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ORDINANCE NO. 306

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, GRANTING RONALD WASTEWATER DISTRICT A NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR A SANITARY SEWER SYSTEM WITHIN PUBLIC RIGHTS-OF-WAY OF THE CITY OF SHORELINE, WASHINGTON.

WHEREAS, RCW 35A.11.020 grants the City board authority to regulate the use of the public right of way; and

WHEREAS, RCW 35A.47.040 authorizes the City "to grant nonexclusive franchises for the use of public streets, bridges or other public ways, structures or places above or below the surface of the ground for ... facilities for public conveyances, for poles, conduits, tunnels, towers and structures, pipes and wires and appurtenances thereof for transmission and distribution of electrical energy, signals and other methods of communication, for gas, steam and liquid fuels, for water, sewer and other private and publicly owned and operated facilities for public service," and

WHEREAS, the Council finds that it is in the best interests of health, safety and welfare of residents of the Shoreline community to grant a non-exclusive franchise to the Ronald Wastewater District for the operation of a sanitary sewer system within the City right-of-way;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Definitions. The following terms contained herein, unless otherwise indicated, shall be defined as follows:

1.1 City: The City of Shoreline, a municipal corporation of the State of Washington, specifically including all areas incorporated therein as of the effective date of this ordinance and any other areas later added thereto by annexation or other means.

1.2. Days: Calendar days.

1.3. Director: The City Manager or designee.

1.4. District: Ronald Wastewater District (Ronald), a municipal corporation and its

respective successors and assigns.

1.5. Facilities: All pipes, access ways, pump stations, storage facilities, equipment, and appurtenances thereto, located in the City's right-of-way, utilized by the District in the operation of activities authorized by this Ordinance. The abandonment by District of any facilities as defined herein shall not act to remove the same from this definition.

1.6. Permittee: A person who has been granted a permit by the Permitting Authority, and District operating under Section 4.6 Blanket Permit of this agreement.

1.7. Permitting Authority: The City department authorized to process and grant permits (permitting authority) required to work in the City's right-of-way, or any agency authorized to perform this function on the City's behalf. Unless otherwise indicated, all references to Permitting Authority shall include the designee of the department or agency head.

1.8. Person: An entity or natural person.

1.9. Right-of-way: As used herein shall refer to the surface of and the space along, above, and below any street, road, highway, freeway, lane, sidewalk, alley, court, boulevard, parkway, drive, utility easement, and/or road right-of-way now or hereafter held or administered by the City of Shoreline.

1.10 Ronald Wastewater District Sewer Service Area: All the land located within the corporate boundaries of Ronald Wastewater District as they now or may in the future exist, plus those areas lying outside of the corporate boundaries of the District in which the District's sanitary sewer system and appurtenances are now or may in the future be located, including but not limited to the sewer facilities acquired by Ronald Wastewater District from Seattle Public Utilities.

Section 2. Franchise

2.1. Pursuant to RCW 35A.47.040 the City hereby grants to Ronald, it's successors and assigns, subject to the terms and conditions hereinafter set forth, a Franchise beginning on the effective date of this Ordinance.

2.2. This Franchise shall grant Ronald the right, privilege and authority, subject to the terms and conditions hereinafter set forth; to construct, operate, maintain, replace and use all necessary equipment and facilities related to its a sanitary sewer system, in, under, on, across, over, through, along or below the Right-of-way for the purpose of it's sanitary sewer utility facilities as approved under City permits

issued by the Permitting Authority pursuant to the Franchise and City ordinances.

2.3. This ordinance is to be construed as granting permission to Ronald to go only upon any public right-of-way described herein. Permission to go upon any other property owned or controlled by the City must be sought from the City on a case by case basis.

Section 3. Non-Interference of Facilities.

3.1. Ronald's Facilities shall be located, relocated and maintained within the Right-of-way so as not to unreasonably interfere with the free and safe passage of pedestrian and vehicular traffic and ingress or egress to or from the abutting property and in accordance with the ordinances of the City and laws of the State of Washington. Nothing herein shall preclude Ronald from affecting temporary road closures as reasonably necessary during construction or maintenance of its Facilities provided Ronald receives prior City approval, which shall not be unreasonably withheld. Whenever it is necessary for Ronald, in the exercise of its rights under this Franchise, to make any excavation in the Right-of-way, Ronald shall, upon completion of such excavation, restore the surface of the Right-of-way to a condition that meets the specifications established within the City of Shoreline Engineering Development Guide and pre-approved plans and in accordance with standards of general applicability imposed by the City by ordinance or administrative order.

Section 4. Right-of-Way Management

4.1. Excavation.

4.1.1. During any period of relocation or maintenance, all surface structures, if any, shall be erected and used in such places and positions within the right-of-way so as to interfere as little as possible with the safe and unobstructed passage of traffic and the unobstructed use of adjoining property. Ronald shall at all times post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City or state law, including RCW 39.04.180, for the construction of trench safety systems.

4.1.2. Whenever Ronald excavates in any right-of-way for the purpose of installation, construction, repair, maintenance or relocation of its facilities, it shall apply to the City for a permit to do so in accord with the ordinances and regulations of the City requiring permits to operate in the right-of-way. In no case shall any such work commence within any right-of-way without a permit, except as otherwise provided in this Ordinance. During the progress of the work, Ronald shall not

unnecessarily obstruct the passage or use of the right-of-way, and shall provide the City with plans, maps, and information showing the proposed and final location of any facilities in accordance with Section 15 of this Ordinance.

4.2. Abandonment of Ronald's Facilities. Ronald shall not abandon any of its facilities within the right-of- way without the prior written consent of the City

4.3. Restoration after Construction.

4.3.1. Ronald shall, after any installation, construction, relocation, maintenance, or repair of Facilities within the Right-of-way, restore the Right-of-way to at least the same condition existing prior to any such installation, construction, relocation, maintenance or repair. All concrete encased monuments, which have been disturbed or displaced by such work, shall be restored pursuant to all federal, state and local standards and specifications. Ronald agrees to promptly complete all restoration work and to promptly repair any damage caused by such work at its sole cost and expense.

4.3.2. If it is determined that Ronald has failed to restore the right-of-way in accordance with this Section, the City shall provide Ronald with written notice, which shall include a description of actions the City believes necessary to restore the right-of-way. If the right-of-way is not restored in accordance with the City's notice within fifteen (15) days of that notice, the City, or its authorized agent, may restore the right-of-way and Ronald shall be responsible for all reasonable costs and expenses incurred by the City in restoring the right-of-way in accordance with this Section. The rights granted to the City under this Paragraph shall be in addition to those otherwise provided by this Franchise.

4.4. Bonding Requirement. Ronald, as a public agency, is not required to comply with the City's standard bonding requirement for working in the City's right-of-way.

4.5. Emergency Work, Permit Waiver. In the event of an emergency where any facilities located in the right-of-way are broken or damaged, or if Ronald's construction area for their facilities is in such a condition as to place the health or safety of any person or property in imminent danger, Ronald shall immediately take necessary emergency measures to repair or remove its facilities without first applying for and obtaining a permit as required by this Franchise. However, this emergency provision shall not relieve Ronald from later obtaining necessary permits for the emergency work. Ronald shall apply for the required permits the next business day following the emergency work or as soon as practical thereafter given the nature and duration of the emergency.

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4.6. Blanket Permit. The terms "Minor Activities" and "Blanket Activities" is defined in a specifically negotiated "Blanket Permit for Activity Within The Public Right-of-Way," a copy of which has been filed with the City Clerk and identified by Clerk's Receiving Number 1946. Permittee shall be authorized to perform Minor Activities without a City permit of any kind and Blanket Activities under the terms and conditions of the Blanket Permit. All other activities will require a separate permit in accordance with City ordinances.

4.6.1 The Permittee shall pay the City a permit inspection/processing fee in the amount set out in Blanket Permit Definitions.

4.6.2 The Permittee shall provide a monthly list of Blanket Permit construction activity by the 10th of the following month listing the previous month's activity authorized under this Section.

4.6.3 For each separate use of the right-of-way under this Section, and prior to commencing any work on the right-of-way under this Section, the Permittee shall:

(1) At least twenty- four (24) hours in advance of entering the right-of-way, fax or otherwise deliver to the Permitting Authority a City Inspection Request Form, as provided by the Permitting Authority. Said form shall include, at a minimum, the following information: Franchise ordinance number, street address nearest to the proposed work site; parcel number and description of work to be performed.

(2) Within twenty-four (24) hours after completing the work, fax or deliver to the Permitting Authority a notice of completion in the form provided by the Permitting Authority.

4.6.4 The City reserves the right to alter the terms and conditions of Subsection 4.6 and of Blanket Permit by providing thirty (30) days written notice to the Permittee. Any change made pursuant to this Paragraph shall thereafter apply to all subsequent work performed pursuant to this Section.

4.6.6 In the event the Permittee fails to comply with any of the conditions set forth in this Section, the City may provide written notice of termination to operate under this Section to Permittee, stating with specificity, the basis for the termination of the Permittee's authority.

4.7. Safety.

4.7.1. Ronald, in accordance with applicable federal, state, and local safety rules and regulations shall, at all times, employ ordinary care in the installation, maintenance, and repair of its facilities utilizing methods and devices commonly accepted in the sanitary sewer industry to prevent failures and accidents that are likely to cause damage, injury, or nuisance to persons or property.

4.7.2. Ronald will make all reasonable effort to construct and maintain its facilities in the right-of-way in a safe and operational condition.

4.8. Dangerous Conditions, Authority for City to Abate.

4.8.1. Whenever Facilities or the operations of Ronald cause or contribute to a condition that appears to endanger any person or substantially impair the lateral support of the adjoining right-of-way, public or private property, the City may direct Ronald, at no charge or expense to the City, to take actions to resolve the condition or remove the endangerment. Such directive may include compliance within a prescribed time period.

4.8.2. In the event Ronald fails or refuses to promptly take the action, or if emergency conditions exist which require immediate action to prevent imminent injury or damage to persons or property, the City may take such action as it believes necessary and Ronald shall reimburse the City for its actual costs incurred.

Section 5. Relocation of System Facilities.

5.1. Whenever the City causes the grading or widening of the Right-of-way or undertakes construction of any water or storm drainage line, lighting, signalization, sidewalk improvement, pedestrian amenities, or other public street improvement (for purposes other than those described in Section 5.3 below) and such project requires the relocation of Ronald's then existing Facilities lying within that portion of the Right-of-way, or an area affected by such city projects, the City shall:

(1) Provide Ronald, at least one hundred twenty (120) days prior to the commencement of such project written notice that a project is expected which will or may require relocation of a portion of Ronald's facilities; and

(2) Provide Ronald, at least sixty (60) days, with reasonable plans and specifications for such grading, widening, or construction and a proposed new location within or adjacent to the Right-of-way for Ronald's Facilities.

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5.2. After receipt of such notice and the plans and specifications, Ronald shall relocate such Facilities within the Right-of-way as to accommodate such street and utility improvement project ten (10) days prior to commencement of the project unless there is agreement to a different schedule for coordinating completion of relocation of Facilities, provided, however, Ronald may, after receipt of written notice requesting a relocation of its Facilities, submit to the City written alternatives to such relocations of its Facilities and the time schedule. The City shall within a reasonable time evaluate such alternatives and advise Ronald in writing whether one or more of the alternatives is suitable to accommodate work that would otherwise necessitate relocation of the Facilities. If so requested by the City, Ronald shall submit such additional information as is reasonably necessary to assist the City in making such evaluation. The City shall give each alternative full and fair consideration. In the event the City ultimately reasonably determines that there is no other reasonable or feasible alternative, then Ronald shall relocate its Facilities as otherwise provided in this Section 5. The City shall cooperate with Ronald to designate a substitute location for its Facilities within the Right-of-way. The cost of relocating such Facilities existing within the present limits of the City shall be paid as follows:

(1) if the relocation occurs within five (5) years after Ronald initially constructed such Facility, then the relocation shall be at the City's sole cost;

(2) if the relocation occurs more than five (5) years after Ronald initially constructed such Facility, then the relocation shall be at Ronald's sole cost.

5.3. Obligations under this section 5 shall not apply whenever any person or entity, other than the City, requires the relocation of Ronald Facilities to accommodate the work of such person or entity within the Right-of way, or whenever the relocation of Ronald's Facilities within the Right-of-way is necessary to satisfy any requirement or condition of a City permit or approval issued on a land use action (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development) for the benefit of any person or entity other than the City. However, in the event the City reasonably determines (and promptly notifies Ronald in writing of such determination) that the primary purpose of imposing such condition or requirement upon such person or entity which necessitates such relocation is to cause the construction of an improvement on the City's behalf and in a manner consistent with City approved improvement plans (as described in subsection 5.1 above) within a segment of the Right-of-way then Ronald shall require only those costs and expenses incurred by Ronald in integrating and connecting such relocated Facilities with Ronald's other Facilities

to be paid to Ronald by such person or entity, and Ronald shall otherwise relocate its Facilities within such segment of the Right-of-way in accordance with the provisions of subsection 5.1 above.

The provisions of this Section 5.3 shall in no manner preclude or restrict Ronald from making any arrangements it may deem appropriate when responding to a request for relocation of its Facilities by any person or entity other than the City, where the facilities to be constructed by such person or entity are not or will not become City owned, operated or maintained facilities, provided that such arrangements do not unduly delay a City construction project.

5.4 Any cost or expense in connection with the location or relocation of any Facilities existing under benefit of easement or other rights not arising under this Franchise, shall be borne fifty percent (50%) by the City, and fifty percent (50%) by Ronald.

Section 6. Compliance with Codes and Regulations.

6.1. The rights, privileges and authority herein granted are subject to and governed by this ordinance and all other applicable ordinances and codes of the City of Shoreline, as they now exist or may hereafter be amended. Nothing in this ordinance limits the City's lawful power to exercise its police power to protect the safety and welfare of the general public. Any location, relocation, erection or excavation by Ronald shall be performed by Ronald in accordance with applicable federal, state and city rules and regulations, including the City Public Works Policies and Pre-approved Plans, and any required permits, licenses or fees, and applicable safety standards then in effect or any Memorandum of Understanding with Ronald.

6.2. Upon written inquiry, Ronald shall provide a specific reference to either the federal, state or local law or the Washington Utilities and Transportation Commission (WUTC) order or action establishing a basis for Ronald's actions related to a specific franchise issue.

6.3 In the event that any territory served by Ronald is annexed to the City after the effective date of this Franchise, such territory shall be governed by the terms and conditions contained herein upon the effective date of such annexation.

Section 7. System Development Information

7.1. Ronald will assign a representative whose responsibility shall be to coordinate with the City on planning for CIP projects including those that involve under grounding. At a minimum, such coordination shall include the following:

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(1) Ronald shall meet with the City, other franchisees and users of the right-of- way, according to a schedule to be determined by the City, to schedule and coordinate construction; and

(2) All construction locations, activities, and schedules shall be coordinated, as required by the City Manager or his designee, to minimize public inconvenience, disruption, or damages.

(3) For the purpose of planning, Ronald and the City shall provide each other with a copy of their respective current adopted Capital Improvement Plan annually and upon request by the other party.

Section 8. Planning Coordination. The parties agree, as follows, to participate in the development of, and reasonable updates, to each other's planning documents.

8.1. For Ronald's service within the City limits, Ronald will participate in a cooperative effort with the City of Shoreline to develop a Comprehensive Plan - Utilities Element, that meets the requirements described in RCW 36.70A.070 (4).

8.2. Ronald will participate in a cooperative effort with the City to ensure that the Utilities Element of the City's Comprehensive plan is accurate as it relates to Ronald's operations and is updated to ensure it's continued relevance at reasonable intervals.

8.3. Ronald shall submit information related to the general location, proposed location, and approximate capacity of all existing and proposed Facilities within the City as requested by the Director within a reasonable time, not exceeding sixty (60) days from receipt of a written request for such information.

8.4 Ronald will update information provided to the City whenever there are major changes in Ronald's system plans for the City.

8.5. Ronald will provide information relevant to its operation within the City within a reasonable period of time after a written request to assist the City in it's need to develop and update it's Comprehensive Plan - Utilities Element, provided that such information is in Ronald's possession or can be reasonably developed from information in Ronald's possession.

8.6. The City will provide information relevant to Ronald's operations within a reasonable period of time following a written request to assist Ronald in the development or update of its Comprehensive Sewage System Plan, provided that such information is in the City's possession, or can be reasonably developed from the information in the City's possession.

Section 9. Indemnification by Ronald and Shoreline.

9.1 District hereby releases, covenants not to bring suit, and agrees to indemnify, defend and hold harmless the City, its elected officials, employees, agents, and volunteers from any and all claims, costs, judgments, awards, attorney's fees, or liability to any person, including claims by District's own employees to which District might otherwise be immune under Title 51 RCW, arising from personal injury or damage to property allegedly due to the negligent or intentional acts or omissions of District, its agents, servants, officers or employees in performing activities authorized by this Franchise. This covenant of indemnification shall include, but not be limited by this reference, claims against the City arising as a result of the acts or omissions of District, its agents, servants, officers or employees except for claims for injuries and damages caused by the sole negligence of the City. If final judgment is rendered against the City, its elected officials, employees, agents, and volunteers, or any of them, District shall satisfy the same. The City may appear in any proceeding it deems necessary to protect the City's or the public's interests.

9.2 The City hereby releases, covenants not to bring suit, and agrees to indemnify, defend and hold harmless the District, its elected officials, employees, agents, and volunteers from any and all claims, costs, judgments, awards, attorney's fees, or liability to any person, including claims by City's own employees to which City might otherwise be immune under Title 51 RCW, arising from personal injury or damage to property allegedly due to the negligent or intentional acts or omissions of City, its agents, servants, officers or employees in performing construction, maintenance or other city activities within the Rights-of-way. This covenant of indemnification shall include, but not be limited by this reference, claims against the District arising as a result of the acts or omissions of City, its agents, servants, officers or employees except for claims for injuries and damages caused by the sole negligence of the District. If final judgment is rendered against the District, its elected officials, employees, agents, and volunteers, or any of them, City shall satisfy the same. The District may appear in any proceeding it deems necessary to protect the District's interests or the interests of its ratepayers.

9.3. In the event any such claim or demand be presented to or filed with either party, such party shall promptly notify the other thereof, which party shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand. In the event any suit or action be begun against either party based upon any such claim or demand, such party shall likewise promptly notify the other party thereof, which party shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election.

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9.4. Inspection or acceptance by one party of any work performed by the other at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend to claims that are not reduced to a suit and any claims that may be settled prior to the culmination of any litigation or the institution of any litigation.

9.5. In the event either refuses to undertake the defense of any suit or any claim, after a request for defense and indemnification has been made pursuant to the indemnification clauses contained herein, and such refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal, such party shall pay all of the other party's costs and expenses for defense of the action, including reasonable attorney's fees or recovering under this indemnification clause as well as any judgement against the party.

9.6. Should a court of competent jurisdiction determine that this Franchise is subject to RCW 4.24.115, then, in event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Ronald and the City, its officers, employees and agents, each party's liability hereunder shall be only to the extent of its negligence. This waiver has been mutually negotiated by the parties.

Section 10. Insurance.

10.1. Ronald shall procure and maintain in full force for the duration of the Franchise, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to Ronald, its agents or employees.

10.2. In satisfying the insurance requirement set forth in this section, Ronald may self-insure against such risks in such amounts as are consistent with good utility practice. Ronald shall provide the City with sufficient written evidence, the sufficiency of which shall be determined at the reasonable discretion of the City, upon request, that such insurance (or self-insurance) is being so maintained by Ronald. Such written evidence shall include, to the extent available from Ronald's insurance carrier, a written certificate of insurance with respect to any insurance maintained by Ronald in compliance with this Section.

10.3. Commercial General Liability insurance policy, written on an occurrence basis with limits no less than $1,000,000 combined single limit per occurrence and $2,000,000 aggregate for personal injury, bodily injury and property damage. Coverage shall include premises, operations, independent contractors, products-

completed operations, personal injury and advertising injury. There shall be no endorsement or modification of the Commercial General Liability insurance excluding liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under Ronald's Commercial General Liability insurance policy.

10.4. Excess Liability in an amount of $5,000,000 each occurrence and $5,000.00 aggregate limit. The City shall be named as an additional insured on the Excess Liability insurance policy.

10.5. Automobile Liability insurance for owned, non-owned and hired vehicles with limits no less than $2,000,000 Combined Single Limit per accident for bodily injury and property damage

10.6. Payment of deductible or self-insured retention shall be the sole responsibility of Ronald.

10.7 Ronald shall require all its subcontractors to carry insurance consistent with this Section 10.3, and shall provide evidence of such insurance to the City upon request.

10.8 The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, or employees. In addition, the insurance policy shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. District's insurance shall be primary. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of District's insurance and shall not contribute with it. Coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City.

Section 11. Default / Enforcement.

11.1. The City reserves the right to revoke and terminate this Franchise and all rights and privileges of Ronald in the event of a substantial violation or material breach of its terms and conditions.

11.2. A substantial violation or material breach by Ronald shall include, but shall not be limited to, the following:

(1) An uncured violation of any material provision of this Franchise, or any material rule, order or regulation of the City which would endanger the

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public health, safety and welfare;

(2) The practice of any fraud or deceit upon the Ratepayers served by the District's system of sanitary sewers.

(3) The practice of any fraud or deceit upon the City.

(4) Misrepresentation of material facts in the negotiation of this Franchise or its implementation.

(5) The negligent failure or unreasonable refusal to provide the sanitary sewer services specified in the Franchise.

(6) A continuous and willful pattern of grossly inadequate service.

(7) An uncured failure to pay the fee associated with this Franchise.

11.3. No violation or breach of this Franchise shall occur which is without fault of either Ronald or the City, unless they are the result of circumstances beyond Ronald's or the City's reasonable control, such as Acts of God or unrelated third parties.

Neither Ronald, nor the City, shall be excused by economic hardship or by nonfeasance or malfeasance of its elected officials, officers, agents or employees.

Damage to equipment causing service interruption shall be deemed to be the result of circumstances beyond Ronald's or the City's control if it is caused by any negligent act or unintended omission of its employees (assuming proper training) or agents (assuming reasonable diligence in their selection), or sabotage, vandalism or malicious mischief by its employees or agents. Ronald, or the City, shall bear the burden of proof in establishing the existence of such conditions.

11.4. Except in the case of termination of this Franchise pursuant to Paragraph 11.2d, the City, or Ronald, prior to any termination or revocation of this Franchise, shall provide the other with detailed written notice describing any substantial violation or material breach upon which it proposes to take action. The party who is allegedly in breach shall have a period of 60 days following such written notice to cure the alleged violation or breach, or demonstrate to the other's satisfaction that a violation or breach has not occurred or does not exist, or submit a plan that is satisfactory to the other to correct the violation or breach. If, at the end of said 60-day period, the party giving such notice reasonably believes that a substantial violation or material breach is continuing and that the party in breach is not taking satisfactory corrective action, the noticing party may, by written notice to the other

party, declare that the party in breach is in default. Within 20 days after receipt of a written declaration of default, the party that is alleged to be in default may request, in writing, a hearing before the City Hearing Examiner , as provided by the City's development regulations.

The Hearing Examiner's decision may be appealed by either party to the King County Superior Court within thirty (30) days following the date of the decision rendered.

11.5. The City may, in its discretion and without waiving its rights under Paragraph 11.4 above, provide, in writing, for an extension of the period for Ronald to remedy any violation or breach of the Franchise terms or take such corrective action specified in the Notice and come into compliance with its obligations under this Franchise, so as to avoid its termination or revocation.

11.6 Any violation continuing for a period greater than 60 days may be remedied by the City at Ronald's expense, unless Ronald is diligently and in good faith proceeding with corrective action and its failure to complete corrective action is caused by unavoidable delays or events beyond its control.

Section 12. Franchise Term. The term of the Franchise granted hereunder shall remain in full force for fifteen (15) years from the effective date.

Section 13. Non-Exclusive Franchise. This Franchise is not and shall not be deemed to be an exclusive Franchise. This Franchise shall not in any manner prohibit the City from granting other and further franchises under, over, upon, and along the Right-of-way which do not interfere with Ronald's existing sanitary sewer system and its rights under this Franchise. This Franchise shall not prohibit or prevent the City from using the Right-of-way or affect the jurisdiction of the City over the same or any part thereof.

Section 14. Franchise Fee.

14.1. In consideration for the rights granted Ronald under this agreement and the parties concomitant Interlocal Operating Agreement to occupy City right-of-way for the purpose of operating a sanitary sewer utility within the City dated _____ and as compensation for the City's recovery of actual administrative expenses incurred by the City that are directly related to receiving and approving permits, licenses, cost of inspections, this franchise and inspecting plans for construction within the Right-of-way, Ronald agrees to pay the City a franchise fee of $3,000 annually in addition to those fees identified in the Blanket Permit, Section 4.6. Proceeds of the franchise fee collected shall be distributed to the City no later than 30 days after the end of each

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calendar year.

Section 15. Records. As a condition of this Franchise, and without charge to the City, District agrees to provide the City with available as-built plans, maps, and records that show the vertical and horizontal location of its facilities within the right-of-way, measured from the center line of the right-of-way, using a minimum scale of one inch equals one hundred feet (1"=100'). If available as a standard format maintained by the District, maps shall be provided in Geographical Information System (GIS) or other digital electronic format used by the City and, upon request, in hard copy plan form used by District. This information shall be provided between one hundred twenty (120) and one hundred eighty (180) days of the effective date of this Ordinance and shall be updated upon reasonable request by the City.

Section 16. Survival. All of the provisions, conditions and requirements of Sections 4.1 Excavation, 4.2 Abandonment Of District's Facilities, 4.3 Restoration After Construction, 4.8 Dangerous Conditions, Authority For City To Abate, Section 5 Relocation of System Facilities, and Section 9 Indemnification, of this Franchise, shall be in addition to any and all other obligations and liabilities Ronald may have to the City at common law, by statue, or by contract, and shall survive the City's Franchise to Ronald for the use of the areas mentioned in Section 2 herein, and any renewals or extensions thereof. This Ordinance shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of Ronald and all privileges, as well as all obligations and liabilities of Ronald shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever Ronald is named herein.

Section 17. Severability. If any Section, sentence, clause or phrase of this Ordinance 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 Ordinance. The Parties may amend, repeal, add, replace, or modify any provision of this Franchise to preserve the intent of the parties as expressed herein prior to any finding of invalidity or unconstitutionality.

Section 18. Assignment. This Franchise shall not be sold, transferred, assigned, or disposed of in whole or in part either by sale, voluntary or involuntary merger, consolidation or otherwise, without the written approval of the City. This paragraph shall not act to require City approval of any Ronald action to mortgage or otherwise encumber its facilities, or other action related to corporate financing, financial reorganization, or refinancing activity.

Section 19. Notice. Any notice or information required or permitted to be given to the parties under this Franchise may be sent to the following addresses unless otherwise specified:

Ronald General Manager	City Manager
Ronald Wastewater District	City of Shoreline
PO Box 33490	17544 Midvale Ave No
Shoreline WA 98133-0490	Shoreline WA 98133-4921
Phone: 206-546-2494	Phone: 206-546-1700
Fax: 206-546-8110	Fax: 206-546-2200

Section 20. Non-Waiver. The failure of either party to enforce any breach or violation by the other party of any provision of this Franchise shall not be deemed to be a waiver or a continuing waiver by the non-breaching party of any subsequent breach or violation of the same or any other provision of this Franchise.

Section 21. Alternate Dispute Resolution. If the parties are unable to resolve disputes arising from the terms of this Franchise, prior to resorting to a court of competent jurisdiction, the parties shall submit the dispute to a non-binding alternate dispute resolution process agreed to by the parties. Unless otherwise agreed between the parties or determined herein, the cost of that process shall be shared equally.

Section 22. Entire Agreement. This Franchise constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties upon execution and acceptance hereof.

Section 23. Directions to City Clerk. The City Clerk is hereby authorized and directed to forward certified copies of this ordinance to Ronald as set forth in this ordinance. Ronald shall have sixty (60) days from receipt of the certified copy of this ordinance to accept in writing the terms of the Franchise granted to Ronald by this ordinance.

Section 24. Ronald Acceptance of Franchise. Ronald shall have no rights under this Franchise nor shall Ronald be bound by the terms and conditions of this Franchise unless Ronald shall, within thirty (30) days after the effective date of the ordinance, file with the City its written acceptance of this Franchise, in a form acceptable to the City Attorney.

Section 25. Publication Costs. In accord with state law, this ordinance shall be published in full. Ronald shall reimburse the City for the cost of publishing this Franchise Ordinance within sixty (60) days of receipt of an invoice from the City.

ORIGINAL

Section 26. Effective Date. This ordinance shall take effect and be in full force five days after publication.

PASSED BY THE CITY COUNCIL ON OCTOBER 14, 2002.

Mayor Scott Jepsen

ATTEST:

Sharon Mattioli
City Clerk

APPROVED AS TO FORM:

Ian Sievers
City Attorney

Date of Publication: October 17, 2002
Effective Date: October 22, 2002

COPY

Related to Ord 306

CITY OF SHORELINE PENDING *Planning and Development Services*
17544 Midvale Avenue North
Shoreline, WA 98133-4921
(206) 546-1811 ♦ Fax (206) 546-8761

Permit Number

BLANKET PERMIT
FOR ACTIVITY WITHIN THE PUBLIC RIGHT-OF-WAY

The City of Shoreline, hereinafter referred to as the "City", hereby grants a Permit to Ronald Wastewater District whose address is 17505 Linden Avenue North, Shoreline, WA 98133, hereinafter referred to as the "District." This permit shall commence upon the effective date as the Franchise approved under Ordinance No. 306 and remain in effect so long as the Franchise remains in effect, except where terminated earlier as provided herein. This Permit is subject to the following conditions:

1. This permit only authorizes those activities described in Exhibit A as "Blanket Activities," which is attached hereto and incorporated herein by reference. It does not authorize major activities which will require a separate permit.

2. a. District shall pay the City a permit fee in the amount of One Hundred Sixty-Four Dollars ($164.00) per each use of the City right-of-way. The permit fee is a flat fee based on average administrative costs and inspection fees required to process each use of this blanket permit.
   b. The City shall bill the District for the blanket permit activities with the regular monthly City of Shoreline Right-of-Way Permit invoicing.
   c. The District shall provide payment of permit fees for the previous monthly activity **upon receipt of invoice but no later than thirty (30) days after receiving a bill.**
   d. In the event the above stated inspection fee is changed during the term of this Permit, the new amount shall thereafter apply to all subsequent inspections made pursuant to this Permit.

3. For each separate use of the right-of-way under this Permit, and prior to commencing any work on the right-of-way under this Permit, the District shall:
   a. Fax or deliver the City Inspection Request Form at least 24 hours in advance which shall include the following information: blanket permit number, street address nearest to the proposed work site; parcel number and description of work to be performed.
   b. Fax or deliver the City's Right-of-Way Inspection Division notice of completion within 24 hours after completing work.

4. The District shall hold the City and its officers, agents and employees harmless from all costs, claims or liabilities of any nature including attorney's fees, costs and expenses for or on account of injuries or damages sustained by any persons or property resulting from the negligent activities or omissions of the District, its agents or employees pursuant to this Agreement, or on account of any unpaid wages or other remuneration for services; and if a suit as described above be filed, the District shall appear and defend the same at its own cost and expense, and if judgment be rendered or settlement made requiring payment by the City, the District shall pay the same.

5. The District shall immediately restore and repair to the City's standards all right-of-way which is in any way damaged or disturbed by the District. The District shall comply with all applicable laws and regulations when performing any work pursuant to this Permit.

6. In the event the District fails to comply with any of the conditions set forth in this Permit, the City is authorized to immediately terminate this Permit by providing District written notice of such termination at District's address set forth herein. Further, the City may terminate this Permit at any time without cause by providing thirty (30) days written notice to the District's address set forth herein. Notwithstanding any termination, the District will not be relieved of any liability to the City.

7. Additional Conditions: See "Exhibit A" for Activities.

DATED this _____ day of _____ 2002.

RONALD WASTEWATER DISTRICT

By: _____

Title: _____

CITY OF SHORELINE

By: _____

Title: _____

CITY OF
SHORELINE

Planning and Development Services
17544 Midvale Avenue North
Shoreline, WA 98133-4921
(206) 546-1811 ♦ Fax (206) 546-8761

Permit Number

"EXHIBIT A"
BLANKET ACTIVITIES

Shoreline Wastewater Management District

MINOR ACTIVITIES: These activities are normal maintenance activities performed by the District or other activities which do not disrupt the City road or traffic patterns within the City right-of-way. These types of activities do not require either a Blanket Permit or Right-of-Way Permit. For the purpose of this section the District shall provide notification to the City, a maximum of 24 hours, prior to performing "Minor Activities" on streets classified as Principal and Minor Arterials identified on Street Classification Map attached to Exhibit "A", as Attachment No. 1.

Examples:
- Utility locate processing
- Routine flushing, rodding, inspections
- Telespection of sewer lines
- Grade adjustments on manhole castings as result of asphalt overlays
- Manhole casting maintenance in gravel shoulder

BLANKET ACTIVITIES: These activities cause some disruption to the right-of-way and possibly to traffic patterns but not to the degree where significant City involvement is required during the plan review and inspection processes. These activities require a Blanket Permit. All Blanket activities require fax notification a minimum of 24 hours in advance, with the exception of emergency repairs. (Fax notification within the 24 hours after said emergency).

Examples:
- Sewer line repair in pavement less than 55 square feet
- Sewer line repair in gravel shoulder 55 square feet or more
- Road repair related to failure overtop sewer line or within sewer trench less than 55 square feet
- Emergency clearing of sewer line blockages

MAJOR ACTIVITIES: These activities are major sewer related projects within right-of-way which involve removal of road surface, trench excavation, etc., and any disruption of traffic flow within the right-of-way. These activities shall require a standard Right-of-Way Permit Application and plan submittal for each project. A Blanket Permit does not authorize these activities.

Examples:
- Open cutting of pavement 55 square feet or more
- All mainline extensions
- Installation of all new laterals
- Any activities that disrupt traffic flow in arterials (full lane closure or more)