Washington State Department of Transportation

General Provisions for the Utility Accommodation Application

This Permit or Franchise is issued pursuant to the terms of RCW 47.32, RCW 47.44, and WAC 468-34, and amendments thereto. Renewal of a Franchise must be by application prior to expiration of this Franchise as required by RCW 47.44.020(3).

1. A copy of this Permit or Franchise must be on the job site, protected from the elements, at all times during any construction authorized by this Permit or Franchise.

2. The Utility agrees to pay the reasonable costs for investigating, handling, and granting the Permit or Franchise, including, but not limited to basic overhead charges and for providing an inspector during construction and/or maintenance of the Utility's facilities. Further, the Utility agrees that it shall be responsible for and pay WSDOT's expended direct and indirect costs associated with applicable provisions of the Permit or Franchise.
   (a) WSDOT will assign a reimbursable account to the Utility as a means of invoicing the Utility for the costs associated with this Permit or Franchise.
   (b) WSDOT will invoice the Utility and the Utility agrees to pay WSDOT within thirty (30) calendar days of receipt of an invoice.
   (c) The Utility agrees that it shall be responsible to maintain any bond or surety documentation with WSDOT according to WAC 468-34.

3. Upon approval of this Permit or Franchise, the Utility shall diligently proceed with the Work and comply with all General and Special Provisions herein. Construction of facilities proposed under this Permit or Franchise shall begin within one (1) year and must be completed within three (3) years from date of WSDOT approval. "Work" under this Permit or Franchise shall mean construction, operation, and maintenance of the Utility's facilities as authorized herein.

4. The Utility shall notify WSDOT Representative in Special Provision 1 of the name, address, and telephone number of its contractor when Work outlined herein is going to be performed with other than its own forces. When the Utility uses a contractor, an authorized representative of the Utility shall be present at all times unless otherwise agreed to by WSDOT Representative. A list of authorized representatives shall be submitted prior to the construction start date. (Authorized representatives are defined as persons having signatory authority for the Utility and or the authority to control the Work as needed for any issues identified by WSDOT.)

5. The Utility agrees to schedule and perform its Work in such a manner as not to delay WSDOT's contractor's work when WSDOT has a contractor performing work in the vicinity of the Utility's Work.

6. All contact between WSDOT and the Utility's contractor shall be through the Utility representative. Where the Utility chooses to perform the Work with its own forces, it may elect to appoint one of its own employees engaged in the Work as its representative. The Utility, at its own expense, shall adequately police and supervise all Work performed by itself, its contractor, subcontractor, agent, and/or others, so as not to endanger or injure any person or property.

7. In the event any milepost, fence, or guardrail is located within the limits of the Utility's Work and will be disturbed during Utility Work, the Utility shall submit a plan indicating impacts to these highway facilities to WSDOT's Representative for approval prior to Utility Work. Utility agrees to carefully remove these highway facilities prior to Utility Work and reset or replace these highway facilities after the Utility Work, to WSDOT's sole satisfaction and at the sole cost of the Utility. The Utility agrees that all highway signs and traffic control devices shall not be removed or disturbed during Utility Work.

8. The Utility agrees that all Work shall be done to the satisfaction of WSDOT. All material and workmanship shall conform to WSDOT's Standard Specifications for Road, Bridge, and Municipal Construction, current edition, and amendments thereto, and shall be subject to WSDOT inspection. All WSDOT acceptance and inspections are solely for the benefit of WSDOT and not for the benefit of the Utility, the Utility's contractor (if any), or any third party. The Utility agrees that it shall pay all WSDOT inspection costs in accordance with General Provision 2. The Utility shall perform in a timely manner all Utility work, to avoid highway project impacts or delays and in such manner as will cause the least disruption of traffic or interference with WSDOT's continued operation and/or maintenance of the highway.

9. The Utility shall comply with the Manual on Uniform Traffic Control Devices for Streets and Highways (Federal Highway Administration) and the State of Washington modifications thereto (chapter 468-95 WAC) while it performs the Work. If WSDOT requires, the Utility shall submit a signing and traffic control plan to WSDOT's Representative for approval prior to construction or maintenance Work. No lane closures shall be allowed except as approved by WSDOT's representative. Approvals may cause revision of Special Provisions of this Permit or Franchise, including hours of operation.

10. This Permit or Franchise may not be amended or modified without WSDOT's prior review and approval. Upon completion of the Work, the Utility shall provide a written notice of completion of the Work to WSDOT's Representative within ten (10) calendar days of the completion of the Work so that WSDOT may make its final inspection. Further, the Utility shall provide the Region Utilities Engineer with detailed as-built drawing within ninety (90) calendar days of Work completion, if the originally approved Permit or Franchise construction plans have been revised during the course of construction or upon request from the Region Utilities Engineer.

11. If WSDOT, at its sole discretion, shall determine that any or all of the Utility's facilities must be modified, removed from, or relocated within the state-owned highway right of way as necessary, incidental, or convenient for the construction, alteration, improvement, repair, relocation, or maintenance of the state highway, or for the safety of the traveling public, the Utility, its successors and assigns, shall, at its sole cost and expense, upon written notice by WSDOT, modify, relocate, or remove any or all of its facilities within or from the state-owned highway right of way as required by WSDOT. The Utility shall perform in a timely manner all facility modifications, relocations, and/or removals as WSDOT directs, to avoid highway project impacts or delays and in such manner as will cause the least disruption of traffic or interference with WSDOT's continued operation and/or maintenance of the highway. The Utility agrees it shall be solely responsible for any claims, damages, or any other associated project costs that are a result of the Utility's failure to modify, remove and/or relocate its facilities in timely manner as directed by WSDOT.

12. Should the Utility fail or refuse to comply with WSDOT's direction, pursuant to General Provision 11, to modify, remove, or relocate any Utility facility, WSDOT may undertake and perform any modification, removal, or relocation of the Utility facility that WSDOT, in its sole discretion, deems necessary. The Utility agrees to pay all of WSDOT's costs for performing this work, in accordance with General Provision 2.

13. If WSDOT determines in good faith that emergency maintenance work on the Utility's facility is needed to (a) protect any aspect of the state highway right of way, or (b) secure the safety of the traveling public due to a failure of the Utility's facility, WSDOT may perform the necessary work without the Utility's prior approval, and the Utility agrees to pay WSDOT's expended costs and expenses for performing the work in accordance with General Provision 2. WSDOT will notify the Utility of the emergency work performed as soon as practicable.

14. WSDOT may amend, revoke, or cancel this Permit or Franchise at any time by giving written notice to the Utility. If the Permit or Franchise is amended, the Utility will have thirty (30) calendar days to modify the facility as the Permit or Franchise amendment(s) require. If the facility modifications cannot be made within thirty (30) calendar days, the Utility shall respond to WSDOT, in writing, as to when the facility modifications can be made. If the Permit or Franchise is revoked or canceled, the Utility shall immediately remove all facilities from the right of way. Any facilities remaining upon the right of way thirty (30) calendar days after written notice of Permit or Franchise revocation or cancellation may be removed by WSDOT at the expense of the Utility. The Utility agrees to pay WSDOT's expended costs and expenses for performing the work in accordance with General Provision 2.

15. Should the Utility breach any of the conditions and requirements of this Permit or Franchise, or should the Utility fail to proceed with due diligence and in good faith with the Work as authorized by this Permit or Franchise, WSDOT may cancel or revoke the Permit or Franchise upon thirty (30) calendar days written notice to the Utility.

16. The Utility shall not excavate or place any obstacle within the state-owned highway right of way in such a manner as to interfere with WSDOT's construction, operation, and maintenance of the state- owned highway right of way or the public's travel thereon without first receiving WSDOT's written authorization.

17. The Utility agrees to maintain, at its sole expense, its facilities authorized by this Permit or Franchise in a condition satisfactory to WSDOT.

18. The Utility agrees that it is financially responsible to WSDOT for all necessary expenses incurred in inspecting the construction and restoring the highway pavement or related transportation equipment or facilities to a permanent condition suitable for travel as determined by WSDOT, as well as financially responsible to WSDOT for trenching work not completed and for compensating WSDOT for the loss of useful pavement life caused by trenching as required by RCW 47.44.020.

19. Upon completion of all Work, the Utility shall immediately remove all rubbish and debris from the state-owned highway right of way, leaving the state-owned highway right of way in a neat, presentable, and safe condition to WSDOT's satisfaction. Any clean up, or any necessary slope treatment, surface restoration, or protection of the state-owned right of way, not done within one (1) week (seven consecutive days) of Work completion, unless otherwise negotiated in writing, will be done by WSDOT at the expense of the Utility. The Utility agrees to pay WSDOT's expended costs and expenses for performing the work in accordance with General Provision 2.

20. For the benefit and safety of the traveling public, the Utility voluntarily agrees to permit WSDOT to attach and maintain upon any Utility facility under this Permit or Franchise any required traffic control devices, such as traffic signals, luminaires, and overhead suspended signs, when the use of such devices or attachments does not interfere with the use for which the facility was constructed. WSDOT shall bear the cost of attachment and maintenance of such traffic control devices, including the expended cost of any extra Utility infrastructure construction beyond what is necessary for the Utility's facility; such extra cost to be jointly determined by WSDOT and the Utility. WSDOT shall not share in the Utility facilities' cost of installation, operation, or maintenance of any of the facilities installed under this Permit or Franchise.

21. The Utility shall comply with WSDOT's Temporary Erosion and Sediment Control Manual (M 3103.01) and any revisions thereto, for erosion control and/or to mitigate any erosion occurring as a result of the Work. If the Utility Work performed under this Permit alters, modifies, changes, or interferes in any way with the drainage of the state-owned highway right of way, the Utility shall, at its own expense, make all corrections and/or provisions WSDOT requires to fix and restore the state-owned right of way drainage to its original condition and function prior to the Utility's Work. Any flows from the Utility shall not exceed the flows discharging to WSDOT drainage prior to the new work. Any flows discharged to state- owned highway right of way shall meet the requirements for quantity and water quality according to the current version Highway Runoff Manual (M 31-16). Should the Utility not make the required drainage restoration, WSDOT reserves the right to make such changes as necessary to restore the original drainage function at the sole cost of the Utility, and the Utility agrees to pay WSDOT's expended costs and expenses for performing the work in accordance with Stormwater Discharge General Provision 2.

22. The Utility shall be responsible for securing all necessary permits, including but not limited to, federal, state, and local regulatory, tribal, environmental, archeological, and railroad permits and permits from the Washington State Department of Ecology, the Washington State Department of Fish and Wildlife, and/or the U.S. Army Corps of Engineers prior to beginning the Work authorized by this Permit or Franchise. The Utility shall be responsible for mitigation measures where wetlands have been disturbed and agrees that it is responsible for any fines imposed for noncompliance with the permit(s) conditions or for failure to obtain the required permits. In addition, the Utility, on behalf of itself and its contractors, officers, officials, employees, and agents, agrees to indemnify, hold harmless, and defend, at its sole cost and expense, WSDOT and its officers, officials, employees, and agents from any and all fines, costs, claims, judgments, and/or awards of damages (to regulatory agencies, persons, and/or property), arising out of, or in any way resulting from, the Utility's failure to (1) obtain any required permit for the Utility Work or (2) comply with permit conditions. Further, the Utility shall be responsible for compliance with all federal, state, and local laws, regulations.

23. For any of the Utility's Work that requires permit coverage under the "CONSTRUCTION STORMWATER GENERAL PERMIT – National Pollutant Discharge Elimination System and State Waste Discharge General Permit for Stormwater Discharges Associated with Construction Activity" (Construction Stormwater General Permit), the Utility shall obtain said permit coverage and shall comply with all requirements of the Construction Stormwater General Permit. Upon WSDOT's request, the Utility shall provide a copy of the Construction Stormwater General Permit. In addition, the Utility, on behalf of itself and its contractors, officers, officials, employees, and agents, agrees to indemnify, hold harmless, and defend, at its sole cost and expense, WSDOT and its officers, officials, employees, and agents from any and all fines, costs, claims, judgments, and/or awards of damages (to regulatory agencies, persons, and/or property), arising out of, or in any way resulting from, the Utility's failure to (1) obtain coverage under the Construction Stormwater General Permit for Utility Work or (2) comply with the Construction Stormwater General Permit requirements.

24. This Permit or Franchise does not authorize the Utility, or its employees, contractors, or agents, any right to cut, spray, retard, remove, destroy, disfigure, or in any way modify the physical condition of any vegetative material located on the state-owned highway right of way. Should the Utility anticipate that its Work will alter the appearance of the state-owned highway right of way vegetation, the Utility shall notify WSDOT Representative to obtain WSDOT's prior written approval of the Utility's proposed work. If WSDOT permits the Utility to modify the state-owned highway right of way vegetation, it agrees that any vegetation cutting and/or trimming activities shall be conducted in such a manner that the state-owned highway right of way vegetation appearance will not be damaged. Should the Utility damage the appearance of the state-owned highway right of way vegetation without WSDOT's prior written approval, the Utility is subject to penalties provided for in RCWs 47.40.070, 47.40.080, and 4.24.630, as applicable.

25. The Utility hereby certifies that its facilities described in this Permit or Franchise are (1) in compliance with the Control Zone Guidelines, or (2) for a franchise consolidation or renewal, a mitigation plan has been submitted and approved for any existing Location I or Location II utility objects to be corrected in accordance with the Control Zone Guidelines, pursuant to Chapter 9 of WSDOT's Utilities Manual (M 22-87) and any revisions thereto.

26. The Utility shall not assign or transfer this Permit or Franchise without WSDOT's prior written approval. The Utility understands that any assignment or transfer requires the assignee or transferee to have the means to assume all obligations, duties, and liabilities of the terms and conditions of this Permit or Franchise, and the Utility will advise the assignee or transferee of its obligation to apply for an updated or replacement Permit or Franchise. If WSDOT does not approve the assignment or transfer, this Permit or Franchise shall automatically terminate, and the facility occupying state-owned highway right of way shall be subject to the terms of RCW 47.44.060.

27. The Utility, its successors and assigns, shall indemnify, defend at its sole cost and expense, and hold harmless the State of Washington, its officers and employees, from all claims, demands, damages (both to persons and/or property), expenses, regulatory fines, and/or suits that (1) arise out of or are incident to any acts or omissions of the Utility, its agents, contractors, and/or employees, in the use of the state-owned highway right of way as authorized by the terms and conditions of this Permit or Franchise, or (2) are caused by the breach of any of the terms or conditions of this Permit or Franchise by the Utility, its successors and assigns, and its contractors, agents, and/or employees. The Utility, its successors and assigns, shall not be required to indemnify, defend, or hold harmless the State of Washington, its officers and/or employees, if the claim, suit, or action for damages (both to persons and/or property) is caused by the acts or omissions of the State of Washington, its officers and/or employees; provided that, if such claims, suits, or actions result from the concurrent negligence of (a) the State of Washington, its officers and/or employees, and (b) the Utility, its agents, contractors, and/or employees, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the acts or omissions of the Utility, its agents, contractors, and/or employees.

28. The Utility agrees that its obligations under this Permit or Franchise extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents while performing Work under this Permit or Franchise while located on state-owned highway right of way. For this purpose, the Utility, by MUTUAL NEGOTIATION, hereby waives, with respect to the State of Washington only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions in chapter 51.12 RCW.

29. The indemnification and waiver provided for in General Provisions 27 and 28 shall survive the termination of this Permit or Franchise.

30. Any action for damages against the State of Washington, its agents, contractors, and/or employees, arising out of damages to a utility or other facility located on state-owned highway right of way, shall be subject to the provisions and limitations of RCW 47.44.150.

31. This Permit or Franchise shall not be deemed or held to be an exclusive one and shall not prohibit WSDOT from granting rights of like or other nature to other public or private utilities, nor shall it prevent WSDOT from using any of the state-owned highway right of way or other properties for transportation purposes, or affect WSDOT's right to full supervision and control over all or any part of the state-owned highway right of way or properties, none of which is hereby surrendered. Further, WSDOT reserves the exclusive right to require that all utility facilities be subject to joint trenching and occupancy.

32. The Utility shall completely remove all Deactivated Facilities (as defined in WSDOT Utilities Manual M 22-87), unless agreed upon in writing by WSDOT, indicated in Special Provision 12. Any Deactivated facilities left within the state owned right of way shall remain owned by the Utility, who shall continue to bear all responsibility for any future costs incurred by WSDOT including for removal of the Deactivated facilities.

33. The Utility agrees that, in the event any construction and/or maintenance of the highway facility becomes necessary within the proximity of the utility installation, it is expressly understood that, upon request from WSDOT's Representative, the Utility will promptly identify and locate by suitable field markings (including test hole/pot hole), any and all of its underground facilities so that WSDOT or its contractor can be fully apprised at all times of their precise locations.

34. During non-working hours equipment and materials shall not be located or stored within the work zone clear zone (WZCZ) area. Minimum WZCZ distances will be measured from the edge of the traveled way (the portion of the roadway intended for the movement of vehicles, exclusive of shoulders and lanes for parking, turning, and storage for turning) and will be determined as follows:

Minimum Work Zone Clear Zone Distance

Posted Speed	Distance From Traveled Way (ft)
35 mph or less	10
40 mph	15
45 to 50 mph	20
55 to 60 mph	30
60 mph or greater	35