

SPONSORED BY: _____
PROPOSED BY: Executive
INTRODUCTION DATE: _____

ORDINANCE NO. _____

GRANTING TRANS MOUNTAIN PIPELINE (PUGET SOUND) LLC, A DELAWARE LIMITED LIABILITY COMPANY, THE NONEXCLUSIVE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO CONSTRUCT, OPERATE, MAINTAIN, REMOVE, REPLACE, AND REPAIR EXISTING PIPELINE FACILITIES, TOGETHER WITH EQUIPMENT AND APPURTENANCES THERETO, FOR THE TRANSPORTATION OF PETROLEUM PRODUCTS AND BYPRODUCTS WITHIN AND THROUGH THE FRANCHISE AREA.

WHEREAS, Trans Mountain Pipeline (Puget Sound) LLC (hereinafter “Grantee”) has applied for a multi-year franchise; and

WHEREAS, RCW 36.55.010, Whatcom County Charter Section 9.30, and Whatcom County Code Chapter 12.24 address the requirements pertaining to the granting of franchises by the County; and

WHEREAS, the Grantee desires a non-exclusive franchise to construct, operate, maintain, remove, replace and repair existing pipeline facilities, together with equipment and appurtenances thereto, for the transportation of petroleum products and byproducts within and through the Franchise Area; and

WHEREAS, said application has come on regularly to be heard by the County Council on the ___ day of _____, 2021, and notice of this hearing having been duly published on the ___ day of _____, 2021, and the ___ day of _____, 2021, in the Bellingham Herald, a daily newspaper published in Whatcom County having county-wide circulation; and

WHEREAS, it appears to the Council that notice of said application and hearing thereon has been given as required by law in RCW 36.55.040; and

WHEREAS, this Council finds, after having considered said application and being otherwise fully advised in the premises, that it is in the public interest for this Council to grant the franchise for a period of up to twenty-five (25) years; and

WHEREAS, Whatcom County and Grantee intend that the previous franchises granted to Grantee that pertain to pipelines for the transportation of petroleum projects and byproducts shall be terminated and be replaced by this Franchise;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the language set forth herein below, Sections 1 through 20, shall constitute the franchise agreement between Whatcom County and Grantee, which shall be and become effective as set forth in Section 20 thereof:

Section 1. Definitions.

For the purposes of this Franchise and all exhibits attached hereto, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning.

1.1 Construct or Construction shall mean removing, replacing, and repairing Facilities and may include, but is not limited to, digging and/or excavating for the purposes of removing, replacing, and repairing Facilities.

1.2 County means the County of Whatcom, a political subdivision of the State of Washington, and its successors and assigns.

1.3 Effective Date shall mean the date designated herein, after passage, approval and legal publication of this Ordinance and acceptance by Grantee, upon which the rights, duties and obligations shall come into effect and the date from which the time requirement for any notice, extension and/or renewal will be measured.

1.4 Facilities shall mean the Grantee's existing pipeline system including, without limitation, all pipelines, valves, mains, markers, cathodic protection systems, test caps and appurtenances used to transport or distribute Grantee's petroleum products(s).

1.5 Franchise shall mean this Franchise and any amendments, exhibits, or appendices to this Franchise.

1.6 Franchise Area means the public roads, streets, avenues, alleys, highways, grounds, and other public places of the County as described in Exhibit A.

1.7 Hazardous Substance shall mean any hazardous, toxic, or dangerous substance, material, waste, pollutant, or contaminant. The term specifically includes petroleum and petroleum products and their by-products, residue, and remainder in whatever form or state. The term shall also be interpreted to include any substance which, after release into the environment, will or may reasonably be anticipated to cause death, disease, injury, illness, behavior abnormalities or, genetic abnormalities.

1.8 Maintenance or Maintain shall mean examining, testing, inspecting, repairing, maintaining and replacing the Facilities or any part thereof as required or as necessary for safe operation.

1.9 Pipeline Corridor shall mean the pipeline pathway through the Franchise Area in which the Facilities of the Grantee are located, including any Rights-of-Way, Public Property, and/or easement over and through private property.

1.10 Public Properties shall mean the present and/or future property owned or leased by Grantor .

1.11 Operate or Operation shall mean the use of Grantee's Facilities for the transportation, distribution and handling of petroleum products or byproducts within and through the Franchise Area.

1.12 Rights-of-Way shall mean the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, rights-of-way, parks and similar Public Properties located within the Franchise Area.

1.13 Encroachment shall mean any third party activity within the Pipeline Corridor which is not authorized by Grantee.

1.14 Crossing shall mean any third party activity within the Pipeline Corridor which is authorized by Grantee, whether or not Grantee's facilities are actually crossed or bisected.

Section 2. Grant of Authority.

2.1 Grantor hereby grants to Grantee, a limited liability company organized and existing under and by virtue of the laws of the State of Delaware, and which is authorized to transact business within the State of Washington, its successors and assigns (as provided in Section 4), the right, privilege, authority and Franchise to Construct, Operate and Maintain its Facilities necessary for the transportation, distribution and handling of any petroleum product or byproduct thereof, within the existing Pipeline Corridor passing through the Franchise Area.

2.2 This Franchise is non-exclusive. Grantor reserves all rights to its property, including, without limitation, the right to grant additional franchises, easements, licenses and permits to others, provided that the Grantor shall not grant any other franchise, license, easement or permit that would unreasonably interfere with or materially increase risk of Grantee's permitted use under this Franchise. This Franchise shall in no manner prohibit the Grantor or limit its power to perform work upon its Rights-of-Way, Public Properties or make all necessary changes, relocations, repairs, maintenance, establishment, improvement thereto, or from using any of the Rights-of-Way and Public Properties, or any part of them, as the Grantor may deem fit from time to time including the dedication, establishment, maintenance and improvement of all new Rights-of-Way and other Public Properties of every type and description.

2.3 This Franchise is conditioned upon the terms and conditions contained herein, Whatcom County Charter Section 9.30, and Whatcom County Code Chapter 12.24, and Grantee's compliance with all applicable federal, state or other regulatory requirements that currently exist or may hereafter be enacted by any regulatory agencies with jurisdiction over the Grantee.

2.4 By granting this Franchise, the Grantor is not assuming any risks or liabilities, which shall be solely and separately borne by Grantee. Grantee agrees and covenants to, at its sole cost and expense, take all necessary and prudent steps to protect, support, and keep safe from harm its Facilities, or any part thereof, when necessary to protect the public health and safety.

2.5 This Franchise is intended to convey only a limited right and interest. It is not a warranty of title or interest in Grantor's Rights-of-Way or other Public Property. None of the rights granted herein shall affect the Grantor's jurisdiction over its property, streets or Rights-of-Way.

2.6 This Franchise does not and shall not convey any right to Grantee to install its Facilities on, under, over, across, or to otherwise use County owned or leased properties of any kind, either within or outside Pipeline Corridor, other than existing Rights-of-Way.

2.7 The limited rights and privileges granted under this Franchise shall not convey any right to Grantee to install any new pipeline(s) and/or Facilities without the express written consent of Grantor.

Section 3. Term.

3.1 This Franchise is and shall remain in full force and effect for a period of twenty five (25) years from and after the effective date of the Ordinance; provided, however, Grantee shall have no rights under this Franchise nor shall Grantee be bound by the terms and conditions of this Franchise unless Grantee shall, within thirty (30) days after the effective date of the Ordinance, file with the County its written acceptance of the franchise agreement contained within the Ordinance.

3.2 No franchise hereunder shall become effective for any purpose unless and until written acceptance therefore shall have been filed with the Whatcom County Council and County Director of Public Works and such written acceptance shall be in the form and substance as shall be prescribed and approved by the County Prosecuting Attorney and operate as an acceptance of each and every term and condition and limitation contained in this ordinance, and in such franchise; and

3.3 Such written acceptance shall be filed by Grantee not later than the thirtieth (30th) day following the effective date of the Ordinance granting such franchise; and in default of the filing of such written acceptance as herein required, Grantee shall be deemed to have rejected the same. In case of Grantee's tardy acceptance of franchise, the County's recognition thereof shall be strictly at its discretion.

Section 4. Assignment and Transfer of Franchise; Transfer of Control.

4.1 Per Whatcom County Code Chapter 12.24, this Franchise shall not be leased, assigned or otherwise alienated without the express consent of the Grantor by ordinance, which approval shall not be unreasonably withheld.

4.2 No transfer shall be approved unless the assignee or transferee has at least the legal, technical, financial, and other requisite qualifications to carry on the activities of the Grantee.

4.2.1 Grantee and any proposed assignee or transferee shall provide to the County not less than 120 days prior to the proposed date of transfer (a) information setting forth the nature of the

proposed assignment or transfer; and, (b) such reasonable information regarding the proposed assignee or transferee (including that information required of a franchise of a franchise applicant under Whatcom County Code Chapter 12.24 to enable the County to adequately assess the legal, technical, financial and other relevant qualifications of the assignee or transferee.

4.2.2 Grantee and/or the assignee or transferee will reimburse the County for its actual and reasonably incurred costs for processing and investigating the proposed assignment or transfer.

4.3 Any transfer or assignment of this Franchise without the prior written consent of the County shall be void and result in revocation of the Franchise.

4.4 If Grantee intends to enter into a transaction that would result in a change of the operational control of Grantee, Grantee will notify the County in writing and provide at least 90 days for the County to provide Grantee with written comments and issues of concern the County may have with the proposed transfer of control. Grantee agrees to provide a written response to the County's comments within 60 days of receiving the County's comments.

Section 5. Compliance with Laws and Standards.

5.1 In carrying out any authorized activities under the privileges granted herein, Grantee shall meet accepted industry standards and comply with all applicable laws of any governmental entity with jurisdiction over the pipeline and its operation. This shall include all applicable laws, rules and regulations existing at the Effective Date of this Franchise or that may be subsequently enacted by any governmental entity with jurisdiction over Grantee and/or the pipeline(s) and Facilities.

5.2 In the case of any conflict between the terms of this Franchise and the terms of Grantor's ordinances, codes, regulations, standards and procedures, this Franchise shall govern.

Section 6. Construction and Maintenance.

6.1 All Construction, Maintenance, and Installation Work within the Franchise Area shall be subject to the approval and pass the inspection of the County Engineer, and shall conform to all applicable local, state and federal standards, codes or regulations. The County expressly reserves the right to prescribe standards as to how and where Facilities shall be installed, provided however, that such County standards shall be consistent with standard engineering practices in the applicable industry and shall not conflict with any applicable federal or state laws, rules, standards, codes or regulations.

6.2 Prior to commencement of construction of any new Facilities, Grantee shall first file with the Whatcom County Engineer its application for permits to do such work, together with plans and specifications in duplicate showing the position and location of all such Facilities sought to be constructed, laid, installed or erected at that time showing their position relative to existing County roads, rights-of-way, or other County property within the Franchise Area upon plans drawn to scale. The Facilities shall be laid in conformity with said plans and specifications of definite location, except in instances in which deviation may be allowed thereafter in writing by

the County Engineer. The plans and specifications shall specify the class and type of material and equipment to be used, manner of excavation, construction, installation, backfill, erection of temporary structures, erection of permanent structures, traffic control, traffic turnouts and road obstructions, etc. No such construction shall be commenced without Grantee first securing a written permit from the County Engineer, including approval endorsed on one set of plans and specifications returned to Grantee. All such work shall be subject to the approval of and shall pass the inspection of the County Engineer. Grantee shall pay all costs of and expenses incurred in the examination, inspection and approval of such work on account of granting the said permits.

6.3 Unless such condition or regulation is in conflict with a federal requirement, the Grantor may condition the granting of any permit or other approval that is required under this Franchise, in any manner reasonably necessary for the safe use and management of any public Right-of-Way or the Grantor's property including, by way of example and not limitation, bonding, maintaining proper distance from other utilities, protecting the continuity of pedestrian and vehicular traffic and protecting any Rights-of-Way improvements, private facilities and public safety.

6.3 In preparing plans and specifications for the installation of Facilities within the Franchise Area, Grantee shall reasonably conform to the standards and specifications established by the County Engineer. Grantee shall consult with the County Engineer in case it plans to deviate from the established standards and specifications in the course of installing Facilities within the Franchise Area and must demonstrate to the satisfaction of the County Engineer that its plans will achieve a legal and functionally equivalent result.

6.4 All Construction and/or Maintenance work shall be performed in substantial conformity with the plans, maps, specifications filed with the Grantor, except in instances in which deviation may be allowed thereafter in writing pursuant to an application by the Grantee.

6.5 In any work which requires breaking of soil within the Franchise Area for the purpose of laying, relaying, connecting, disconnecting, constructing, maintaining and repairing Grantee's Facilities, and making connections between the same to structures and buildings of consumers or making connections to other Facilities now in existence or hereafter constructed, Grantee shall be governed by and conform to the general rules adopted by the County Engineer; and Grantee at its own expense and with due diligence shall complete the work for which the soil has been broken and forthwith replace the work and make good the Franchise Area and leave the same in as good condition as before the work was commenced; provided, however, that no such breaking of the soil within the Franchise Area shall be done prior to the obtaining of a permit issued by the County Engineer except in the event of an emergency. Applications for such a permit shall be accompanied by specifications for the restoration of the Franchise Area to the same condition as it was in prior to such breaking, and such specifications must be approved by the County Engineer before such breaking of the soil is commenced; provided further, that the County Engineer may require a performance bond in a reasonable sum sufficient to guarantee that such Franchise Area shall be restored to the same condition as it was in prior to such breaking of the soil, the amount of said bond to be fixed by the County Engineer. Grantee shall pay all costs of and expenses incurred in the examination, inspection and approval of such restoration. The

County Engineer may at any time do, order, or have done, any and all work that the County Engineer considers necessary to restore to a safe condition any Franchise Area left by Grantee or its agents in a condition dangerous to life or property, and Grantee upon demand shall pay to the County all costs of such work, the County having first provided notice of such condition to Grantee and a reasonable time to cure such unsafe condition, provided however, in the event of damage to the Franchise Area caused by Grantee that necessitates immediate repair by the County or its agents on an emergency basis where notice to Grantee or providing an opportunity to cure is not feasible considering nature of the emergency and necessary repair, as determined by the County Engineer using professional engineering standards, no such notice and reasonable time to cure shall be required as a condition of repayment by the Grantee.

6.6 All work done by and for Grantee under this Franchise shall be done in a thorough and workmanlike manner. In the Construction and/or Maintenance of Facilities and the opening of trenches within and the tunneling under the Franchise Area, Grantee shall leave such trenches and tunnels in such a way as to interfere as little as possible with public travel, and shall take all due and necessary precautions to guard the same, so that damage or injury shall not occur or arise by reason of such work. Where any of such trenches, ditches, or tunnels are left open at night, Grantee shall place warning lights and barricades at such a position as to give adequate warning of such work, per the MUTCD (Manual on Uniform Traffic Control Devices). Grantee shall be liable for any injury to person or persons or damage to property to the extent proximately caused by its carelessness or neglect, or to the extent proximately caused by any failure or neglect to properly guard or give warning of any trenches, ditches or tunnels dug or maintained by Grantee.

6.7 Before any Construction and/or Maintenance work is performed under this Franchise which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads and all other surveys, Grantee shall reference all such monuments and markers. The reference points shall be so located that they will not be disturbed during Grantees 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 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 by approved monuments shall be borne by Grantee. A complete set of reference notes for monuments and other ties shall be filed with the County Engineer's Office.

6.8 Grantee shall continuously be a member of the State of Washington one number locator service under RCW 19.122, or an approved equivalent, and shall comply with all such applicable rules and regulations. In addition to the notice to Grantor required under Section 6.2, Grantee shall provide reasonable notice prior to commencing any Maintenance or Construction under this Franchise to those owners or other persons in control of property in the Franchise Area when the Maintenance or Construction will affect access or otherwise materially impact the property.

6.9 Markers demarcating the Pipeline Corridor shall be placed on the surface permitting line of sight at any location on the pipeline Right-of-Way and in each side of any road or water

crossing so as to provide clear warning of the presence of the pipeline but in a manner that does not interfere with trials or other public uses in that area.

6.10 Upon acceptance of this Franchise by Grantee, the Grantee shall file and thereafter maintain at all times with the Grantor any survey, maps or roll drawings in its possession depicting the location of the Pipeline Corridor within the Franchise Area as well as the approximate location of Grantee's Facilities within the Pipeline Corridor along with all other known utilities, landmarks, and physical features. When the city or third parties are engaged in work in the Pipeline Corridor, or within fifty (50) feet of the Pipeline Corridor, Grantee shall within two (2) business days respond to requests to surface locate and mark the position of its Facilities. If the project is a Whatcom County project, Grantee shall bear any costs associated with locating its Facilities, otherwise the cost shall be borne by the party making the request. In situations where the work in the Pipeline Corridor requires that the depths of the pipeline be accurately known as determined by Grantee, prior to work commencing, Grantee shall pothole or take other action as Grantee deems necessary to ascertain the depth and exact location of the pipeline in the area of the work.

6.11 Nothing in this Franchise shall be deemed to impose any duty or obligation upon Grantor to determine the adequacy or sufficiency of Grantee's plans and designs or to ascertain whether Grantee's proposed or actual construction, testing, maintenance, repairs, replacement or removal is adequate or sufficient or in conformance with the plans and specifications reviewed by Grantor.

6.12 Grantee shall be solely and completely responsible for workplace safety and safe working practices on its job sites within the Franchise area, including safety of all persons and property during the performance of any work.

Section 7. Noninterference of Facilities.

7.1 As to new Facilities, Grantee's Facilities shall be placed and maintained within the Franchise Area so as not to unreasonably interfere with the free passage of traffic and in accordance with all applicable laws, rules, and regulations. Prior to the installation of new Facilities within the Franchise Area, Grantee may request that the County determine whether the proposed placement of the Facilities will unreasonably interfere with the free and safe passage of traffic, and the County shall make such determination in writing within a reasonable period of time. If the proposed location is not approved by the County Engineer, the County Engineer shall advise in writing what reasonable modifications to the proposed location of the Facilities are necessary for the County Engineer to issue a determination that the proposed location of the Facilities will not unreasonably interfere with the free and safe passage of traffic.

7.2 Grantee's existing Facilities shall be maintained within the Franchise Area so as not to unreasonably interfere with the free passage of traffic and in accordance with all applicable laws, rules, and regulations. Except as provided in Section 6 below, upon determination by the County that current placement of particular Facilities unreasonably interferes with free or safe passage of traffic, the County shall notify Grantee which shall, at its own expense, act promptly to rectify

the problem in consultation with the County. Grantee shall exercise its rights under this Franchise and within the Franchise Area in accordance with all County codes and ordinances governing use and occupancy of the Franchise Area; provided, however, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise, the terms and conditions of this Franchise shall govern and control to the extent authorized by law; provided, further, nothing herein shall be deemed to waive, prejudice or otherwise limit any right of appeal afforded Grantee by such County codes and ordinances.

7.3 All construction or installation of such Facilities, service, repair, or relocation of the same, performed over, above, along or under the Franchise Area shall be done in such a manner as not to interfere unreasonably with the construction and maintenance of other existing utilities, lines, public or private, drains, drainage ditches and structures, irrigation ditches and structures, located therein, nor with the grading or improvement of the Franchise Area. The owners of all utilities, public or private, installed in the Franchise Area prior in time to the Facilities of Grantee shall have preference as to the positioning and location of such utilities so installed with respect to Grantee. Such preference shall continue in the event of the necessity of relocating or changing the grade of the Franchise Area. Grantee shall have such preference as to owners of all utilities, public or private, initially installed in the Franchise Area subsequent in time to Grantee's Facilities. Notwithstanding any such preference, the County will attempt to work with the Grantee and other utility owners to develop a plan for the relocation of utilities in a practical, safe and cost-effective manner.

7.4 The locating, laying, construction, operation and maintenance of Grantee's Facilities authorized by this Franchise shall not preclude the County, its agents or its contractors from blasting, grading, excavating, or doing other necessary road work contiguous to Grantee's Facilities, provided that Grantee and the County shall first check with Washington 811 to determine whether or not any of Grantee's lines are located in the proposed work area. Upon finding from Washington 811 that Grantee does have lines located within the proposed work area, the County shall provide Grantee with seventy-two (72) hours notice of proposed work, except if a lesser time for notice is warranted by emergency, in order that the Grantee may protect its Facilities. Failure of Grantee to properly notify the locator service of the location of its lines and Facilities shall relieve County of its duty to provide Grantee the otherwise-required advance notice of proposed work. The County acknowledges that the Facilities include a pressurized pipe line for the transmission of petroleum products. As such, the County acknowledges that any work in, around or near such Facilities require the exercise of reasonable standard professional engineering and construction caution and practices in, around or near such Facilities. Accordingly, the County acknowledges that upon receipt of notice of the location of such Facilities the County shall undertake all reasonable standard professional engineering and construction caution practices and/or requirements when conducting or permitting any work in, around or near such Facilities.

7.5 Grantee shall maintain all above-ground Facilities that it places in the Franchise Area. In order to avoid interference with the County's ability to maintain the Franchise Area, Grantee shall provide a clear zone of five (5) feet on all sides of such above-ground Facilities. If Grantee fails to comply with this provision, and by its failure, property is damaged, then Grantee shall be deemed responsible for all damages caused thereby and the County shall be released from any

responsibility therefore. For these purposes, “clear zone” means an area that is mowed or otherwise maintained so that the Facilities are readily visible to County maintenance operations.

Section 8. Operations, Maintenance, Inspection, Testing.

8.1 Grantee shall operate, maintain, inspect and test its Facilities in the Franchise Area in full compliance with the applicable provisions of all federal, state and local laws, regulations and standards, as now enacted or hereafter amended, and any other future laws or regulations that are applicable to Grantee’s Facilities, products and business operations.

8.2 If the federal office of pipeline safety or the state regulatory agency significantly decrease their staff, or if any congressional or legislative study indicates that federal or state regulatory oversight has significantly decreased in effectiveness during the term of this Franchise, then Grantee and Grantor agree to expeditiously negotiate new franchise provisions that will provide Grantor with access to detailed information regarding testing and inspection such as would have been routinely submitted to the federal or state regulatory agencies under the regulations in effect at the time of the Effective Date. Grantee agrees to cover all costs reasonably incurred by Grantor for expert assistance in interpreting the testing and inspection data. If Grantor and Grantee fail to agree upon new franchise provisions, the issues shall be resolved through the Dispute Resolution provisions of Section 13.

Section 9. Encroachment and Crossing Management.

9.1 Within ninety (90) days of entering into this Franchise, and on an annual basis thereafter, Grantee shall provide a written Encroachment and Crossing management plan that demonstrates how Grantee’s Facilities are and will be protected against Encroachments and Crossings. This plan shall include at least the following: 1) education and one-call involvement as defined in Federal Regulations; 2) and Encroachment management processes demonstrating: a) Grantee’s process for monitoring unauthorized activity in or near the Pipeline Corridor; b) Grantee’s field verification of the location of Facilities within the Pipeline Corridor; c) Grantee’s Encroachment tracking system; d) control center notification of existing or active encroachments; and e) assertive protection of the pipeline Rights-of-Way and; 3) Grantee’s process for approving Crossings, and its policies and procedures with respect thereto.

9.2 Upon notification to Grantee of planned construction involving excavation or any activity that could abnormally load the pipeline, by either Grantor or any third party, within fifty (50) feet of Grantee’s Pipeline Corridor, Grantee shall flag the location of its Facilities before the construction or activity commences, provide a representative to inspect the construction when it commences, and periodically inspect thereafter to ensure that Grantee’s Pipeline is not damaged by the construction or activity. In situations where the work in the Pipeline Corridor requires that the depth of the pipeline be accurately known as determined by Grantee, prior to work commencing, Grantee shall pothole or take other action as Grantee deems necessary to ascertain the depth and exact location of the pipeline in the area of the work.

9.3 Upon Grantor’s Reasonable request, in connection with the design of any County project, Grantee will verify the exact location of its underground Facilities within the Pipeline Corridor

by excavating (pot holing) at no expense to Grantor. In the event Grantee performs such excavation, Grantor shall not require any restoration of the disturbed area in excess of restoration to the same conditions as existed immediately prior to the excavation.

Section 10. Leaks, Spills, Ruptures and Emergency Response.

10.1 Grantee shall have in place, at all times during the term of this Franchise, a system for remotely monitoring pressures and flows across the Franchise Area. The remote monitoring must be able to accurately detect pipeline ruptures.

10.2 During the term of this Franchise, Grantee shall have a written emergency response plan and procedure for locating leaks, spills, and ruptures and for shutting down valves as rapidly as possible.

10.3 Grantee has provided Grantor with a copy of its state approved emergency response plans and procedures, including but not limited to, emergency response for spills or leaks. Grantee will provide Grantor an updated copy of its emergency response plans and procedures after they are adopted and approved.

10.4 Grantee's emergency plans and procedures shall designate Grantee's responsible local emergency response officials and a direct 24-hour emergency contact number for control center operator. Grantee shall, after being notified of an emergency, cooperate with the Grantor and make every effort to respond as soon as possible to protect the public's health, safety and welfare.

10.5 Upon prior written request of Grantor, Grantee agrees to meet annually to review its emergency response plans and procedures.

10.6 Grantee shall be solely responsible for all necessary costs incurred by city, county, special district or state agencies in responding to any rupture, spill, or leak from Grantee's Facilities, including, but not limited to, detection and removal of any contaminants from air, earth or water, and all actual remediation costs. This section shall not limit Grantees rights or causes of action against any third party or parties who may be responsible for a leak, spill or other release of hazardous liquid from Grantees pipeline, including such third party's insurers.

10.7 In addition to the notification requirements in the emergency response plan, Grantee shall notify Grantor of any uncontained leak, spill or rupture, outside of a vault or pump station, of petroleum product from its Facilities within or affecting the Franchise Area totaling one (1) barrel or more within one (1) business day of its observation or detection.

10.8 If requested by Grantor in writing, Grantee shall follow-up this notice within thirty (30) days with a written summary of the event, including, but not limited to, the leak, spill, or rupture's date, time, amount, location, response, remediation and other agencies Grantee has notified.

10.9 In the event of an uncontained leak, spill or rupture from Grantee's pipeline(s) and/or Facilities affecting the Franchise Area of ten (10) barrels or more, where the cause is not reasonably apparent, and where federal or state regulators do not investigate, the Grantor may demand that the occurrence be investigated by an independent pipeline consultant selected by Grantor. Grantee shall be solely responsible for paying all of the consultant's costs and expenses incurred in investigating the occurrence and reporting the findings. Grantee shall meet and confer with the independent consultant following the consultant's investigation to address whether any modifications or additions to Grantee's pipeline(s) and/or Facilities may be warranted. In cases where federal or state regulators do perform an investigation, Grantee agrees to share the results of that investigation with the County within sixty (60) days from receipt of the same.

10.10 If the consultant recommends that Grantee make modifications or additions to Grantee's Facilities, Grantee covenants to consider said recommendations in good faith. If Grantee declines to follow the consultant's recommendations, Grantee shall provide a written report to the Grantor explaining its reasoning for not following said recommendations. The parties agree to comply with the dispute resolution provisions contained herein to resolve any dispute over whether to follow the consultant's recommendations.

Section 11. Relocation.

11.1 In the event that Grantor undertakes or approves the construction of or changes to the grade or location of any water, sewer or storm drainage line, street, sidewalk or improvement project or any governmental agency or any person or entity acting in a governmental capacity, or on the behalf of, under the authority of, or at the request of the Grantor or any other governmental agency, undertakes any improvement project and the Grantor determines that the project might reasonably require the relocation of Grantee's Facilities, Grantor shall provide the Grantee at least one hundred and twenty (120) calendar days prior written notice or such additional time as may reasonably be required, of such project requiring relocation of Grantee's Facilities.

11.2 Grantor shall provide Grantee with copies of pertinent portions of the plans and specifications for the improvement project. Upon request, Grantee shall, at its cost and expense, determine and identify for Grantor the exact location of its Facilities potentially affected by the improvement project.

11.3 Grantee may, after receipt of written notice requesting a relocation of its Facilities, submit to Grantor written alternatives to the relocation within forty five (45) calendar days of receiving the plans and specifications. Grantor shall evaluate the alternatives and advise Grantee in writing if one or more of the alternatives are suitable to accommodate the work that would otherwise necessitate relocation of the Facilities. If requested by Grantor, Grantee shall submit additional information to assist Grantor in making the evaluation. Grantor shall give each alternative proposed by Grantee full and fair consideration but retains full discretion to decide for itself whether to utilize its original plan or an alternative proposed by Grantee. In the event Grantor ultimately determines that there is no other reasonable alternative, Grantee shall relocate its Facilities as proposed by Grantor.

11.4 If any improvement project under Section 11.1 is required in the interest of public health, safety, welfare, necessity or convenience, as adjudged in the sole discretion of the Grantor acting reasonably, the Grantee shall make such changes as required herein at Grantee's sole cost, expense and risk.

11.5 Grantor shall work cooperatively with Grantee in determining a viable and practical route within which Grantee may relocate its Facilities, in order to minimize costs while meeting Grantor's project objectives.

11.6 Grantee shall complete relocation of its Facilities so as to accommodate the improvement project at least ten (10) calendar days prior to commencement of the improvement project or such other time as the parties may agree in writing.

Section 12. Decommissioning.

12.1 In the event of Grantee's permanent cessation of use of its Facilities within the Franchise Area, the Grantee shall, within one hundred and eighty (180) days after receipt of written notification from Grantor, remove the Facilities from Public Properties.

12.2 In the event of the removal of all or a portion of the Facilities, Grantee shall restore the Public Properties to as good or better condition as they were in before the work began.

12.3 Removal and/or Decommissioning and restoration work shall be done at Grantee's sole cost and expense in accordance with all applicable regulations and standards. Grantee shall be responsible for any environmental review required for removal and/or decommissioning of any Facilities and the payment of any costs of the environmental review.

12.4 If Grantee is required to remove its Facilities and fails to do so and/or fails to adequately restore the Public Properties or other mutually agreed upon action(s), Grantor may, after reasonable notice to Grantee, remove the Facilities, restore the Public Properties and/or take other action as is reasonably necessary at Grantee's expense. This remedy shall not be deemed to be exclusive and shall not prevent Grantor from seeking a judicial order directing that the Facilities be removed.

12.5 If permitted by applicable regulations and with the express written consent of the Grantor, Grantee may purge its Facilities located on Public Properties and abandon them in place. Grantee shall be responsible for any environmental review required for the abandonment of any Facilities and the payment of any costs of such environmental review. Grantor's consent to the abandonment of Facilities on Public Properties in place shall not relieve the Grantee of the obligation and/or costs to remove or to alter such Facilities in the future in the event it is reasonably determined that removal or alterations is necessary or advisable for the health and safety of the public, in which case the Grantee shall perform such work at no cost to the Grantor. This provision shall survive the expiration, revocation or termination of this Franchise.

12.6 The parties expressly agree that this provision of this Section shall survive the expiration, revocation or termination of this Franchise.

Section 13. Violations, Remedies and Termination.

13.1 In addition to any rights set out elsewhere in this Franchise, or other rights it may possess at law or equity, the Grantor reserves the right to apply any of the following remedies, alone or in combination, in the event Grantee violates any material provision of this Franchise. The remedies provided for in this Franchise are cumulative and not exclusive; the exercise of one remedy shall not prevent the exercise of another or any rights of the Grantor at law or equity.

13.2 Grantor may terminate this Franchise if Grantee materially breaches or otherwise fails to perform, comply with or otherwise observe any of the terms and conditions of this Franchise, or fails to maintain all required licenses and approvals from federal, state, and local jurisdictions, and fails to cure such breach or default within thirty (30) calendar days of Grantor's providing Grantee written notice thereof, or, if not reasonably capable of being cured within thirty (30) calendar days, within such other reasonable period of time as the parties may agree upon.

13.3 This Franchise shall not be terminated except upon a majority vote of the full membership of the County Council, after reasonable notice to Grantee and an opportunity to be heard, provided that if exigent circumstances necessitate immediate termination, the hearing may be held as soon as possible after the termination.

13.4 In the event of termination under this Franchise, Grantee shall immediately discontinue operation of the Facilities within the Franchise Area. Either party may in such case invoke the dispute resolution provisions herein. Alternatively, Grantor may elect to seek relief directly in Superior Court, in which case the dispute resolution requirements shall not be applicable in this limited situation. Once the Grantee's rights to Operate in the Franchise Area have terminated, Grantee shall comply with Franchise provision regarding removal and/or abandonment of Facilities.

13.5 Grantor's failure to exercise a particular remedy at any time shall not waive Grantor's right to terminate, assess penalties, or assert any other remedy at law or equity for any future breach or default of Grantee.

13.6 Termination of this Franchise shall not release Grantee from any liability or obligation with respect to any matter occurring prior to such termination, nor shall such termination release Grantee from any obligations to remove or secure the Facilities pursuant to this Franchise and to restore the Franchise Area.

13.7 The parties acknowledge that the covenants set forth herein are essential to this Franchise, and, but for the mutual agreements of the parties to comply with such covenants, the parties would not have entered into this Franchise. The parties further acknowledge that they may not have an adequate remedy at law if the other party violates such covenant. Therefore, the parties shall have the right, in addition to any other rights they may have, to obtain in any court of competent jurisdiction injunctive relief to restrain any breach or threatened breach or

otherwise to specifically enforce any of the covenants contained herein should the other party fail to perform them.

Section 14. Dispute Resolution.

14.1 In the event of a dispute between the Grantor and Grantee arising by reason of this Franchise, the dispute shall first be referred to the operational officers or representatives designated by Grantor and Grantee to have oversight over the administration of this Franchise. The officers or representatives shall meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the parties shall make a good faith effort to attempt to achieve a resolution of the dispute.

14.2 In the event that the parties are unable to resolve the dispute under the procedure set forth in this section, then the parties hereby agree that the matter shall be referred to mediation. The parties shall mutually agree upon a mediator to assist them in resolving their differences. If the parties are unable to agree upon a mediator, the parties shall jointly obtain a list of seven (7) mediators from a reputable dispute resolution organization and alternate striking mediators on that list until one remains. A coin toss shall determine who may strike the first name. If a party fails to notify the other party of which mediator it has stricken within two (2) business days, the other party shall have the option of selecting the mediator from those mediators remaining on the list. Any expenses incidental to mediation shall be borne equally by the parties.

14.3 If the parties fail to achieve a resolution of the dispute through mediation, either party may then pursue any available judicial remedies, provided that if the party seeking judicial redress does not substantially prevail in the judicial action, it shall pay the other party's reasonable legal fees and costs incurred in the judicial action.

Section 15. Indemnification.

15.1 General Indemnification. Except to the extent caused by the actions or omissions of Grantor, its employees, agents, contractors and subcontractors ("Grantor's Actions"), Grantee shall indemnify, defend and hold harmless Grantor from any and all liability, loss, damage, cost, expense, and claim of any kind, including reasonable attorneys' and experts' fees incurred by Grantor in defense thereof, arising out of a related to, directly or indirectly, the installation, construction, operation, use, location, testing, repair, maintenance, removal, or abandonment of Grantee's Facilities, or from the existence of Grantee's Facilities, and the products contained in, transferred through, released or escaped from said Facilities, including the reasonable costs of assessing such damages and any liability for costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any environmental laws. Except to the extent caused by Grantor's Actions, if any action or proceeding is brought against Grantor by reason of the Facilities, Grantee shall defend the Grantor at the Grantee's complete expense, provided that, for uninsured actions or proceedings, defense attorneys shall be approved by Grantor, which approval shall not be unreasonably withheld.

15.2 Environmental Indemnification. Except to the extent caused by Grantor's Actions, Grantee shall indemnify, defend and save Grantor harmless from and against any and all liability, loss, damage, expense, actions and claims, either at law or in equity, including, but not limited to, costs and reasonable attorneys' and experts' fees incurred by Grantor in defense thereof, arising directly or indirectly from (a) Grantee's breach of any environmental laws applicable to the Facilities or (b) from any release of a hazardous substance on or from the pipeline or (c) other activity related to this Franchise by Grantee, its agents, contractors or subcontractors. This indemnity includes but is not limited to (a) liability for a governmental agency's cost of removal or remedial action for hazardous substances; (b) damages to natural resources caused by hazardous substances, including the reasonable costs of assessing such damages; (c) liability for any other person's costs of responding to hazardous substances; (d) liability for any costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any environmental laws; and (e) liability for personal injury, property damage, or economic loss arising under any statutory or common-law theory.

Section 16. Insurance and Bond Requirements.

16.1 During this Franchise, Grantee shall provide and maintain, at its own cost, insurance in the minimum amount of ONE HUNDRED MILLION UNITED STATES DOLLARS (\$100,000,000.00) in the aggregate, in a form and with a carrier reasonably acceptable to the Grantor, naming Grantor as an additional insured and solely to the extent of Grantee's indemnity obligations hereunder, to cover any and all insurable liability, damage, claims and loss to the extent such coverage is reasonably available in the commercial marketplace, excepting at all times liability for fines and penalties for violation of environmental laws and punitive damages. Insurance coverage shall include, but is not limited to, defense costs. Such insurance shall include, but is not limited to, pollution liability coverage, at a minimum covering liability from sudden and accidental occurrences, subject to time element reporting requirements as is reasonably available in the commercial marketplace.

16.2 In addition to the insurance requirements set forth herein in Paragraph 16.1, Grantee shall also maintain commercial automobile liability insurance in an amount not less than TWO MILLION U.S. DOLLARS (\$2,000,000.00) per occurrence, covering bodily injury, death, and property damage.

16.3 Proof of insurance naming Grantor as an additional insured, including any endorsement that may be required, shall be provided to the Grantor prior to the beginning of any substantial work, testing or construction or reconstruction on the Pipeline. Said insurance shall contain a provision that it shall not be canceled without a minimum of thirty (30) days prior written notice to the Grantor.

16.4 The indemnity and insurance provisions contained herein shall survive the termination of this Franchise and shall continue for as long as the Grantee's Facilities shall remain in use on Public Properties or until the parties execute a new Franchise Agreement which modifies or terminates these indemnity and insurance provisions.

Section 17. Receivership and Foreclosure.

17.1 Grantee shall immediately notify the Grantor in writing if it: files a voluntary petition in bankruptcy, a voluntary petition to reorganize its business, or a voluntary petition to effect a plan or other arrangement with creditors; files an answer admitting the jurisdiction of the Court and the material allegations of an involuntary petition filed pursuant to the Bankruptcy Code, as amended; or is adjudicated bankrupt, makes an assignment for the benefit of creditors, or applies for or consents to the appointment of any receiver or trustee of all or any part of its property including all or any parts of its business operations, pipeline(s) or Facilities within or affecting the Franchise Area.

17.2 Upon the foreclosure or other judicial sale of all or a substantial part of Grantee's business operations, or Facilities within or affecting the Franchise Area, or upon the termination of any lease covering all or a substantial part of the Facilities within or affecting the Franchise Area, or upon the occasion of additional events which effectively cause termination of Grantee's rights or ability to operate the Facilities within or affecting the Franchise Area, Grantee shall notify the Grantor of such fact, and such notification or the occurrence of such terminating events shall be treated as a notification that a change in control of the Grantee has taken place, and the provisions of this Franchise Agreement governing the consent of the Grantor to such change in control of the Grantee shall apply.

17.3 The Grantor shall have the right to cancel this Franchise one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of a Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless: a) Within one hundred twenty (120) days after the election or appointment, such receiver or trustee shall have fully complied with all of the provisions of this Franchise Agreement and remedied any existing violations and/or defaults; and b) Within said one hundred twenty (120) days, such receiver or trustee shall have executed an agreement, duly approved by the court having jurisdiction, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise Agreement granted to the Grantee except where expressly prohibited by Washington law.

Section 18. Franchise Fee and Costs.

18.1 In consideration for granting this Franchise and for the use of the Public Properties in the Franchise Area, there is hereby established an annual fee equal to Twenty Five Thousand and 00/100 Dollars (\$25,000.00). The parties agree that the foregoing fee is proportional to the municipal services provided.

18.2 The first annual payment shall be paid at the time Grantee accepts this Franchise and shall cover the next twelve (12) months. Each succeeding installment shall cover the next twelve (12) month period and shall be paid not later than the anniversary date of the Effective Date of this Franchise.

18.3 Interest shall accrue on any late payment at the rate of twelve percent (12%) per annum. The annual fee shall remain constant for the first three (3) years of this Franchise and shall then subsequently increase at a rate of one and a half percent (1 1/2 %) every year thereafter beginning with year four (4) for the Franchise's remaining term.

18.4 Grantee agrees to pay a fee or a charge so that Grantor recovers its actual, reasonable, administrative expenses directly related to preparing and approving this Franchise. Nothing herein shall preclude Grantor from charging administrative fees or recovering administrative costs incurred by Grantor in the approval of permits or in the reasonable supervision, inspection or examination of all work by Grantee in the Franchise Area to ensure compliance with the terms of this Franchise and the applicable permits, as required by the applicable provisions of Grantor's municipal code.

Section 19. Legal Relations.

19.1 Nothing contained in this Franchise shall be construed to create an association, trust, partnership, agency relationship, or joint venture or to impose a trust, partnership, or agency duty, obligation or liability on or with regard to any party. Each party shall be individually and severally liable for its own duties, obligations, and liabilities under this Franchise.

19.2 Grantee accepts any privileges granted by Grantor to the Franchise Area, public Rights-of-Way and other Public Property in an "as is" condition. Grantee agrees that Grantor has never made any representations, implied or express warranties or guarantees as to the suitability, security or safety of Grantee's location of facilities or the facilities themselves in Public Property or Rights-of-Way or possible hazards or dangers arising from other uses of the public Rights-of-Way or other Public Property by Grantor or the general public. Grantee shall remain solely and separately liable for the function, testing, maintenance, replacement and/or repair of the pipeline or other activities permitted under this Franchise.

19.3 Grantee waives immunity under Title 51 RCW in any cases involving the Grantor and affirms that the Grantor and Grantee have specifically negotiated this provision, to the extent it may apply.

19.4 This Franchise shall not create any duty of Grantor or any of its officials, employees or agents and no liability shall arise from any action or failure to act by Grantor or any of its officials, employees or agents in the exercise of powers reserved to the Grantor. Further, this ordinance is not intended to acknowledge, create, imply or expand any duty or liability of the Grantor with respect to any function in the exercise of its police power or for any other purpose. Any duty that may be deemed to be created in Grantor shall be deemed a duty to the general public and not to any specific party, group or entity.

19.5 This Franchise shall be governed by, and construed in accordance with, the laws of the State of Washington and the parties agree that in any action, except actions based on federal questions, venue shall lie exclusively in Whatcom County, Washington.

Section 20. Miscellaneous.

20.1 In the event that a court or agency of competent jurisdiction declares a material provision of this Franchise to be invalid, illegal or unenforceable, the parties shall negotiate in good faith and agree, to the maximum extent practicable in light of such determination, to such amendments or modifications as are appropriate actions so as to give effect to the intentions of the parties as reflected herein. If severance from this Franchise of the particular provision(s) determined to be invalid, illegal or unenforceable will fundamentally impair the value of this Franchise, either party may apply to a court of competent jurisdiction to reform or reconstitute the Franchise so as to recapture the original intent of said particular provision(s). All other provisions of the Franchise shall remain in effect at all times during which negotiations or a judicial action remains pending.

20.2 Whenever this Franchise sets forth a time for any act to be performed, such time shall be deemed to be the essence, and any failure to perform within the allotted time may be considered a material violation of this Franchise.

20.3 In the event that Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason(s) beyond the reasonable control of Grantee, then Grantee's performance shall be excused during the Force Majeure occurrence. Upon removal or termination of the Force Majeure occurrence the Grantee shall promptly perform the affected obligations in an orderly and expedited manner under this Franchise or procure a substitute for such obligation or performance that is satisfactory to Grantor. Grantee shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

20.4 The Section headings in this Franchise are for convenience only, and do not purport to and shall not be deemed to define, limit, or extend the scope or intent of the Section to which they pertain.

20.5 By entering into this Franchise, the parties expressly do not intend to create any obligation or liability, or promise any performance to, any third party, nor have the parties created for any third party any right to enforce this Franchise.

20.6 This Franchise and all of the terms and provisions shall be binding upon and inure to the benefit of the respective successors and assignees of the parties.

20.7 Whenever this Franchise calls for notice to or notification by any party, the same (unless otherwise specifically provided) shall be in writing and directed to the recipient at the address set forth in this Section, unless written notice of change of address is provided to the other party. If

the date for making any payment or performing any act is a legal holiday, payment may be made or the act performed on the next succeeding business day which is not a legal holiday.

Notice shall be directed to the parties as follows:

For Grantor: County Executive
Whatcom County Courthouse, Suite 108
311 Grand Ave.
Bellingham, WA 98225

For Grantee: Trans Mountain Pipeline (Puget Sound) LLC
c/o Land & Right-of-Way Department
7815 Shellmont Street
Burnaby, BC V5A 4S9

20.8 The parties each represent and warrant that they have full authority to enter into and to perform this Franchise, that they are not in default or violation of any permit, license, or similar requirement necessary to carry out the terms hereof, and that no further approval, permit, license, certification, or action by a governmental authority is required to execute and perform this Franchise, except such as may be routinely required and obtained in the ordinary course of business.

20.9 This Franchise and the attachments hereto represent the entire understanding and agreement between the parties with respect to the subject matter and it supersedes all prior oral negotiations between the parties. This Franchise can be amended, supplemented, modified or changed only by an agreement in writing which makes specific reference to the Franchise or the appropriate attachment and which is signed by the party against whom enforcement of any such amendment, supplement, modification or change is ought.

20.10 The section titles used herein are for reference only and should not be used for the purpose of interpreting this Franchise.

20.11 The Ordinance authorizing this Franchise shall be effective ten (10) days after being signed by the County Executive, with the Franchise granted hereunder finally effective pursuant to the terms of Section , having been: (i) introduced to the County Council not less than thirteen (13) days before its passage; (ii) brought to public notice by such notice having been posted in three (3) public places in Bellingham at least fifteen (15) days before the day fixed for the public hearing; (iii) published at least twice in the official newspaper for the County and no later than five (5) days prior to the day fixed for the hearing and as otherwise required by law; and (iv) passed at a regular meeting of the legislative body of the County of Whatcom by a vote of at least _____ members of the County Council on _____, 2021.

ADOPTED this ____ day of _____, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

() Approved () Denied

Christopher Quinn

Civil Deputy Prosecutor
(approved electronically 3/10/2021)

Satpal Singh Sidhu, County Executive

Exhibit "A"

Franchise Area.

County Road #360

Jones Road crossing 166.2 feet West of the NE corner of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 36, Township 41 North, Range 4 East.

County Road #551

Conchman Road crossing 987.47 feet North of the SE corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 36, Township 41 North, Range 4 East.

County Road #182

Rock Road crossing 568.0 feet East of the SW corner of Section 36, Township 41 North, Range 4 East.

County Road #179

Sumas-Kendall Road crossing 489.7 feet West of the SE corner of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, Township 40 North, Range 4 East.

County Road #343

Graveyard Road crossing 1789.1 feet South of the NW corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 2, Township 40 North, Range 4 East.

Clearbrook or Steel Road crossing 981.3 feet East of the NW corner of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 11, Township 40 North, Range 4 East.

County Road #91

North Pass Road crossing 443.01 feet East of the NW corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 11, Township 40 North, Range 4 East.

County Road #438

Swanson Road crossing 512.36 feet North of the SE corner of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 15, Township 40 North, Range 4 East.

County Road #84

Telegraph Road crossing approximately 1200 feet North of south line of Section 15 and approximately 1000 feet West of NS center line of Section 15, Township 40 North, Range 4 East.

County Road #330

Alm Road crossing 473.81 feet East of the NW corner of Section 22, Township 40 North, Range 4 East.

County Road #393

Gillies (Carmen) Road crossing 1037.35 feet East of the center of Section 21, Township 40 North, Range 4 East.

County Road #87

Crossing approximately 716 feet South of the North West corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 28, Township 40 North, Range 4 East.

County Road #75

Emmerson Road crossing 124 feet South of the North West corner of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 31, Township 40 North Range 4 East.

County Road #269

Pole Road crossing approximately 475 feet East of the South West corner of the SE $\frac{1}{4}$ of Section 1, Township 39 North, Range 3 East.

County Road #151

Everson Goshen Road crossing approximately 1540 feet North of the South West corner of the SW $\frac{1}{4}$ of Section 12 Township 39 North, Range 3 East.

County Roads 116 & 117.

Central Road crossing 1114.12 feet West of the South East corner of Section 11, Township 39 North, Range 3 East.

County Road #61

Hemmi Road crossing 111.18 feet East of the South West corner of Section 14, Township 39 North, Range 3 East.

County Road #150

Noon Road crossing 152.9 feet South of the North West corner of Section 23, Township 39 North, Range 3 East.

County Road #188

Axton Road Crossing 1239.54 feet East of the South West corner of Section 22, Township 39 North, Range 3 East.

County Road #675

Farm to Market Road crossing approximately 1125 feet South of North West corner of Section 27, Township 39 North, Range 3 East.

County Road #58

Smith Road crossing 949.43 feet West of South East corner of the SW $\frac{1}{4}$ of Section 28, Township 39 North, Range 3 East.

County Road #478

Kelly Road crossing 985.39 feet East of the South West corner of Section 33, Township 39 North Range 3 East.

County Road #44

Van Wyck Road crossing 1165.18 feet East of the South West corner of Section 4, Township 39 North, Range 3 East.

Moss Street crossing 151 feet West of the South East corner of Lot 2 (North $\frac{1}{2}$) of the NW $\frac{1}{4}$ of Section 9, Township 38 North, Range 3 East.

Lake Street crossing 170.70 feet West of the South East corner of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 9, Township 38 North, Range 3 East.

Depot Street crossing 527.70 feet North and 158.17 feet West of the South East corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 9, Township 38 North, Range 3 East.

Ayer Street crossing 263.85 feet North and 124.11 feet West of South East corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 9, Township 38 North, Range 3 East.

June Street crossing 150.03 feet West of the South East corner of SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 9, Township 38 North, Range 3 East.

County Road #422

Duer Road crossing 108.67 feet West of the South East corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 9, Township 38 North, Range 3 East.

County Road #224

Gunderson Road crossing 212.07 feet South of North West corner of the SW $\frac{1}{4}$ of Section 10, Township 37 North, Range 3 East.

Unnamed Road crossing 149.5 feet North of South West corner of Lot 8, in the South East corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 15, Township 37 North, Range 3 East.

County Road #277 (Old Lake Samish & Fairhaven Road) Crossing approximately 625 feet North and 625 feet East of the center of Section 36, Township 37 North, Range 3 East.

County Road # 549

(Nulle Road) Crossing approximately 800 feet South and 630 feet East of center of Section 36, Township 37 North, Range 3 East.

BRANCH LINE – Laurel to G.P.

County Road #84

(Old Telegraph Road) crossing approximately 630 feet South and 700 feet East from the North West corner of Section 33 Township 39 North, Range 3 East.

County Road #384
(Hannegan Road) crossing 712.41 feet South of the North West corner of Section 33, Township 39 North, Range 3 East.

County Road #415
(Aldrich Road) crossing 890.45 feet South from North West corner of NE $\frac{1}{4}$ of Section 35, Township 39 North, Range 2 East.

County Road #104
(Waske Road) crossing 913.08 feet South of North West corner of Section 35, Township 39 North, Range 2 East.

Pipe Line crossing in the Northern half of NE $\frac{1}{4}$ of Section 34, including County Road #57 (Northwest Diagonal).
Pipe line crosses West line of NE $\frac{1}{4}$ of Section 34, 960.33 feet South of North line of Section 34 and crosses East line of Section 34, 913.08 feet South of North line of Section 34, Township 39 North, Range 2 East.

County Road #424
(Graveline Road) 974.31 feet South of the North West corner of NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 39 North, Range 2 East.

County Road #651
(Byers Road) crossing 974.83 feet South of North West corner of Section 34, Township 39 North, Range 2 East.

County Road #373
(Smith Road) crossing 245.45 feet East of North West corner of Section 33, Township 39 North, Range 2 East.

County Road #623
(Crossing approximately 1200 feet North and 650 feet West of the South East corner of Section 29, Township 39 North, Range 2 East.

County Road #317
(Neilson Road) crossing 403.47 feet South of the North West Corner of the NE $\frac{1}{4}$ of Section 32, Township 39 North, Range 2 East.

County Road #59
(River Road) crossing approximately 1050 feet South and 600 feet of the North East corner of Section 31, Township 39 North, Range 2 East.

County Road #312
(Imhoff Road) crossing 1001.41 feet South of the North West corner of the NE $\frac{1}{4}$ of Section 31, Township 39 North, Range 2 East.

County Road #409
(Johnson Road) crossing 955.95 feet South of the North West corner of Section 31, Township 39 North, Range 2 East.

County Road #20
(Olson Road) crossing 857.96 feet South of the North West corner of Section 36, Township 39 North, Range 1 East.

County Road #94
(Barr Road) crossing 855.69 feet South of the North West corner of the NE $\frac{1}{4}$ of Section 35, Township 39 North, Range 1 East.

County Road #203
(Elder Road) crossing 772.46 feet South of the North West corner of Section 35, Township 39 North, Range 1 East.

County Road #307
(Lake Terrill Road) crossing 870.01 feet South of the North West corner of Section 34, Township 39 North, Range 1 East.