Highline Water District

Franchise Agreement with City of Normandy Park

Term: 25 years
Effective: 02-16-91 to 02-16-2016

COPY

RESOLUTION NO. 589

A Resolution of the City of Normandy Park, Washington, granting to King County Water District No. 75 its successors and assigns, a municipal corporation and public utility selling and distributing water within King County, the right and franchise to use the streets, avenues, roads, alleys, lanes and other public property and ways of the City of Normandy Park, Washington, for constructing, maintaining, repairing, renewing and operating a water distribution system and accessories within and through the City of Normandy Park, Washington.

The City Council of the City of Normandy Park do resolve as follows:

Section 1. The right is hereby granted to King County Water District No. 75, hereinafter referred to as the Grantee, to lay, construct, extend, repair, renew and replace water pipes and mains and accessories under, along and/or across any and all streets, avenues, roads alleys, lanes and other public property and ways in the City of Normandy Park, Washington, within the current jurisdiction of the grantee, and all territory hereafter lawfully annexed, and to use and occupy said street, avenues, roads, alleys, lanes and repair mains and pipes and all appurtenences thereto and other public property and ways for the purpose of herein laying, constructing, extending, maintaining, renewing, replacing water pipes and mains and accessories used and/or useful for the sale and distribution of water within and through the present or future territorial limits of the City of Normandy Park, Washington, for the term of 25 years from and after the effective date of the Resolution except as hereinafter provided. The location and nature of the franchise is all streets, alleys, lanes and easements, throughout the City of Normandy Park within said current jurisdiction of the Water District.

Section 2. The said King County Water District No. 75 shall have the right and authority to enter upon those streets, avenues, alleys and public property for the purpose of construction work, making extensions of mains and laterals, connecting same with service pipe from abutting property, repair equipment, maintain and operate said lines.

Section 3. The Grantee shall commence construction work, on all permits issued under this franchise, within six months from and after the issuance of the permit or the permit shall become void.

Section 4. The location of the water pipe, laterals and appurtenances, their depths below surface of ground or grade of any road, street, avenue, alley or public property, shall be determined and fixed by the Supervisor of Streets of the City of Normandy Park and before any work is done by the Grantee under this franchise, it shall first file with the City of Normandy Park an application for permit to do such work, accompanied by plans (permit form and plans in triplicate), showing the position and location of all

mains, laterals, pipes, lines, and extensions sought to be constructed, laid, installed or erected at that time, showing their relative position to existing road, street, alley, right-of-way or property line upon plans drawn to scale, designating said roads or streets by their names and numbers, showing widths of same, giving outline of local improvements, such as sidewalks, curbs, gutters, shoulders of roadway, ditches, paved or otherwise surfaced roadways, roadways to property lines, turnouts, parking strips, telephone, electric or other utility distribution poles, water pipelines, conduits, sewer and gas pipelines etc., as may exist on the ground sought to be occupied. The Grantee shall specify the class and type of materials used shown in detail plans, equipment to be used and mode of safeguarding and facilitating the public traffic during construction. All such materials and equipment shall be new or like-new and of a class, type and kind approved by the Supervisor of Streets, and the manner of excavation, construction, installation, backfill and type and size or temporary structures including traffic turnouts, road obstruction, etc., shall meet with the approval, pass all requirements of and be constructed under the supervision of the City of Normandy Park, Dept. of Streets and Public Works. The Said Grantee shall pay to the City of Normandy Park all costs of and expenses incurred in the examination, inspection and supervision of such work, granted by the permit and done by the Grantee or by an independent contractor under the franchise of the Grantee.

Section 5. At no time during the course of construction shall Grantee occupy or obstruct in any manner whatsoever more than one-half of the traveled portion of any street, alley or public way over which this franchise is given except in streets, alleys or public ways of less than sixty (60) feet.

Section 6. The grantee in no event shall allow construction by any contractor under contract with Grantee to excavate for a distance of more than 1,000 feet without immediately thereafter completing construction, including restoring the surface to a condition at least equal to its condition prior to damage by Grantee prior to commencing construction in another area covered by the franchise granted herein.

Section 7. The Grantee shall leave all streets, avenues, alleys, roads or public property after laying and installing mains and doing construction work, making repairs to equipment, etc., in as good and safe condition in all respects as they were before the commencement of such work by the Grantee, its agents or contractors, and all recorded monuments which have been disturbed or displaced by the work shall be reset to the specification and approval of the city engineer. Whether such restoration is " as good and safe " shall be based upon the sole discretion of the City of Normandy Park.

Section 8. In case of any damage to said street, alleys, avenues or public property, or to paved or planked roadways, turnouts, gutters, ditches, wood or concrete walks, drain pipes, hand or embankment rails, bridges, trestles, wharves, or landings or monuments by the Grantee, the said Grantee agrees to immediately repair said damage at its own sole costs and expense.

Section 9. The City of Normandy Park may, at any time, do, order and have done any and all work considered necessary to restore to a safe condition any such street, avenue, alley, road or public property left by the Grantee or agents in a condition dangerous to life or property, and the Grantee, upon demand, shall pay to the City all costs of such construction of repair and of doing such work.

Section 10. The Grantee its successors and assigns shall protect and save harmless the City of Normandy Park or any of its agents from all claims, actions or damages of every kind and description which may occur to or be suffered by any person or persons, corporation or property by reason of any faulty construction, street restoration, defective material or equipment or maintenance, or by the improper occupation of said rights-of-way, by the said Grantee or by reason of the negligent, improper or faulty manner of safeguarding any excavations, temporary turnouts, or inefficient operation by the Grantee of its pipelines over said streets, avenues, alleys, roads and public property as hereinbefore designated, and in case that suit or action is brought against the said City of Normandy Park for damages arising out of or by reason of the above mentioned causes, the Grantee will, upon notice to it of the commencement of said action, defend the same at its sole cost and expense, and in case judgment shall be rendered against the City of Normandy Park in suit or action, will fully satisfy said judgment within ninety (90) days after said suit or action shall have finally been determined, if determined adversely to the City of Normandy Park; provided that the Grantee herein shall have the right to employ its own counsel in any case or action and be given the exclusive management of the defense thereof.

The Grantee does hereby agree to repair any damage to the streets and roads over which it holds a franchise, and all other city improvements caused by the failure of the Grantees work during the life of this franchise.

After reasonable notification, failure on the part of the Grantee to promptly repair the damaged work, shall be warrant for the City of make necessary repairs and charge same to Grantee.

Acceptance of the work by the City at the time of completion shall be no defense for avoidance of this covenant.

Section 11. The laying, construction, maintenance and operation of said Grantee system of water pipe, laterals, service pipe, etc., granted under this franchise shall not preclude the City of Normandy Park, its accredited agents of its contractors from blasting, grading or doing other necessary maintenance work contiguous to the said Grantee's improvements, providing that the Grantee shall have twenty four hours notice to said blasting or excavation in order that said Grantee may protect its lines of pipe and property. Grantor shall hold Grantee harmless from any damages resulting from damage done to Grantee's system facilities caused by sole negligence of the Grantor in failing to provide the notice required in this section.

Section 12. If, at any time the City of Normandy Park, deeming it advisable to improve any of its streets, avenues, alleys, roads or public property as hereinbefore designated, by grading or regrading, planking or paving same, or altering, changing, repairing or reimproving same, the Grantee, upon written notice by the City of Normandy Park, shall, at its own expense, immediately so raise, lower or move its line of pipes or improvements to conform to such new grades as may be established, or place said pipe or improvements in such location or position as shall cause the least interference with any improvements or work thereon as contemplated by the City of Normandy Park, and the said City shall in no wise be held liable for any damages to said Grantee that may occur by reason of the City's improvements, repairs or maintenance, or by the exercise of any rights so reserved in this section or grant. If the City improves such streets, avenues, alleys, country roads or public property, the grantee shall on written notice by City officials, at its own expense, replace such pipe or system as may be in or through the improved subgrade of such improvement, with pipe or pipes of such material as shall conform to the specifications for the improvement of such streets, avenues, alleys, roads or public property.

Section 13. Before any work is performed under this franchise the Grantee shall reference all monuments and markers of every nature relating to subdivisions, plats, highway and all other surveys. The reference points shall be so located 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 City of Normandy Park before placement. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit, and as directed by the City of Normandy Park. The cost of monuments or other markers lost, destroyed or disturbed, and the expense of replacement by approved monuments, shall be borne by the Grantee.

A complete set of reference notes for monument and other ties shall be filed with the City of Normandy Park.

Section 14. This grant or privilege shall not be deemed nor held to be an exclusive franchise. It shall in no manner prohibit the City of Normandy Park from granting other franchises of a like nature or franchises for other public or private utilities over, along, across, under and upon any of the streets, avenues, alleys, roads or public properties as herein enumerated, and shall in no wise prevent nor prohibit the City of Normandy Park from using any of said streets, roads, etc., or affect its jurisdiction over them or any part of them, with full power to make all necessary changes, relocations, repairs, maintenance, etc., of same as they may deem fit.

Section 15. All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors and assigns of the Grantee and all privileges of the Grantee shall inure to itself, its successors and assigns equally as if they were specifically mentioned whenever the Grantee is mentioned.

Section 16. If the Grantee, itself, its successors or assigns, shall willfully violate or fail to comply with any of the provisions of this grant, or through willful or unreasonable neglect fail to heed or comply with any notice given the Grantee under the provisions of this grant, then the said Grantee, itself, its successors or assigns shall forfeit all rights conferred hereunder, and this franchise may be revoked or annulled by the said City of Normandy Park.

Section 17. The City of Normandy Park reserves for itself the right at any time, upon a forty-eight hour (48) written notice to the Grantee to so change, amend, modify or amplify any of the provisions or conditions herein enumerated to conform to any state statute or city regulation relating to the public welfare, health, safety or highway regulation, as may hereafter be enacted, amended, adopted, changed, etc., and this franchise may be terminated at any time for same if not operated or maintained, or efforts are not made to comply in accordance with its provisions, or at all.

Section 18. If, within thirty days (30) after granting of this franchise the Grantee herein shall have failed to sign its written acceptance of same, then the herein granted rights and privileged shall be deemed forfeited and be declared null and void.

Section 19. Grantee is subject to all other requirements of NPMC Chapter 4.08 and also the police power of the city to adopt and enforce general ordinances necessary to protect the safety of the general public in relation to the rights granted in this franchise.

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PASSED BY THE CITY COUNCIL of the City of Normandy Park this 8 day of January, 1991, and signed in authentication thereof this 16 day of January, 1991.

Kathleen Vermeire
MAYOR, City of Normandy Park

Attest:

Shirley Smith
City Clerk-Treasurer

Unanimous vote.

The undersigned hereby accepts all rights and privileges of the above-granted franchise, subject to all the terms, conditions and obligations contained herein.

Dated this 6th day of February, 1991.

Gary M. Rose
President, Board of Commissioners

Dan F. Cabalsky
Secretary, Board of Commissioners

Fred Currie
Commissioner