STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

JENNIFER COHAN
SECRETARY

To: ALL PUBLIC UTILITIES

From: Eric C. Cimo, Utilities Engineer, Delaware Dept. of Trans., Utilities ECC

Date: January 8, 2020

Subject: Public Utility Master Franchise Agreement

The Department of Transportation is pleased to present for your use the **State of Delaware Department of Transportation, Public Utility Master Franchise.** This application is also available on the DelDOT website at www.deldot.gov. It is important to note that the Master Franchise is the legal instrument by which the general use of the State's right-of-way is granted. Utility construction permits are required prior to any work taking place. Please review the DelDOT Utilities Manual for more information regarding the Master Franchise requirements and the overall utility construction permitting requirements and process.

Upon completion of this agreement, it may returned by either of the following ways:

RETURN VIA MAIL: Submit three (3) signed & attested, with Company seal affixed, Master Franchise forms for each County where you wish to have a franchise. Send to the attention of Eric C. Cimo, Utilities Engineer, DelDOT Division of Transportation Solutions, Utilities, 800 Bay Road, P.O. Box 778, Dover, DE 19903.

RETURN VIA FAX OR EMAIL:

- FAX: Send one signed & attested Master Franchise form for each County where you wish to have a franchise, with a title page, to the attention of Eric Cimo at 302-739-2251.
- EMAIL: Send one signed & attested Master Franchise form for each County where you wish to have a franchise to: Eric.Cimo@delaware.gov; Jerri.Fleetwood@delaware.gov; Rebecca.Patchett@delaware.gov

When execution is completed, an agreement will be sent to you, both via e-mail and postal mail. The recognized official/effective date of this agreement with your Company is the date the Franchise Agreement has been signed by the DelDOT Director of Finance with the Department seal affixed to the agreement.

If you have any questions or require additional information, please contact Eric C. Cimo, Utility Engineer, Transportation Solutions, Engineering Support, Utilities at 302-760-2515, or e-mail Eric.Cimo@delaware.gov.

Thank you.

DelDOT

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PUBLIC UTILITY MASTER FRANCHISE

_____ **(UTILITY)** a privately owned Delaware public utility, its successors, lessees, and assigns, is hereby granted the right, permission and authority to erect, construct, renew, replace, maintain and operate _____ utility facilities, together with the necessary fixtures and appurtenances within State's rights of way located in _____ County, Delaware under and subject to all conditions, restrictions, and regulations of the Department of Transportation **(DEPARTMENT)**, State of Delaware **(STATE)**. The effective date of this Master Franchise **(FRANCHISE)** shall be the date of execution by the Director of Finance and it shall remain in force for a period of fifty (50) years, unless revoked by the **DEPARTMENT** in accordance with the terms of this **FRANCHISE**. Upon expiration of the initial fifty (50) year term, this **FRANCHISE** shall automatically renew for a fifty (50) year renewal term unless otherwise agreed to by the parties.

Under and by virtue of the power and authority vested in the **DEPARTMENT** by the provisions of the Delaware Code, Title 17, Chapter 132, Subsection (c) (8) and supplements thereto, the **DEPARTMENT** orders and directs that the following conditions, restrictions and regulations shall govern the installation of all utility facilities on the **STATE'S** rights of way.

1. The granting of this **FRANCHISE** shall in no way operate as an exemption of the holder thereof from any taxes levied or to be levied in accordance with law by the governing body of this **STATE,** _____ County or any other regulatory authority.

2. The **UTILITY** shall indemnify and save harmless the **STATE** and its agencies, its officers, agents, employees, assigns, servants and the like from all suits, actions or claims of any character, whatsoever, brought because of any injuries or damage received or sustained by any persons, or property on account of the construction or operation of its said Utility facilities and fixtures by the **UTILITY**, its officers, agents, employees, assigns, independent contractors or the like undertaken within the scope of the permitted work area and arising as a result of the **UTILITY'S** negligence or willful misconduct.

3. The **UTILITY** shall perform all construction adjustment or relocation in accordance with the policies and procedures as set forth in Delaware's Administrative Code Section 2401, Utilities Manual Regulations (**UTILITY MANUAL**), as amended from time to time.

4. The **UTILITY** shall respond immediately to any emergency relating to its fixtures and appurtenances placed pursuant to this **FRANCHISE** that has a direct effect on public safety or impedes the free flow of traffic. Less urgent trouble calls shall be responded to by the **UTILITY** within three hours of being notified of the issue.

5. The **UTILITY** shall, before cutting, spraying or trimming of any tree or shrub within the right of way of any highway in the **STATE,** secure a special use permit from the Department of Transportation District Engineer's Office **(ENGINEER'S OFFICE)** of the district in which the work is to be done, by written application in which are set forth the location, number, kind, and size of trees or shrubs to be cut, sprayed, or trimmed. A representative of the **ENGINEER'S OFFICE** will inspect such proposed work and, if approved, will issue a permit.

6. The **UTILITY** shall comply with all applicable Delaware laws and regulations including but not limited to 26 *Del. C.*, Ch. 8, Delaware's Underground Utility Damage Prevention and Safety Act, and the **UTILITY MANUAL.** At a minimum the **UTILITY** shall participate in an approved one-call notification center, like Miss Utility and 811; field locate its facilities; respond to excavators within the timeframes established by code; and respond to designers within the timeframe established by the **UTILITY MANUAL**.

7. Consistent with applicable law, the **STATE** may impose such reasonable sanctions as it may deem appropriate for non-compliance with the provisions of this **FRANCHISE**. For examples and not by way of limitation, the **STATE** may impose lesser sanctions such as not issuing new permits to the **UTILITY**; or issue the immediate stop work order on any active utility construction within the **STATE** right-of-way until the **UTILITY** complies; or the suspension of this **FRANCHISE** until the non-compliance is corrected; or other measures as stated in the **UTILITY MANUAL**.

8. The **STATE** may revoke this **FRANCHISE** after 60 days written notice to the **UTILITY** of material non-compliance with this Agreement and opportunity to cure, provided that in the event that such cure requires more than 60 days to complete, this **FRANCHISE** shall remain valid so long as **UTILITY** promptly begins to effectuate such cure and diligently prosecutes such cure until completion. In the event of revocation of this **FRANCHISE** Agreement, the **STATE** may seek a Court Order to appoint a trustee to administer the **UTILITY'S** assets located within the State's roadway rights-of-way until the non-compliance is corrected or such time as the **UTILITY'S** facilities, fixtures, assets, and appurtenances are removed from the **STATE**'s roadway rights-of-way. The **STATE** will bear no cost for such removal; the cost shall be borne by the **UTILITY**. This section is not to be construed as placing any limitation upon either the **UTILITY** or the **STATE** to pursue any other legal or equitable remedy available to it for a breach of the conditions of this **FRANCHISE**.

This **FRANCHISE** may be executed in counterparts, each of which shall be an original, and such counterparts shall be construed together as one instrument. Facsimile or pdf signatures shall be deemed original signatures.

The signature of the undersigned constitutes the **STATE'S** consent to and endorsement of the provisions of this **FRANCHISE**. An official signature of the representative for the **UTILITY** when affixed hereinafter shall constitute agreement to the terms and conditions herein.

ATTEST:

_____

APPROVED FOR THE UTILITY

_____

Name:

Title:

ATTEST:

_____
Charlanne Thornton
Director, Finance

APPROVED FOR THE
DEPARTMENT OF TRANSPORTATION
DIVISION OF TRANSPORTATION SOLUTIONS

_____
Monroe Hite, III
Chief, Transportation Solutions R-O-W

_____
Date Department Seal Affixed