

ORDINANCE NO. 411

AN ORDINANCE, granting a franchise to United Community Antennae System, Inc., a Washington corporation, to construct, operate and maintain a coaxial cable subscriber system for television signal distribution throughout the City of Redmond, Washington, and imposing provisions and conditions relating thereto.

THE CITY COUNCIL OF THE CITY OF REDMOND DO ORDAIN AS FOLLOWS:

Section 1. Franchise Granted - Purpose and Scope. The City of Redmond, a municipal corporation of the State of Washington located in King County, Washington (hereinafter called the City), hereby grants to United Community Antennae System, Inc., a Washington corporation (hereinafter called the Grantee), the right, privilege and authority or franchise to construct or otherwise acquire and to own, maintain, equip and operate plants, works, aerials and towers, and all necessary or desirable appurtenances thereto, for the purchase, reception, transmission and distribution of television signals and closed television circuit broadcasts for non-radiating programs, including but not limited to the right to construct, lay extend, maintain, renew, replace, repair, use and operate a coaxial cable and coaxial cable subscription system for television signal distribution, either upon poles or underground and all appurtenances and appendages thereto, in, under or on or across the present and future public streets, avenues, highways, bridges and other public places (hereinafter referred to as "streets") within the present or any future corporate limits of the City or its successors, for the purpose 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, all SUBJECT TO all presently granted franchise rights within the City of Redmond.

Sec. 2. Term of Franchise. The franchise herein granted shall be for a term of 20 years, beginning on the effective date hereof.

Sec. 3. Installation Within Streets. Grantee's facilities shall be so located or relocated and so erected and installed as to interfere as little as possible with traffic over the streets and other public places and egress from and ingress to abutting property, provided, however, that grantee shall not break up, block or do any work upon any street without permission from the Public Works Department. Prior to excavation or work on any portion of a street, the grantee shall secure a permit from the proper City authority and when excavation of any portion of a street is so permitted incident to the location, relocation, replacement or repair of any facility by the grantee, including underground conduits to carry the coaxial cables, the portion of the street so excavated shall within a reasonable time and as early as practicable after said excavation be replaced and restored by the grantee at its expense and in as good or better condition as it was prior to such excavation, all being in accordance with the applicable rules and regulations of the Engineering Department, Public Works Department, Public Health Department and other interested agencies of the City and the officials thereof and the grantee shall secure and post a performance bond with the City in such reasonable amount as shall be established by the Public Works Department in keeping with the cost of restoring said street, conditioned to the performance of the required work to replace and restore the street, including the maintenance thereof for one year following the completion of the restoration of the street,

(a) Approval of Location. Whenever grantee shall contemplate laying underground said coaxial cable or erecting poles for the carrying thereof above the ground in any street within the present or future corporate limits of the City, grantee shall file with the

Public Works Department a map showing the proposed location thereof in such street by surveyed measurements. If the location proposed does not interfere with the existing or contemplated sewers, water pipes or other utilities or presently granted franchise rights, the Public Works Department shall approve said map, and the same shall thereafter be considered the official location of said coaxial cable, conduits, or appurtenances, but if said proposed location would interfere with said existing or contemplated sewers, water pipes or other public utilities or previously granted franchise rights, the Public Works Department, shall, within a reasonable time after the filing of said map, furnish the grantee with data by which a map of location of such coaxial cable and facilities may be filed for a proper location and construction of the system. The installation of the coaxial cable and other facilities shall be made and located in accordance with the approved map and complete as-built drawings shall be furnished by grantee to the City for all construction immediately following completion thereof.

(b) Change in Street Grade. Whenever the prosecuting of any public work by the City shall involve, the establishment or change of any grade, (established or otherwise), sewer, water pipe or other municipal public facility or utility and the same shall cross and/or require change of any conduit, cable or apparatus located in any street or other public place by grantee, the same shall be changed by the grantee at its own expense after reasonable notice in writing (of not less than 15 days) to make the required changes from the Public Works Department.

Sec. 4. Underground Utility Districts. In any district which has been or shall hereafter be designated by City ordinance as a district in which telephone, telegraph and electric wires and cables shall be laid underground, grantee's coaxial cable must in said areas or districts likewise be run underground, and grantee shall likewise place underground its existing cables in those districts whenever designated by ordinance as a district requiring other utilities to place their wires and cables underground, all at the expense of the grantee.

Sec. 5. Performance Standards. All work done by the grantee pursuant to this franchise shall be in compliance with the National Electrical Safety Code and all applicable laws of the State of Washington and ordinances of the City of Redmond, Washington, and only following the securing of necessary permits for same, and shall be completed to the satisfaction of the Public Works Department, Building Inspector and other interested agencies of the City and the officials thereof.

Sec. 6. Liability Insurance. The City shall in no way be liable or responsible for any accident or damage that may occur in the construction, operations or maintenance by grantee of its facilities hereunder and grantee shall indemnify and defend the City and hold it harmless from and against any and all liability, loss, cost, damage or expense which may accrue to the City by reason of the negligence, default or misconduct of grantee in the construction, operation or maintenance of its facilities hereunder. The grantee shall forfeit all rights and privileges conferred by this ordinance, and this ordinance shall be null and void and of no force and effect unless grantee shall, before commencing construction of any part of said coaxial cable system, file with the City Clerk proper evidence that it has in full force and effect public liability insurance with coverage of not less than \$100,000.00 per person, \$300,000.00 per accident and property damage liability of not less than \$50,000.00 which said insurance will be kept in full force at all times while the grantee is exercising the franchise rights herein granted to it.

Sec. 7. Raising Cables - Street Use By Third Parties. If the raising or moving of cables or wires is required by a third party

at any time to enable use of the streets for the purpose of moving any building or structure, or other purpose, the grantee, upon at least five (5) days notice in advance of such required use shall raise or move said cables, wires and/or other equipment at the expense of such third party.

Sec. 8. Franchise Non-Exclusive. 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 way prohibit or prevent the City from using any of said streets, with full power to make all necessary changes, relocations, repairs, maintenance and other alterations of the same as the City may deem fit and proper and in the public interest.

Sec. 9. Condemnation of Grantee's Property. 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.

Sec. 10. Services to be Furnished by Grantee. At all times during the term of this franchise grantee shall promptly and without discrimination furnish to the City and its successors and persons and corporations inhabitant thereof who request the same and agree to abide by grantee's reasonable rules and regulations, television reception commensurate with that which is available under any obtainable coaxial cable system. Grantee agrees to provide educational channels and programs as a part of its services and to make the same available without cost or charge to schools, public libraries and other public institutions who request the same.

Sec. 11. Rates and Charges for Service by Grantee. The grantee shall have the right to charge and collect reasonable compensation from all persons and corporations to whom it shall furnish service. 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 court.

Sec. 12. Tax on Gross Revenues. Grantee shall pay the City quarterly by the 10th day of each April, July, October and January an amount equal to 4% of the gross revenues received by the grantees from its customers within the corporate limits of the City as now or hereafter fixed and established for service rendered customers through the coaxial cable for each prior quarter. This tax shall be credited against any business and occupation tax payable by the grantee to the City. In computing the gross received from the operation of said grantee, charges made and paid for reimbursement for the installation of connection work to customers shall not be considered gross income. This provision shall not be so construed as to exempt the grantee from any lawful taxation upon its property or charges or impositions thereon, not levied on account of the use contemplated by this franchise, and the franchise herein granted. The City, or its authorized agents, shall have the right to inspect the books and records of the grantee at reasonable times for the purpose of ascertaining accurately what the actual gross receipts of grantees may be per annum, and will furnish the City a certified statement of such gross receipts upon which payments are based with each such payment.

Sec. 13. Acceptance of Franchise. This franchise is granted upon the express condition that the grantee within thirty (30) days after the adoption of this ordinance shall file with the Clerk of the City a written acceptance of the same, and when so accepted by the grantee, the grantee will arrange for publication of this ordinance and for payment for such publication.

Sec. 14. Commencement of Construction and Operation of System. The rights and privileges hereby granted shall cease and terminate and this ordinance shall be of no further force and effect unless grantee starts actual construction in accordance with said plan within six (6) months and has a system in operation within one (1) year from the effective date of this ordinance.

Sec. 15. Default by Grantee. In the event of any unreasonable neglect, failure or refusal by the grantee to comply with any of the provisions or conditions of this franchise, the City may give notice of any such default, and if such default has not been corrected or the provisions and conditions of this franchise are not complied with within sixty (60) days after receipt of such notice, then 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.

Sec. 16. Scope of Franchise Agreement. Grantee by its acceptance hereof agrees to observe, perform and keep all the agreements, undertakings and conditions hereof to be observed, performed and kept by grantee. All of the terms, provisions and conditions hereof shall inure to and be binding upon the respective successors and assigns of both the City and the grantee, subject to restrictions in Section 17 following.

Sec. 17. Assignment Subject to Approval. The franchise and rights hereby granted to the grantee shall not be sold, assigned or transferred by the grantee without the prior written consent of the City Council of the City of Redmond, and such consent shall not be arbitrarily or unreasonably withheld.

Sec. 18. Effective Date of Ordinance. This ordinance shall take effect and be in force five (5) days after the date of its publication in the manner provided by law.

INTRODUCED on the 13th day of September, 1966.

PASSED by the Council of the City of Redmond, Washington, at a regular meeting thereof, and APPROVED by the Mayor this 27th day of September, 1966.

CITY OF REDMOND


G. C. GRAEB
MAYOR

ATTEST:


EDWARD FROEBE
CITY CLERK

APPROVED AS TO FORM:


JOHN D. LAWSON
CITY ATTORNEY

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