

199908250237

Return to
Snohomish County Public Works
Counter - 1st Floor
2930 Wetmore Avenue
Everett, WA 98201



08/25/1999 11:38 AM Snohomish
P.0020 RECORDED County

In the matter of

COUNTY COUNCIL
Snohomish County, Washington

AMENDED ORDINANCE NO 99-041
GRANTING A UTILITY FRANCHISE TO
TATOOSH WATER COMPANY

WHEREAS, Tatoosh Water Company, a corporation, has made application to the County Council for a utility franchise to use the rights-of-way of county roads for the purpose of constructing, installing and maintaining a ~~((water/sewer and storm drainage))~~ water transmission system, and

WHEREAS, the County Council held a public hearing on July 7, 1999, to consider the application for the utility franchise as required by Snohomish County Code 13 80 040, and

WHEREAS, the County Council considered the Engineer's Report of the Department of Public Works recommending that the franchise be granted, and

WHEREAS, the County Council deems it to be in the public's best interest to grant the franchise applied for, and

WHEREAS, utility franchise agreements are "non-exclusive" per Snohomish County Code 13 80 060,

NOW, THEREFORE, BE IT ORDAINED

Section 1 Tatoosh Water Company, a corporation, is granted a franchise as set forth below and in Exhibit "A" which is attached hereto and incorporated by reference as part of this ordinance as if set out in full, to construct, install and maintain ~~((water/sewer and storm drainage))~~ water transmission facilities in the rights-of-way of the county roads of Snohomish County, Washington, in the area described below

300th Street NE and NW (Freeborn Rd), in Sections 11, 12, 13 and 14, Township 32 North, Range 4 East, W M , 316th Street NE and NW in Sections 1, 2, 11 and 12, Township 32 North, Range 4 East, W M and also Sections 6 and 7, Township 32 North, Range 5 East, W M , English Grade Road in Section 11, Township 32 North, Range 4 East, W M , 3rd Ave NE (KughHausen Rd)

Rd.) in Sections 12 and 13, Township 32 North, Range 4 East, W M and also Sections 7 and 18 in Township 32 North, Range 5 East W M , 296th Street NE in Section 18, Township 32 North, Range 5 East, 16th Avenue NW in Section 14, Township 32 North, Range 4 East, W M

Section 2 Exercise of the franchise shall be subject to the terms and conditions stated in Exhibit "A" attached hereto and by its reference incorporated herein

Section 3 The franchise is subject to the power of eminent domain and the right of the County Council or the people acting for themselves through the initiative or the referendum to repeal, amend, or modify the franchise in the interest of the public In any proceeding under eminent domain, the franchise itself shall have no value

Section 4 The terms of this franchise shall be for a period of twenty-five (25) years from the effective date of the franchise agreement

Section 5 The franchise is granted subject to the applicable provisions of the Snohomish County Code, including, but not limited to Chapter 13 80 as now written or as later amended, which shall apply in addition to the provisions of this ordinance and the terms and conditions in Exhibit "A" hereto

Section 6 The franchise granted herein shall be effective only upon filing with the Clerk of the Council a certification from the Department of Public Works that Tatoosh Water Company a) has paid to the Snohomish County Road Fund the actual cost of processing of its franchise application, which amount is estimated to be \$800, and b) has paid to the Snohomish County Road Fund those costs incurred by the County Council for advertising the Notice of Public Hearing in the amount of \$200

PASSED this 7th day of July, 1999

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

Approved as to form only

Millie Judge
Deputy Prosecuting Attorney
Date 3/23/99

Richard M. Law
Chairperson

ATTEST Barbara Stewart
Assistant Clerk of the Council

DATE GARY WEIKEL
Executive Director

Gary Weikel
County Executive

ATTEST _____

DATE 7/9/99

- Approved
- Vetoed
- Emergency

After Recording Return To:

Snohomish County Department of Public Works
Counter/First Floor Wall Street Building
2930 Wetmore Avenue, Suite 101
Everett, WA 98201

**UTILITY FRANCHISE COVER SHEET
SNOHOMISH COUNTY, WASHINGTON**

Franchise No. 1045

Applicant/Grantee: Tatoosh Water Company

Type of Facilities: Water Transmission

Description of County Roads and Rights-of-Way Covered by this Franchise
by Section, Township, and Range (If space is not adequate, attach a separate sheet)
See Attached

Contact Person/Title: Steve Aslanian

Notice Address: P. O. Box 247

Arlington, WA 98223

Ordinance No.: 99-041

Effective Date August 6, 1999

Expiration Date: August 5, 2024

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Tatoosh Water Company Utility Franchise Renewal	
Description of County Roads by Reference to Section Township, and Range	
1	300th St. NE and NW; (Freeborn Rd), in Sections 11, 12, 13, and 14 in T32N R4E also Sections 7 and 18 in T32N, R5E
2	316th St. NE and NW in Section 1, 2, 11, and 12 in T32N, R4E, also Section 6 and 7 in T32N, R5E
3	English Grade Road in Section 11, T32N, R4E
4	3rd Ave NE; (KuhnHausen Rd); Sections 12 and 13, in T32N, R4E, also Sections 7, and 18 in T32N , R5E
5	296th St NE in Section 18; T32N, R5E
6	16th Ave NW in Section 14 T32N R4E

DRAFT

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**SNOHOMISH COUNTY
FRANCHISE TERMS AND CONDITIONS**

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1. Franchise Granted:

Pursuant to RCW 36 55 010, Snohomish County, a political subdivision of the State of Washington hereby grants to Tatoosh Water Company, [Name] a water utility, [Type of legal entity] (hereinafter called "Grantee") a non-exclusive franchise subject to the terms and conditions set forth herein for a period of twenty-five (25) years, unless sooner terminated, beginning on the effective date of this ordinance

This franchise grants the Grantee the right, privilege and authority to locate, use, construct, operate, maintain, replace and repair its facilities and all necessary equipment and facilities appurtenant thereto in, under, on, across, over, through, along or below the public roads and rights-of-way of Snohomish County, subject to all applicable provisions of Title 13 of the Snohomish County Code (SCC), Chapter 36 55 RCW, and Chapter 136-40 WAC. This franchise merely authorizes the Grantee to occupy and use the public right-of-way within Snohomish County and nothing contained herein shall be construed to grant or convey any right, title, or interest in or to such public right-of-way to the Grantee

2. Definition of Terms:

As used in this Franchise, the following terms shall have the meanings set forth below

BLANKET UTILITY PERMIT	A single permit granted to a Grantee to cover a series of activities upon County roads and rights-of-way
COUNTY	Snohomish County
COUNTY COUNCIL	Snohomish County Council
COUNTY ENGINEER	County Road Engineer or his/her designee
DEPARTMENT	Department of Public Works, Snohomish County
FRANCHISE	Occupancy and use document required for occupancy of road rights-of-way in accordance with Chapters 36 55 and 80 32 RCW
GRANTEE	The person, organization, association or corporation named in any permit as permittee, and their successor-in-interest
MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)	The latest edition of MUTCD, Manual on Uniform Traffic Control Devices for Streets and Highways, published by the U S Department of Transportation, Federal Highway Administration

DESIGN STANDARDS	The latest edition of the Engineering Design and Development Standards adopted by the Snohomish County Department of Public Works (otherwise known as "EDDS") In addition, design standards may include the latest edition of the WSDOT Standards Specifications for Road, Bridge and Municipal Construction, where required by the Department of Public Works
MAP OF DEFINITE LOCATION	Construction plans and _____ to scale, detailing the position, depth and location of all lines and facilities to be constructed by the Grantee and their position in relation to any involved County road or right-of-way
PERMIT	A document including any license, permit or franchise, authorizing specified use of county right-of-way and granted under the provisions of this franchise and Title 13 SCC
RESTORATION	A general term denoting work required to be performed after construction by the Grantee or its agents in order to replace, repair or otherwise return the public road or right-of-way to the same or better condition than was in existence prior to the Grantee's work thereon
RIGHT-OF-WAY	All property in which the County has any form of ownership or title and which is held for public road purposes, regardless of whether or not any road exists thereon or whether or not it is used, improved, or maintained for public travel
ROADWAY	The portion of the right-of-way, within the outside limits of the side slopes or between curb lines, used for vehicular travel
STATE DIRECTOR OF TRANSPORTATION	The Director of the Washington State Department of Transportation (WSDOT)
TITLE 13 SCC	Title 13 of the Snohomish County Code, as now existing or hereinafter amended
TRAFFIC CONTROL	A general term more definitely described in the MUTCD

3. Permits, Plans, and Specifications:

A General requirement Prior to commencing any work, other than maintenance and repair of existing facilities within any county road or right-of-way, Grantee shall apply for and receive a permit to do such work from Snohomish County pursuant to Title 13 SCC

B. Wastewater collection facilities Permit applications for new wastewater collection facilities must demonstrate that the proposed facilities are consistent with the adopted Snohomish County GMA Comprehensive Plan, including the General Policy Plan, as it may be amended from time to time Such application will include plans and specifications in duplicate showing the position, depth and location of lines and facilities to be constructed at that time and their position in relation to any involved county road and within right-of-way These plans, all drawn to scale, shall be known as the "map of definite location" Specifications will include class and type of materials and equipment to be used, manner of excavation, construction, installation, and backfill, location of temporary and permanent structures to be erected, description of road facilities which will be disturbed and plans for their restoration, traffic controls, traffic turnouts and detours, road obstructions, and such other details as are required by the County Engineer To the extent work is permitted under a blanket utility permit issued pursuant to Title 13 SCC, detailed plans and specifications stated above are not required

C Costs Grantee shall pay all costs and expenses incurred by the County in reviewing plans and specifications required by Title 13 SCC

4. Performance of Work:

A No work on any county road or right-of-way shall be commenced until a permit has been issued by the County and a set of plans and specifications reviewed and approved and endorsed by the County Engineer have been returned to Grantee

B All work shall be performed in accordance with applicable plans and specifications and be subject to inspection and incremental approval by the County Engineer Grantee shall pay all costs and expenses incurred by the County in inspecting and approving the work Grantee shall remain solely responsible for compliance with all applicable laws, regulations, codes, and

standard plans and specifications in the design and construction of utility facilities

C Lines and other facilities shall be laid in exact conformance with the map of definite location except where deviations are allowed in writing by the County Engineer pursuant to application by Grantee, in which case Grantee shall file a corrected map of definite location

D Any work which disturbs any soil, surface or structure of any county road or right-of-way shall be controlled by WAC 136-40, applicable design standards and specifications of the County, and applicable provisions of Title 13 SCC. Grantee, at its expense, shall restore such surface or other facility or make other provisions therefore, all to the satisfaction of the County Engineer

E All work shall be done in accordance with the current County standards in a thorough, professional and workmanlike manner with minimum interference in public use of the county road. Where any work includes opening of trenches and/or ditches and/or tunneling under a county road or right-of-way, Grantee shall take all precautions necessary to protect and guard the public from any unsafe condition caused by the work. Grantee shall conform to the Manual on Uniform Traffic Control Devices, including directing traffic, signs, and barricades. If any line, pole or other facility of Grantee is so located that, in the opinion of the County Engineer, hazard to travel of the public is created, Grantee shall immediately remove or relocate the line, pole or other facility at its expense upon request of the County Engineer. Grantee shall be liable for any damages, including any costs and attorney's fees incurred by the County in remedying any failure to perform by Grantee, resulting from Grantee's failure to safely perform the work or Grantee's failure to provide adequate traffic controls and protection to members of the public and their property.

F Before any work which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads, or other surveys is performed under this franchise, Grantee shall reference all such monuments and markers. Reference points shall be so located that they will not be disturbed during Grantee's operations under this franchise. The method of referencing monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit and as directed by the County Engineer. The cost of monuments or markers lost, destroyed, or disturbed, and the expense of replacement of approved monuments shall be

borne by Grantee. A complete set of reference notes for monument and other ties shall be filed with the Document.

G. Work Performed in Critical Areas. All work shall be performed by the Grantee in a manner to avoid or minimize impacts on critical areas contained within the County right-of-way. Prior to commencing any work in a critical area as defined by Ch. 32.10 SCC, the Grantee shall comply with all requirements of Ch. 32.10 SCC and any other applicable title of the Snohomish County Code and shall obtain any and all necessary permits required therein.

H. Threatened and Endangered Species. 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 U.S.C. § 1531 et seq., as amended, in the performance of any work resulting from this Franchise. Additionally, the Grantee agrees to hold harmless, indemnify, defend and covenants not to sue the County, its officers, officials, employees and agents, from and against any and all claims, actions, or suits at law or in equity alleging "take" of a threatened or endangered species as defined by Federal law, arising out of the issuance of this Franchise, and/or the Contractor's acts, errors or omissions in the performance of this agreement, and further agrees to hold harmless and indemnify the County from and against any damages, awards, penalties or fines, including attorney's fees and costs, levied against the County as a result of the same. The obligations of the Grantee hereunder shall be as specified in Paragraph 11 of this Franchise.

5. Aesthetic/Scenic Considerations:

A. Utility installations shall be designed and constructed to minimize the adverse effect on existing roadside manmade or natural amenities. Special efforts shall be taken to minimize any potential negative impacts on areas of scenic beauty (i.e., scenic strips, viewpoints, rest areas, recreation areas, public parks or historic sites, and the like).

B. Overhead utility installations shall be permitted in areas of scenic beauty when other utility locations are not available, are not technically feasible, are unreasonably costly, or are less desirable from the standpoint of visual quality.

C. If the utility intends to use chemical sprays to control or kill weeds and brush in scenic areas, prior approval must be granted by the County at least annually. The County may limit or restrict the types, amounts, and timing of

applications if a significant negative impact on the aesthetics of the area is anticipated, provided such limitations or restrictions are not in conflict with State law governing utility right-of-way maintenance

D. Refuse and debris resulting from the installation or maintenance of the utility facilities shall be promptly removed once the work is completed

6. Maintenance of Utility Facilities:

The Grantee assumes all responsibility for damage caused to its property and various objects that are placed by the Grantee in county roads and rights-of-way and shall hold harmless, indemnify, and defend the County for the same as provided in Section 11, herein. The Grantee shall take necessary steps to maintain a clear area around all objects permitted and installed within county road right-of-way. A minimum of 5 feet of clearance will be maintained around each object so as to provide clear visibility for County operations and maintenance

7. Hazardous Wastes, Substances:

Grantee shall comply with Title 7 53 SCC, Water Pollution Control. In addition, 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 Department and the Washington State Department of Ecology and Snohomish County in writing immediately upon any such release. Grantee shall indemnify, hold harmless, defend and covenants 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 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 immediate notice of termination of this franchise, or 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.

8. Relocation:

A If any county road or right-of-way is constructed, improved, relocated, realigned or otherwise changed, including traffic controls, drainage and illumination, or if any part of such road or right-of-way becomes a state highway and relocation or readjustment is directed by the State Director of Transportation so as to reasonably necessitate removal, relocation and/or reconstruction of any

facility of the Grantee on such road or right-of-way, upon notice of the County Engineer or the State Director of Transportation, Grantee shall, in a timely manner, and at its sole expense, remove, relocate, reconstruct or otherwise adjust its facilities so as to conform to and permit such construction, improvement, relocation, realignment, or change by or on behalf of the County or State. This provision applies to all of Grantee's facilities wheresoever situated within the County's 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 County road right-of-way.

B The County Engineer shall have final approval of the removal or relocation schedule. Grantee shall be responsible for timely compliance with utility relocation and coordinate with the County or County's contractor.

Grantee shall hold harmless, indemnify and defend the County against all claims, lawsuits, damages caused in whole or in part by the utility relocation work, including but not limited to, problems, accommodations and delays, and including negligent or intentional acts or omissions of the Grantee, its agencies, officers, officials and employees, as more fully set forth in Paragraph 11, herein.

The construction, operations, maintenance, and repair of Grantee's lines and facilities authorized by this franchise shall not preclude the County of Snohomish, its agents or its contractors from blasting, grading, excavating or doing necessary road work contiguous to the said lines and facilities of the

Grantee, provided that the Grantee shall be given forty-eight (48) hours notice of said blasting or other work

9. Non-Exclusive/Other Occupants:

A This franchise is non-exclusive. It does not prohibit the County from granting other franchises or permits for use of any county roads or rights-of-way or parts thereof. Subject to this franchise, Grantee shall not prevent or prohibit the County from constructing, altering, maintaining or using any of said roads or rights-of-way, or affect its jurisdiction over them or any part of them. The County retains full power to make all necessary changes, relocations, repairs, maintenance, etc., to the same, as the County may deem appropriate.

B All installation, operation, maintenance and repair by the Grantee on any county road or right-of-way shall be done so as not to interfere with installation, construction, operation, maintenance or repair of other utilities, drains, ditches, structures, or other improvements permitted upon such road or right-of-way. Owners, public or private, of any such facilities installed prior to construction and/or installation of lines and facilities of Grantee, shall have preference as to positioning and location of such facilities. Such preference shall continue if relocating is required as a result of any construction relocation, realignment, and/or change of grade by the County.

10. Insurance and Security:

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 hereunder to Grantee, its agents, representatives or employees. Grantee shall provide a copy of such insurance policy to the County Finance Director for inspection and approval 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.

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 Grantee. The insurance policies obtained by Grantee shall name the County (its officers, officials, employees and agents,) as an additional insured with regard to activities performed by or on behalf of Grantee. The coverage shall contain no special limitations on the scope of protection afforded to the County, its officers, officials, employees or agents. 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. Grantee's insurance shall be primary insurance as respects the County, its officers, officials, employees and agents. Any insurance maintained by the County, its officers, officials, employees, and agents shall be in excess of 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 officers, officials, employees, and agents. Proof of all insurance shall be in a form acceptable to the County Finance Director. If the Grantee is self-insured, Grantee shall provide such information as required by the County Finance Director sufficient to demonstrate its ability to meet the requirements of this Section. All insurance documentation shall be submitted and reviewed by the County Executive prior to final execution of the franchise.

The County may require any additional bond, insurance, deposit, or security as provided in Title 13 SCC. Acceptance by the County of any work performed by the Grantee at the time of completion shall not be a ground for avoidance of this covenant.

11. Hold Harmless and Indemnity:

The Grantee shall hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages and judgments of any nature whatsoever, including costs and attorney's fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the acts, errors or omissions of the Grantee, its officers, officials, employees or agents in the performance of this Franchise PROVIDED HOWEVER, that the Grantee's obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the County, its officers, officials, employees or agents PROVIDED FURTHER, with respect to only those provisions of this franchise which a court of competent jurisdiction determines are subject to RCW 4 24 115, then, in the event of damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of the parties, the Grantee's obligations hereunder shall apply only to the percentage of fault attributable to the Grantee, its employees or agents

It is specifically and expressly understood that the hold harmless and indemnification provisions provided in this franchise constitute the Grantee's waiver of immunity under the State Industrial Insurance Law, Title 51 RCW, solely for the purposes of this agreement, and that this waiver has been mutually negotiated by the parties. The Grantee's obligations hereunder shall include, but not be limited to, investigating, adjusting and defending all claims alleging loss from any act, error or omission or from any breach of any common law, statutory or other delegated duty of the Grantee or its employee's, officers, officials, agents or subcontractors. In case judgment shall be rendered against the County as a result of any suit or action, the Grantee will fully satisfy said judgment within ninety (90) days after suit or action shall have finally been determined against the County

12. Reservation of Police Power:

In granting this franchise, the County does not waive any of its police powers to regulate the use of County roads or rights-of-way in the interest of public health, safety, and general welfare

13. Applicable Laws:

Grantee shall comply with all federal, state and local laws, rules and regulations applicable to any work, facility or operation of Grantee upon County roads or rights-of-way during the period of this franchise

14. Eminent Domain, Powers of the People:

This franchise is subject to the power of eminent domain and the right of the Council or the people acting for themselves through the initiative or referendum to repeal, amend, or modify the franchise in the interest of the public. In any proceeding under eminent domain, the franchise itself shall have no value

15. Annexation:

If any road or right-of-way covered by this franchise is incorporated into the limits of any city or town, this franchise shall terminate as to any road or right-of-way within the corporate limits of such city or town, but this franchise shall continue as to County roads and rights-of-way not incorporated into a city or town

16. Vacation:

If the County vacates all or a portion of any county road or right-of-way which is subject to this franchise, the County Council may, at its option and by giving thirty (30) days' written notice to the Grantee, 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 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

that the County Council specifically include a provision retaining an easement with respect to any proposed Council 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

17. Termination:

A. If Grantee defaults on any term or condition of this franchise, the County Council may terminate this franchise as provided in Title 13 SCC. Upon termination for any cause, all rights of Grantee hereunder shall cease, and Grantee shall immediately commence to remove its facilities from the roads and rights-of-way.

B. In the event that the use of all or any part of the facility is discontinued for any reason, including, but not limited to, discontinuance, obsolescence or abandonment of the facility, or the abandonment, termination or expiration of this franchise, the Grantee is solely responsible for the removal and proper disposal of the abandoned/surplus facilities. The Grantee is not entitled to abandon any facilities in place without the County's prior express agreement and written consent. The Grantee shall restore the county roads and rights-of-way from which such facilities have been removed to the same or equal conditions as before.

18. Assignment:

All terms and conditions of this franchise are burdens upon the successors and assigns of Grantee, and all privileges as well as all obligations and liabilities of the Grantee inure to its successors and assigns equally as if they were specifically mentioned wherever the Grantee is mentioned. Neither this franchise nor any interest therein shall be sold, transferred or assigned without the prior written consent of the County Council.

19. Effective Date:

This franchise shall be effective thirty (30) days after approval by the County Council, PROVIDED, that Grantee within such time, has signed a copy thereof and returned it to the County Council, and presented to the County proper evidence of insurance and security as required herein.

20. Severability:

If any provision of this franchise or its application to any person or circumstance is held to be invalid, such decision shall not affect the validity of the remaining portions of this franchise or its application to other persons or circumstances

21. Limitation of Liability:

Administration of this franchise shall not be construed to create the basis for any liability on the part of the County, its appointed and elected 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

22. Hazardous Conditions:

Whenever the County Engineer determines that any conditions or operations caused by any activity covered by this franchise have become a hazard to life and limb, endanger property or public resources, or adversely affect the safety, use, or stability of a public way or drainage channel, the County Engineer shall

notify the Grantee in writing of the property upon which the condition or operation is located, or other person or agent in control of said property, and direct them to repair or eliminate such condition or operation within the period specified therein so as to eliminate the hazard and be in conformance with the requirements of this franchise

Should the County Engineer have reasonable cause to believe that the situation is so adverse as to preclude written notice, he/she may take the measures necessary to eliminate the hazardous situation, provided that he/she shall first make a reasonable effort to notify the Grantee before acting. In such instance, the Grantee responsible for the creation of the situation shall be responsible for the payment of any reasonable costs incurred

If costs are incurred and the hazardous situation has been created in conjunction with or as a result of an operation for which a bond has been posted pursuant to

this title or any other County authority, the County Engineer shall have the authority to forfeit the bond or other security to recover costs incurred

23. Notices:

Notices provided for in this Franchise shall be sent to the following addresses

1) Snohomish County
Department of Public Works
2930 Wetmore Suite 101
Everett, WA 98201

2) Grantee
Tatoosh Water Company
P. O. Box 247
Arlington, WA 98223

The Grantee shall promptly notify the County of any change in notice address

24. Governing Law and Stipulation of Venue:

The Grantee hereby agrees to be bound by the laws of the State of Washington and subjected to the jurisdiction of the State of Washington. The parties hereby stipulate that this franchise shall be governed by the laws of the State of Washington and that any lawsuit regarding this contract must be brought in Snohomish County, Washington, or in the case of a federal action, in the United States District Court for the Western District of Washington at Seattle

PASSED this 7th day of July, 1999

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Richard [Signature]
Chairperson

ATTEST

Barbara Detorsti
Asst. Clerk of the Council

- APPROVED
- VETOED
- EMERGENCY

GARY WEIKEL
Executive Director

Gary Weikel
County Executive
Date 7/9/99

Approved as to Form

Attest Haura Nelson

Phillie Judge
Deputy Prosecuting Attorney

Leah Vernon
Snohomish County Risk Management

GRANTEE HEREBY ACCEPTS THE TERMS AND CONDITIONS SET FORTH IN THIS FRANCHISE AGREEMENT

By [Signature]
Authorized Representative
Title manager
Date 7/28/99

199908250237