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2		FILED
3		JAN 05 2021
4		HEIDI PERCY
5		COUNTY CLERK SNOHOMISH CO. WASH.
6	SUPERIOR COURT OF WASHINGTON FOR SNOHOMISH COUNTY	
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8	STATE OF WASHINGTON,	NO. 20-2-02107-31
9	Plaintiff,	CONSENT DECREE, STIPULATION, AND [ <del>PROPOSED</del> ] ORDER OF
10	V.	DISMISSAL
11	SNOHOMISH COUNTY PUBLIC UTILITY DISTRICT,	[CLERK'S ACTION REQUIRED]
12	Defendant,	
13	v.	
14	USIC LOCATING SERVICES, LLC,	
15	Third Party Defendant.	
16		
17	Plaintiff, State of Washington ("Plaintiff") and Third Party Defendant USIC Locating	
18	Services, LLC ("Third Party Defendant"), by and through their counsel of record, hereby	
19	stipulate and agree to the terms and entry of this Consent Decree, Stipulation, and [Proposed]	
	Order of Dismissal (the "Consent Decree and Stipulation") as follows.	
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CONSENT DECREE, STIPULATION, AND [PROPOSED] ORDER OF DISMISSAL- 1 No. 20-2-02107-31

ATTORNEY GENERAL OF WASHINGTON Utilities and Transportation Division 621 Woodland Square Loop SE PO Box 40128 Olympia, WA 98504-0128 (360) 664-1192

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I. GENERAL

1.1 This Court has jurisdiction of the subject matter of this action and of the parties.Plaintiff's complaint in this matter states claims upon which relief may be granted under the provisions of the Underground Utilities Act, Chapter 19.122 RCW.

1.2 Plaintiff, State of Washington, commenced this action on March 3, 2020 pursuant to Chapter 19.122 RCW, the Underground Utilities Act, and Third Party Defendant having accepted service of the summons and compliant.

1.3 Plaintiff appeared by and through its attorneys, Robert W. Ferguson, Attorney General, and Joe Dallas, Assistant Attorney General; and Third Party Defendant appeared by and through its attorney, Kit W. Roth.

1.4 Plaintiff and Third Party Defendant agreed on a basis for the settlement of the matters alleged in the Complaint, and to the entry of this Consent Decree and Stipulation by Third Party Defendant without the need for trial or adjudication of any issue of law or fact.

1.5 Plaintiff and Third Party Defendant agree that this Consent Decree does not constitute evidence or an admission regarding the existence or non-existence of any issue, fact, or violation of any law alleged by Plaintiff.

1.6 Third Party Defendant recognizes and states that this Consent Decree and
Stipulation is entered into voluntarily, and that no promises or threats have been made by the
Attorney General's Office or any member, officer, agent or representative thereof, to induce
Third Party Defendant to enter into this Consent Decree, except as provided herein; and

1.7 Third Party Defendant waives any right it may have to appeal from this ConsentDecree and Stipulation.

CONSENT DECREE, STIPULATION, AND [PROPOSED] ORDER OF DISMISSAL - 2 No. 20-2-02107-31

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1.8 Third Party Defendant agrees that it stipulates to and will not oppose the entry of this Consent Decree and Stipulation on the grounds that it fails to comply with Rule 65(d) of the Rules of Civil Procedure, and hereby waives any objections based thereon.

1.9 Plaintiff and Third Party Defendant have agreed upon a basis for adjudication of the contested matters alleged in the Complaint, and to the entry of this Consent Decree and Stipulation pursuant to the Rules of Civil Procedure.

1.10 Defendant The Public Utility District No. 1 of Snohomish County (the "District") has no objection to the entry of this Consent Decree and Stipulation.

#### II. CONSENT DECREE AND STIPULATION

2.1 Third Party Defendant stipulates, on behalf of its successors, assigns, transferees, officers, agents, servants, employees, and representatives, that it will not directly or indirectly engage in any conduct that violates Chapter 19.122 RCW, the Underground Utilities Act.

2.2 As a condition to satisfaction of this Consent Decree and Stipulation, Third Party Defendant stipulates and commits that all of its employees and their supervisors involved in the alleged violations in Plaintiff's complaint will attend both the NUCA Dig Safe Certification Training and Staking University Online Locator Training. Both of these trainings are offered in coordination with the Washington Dig Law Safety Committee. The employees and supervisors required to take these trainings account for a total of nine (9) individuals employed by Third Party Defendant. These trainings can be taken through an online platform. These trainings must be complete within one (1) year after the entry of this Consent Decree. Third Party Defendant must provide the Plaintiff with a copy of the certificates of completion, after each of these individual trainings is complete, within fourteen (14) days after receipt of such certificates.

### III. CIVIL PENALTIES

3.1 Plaintiff and Third Party Defendant stipulate that a liquidated civil penalty of \$8,000.00 shall be assessed against Third Party Defendant. The payment of the \$8,000.00 civil penalty shall be made no later than thirty (30) days after the entry of this Consent Decree and Stipulation. No interest on the \$8,000.00 civil penalty will be accrued if payment of this amount is made within thirty (30) days after entry of the Consent Decree and Stipulation. An additional liquidated civil penalty of \$2,000.00 shall be assessed against Third Party Defendant for future failure to comply with the terms of this Consent Decree during the period of twelve (12) months following the entry date of this Decree.

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# IV. ATTORNEY'S FEES AND COSTS

4.1 Each party shall pay their own attorney's costs and fees incurred in pursuing this matter.

4.2 Third Party Defendant shall bear Plaintiff's reasonable costs, including reasonable attorneys' fees, for enforcing this Consent Decree in any successful action to enforce any of its provisions.

#### V. ENFORCEMENT

5.1 Jurisdiction is retained for the purpose of enabling any party to this Consent Decree and Stipulation, with or without the prior consent or approval of the other party, to apply to the Court for the enforcement of compliance therewith, the punishment of violations thereof, or the modification or clarification thereof.

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5.2 Pursuant to RCW 19.86.140, any violation of the terms of this Consent Decree and Stipulation within twelve (12) months from the date of its entry may form the basis for further enforcement proceedings, including, but not limited to, forfeiture of a civil penalty of \$2,000.00 for violations committed after the date of this Consent Decree and Stipulation. Violation of this Consent Decree and Stipulation may also result in future enforcement actions brought pursuant to Chapter 19.122 RCW.

5.3 Under no circumstances shall this Consent Decree and Stipulation or the names of the State of Washington or the Office of the Attorney General, or any of its employees or representatives, be used by Third Party Defendant's agents or employees in connection with the promotion of any product or service or an endorsement or approval of Third Party Defendant's practices.

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#### VI. **STIPULATION TO DISMISS**

6.1 Pursuant to Civil Rule 41(a)(1)(A), Plaintiff, the District, and Third Party Defendant stipulate and agree that all claims asserted in this action shall be dismissed with prejudice and without an award of fees and costs to any party

Stipulated this 21st day of December 2020.

**ROBERT W. FERGUSON** Attorney General

WSBA No. 54506 Office of the Attorney General 19 Utilities and Transportation Division P.O. Box 40128 20 Olympia, WA 98504-0128 (360) 995-2819 joe.dallas@utc.wa.gov

Counsel for Plaintiff 22 State of Washington

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Counsel for Third Party Defendant USIC Locating Services and Defendant Public Utility District No. 1 of Snohomish County

1	ORDER	
2	The Court, having considered the foregoing stipulation of the parties and finding no just	
3	reason for delay, it is SO ORDERED. The above-entitled action is voluntarily dismissed with	
4	prejudice.	
5	DATED this day of JAN 0 4 2021 2020.	
6	TRACY G. WAGGONER	
7	COURT COMMISSIONER JUDGE/COURT COMMISSIONER	
8		
9	Presented by:	
10	ROBERT W. FERGUSON Attorney General	
11	Office of the Attorney General, WSBA No. 54506	
12	Utilities and Transportation Division P.O. Box 40128	
13	Olympia, WA 98504-0128 (360) 995-2819	
14	joe.dallas@utc.wa.gov Counsel for Plaintiff State of Washington	
15	GOLDFARB & HUCK, ROTH, RIOJAS, PLLC	
16	, WSBA No. 33059	
17	925 Fourth Avenue, Suite 3950 Seattle, WA 98104	
18	(206) 492-7394 roth@goldfarb-huck.com	
19	Counsel for Third Party Defendant USIC Locating Services and Defendant Public Utility District No. 1 of Snohomish County	
20	Tuble Ounty District No. 1 of Shohonish County	
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