



**Okanogan County**  
**Department of**  
**Public Works**  
1234A Second Avenue South  
Okanogan, WA 98840  
(509) 422-7300 FAX (509) 422-7301

*Josh Thomson P.E.*  
*County Engineer*

184-2023

## Staff Report

**Public Hearing:** December 5, 2023 at 11:10 AM to hear:

**Utility Franchise number:** U03-23

**Applicant:** Orville E. Smith - Domestic and Irrigation Water Franchise

**Location:** Franchise is located within the county right-of-way of the following Okanogan County road's:

Road Number & Name	Mile Post	Section	Township	Range
2681, Johnson Creek Road	2.00 – 2.260	10	34N	26E
2704, Soren Peterson Road	2.528 – 2.820	10	34N	26E

**History:** This is renewing an existing franchise agreement to install and maintain both domestic and irrigation water lines.

**Timeline:**

**October 30, 2023:** Application for a franchise was signed and submitted to Okanogan County Public Works, including the \$750.00 fee.

**November 7, 2023:** Public Hearing set for December 5, 2023 @ 11:10 am.

**November 14, 2023:** A public notice for the application and hearing was sent to the legal paper for publication on November 22<sup>nd</sup> & 23<sup>rd</sup> and November 29<sup>th</sup> & 30<sup>th</sup>

**November 13, 2023:** A public notice for the application and hearing was posted in three public places in the county seat as per RCW 36.55.040 at two main entrances of the Okanogan County Courthouse and the main entrance to Virginia Grainger Admin Building – West Entrance.

**Public Comment:** No comments have been received as of 11/30/2023.

Return Address:  
Okanogan County Public Works  
1234-A South 2<sup>nd</sup> Ave.  
Okanogan, WA 98840

## ORDER GRANTING FRANCHISE

### RESOLUTION 184 - 2023

#### BEFORE THE HONORABLE BOARD OF COUNTY COMMISSIONERS OF OKANOGAN COUNTY, WASHINGTON

IN THE MATTER OF THE APPLICATION of Orville E. Smith )  
for 1 Domestic and 2 Irrigation Waterlines franchise to )  
construct, operate and maintain Waterlines and related )  
facilities, under, over, across and along roads listed on Exhibit )  
"A". )  
)

No. U03-23

THE PETITION AND APPLICATION of the **Orville E. Smith** for the authority and a nonexclusive franchise, under the provisions of chapter 36.55, Revised Code of Washington (RCW), and for a term of **twenty (20) years**, to construct, maintain, and operate **Water and related facilities**, under, over, across, and along **roads listed on Exhibit "A"**, within Okanogan County, State of Washington, for the purpose of providing **Waterlines and related facilities** and services as described in said application along **roads listed on Exhibit "A"**, physically located within the County of Okanogan, State of Washington, and not within the corporate limits of any incorporated city or town therein, to be heard before the Board of Okanogan County Commissioners, of and from said Okanogan County, Washington; and this Board having heretofore fixed this time and place for the hearing of said petition, and it appearing from the affidavit of the Okanogan County Department of Public Works, filed with this Board, that said County has given notice of the time and place of said hearing by posting on the **13th of November, 2023**, written or printed notices of the time and place of this hearing in accordance with the laws of the State of Washington, and by publishing a like notice two (2) times (**November 22<sup>nd</sup> and 23<sup>rd</sup> & November 29<sup>th</sup> and 30<sup>th</sup>**) in Okanogan County's Legal Paper, a weekly newspaper of general circulation published in Okanogan County, Washington; and it appearing from said affidavit that the notices so posted and published stated the name of the applicant and a description by township and range to be included in the franchise for which application is made, and also stated the time and place fixed for said hearing, and after hearing all persons interested in the matter of said franchise, the Board deeming it for the public interest to grant the franchise and authority so applied for:

IT IS HEREBY ORDERED BY THE BOARD OF COUNTY COMMISSIONERS OF OKANOGAN COUNTY, WASHINGTON

1. Grant of Franchise. Okanogan County ("Grantor") hereby grant to **Orville E. Smith** referred to as Grantee, for a period of **twenty (20) years** from and after the date of the entry of this order, right, privilege and non-exclusive franchise, as conditioned herein, to enter upon the County roads, rights-of-way, and other County property herein described in Exhibit "A", all within the County of Okanogan, State of Washington, for the purpose of constructing and installing its **Waterlines** and all appurtenant facilities thereto, hereinafter referred to as the System, and for altering, improving, replacing, relocating, removing, repairing, operating, and maintaining, all or any portion of its system and appurtenant facilities, as approved under County permits issued by the Department of Public Works, County Engineer pursuant to this Franchise and applicable County policies and resolution or ordinances.

2. Franchise Not Exclusive. This Franchise shall not be deemed to be an exclusive franchise. It shall in no manner prohibit Okanogan County from granting other franchises of a like nature or franchise for other public or private utilities in, under, over, across, along, and upon any of the County roads, rights-of-way, or other County Property subject to this Franchise, and shall in no way prevent or prohibit Okanogan County from constructing, altering, maintaining, using, or vacating any of said County roads or rights-of-way, drainage structures or facilities, domestic water structures or facilities, or any other County Property or affect its jurisdiction over them or any part of them, and said Okanogan County shall retain full power to make all necessary changes, relocations, repairs, improvements, alterations, maintenance, vacation, etc., as it may deem fit.

3. All County Road Rights Reserved. In granting this Franchise, Okanogan County does not waive any rights which it now has or may hereafter acquire with respect to County roads, rights-of-way or other County property and this Franchise shall not be construed to deprive Okanogan County of any powers, rights or privileges which it now has or may hereafter acquire to regulate the use of and to control the County roads, rights-of-way and other County Property covered by this Franchise.

This Franchise authorizes the use of County roads, rights-of-way, and other County property solely for providing and delivery by the Grantee of **Waterlines** and related services to its patrons and customers. Any other additional use by Grantee, or use of Grantee's equipment and/or facilities covered under this Franchise by others, including for **Waterlines**, is prohibited unless separately authorized and approved in writing by Okanogan County. The Grantee agrees that prior to authorizing any person to use the Grantee's equipment or facilities subject to this Franchise, Grantee will require the user to provide the Grantee with an affidavit that it has obtained the necessary franchise or other approval from the County to operate the proposed service in County rights-of-way. At least thirty (30) days prior to executing any agreement with a potential user for the use of the Grantee's equipment or facilities, the Grantee shall fax or e-mail the affidavit to the Okanogan Department of Public Works.

4. Revocation for Non-Compliance. If the Grantee shall violate or fail to comply with any of the material terms, conditions, provisions, or responsibilities of this Franchise through willful or unreasonable neglect, or failure to heed or comply with any notice given the Grantee under the provisions of this Franchise, then Grantee shall forfeit all rights conferred hereunder and this Franchise may be revoked or annulled by the Board of County Commissioners; PROVIDED, however, that the Board of County Commissioners shall give ninety (90) days written notice of its

intention to revoke or annul the Franchise during the period the Grantee shall have the right to cure such violation or failure to comply.

5. Compliance with All Applicable Laws and Regulations. All work completed by the Grantee, their agents, or other third party, in, over, under, across, or along County roads or rights-of-way or other County property shall conform to all applicable County, State, and Federal minimum standards, codes, or regulations. PROVIDED FURTHER that Okanogan County reserves for itself the right at any time, upon thirty (30) days written notice to Grantee, to so change, amend, modify or amplify any of the provisions or conditions herein enumerated to conform to any state statute, County regulation, state, federal or national standards, codes, or regulations relating to the public welfare, health, safety or highway regulation, as may hereafter be enacted, adopted, or promulgated. This Franchise may be terminated at any time, upon thirty (30) days written notice if the Grantee's **Waterlines** and facilities are not operated or maintained in accordance with such changes, amendments, modifications, amplifications, state statute, state or federal regulation, subject to the provisions of Paragraph 4 next above.

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

- (a) Indemnification for such claims whether or not they arise from the sole negligence of the Grantee, the concurrent negligence of both parties, or the negligence of one or more third parties.
- (b) The duty to promptly accept tender of defense and provide defense to the County at the Grantee's own expense.
- (c) Indemnification of claims made by the Grantee's own employees or agents.
- (d) Waiver of the Grantee's immunity under the industrial insurance provisions of Title 51 RCW, which waiver has been mutually negotiated by the parties.

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

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

Okanogan County shall give the Grantee timely written notice of the making of any claim or of the commencement of any such action, suit, or other proceeding covered by the indemnity in this section. In the event any such claim arises, the County or any other indemnified party shall tender the defense

thereof to the Grantee and the Grantee shall have the duty to defend, settle, or compromise any claims arising hereunder and the County shall cooperate fully therein.

Notwithstanding the above, the County shall have no obligation to tender a defense as a condition of the indemnity where there is a material conflict between the interests of the Grantee and Okanogan County.

7. Liability Insurance. For the purpose of securing to Okanogan County full and complete performance of the covenants contained in Paragraph 6 next above, Grantee shall, at its own expense, upon adoption, during the term of this Franchise, furnish Okanogan County evidence of a commercial general liability insurance policy and maintain the same in good standing with limits of at least one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate, with Okanogan County named as an additional insured, protecting and saving Okanogan County harmless against liability for loss or damage for personal injury, death, or property damage occasioned by the operation of Grantee under this Franchise. The Grantee shall, within thirty (30) days from the effective date of this Franchise, file with Okanogan County Engineer office proof of continued insurance coverage, at least in the amounts required in this Section, through a Certificate of Insurance including the additional insured endorsement indicating County coverage required herein and a provision that said coverage may not be canceled or reduced without at least thirty (30) day notice to the County, filed as above provided. Such additional evidence thereof shall be furnished to Okanogan County from time to time as it shall require. Okanogan County reserves the right to review the relative risk of the Grantee's system and operations at any time and direct changes to insurance and liability protections as it may require. In those situations where, through the Grantee's negligent or intentional acts or omissions, damage has occurred Grantee's insurance shall be primary to any County insurance coverage or, in the event the County is self-insured, any Grantee policy shall afford first dollar protection coverage for risks included in Grantee's operations.

8. Restoration of County Roads, Rights-of-Way, and County Property. In any work which requires breaking of, or causes disturbance to the surface of County roads, rights-of-way, or other County property subject to this Franchise for the purpose of laying, relaying, connecting, disconnecting, altering, operating and/or repairing the said system, and/or making connections to other facilities of Grantee, or its customers, now in existence or hereafter constructed, Grantee shall be governed by and conform to the general rules adopted by the officers charged with the supervision and care of such County roads, rights-of-way, or other County property. Grantee at its own expense and with all convenient speed shall complete the work for which the surface has been disturbed or broken and forthwith replace the work and make good the County road or right-of-way and leave the same in as good condition as before the work was commenced; PROVIDED, HOWEVER, that no such work shall be done prior to Grantee applying for and obtaining a permit issued by the Okanogan County Engineer, subject to the provisions of Paragraph 9 next below; provided further, HOWEVER, that in cases of emergency arising out of office hours when an immediate excavation, breaking or disturbance of the surface be necessary for protection of private or public property, the same shall be reported to the Okanogan County Public Works Department and the necessary excavation may be made upon the express condition that an application for permit be made in the manner herein provided on or before noon the following business day. Application for such a permit shall be accompanied by specifications for the restoration of the county road or right-of-way to the same condition as it was prior to such breaking or disturbance, and such specifications and work shall be subject to inspection and approval by the Okanogan County Engineer. The Grantee shall pay all reasonable costs and expenses incurred in the examination, inspection, and approval of such work and restoration.

The County may at any time do, order or have done any and all work that they consider necessary to safeguard and/or restore any such County road, right-of-way, or other County property left by Grantee, its agents, or other third party, in a condition dangerous to life or property, or unsatisfactorily restored to as good a condition as they were in before any work was done, and Grantee, upon presentation of an itemized bill shall pay to the County all costs of such work. If suit is brought upon the Grantee's failure to pay for repair or restoration, and if judgment in such a suit is entered in favor of Okanogan County, then Grantee shall pay all of the actual costs, including interest from the date the bill was presented, disbursements, and attorney's fees and litigation related costs incurred.

9. Permits Required. Prior to commencement of any work on, in, over, under, across, along, or within, County roads, rights-of-way, or other County property, Grantee shall first file with the Okanogan County Department of Public Works, its application for permit to do such work together with plans, blue prints, sketches, cross sections, etc., in duplicate, describing the nature and extent of the work to be done, identifying the location of proposed excavations and/or trenches, and showing the position, depth and location of all lines and facilities sought to be constructed, installed, erected, laid, altered, repaired, or removed at that time, showing their position to existing County roads, rights-of-way, or other County property, along with specifications for the restoration of the County road and rights-of-way. The System and facilities shall be laid in substantial conformity with said plans, except in instances in which deviation or change may be required by the Okanogan County Engineer. No such work or construction shall be commenced without the Grantee first securing a written permit from the Okanogan County Engineer, including approval endorsed on one set of plans returned to the Grantee. All permits for the construction, installation, operation, maintenance, alteration, repair or relocation of said System and facilities shall be applied for and given in the name of the Grantee. The Grantee shall remain responsible and liable whether the work is done by the Grantee, its contractors, or by third parties. All lines and facilities shall be installed and maintained at such location and position as approved by the Okanogan County Engineer through the permit process so as to least interfere with maintenance and improvement of the County road and right-of-way, free and safe passage of traffic, existing and planned utilities, and in accordance with all federal, state and local laws and regulations, conditions of this Franchise, and all other applicable Industry and County requirements and standards regulating such construction and maintenance. All work shall remain subject to inspection and approval by the Okanogan County Engineer. Grantee shall pay permit fees and all reasonable costs and expenses incurred in the examination, inspections and approval of such work on account of granting said permits.

10. Interference with Existing Facilities. All construction or installation of the Grantee's System, operation, service, repair, maintenance, relocation, or removal of the same, performed on, in, over, under, across, along, or within the County roads, rights-of-way, or other County property subject to this Franchise shall be done in such a manner as not to interfere with the construction, operation, and maintenance of other public or private utilities, drains, drainage ditches, drainage structures, domestic water structures, located therein, or with the construction, maintenance, alteration, or improvement of County roads, bridges, drainage structures, drainage ditches, or other facilities located within County rights-of-way. The owners of all utilities, public or private, installed in such county roads or rights-of-way prior in time to the lines and facilities of Grantee shall have preference as to the position and location of such utilities. Such preference shall continue in the event of the necessity of relocating or changing the grade of any such county road or right-of-way.

11. Minimum Interference with Public Travel - Grantee Liable for Damages. All work done under this Franchise shall be done in a thorough and workmanlike manner. In the operation,

maintenance, alteration, repair, or construction of overhead or underground lines or other system facilities, and the opening of trenches, or the tunneling under county roads or rights-of-way, Grantee shall perform such work, and leave such trenches, excavations, ditches, tunnels, and work areas in such a way as to interfere as little as possible with public travel and shall take all due and necessary precautions to guard the same, so that damage or other injury shall not occur or arise by reason of such work. The Grantee, their agents, or other third parties performing work shall be responsible to provide proper signing, barricades, flashing lights, or other methods necessary to warn of obstructions or other dangers to the public. Where any of such trenches, excavations, ditches or tunnels are not allowed to be left open at night, Grantee shall be responsible to place warning lights and barricades to warn of the dangers. Traffic controls and warning devices for all work shall conform to the most current and applicable "Manual on Uniform Traffic Control Devices for Streets and Highways" (MUTCD) and modifications thereto. Grantee shall be liable for any injury to person or persons or damage to property sustained through its carelessness or neglect, or through any failure or neglect to properly guard or give warning of any potential danger, trenches, excavations, ditches or tunnels dug or maintained by the Grantee, their agents, or other third parties.

12. County May Change and Improve Roads without Liability. If at any time Okanogan County shall improve or change any County road, rights-of-way, or other County Property subject to this Franchise by grading or re-grading, paving the same, changing the grade, widening, altering, changing, blasting, repairing or relocating the same or by construction or reconstruction of roads, bridges and appurtenant drainage facilities, upon written notice from the Okanogan County Engineer, Grantee shall, at no expense to the County, change with all convenient speed the location or readjust the depth or height of its System, including all appurtenant facilities and service lines connecting its System to users so that the same shall not interfere with such County work and so that all such System and facilities shall conform to such new grades or routes as may be established. Okanogan County shall in no way be held liable for any damages to Grantee that may occur by reason of any of the County's improvements, changes, or work above enumerated. All work performed by Grantee under this section shall be under the direction, approval and shall pass the inspection of the Okanogan County Engineer. Grantee shall pay all reasonable costs and expenses incurred in the examination, inspection and approval of such work.

13. Poles in Right of Way. The Grantee's use of above ground poles for construction parallel to County roads, rights-of-way, and other County property shall be limited to a single line of poles. Two-pole structures may be approved for use for County road crossings provided they are determined necessary and are in conformance with sound engineering practices that promote public safety. Each pole, brace, guy, guy wire, and guy pole shall be placed and maintained along said County roads, rights-of-way, and other County property in such positions and at such points as approved by the Okanogan County Engineer. Grantee's facilities shall, when crossing above the roadway, provide a minimum clearance in accordance with the standards set forth in the applicable "Washington State Construction Code." Whenever Grantee shall discontinue the use of any pole or facility, it shall immediately remove such unused pole or facility from said roads or abandon said facilities in place at the discretion of the Okanogan County Engineer. The work of constructing, installing, removing, and the relocation of any and all poles, wires, pipes or appurtenances, shall be done at the expense of the Grantee. Grantee's work, its System and facilities shall not interfere with traffic upon or along any of said County roads, highways or rights-of-way, and said construction and work shall be to the entire satisfaction and under the supervision of the Okanogan County Engineer, and none of such construction or work shall be undertaken or carried on without the Grantee first obtaining permits therefore from said Okanogan County Engineer.

14. Tree Trimming. The Grantee shall have the ability to cut or remove vegetation, on, or hanging over any County road, right-of-way, or County property consistent with the provisions of RCW 64.12.035 as it presently exists or may be hereinafter amended. PROVIDED THAT the Grantee shall first apply for and obtain a permit from the Okanogan County Engineer prior to completion of any planned and scheduled tree trimming projects. The Grantee shall be responsible for debris removal caused by its trimming activities. If such debris is not removed within twenty-four (24) hours, the County may, at its sole discretion, remove such debris and charge the Grantee for the cost of removal and disposal.

15. Reference, Monuments and Markers. Before any work is performed under this Franchise which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads and all other surveys, Grantee shall reference all such monuments and markers. The reference points shall be located so that they will not be disturbed during the Grantee's operations under this Franchise. The method of referencing these monuments or other points to be referenced shall be approved by the Okanogan 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 Okanogan County Engineer. The costs of monuments or other markers lost, destroyed or disturbed and the expense of replacement by approved monuments shall be borne by the Grantee.

16. Vacation of County Roads - Alternative Route. If at any time Okanogan County shall vacate any county road, right of way or other County Property which is subject to rights granted by this Franchise, the Grantee may request that an easement be reserved in favor of the Grantee for its **Waterlines** installed prior to the vacation. HOWEVER, if said vacation shall be for the purpose of acquiring the fee of other property interest in said road or right of way for the use of Okanogan County, in either its proprietary or governmental capacity, then the Board of County Commissioners of Okanogan County at its option by giving ninety (90) days written notice to Grantee and after granting an alternate route, may terminate this Franchise with reference to such County road, rights-of-way, or other County Property so vacated and said Okanogan County shall not be liable for any damage or loss to the Grantee by reason of such termination.

17. Maps and Records to be filed. One year after the effective date of this Franchise, and annually thereafter, Grantee shall provide an electronic map to the Public Works Office, showing the location of Grantee's facilities within the County Right-of-way. The electronic Map shall be in an AutoCAD or GIS format and shall be tied to either section Corners or street intersections. If an electronic map is deemed a hardship by the Okanogan County Engineer or Grantee, the County will accept a paper copy of a map at a scale determined acceptable to the Okanogan County Engineer.

18. New Construction, System Expansion, and Upgrades. As a condition of granting this Franchise, the Board of County Commissioners require that the Grantee develop and maintain its own standard procedures, as may be approved by the Okanogan County Engineer, to contact and provide reasonable advance notification of any proposed new construction, expansion, or system upgrade. The Grantee shall make a good faith effort to work with the property owners' requests regarding impacts to adjoining property, and privately-owned facilities located within County rights-of-way. For the purpose of securing to Okanogan County full and complete compliance to the conditions of this section, the Grantee shall, prior to being issued a permit for new construction, expansion, or system upgrade, provide the Okanogan County Engineer written verification that all affected landowners or tenants have been contacted. PROVIDED FURTHER that compliance by the Grantee with the provisions of this section shall in

no way be interpreted to release the Grantee from adhering to other Local, State, or Federal plans, ordinance, regulations, and/or required process regarding the construction, expansion, or upgrade of System facilities. The Grantee shall file an application for such construction or upgrade, along with a SEPA checklist and/or other required documentation, with the Okanogan County Engineer and Planning Department, who shall determine if the proposed project is consistent with Local, State, and Federal plans, ordinances and regulations, or if public notification, public hearing and receipt of public comment is required prior to the issuance of a permit. See Paragraph 5 above.

19. Environmental Obligations. Grantee shall comply with all environmental protection laws, rules, recommendations, and regulations of the United States and the State of Washington, and their various subdivisions and agencies as they presently exist or may hereafter be enacted, promulgated, or amended. In removing or modifying Grantee's system and facilities as provided in this Franchise, Grantee shall also remove all residues of Hazardous Substances in compliance with applicable environmental clean-up standards related thereto. Grantee shall indemnify and hold Okanogan County harmless from any and all damages arising, or which may arise, or be caused by, or result from the failure of Grantee fully to comply with any such laws, rules, recommendations, or regulations, whether or not Grantee's acts or activities were intentional or unintentional. Grantee shall further indemnify the County against all losses, costs, and expenses, including legal expenses, which the County may incur as a result of the requirement of any government or governmental subdivision or agency to clean and/or remove any pollution caused or permitted by Grantee, whether said requirement is during the term of this Franchise or subsequent to its termination.

20. Abandonment: In the event the Grantee desires to abandon its facilities in place, and said abandonment is approved by Okanogan County, those facilities abandoned shall be treated at the expense of the Grantee, so as to render them completely safe and purged of hazardous materials. The Grantee shall be responsible for undertaking any environmental review required by the abandonment of such facilities, and for the payment of any costs of conducting such environmental review. The Grantee, its successors, and assigns, shall remain liable for the removal of said abandoned facilities if ever determined necessary by Okanogan County. Said removal shall adhere to the provisions of this Franchise, and shall be removed at the County's convenience and done in a manner so as not to interfere with County projects. The Grantee, their successors, and assigns, shall be liable for all costs to remove such abandoned facilities.

21. Locates - One Call System. Pursuant to RCW 19.122, Grantee is responsible for becoming familiar with, and understanding, the provisions of Washington's One Call statutes. Grantee shall comply with the terms and conditions set forth in the One-Call statutes.

22. Recovery of Costs. Nothing herein shall preclude Okanogan County from recovering all actual reasonable costs of, and expense necessarily incurred by the County in the examination, inspection, and approval of all plans and specifications for, and all details of construction and maintenance of, all facilities involved herein as necessary to insure public safety, conformity with the integrity of the county roads, traffic flow, and other public and private utilities located within the County Right-of-Way. Grantee shall also reimburse any direct and indirect costs reasonably incurred by Okanogan County in responding to emergencies involving Grantee's facilities.

23. Expenses. All expenses in connection with the posting and publishing of the notice of this hearing as required by statute shall be covered by the Franchise fee paid by the applicant.

24. Assignment. The Franchise granted hereby shall not be assigned, leased, transferred, or otherwise alienated, except assignments and transfers occurring by operation by law, without the consent of the Board of County Commissioners at Okanogan County, Washington, by written order authorizing the same.

25. Provisions Binding. All provisions, conditions, regulations and requirements herein contained shall 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 mentioned.


26. Severability. If any section, sentence, clause or phrase of this Franchise should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Franchise. In the event that any of the provisions of this Franchise are held to be invalid by a court of competent jurisdiction, the County reserves the right to reconsider the grant of this Franchise and may amend, repeal, add, replace or modify any other provision of this Franchise, or may terminate this Franchise.

27. Acceptance. The Grantee shall, within thirty (30) days from receipt of a copy of this order, file with the Board of County Commissioners at Okanogan, Washington, its signed notarized acceptance of the terms and conditions as set forth in this Franchise.

28. Governing law and Venue. This Agreement shall be governed by the laws of the State of Washington and venue for any action arising from this Agreement shall be in Okanogan County Superior Court.

**DATED** at Okanogan, Washington this 5<sup>th</sup> day of December 2023.

**ATTEST:**

  
Laleña Johns, CMC, Clerk of the Board



**BOARD OF COUNTY COMMISSIONERS  
OKANOGAN, WASHINGTON**

  
Chris Branch, Chairman

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Esther Milner, Chief Civil Deputy

\_\_\_\_\_  
Andy Hover, Vice-Chair

  
Jon Neal, Member

## ACCEPTANCE

The Grantee, **Orville E. Smith** hereinbefore referred to, for itself, and for its successors and assigns, does accept all of the terms and conditions of the foregoing franchise.

DATED: this 27<sup>th</sup> day of November, 2023.

[Signature]  
Signature of Authorized Representative

Orville Smith  
Name Printed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF Chelan )

On this day personally appeared before me Orville Edward Smith, to me known to be the grantee of foregoing franchise that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

GIVEN my hand and official seal this 27<sup>th</sup> day of November, 2023.



[Signature]  
Jacqueline Morales  
(Typed/printed name of notary)

Notary Public in and for the State of Washington.

My commission expires 4-22-2027

## EXHIBIT "A"

### **Trampas Smith Waterlines**

**The following Okanogan County road, rights-of-way all lying within the Boundaries of the County of Okanogan, State of Washington**

Franchisee's facilities are located within the County right-of-way at the following locations. Franchisee, as of the date of this agreement, has not provided documentation of rights senior to the County's. However, nothing in this franchise agreement is intended to interfere with or negate senior rights, if documents are provided at a later date. If senior rights are proven at a later date, such information will be added to the County's franchise file and the affected location will no longer be subject to this franchise agreement.

Road Number & Name	Mile Post	Section	Township	Range
2681, Johnson Creek Road	2.00 – 2.260	10	34N	26E
2704, Soren Peterson Road	2.528 – 2.820	10	34N	26E