

1-13-67

CITY OF BELLEVUE, WASHINGTON

ORIGINAL

RESOLUTION NO. 1305

A RESOLUTION granting to Vista Television Cable, Inc., its successors and assigns, a franchise to construct, operate and maintain a coaxial cable subscriber system for television, radio and other audio-visual electrical signal distribution throughout the City of Bellevue.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City of Bellevue, hereinafter referred to as the "City," hereby grants to Vista Television Cable, Inc., hereafter called the "grantee," and to its successors and assigns, which shall hereinafter be included in the word "grantee," under the conditions and limitations prescribed, the right, privilege, authority and franchise to install, lay down, maintain, and operate a coaxial cable subscriber system for television, radio and other audio-visual electrical signal distribution in, over, upon and under the streets, alleys and public highways of the City of Bellevue (hereinafter referred to as "streets"), with the necessary manholes and other appliances therefor and to erect poles with or without crossarms, and stretch wires and cables on all streets, and antennae or other appurtenances thereon, and to maintain and use the same for the purposes of constructing and operating a coaxial cable distribution system for television, radio and other audio-visual electrical signal distribution to subscribers, and for no other uses or purposes whatsoever. Whenever it is practicable, and with written permission of the owner, to make use of poles already erected in said streets, grantee shall make use of such poles; Provided that in any district in the City which has or shall hereafter by ordinance be designated as a district in which telephone, telegraph and electric power wires and cables shall be laid underground, grantee shall not be permitted to erect poles and run or suspend wires, cables, antennae, or other conductors thereon, but shall lay such wires, cables or conductors in underground pipes or conduits; and if prior to the passage of any such ordinance designating any such district in said City, grantee shall have erected poles in such districts and suspended wires, cables and other conductors thereon, said grantee shall upon the passage of such ordinance and within such period of time thereafter as may be designated in such ordinance, remove its poles, cables, wires, and antennae from the surface of the streets embraced in such district, and shall place the same in underground pipes or conduits and shall not thereafter erect or maintain any poles whatever therein.

Section 2. The franchise herein granted shall be for the term of 25 years, beginning on the effective date hereof.

Section 3. Ordinance No. 31, passed August 11, 1953, is hereby incorporated by this reference, and shall apply to the franchise herein granted. In construing the application of the provisions of said Ordinance No. 31 to this franchise, any terms such as pipes, mains, pipe lines and other improvements shall be construed to mean and include wires, poles, cables, conduits and other equipment or improvements of any kind.

or nature whatsoever required, used or useful in the business of grantee, and installed in, over or across the public ways of the City of Bellevue. In the event of the amendment or repeal of all, or any portion of the said Ordinance No. 31, the terms thereof, subject to the modifications expressed herein, shall continue as the terms of this franchise in the absence of the mutual assent to such amendment or repeal by the City and the grantee to be evidenced by a subsequent resolution of the City Council and acceptance thereof by the grantee.

Section 4. Whenever permission is obtained from the City for use of any streets for the purpose of moving any building or structure, grantee, upon seven (7) days notice from the City Engineer, shall raise and remove any wires, cables, or conductors which may obstruct the moving of such building or structure, and in case of grantee's refusal or failure to comply with such notice the City Engineer may cause such wires, cables or conductors to be raised or removed at the expense of the grantee for the purpose aforementioned.

Section 5. If, during the term of this franchise, the City shall acquire by purchase or condemnation, any of the grantee's property maintained or used hereunder, no greater sum shall be allowed for the value of the rights herein granted, in addition to all other elements affecting the value of such purchased or condemned property, than the actual cost of obtaining this franchise.

Section 6. The provisions of Section 5 of said Ordinance No. 31 shall apply to the following extent only: The grantee shall install poles, lines, cables, conduits and other authorized equipment and improvements in the designated streets, avenues, and other places pursuant to plans approved by the City Engineer, as to the location of such installation, and the method and process of backfilling, street restoration or repair of other public or private improvements located within the right-of-way shall be subject to the supervision and inspection of an inspector provided by the City at the expense of the grantee.

Section 7. The cables, wires, antennae and conductors, constructed, run or suspended by the grantee hereunder, shall be properly insulated, connected and fastened so as not to be, or come in contact with any object, through or by which a ground or short circuit could be formed. All construction hereby authorized shall conform to the requirements of the National Electric Safety Code, State of Washington Wiring Code, and City regulations governing overhead and underground construction and maintenance of wires, cables, poles and conductors for wires or cables carrying low voltage electricity.

Section 8. The provisions of Section 7 of Ordinance 31 shall apply to the following extent only: The location of poles, lines, conduits, cables and other improvements to be installed by the grantee, including the depth below the surface and the height above the surface or grade of any street, shall be subject to approval by the City, which approval shall not be unreasonably withheld and shall be influenced only by considerations of safety with reference to other installations and uses of such ways by the public. Before granting such approval, and at any time thereafter, the City may require grantee to submit a copy of grantee's

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work sketches of proposed improvements to be installed within, over or upon such street, or, at the City's option, the grantee, in lieu of furnishing such copy, shall permit the authorized City official to examine the grantee's work sketches and work records with reference to such proposed or completed installations. The City may require the grantee to specify and obtain approval as to the types of equipment to be employed and the mode of safeguarding and facilitating public travel during construction. The manner of excavation, construction, installation, backfill and types and sizes of temporary structures, barricades, bridging and traffic safeguards shall be submitted for the approval of the City.

Section 9. The provisions of Section 8 of Ordinance No. 31 shall apply to the following extent only: The grantee, after entrance upon, into or across streets, for installation, construction or repair of grantee's equipment or improvements therein, shall, at grantee's expense, repair or restore and leave such streets, together with other public or private improvements thereto or contained therein, in as good, safe and useful condition in all respects as such streets were before the damage or displacement thereof by the grantee, its agents or contractors. In the event that grantee, its agents or contractors fail to repair or restore any streets, property or improvements damaged, or surveyors' monuments lost or moved by work of grantee, its employees, agents or contractors, promptly after notice of the damage and necessity for repair or restoration thereof, the City Engineer may do, order and have done any and all work necessary to restore such street, improvement or monument.

Section 10. This grant shall not be exclusive and shall in no manner prohibit the City from granting other franchises of a like nature or franchises for other public or private utilities over, along, across under and upon any of such streets, and shall in no wise prohibit or prevent the City from using any of said streets, with full power to make all necessary changes, relocations, repairs, maintenance, etc., of same as said City may deem fit.

Section 11. If the grantee shall willfully violate or fail to comply with any of the provisions of this grant, or through willful or unreasonable negligence fail to heed or comply with any notice given to the grantee under the provisions of this franchise, then the said grantee shall, at the election of the City Council forfeit all rights conferred hereunder and this franchise may be revoked or annulled by the City Council after a hearing held upon reasonable notice given to the grantee.

Section 12. The grantee shall pay to the City on the 1st day of February of each year, an amount equal to four per cent (4%) of the gross income received by it for services rendered in the City for which any part of the rights exercised under this franchise are used. Such annual payment shall be paid on the gross income from such business for the 12 months preceding December 31 of each year. For the first year following the effective date of this franchise, there need not be included in the gross income on which said computation is made, any sums received by grantee for any installation or connection work. All payments made hereunder by grantee to the City shall be offset or credited against any

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other license, excise or privilege taxes imposed by the City to which the grantee shall be subject.

Section 13. The provisions of Section 15 of Ordinance No. 31 shall be construed to permit changes, amendments or modifications of the provisions or conditions of this franchise to conform to City regulations only to the extent that such new or additional regulations may be a valid exercise of the police powers of the City.

Section 14. In order to claim any right or benefit under this franchise, the grantee shall file its written acceptance of this franchise with the City Clerk within thirty days after the adoption hereof.

Section 15. The grantee shall have the right to charge and collect reasonable compensation from all persons and corporations to whom it shall furnish services. It is agreed that until otherwise provided by state law, the legislative authority of the City shall have jurisdiction and control over the services authorized by this franchise and all rates and charges therefor, to the same extent as the Utilities and Transportation Commission of the State of Washington now has over the rates, charges and service of utilities, which are subject to the jurisdiction of such Commission; Provided, that the legislative authority of the City shall never prescribe rates other than such as shall be just, reasonable, adequate and sufficient, and that its jurisdiction and control shall at all times be subject to review by the courts.

Section 16. The provisions of Section 19 of Ordinance No. 31 are modified to the extent that the same are inconsistent with the following: Before undertaking any of the work or improvements authorized by this franchise, the City may require the grantee to furnish to the City a bond to be executed for the purposes specified in Section 19 of Ordinance No. 31. The amount of such bond may be varied from time to time or entirely excused from time to time during the term of this franchise as the construction and maintenance activities or operations of the grantee may vary the need therefor.

Section 17. The franchise granted by this resolution shall be effective immediately after the adoption of the resolution and the filing with the City Clerk of acceptance by the grantee.

FIRST INTRODUCED the 17th day of January, 1967, and passed by the affirmative votes of five (5) members of the City Council on the 7th day of February, 1967, and signed in authentication of its passage this 7th day of February, 1967.

*Clarence F. Wilke*  
Clarence F. Wilke

Mayor *just time*

(SEAL)

Attest:

*Jean S. Schoier*  
Jean S. Schoier

City Clerk

FILED NO. 00570

CITY OF BELLEVUE

DATE Feb 7, 1967

CITY CLERK J. Wilke