

RESOLUTION NO. 687

A RESOLUTION granting to the Mercer Island Sewer District, King County, Washington, a municipal corporation, a franchise to use and occupy certain streets and other public ways and places of the City of Bellevue for constructing, maintaining and operating a sewerage system within and through the City of Bellevue.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLEVUE, AS FOLLOWS:

Section 1. There hereby is granted to the Mercer Island Sewer District of King County, Washington, hereinafter referred to as the "grantee" the right to lay, construct, extend, maintain, repair, renew, replace and use sewer pipes and trunk mains and accessories, under, along and across any of those streets, avenues, roads, alleys, lanes or other public places and ways herein designated, in the City of Bellevue, Washington, for the collection and transmission of sewage within the City of Bellevue, Washington, from the easterly terminus of the East Channel Bridge on State Highway No. 2 to the treatment plant of the Bellevue Sewer District at Southeast 6th and 102nd Southeast, Bellevue, Washington.

Section 2. The word "grantee" is used in this resolution to refer to and include the Mercer Island Sewer District and its successors and assigns who may successively become the owners of lines and equipment installed in the public streets for public use.

Section 3. This grant shall not be exclusive and shall not prohibit the City of Bellevue from granting other franchises or privileges of a like nature for utilities over, along, across, under and upon any of such streets, roads, avenues, alleys, lanes, public places and ways and, in nowise shall prohibit or prevent the City of Bellevue from using any of said streets, avenues, roads, alleys, lanes, public places and ways or prevent the city from making all necessary or beneficial changes, relocations, repairs, maintenance, etc., of such other improvements as the City of Bellevue may deem proper.

Section 4. The grant hereby made is intended to and does include any, all and every of the public streets, avenues, alleys, highways and public grounds and places within the City of Bellevue as now laid out, platted and dedicated and all public streets, avenues, alleys, highways, public grounds and places which may hereafter be laid out and dedicated within the present limits of the city along such route as may be selected by the Sewer District Engineer with the approval of the Bellevue City Engineer. Such route is tentatively and generally described as:

Commencing at the intersection of Southeast 34th Street and 108th Avenue Southeast; thence northerly along 108th Avenue Southeast to the intersection of 107th Place Southeast; thence along 107th Avenue Southeast to the intersection of Southeast 8th Street; thence westerly along Southeast 8th Street to the intersection thereof with 102nd Avenue Southeast; thence northerly along 102nd Avenue Southeast to the point of connection with the Bellevue Sewer District's mains in the vicinity of the Bellevue Sewer District's treatment plant.

All pipes and appurtenances shall be installed and maintained at such places and in such positions upon such public highways and places as shall be authorized and approved by the city officials and in accordance with the laws of the State of Washington and the ordinances of the City of Bellevue reasonably regulating such location and construction and adopted as a lawful exercise of the police power of the city.

Section 5. The grantee's rights and powers to use the city's streets and other property shall be limited to the rights and powers expressly granted herein or necessarily implied to exercise the express powers and shall be subject to and be governed by the provisions of Ordinance No. 31 as now or hereafter amended by the City Council of the City of Bellevue, or as affected by the general ordinances adopted to protect the safety and welfare of the general public. In the event of the repeal of all or any portion of said Ordinance No. 31, the terms thereof, subject to the modifications herein, shall continue as the terms of this franchise in the absence of mutual assent to amendment of the terms of this franchise by the city and the grantee to be evidenced by a subsequent resolution of the City Council and acceptance thereof by the grantee.

Section 6. The grantee, its successors or assigns, shall comply strictly with the requirements of Ordinance No. 31, as now or hereafter amended, in making application for permits to open and use public streets or other property under this franchise, and in locating, installing, repairing, maintaining, using, relocating or removing such improvements in the safeguarding of public and private property and lives in connection therewith and in restoring any public or private property injured or damaged expediently and without loss, and to protect and save the city harmless from all claims, actions or damages as more fully set forth in said Ordinance.

Section 7. 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 8. 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 the franchise as the construction and maintenance activities or operations of the grantee may vary the need therefore.

Section 9. The city may set and collect a franchise fee, which shall be limited to a reasonable compensation for grantee's use of the city's streets and which may be so imposed as to result in an increased payment as the extent of grantee's use of the city's streets is increased.

Section 10. If, during the term of this franchise, the City of Bellevue shall acquire, by purchase or condemnation, any of 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 11. If the grantee, its successors or assigns, shall wilfully violate or fail to comply with any of the provisions of this grant, or through

wilful or repeated negligent failure to heed or comply with any notice given to the grantee under the provisions of this franchise, then the said grantee, its successors or assigns, shall, at the election of the City of Bellevue, forfeit all rights hereunder and this franchise may be revoked or annulled by the City Council after a hearing held upon reasonable notice given to the holder of the franchise.

Section 12. The rights and privileges granted by this resolution shall be effective immediately after the adoption of the resolution and the filing with the City Clerk of an acceptance by the grantee. In order to claim any right or benefit under this resolution, the grantee shall file its written acceptance of the terms hereof with the City Clerk within thirty (30) days after the adoption of this resolution.

First introduced the 23<sup>rd</sup> day of October, 1956, and passed by the affirmative vote of five (5) members of the City Council on the 13<sup>th</sup> day of November, 1956, and signed in authentication of its passage this 13<sup>th</sup> day of November, 1956.

Cl. Roman Wickings  
Mayor

Attest:

Jane L. Schuler  
City Clerk

(seal)

Approved as to Form:

Herbert A. Cole  
City Attorney