

Permit No. SMD-

Applicant – Please print or type all information

Intended Use of State Right of Way is to Construct, Operate, and Maintain a:

on a portion of State Route from MilePost to MilePost LT RT in County,

to begin in the NE 1/4 NW 1/4 SW 1/4 SE 1/4 Section Township Range

and end in the NE 1/4 NW 1/4 SW 1/4 SE 1/4 Section Township Range

Applicant (Referred to as Grantee)

Address

City State Zip Code

Telephone

Email Address

Applicant's Authorized Signature

By:
Type or Print Name

Title

Dated this day of ,

Authorization to Occupy Only If Approved Below

The Washington State Department of Transportation referred to as "WSDOT," hereby grants this Permit subject to the terms and conditions stated in the General Provisions, Special Provisions, and Exhibits attached hereto and by this reference made a part hereof: Construction facilities proposed under this application shall begin within one year.

For WSDOT Use Only

Exhibit A "Special Provisions for Subterranean Monitoring Devices Permit"
See SF 224-037

Department Approval

By:

Title:

Dated:

Permit Expiration Date:

General Provisions

DOCUMENTS, NON-EXCLUSIVE, COMPLIANCE WITH LAW, WORK

1. A copy of this Permit must be on the job site, protected from the elements, at all times during any Grantee activity, construction or improvement Work as authorized by this Permit. "Work" under this Permit shall include the use of the state-owned right of way as authorized herein.
2. This Permit shall not be deemed or held to be an exclusive one and shall not prohibit WSDOT from granting rights of like or other nature to other public or private entities, nor shall it prevent WSDOT from using any of the state-owned highway right of way or other properties for transportation purposes, or affect WSDOT's right to full supervision and control over all or any part of the state-owned highway right of way or properties, none of which is hereby surrendered.
3. The Grantee shall be responsible for compliance with all federal, state, and local laws and regulations.
4. Upon approval of this Permit, the Grantee shall diligently proceed with the Work and comply with all General and Special provisions herein.

WSDOT NOTIFICATION: SURVEY MONUMENTS, HIGHWAY SIGNS, FENCES, LANDSCAPING

5. The Grantee shall contact WSDOT representative(s), listed in Exhibit A, Special Provisions, two (2) weeks prior to conducting Work, to determine the location of survey control monuments within the area in which the Grantee will be working. In the event any monument or right of way marker will be altered, damaged, or destroyed by the Grantee, WSDOT, prior to Grantee Work, will reference or reset the monument or right of way marker. During the Work, upon discovery of a monument or right of way marker, the Grantee shall cease Work in that area and immediately notify WSDOT of the discovery. WSDOT will coordinate with the Grantee to ensure that the monument or right of way marker is recorded or replaced. The Grantee agrees to pay all WSDOT actual direct and related indirect costs and expenses to perform monument or right of way marker work, pursuant to the provisions of Section 18-Invoice and Payment.
6. In the event any milepost, fence, or guardrail is located within the limits of the Grantee's Work and will be disturbed during Grantee Work, the Grantee agrees to carefully remove these highway facilities prior to Grantee Work and reset or replace these highway facilities after the Grantee Work, to WSDOT's sole satisfaction and at the sole cost of the Grantee. The Grantee shall not remove or disturb any highway signs, traffic control devices, or landscaping unless specifically authorized.

PERMIT EXTENSION, ASSIGNMENT, AND REVOCATION:

7. This Permit may not be extended without WSDOT's prior written approval.
8. The Grantee shall not assign or transfer this Permit without WSDOT's prior written approval. The Grantee understands that any assignment or transfer requires the assignee or transferee to have the means to assume all obligations, duties, and liabilities of the terms and conditions of this Permit, and the Grantee agrees to advise the assignee or transferee of its obligation to apply for an updated or replacement Permit from WSDOT.
9. This Permit is granted solely within the discretion of WSDOT. It may be revoked at will and at any time by giving thirty (30) calendar days written notice to the Grantee; however, if in WSDOT's sole discretion, it determines that public health and safety may be compromised, it may revoke this permit upon 24 hours notice, or such other period less than 30 calendar days. Revocation shall automatically take effect on the thirty-first day without further action by WSDOT. Grantee acknowledges and agrees that it has no due process or appeal rights should WSDOT decide, for any reason whatsoever, to revoke this Permit. Thereafter, if the Grantee has not removed its facilities or otherwise fails to return the state property back to its original condition as solely determined by WSDOT, WSDOT shall perform such work at the Grantee's sole cost and expense, and the Grantee shall pay WSDOT's actual direct and related indirect costs and expenses for performing the work pursuant to the provisions of Section 18-Invoice and Payment.
10. Should the Grantee breach any of the conditions or requirements of this Permit, or should the Grantee fail to proceed with due diligence and in good faith with the Work as authorized by this Permit, WSDOT may revoke the Permit. WSDOT shall give thirty (30) calendar days written notice to the Grantee, and upon the thirty-first day, this Permit shall be deemed revoked without further action by WSDOT. Thereafter, if the Grantee has not removed its facilities or otherwise fails to return the state property back to its original condition as solely determined by WSDOT, WSDOT shall perform such work at the Grantee's sole cost and expense, and the Grantee shall pay WSDOT's actual direct and related indirect costs and expenses for performing the work pursuant to the provisions of Section 18-Invoice and Payment.

MODIFICATION OF PERMIT AND/OR WORK:

11. WSDOT may modify this Permit at any time by giving Grantee written notice. If this Permit is modified, the Grantee will have thirty (30) calendar days from the date of the written notice to modify the Work as required by WSDOT. If the modifications cannot be made within thirty (30) calendar days, the Grantee shall request WSDOT, in writing, during the thirty (30) calendar day time period for an extension of time in which to make the modifications. Any extension of time shall be solely within WSDOT's discretion.
12. If the Grantee desires to modify this Permit and/or the Work, it shall notify WSDOT representative(s) listed in Exhibit A, Special Provisions, in writing of all proposed changes for WSDOT's prior approval. WSDOT agrees to provide written acceptance or rejection of the proposed change(s) to the Grantee within ten (10) business days.
13. Should the Grantee fail or refuse to comply with WSDOT's direction pursuant to Section 11, WSDOT will implement Section 10 and revoke the Permit.
14. Within sixty (60) calendar days upon expiration of this Permit, Grantee shall remove or cause to be removed the facilities authorized hereunder at Grantee's sole cost.

ADDITIONAL PERMIT OBLIGATIONS

15. The Grantee shall not excavate or place any obstacle within the state-owned highway right of way in such a manner as to interfere with WSDOT's construction, operation, and maintenance of the state-owned highway right of way or the public's travel thereon without WSDOT's prior written approval and/or as may be provided in this Permit's Exhibit A, Special Provisions.
16. Upon completion of all Work, the Grantee shall immediately remove all rubbish and debris from the state-owned highway right of way, leaving the state-owned highway right of way in a neat, presentable, and safe condition to WSDOT's sole satisfaction. Any Work-related rubbish and debris clean up, or any necessary slope treatment to restore and/or protect the state-owned right of way, not done within seven (7) calendar days of Work completion, unless WSDOT approves otherwise, will be done by WSDOT at the expense of the Grantee. The Grantee agrees to reimburse WSDOT's actual direct and related indirect costs and expenses for performing the work pursuant to the provisions of Section 19-Invoice and Payment.
17. The Grantee agrees to maintain, at its sole expense, its Work under this Permit in a manner satisfactory to WSDOT in WSDOT's sole discretion.
18. If WSDOT determines that emergency maintenance of the Work is required to (a) protect any aspect of the state highway right of way, or (b) secure the safety of the traveling public due to a failure of the Grantee's Work or its maintenance thereof, WSDOT may perform the emergency maintenance work without the Grantee's prior approval, and the Grantee agrees to reimburse WSDOT's actual direct and related indirect costs and expenses for performing the emergency maintenance work pursuant to the provisions of Section 19 – Invoice and Payment. WSDOT will notify the Grantee of the emergency work performed as soon as practicable.

INVOICE AND PAYMENTS

19. If WSDOT performs work as provided for in this Permit by state forces or its contractor, including but not limited to any modification, repair, clean up or removal of the Work authorized under this Permit:
 - a. WSDOT will assign a reimbursable account to the Grantee as a means of invoicing the Grantee for the costs associated with the work.
 - b. WSDOT will provide a detailed invoice, including direct and related indirect costs, to the Grantee for the work performed by WSDOT or its contractor(s), and the Grantee agrees to pay WSDOT within fifteen (15) calendar days of receipt of an invoice.
 - c. The Grantee agrees that if payment is not made to WSDOT as herein agreed, WSDOT may charge late fees, interest or refer the debt to a collection agency, all in accordance with Washington State Law.

ADDITIONAL REQUIRED PERMITS

20. The Grantee shall be responsible for securing all necessary permits, including but not limited to, federal, state, and local regulatory, tribal, environmental, archeological, and railroad permits and permits from the Washington State Department of Ecology, the Washington State Department of Fish and Wildlife, and/or the U.S. Army Corps of Engineers prior to beginning the Work authorized by this Permit. The Grantee shall be responsible for mitigation measures where wetlands have been disturbed and agrees that it is solely responsible for any fines imposed for noncompliance with the permit(s) conditions or for failure to obtain the required permits. In addition, the Grantee, on behalf of itself and its contractors, officers, officials, employees, and agents, agrees to indemnify, hold harmless, and defend, at its sole cost and expense, WSDOT and its officers, officials, employees, and agents from any and all fines, costs, claims, judgments, and/or awards of damages to regulatory agencies, persons, and/or property, arising out

of, or in any way resulting from, the Grantee's failure to (1) obtain any required permit for the Grantee Work or (2) comply with permit conditions.

21. The Grantee hereby certifies that its facilities described in this Permit are in compliance with the Clear Zone Guidelines pursuant to Chapter 1600 of WSDOT's Design Manual (M 22-01) and any revisions thereto.

INDEMNIFICATION, WAIVER, VENUE, ATTORNEYS FEES, AND RELOCATION/EMINENT DOMAIN

22. The Grantee, its successors and assigns, shall indemnify, defend at its sole cost and expense, and hold harmless the state of Washington, its officers, employees, and agents from all claims, demands, damages (both to persons and/or property), expenses, regulatory fines, and/or suits in law and in equity that (1) arise out of or are incident to any acts or omissions of the Grantee, its agents, contractors, employees, invitees and/or any other person in the use of the state-owned highway right of way as authorized by the terms and conditions of this Permit, or (2) are caused by the breach of any of the terms or conditions of this Permit by the Grantee, its successors and assigns, and its contractors, agents, employees, invitees and/or any other person. The Grantee, its successors and assigns, shall not be required to indemnify, defend, or hold harmless the state of Washington, its officers, employees and/or agents, if the claim, suit, or action for damages (both to persons and/or property) is caused by the sole acts or omissions of the state of Washington, its officers, employees and/or agents; provided that, if such claims, suits, or actions result from the concurrent negligence of (a) the state of Washington, its officers, employees and/or agents, and (b) the Grantee, its agents, contractors, employees, invitees, and/or any other person or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the acts or omissions of the Grantee, its agents, contractors, employees, invitees, and/or any other person.

23. The Grantee agrees that its obligations under this Permit extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents while performing Work under this Permit while located on or off state-owned highway right of way. For this purpose, the Grantee, by MUTUAL NEGOTIATION, hereby WAIVES, with respect to the state of Washington only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions in chapter 51.12 RCW.

24. The indemnification and WAIVER provided for in Sections 21 and 22 shall survive the termination of this Permit.

25. In the event that the Grantee or WSDOT deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Permit, the Grantee and WSDOT agree that any such action or proceedings shall be brought in the superior court situated in Thurston County, Washington. Further, the Grantee agrees that it shall be solely responsible for its own attorney's fees and costs and agrees that it shall not seek nor be entitled to recovery of such attorney's fees and costs.

26. NONAPPLICABILITY OF RELOCATION ASSISTANCE/EMINENT DOMAIN. The Grantee acknowledges that this Permit does not at any time entitle the Grantee, its successors or assigns, to assistance under the Uniform Relocation and Real Property Acquisition Policy (ch. 8.26 RCW). Further, the revocation or other termination of this Permit shall not be deemed a taking by the state under the laws of eminent domain.

27. REGULATORY REQUIREMENTS FOR MONITORING WELLS

Upon (a) completion of construction/installation of the facilities authorized hereunder, (b) decommissioning/removal of the facilities authorized hereunder, and/or (c) discovery of any unidentified wells, Grantee shall provide the necessary notices and reports to the Department of Ecology pursuant to RCW 18.104.048 and RCW 18.104.050, with a copy of these reports to be provided to the WSDOT representative identified in Exhibit A, within 60 calendar days of completion of the Work.

All work hereunder, including construction, installation, decommissioning and removal shall be performed, or caused to be performed, by the Grantee at Grantee's sole cost in a manner consistent with the requirements of 18.104 RCW, WAC 173-160, and WSDOT Geotechnical Design Manual M 46-03.