

ORDINANCE NO. 3089

AN ORDINANCE to provide for the advertising for and receipt of bids relative to the granting of a franchise by the City of Alexandria, Virginia, to a person, firm or corporation and its successors and assigns, hereafter to be ascertained in the manner prescribed by law, under certain conditions, to install and maintain cable and necessary appurtenances and apparatus incidental to the provision of cable television to certain residents of Fairfax County, in the public right-of-way under, in, over or along portions of certain public streets, and to provide the process for granting said franchise.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section I. That it is proposed that the city shall grant a franchise, in the manner prescribed by law, permitting the installation and maintenance of cable and necessary appurtenances and apparatus incidental to the provision of cable television to certain residents of Fairfax County, in the public right-of-way under, in, over and along portions of certain public streets, namely, Calhoun Avenue, Colfax Avenue, Chambliss Street, Doris Drive, Holmes Run North, Rynex Drive, Stevenson Avenue and within one block of the Fairfax County-City of Alexandria line, as set forth in the following draft of a proposed ordinance:

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to grant to \_\_\_\_\_, its successors and assigns, a franchise, under certain conditions, permitting the installation and maintenance of cable and necessary appurtenances and apparatus incidental to the provision of cable television to certain residents of Fairfax County, in the public right-of-way under, in, over and along portions of certain public streets.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That a franchise is hereby granted to \_\_\_\_\_, hereinafter referred to as "Grantee," its successors and assigns, for permission to install and maintain cable and necessary appurtenances and apparatus incidental to the provision of cable television to certain residents of Fairfax County, in the public right-of-way under, in, over and along portions of certain public streets, namely, Calhoun Avenue, Colfax Avenue, Chambliss Street, Doris Drive, Holmes Run North, Rynex Drive, Stevenson Avenue and within one block of the Fairfax County-City of Alexandria line.

Section 2. That the said franchise is awarded to the Grantee after due and repeated advertisement as required by law, wherein bids were invited, pursuant to the notice contained in Section II of Ordinance No. 3089, and after the invitation for bids was duly closed and all bids were fully and carefully investigated and evaluated.

Section 3. The Grantee shall have the franchise for twelve (12) years or until the expiration or termination of the cable television franchise in Fairfax County, whichever shall sooner occur, and such grant is made subject to the Grantee's continued compliance with all applicable laws and regulations and with the following specific terms and conditions:

1. That prior to stringing the cable, the Grantee will obtain and submit to the city a certificate of approval from a professional engineer registered in Virginia that the poles and guys for the proposed use are adequate.

2. That each year an updated map of all facilities within the city limits showing location, etc., shall be filed with the department of transportation and environmental services.

3. That a street opening permit shall be obtained for each excavation in and/or under a public street.

4. In the event the relocation, construction, reconstruction, maintenance or repair by the city, the State of Virginia or the Washington Metropolitan Area Transit Authority of any of its or their facilities or services now or hereafter acquired, and including but not limited to any street, alley or other public place, sewer, electric, water, fire alarm, police communication, civil defense system or traffic control facilities or any part thereof, or in the event access to any street, alley or other public place to or from any property of the city, state or Washington Metropolitan Area Transit Authority is required, and it is necessary to move, alter or relocate, either permanently or temporarily, any of the Grantee's property or part thereof, on public property, public right-of-way or public easements, including but not limited to lines and necessary appurtenances and apparatus, in order for the city, state or Washington Metropolitan Area Transit Authority to relocate, construct, reconstruct, maintain or repair any such facility, sewer, street, alley or other public place or any such sewer or electric, water, fire alarm, police communication,

civil defense system or traffic control facility, or any part thereof, or to obtain access to or from such property, upon notice from the city, the Grantee will move, alter or relocate any such property or part thereof, at its own cost and expense; and should the Grantee fail, refuse or neglect to comply with such notice, such property or part thereof, may be removed, altered or relocated by the city, state or Washington Metropolitan Area Transit Authority at the cost of the Grantee and the city, state or Washington Metropolitan Area Transit Authority shall not be liable to the Grantee for damages resulting from such removal, alteration or relocation. The Grantee agrees, as a condition of the granting of this franchise, that it will do everything reasonably necessary, in a timely manner, to prevent any delays in construction projects of the city, the state or Washington Metropolitan Area Transit Authority.

5. That Grantee will pay to the city for the privilege of using the right-of-way, in advance, the total sum of Five Hundred Dollars (\$500.00) and will pay the actual cost of inspections during the installation.

6. The franchise may be assigned to a wholly-owned subsidiary of the Grantee or to a company with common control with the Grantee; any other assignment is prohibited without prior consent of the city, which consent will not be withheld unreasonably.

7. That Grantee will obtain liability insurance to the satisfaction of the city attorney, which insurance shall name the city as an additional insured.

8. That the Grantee will not use the privileges granted by this franchise to provide cable television and/or related services to residents of the City of Alexandria.

9. That the fee set by this franchise covers attachment to no more than 30 poles along the city right-of-way; any additional attachments or other expansion of the franchise which may hereafter be permitted will require payment of additional fees in proportion to the increase in the number of poles.

10. That the Grantee does agree that at such time as the city may require underground installation of existing overhead facilities in any area covered by the franchise, it will, at its sole cost and expense, relocate its facilities underground in accordance with the provisions of the city's underground utilities ordinance.

11. That the Grantee agree to protect all property of the city or any other person during any work of constructing, operating or maintaining its system along the public right-of-way and to fully restore, in kind, any property damaged or destroyed during any such work. In the event the Grantee and a property owner are unable to agree on a remedy, the Grantee agrees to abide by the determination of the city as to compensation or restoration.

12. That the Grantee will not adopt any changes in its proposed cable television signal transmission technology that may effect the health or safety of any resident of the city or property located therein without having secured prior city approval.

13. That nothing in the franchise shall be construed to obligate the city to continue its franchise with any other franchisee who owns or uses the poles to be used by the Grantee, nor shall this franchise increase or strengthen the rights that other franchisees may have. The city shall have no liability to the Grantee for exercising any rights the city may have in general or under its franchises with other franchisees, regardless of the effect of such on the Grantee.

14. That the Grantee shall remove its property at its own expense at the expiration or termination of the franchise or any extension thereof.

15. That the Grantee will provide promptly to the city all complaints by any person or party that the Fairfax County government has communicated to the Grantee regarding equipment located within the area covered by the franchise or in Fairfax County within 100 feet of the area covered by the franchise.

Section 4. That the city manager be and she hereby is authorized to execute such documents as may be required to effectuate the franchise hereby granted.

Section 5. That the city clerk be and she hereby is authorized and directed to attest the execution of said documents and to affix thereon the official seal of the City of Alexandria, Virginia.

Section II. That as soon as this ordinance has been finally passed, the city clerk shall cause to be advertised once a week for four (4) successive weeks in a newspaper published in the City of Alexandria, a descriptive notice of the draft of the proposed ordinance contained in Section I of this ordinance, and, in addition thereto, shall by such advertisement invite bids for

the franchise proposed to be granted by such draft ordinance, by publishing with the descriptive notice of such ordinance a notice which shall be in substantially the following form:

NOTICE

BIDS ARE INVITED BY THE CITY COUNCIL OF THE CITY OF ALEXANDRIA, VIRGINIA, FOR A FRANCHISE PERMITTING THE INSTALLATION AND MAINTENANCE OF CABLE AND NECESSARY APPURTENANCES AND APPARATUS INCIDENTAL TO THE PROVISION OF CABLE TELEVISION TO CERTAIN RESIDENTS OF FAIRFAX COUNTY, IN THE PUBLIC RIGHT-OF-WAY UNDER, IN, OVER AND ALONG PORTIONS OF CERTAIN PUBLIC STREETS, NAMELY, CALHOUN AVENUE, COLFAX AVENUE, CHAMBLISS STREET, DORIS DRIVE, HOLMES RUN NORTH, RYNEX DRIVE, STEVENSON AVENUE AND WITHIN ONE BLOCK OF THE FAIRFAX COUNTY-CITY OF ALEXANDRIA LINE. APPROXIMATE LOCATIONS OF INSTALLATIONS ARE DETAILED ON DESIGN PLANS ON FILE IN THE OFFICE OF THE DIRECTOR OF TRANSPORTATION AND ENVIRONMENTAL SERVICES, CITY HALL, ALONG WITH DETAILED CONDITIONS TO BE IMPOSED ON THE GRANTEE OF THE FRANCHISE. FRANCHISE SHALL BE FOR A TERM OF TWELVE (12) YEARS.

ALL BIDS ARE TO BE SUBMITTED IN WRITING AND DELIVERED TO THE CITY COUNCIL OF THE CITY OF ALEXANDRIA, VIRGINIA, IN OPEN SESSION IN THE COUNCIL CHAMBER, CITY HALL, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, AT THE HOUR OF 7:30 P.M.

AFTER RECEIVING THE BIDS, THE PRESIDING OFFICER AND THE CITY COUNCIL WILL PROCEED TO CONSIDER THE BIDS RECEIVED AND THE PROPOSED FRANCHISE IN THE MANNER PRESCRIBED BY LAW, INCLUDING THE SELECTION OF AND THE NEGOTIATION WITH A PREFERRED BIDDER HERE-AFTER SELECTED.

THE CITY RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS AND THE RIGHT TO TERMINATE NEGOTIATIONS AT ANY STAGE OF THE SELECTION PROCESS AT ITS SOLE DISCRETION AND TO MODIFY THE REQUEST FOR BIDS AND/OR THE PROCEDURES FOR CONSIDERATION. THE SUCCESSFUL BIDDER SHALL BE REQUIRED TO REIMBURSE THE CITY FOR THE COST OF THE ADVERTISEMENT.

THE DESCRIPTIVE NOTICE OF THE PROPOSED ORDINANCE IS AS FOLLOWS:

AN ORDINANCE to grant a franchise, under certain conditions, permitting the installation and maintenance of cable and necessary appurtenances and apparatus incidental to the provision of cable television to certain residents of Fairfax County, in the public right-of-way under, in, over and along portions of certain public streets. (Complete text of ordinance available in office of the city clerk.)

Section III. That the title of and an informal memorandum explaining this ordinance shall be published in a newspaper of general circulation published in the city not later than five days following its introduction together with a notice containing the time and place for a public hearing. The city clerk shall have the full text of this ordinance printed in sufficient numbers to supply copies to meet request. The city clerk shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective the date of its final passage.

JAMES P. MORAN, JR.  
Mayor

Final Passage: November 12, 1985