERMS AND CONDITIONS APPLICABLE TO
UTILITIES FRANCHISES GRANTED BY KING COUNTY

THIS FRANCHISE is subject to the following terms and conditions:

1. DEFINITIONS

County Road Rights-of-Way. The term "County Road Rights-of-Way" includes any road, street, avenue, or alley located within the area described in the attached Exhibit "A".

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

Grantee. The term "Grantee" refers to the Southwest Suburban Sewer District its successors and those assignees approved pursuant to paragraph 16 herein.

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".

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

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".

2. ACCEPTANCE BY GRANTEES OF TERMS AND CONDITIONS

The full acceptance of this franchise and all of its terms and conditions 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. 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.

4. 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.

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 later 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, after which time the County will no longer have any responsibility for maintenance of any County roads, rights-of-way or other County property within the area of annexation/incorporation.

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.

5. 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.

6. EMINENT DOMAIN

This franchise and the limited rights and interests for the operation, maintenance, repair, and construction of Grantee's transmission 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.

7. ENFORCEMENT

Failure of King County to enforce any provision of this agreement does not constitute a waiver of its right to enforce that provision or any other provision of this agreement.

8. INDEMNITY AND HOLD HARMLESS

The Grantee agrees to indemnify and hold harmless King County as provided herein to the maximum extent possible under law. Accordingly, the Grantee agrees for itself, its successors, and assigns to defend, indemnify and hold harmless King County, its appointed and elected officials, and employees from and against liability for all claims, demands, suits, and judgments, including costs of defense thereof, for injury to persons, death, or property damage which is caused by, arises out of, or is incidental to Grantee's exercise of rights and privileges granted by this franchise. The Grantee's obligations under this section shall include:

(a) Indemnification for such claims whether or not they arise from the sole negligence of either the County or the Grantee, the concurrent negligence of both parties, or the negligence of one or more third parties.

(b) The duty to promptly accept tender of defense and provide defense to the County at the Grantee's own expense.

(c) Indemnification of claims made by the Grantee's own employees or agents.

(d) Waiver of the Grantee's immunity under the industrial insurance provisions of Title 51 RCW, which waiver has been mutually negotiated by the parties.

In the event it is necessary for the County to incur attorney's fees, legal expenses, or other costs to enforce the provisions of this section, all such fees, expenses and costs shall be recoverable from the Grantee.

In the event it is determined that RCW 4.24.115 applies to this franchise agreement, the Grantee agrees to defend, hold harmless and indemnify King County to the maximum extent permitted thereunder, and specifically for its negligence concurrent with that of King County to the full extent of Grantee's negligence. Grantee agrees to defend, indemnify and hold harmless the County for claims by Grantee's employees and agrees to waiver of its immunity under Title 51 RCW, which waiver has been mutually negotiated by the parties.

9. VACATION

If at any time King County 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 thirty (30) day's written notice to the Grantee, terminate this franchise with respect to any County road rights-of-way vacated.

10. INSTALLATION, REPAIR, REMOVAL OR RELOCATION

The Grantee shall, at no expense to the County, repair all existing facilities that it owns within County road rights-of-way, including all appurtenant facilities and service lines connecting its system to users, if such repair is required by the County for any reasonable purpose.

The Grantee shall, at no expense to the County, adjust, remove or relocate existing facilities within County road rights-of-way, including all appurtenant facilities and service lines connecting its system to users, if the County determines such adjustment, removal or relocation is reasonably necessary to allow for an improvement or alteration planned by the County in such road right-of-way. The County shall give the Grantee written notice of such requirement as soon as practicable, at the beginning of the pre-design stage for projects that are part of the County's capital improvement program, including such available information as is reasonably necessary for the grantee to plan for such adjustment, removal or relocation.

For projects that are a part of the County's capital improvement program, in addition to any other notice given to the Grantee, 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 no more than thirty (30) days by providing to the County the best available information as to the location of all of the Grantee's facilities, including all appurtenant facilities and service lines connecting its system to users and all facilities that it has abandoned, within the area proposed for the public works project.

The County shall offer the Grantee the opportunity to participate in the preparation of bid documents for the selection of a contractor to perform the public works project as well as all required adjustments, removals or relocations of the Grantee's facilities. Such bid documents shall provide for an appropriate cost allocation between the parties. The County shall have sole authority to choose the contractor to perform such work. The Grantee and the County may negotiate an agreement for the Grantee to pay the County for its allocation of costs, but neither party shall be bound to enter into such an agreement. Under such an agreement, in addition to the Grantee's allocation of contractor costs, the Grantee shall reimburse the county for costs, such as for inspections or soils testing, related to the Grantee's work and reasonably incurred

by the County in the administration of such joint construction contracts. Such costs shall be calculated as the direct salary cost of the time of County professional and technical personnel spent productively engaged in such work, plus overhead costs at the standard rate charged by the County on other similar projects, including joint projects with other County agencies.

11. REQUIREMENT OF CONSTRUCTION PERMITS

The Grantee 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 and service lines and appurtenances on the condition that it obtains permits approved by the Director and Property Services Division and, when applicable, by the Department of Development and Environmental Services. Applications for work permits shall be presented to the Property Services Division which may require copies of plans, blueprints, cross-sections, or further detailing of work to be done. 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 satisfaction of the Director.

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 and owned by the Grantee shall be considered to be part of the Grantee's system and shall be 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, at no expense to the County, assume the following obligations with respect to facilities connected to its system, that are within County road rights-of-way and which it does not own, including appurtenant facilities and service lines connecting its system to users:

(a) The Grantee shall apply for, upon request and on behalf of the owner of the facilities, a County right-of-way construction permit for any repairs required for such facilities; provided such owner agrees to reimburse the Grantee for all costs incurred by the Grantee and any other reasonable conditions the Grantee requires as a precondition to applying for the permit. All work to be performed in the County right-of-way shall comply with all conditions of the County permit and all applicable County requirements. The Grantee may at its option perform any part of the repair with its own forces or require the owner to employ a contractor for that purpose, provided such contractor is approved by the County;

(b) In the event that the County determines emergency repair of such facilities is necessary to halt or prevent significant damage to County road rights-of-way or significant threats to the health, safety or welfare of parties other than the owner or the occupants of the building served by such facilities, the Grantee shall take prompt remedial action to correct the emergency to the County's approval, which the County shall not unreasonably withhold;

(c) When the County or its contractor provides notice to the Grantee, pursuant to R.C.W. 19.122, of its intent to excavate within County road rights-of-way, the Grantee shall provide to the County or its contractor the best information available from the Grantee's records or, where reasonable, from the use of locating equipment as to the location of such facilities, including surface markings where these would reasonably be of use in the excavation. If the Grantee fails to make good faith efforts to provide the above information within the deadlines provided by R.C.W. 19.122, the Grantee shall hold the County harmless for all reasonable costs that result from damage to such facilities if such damages occurs as a result of the failure to provide such information. Nothing in this subsection is intended or shall be construed to create any rights in any third party or to form the basis for any obligation or liability on the part of the County or the Grantee toward any third party, nor is anything in this subsection intended or to be construed to alter the rights and responsibilities of the parties under R.C.W. 19.122, as amended.

The Grantee shall post 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.

12. RESTORATION OF COUNTY ROAD RIGHTS-OF-WAY

After work on, 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 in 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 its pre-work condition. 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

13. 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 annual of Uniform Traffic Control Devices in force when the work is performed.

14. BLASTING REQUIREMENTS

The right to operate, maintain, repair and construct Grantee's transmission 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. When practical, the Grantee will be given forty-eight (48) hours notice of any blasting or excavating so that the Grantee may protect its lines and appurtenances.

15. SURVEY MARKERS AND MONUMENTS

Before any work is performed under this franchise, the Grantee shall establish two or more reference marks to all monuments and markers of every nature relating to subdivisions, plats, rights of way, and all other surveys. The reference points shall be located so that they will not be disturbed during any of Grantee's operations under this franchise. The method of referencing monuments or other markers or points shall be approved by the Director before placement. The replacement of all markers or monuments disturbed during any construction of the Grantee shall be made as promptly as conditions permit and as ordered by the Director. The cost of monuments or markers lost, destroyed, or disturbed and the expense of replacement with approved markers or monuments shall be borne by the Grantee.

16. ASSIGNMENT

The Grantee shall not have the right to assign this franchise without the consent of the Metropolitan King County Council given by Motion. 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 surety bonds which the Council deems necessary to be posted are received. Council approval of the assignment may be made subject to the assignee's acceptance of new or modified terms of the franchise.

17. PENALTY FOR VIOLATION OF CONDITIONS

If the Grantee shall violate or fail to comply with any of the material terms, conditions or responsibilities of this franchise through neglect or failure to obey or comply with any notice given the Grantee under the provisions of this franchise, the Council may revoke the franchise. King County shall give written notice of its intent to revoke this franchise. A public hearing shall be scheduled within 45 days following the notification. The decision to revoke this franchise will become effective 90 days following the public hearing if the County, by ordinance or motion, finds the revocation of this franchise to be in the public interest. During the 45 days following the notification, the Grantee shall have the opportunity to remedy the failure to comply.

18. EXPIRATION AND RENEWAL

To the extent described in Exhibit "A", all rights granted by this franchise to County road rights-of-way outside incorporated Towns and Cities apply to all existing County road rights-of-Way improved and unimproved and to all County road rights-of-way acquired by King County during the term of this franchise.

If the Grantee has initiated a renewal of this franchise before it expires, the County may, at its sole discretion, extend the term of the franchise on a month-to-month basis for up to one year. Should the County elect to extend the franchise, written notice shall be provided to the Grantee before the franchise expiration date.

If the Grantee has not applied for a renewal of this franchise before it expires, 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.

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, the Grantee shall continue to be responsible for the operation and maintenance of existing facilities in the County road rights-of-way but shall not have the right to provide additional services. This section and sections 8, 10-13 and 15 of this franchise shall continue in force until such time as the lines are removed from County road rights-of-way or abandoned in place with the approval of the County Road Engineer.

19. RESERVATION OF RIGHTS

King County specifically reserves for itself the right to impose a utility tax on the Grantee if such taxing authority is granted by 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 property, pursuant to an ordinance. If King County elects to exercise such authority, the fair market compensation requirement for Grantee 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 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. The three arbitrators will determine the method for determining the fair market compensation for the County property used by the Grantee. The arbitration procedure employed shall be consistent with the rules and procedures of the American Arbitration Association. 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 fees of the arbitrators selected by each party shall be paid by that party, and the fees of the third arbitrator shall be paid one-half by the County and the Grantee. The other costs of the proceeding shall be shared equally by the County and the Franchisee.

(c) In 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.

20. 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.

21. 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.

22. RIGHT OF APPEAL

Decisions, requirements, or approvals of the Director are binding on the parties to this document. Appeals from the Director's determinations will be made by filing a complaint with the King County Superior Court.

23. SEVERANCE

This agreement 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.