

**ORDINANCE NO. 36
CITY OF LIBERTY LAKE
SPOKANE COUNTY, WASHINGTON**

**AN ORDINANCE OF THE CITY OF LIBERTY LAKE, WASHINGTON, GRANTING
THE RIGHT OF FRANCHISE TO AVISTA UTILITIES FOR OPERATION OF A
PUBLIC SERVICE BUSINESS IN THE CITY OF LIBERTY LAKE.**

WHEREAS, the City of Liberty Lake will incorporate on August 31, 2001;

WHEREAS, RCW 35.02.160 provides that any franchise or permit heretofore granted to any person, firm or corporation by the state or county, authorizing or otherwise permitting the operation of a public service business or facility is automatically cancelled upon incorporation, but that upon incorporation the City must grant such business a franchise or permit to continue such business within the City for a term of not less than the remaining term of the original franchise or permit, or seven years, whichever is the shorter;

WHEREAS, a franchise has been granted by Spokane County to Washington Water Power Company now doing business as Avista Utilities as set forth herein, and

WHEREAS, the City of Liberty Lake intends to allow Avista Utilities to continue operation under the same terms and conditions as the pre-existing franchise with Spokane County for the remaining term of the original franchise or seven years, whichever is the shorter period;

NOW, THEREFORE, the City Council of the City of Liberty Lake, Washington, do ordain as follows:

Section 1. The City of Liberty Lake hereby grants unto Avista Utilities a Franchise under the same terms and conditions as set forth in Spokane County Franchise No. 95-0990. This Franchise shall expire August 31, 2008. Unless the context requires otherwise, references to Spokane County shall be construed as references to the City of Liberty Lake and references to the Board of County Commissioners shall refer to the Liberty Lake City Council. Further, all work done in the public right of way shall be pursuant to Spokane County standards unless there is a superseding City of Liberty Lake standard.

Section 2. A true and correct copy of this Franchise is attached hereto and identified as Exhibit "A".

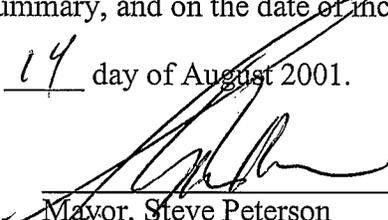
Section 3. Official Bonds. The Franchisee shall take all necessary steps to transfer any bonds, certificates of insurance or other security currently held by Spokane County to the City of Liberty Lake with the franchise rights granted herein not effective until such transfers are made.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance shall 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 ordinance.

Section 5. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary, and on the date of incorporation.

PASSED by the City Council this 14 day of August 2001.



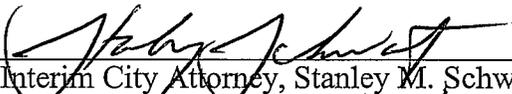
Mayor, Steve Peterson

ATTEST:



Interim City Clerk, Arlene Fisher

APPROVED AS TO FORM:



Interim City Attorney, Stanley M. Schwartz

Date of Publication: 8/23/01

Effective Date: Date of Incorporation

9509210356

FILED OR RECORDED

REQUEST OF Co City

Avista elec.

SEP 21 3 56 PM '95

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF SPOKANE COUNTY, WASHINGTON WILLIAM E. DONAHUE AUDITOR SPOKANE COUNTY WASH. DEPUTY **PAGE 1127**

INTEROFFICE

In the Matter of the Application of)
THE WASHINGTON WATER POWER COMPANY for)
a franchise to construct, operate and)
maintain an electrical transmission)
and distribution system in, over,)
along and under County roads, highways)
and rights-of-way in Spokane County,)
Washington)

FRANCHISE
Franchise No. 95 0990

Application of THE WASHINGTON WATER POWER COMPANY, doing business in Washington, at Spokane, for a franchise to construct, operate and maintain an electrical transmission and distribution system in, over along and under County roads, highways and rights-of-way in Spokane County, Washington, as hereinafter set forth, having come on regularly for hearing before the County Commissioners of Spokane County, Washington, on the 29 day of August, 1995, under the provisions of Chapter 36.55 RCW, and it appearing to the Board that notice of said hearing has been duly given as required by law, and that it is in the public interest to grant the franchise herein granted;

NOW THEREFORE:

IT IS ORDERED, that a franchise be and the same is hereby given and granted to THE WASHINGTON WATER POWER COMPANY, doing business in the State of Washington, its successors and assigns, hereinafter referred to as the "Grantee", for a period of twenty five (25) years from and after the date of the entry of this order, to construct, operate and maintain an electrical transmission and distribution system in, under, along and over the public County roads, highways and rights-of-way in Spokane County, Washington, as described in Exhibit A, which is attached hereto and incorporated by reference herein.

This franchise is granted upon the following express terms and conditions, to-wit:

I.

THE WASHINGTON WATER POWER COMPANY, its successors and assigns (hereinafter designated as the "Grantee"), shall have the right and authority to enter upon the County roads, highways and rights-of-way as herein described for the purpose of constructing and installing its electrical transmission and distribution system and all necessary facilities connected therewith (hereinafter referred to as the "system") and for repairing, operating, maintaining, removing and replacing all or any portion of its system.

II.

All construction and installation work where crossing or within County roads or rights-of-way outside of the corporate limits of any incorporated town shall comply with all applicable federal, state, or local laws, ordinances and regulations, including applicable permitting requirements pertaining to street obstruction, and, where required, shall be subject to the approval of and pass the inspection of the County Engineer. All work done under this franchise shall be done in a thorough and workmanlike manner. The Grantee shall conduct its operations to interfere as little as possible with the public travel, and shall take all due and necessary precautions to protect the public from damage or injury therefrom.

III.

In any work which requires breaking of the surface of the County roads and rights-of-way subject to this franchise for the purpose of laying, relaying, connecting, disconnecting and repairing the said system, and making connections between the same to structures and buildings of consumers or making connections to other facilities of the Grantee now in existence or hereafter constructed, the Grantee shall be governed by and conform to the general rules now existing or hereafter adopted by the County and officers charged with the supervision and care of such County roads and rights-of-way; and the Grantee at its own expense and with all convenient speed shall complete the work for which the surface has been broken and forthwith replace the work and make good the County road or right-of-way and leave same in as good condition as before the work commenced. The County upon notice to the Grantee may at any time order or have done any and all work that it considers necessary to restore to a safe condition any such County road or right-of-way left by the Grantee or its agents in a condition dangerous to life and/or property, and the Grantee upon demand shall pay to the County all costs of such work.

IV.

All construction or installation of lines and facilities, service repair, or relocation of the same, performed along or under the County roads, highways and rights-of-way subject to this franchise shall be done in such a manner as not to interfere with the construction and maintenance of other utilities, public or private, drains, drainage ditches and structures, irrigation ditches and structures located therein, nor with the grading or improvement of such County roads, highways and rights-of-way. All utilities, public or private, actually installed in such County roads, highways and rights-of-way prior in time to the installation of the lines and facilities of the Grantee shall have preference as to the positioning and location of such utilities so installed with respect to the Grantee. Such preference shall continue in the event of the necessity of relocation or changing the grade of any such County road or right-of-way.

V.

The County in granting this franchise does not waive any right which it now has or may hereafter acquire with respect to County roads, highways and rights-of-way and this franchise shall not be construed to deprive the 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 and rights-of-way covered by this franchise.

VI.

If, at any time, the County shall cause or require the improvement of any County road, highway or right-of-way wherein Grantee maintains facilities subject to this franchise by grading or regrading, planking or paving the same, changing the grade, altering, changing, repairing or relocating the same or by constructing drainage or sanitary sewer facilities, the Grantee upon written notice from the County Engineer shall, with all convenient speed, change the location or readjust the elevation of its system and other facilities so that the same shall not interfere with such County work and so that such lines and facilities shall conform to such new grades or routes as may be established. The relocation of Grantee's facilities shall be at the sole expense of Grantee unless the County Engineer determines, after consultation with Grantee and at Grantee's request, that the benefit of such improvements or changes to the County road, highway or right of way inures primarily to adjacent property owners or developers and not to the general public. In such case, the County agrees to make reasonable efforts to facilitate an agreement between such owners or developers and Grantee, and where appropriate, as determined by the County Engineer, withhold approval and/or acceptance of the improvements or development until the owner or developer has entered into an agreement to pay for the costs of relocation. The 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 works above enumerated, except for damage caused by the negligence of the County, its employees or agents.

VII.

The construction, operation and maintenance of the Grantee's system authorized by this franchise shall not preclude the County, its agents, or its contractors from blasting, grading, excavating, or doing other necessary roadwork contiguous to the said lines and facilities of the grantee, providing that the Grantee shall be given not less than five (5) days notice of said blasting in order that the Grantee may protect its lines and facilities; provided further, that in the event of an emergency as determined by the County Engineer, the Grantee shall be given forty-eight (48) hours notice.

VIII.

Before any work is performed under this franchise which may affect any existing monuments or markers of any nature relating to subdivision, plats, roads, and all other surveys, the Grantee shall reference all such monuments and markers. 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 County Engineer. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as the conditions permit, and as directed by the County Engineer. The cost of monuments or other markers lost, destroyed or disturbed, and the expense of replacement of approved monuments shall be borne by the Grantee. The Grantee shall file with the County Engineer a complete set of reference notes to monuments and other marker ties which have been re-established or disturbed.

IX.

If, at any time, the County shall vacate any County road or right-of-way which is subject to rights granted by this franchise, and said vacation shall be for the purpose of acquiring the fee or other property interest in said road or right-of-way for the use of the County, either in its proprietary or governmental capacity, then the Board of County Commissioners may at its option, and by giving thirty (30) days written notice to the Grantee, terminate this franchise with reference to such County road or right-of-way so vacated and the County shall not be liable for any damage or loss to the Grantee by reason of such termination; provided, however, that if the County can provide an alternate route across other County property, roads or rights-of-way, the County shall do so within a reasonable time prior to such termination, it being understood and agreed that the Grantee shall pay all costs of changing and rerouting its system.

In other circumstances where the County vacates any County road or right-of-way which is subject to rights granted by this franchise, the County agrees, wherever possible, but without prejudice or expense to the County or to the public interest, to condition said vacation upon the Grantee's ability to reasonably negotiate an adequate easement with the prospective fee owners of the property to be vacated for the purposes of this franchise. The County shall not be responsible for costs of changing and rerouting Grantee's facilities.

Whenever a County road covered by this franchise or any portion thereof is vacated, the County may include in the resolution authorizing the vacation a provision that the County retain an easement in respect to the vacated land for the construction, repair, and maintenance of the Grantee's facilities which at the time the resolution is adopted are authorized or are physically located on a portion of the land being vacated; at such

time, the County may authorize the Grantee to make continuing use of the County's easement for purposes set forth in this franchise.

X.

Grantee agrees to defend, indemnify and hold harmless the County, its appointed and elected officers and employees, from any and all liabilities, claims, causes of action, losses, damages and expenses, including costs and reasonable attorneys fees, that the County may sustain, incur, become liable for, or be required to pay, as a consequence of or arising from the construction, installation, maintenance, condition or operation of the Grantee's equipment or facilities, or appurtenances thereto, connected with this franchise, that now or may hereafter be upon, under, over, in, across or along, the highways, roads, alleys, bridges or other public ways or places of the County; provided, however, that this indemnification provision shall not apply to the extent that said liabilities, claims, damages, losses, etc. were caused by or result from the negligence of the County.

XI.

This franchise shall not be deemed to be an exclusive franchise. It shall in no manner prohibit the County from granting other franchises of a like nature or franchises for other public or private utilities under, along, across, over and upon any of the County roads, highways and rights-of-way subject to this franchise and shall in no way prevent or prohibit the County from constructing, altering, maintaining or using any of said roads, rights-of-way, structures or facilities for drainage, irrigation, or sewage, or any other County property or affect its jurisdiction over them with full power to make all necessary changes, relocations, repairs, maintenance, etc., the same as the County may deem fit.

XII.

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.

XIII.

The Grantee, its successors and assigns, shall not sell, transfer or assign this franchise without first securing the written consent of the Board of County Commissioners for Spokane County, which consent shall not be unreasonably withheld; provided, however, that the Board hereby consents to the assignment of this franchise by Grantee to the successor corporation resulting from the merger of Grantee with Sierra Pacific Power Company and Sierra Pacific Resources, when and if such merger becomes effective.

XIV.

Whenever any of the County roads or rights-of-way designated in this franchise by reason of the subsequent incorporation of any city or town, or extension of the limits of any city or town, shall fall within the city or town limits, then this franchise shall terminate in respect to said roads or rights-of-way so included within said limits six (6) months after such incorporation or extension; but this franchise shall continue in force and effect as to all County roads or rights-of-way not so included in city or town limits.

XV.

Any facilities and appurtenances in streets, alleys, and rights-of-way described in Exhibit A incidental to the franchise system, that have been, or are at any future time acquired, leased, or utilized in any manner by Grantee are thereupon to be deemed authorized by and shall be subject to all provisions of this Franchise.

XVI.

This franchise shall supersede and cancel any previous right or claim of grantee to occupy the County roads as herein described.

XVII.

For and in consideration of the rights and privileges set forth herein, the grantee agrees that Spokane County, to the extent authorized by law, may during the term of this franchise, by ordinance or resolution, impose fees for the rights and privileges granted herein. Such fees shall be based upon reasonable costs for the administration of such franchise as well as reasonable costs for the use of County roads or rights-of-way. The Board of County Commissioners of Spokane County agrees to provide not less than 30 days written notice prior to the imposition of such fees in order to negotiate the actual fee to be assessed and payments scheduled. Nothing in this section or agreement shall be construed to prohibit the County or its successor from imposing any license fee, tax or assessment which it is specifically authorized by law to impose.

XVIII.

Grantee shall have and maintain in force public liability and property damage insurance, which insurance, however, may contain a self-insured retention in accordance with prudent risk management practices.

XIX.

The right of Grantee to maintain its lines, facilities and appurtenance shall include the right to cut, trim or remove any and all trees, brush or shrubs growing in, on, or hanging over any County road, right-of-way, streets, alleys or County property that

interferes with or may interfere with Grantee's installations, including wires, poles, conduits or other apparatus of Grantee, its successors and assigns. The Grantee shall exercise due care in performing such activities.

XX.

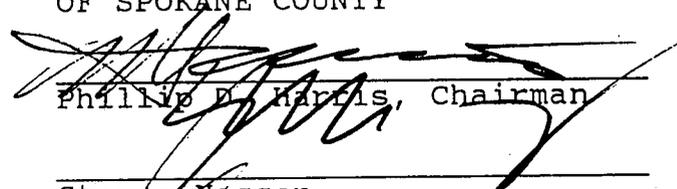
If the Grantee shall willfully violate or fail to comply with any of the provisions of this franchise through willful and unreasonable neglect or willful and unreasonable failure to heed or comply with any notice given the grantee under the provisions of this grant, then the said Grantee shall forfeit 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 thirty (30) days written notice of its intention to revoke or annual the franchise during which period the Grantee shall have the opportunity to remedy the situation.

XXI.

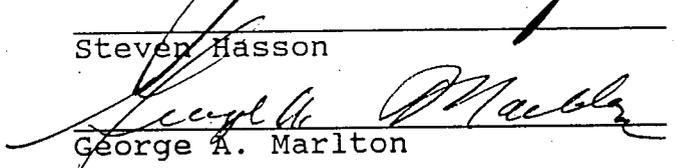
The full acceptance of this franchise and all of its terms and conditions within thirty (30) days from _____, 1995, by the WASHINGTON WATER POWER COMPANY, of Spokane, Washington, in writing, is to be filed with the Clerk of the Board of County Commissioners of Spokane County and recorded with the County Auditor and shall be a condition precedent to its taking effect, and unless the franchise is accepted within such time, this grant shall be null and void.

DATED at SPOKANE, WASHINGTON, this 29 day of August, 1995.

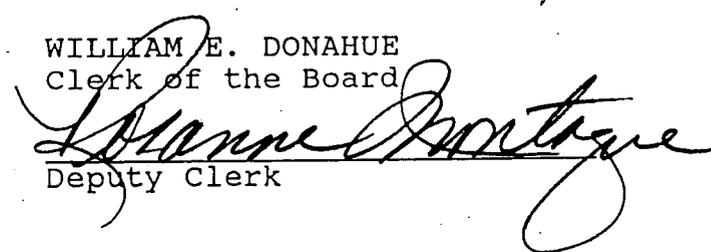
BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY


Phillip D. Harris, Chairman

Steven Hasson


George A. Marlton

ATTEST: WILLIAM E. DONAHUE
Clerk of the Board


Deputy Clerk

The Grantee, THE WASHINGTON WATER POWER COMPANY, a corporation, hereinbefore referred to, for itself, and for its successors and assigns, does accept all of the terms and conditions of the foregoing franchise.


Name: Nancy Racicot

Title: Vice President Operations

IN WITNESS WHEREOF, it has caused these presents to be signed by Nancy Racicot this 19th day of September, 1995.

Signed and sworn to before me) this 19th day of September, 1995.

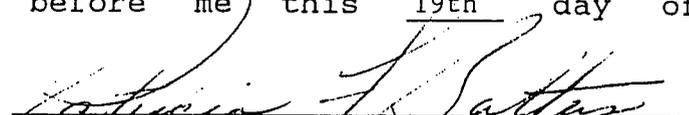

Print Name: Patricia F. Batters
Notary Public in and for the State of Washington, residing in Spokane
My Commission Expires 02/22/98

EXHIBIT "A"

Franchise No. **95 0990** covers all County roads, highways, and rights of ways located within the following Townships, Ranges, and Sections, less all incorporated areas within Spokane County:

TOWNSHIP	RANGE	SECTIONS
21	40	1-36
22	40	1-36
23	40	1-36
24	40	1-36
25	40	1-36
26	40	1-36
27	40	1, 12-17, 21-36
21	41	1-36
22	41	1-36
23	41	1-36
24	41	1-36
25	41	1-36
26	41	1-36
27	41	5-8, 16-22, 26-36
28	41	31, 32
21	42	1-36
22	42	1-36
23	42	1-36
24	42	1-36
25	42	1-36
26	42	1-36
27	42	1-5, 8-17, 20-29, 31-36
28	42	1-5, 8-17, 20-29, 32-36
29	42	1-5, 8-17, 20-29, 32-36
21	43	1-36
22	43	1-36
23	43	1-36
24	43	1-36
25	43	1-36
26	43	1-36
27	43	1-36
28	43	1-36
29	43	1-36
21	44	1-36
22	44	1-36
23	44	1-36
24	44	1-36
25	44	1-36
26	44	1-36
27	44	1-36
28	44	1-36
29	44	1-36
21	45	1-36
22	45	1-36
23	45	1-36
24	45	1-36
25	45	1-36

EXHIBIT "A"
(cont)

TOWNSHIP	RANGE	SECTIONS
26	45	1-36
27	45	1-36
28	45	1-36
29	45	1-36
21	46	6, 7, 18, 19, 30, 31
22	46	6, 7, 18, 19, 30, 31
23	46	6, 7, 18, 19, 30, 31
24	46	6, 7, 18, 19, 30, 31
25	46	6, 7, 18, 19, 30, 31
26	46	6, 7, 18, 19, 30, 31
27	46	6, 7, 18, 19, 30, 31
28	46	6, 7, 18, 19, 30, 31
29	46	6, 7, 18, 19, 30, 31

Avista Utilities
1411 East Mission PO Box 3727
Spokane, Washington 99220-3727
Telephone 509-489-0500
Toll Free 800-727-9170

Received By
City of Liberty Lake



OCT 18 2001

City Clerk/Treasurer
Initials: [Signature]

September 7, 2001

Comes now Avista Corporation and on this date accepts that certain Electric Franchise granted to it by the City of Liberty Lake, State of Washington, under Ordinance No. 36, approved August 14, 2001.

Avista Corporation

By [Signature]
Scott L. Morris
Vice President

Approved as to form:

[Signature]
D. J. Meyer Date

We hereby acknowledge receipt of the Formal Acceptance by Avista Corporation of the Electric Franchise granted to said Company by the City of Liberty Lake, State of Washington, under Ordinance No. 36, said Acceptance being duly signed by Scott L. Morris, Vice President of the Company on September 7, 2001.

City of Liberty Lake, Washington

By: [Signature]
Title: City Administrator

Oct 19, 2001