

ORDINANCE NO. 724, 2002

An ordinance granting to WASHINGTON WATER SERVICE COMPANY a franchise for use of county roads in the Elizabeth Lane area.

Chapter 9.43
Waterline Facilities Franchise

Sections:

- 9.43.010 Application for Franchise
- 9.43.020 Hearing on Franchise
- 9.43.030 Grant of Franchise
- 9.43.040 Reservation of Rights
- 9.43.050 Record of Franchise
- 9.43.060 Severability
- 9.43.070 Effective Date

CCC 9.43.010 Application for Franchise. An application for a waterline facilities franchise to allow the location of certain utilities within certain county properties has been signed by Michael P. Ireland, representing Washington Water Service Company, dated April 11, 2002. The approved application is attached hereto as Exhibit B and is by this reference expressly incorporated herein.

CCC 9.43.020 Hearing on Franchise. The Board of Clallam County Commissioners (Board) has conducted a public hearing in regard to the request for franchise. Public notice of the hearing was given by posting notices in three public places in Port Angeles, the county seat of Clallam County, at least fifteen days before the date fixed for the hearing and by publishing a like notice two times in the official newspaper of the county not less than five days before the date fixed for the hearing. The notice stated the name(s) of the applicant; a description of the county property by reference to section, township, and range; and the time and place fixed for the hearing.

CCC 9.43.030 Grant of Franchise. The Board deems it to be in the public interest to transfer and grant the franchise as described in the attached Exhibit B.

CCC 9.43.040 Reservation of Rights. The franchise granted by this ordinance shall be subject to the power of eminent domain and the right of the Board or

the people acting for themselves through the initiative or referendum to repeal, amend, or modify the franchise in the interest of the public.

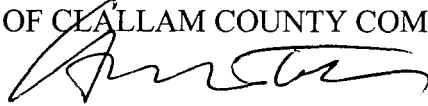
CCC 9.43.050 Record of Franchise. This chapter shall be recorded with the County Auditor.

CCC 9.43.060 Severability. If any section, subsection, paragraph, sentence, clause or phrase of the chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter, it being hereby expressly declared that this chapter and each section, subsection, paragraph, sentence, clause, and phrase thereof would have been adopted irrespective of the fact that any one (1) or more other sections, subsections, paragraphs, sentences, clauses, or phrases be declared invalid or unconstitutional.

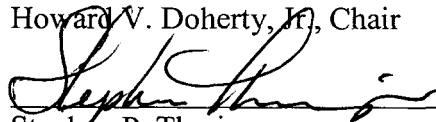
CCC 9.43.070 Effective Date. This chapter shall take effect ten (10) days after adoption.

PASSED AND ADOPTED this 11th day of June, 2002.

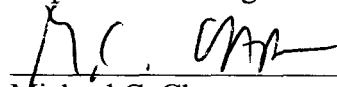
BOARD OF CLALLAM COUNTY COMMISSIONERS



Howard V. Doherty, Jr., Chair



Stephen P. Tharinger



Michael C. Chapman

ATTEST:



Trish Perrott
Clerk of the Board

UTILITIES FRANCHISE

Granted by Clallam County Board of Commissioners
to

WASHINGTON WATER SERVICE COMPANY

Elizabeth Lane area - Lee Water System

This non-exclusive franchise to construct, extend, connect, repair, maintain, operate and remove waterline facilities over, under, along, across, and upon the county roads within Clallam County ("County") is granted to Washington Water Service Company ("Grantee") upon the following express terms and conditions and the terms and conditions of any federal, state, and county permits:

1. DEFINITIONS: The term "county roads" or "roads" as used herein shall include, but not be limited to, county roads, avenues, alleys, streets, boulevards, public ways, public rights-of-way, viaducts, and bridges. Specifically, the roads included in this franchise are in House Road, No. 51840; Elizabeth Lane, Road No. 51880; W. Diane Drive, Road No. 51921; E. Diane Drive, Road No. 51920; Eagle Place, Road No. 51880, Cottonwood Lane, Road No. 51870; Kellie Court, Road No. 51980; and Karen Court, Road No. 51960. The geographic location is Northwest corner of Section 18, Township 30 North, Range 3 West, W.M. (See Exhibit A)

2. LOSS OF JURISDICTION: Whenever any of the roads as designated in this franchise shall fall outside the County's authority by reason of change in political jurisdiction such as by subsequent incorporation or annexation, then all the rights and privileges herein granted shall terminate in respect to said roads; but this franchise shall continue in force and effect in respect to all roads not so removed from County authority. Requirements of state and federal law and other county permits may, however, continue in effect as to the roads removed.

3. POWERS: The Grantee shall have the right and authority to enter over, under, along, across, and upon the above-mentioned roads for the purpose of construction, extension, connection, repair, maintenance, operation, and removal of facilities as authorized herein in conformity with such county, state, and federal codes, regulations and standards, as now or hereafter enacted or amended, governing such facilities. This franchise merely authorizes the Grantee to occupy and use the county roads above mentioned and nothing contained herein shall be construed to grant or convey any right, title or interest in or to such county roads to the Grantee. Such franchise shall in no way prevent or prohibit the County from using any of said roads, right-of-way or other public properties or affect its jurisdiction over them or any part of them, and the County shall retain power to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication, or vacation of the same as the County may deem fit, including the dedication, establishment, maintenance, and improvement of all new rights-of-way, thoroughfares and other public properties of every type and description.

4. TERM:

4.1 The term of this franchise shall be for a period of five (5) years, beginning on the effective date of this franchise, unless terminated, revoked or modified under the provisions of this franchise. This franchise shall be automatically renewed for additional five (5) year terms up to a total of twenty (20) years from the effective date of this franchise, UNLESS, not less than sixty (60) days prior to the termination of the current term or extension, the County gives notice of its intention to renegotiate the terms or conditions of the

franchise, in which case, the franchise shall not renew unless and until the County and the Grantee reach agreement on terms and conditions acceptable to both parties. If the County and the Grantee are unable to reach agreement on new terms and conditions, the franchise shall terminate and the Grantee shall remove its facilities from the County rights-of-way unless otherwise allowed under §17.

4.2 Clallam County reserves for itself the right at any time upon forty-eight (48) hours notice to the Grantee to change, amend, modify, or amplify any of the provisions or conditions herein enumerated to conform to any local, state, or federal law or regulation or recognized engineering practice relating to the public welfare, health, environmental compliance, safety, or highway design as may hereinafter be adopted or recognized. Additionally, at any time after the initial five (5) year period of this franchise, the County may direct the Grantee to meet and discuss, in good faith, amendments to the franchise or entry into separate agreements, provided that in the event that mutual agreement is not attained, the County may schedule before the Board of County Commissioners the consideration of such amendments and the Board may take such action as it deems appropriate. The authority of the County to consider mutually agreed amendments and, after the initial five (5) year period, to consider and take unilateral action on amendments in the event the parties do not reach mutual agreement, shall be in addition to, and shall in no way limit, the ability of the County to make amendments and changes to the franchise conditions, negotiate renewals or extensions of the franchise term, or take action pursuant to any other sections of this franchise, including but not limited to §§ 6, 8, 12, 13, 14, 16, 17, 22, 26, 27, 28, and 30.

5. PERMITS:

5.1 No work within county road right-of-way shall be commenced until a right-of-way use permit has been issued by the County for a site-specific location or installation, including but not limited to, relocations. Before any work is done by the Grantee under this franchise, it shall first file with the Clallam County Engineer or his designee (hereinafter the Engineer) an application for a permit to do such work, accompanied by design drawings in triplicate showing the position, location, and type of facilities sought to be constructed, extended, connected, repaired, maintained, operated or removed, showing the relative positions to existing roads and property lines. Such prints shall be submitted on 11 by 17 inch or smaller paper (but not smaller than 8-1/2"x11"). Such drawings shall be drawn to scale 1 inch = 50 feet (unless otherwise approved). Such drawings shall give an accurate graphic representation of local improvements including, but not limited to, sidewalks, roadways, property lines, turnouts, parking strips, telephone lines, electric lines, poles, conduits, culverts, ditches, drainage facilities, sewer lines, water lines, as may exist over, under, along, across, and upon the roads sought to be occupied and immediately adjacent thereto and said locations shall be drawn in such a manner that identification in the field is possible. Such drawings shall indicate the nature of the materials being installed (e.g.: concrete, PVC, HDPE, asbestos cement, copper, steel, treated wood, etc.). Such drawings shall also show the location by cross sections of the utility to be installed by the Grantee along with all environmentally critical and sensitive areas within 300 feet of the work area. With the application, Grantee shall file proof of all required federal, state, and local environmental approvals, permits, and conditions accompanied by the procedures to be utilized in accomplishing its work. In addition to the terms and conditions of this franchise, all work shall be performed in accordance with the current County standards, the approved plans and specifications, and the terms and conditions of the right-of-way use permit and other applicable permits and approvals. The Grantee shall remain solely responsible for compliance with all applicable laws, regulations, codes, and standard plans and specifications in the design and construction of Grantee's facilities.

5.2 The Engineer shall apply the following criteria in reviewing proposed utility routes and in the issuance, conditioning, or denial of a right-of-way use permit:

- A. the capacity of the public rights-of-way to accommodate the Grantee's proposed facilities;

- B. the capacity of the public rights-of-way to accommodate additional utility, cable, telecommunications, or other public facilities if the right-of-way use permit is granted;
- C. the damage or disruption, if any, to public or private facilities, improvements, service, travel, or landscaping if the right-of-way use permit is granted;
- D. the impact upon environmentally sensitive areas, species, or their habitats
- E. the public interest in minimizing the cost and disruption of construction with the public rights-of-way, including but not limited to, coordination with future utility installation or county improvement projects and use of common conduits and structures;
- F. recent construction and/or improvements to the right-of-way and/or proposed construction and/or improvements to the right-of-way which is proposed for location of facilities;
- G. the availability of alternate routes, locations, and/or methods of construction or installation for the proposed facilities, including, but not limited to, whether other routes are preferred; and
- H. whether the Grantee has received all requisite license, certificates, and authorizations from applicable federal, state, and local agencies with jurisdiction over the activities proposed by the Grantee.

The Engineer shall either approve and issue the permit, approve subject to conditions, or reject the application. If the application is rejected, the Engineer shall provide the Grantee, in written form, with an explanation of the reasons that the application was rejected.

5.3 In the event of any emergency in which any of the Grantee's facilities located in, above or under any right-of-way breaks, becomes damaged, or if the Grantee's construction area is otherwise in such a condition as to immediately endanger the property, life, health or safety of any individual, the Grantee shall immediately take such measures as are necessary to repair its facilities and to cure or remedy the dangerous conditions for the protection of property, life, health or safety of individuals without first applying for and obtaining a permit as required by this franchise. However, this shall not relieve the Grantee from the requirement of obtaining any permits necessary for this purpose, and the Grantee shall apply for all such permits not later than the next business day. Moreover, it will not relieve the Grantee from the requirement of performing such work in a professional manner with appropriate materials and compaction and for traffic control and safety. Mitigation measures shall be performed by the Grantee as specified in conditions of the permits or other authorizations.

6. COMPLIANCE WITH LAW AND STANDARDS:

6.1 Grantee shall comply with all federal, state, and local laws, rules, standards and regulations applicable to any work, facility, or operation of the Grantee during the period of this franchise. All work performed by the Grantee and all of Grantee's facilities within the public right-of-way shall comply with the comprehensive plan, zoning code and development regulations of the County. Grantee's facilities may require additional project permits and approvals under County land use codes and development regulations. All work shall be performed by the Grantee in a manner to avoid or minimize impacts on critical areas contained within, adjacent to, or downstream from the County right-of-way. Prior to commencing any work in a critical area, the Grantee shall comply with all requirements of any applicable title of the County code and shall obtain any and all necessary permits and approvals required. The granting of this franchise shall in no way relieve the Grantee from its responsibility for avoiding "take" of any threatened or endangered species as defined by the Endangered Species Act of 1973, 16 USC §1531, et seq., as amended, in the performance of any work authorized by this franchise and any right-of-way permits. All construction, maintenance and repair activities performed within the limits of the Clallam County right-of-way, or other county property, shall be performed in strict compliance with the Endangered Species Act.

6.2 For all construction, maintenance, and repair activities which may fall within the limits of county right-of-way, the Grantee shall as a minimum and under the direct control of a qualified responsible individual (1) make a determination whether the work area involves a sensitive area as identified for ESA listed species; and if so (2) determine what Best Management Practices (BMP's) are required to protect said sensitive areas; (3)

insure that these BMP's are implemented, effective, and maintained for the duration of said work activity; (4) perform all monitoring and reporting subsequently required, and (5) remove if applicable the BMP's after completion. The Grantee shall apply directly to the NMFS and/or the U.S. Fish and Wildlife Service to obtain all additional required permits and authorizations prior to commencement of work. A responsible individual shall be designated by the Grantee who shall subsequently insure that all work performed, within the aforementioned sensitive areas, is performed in a manner consistent with all aspects of the permits or authorizations issued for said specific project.

6.3. Grantee agrees that it will not cause nor permit in any manner, including negligent or intentional acts or omissions, release of any hazardous substance, waste, or pollutant or contaminant into or upon any county road or right-of-way contrary to any state or federal law or local regulation with respect thereto. Grantee shall notify the Washington State Department of Ecology and Clallam County in writing immediately upon any such release. Grantee shall indemnify, hold harmless, defend and covenant not to sue the County, from and against any and all claims, actions or suits in equity or at law and any judgments, damages, awards, penalties or fines, including reasonable attorneys' fees and costs incurred in the defense thereof, arising out of the release or spill of any such hazardous materials, dangerous waste, or pollutant within the County right-of-way or on private property. Grantee shall be responsible for completely cleaning up and remediating, as required by any government agency, any and all hazardous materials, dangerous waste or pollutants released or spilled within the County right-of-way or on private property. The County shall be entitled to indemnification by Grantee for all costs incurred by it as the result of any release or spill of such materials by Grantee, its agents, officials, officers and employees. Upon any release or spill of any such substance mentioned herein, the County may give notice of intent to immediately terminate this franchise and, where it deems necessary to protect the public health, safety and welfare, the County may immediately take whatever steps it deems necessary and advisable to contain, clean up or remediate the release or spill. The County shall be entitled to repayment from the Grantee of any costs or expenses incurred in responding to such a release or spill.

6.4. The Grantee shall construct, extend, connect, repair, maintain, operate, and remove its facilities at its own risk. The Engineer may inspect said construction, extension, repair, maintenance, or removal to determine whether the construction, extension, repair, maintenance, or removal materially or adversely impacts the county road. Approval by the Engineer of the construction, extension, repair, maintenance, or removal shall not be construed as an approval of the nature, extent, quality, or workmanship of the Grantee's work and shall be construed to mean nothing other than that the Grantee's work does not materially adversely impact the physical characteristics of the county road. The location of all the Grantee's facilities, their depth below or height above the surface of the ground or grade of any road, and their lateral location in relation to the road centerline shall be in compliance with all county, state, and federal codes, regulations, and standards, including WAC 136-40. All underground facilities shall be installed with a locate wire of 10-gauge stranded copper wire with 600 volt insulation; Essex, or approved equal. Where conflicts occur between the aforesaid codes, regulations, and standards vs. the terms of this franchise, the stricter of the two shall apply. The Grantee shall at all times insure that its construction, extension, connection, repair, maintenance, operation, and removal of its facilities does not diminish the safety of the public using, or in proximity to, county roads and their clear zones.

6.5. During any period of relocation, construction, or maintenance, all work performed by the Grantee or its contractors shall be accomplished in a safe and workmanlike manner, so as to minimize interference with the free passage of traffic and the free use of adjoining property, whether public or private. The Grantee shall at all times post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by county, state or federal codes, regulations, standards or laws, including but not limited to, RCW 39.04.180 for the construction of trench safety systems and the Manual on Uniform Traffic Control Devices (MUTCD).

6.6 Prior to installing facilities adjacent to, although outside, county rights-of-way encompassed by this franchise, Grantee shall coordinate with the Engineer the location of such facilities for the purpose of minimizing the need for future utility relocations.

7. RECORDS.

7.1. The Grantee shall maintain adequate records to document obligations performed under this franchise. The County shall have the right to review the Grantee's records, at reasonable times, with regard to the subject matter of this franchise, upon reasonable notice. The right to review records shall last for six (6) years from the termination date of this franchise, including any extensions or renewals. In addition to the maps and records of facility location under this Section, the Grantee shall provide the County, upon the County's request, with copies of records of construction, maintenance, operation, inspections, or regulatory compliance for all facilities subject to this franchise as deemed necessary by the County to manage the county roads, rights-of-way, or other property, or to protect the public health, safety, and welfare. Nothing in this Section shall be construed to require Grantee to violate state or federal law concerning subscriber privacy, nor shall this Section be construed to require Grantee to disclose proprietary or confidential information without adequate safeguards for its confidential or proprietary nature.

7.2. Grantee shall at all times keep at its principal place of business full and complete plans, maps, and records showing the location and details of all franchise facilities located over, under, along, across, or upon the roads. Grantee shall make copies of the maps, plans, and records available, free of charge, to County at any time upon request. Such maps and plans shall be drawn in the same manner as design drawings as set forth in Section 5 of this franchise, showing the location of all franchise facilities installed over, under, along, across, or upon the roads within the limits of Clallam County. One complete set of said maps, plans, and records shall be provided on reproduction quality Mylar or, alternatively, four sets shall be provided on paper. Maps, plans, and records may be provided in electronic form, instead of Mylar or paper, if approved by the County.

7.3. In addition to the above described plans, maps, and records the Grantee shall maintain a paper or Mylar map at a scale of 1 inch = 2000 feet (or other scale approved by the County) showing all county roads within the bounds of this franchise and showing where Grantee's facilities are located in respect to said roads. An up to date copy of this map shall be provided, free of charge, annually to the County. After construction is complete, and as a condition of this franchise, the Grantee shall provide to the County upon request and at no cost, a copy of all as-built plans, maps and records revealing the final location and condition of its facilities within the public rights-of-way and public places.

8. RESTORATIONS AND MAINTENANCE.

8.1 The Grantee shall leave all roads in as good and safe condition in all respects as they were before the commencement of work by the Grantee, its officers, agents, contractors, or employees, and comply with all restoration conditions of applicable permits or approvals. The Engineer shall have final approval to determine that the condition of roads and public places after restoration meets the requirements. The Grantee agrees to promptly complete all restoration work and to promptly repair any damage caused by work to the right-of-way or other affected areas at its sole cost and expense.

8.2 The Grantee shall maintain its facilities in accordance with accepted standards of practice. The grantee shall trim brush, grass, trees, and all other vegetative matter from within the county right-of-way within a 10-foot radius of all aboveground appurtenances so as to aid in visual location of the utilities by county personnel. Trimming shall be performed as necessary to keep vegetative growth shorter than the appurtenance. Herbicides and other chemical agents shall not be used.

8.3 In case of any damage to said roads or their appurtenances, including, but not limited to, turnouts, gutters, curbs, ditches, wood or concrete walks, drain pipes, culverts, catch basins, manholes, hand or guard rails, retaining walls, bridges, trestles, wharves or landings, or to the property of third parties, resulting from any work performed or failed to be performed by the Grantee, the Grantee agrees to immediately repair said damage at its own cost and expense to the satisfaction of the Engineer. Clallam County may at any time, do, order, and have done any and all work considered necessary to restore to a good and safe condition any such roads or appurtenances left by the Grantee, its officers, agents, contractors, or employees in a condition different from that which existed prior to the work and the Grantee, upon demand, shall pay to the County all costs of such construction or repair and of doing such work; provided, that Clallam County shall have first made written demand upon the Grantee to perform the work necessary to return the road or appurtenances to the condition which they existed prior to the work by the Grantee, and the Grantee shall have failed, for a period of forty-eight (48) hours after receipt of such written demand, to commence the work necessary to return the road or appurtenance to its pre-existing condition. Provided further, that in the event it is reasonably determined by Clallam County that an emergency exists, which requires immediate restoration, then the County may perform such work and the Grantee shall pay all reasonable costs thereof. In addition, the Grantee shall reimburse the County for any and all documented costs the County reasonably incurs in response to an emergency involving the Grantees' facilities.

8.4 The Grantee shall promptly reimburse the County, upon submittal by the County of an itemized billing, for the Grantee's proportionate share of all actual, identified costs and expenses incurred by the County in repairing or altering any County or Grantee facility, if at the Grantee's request or as the result of the presence of the Grantee's facilities in the right-of-way. Such costs and expenses shall include, but not be limited to, the Grantee's proportionate share of the costs of County personnel assigned to oversee or engage in any work in the right-of-way or outside the right-of-way if damage to a critical resource or site requires repair as a result of the Grantee's activities or presence in the right-of-way. Such costs and expenses shall also include the Grantee's proportionate share of County time spent reviewing construction plans in order to either accomplish the relocation of the Grantee's facilities or the routing or rerouting of any utilities so as not to interfere with the Grantee's facilities. Any and all costs including overhead will be billed on an actual cost basis. The billing may be on an annual basis.

9. RELOCATION OF FACILITIES

9.1 The Grantee agrees and covenants at its sole cost and expense, to protect, support, temporarily disconnect, relocate, or remove from any right-of-way any of its facilities when so required by the County by reason of traffic conditions, public safety, acquisition of new rights-of-way and the establishment and improvement thereof, widening and improvement of existing rights-of-way, right-of-way vacations, change or establishment of road grade, or the construction of any public improvement or structure by any governmental agency acting in a governmental capacity; PROVIDED, that upon approval by the Engineer, Grantee shall generally have the privilege to temporarily bypass, in the authorized portion of the same right-of-way, any facilities required to be temporarily disconnected or removed. This section applies to all of Grantee's facilities wheresoever situated within the public right-of-way, regardless of whether the Grantee's facilities were previously located therein through an easement or other property interest prior to the property becoming public road right-of-way.

9.2 Upon the request of the County and in order to facilitate County right-of-way improvements, the Grantee agrees at its sole cost and expense, to locate, and, if reasonably determined necessary by the County, to excavate and expose portions of its facilities for inspection so that the location of the facilities may be taken into account in the improvement design; PROVIDED, that Grantee shall not be required to excavate and expose its facilities for inspection unless the Grantee's as-built plans and maps of its facilities submitted pursuant to Section 7 of this franchise are reasonably determined by the Engineer to be inadequate

for purposes of evaluating improvements. The decision to relocate Grantee's facilities in order to accommodate road improvements shall be made by the Engineer upon review of the location and construction of the Grantee's facilities. Where additional costs accrue to the County during maintenance, operation, or improvement of public facilities related to avoidance of damage or accommodation of the Grantee's facilities, Grantee agrees to pay the County the full amount of additional costs, if any, as identified by the County.

9.3 If, at any time, Clallam County, deems it advisable to improve any of its roads by, including, but not limited to, grading, regrading, paving, altering, repairing, realigning, widening, or draining, the Grantee, upon advance notice by Clallam County, shall, at its own expense, except as detailed below, promptly raise, lower, or move its facilities to allow Clallam County to complete its road improvements and to conform to such improved roads and the County shall in no way be held liable for any damages to Grantee that may occur by reason of the County's improvements or by the exercise of any rights so reserved in this Section, except as a result of negligence or fault on the part of the County. Said advance notice shall indicate the date by which the Grantee is required to raise, lower, or move its facilities and said notice will be given to the Grantee in advance of said date by a length of time consistent with the urgency of the situation (less time for emergencies and more time for scheduled projects). Clallam County will strive for as much advance notice as is practical so as to allow time for designing, bidding, and completing the work.

9.4 Any condition or requirement imposed by the County upon any person or entity (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals for permits for zoning, land use, construction or development) which reasonably necessitates the relocation of the Grantee's facilities within the franchise area shall be required relocation for purposes of subsections 9.1, 9.2 and 9.3 above.

9.5 The Grantee may, after receipt of written notice requesting a relocation of its facilities, submit to the County written alternatives to such relocation. The County may evaluate such alternatives and advise the Grantee in writing if one or more of the alternatives is suitable to accommodate the work, which would otherwise necessitate relocation of the facilities. If requested by the County, the Grantee shall submit additional information to assist the County in making such evaluation. In the event the County ultimately determines that there is no other reasonable or feasible alternative, the Grantee shall relocate its facilities as otherwise provided in this Section.

9.6 The provisions of this Section shall in no manner preclude or restrict the Grantee from making any arrangements it may deem appropriate when responding to a request for relocation of its facilities by any person or entity other than the County, where the facilities to be constructed by said person or entity are not or will not become County-owned, operated or maintained facilities, provided that such arrangements do not unduly delay any County construction projects.

9.7 Grantee shall be responsible for timely relocation of its facilities and coordination of relocation with the County or the Contractor for the project. The Grantee shall be fully responsible for the costs of any delays to County projects resulting from relocations of the Grantee's facilities. In the event the Grantee fails or refuses to relocate its facilities in a timely manner, the County may do, order, or have done, any and all work required to perform the facilities relocation and the Grantee, upon demand, shall pay to the County all costs of such work including all damages and additional costs incurred by the County as a result of Grantee's failure or refusal. Grantee shall hold harmless, indemnify and defend the County against all claims, lawsuits, or damages caused in whole or in part by location or relocation of Grantee's facilities, as more fully set forth in Section 11 of this franchise ordinance.

10. UNDERGROUNDING OF FACILITIES.

10.1 In any area of the County in which there are no aerial facilities, in any area in which telephone, electric power wires or other cables have been placed underground, or in any area where the Board of Commissioners requires conversion of aerial to underground facilities, the Grantee shall not erect poles or run or suspend wires, cables or other facilities thereon, but shall lay such wires, cables or other facilities underground in the manner required by the County. The Grantee acknowledges and agrees that, even if the County does not require the undergrounding of its facilities at the time of right-of-way use permit application, the County may, at any time in the future, require the conversion of the Grantee's aerial facilities to underground installation at the Grantee's expense.

10.2 Whenever the County may require the undergrounding of the aerial facilities in any area of the County, the Grantee shall underground its aerial facilities in the manner specified by the County, concurrently with and in the area of the other affected facilities.

10.3 Aerial facilities may be permitted in areas of scenic beauty when other utility locations are not available, are not technically feasible, result in adverse environmental consequences, are unreasonably costly, or are less desirable from the standpoint of visual quality. The Engineer shall be the sole judge of whether aerial facilities will be permitted under this Subsection.

11. HOLD HARMLESS:

11.1 The Grantee shall assume the risk of, be liable for, and pay all damage, loss, cost and expense of any party arising out of the Grantee's use of the right-of-way, to the extent of their negligent actions, errors, omissions, or breach of any obligations. The Grantee hereby releases, covenants not to bring suit, and agrees to indemnify, defend and hold harmless the County, its elected and appointed officials, officers, employees, agents and representatives from any and all claims, costs, judgments, awards, or liability to any person, including claims by the Grantee's own employees for which the Grantee might otherwise be immune under Title 51 RCW, for injury or death of any person or damage to property caused by or arising out of the negligent acts or omissions of the Grantee, its agents, servants, officers or employees in the performance of this franchise, and any rights granted hereunder. This indemnification provision constitutes the Grantee's waiver of immunity under Title 51 RCW and has been mutually negotiated by the parties.

11.2 The Grantee shall hold harmless from and indemnify the County, its elected and appointed officials, officers, employees, and volunteers, against all claims, demands, losses, suits, actions, costs, counsel fees, litigation costs, expenses, damages, judgments, or decrees by reason of damage to any property or business or environmentally critical species or habitat, and/or any death, injury or disability to or of any person or party of any nature arising out of or suffered, directly or indirectly, in whole or in part, from the actions, errors, omissions, or breach of any common law, statutory, regulatory or contractual obligations in connection with the activities of the Grantee, its sub-contractors, assigns, agents, contractors, or employees, under this franchise, any permit under County code, or in connection with the use of the right-of-way; PROVIDED, that nothing herein shall require the Grantee to hold harmless from and indemnify the County, its elected and appointed officials, officers, employees, and volunteers, against claims, demands, or suits based solely upon the negligence of the County, its elected and appointed officials, officers, employees, and volunteers; and PROVIDED FURTHER, that if the claims, demands, or suits are caused by or result from the concurrent negligence of (a) the County, its elected and appointed officials, officers, employees, and volunteers and (b) the Grantee, its sub-contractors, assigns, agents, contractors, or employees, and involve those actions covered by RCW 4.24.115, this indemnity provision, with respect to liability for damages arising out of bodily injury to persons or damage to property based upon such concurrent negligence, shall be valid and enforceable only to the extent of the Grantee's negligence or the negligence of their sub-contractors, assigns, agents, contractors, or employees, except as limited below. This indemnification provision constitutes the Grantee's waiver of immunity under Title 51 RCW and has been mutually negotiated by the parties.

11.3 The Grantee further agrees to process and defend at its own expense all claims, demands, or suits at law or equity arising in whole or in part from the actions, errors, omissions, or breach of any obligations of the Grantee, its sub-contractors, assigns, agents, contractors, or employees, arising out of or in connection with any activities related to this franchise or the Grantee's use of the right-of-way. The Grantee's duty to assume the defense and to pay all expenses thereof shall apply to all claims or allegations of negligence where any duty to provide indemnification in whole or in part potentially applies, whether or not the injuries or damages are ultimately found to be due to the negligence of the Grantee arising out of the franchise or any use of the right-of-way.

11.4 In the event that the Grantee refuses the tender of defense in any suit or any claim, said tender having been made pursuant to the indemnification provision contained herein, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of the Grantee, then the Grantee shall pay all of the County's costs for defense of the action, including all expert witness fees, costs, and reasonable attorney's fees, including costs and fees incurred in recovering under this indemnification provision.

11.5 The Engineer shall notify Grantee, in writing, as soon as practicable after the presentation of any claims, demands, suits, actions, damages, expenses or costs (collectively "claims") made or accrued against the County on account of any fault on the part of Grantee. Failure by the Engineer to notify Grantee properly in accordance with the foregoing of any such claims against the County shall not release Grantee from its obligation to defend or indemnify the County unless Grantee can establish that it has been materially prejudiced by such failure. Inspection, approval or acceptance by the County of any work performed by the Grantee shall not be grounds for avoidance by the Grantee of any of its obligations under this Section.

12. CONCURRENT POWERS: The construction, extension, connection, repair, maintenance, operation, or removal of the Grantee's facilities shall not preclude Clallam County, its officers, agents, contractors, or employees from blasting, grading, or doing other necessary road work contiguous to the Grantee's facilities, provided that the Grantee shall have advance notice of said blasting, excavating, or embanking in order that the Grantee may protect its facilities.

13. DANGEROUS CONDITIONS, AUTHORITY FOR COUNTY TO ABATE

13.1 Whenever the Grantee's excavation, construction, installation, relocation, maintenance, repair, abandonment, or removal of facilities authorized by this franchise has caused or contributed to a condition that substantially impairs, in the opinion of the Engineer, the lateral support of the adjoining road or public place, or endangers the public, an adjoining public place, an environmentally critical area, road facilities or County property, the Engineer may direct the Grantee, at the Grantee's own expense, to take actions to protect the public, adjacent public places, County property or road facilities, and such action may include compliance within a prescribed time.

13.2 In the event that the Grantee fails or refuses to promptly take the actions directed by the County, or fails to fully comply with such directions, or if emergency conditions exist which require immediate action, the County may enter upon the property and take such actions as are necessary to protect the public, the adjacent roads, or road facilities, or to maintain the lateral support thereof, or actions necessary to ensure the public safety or to protect environmentally critical areas, and the Grantee shall be liable to the County for the costs thereof.

14. FRANCHISE NOT EXCLUSIVE: This grant or privilege shall not be deemed or held to be an exclusive franchise. It shall in no manner prohibit Clallam County from granting other franchises of a like

nature for other public or private purposes over, under, along, upon, or across any of the county roads and shall in no way prevent or prohibit Clallam County from using any of said roads or affect its jurisdiction over them or any part of them, with full power to make all necessary changes, relocation, repairs, maintenance, etc., as it deems fit.

15. **ASSIGNMENT:** Except for assignment or hypothecation for security purposes, Grantee shall not have the right to assign the franchise or otherwise transfer it in any manner whatsoever, or sell, lease, license, or permit others to use or transfer in any manner whatsoever any interest in all or any part of its facilities that are installed or operated hereunder, except on prior written approval of the Board of Clallam County Commissioners, which consent shall not be unreasonably withheld and which may be conditioned upon additional security, insurance, and/or bonding.

16. **FORFEITURE:** The franchise may be forfeited, at the option of the County, upon failure or violation by Grantee to observe the material terms and conditions set forth herein. Forfeiture may be exercised only following written notice to Grantee of failure to observe the terms and conditions hereof, detailing the breach of this franchise with specificity, followed by Grantee's failure or refusal to eliminate or correct such failure or to commence correction of such within the amount of time specified by the County. In the event of any failure or violation, the County may bring suit in the manner provided by law for the forfeiture of the franchise without the necessity of resorting to procedures in quo warranto, and the exercise of such remedy of forfeiture shall not preclude exercise of any other right or remedy given to the County by law, whether exercised concurrently or subsequently.

17. **ABANDONMENT:**

17.1 No facilities located in the right-of-way by the Grantee or Grantee's agents may be abandoned in place without a written plan and the express agreement and written consent of the County. Any plan for abandonment or removal must be first approved by the Engineer, and all necessary permits must be obtained prior to such work and all roads occupied by Grantee's facilities must be restored to the condition specified by the County. In the event Grantee decides to discontinue using and abandon any of its facilities, or the County reasonably determines, after making good faith attempts to contact the Grantee to ascertain the status of the facilities, that Grantee has discontinued using and abandoned any facilities, or that the facilities should be abandoned, or both parties have negotiated in good faith but no franchise has been obtained therefor upon expiration of this franchise, or within one hundred eighty (180) days after any termination of this franchise, Grantee shall, at its sole cost and as directed by the County and other agencies having jurisdiction, purge its facilities of any hazardous product or other additive substances and render them safe in accordance with applicable law or standards deemed appropriate by the County.

17.2 Except as otherwise provided herein, within one hundred eighty (180) days after the use of any facilities has been permanently discontinued or this franchise expires or is otherwise terminated, Grantee shall forthwith remove its facilities from the roads. Grantee shall restore roads to that condition specified by the Engineer; provided that such property shall not be removed if the Engineer shall reasonably determine that such removal will cause unreasonable damage to such roads or the environment and provided further, that should the Engineer request that any facilities be allowed to remain in place for the use of the County or other franchise(e), then such facilities shall not be removed, and title thereto shall be transferred to County at no cost to the County. The Engineer may, at his discretion, permit facilities to be abandoned in place, provided that Grantee provide the Engineer with a detailed description of the facilities being abandoned (type of material, condition, size, extent, etc.), and provided such facilities are not considered hazardous, problematic, or otherwise undesirable, and further provided that Grantee shall submit to the Engineer an instrument transferring to the County ownership of such facilities. Said instrument shall certify that the utilities being abandoned are disconnected from service and are inactive.

17.3 In the event Grantee does not perform such work within a reasonable time following written notice from the county, the County may do, order, or have done, any and all work on such abandoned facilities, and the Grantee, upon demand, shall pay to the County all costs of such work. Grantee shall be responsible for any environmental review, authorization, and permits required for the abandonment of any facility and payment of any costs of such review, restoration and mitigation.

18. MONUMENT REFERENCE: Before any work is performed under this franchise, the Grantee shall reference all monuments and markers of every nature relating to G.L.O. corners, subdivision plats, highways, and all other surveys that are affected by such work. The reference points shall be so located that they will not be disturbed during the Grantee's operations under this franchise nor by other reasonable maintenance or construction activities. The method of referencing these monuments or other points to be referenced shall be approved by the Engineer before placement. The replacement of all such monuments or markers disturbed during the Grantee's operation shall be made as expeditiously as conditions permit and as directed by the Engineer. The cost of monuments or other markers lost, destroyed, or disturbed and the expense of replacement of approved monuments shall be borne by the Grantee. Said reference and replacement of monuments shall be performed by a surveyor licensed by the State of Washington or such other person authorized by state law to prepare and file a survey.

19. INFLATION ADJUSTMENTS: The dollar amounts fixed under this franchise in Section 31, Compensation, shall be increased annually on the anniversary date of this franchise by Three and One-Half percent (3.5%) of the then current amount.

20. LIMITATION OF COUNTY LIABILITY. Administration of this franchise shall not be construed to create the basis for any liability on the part of the County, its elected and appointed officials, officers, employees, and agents, for any injury or damage from the failure of the Grantee to comply with the provisions of this franchise; by reason of any plan, schedule or specification review, inspection, notice and order, permission, or other approval or consent by the County; for any action or inaction thereof authorized or done in connection with the implementation or enforcement of this franchise by the County; or for the accuracy of plans submitted to the County.

21. INSURANCE.

21.1 The Grantee shall procure and maintain for the duration of the franchise, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted by this franchise and right-of-way use permits to the Grantee, its agents, representatives or employees. The Grantee shall provide a certificate of insurance to the County for its inspection prior to the adoption of this franchise ordinance, and such insurance shall include:

- A. Automobile Liability insurance with limits no less than \$1,000,000 Combined Single Limit per occurrence for bodily injury and property damage; and
- B. Commercial General Liability insurance, written on an occurrence basis with limits no less than \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate for personal injury, bodily injury and property damage. Coverage shall include, but not be limited to: blanket contractual; products and completed operations; broad form property damage; explosion, collapse and underground (XCU); and employer's liability.

21.2 The insurance policies obtained by the Grantee shall name the County, its elected and appointed officers, officials, employees, agents, and volunteers as additional insureds with regard to activities

performed by or on behalf of the Grantee. The coverage shall contain no special limitations on the scope of protection afforded to the County, its elected and appointed officers, officials, employees, agents, or volunteers. In addition, the insurance policy shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. The Grantee's insurance shall be primary insurance as respects the County, its elected and appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the County, its elected and appointed officials, officers, employees, agents or volunteers shall be excess of the Grantee's insurance and shall not contribute with it. The insurance policy or policies required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the County. Any failure to comply with the reporting provisions of the policies required herein shall not affect coverage provided to the County, its elected and appointed officials, officers, employees, agents or volunteers.

21.3 The complete policy with all endorsements shall be provided to the County at any time upon request. Any deductibles or self-insured retentions must be declared to and approved by the County. Payment of deductible or self-insured retention shall be the sole responsibility of the Grantee. Proof of all insurance shall be in a form acceptable to the Engineer. The Grantee's insurance provider shall be authorized to do business in Washington. If the Grantee is self-insured, Grantee shall provide such information as required by the Engineer sufficient to demonstrate its ability to meet the requirements of this Section; the determination as to its sufficiency is within the sole judgment of the Engineer. All insurance documentation shall be submitted to and reviewed by the Engineer prior to final execution of the franchise. The Engineer may from time to time review the amount of insurance and require additional amounts based upon Grantee's facilities and the Grantee's performance of the covenants, terms, conditions and obligations under this franchise and any right-of-way use permits or approvals.

22. VACATION. If the County vacates all or a portion of any County road or right-of-way which is subject to this franchise, the Board of Commissioners may, at its option, terminate this franchise with reference to any County road or right-of-way so vacated, and the County shall not be liable for any damages or loss to the Grantee by reason of such termination. Whenever a county road or right-of-way or any portion thereof is vacated upon a finding that it is not useful and the public will be benefited by the vacation, the County may retain an easement with respect to the vacated land for the construction, repair and maintenance of public utilities and services which at the time of the vacation are specifically authorized or are physically located on a portion of the land being vacated, but only in accordance with the provisions of RCW 36.87.140 as now existing or hereafter amended. It shall be the responsibility of the Grantee to request that the Board of Commissioners specifically include a provision retaining an easement with respect to any proposed Board action on a particular vacation. The County shall not be liable for any damages or loss to the Grantee by reason of any such vacation.

23. PERFORMANCE BOND: Before undertaking any of the work, installation, improvements, construction, repair, relocation or maintenance authorized by this franchise or the franchise entitled Washington Water Service Company, Sunshine Acres area - Sunshine Acres and Rondolay Meadows Water Systems and entered contemporaneously herewith and the separate right-of-way use permits under Section 5 of each franchise, the Grantee shall furnish a bond executed by the Grantee and a corporate surety authorized to do a surety business in the State of Washington, in the amount of twenty-five thousand dollars (\$25,000.00) to ensure performance of the Grantee's obligations under these franchises generally and under any specific right-of-way use permits or approvals. The bond shall remain in effect for the life of both franchises and shall be retained by the County. The bond shall be conditioned so that the Grantee shall observe all the covenants, terms and conditions and faithfully perform all of the obligations of these franchises and any right-of-use permits or approvals, and to correct or replace any defective work or

materials discovered in the replacement of the County's roads or property within a period of two (2) years from the date of the replacement and acceptance of such repaired roads, facilities, or property by the County. The Engineer may from time to time review the amount of surety and require an additional amount based upon Grantee's facilities and the Grantee's performance of the covenants, terms, conditions and obligations under these franchises and any right-of-way use permits or approvals. The bond shall be provided to Clallam County before the franchises may enter into effect.

24. SEVERABILITY: If any article, section, sentence, clause, or phrase of this franchise or its application to any person or entity is for any reason held illegal, invalid, or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other article, section, sentence, clause or phrase of this franchise nor its application to any other person or entity. The invalidity of any portion of this franchise shall not abate, reduce, or otherwise affect any consideration or other obligation required of Grantee. All of the provisions, conditions and requirements of Sections 5, Permits; 7, Records; 8, Restorations and Maintenance; 9, Relocation of Facilities; 10, Undergrounding of Facilities; 11, Hold Harmless; 13, Dangerous Conditions, Authority for County to Abate; 17, Abandonment; and 25, Governing Law and Stipulation of Venue, of this franchise shall be in addition to any and all other obligations and liabilities the Grantee may have to the County at common law, by statute, or by contract, and shall survive the expiration, revocation, termination, or forfeiture of the County's franchise to the Grantee and any renewals or extensions thereof. All of the provisions, conditions, regulations and requirements contained in this franchise ordinance shall further be binding upon the successors and assigns of the Grantee and all privileges, as well as all obligations and liabilities of the Grantee shall inure to its successors and assigns equally as if they were specifically mentioned wherever the Grantee is named herein.

25. GOVERNING LAW AND STIPULATION OF VENUE. This franchise and use of public rights-of-way shall be governed by the laws of the State of Washington, unless preempted by federal law. The Grantee agrees to be bound by the laws of the State of Washington and subjected to the jurisdiction of the Courts of the State of Washington. Any action relating to this franchise must be brought in the Superior Court of Washington for Clallam County, or in the case of a federal action, the United States District Court for the Western District of Washington at Seattle, unless an administrative agency has primary jurisdiction.

26. ADDITIONAL POWERS: This franchise shall be subject to the power of eminent domain and the right of the Board of Clallam County Commissioners or the people acting for themselves through the initiative or referendum to repeal, amend, or modify the franchise in the interests of the public. In any proceeding under eminent domain, the franchise itself shall have no value.

27. TERMINATION, REVOCATION AND FORFEITURE. If the Grantee defaults on any term or condition of this franchise, the County may terminate this franchise. Upon termination for any cause, all rights of the Grantee granted hereunder or under any right-of-way use permit shall cease, and the Grantee shall comply with the requirements of Section 17. If the Grantee willfully violates or fails to comply with any of the provisions of this franchise, or through willful misconduct or gross negligence fails to heed or comply with any notice given the Grantee by the County under the provisions of this franchise, then the Grantee shall, at the election of the Clallam County Board of Commissioners, forfeit all rights conferred hereunder and this franchise may be revoked or annulled by the Board after a hearing held upon notice to the Grantee.

28. REMEDIES TO ENFORCE COMPLIANCE. The County may elect, in lieu of the above and without any prejudice to any of its other legal rights and remedies, to obtain an order from the Superior Court or other court, tribunal, or agency having competent jurisdiction compelling the Grantee to comply

with the provisions of this franchise and to recover damages and costs incurred by the County by reason of the Grantee's failure to comply. In the event that Clallam County seeks judicial enforcement of any term of this agreement, the Grantee shall reimburse Clallam County for all disbursements and costs incurred, including, if Clallam County prevails, a reasonable attorney's fee and expert witness fees. In addition to any other remedy provided herein, the County reserves the right to pursue any remedy to compel or force the Grantee and/or its successors and assigns to comply with the terms hereof, and the pursuit of any right or remedy by the County shall not prevent the County from thereafter declaring a forfeiture or revocation for breach of the conditions herein.

29. **NONWAIVER OF RIGHTS OR REMEDIES.** Failure of the County to exercise any rights or remedies under this franchise shall not be a waiver of any obligation by the County and shall not prevent the County from pursuing that right at any future time.

30. **COUNTY ORDINANCES AND REGULATIONS – RESERVATION OF POLICE POWER.** Nothing in this franchise shall be deemed to restrict the County's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this franchise, including, but not limited to, any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The County shall have the authority at all times to control by appropriate regulations, including design standards, and utility accommodation policies, the location, elevation, manner of construction, and maintenance of any facilities of the Grantee within the right-of-way or affecting the right-of-way, and the Grantee shall promptly conform with all such regulations, unless compliance would cause the Grantee to violate other requirements of law. In the event of a conflict between the regulatory provisions of this franchise and any other ordinance(s) enacted under the County's police power authority, such other ordinance(s) shall take precedence over the regulatory provisions set forth herein.

31. **COMPENSATION:**

31.1 In consideration for the granting of this franchise, Grantee shall pay Clallam County for the actual costs including overhead incurred by the County in the processing and administration of this franchise. An advance deposit of \$500.00 shall be paid with submittal of the franchise application. Said \$500.00 deposit will be placed in a non-interest bearing Treasurer's suspense fund to be dispersed to County and possibly partially refunded to Grantee after the Grantee has provided to the County a copy of all as-built plans, maps and records showing the location and condition of its facilities existing within the public rights -of-way and public places. An accounting of actual costs and overhead will be sent to Grantee after receipt of the described as-builts. Payment to cover costs over \$500.00 shall be paid by Grantee within 30 days of billing by Clallam County. If \$500.00 has not been expended, the difference between the actual costs and \$500.00 shall be refunded to Grantee.

31.2 As additional consideration for the granting of this franchise the Grantee shall pay Clallam County the sum of Five Hundred Dollars (\$500.00) per year each and every year that this franchise is in effect. Said compensation shall be paid within 30 days of the granting of this franchise and annually within 30 days of each anniversary date thereof. Said dollar amount will increase in accordance with Section 19, Inflation Adjustments.

31.3 As additional consideration for the granting of this franchise the Grantee shall pay Clallam County an amount of Fifty Cents(\$0.50) per One Thousand (1,000) cubic feet of water use [Six point Six Eight Cents (\$0.0668) per One Thousand (1,000) gallons of water use] for the Lee Water System by Grantee for all of its system services to customers served by this franchise. This compensation shall be paid at the same time as, and beginning with the second annual fee (described above), for the preceding twelve-month period.

With each payment, Grantee shall furnish the County with a report showing the basis for the Grantee's computation, in a written statement, under oath, executed by an officer of the Grantee, verifying the amount of water use of Grantee within the areas served by this franchise for the period covered by the payment. Said dollar amount will increase in accordance with Section 19, Inflation Adjustments.

32. CONTACTS/NOTICES: Any notices required to be given under this franchise shall be given by certified mail, return receipt requested, to the designated contact and shall be deemed complete on the third day following mailing. The following identified persons shall be the designated contact persons for administration of this franchise:

FOR GRANTEE:

Contact Name: Michael P Ireland

Mailing Address Washington Water Service Company
14519 Peacock Hill Ave., NW
P.O. Box 336
Gig Harbor, WA 98335

Billing Address Washington Water Service Company
14519 Peacock Hill Ave., NW
P.O. Box 336
Gig Harbor, WA 98335

Phone Number (253) 851-4060
Fax Number (253) 357-4001

FOR COUNTY

County Road Engineer
Clallam County Courthouse
223 East 4th Street
P.O. Box 863
Port Angeles, WA 98362-0149

Phone Number - (360) 417-2319
Fax Number - (360) 417-2513

Notice of any changes in the contact person, address, or telephone number for the Grantee shall be communicated to the County, in writing, within 3 business days. The Grantee shall also provide the County a current emergency contact name (or title) and phone number available 24 hours a day, seven days a week. The Grantee shall promptly notify the County of any change in the notice address or emergency contact name (or title) and phone number.

33. ACCEPTANCE. Within thirty (30) days after the passage and approval of this Ordinance, this franchise may be accepted by the Grantee by its filing with the County Auditor an unconditional written acceptance thereof. Failure of the Grantee to accept this franchise within said period of time shall be deemed a rejection thereof by the Grantee, and the rights and privileges herein granted shall, after the expiration of the thirty (30) day period, absolutely cease and terminate, unless the time period is extended by ordinance duly passed for that purpose.

34. EFFECTIVE DATE. This ordinance shall take effect only upon satisfaction of the following conditions, but not sooner than ten (10) days after adoption: (1) the Grantee files its unconditional

acceptance with the County Auditor and provides a copy to the Engineer within the time provided in Section 33; (2) the Grantee presents to the Engineer acceptable evidence of insurance and security as required in Sections 21 and 23 of this franchise; and (3) the Grantee pays all applicable fees set forth in Section 31 above. However, should Grantee fail to satisfy all conditions within one year of the date of adoption of this ordinance, the rights and privileges herein granted, shall absolutely cease and terminate, unless the time period is extended by ordinance duly passed for that purpose.

35. APPLICATION: The undersigned hereby applies for this franchise, subject to all the terms, conditions, stipulations, and obligations contained herein.

COMPANY NAME WASHINGTON WATER SERVICE CO.
BY (SIGNATURE) Michael P Ireland 4/11/02
Date
(PRINT) Michael P Ireland
TITLE President

Seal or Stamp:

State of Washington
County of Clallam



I certify that I know or have satisfactory evidence that Michael P. Ireland is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the

President of
(type authority, e.g. officer, president, trustee, etc.)

Western Washington Water Service to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: April 11-2002
Signature: Linda Martin
Title: Office Manager
Residing at: Kitsap
My appointment ends: 10-19-04

PASSED AND ADOPTED BY:

BOARD OF CLALLAM COUNTY COMMISSIONERS

Howard V. Doherty, Jr.
Howard V. Doherty, Jr., Chair
Stephen P. Tharinger
Stephen P. Tharinger
Michael C. Chapman
Michael C. Chapman

Date: June 11 2002

ATTEST:
Trish Perrott
Trish Perrott
Clerk of the Board

Approved as to Form:
Christopher Mey
Deputy Prosecuting Attorney
Clallam County

Lee Water System
 Range 3, Township 30N, Section 18 (NW) & 19 (NE)

County Maintained Roads:

- | | |
|-----------------|-----------------------|
| Cottonwood Lane | Road No. 51870 |
| E. Diane Drive | Road No. 51920 |
| Eagle Place | Road No. 51870, 51880 |
| Elizabeth Lane | Road No. 51880 |
| House Road | Road No. 51840 |
| Karen Court | Road No. 51960 |
| Kellie Court | Road No. 51980 |
| W. Diane Drive | Road No. 51921 |

