

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance •• Administration •• Executive/Legal •• Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

August 7, 1984

Burk E. Delventhal
Deputy City Attorney
206 City Hall
400 Van Ness Avenue
San Francisco, CA 94102

Re: A-84-200

Dear Mr. Delventhal:

Your letter requesting advice under the Political Reform Act has been referred to Janis Shank McLean, an attorney in the Legal Division of the Fair Political Practices Commission. If you have any questions about your advice request, you may contact this attorney directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,


Barbara A. Milman
General Counsel

BAM:plh

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

November 6, 1984

Burk E. Delventhal
San Francisco City Attorney's Office
206 City Hall
400 Van Ness Avenue
San Francisco, CA 94102

Re: Your Request for Advice
Our Advice No. A-84-200

Dear Mr. Delventhal:

Thank you for your request for advice on behalf of the San Francisco County Board of Supervisors. The advice contained in this letter is based upon the facts provided in your letters.

FACTS

The City of San Francisco has a franchise agreement with Viacom for cablevision service. The franchise agreement specifies that:

In order to effectuate public access, Grantee shall provide full two-way video service to schools, when available, community colleges, universities, educational administration sites, public buildings, and community centers (to be selected on the basis of the criteria recommended by the Citizens Telecommunication Committee) at no cost, including free cable connection and subscriber fees.^{1/}

As stated in this franchise agreement, cable services to community centers are provided upon direction from the Citizens Telecommunication Committee. With regard to the other enumerated institutions, the Committee does not supervise Viacom's granting of free services. Generally, Viacom waits for

^{1/} This requirement is consistent with the provision of San Francisco Municipal Code Section 11.25.

Burk E. Delventhal
November 6, 1984
Page 2

requests from institutions which desire to take advantage of the free services. Viacom has always granted such requests. In the case of public schools, Viacom contacts schools in its service area and offers free services.

In June 1984, one of the members of the Board of Supervisors contacted Viacom to determine if services could be provided to his City Hall office. Viacom responded by writing a letter to the Clerk of the Board of Supervisors asking if it could perform a study which would allow it to determine the feasibility of providing one cable outlet per Supervisor's office. Any supervisor desiring cable service could then request to have a cable connection for basic service. Each Supervisor would be required to provide his or her own television set. Viacom stated in the letter that providing services to the Supervisors will fulfill, in part, its obligation to provide free services in certain public buildings, pursuant to the franchise agreement.

QUESTION PRESENTED

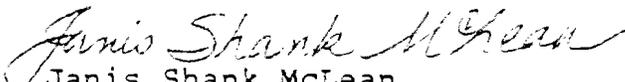
If Viacom installs its cable facilities in the offices of the members of the Board of Supervisors, will Viacom be providing the officials with a gift?

DISCUSSION

In negotiating the franchise agreement with Viacom, the City of San Francisco required that cable facilities be installed in certain public buildings. The current request will result in the installation of basic cable services inside City Hall-- specifically inside the offices of the members of the Board of Supervisors. Thus, it appears that in complying with this request, Viacom is merely complying with the provisions of its franchise agreement and the members of the Board of Supervisors are merely receiving the benefit of services purchased by the City under the agreement. It does not appear that the Supervisors are receiving any additional benefits and, therefore, the services do not constitute gifts.

If you have any questions, please feel free to contact me at 916/322-5901.

Very truly yours,


Janis Shank McLean
Counsel, Legal Division

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

October 3, 1984

Burk E. Delventhal
San Francisco City Attorney's Office
206 City Hall
400 Van Ness Avenue
San Francisco, CA 94102

Re: A-84-200

Dear Buck:

Before I issue new advice to the members of the Board of Supervisors, I think that it would be best for the City and Viacom to thoroughly discuss the facts relating to Viacom's granting of free cable services. It appears to me that there may be a split between the City's interpretation of the "free services" provision of the franchise agreement and Viacom's actual practices. In addition, please discuss Viacom's plans with regard to providing services to the Board of Supervisors. Once the City and Viacom have arrived at a common set of facts, please contact me again.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Counsel
Legal Division

JSM:nwm

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

September 21, 1984

Burk E. Delventhal
San Francisco City Attorney's Office
206 City Hall
400 Van Ness Avenue
San Francisco, CA 94102

Re: Your Request For Advice
Our Advice No. A-84-200

Dear Mr. Delventhal:

Thank you for your request for advice on behalf of the San Francisco County Board of Supervisors. The advice contained in this letter is based upon the facts provided in your letters.

FACTS

The City of San Francisco has a franchise agreement with Viacom for cablevision service. The franchise agreement specifies that:

In order to effectuate public access, Grantee shall provide full two-way video service to schools, when available, community colleges, universities, educational administration sites, public buildings, and community centers (to be selected on the basis of the criteria recommended by the Citizens Telecommunication Committee) at no cost, including free cable connection and subscriber fees.^{1/}

The City has interpreted this franchise provision to require Viacom to provide service, upon request, to the types of entities and agencies listed in the franchise agreement as long as the provision of the service by Viacom is reasonably related to the activities of the entities making the requests. The

^{1/} This requirement is consistent with the provisions of San Francisco Municipal Code Section 11.25.

Burk E. Delventhal
September 21, 1984
Page 2

Citizens Telecommunication Committee is responsible for identifying community centers to which Viacom must provide services. The City has not received any complaints that Viacom failed to provide service after receiving a reasonable request. Recently, Viacom offered to install its cable facilities in the offices of each member of the Board of Supervisors and in various other City offices.

QUESTION PRESENTED

If Viacom installs its cable facilities in the office of each member of the Board of Supervisors, will Viacom be providing the official with a gift?

DISCUSSION

In negotiating its franchise agreement with Viacom, the City of San Francisco required that cable facilities be installed in public buildings and community buildings which meet criteria established by the Citizens Telecommunication Committee. As long as the offices of the members of the Board of Supervisors meet the established criteria, and as long as any other normal procedural requirements for approval of service are followed, Viacom will not be making a gift to the Supervisors. Instead, Viacom will be complying with its franchise agreement. The City will be providing the Supervisors with the benefit of services purchased under its franchise agreement. However, if the Supervisors' offices are not entitled to service under the franchise, and Viacom provides such service voluntarily in addition to the service it is required to provide under the franchise, the service will be a gift to the supervisors.

If you have any questions, please feel free to contact me at 916/322-5901.

Very truly yours,



Janis Shank McLean
Counsel, Legal Division

JSM:km

206 City Hall
400 Van Ness Avenue
San Francisco, California 94102
(415) 558-3559

GEORGE AGNOST CITY ATTORNEY

Burk E. Delventhal
Deputy City Attorney

M E M O R A N D U M

August 3, 1984

TO: Janice McLean
Staff Attorney
Fair Political Practices Commission

FROM: Burk E. Delventhal
Deputy City Attorney

SUBJECT: Provision of Cable Television
Services In City Hall

This note will memorialize my earlier conversation with you regarding the applicability of the Political Reform Act to the provision of free hookup facilities and subscribers' services to a member of the Board of Supervisors by a franchisee of the City and County of San Francisco.

I have attached a copy of the portion of the San Francisco Municipal Code regulating the grant of franchises for cable television systems. I would direct your attention in particular to Section 1125(d). I have also attached a copy of the franchise granted to Viacom cable television for San Francisco. Paragraph 4 of the agreement requires Viacom to provide free cable connections and subscribers' services to public buildings.

We have been contacted by a member of the Board of Supervisors regarding an offer by Viacom to install its cable facility in the Supervisor's office and to provide free subscribers' services. The Supervisor has asked whether the provision of this hookup and free subscribers' services would constitute a gift from Viacom, within the meaning of the Political Reform Act.

Janice McLean

2

August 3, 1984

I have been informed by the Clerk of the Board of Supervisors that Viacom has made a similar offer to every member of the Board of Supervisors. In addition, I have learned that Viacom has offered to installed its devices and provide its services to various other City offices.

Your attention to this matter will be greatly appreciated.

openings to basements, subsidewalk basements, supports for canopies, temporary street closings and use, and all other street occupancies or uses; and

—to determine which of such occupancies and uses are covered by franchises or permits issued or granted by the Board of Supervisors. It shall be the duty of the Chief Administrative Officer to file reports from time to time with the Board of Supervisors showing in detail whether the holders of the franchises or permits are complying or are failing to comply with the provisions, covenants and obligations contained in or imposed by the franchises and permits. [Ord. No. 4539 (1939), Sec. 1]

SEC. 11.6. REPORTS AS TO OPERATIVE AND INOPERATIVE FRANCHISES. It shall be the duty of the Chief Administrative Officer to investigate and to file with the Board of Supervisors from time to time reports showing the name and address of each person, firm or corporation ascertained as a result of the examinations specified in the preceding section to be engaged in or to maintain, without a franchise or permit, such a business or enterprise as under the law requires a franchise or permit for its conduct, maintenance or operation, or for its use or occupation of any public street, way or place, as well as a statement showing the various franchises and permits which have become inoperative, suspended or void for nonuse, for failure to pay required fees or for any other reason. [Ord. No. 4539 (1939), Sec. 2]

SEC. 11.7. EXAMINATIONS BY CONTROLLER; CONTROLLER'S ANNUAL REPORT. Under and pursuant to the power and authority vested by Section 2.101 of the Charter, the Board of Supervisors does hereby confer upon the Controller the power and authority to examine all and singular, the provisions, covenants and obligations contained in the several franchises and permits heretofore and which may hereafter be issued or granted to any person, firm or corporation for the conduct of any business or calling over which the Board of Supervisors has jurisdiction or control or for the use or occupation of any public street, way or place insofar as such provisions, covenants and obligations contained in such franchises and permits pertain to finance or the payment by the holders of such franchises or permits to the City and County of money or other thing of value and it shall be the duty of the Controller to file an annual report with the Board of Supervisors showing in detail the manner in which the holders of the franchises or permits are complying or failing to comply with the provisions, covenants and obligations contained in or imposed by the franchises or permits. [Ord. No. 4539 (1939), Sec. 3]

Franchises For Cable Television Systems

SEC. 11.21. DEFINITIONS. For the purposes of this ordinance, the following terms, phrases, words, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

- (a) "City" shall mean City and County of San Francisco, a municipal corporation of the State of California.
- (b) "Board" shall mean the Board of Supervisors, the governing body of the City and County of San Francisco or any future board constituting the legislative body of the City.
- (c) "Chief Administrative Officer" shall mean the City's chief executive officer, or any designee thereof.

system in the transmission of broadcast television, radio signals and original cablecast programming of the grantee.

(m) "Gross Annual Non-basic Service Receipts" shall mean any and all compensation and other consideration received directly or indirectly by the grantee from subscribers or users in payment for the receipt of signals other than broadcast television, radio, or original cablecast programming of the grantee, whether for "pay television," "facsimile" transmission, "return" or "response" communication, and whether or not transmitted encoded or processed to permit reception by only selected subscribers.

(n) "Gross Annual Advertising Receipts" shall mean any income, compensation and other consideration received by grantee derived from any form of advertising.

(o) "Gross Annual Lease Receipts" shall mean any fees or income received by grantee for the lease or rental, and compensation for any service in connection therewith, such as studio and equipment rental and production costs, of any channel permitted or designated by the Federal Communications Commission to be so leased or rented. [Added Ord. 203-74; App. 4/24/74]

SEC. 11.22. FRANCHISE TO INSTALL AND OPERATE.

(a) A non-exclusive franchise to install, construct, operate, and maintain a cable television system on streets within all or a specific portion of the City and County may be granted by the Board to any person, whether or not operating under an existing franchise, who or which offers to furnish and provide such system under and pursuant to the terms and provisions of this ordinance.

No provision of this ordinance may be deemed or construed as to require the granting of a franchise when in the opinion of the Board it is in the public interest to restrict the number of grantees to one or more.

(b) When and in the event that the grantee of any franchise granted hereunder uses in his or her cable television system distribution channels furnished to the grantee by a telephone company pursuant to tariff or contract on file with a regulatory body having jurisdiction and said grantee makes no use of the streets independent of such telephone company-furnished facilities, said grantee shall be required to comply with all of the provisions hereof as a "licensee" and in such event whenever the term "grantee" is used herein it shall be deemed to mean and include "licensee." [Added Ord. 203-74; App. 4/24/74]

SEC. 11.23. CABLE TELEVISION SERVICE.

(a) **Basic Service.** The cable television system permitted to be installed and operated hereunder shall:

- (1) be operationally capable of relaying to subscriber terminals those television and radio broadcast signals for the carriage of which the grantee is now or hereafter authorized by the Federal Communications Commission;
- (2) be constructed with the potential of two-way digital signal transmission;
- (3) distribute color television signals which it receives in color;
- (4) provide at least one channel, without charge, for exclusive use of the City and County;
- (5) provide at least one channel each for those educational and public access uses as now or hereafter required by the Federal Communications Commission for systems operating in the top 100 markets as set forth in the rules and regulations of the Federal Communications Commission; and
- (6) have a minimum capacity of 20 channels.

(d) "Franchise" shall mean and include any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a cable television system within all or a specified area in the City. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the City as required by other ordinances and laws of this City.

(e) "Person" shall mean any natural person and all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, business or common law trusts, and societies.

(f) "Grantee" shall mean the person, firm or corporation granted a franchise by the Board under this ordinance, and the lawful successor, transferee or assignee of said person, firm or corporation.

(g) "Street" shall mean the surface, the air space above the surface and the area below the surface of any public street, other public right of way or public place, including public utility easements.

(h) "Property of Grantee" shall mean all property owned, installed, or used within the City by a grantee in the conduct of a cable television system business under the authority of a franchise granted pursuant to this ordinance.

(i) "Subscriber" or "User" shall mean any person or entity receiving for any purpose any service of the grantee's cable television system including, but not limited to, the conventional cable television system service of retransmission of television broadcast, radio signals, grantee's original cablecasting, and the local government, education and public access channels; and other services, such as leasing of channels, data and facsimile transmission, pay television, and police, fire and similar public service communication.

(j) "Cable television system," "CATV," and "CTV," for the purpose of this ordinance, are terms describing a system employing antennae, micro-wave, wires, wave-guides, coaxial cable, or other conductors, equipment or facilities, designed, constructed or used for the purpose of:

- (1) collecting and amplifying local and distant broadcast television or radio signals and distributing and transmitting them;
- (2) transmitting original cablecast programming not received through television broadcast signals;
- (3) transmitting television pictures, film and video-tape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers; and
- (4) transmitting and receiving all other signals; digital, voice and audio-visual; provided, however, that any of the services, permitted hereunder to be performed, as described above, shall be those performed by the grantee for subscribers, as herein defined, in the operation of a cable television or CATV system franchised by the City and County and not otherwise.

(k) "Gross Receipts," as used in the following categories shall mean any and all compensation, in whatever form, grant, subsidy, exchange, or otherwise, directly or indirectly received by a grantee, not including any taxes or services furnished by the grantee imposed directly on any subscriber or user by a city, county, state or other governmental unit, and collected by the grantee for such entity.

(l) "Gross Annual Basic Subscriber Receipts" shall mean any and all compensation and other consideration received directly or indirectly by the grantee from subscribers in payment of the regularly furnished service of the cable television

struct, operate and modify the system so as to tie the same into all other systems within and adjacent to the City and County.

(f) **Uses Permitted.** Any franchise granted pursuant to the provisions of this ordinance shall authorize and permit the grantee to engage in the business of operating and providing a cable television system in the City and County, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any street, such poles, wires, cable, conductors, ducts, conduit, vaults, manholes, amplifiers, and appliances, attachments, and other property as may be necessary and appurtenant to the cable television system; and, in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility or other grantee franchised or permitted to do business in the City and County. [Added Ord. 203-74; App. 4/24/74]

SEC. 11.24. FRANCHISE PAYMENTS.

(a) In consideration of the granting and exercise of a franchise to use the streets, as herein defined, for the operation of a cable television system, any grantee shall pay to the City and County during the life of the franchise the following:

- (1) a percentage of its gross annual basic subscriber receipts;
- (2) a percentage of its gross annual non-basic service receipts;
- (3) a percentage of its gross annual advertising receipts; and
- (4) a percentage of its gross annual lease receipts.

(b) The percentage payments shall be made in the manner, amounts and at times directed in said franchise or in a Board resolution fixing franchise fees and adopting rules for service and rate regulations.

(c) The City and County shall have the right to inspect the grantee's revenue records under the franchise and the right of audit and recomputation of any and all amounts payable under this ordinance. The cost of said audit shall be borne by grantee when the same results in increasing, by more than 2%, the grantee's annual payment to the City and County.

(d) No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the City and County may have for further or additional sums payable under this ordinance or for the performance of any other obligation hereunder. [Added Ord. 203-74; App. 4/24/74]

SEC. 11.25. FRANCHISE TERM: DURATION AND TERMINATION.

(a) The franchise granted by the Board under this ordinance shall be for a term of 15 years from the date of its acceptance by the grantee.

(b) The City and County may terminate any franchise granted pursuant to the provisions of this ordinance in the event of the failure, refusal or neglect by grantee to do or comply with any material requirement or limitation contained in this ordinance, or any material rule or regulation of the Board or Chief Administrative Officer validly adopted pursuant to this ordinance.

(c) The Chief Administrative Officer may make written demand that the grantee do or comply with any such requirement, limitation, term, condition, rule or regulation. If the failure, refusal or neglect of the grantee continues for a period of 30 days following such written demand, the Chief Administrative Officer may place the request for termination of the franchise with the Board. The Board shall cause to be served upon such grantee, at least 10 days prior to the date of any Board meeting regarding this matter, a written notice of request for such termination, and the time

(b) **Non-basic Services.** The cable television system permitted to be installed and operated hereunder, may also engage in the business of:

- (1) transmitting original cablecast programming not received through television broadcast signals;
- (2) transmitting television pictures, film and video-tape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers or subscribers; and
- (3) transmitting and receiving all other signals: digital, voice and audio-visual.

(c) **Subscriber Complaints.** In addition to other service regulations adopted by the Board, and excepting circumstances beyond grantee's control, such as acts of God, riots and civil disturbances, and in providing the foregoing services, the grantee shall:

- (1) limit system failures to minimum time duration by locating and correcting malfunctioning promptly, but in no event longer than 24 hours after occurrence, irrespective of holidays or other non-business hours;
- (2) upon complaint by a subscriber, make a demonstration satisfactory to the Chief Administrative Officer that a signal is being delivered which is of sufficient strength and quality to meet the standards set forth in the regulations of the Federal Communications Commission, or in regulations hereafter adopted by the Board;
- (3) render efficient service, making repairs promptly and interrupting service only for good cause and for the shortest time possible. Planned interruptions, insofar as possible, shall be preceded by notice given to subscribers 24 hours in advance and shall occur during periods of minimum use of the system;
- (4) maintain an office in the City, which office shall be open during all usual business hours, with its telephone listed in directories of the telephone company serving the City, and be so operated that complaints and requests for repairs or adjustments may be received at any time, day or night, seven days a week; and
- (5) maintain a written record, or "log," listing date of customer complaints, identifying the subscriber and describing the nature of the complaint, and when and what action was taken by grantee in response thereto; said record shall be kept at grantee's local office, for a period of five years from the date when the system is first energized, and shall be available for inspection during regular business hours, without further notice or demand, by the Chief Administrative Officer.

(d) **Municipal Services.** (1) With respect to the local government channel, the grantee shall provide, at the request of the Chief Administrative Officer, and upon City and County reimbursement of grantee's actual cost, use of grantee's studio, equipment and technical services for production of live and video-tape municipal programs, subject to scheduling requirements of the grantee.

(2) With respect to the basic television services, the grantee shall provide all subscriber services, and a tie-in connection, without cost, when the system passes such facilities and as designated by the board, to

- (A) public schools and community colleges within the City and County, and
- (B) buildings owned and controlled by the City and County, used for public purposes and not for residential use (fire and police stations excepted).

(e) **Compatibility and Connectivity.** (1) It is the desire of the City and County that all cable television systems franchised hereunder shall, insofar as financially and technically possible, be compatible one with another and with systems adjacent to the City and County.

(2) Wherever it is financially and technically feasible, the grantee shall so con-

public accountant, certifying that the applicant has available sufficient free net and uncommitted cash resources to construct and operate the proposed system in this City and County.

(F) A statement identifying, by place and date, any other cable television franchise(s) awarded to the applicant, its parent or subsidiary; the status of said franchise(s) with respect to completion thereof; the total cost of completion of such system(s); and the amount of applicant's and its parent's subsidiary's resources committed to the completion thereof.

(b) A detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:

(1) A detailed map indicating all areas proposed to be served, and a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served.

(2) A statement or schedule setting forth all proposed classifications of rates and charges to be made against subscribers and all rated and charges as to each of said classifications, including installation charges and service charges.

(3) A detailed, informative, and referenced statement describing the actual equipment and operational standards proposed by the applicant. In no event shall said operational and performance standards be less than those contained in Title 47, Subpart K (Section 76.601 et seq.), Rules and Regulations, Federal Communications Commission, adopted February 2, 1972, and as amended.

(4) A copy of the form of any agreement, undertaking, or other instrument proposed to be entered into between the applicant and any subscriber.

(5) A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any person, firm, or corporation which materially relate or pertain to or depend upon the application and the granting of the franchise.

(c) A copy of any agreement covering the franchise area, if existing between the applicant and any public utility subject to regulation by the California Public Utilities Commission providing for the use of any facilities of the public utility, including but not limited to poles, lines or conduits.

(d) Any other details, statements, information or references pertinent to the subject matter of such application which shall be required or requested by the Board, or by any provision of any other ordinance or the Charter of the City and County.

(e) The Board may, by advertisement or any other means, solicit and call for applications for cable television system franchises, and may determine and fix any date upon or after which the same shall be received by the City and County, or the date before which the same must be received; or the date after which the same shall not be received; and may make any other determinations and specify any other times, terms, conditions, or limitations respecting the soliciting, calling for, making and receiving of such applications.

The grantee shall pay to the City and County a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting of a franchise pursuant to the provisions of this ordinance. Such payment shall be made within 30 days after the City and County furnishes the grantee with a written statement of such expenses.

(f) Upon receipt of any application for franchise, the Board shall refer the same to the Chief Administrative Officer who shall prepare a report and make his or her recommendations respecting such application, and cause the same to be completed and filed with the Board within 30 days.

and place of the meeting, notice of which shall be published by the Board at least once 10 days before such meeting in a newspaper of general circulation within the City and County.

(d) The Board shall consider the request of the Chief Administrative Officer and shall hear any persons interested therein, and shall determine, in its discretion, whether or not any failure, refusal or neglect by the grantee was with just cause.

(e) If such failure, refusal or neglect by the grantee was with just cause, the Board shall direct the grantee to comply within such time and manner and upon such terms and conditions as are reasonable.

(f) If the Board shall determine such failure, refusal or neglect by the grantee was without just cause, then the Board may, by resolution, declare that the franchise of such grantee shall be terminated and forfeited unless there be compliance by the grantee within such period as the Board may fix.

(g) The termination and forfeiture of any franchise shall in no way effect any of the rights of the City and County under the franchise or any provision of law.

(h) In the event of any holding over after expiration or other termination of any franchise granted hereunder, without the prior consent of the City and County, expressed by resolution, the grantee shall pay to the City and County reasonable compensation and damages, of not less than 100% of its gross revenue during said period. [Added Ord. 203-74; App. 4/24/74]

SEC. 11.26. APPLICATIONS FOR FRANCHISE.

(a) Each application for a franchise to construct, operate, or maintain any cable television systems in this City and County shall be filed with the Board and shall contain or be accompanied by the following:

(1) the name, address, and telephone number of the applicant;

(2) a detailed statement of the corporate or other business entity organization of the applicant, including but not limited to, the following and to whatever extent required by the City and County:

(A) The names, residence and business addresses of all officers, directors, and associates of the applicant.

(B) The names, residence and business addresses of all officers, persons and entities having, controlling, or being entitled to have or control of 5% or more of the ownership of the applicant and the respective ownership share of each such person or entity.

(C) The names and addresses of any parent or subsidiary of the applicant — namely, any other business entity owning or controlling applicant in whole or in part; or owner or controlled in whole or in part by the applicant; and a statement describing the nature of any such parent or subsidiary business entity, including, but not limited to, cable television systems owned or controlled by the applicant, its parent and subsidiary and the areas served thereby.

(D) A detailed description of all previous experience of the applicant in providing cable television system service and in related or similar fields.

(E) A detailed and complete financial statement of the applicant, prepared by a certified public accountant, for the fiscal year next preceding the date of the application hereunder; or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Board, setting forth the basis for a study performed by such lending institution or funding source, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed system in the City and County; or a statement from a certified

SEC. 11.27. BONDS: INDEMNIFICATIONS; INSURANCE.

(a) **Performance Bond to City and County.** Upon being granted a franchise, upon the filing of the acceptance required under Section 8 hereof, the grantee shall file with the Controller and shall thereafter, annually, during the entire term of such franchise, maintain in full force and effect a corporate surety bond or other adequate surety agreement in such amount and kind as shall have been approved by the City Attorney. The bond or agreement shall be so conditioned that in the event that grantee shall fail to comply with any one or more of the provisions of this ordinance or of such franchise, then there shall be recoverable jointly and severally from the principal and surety any damages or loss, or costs suffered or incurred by the City and County as a result thereof, including attorney's fees and costs of any action or proceeding, and including the full amount of any compensation, indemnification, cost of removal or abandonment of any property or other costs which may be in default, up to the full principal amount of such bond. Said condition shall be a continuing obligation during the entire term of such franchise and thereafter until grantee shall have satisfied in full any and all obligations to the City and County which arise out of or pertain to said franchise. Neither the provisions of this section, nor any bond accepted by the City and County and pursuant hereto, nor any damages recovered by the City and County thereunder shall be construed to excuse faithful performance by the grantee, or limit the liability of the grantee under any franchise issued pursuant to this ordinance or for damages either to the full amount of the bond, or otherwise.

(b) **Performance Bond for Subscribers.** Upon being granted a franchise and upon filing of the acceptance required under Section 8 hereof, the grantee shall file, annually, with the Controller and shall thereafter during the entire term of such franchise maintain in full force and effect a corporate surety bond, or other adequate surety agreement, in the amount as shall have been approved by the City Attorney. The bond or agreement shall be so conditioned that in the event such grantee shall fail to comply with any one or more of the provisions of any agreement or undertaking made between grantee and any subscriber, then there shall be recoverable jointly and severally from the principal and surety any damages or costs suffered or incurred by any subscriber as a result thereof, including reasonable attorneys' fees and costs of any action or proceeding. Said condition shall be a continuing obligation during the entire term of such franchise and thereafter until grantee shall have satisfied in full any and all obligations to any subscriber which arise out of or pertain to any such agreement or undertaking.

(c) **Hold Harmless Agreement.** Grantee shall indemnify and hold harmless the City and County, its officers, boards, commissions agents, and employees, against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages (including but not limited to damages to City and County property and damages arising out of copyright infringements, and damages arising out of any failure by grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by grantee's cable television system), costs or liabilities (including costs or liabilities of the City and County with respect to its employees), of every kind and nature whatsoever, including but not limited to damages for injury or death or damage to person or property, and regardless of the merit of any of the same, and against all liability to others, and against any loss, cost, and expense resulting or arising out of any of the same, including any attorneys fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, traveling and transportation expense, or other costs or expense arising out of or pertaining to the exercise or the enjoyment of any franchise hereunder by grantee, or the granting thereof by the City and County.

(d) **Defense of Litigation.** Grantee shall at the sole risk and expense of grantee, upon demand of the City and County, made by and through the City Attorney, appear

The Board shall also refer the application for a franchise to the Cable Television Task Force which shall schedule and hold hearing on said application. Within 60 days of the Task Force's receipt of an application, it shall give to the Board its evaluation of the application and recommendations for Board action.

(g) In making any determination hereunder as to any application the Board may give due consideration to the quality of the service proposed, rates to subscriber, income to the City and County, experience, character, background, and financial responsibility of any applicant, and its management and owners, technical and performance quality of equipment.

Consideration will also be given to willingness and ability to meet construction and physical requirements, and to abide by policy conditions, franchise limitations and requirements, and any other considerations deemed pertinent by the Board for safeguarding the interests of the City and County and the public. The Board, in its discretion, shall determine the award of any franchise on the basis of such considerations and without competitive bidding.

If the Board shall determine to reject such application, such determination shall be final and conclusive, and the same shall be deemed rejected.

(h) If the Board shall determine to further consider the application, the following shall be done:

(1) The Board shall decide and specify the terms and conditions of any franchise to be granted hereunder and as herein provided.

(2) The Board shall pass its resolution of intention to consider the granting of such a franchise, giving notice of receipt of the application, and describing the character of the franchise desired, stating the name of the proposed grantee, the character of the franchise, the terms and conditions upon which such franchise is proposed to be granted, that copies of the proposed franchise may be obtained at the office of the Board, fixing and setting forth a day, hour, and place certain when and where any persons having any interest therein or objection to the granting thereof may file written protests and appear before the Board and be heard, and directing the Clerk of the Board to publish said resolution at least once within 10 days of the passage thereof in a newspaper of general circulation within the City and County.

(i) At the time set for the hearing, or at any adjournment thereof, the Board shall proceed to hear all written protests. Thereafter, the Board shall make one of the following determinations:

(1) that such franchise be denied; or

(2) that such franchise be granted upon the terms and conditions as specified in the resolution of intention to grant the same; or

(3) that such franchise be granted, but upon the terms and conditions different from those specified in the resolution of intention to grant the same.

(j) If the Board shall determine that a franchise be denied, such determination shall be expressed by resolution and shall be final and conclusive.

If the Board shall determine that a franchise be granted upon the terms and conditions as specified in the resolution of intention to consider granting the same, such determination shall be expressed by ordinance granting a franchise to the applicant.

If the Board shall determine upon granting a franchise upon terms and conditions different from those specified in the resolution of intention to consider granting the same, then such determination shall be expressed by resolution adopted prior to granting a franchise by ordinance. [Added Ord. 203-74; App. 4/24/74]

OFFICE OF THE CLERK OF
BOARD OF SUPERVISORS

CITY HALL

May 10, 1983

To Viacom

RECEIVED
MAY 16 1983
VIACOM S.F.

of San Francisco:

and County

AMENDED IN COM. 3/9/83
AMENDED IN BOARD 3/21/83
AMENDED IN BOARD 3/28/83

FILE NO. _____

ORDINANCE NO. 200 83

1 AMENDING ORDINANCE NO. 105-64 GRANTING CABLE TELEVISION FRANCHISE
2 BY AMENDING SECTION 2 (A) THEREOF, BY PROVIDING PUBLIC ACCESS FOR
3 IDENTIFY VIDEO NEEDS, BY ADDING ADDITIONAL ENTITIES WHO WILL
4 MAINTAIN NO COST ACCESS AND CHANGING CONSTRUCTION PLAN.

5 NOTE: Additions or substitutions are underlined; deletions are
6 indicated by ((double parenthesis)).

7 ENACTED BY THE PEOPLE OF THE CITY AND COUNTY OF SAN
8 FRANCISCO:

9 Section 1. Ordinance No. 105-64 is hereby amended by
10 amending Section 2.A thereof, to read as follows:

11 SEC. 2.A. Construction by the Grantee shall be undertaken
12 within the franchise area after December 9, 1978, which will
13 extend cable service to all residential areas of the City and
14 County of San Francisco (hereinafter referred to as the "City"),
15 pursuant to a construction plan developed mutually by the Grantee and
16 the City. Within 30 days from December 31, 1980, the Grantee
17 will make application to the appropriate agencies required and
18 will complete said construction of all residential areas as
19 defined in the construction plan within eight years from the
20 effective date of this ordinance. The residential areas in which
21 the construction plan will be performed are identified by the map
22 attached hereto as Exhibit A. The construction plan is attached
23 hereto as Exhibit B. Exhibit A and Exhibit B are by reference
24 expressly incorporated herein and made a part hereof as though
25 fully set forth herein. Within the designated construction
26 period, the Grantee will submit a detailed report to the Chief
27 Administrative Officer, the Citizens Telecommunications
28 Committee, and the Mayor's Office on a quarterly basis,
29 commencing with the first quarter after the effective date of
30 this ordinance detailing the progress which has been made on the

OFFICE OF THE
BOARD OF SUPERVISORS
CITY AND COUNTY OF SAN FRANCISCO

May 10,

To Viacom

San Francisco and County

of San Francisco:

1 approved construction plan. The Grantee will further submit a
2 plan to the Chief Administrative Officer by December 1 of each
3 year outlining construction plans and schedule for the following
4 year's construction. The Grantee may only deviate from the
5 construction plan with the consent of the Board of Supervisors or
6 its designated authority. Consent is granted to revise the
7 construction plan in accordance with Exhibit C attached hereto.
8 Exhibit C is by reference expressly incorporated herein and made
9 a part hereof as though fully set forth herein.

10 The Grantee, accepting the provisions of this ordinance
11 will further agree to the following.

- 12 1. The system to be constructed will be capable of delivering,
13 as specified by the manufacturer, a minimum band width of
14 400 MHz or 52 channels. The system shall further have the
15 capability of two-way transmission.
- 16 2. The cable components and ancillary equipment in the
17 existing system will be modified so that the subscriber
18 areas where cable currently exists will receive the same
19 scope of service as indicated above. Throughout the term
20 of the franchise, all new and replacement construction will
21 be accomplished with the then current state-of-the-art
22 equipment.
- 23 3. For the term of the franchise, regardless of Federal
24 Communication Commission regulations which currently or may
25 in the future limit the franchise fee to a lesser amount,
26 Grantee or its successor will agree to pay the City a 5%
27 franchise fee on gross revenues as defined in Section 2 of
28 Ordinance No. 105-64. The City may renegotiate the fee at
29 its option in the event changes in state law and federal
30 regulations permit higher fees. Higher fees will be paid

OFFICE OF THE
BOARD OF SUPERVISORS
CITY OF SAN FRANCISCO

May 10, 1985

To Viacom

of San Francisco:

and County

- 1 on then current franchise fees in other similar
2 jurisdictions. Renegotiation can only be at five year
3 intervals commencing on December 1, 1985. If the City and
4 grantee fail to agree on an increased fee the matter will
5 be decided via arbitrator as outlined in Section 17(c)
6 herein.
- 7 4. The Grantee will continue to provide an opportunity for
8 public expression by the continuation of community
9 programming as now available on Cable Channel 6; and public
10 access as now available on Cable Channel 25; and will
11 guarantee the continued operation of the Channel 6 color
12 television studio, and Channel 25 color television studio.
13 properly equipped and supported by trained personnel for
14 the purpose of local, community-oriented programming on
15 both channels. The Grantee shall provide dedicated
16 channels for municipal, ((and)) educational access, and
17 community video, not to exceed two channels of 52 channels,
18 and an additional 10% of any channels in excess of 52
19 channels. In order to effectuate public access, Grantee
20 shall provide full two-way video service to schools, ^{when available}/
21 community colleges, universities, educational
22 administration sites, public buildings, and community
23 centers (to be selected on the basis of the criteria
24 recommended by the Citizens Telecommunication Committee) at
25 no cost, including free cable connection and subscriber
26 fees.
- 27 5. The Grantee will, after the effective date of this
28 ordinance, subject to zoning restrictions and technical
29 feasibility, construct a satellite antenna in San Francisco
30 for the purpose of receiving satellite programming.

OFFICE OF THE
BOARD OF SUPERVISORS
CITY OF

May 10,

To Viacom

San Francisco County

of San Francisco:

- 1. 6. For the term of the franchise, regardless of Federal
- 2. Communication Commission regulations or State law which
- 3. currently or may in the future permit the de-regulation of
- 4. basic subscriber rates, ^{basic} subscriber rates shall continue to
- 5. be set by ordinance of Board of Supervisors.
- 6.

7. APPROVED AS TO FORM:

8. GEORGE AGOSTO, City Attorney

9. By David Koopnick
10. Deputy City Attorney

11.
12.
13.
14.
15.
16.
17.
18.
19.
20.
21.
22.
23.
24.
25.
26.
27.
28.
29.
30.
31.
32.
33.
34.
35.
36.
37.
38.
39.
40.
41.
42.
43.
44.
45.
46.
47.
48.
49.
50.
51.
52.
53.
54.
55.
56.
57.
58.
59.
60.
61.
62.
63.
64.
65.
66.
67.
68.
69.
70.
71.
72.
73.
74.
75.
76.
77.
78.
79.
80.
81.
82.
83.
84.
85.
86.
87.
88.
89.
90.
91.
92.
93.
94.
95.
96.
97.
98.
99.
100.
101.
102.
103.
104.
105.
106.
107.
108.
109.
110.
111.
112.
113.
114.
115.
116.
117.
118.
119.
120.
121.
122.
123.
124.
125.
126.
127.
128.
129.
130.
131.
132.
133.
134.
135.
136.
137.
138.
139.
140.
141.
142.
143.
144.
145.
146.
147.
148.
149.
150.
151.
152.
153.
154.
155.
156.
157.
158.
159.
160.
161.
162.
163.
164.
165.
166.
167.
168.
169.
170.
171.
172.
173.
174.
175.
176.
177.
178.
179.
180.
181.
182.
183.
184.
185.
186.
187.
188.
189.
190.
191.
192.
193.
194.
195.
196.
197.
198.
199.
200.
201.
202.
203.
204.
205.
206.
207.
208.
209.
210.
211.
212.
213.
214.
215.
216.
217.
218.
219.
220.
221.
222.
223.
224.
225.
226.
227.
228.
229.
230.
231.
232.
233.
234.
235.
236.
237.
238.
239.
240.
241.
242.
243.
244.
245.
246.
247.
248.
249.
250.
251.
252.
253.
254.
255.
256.
257.
258.
259.
260.
261.
262.
263.
264.
265.
266.
267.
268.
269.
270.
271.
272.
273.
274.
275.
276.
277.
278.
279.
280.
281.
282.
283.
284.
285.
286.
287.
288.
289.
290.
291.
292.
293.
294.
295.
296.
297.
298.
299.
300.
301.
302.
303.
304.
305.
306.
307.
308.
309.
310.
311.
312.
313.
314.
315.
316.
317.
318.
319.
320.
321.
322.
323.
324.
325.
326.
327.
328.
329.
330.
331.
332.
333.
334.
335.
336.
337.
338.
339.
340.
341.
342.
343.
344.
345.
346.
347.
348.
349.
350.
351.
352.
353.
354.
355.
356.
357.
358.
359.
360.
361.
362.
363.
364.
365.
366.
367.
368.
369.
370.
371.
372.
373.
374.
375.
376.
377.
378.
379.
380.
381.
382.
383.
384.
385.
386.
387.
388.
389.
390.
391.
392.
393.
394.
395.
396.
397.
398.
399.
400.
401.
402.
403.
404.
405.
406.
407.
408.
409.
410.
411.
412.
413.
414.
415.
416.
417.
418.
419.
420.
421.
422.
423.
424.
425.
426.
427.
428.
429.
430.
431.
432.
433.
434.
435.
436.
437.
438.
439.
440.
441.
442.
443.
444.
445.
446.
447.
448.
449.
450.
451.
452.
453.
454.
455.
456.
457.
458.
459.
460.
461.
462.
463.
464.
465.
466.
467.
468.
469.
470.
471.
472.
473.
474.
475.
476.
477.
478.
479.
480.
481.
482.
483.
484.
485.
486.
487.
488.
489.
490.
491.
492.
493.
494.
495.
496.
497.
498.
499.
500.
501.
502.
503.
504.
505.
506.
507.
508.
509.
510.
511.
512.
513.
514.
515.
516.
517.
518.
519.
520.
521.
522.
523.
524.
525.
526.
527.
528.
529.
530.
531.
532.
533.
534.
535.
536.
537.
538.
539.
540.
541.
542.
543.
544.
545.
546.
547.
548.
549.
550.
551.
552.
553.
554.
555.
556.
557.
558.
559.
560.
561.
562.
563.
564.
565.
566.
567.
568.
569.
570.
571.
572.
573.
574.
575.
576.
577.
578.
579.
580.
581.
582.
583.
584.
585.
586.
587.
588.
589.
590.
591.
592.
593.
594.
595.
596.
597.
598.
599.
600.
601.
602.
603.
604.
605.
606.
607.
608.
609.
610.
611.
612.
613.
614.
615.
616.
617.
618.
619.
620.
621.
622.
623.
624.
625.
626.
627.
628.
629.
630.
631.
632.
633.
634.
635.
636.
637.
638.
639.
640.
641.
642.
643.
644.
645.
646.
647.
648.
649.
650.
651.
652.
653.
654.
655.
656.
657.
658.
659.
660.
661.
662.
663.
664.
665.
666.
667.
668.
669.
670.
671.
672.
673.
674.
675.
676.
677.
678.
679.
680.
681.
682.
683.
684.
685.
686.
687.
688.
689.
690.
691.
692.
693.
694.
695.
696.
697.
698.
699.
700.
701.
702.
703.
704.
705.
706.
707.
708.
709.
710.
711.
712.
713.
714.
715.
716.
717.
718.
719.
720.
721.
722.
723.
724.
725.
726.
727.
728.
729.
730.
731.
732.
733.
734.
735.
736.
737.
738.
739.
740.
741.
742.
743.
744.
745.
746.
747.
748.
749.
750.
751.
752.
753.
754.
755.
756.
757.
758.
759.
760.
761.
762.
763.
764.
765.
766.
767.
768.
769.
770.
771.
772.
773.
774.
775.
776.
777.
778.
779.
780.
781.
782.
783.
784.
785.
786.
787.
788.
789.
790.
791.
792.
793.
794.
795.
796.
797.
798.
799.
800.
801.
802.
803.
804.
805.
806.
807.
808.
809.
810.
811.
812.
813.
814.
815.
816.
817.
818.
819.
820.
821.
822.
823.
824.
825.
826.
827.
828.
829.
830.
831.
832.
833.
834.
835.
836.
837.
838.
839.
840.
841.
842.
843.
844.
845.
846.
847.
848.
849.
850.
851.
852.
853.
854.
855.
856.
857.
858.
859.
860.
861.
862.
863.
864.
865.
866.
867.
868.
869.
870.
871.
872.
873.
874.
875.
876.
877.
878.
879.
880.
881.
882.
883.
884.
885.
886.
887.
888.
889.
890.
891.
892.
893.
894.
895.
896.
897.
898.
899.
900.
901.
902.
903.
904.
905.
906.
907.
908.
909.
910.
911.
912.
913.
914.
915.
916.
917.
918.
919.
920.
921.
922.
923.
924.
925.
926.
927.
928.
929.
930.
931.
932.
933.
934.
935.
936.
937.
938.
939.
940.
941.
942.
943.
944.
945.
946.
947.
948.
949.
950.
951.
952.
953.
954.
955.
956.
957.
958.
959.
960.
961.
962.
963.
964.
965.
966.
967.
968.
969.
970.
971.
972.
973.
974.
975.
976.
977.
978.
979.
980.
981.
982.
983.
984.
985.
986.
987.
988.
989.
990.
991.
992.
993.
994.
995.
996.
997.
998.
999.
1000.

Passed for Second Reading
Board of Supervisors, San Francisco

APR 4 1983

Ayes: Supervisors Britt, Donasto, Kennedy,
Kopp, Maher, Molinari, ~~_____~~, Renne, Silver,
Walker, Ward.

Absent Supervisors: ZELDER

Jim Taylor
Clerk

32-83-2
File No.

APR 11 1983
Approved

Read Second Time and Finally Passed
Board of Supervisors, San Francisco

APR 11 1983

Ayes: Supervisors Britt, Donasto, Kennedy,
Kopp, Maher, ~~_____~~, Renne, Silver,
Walker, Ward.

Absent Supervisors: HOLMART SHINE
WARD E

I hereby certify that the foregoing ordinance was
finally passed by the Board of Supervisors of the
City and County of San Francisco.

Jim Taylor Clerk
George Agosto Mayor

FILE NO. 21343 ORDINANCE NO. _____
GRANTING TO TELEVISION SIGNAL CORPORATION, A CALIFORNIA CORPORATION, AND ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO BUILD, CONSTRUCT, LOCATE, MAINTAIN AND OPERATE A COMMUNITY ANTENNA SYSTEM IN THE CITY AND COUNTY OF SAN FRANCISCO, PROVIDING THE CONDUCT OF THE BUSINESS OF, AND RIGHT, POWER, AUTHORITY AND PRIVILEGE TO BUILD, CONSTRUCT, EQUIP, OWN, MAINTAIN, AND OPERATE IN, OR ON, OR UNDER OR OVER, THE PRESENT AND FUTURE STREETS, ALLEYS, AND OTHER PUBLIC PLACES IN THE CITY AND COUNTY OF SAN FRANCISCO, WIRES, LINES, POLES, ARMS, CABLES, APPURTENANCES, FIXTURES, AND OTHER APPARATUS FOR THE PURPOSE OF OPERATING AND CONDUCTING A COMMUNITY ANTENNA SYSTEM IN THE CITY AND COUNTY OF SAN FRANCISCO; PROVIDING FOR THE REGULATION THEREOF; ALSO PROVIDING FOR FRANCHISE FEES.
Be It Ordained by the People of the City and County of San Francisco

I: RIGHT TO DO BUSINESS

Section 1. That there is hereby granted by the City and County of San Francisco (hereinafter called the City), to Television Signal Corporation, a California corporation (hereinafter called Grantee), and its successors and assigns, for a period of twenty-one (21) years from the effective date of this ordinance, the right, power, authority, and privilege to conduct the business of, and to build, construct, equip, own, maintain, and operate in, or on, or under, or over, the present and future streets, alleys, and other public places in the City, wires, lines, poles, arms, cables, appurtenances, fixtures, and other apparatus for the purpose of operating and conducting a Community Antenna System, as defined in Section 19 hereof.

There is hereby granted the further right, power, authority, and privilege to the Grantee to lease, rent, or in any other manner obtain the use of and use, within the corporate limits of the City, such wires, lines, poles, arms, cables, appurtenances, fixtures, and other apparatus from any and all holders of public permits, public licenses or franchises granted by the City or by any other source, and to use such wires, lines, poles, arms, cables, appurtenances, fixtures, and other such apparatus, subject to all the terms and conditions of this franchise, and to the extent that they shall not conflict with this franchise, of any such permit, license or franchise, and subject to all existing and future ordinances, resolutions, and regulations of the City.

There is also hereby granted the right to buy, purchase, lease, erect, equip, maintain, own, or operate such plants, machinery, equipment, or buildings as are necessary to maintain and operate such Community Antenna System, and the right to buy, hold, own, or lease any and all real estate necessary to conduct such business.

This franchise, and each and every provision thereof, shall also be applicable to any and all facilities installed or operated by Grantee before the effective date of this franchise.

2. PLANS AND MAPS

Section 2. The Grantee shall at all times make and keep in the City full and complete plans, maps, and records showing the exact location of all Community Antenna System equipment installed in streets, alleys, and other public places of the City. The Grantee shall file with the Director of Public Works, the Chief of the Department of Electricity, and the Assessor, on or before the first Monday in March of each year, a current map or set of maps drawn to scale, to be designated by the Director of Public Works, showing all Community Antenna System equipment installed in streets, alleys, and other public places of the City during the previous year, except that during the first year of this franchise, said maps shall include all such equipment previously installed or operated, whether prior to or after the effective date of this franchise.

3. HOLD HARMLESS

Section 3. The Grantee shall indemnify, save harmless, and defend the City, its boards, commissions, officers, agents, and employees, and any and all other public agencies, and their members, officers, agents and employees, against any and all liabilities for injury to or death of any person or any injury to any property caused by the Grantee, its officers, agents, or employees in the construction, operation, or maintenance of its property, or arising out of the exercise of any right or privilege under this franchise.

INSTALLATION
?
OPERATION

Section 4. (a) All installations shall be of a permanent nature, durable and installed in accordance with good engineering practice, and shall comply with all existing and future City ordinances, resolutions, regulations, and orders so as not to interfere in any manner with the rights of the public or individual property owner, and shall not interfere with the travel and use of public places or facilities by the public and during the construction, repair or removal thereof, shall not obstruct or impede traffic. Any transmission facilities of, or utilized in connection with, a Community Antenna System anywhere in the City, whether on public or private property, shall consist of coaxial cables having low radiation characteristics, as satisfactory to and approved by the Chief of the Department of Electricity of the City. The use of any open wire lines is prohibited in the City, on public or private property. The Community Antenna System and any facilities utilized in connection therewith, whether on public or private property, shall be installed and operated in such a manner as not to cause interference with the operation of any public safety radio stations or systems or other radio stations or systems operated by the City. Should any such interference develop, the Chief of the Department of Electricity may require that any or all operations of Grantee under this franchise be immediately suspended and be not resumed until the cause of such interference has been corrected to the satisfaction of the Chief of said Department. The Chief of said Department or his representatives shall have the right to enter any and all premises and make any suitable tests in the enforcement of this provision.

COMPLY
(TH
UNDERGROUND

(b) Grantee shall comply with all provisions of Article 11 of Chapter III of Part II of the San Francisco Municipal Code (the Electrical Code Ordinance No. 6595 (Series of 1939) governing underground placement of facilities in Underground Districts, as said provisions now exist or as they may be hereafter amended. It is agreed that any language in said ordinance notwithstanding, Community Antenna System facilities shall be subject to all terms and conditions of said Underground District Ordinance, to the same extent as though such facilities were expressly enumerated therein.

CUSTOMER
SERVICE

(c) The operation of the Community Antenna System shall be conducted and maintained so that all customers of said system shall be entitled to receive signals of good technical quality and a full range of services available. Any and all complaints as to the quality of the signals or services shall be promptly and satisfactorily investigated by the company, and adjustments required to correct situations disclosed by such investigation shall be made forthwith. Any failure to make corrections within seven (7) days after receipt of complaint shall be reported in writing by the Grantee to the Chief Administrative Officer, who shall make, and the Grantee shall comply with, any orders pertinent to such corrections.

5. CITY REGULATION

CITY RIGHT
TO REG. PLACE.
PUBLIC
(VICE REQ.

Section 5. (a) The City reserves the right of reasonable regulation of the erection, construction, and maintenance of any works and construction by the Grantee and to reasonably designate where such works and construction are to be located.

(b) Any and all Community Antenna System facilities shall, in those areas where service is conducted thereby, be made available without charge as a public service for the use of the Communications Division (Department of Electricity) of the Civil Defense and Disaster Corps of the City or any other public agency performing civil defense or disaster services.

6. RIGHT TO ASSIGN

Section 6. The Grantee shall not have the right to assign or otherwise transfer in any manner whatsoever this franchise, or sell, lease, license or permit others to use, transfer in any manner whatever, or convey any interest in, all or any part of its facilities which are installed or operated hereunder, except upon the prior written approval by ordinance of the Board of Supervisors of the City.

7. FORFEITURE

Section 7. This franchise may be forfeited in the opinion of the City, upon the failure or refusal of the Grantee, its successors or assigns, to observe the terms and conditions of this franchise. Such forfeiture may be exercised by service of written notice upon the Grantee, its successors, or assigns, to failure to observe the terms and conditions hereof, and upon the expiration of ninety (90) days to eliminate and obviate such failure or violation. In the event of any such failure or violation, the City may sue in its own name in the manner provided by law for the forfeiture of this franchise without the necessity of reporting to proceedings in court, warrants, and the exercise of said remedy of forfeiture shall not preclude exercise of any other right of remedy given to the City by law, whether exercised concurrently or subsequently.

E. FEES AND NOTICES

(
? INITIAL
) FEE
\$
58 FEE

METHOD OF
PAYMENT

(CORD
DISCLOSURE

PUBLIC USE
F DUCT
SPACE

NOTICE TO
CITY

Section 8. (a) within thirty (30) days after the date that the ordinance granting this franchise becomes effective, the Grantee shall pay to the City the sum of Two Thousand Five Hundred and no/100 Dollars (\$2,500.00) as a purchase price of the franchise hereby granted. The Grantee shall, during the remaining term of this franchise, and during any holding over thereon, after, beginning at this date when this ordinance shall legally take effect, and as a consideration for the granting thereof, and in consideration of amendments to this franchise mutually agreed upon by the Grantee and the City, pay to the City as a Franchise and permit fee and as further compensation for the rights and privileges granted hereunder, the sum equal to five per cent (5%) of its total gross receipts from Community Antenna System customers as defined in Section 19 hereof. Said basis of computation has been hereby agreed upon between the parties hereto as a convenient and proper method of measuring the amount which the Grantee should annually pay as a franchise fee for the enjoyment of the franchise hereby granted, or of any or all rights or privileges granted hereunder. Such fee shall be paid to the City quarterly and the payment thereof shall be due on or before the end of each period of ninety (90) days succeeding the close of each quarter of a calendar year during which this franchise is in effect. The term "quarter of a calendar year" shall include any calendar quarter under this franchise to the date of its actual termination. Such payment shall be accompanied by a statement duly verified before a notary public showing in detail the total gross receipts as defined in Section 19 received by Grantee during the preceding calendar quarter. The Grantee of this franchise, and its successors or assigns, shall, at all times keep and maintain a full, true, and correct account of all the gross earnings and income arising out of operations under this franchise. Their said books of accounts and all other records shall at all reasonable times be open to inspection and examination within the City and County of San Francisco by the Controller of the City and his representatives, and by officers, agents and employees authorized by the Board of Supervisors of the City, and shall be kept in such form as to enable the Controller and his representatives and such authorized officers, agents and employees to ascertain and check the amounts due the City and determine any other facts relative to operations under this franchise. The right is reserved to the City of audit and recomputation of any and all amounts paid under this franchise, and no acceptance of any payment made hereunder shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under the franchise, or for the performance of any other obligation hereunder.

(b) In the discretion of the Chief of the Department of Electricity, the Grantee, in each street, alley or other public places in which it may, after the effective date of this franchise, construct any underground conduit, shall provide and maintain throughout its system, without charge to the City, one continuous duct for the exclusive and permanent use by the City for the police, fire and civil defense communications facilities of the City.

(c) Notice shall be given to the Chief of the Department of Electricity, thirty (30) days prior to the date of any construction work by Grantee, regarding the location and extent of, and type of, facilities to be installed during any such construction, provided that this provision shall not apply to installation of lateral services to individual customers.

(
(

9. TERM

Section 9. The term of this franchise shall be for twenty-one (21) years from and after the effective date of this franchise. This franchise is to be non-transferable and shall be construed in accordance with applicable laws of the State of California including the Charter, ordinances, resolutions and regulations of the City.

10. RATES

Section 10. Grantee agrees that it shall not perform any services for customers for any compensation other than that which is stated in its schedule of rates and charges which is now on file with the Board of Supervisors in file number 213-62, unless an application for modification has been approved in the manner hereinafter set forth, both in the instance of any application for an initial modification and in the instance of any subsequent application or applications for modification.

Any proposed modification of such schedule shall be filed with the Clerk of the Board of Supervisors of the City before any such modification may become effective. Within a period of ninety (90) days the Board of Supervisors shall, after public hearing and notification to the Grantee, act by ordinance to approve or disapprove, in whole or in part, said proposed modification. Any modification of said schedule or part thereof which is approved by the Board of Supervisors shall not be put into effect until sixty (60) days after final passage of the ordinance giving such approval. No proposed modification of any schedule can be put into effect if same shall have been disapproved by the Board of Supervisors; provided, that an application filed pursuant to this section and denied in whole or in part may be renewed subsequent to six (6) months after the date of disapproval of said application.

City and Grantee agree that the rates and charges fixed by the Grantee, which are promulgated either initially or as a result of the above designated procedure, shall not be arbitrary, unreasonable or unjustly discriminatory.

TIME PERIOD

11. SURRENDER CONDITIONS

Section 11. (a) The Grantee, its successors and assigns, shall upon subsequent additions of areas to the City, either by annexation, consolidation, or otherwise, surrender all Community Antenna System franchises of the Grantee in such areas, such surrender being deemed to take place on the occurrence of any such event, and shall thereafter be subject to the provisions of this franchise as to all such areas; provided, however, that should this franchise be declared invalid or rendered inoperative by a judgment, decree, or order of court of competent jurisdiction which being binding hereon, becomes final for all purposes, the franchises thereby surrendered shall thereafter have the same force and effect as if such surrender had not occurred.

SURRENDER

WEXER FRISE

RETRO ACTIVE EFFECT

(b) By its acceptance of this franchise, the Grantee agrees that any Community Antenna System facilities and any other facilities and appurtenances in streets, alleys, and public places, incidental to a Community Antenna System which have been, or are at any future time, in any manner, acquired, leased, or utilized by the Grantee are thereupon to be deemed authorized by and shall be subject to all the provisions of this franchise, including, but not limited to, the duty of payment of compensation as required hereunder.

(c) Performance of the duty of rendering compensation under this franchise or of any other obligation undertaken hereunder shall not be excused by the fact that the Grantee may presently or in the future purchase, lease or utilize under any arrangement whatever, as all or any part of a Community Antenna System, Community Antenna System equipment or facilities or services, or any other equipment or facilities or services incidental to a Community Antenna System furnished by any public utility or other person or entity, whether pursuant to tariffs or any other arrangement. The Grantee agrees that the duty of payment of compensation and the performance of any and all other obligations undertaken under this franchise shall apply to all such equipment, facilities and services so purchased, leased or utilized, whether such equipment, facilities or services constitute all or any part of the Community Antenna System operated within the City by, for, or on behalf of the Grantee.

LEASEBACK

12. LIMITS OF FRANCHISE

Section 12. (a) No privilege or exemption is granted or conferred by this franchise except those specifically prescribed herein.

(b) Any privilege claimed under this franchise by the Grantee in any street or alley or other public place shall be subordinate to any lawful occupancy of same by the City or by any other public agency, and to any prior lawful occupancy of same by any other entity or person.

13. CITY REGULATION OVER PLACEMENT

Section 13. Franchise property shall be constructed or installed in, on, under, or over streets and alleys only at such locations and in such manner as shall be approved by the Director of Public Works, acting in such manner of a reasonable discretion. Construction, installation, or use of franchise property in all other public places shall be subject to rejection by, or approval of, and regulation by the Board, Commission, or officer of the City having jurisdiction over same.

14. ABANDONMENT

Section 14. (a) Except as otherwise provided by Section 15 and this section, within twelve (12) months after the use of any franchise property has been permanently discontinued or this franchise expires, or is otherwise terminated, the Grantee shall promptly remove from the streets, alleys and public places of the City all property involved, and shall restore said streets, alleys, and public places so as to conform in all respects with the current condition of same at the date of such restoration, except, however, that such property shall not be removed if the Director of Public Works of the City shall determine that said removal will cause unreasonable damage to said streets, alleys or public places; and provided, however, that should the Chief of the Department of Electricity request that any duct or ducts shall not be removed, and title thereto shall be transferred to City by an instrument satisfactory in form to the City Attorney of City, transferring to City the ownership of said duct or ducts. The Director of Public Works may, at his discretion, permit any other franchise property, or property abandoned in place, provided that the Grantee shall submit to the Director an instrument satisfactory to the City Attorney of City transferring to City the ownership of such property.

(b) In the event of its holding over after expiration or other termination of this franchise, the Grantee shall render compensation pursuant to the provisions of this franchise until the effective date of a new franchise.

15. EASEMENTS

Section 15. The Grantee, at its expense, shall protect, support, temporarily disconnect, relocate in, under or over any street, alley or public place or remove from any street, alley or public place, any property when required by the Director of Public Works by reason of traffic conditions, utility work, street vacation, freeway or street construction, change of street grade, or street grade, installation of sewers, drains, water pipes, electric lines or tracks or any other type of structures or improvements by the City or other public agencies when acting in a governmental or in a regulatory capacity, or for any public improvement, not limited to the foregoing of any character whatever; provided, however, that Grantee shall in such cases have the privilege to abandon franchise property in place which is provided in Section 14 hereof, subject to the requirements stated herein.

Section 16. Upon any failure of the Grantee to commence, pursue, or complete any work required of it by any existing or future ordinance, resolution or ordinance of the City, or by State law, or by the provisions of this franchise, to be done in any street or alley or public place, the Director of Public Works, at his option and according to law, may cause such work to be done and the Grantee shall pay to the City the cost thereof in itemized amounts as required by the Director of Public Works to the Grantee, within thirty (30) days after receipt of such itemized report.

17. BOND

Section 17. (a) The Grantee shall, within thirty (30) days after the date that the ordinance granting this franchise becomes effective, file with the Chief Administrative Officer of the City, and at all times thereafter maintain in full force and effect for the entire term of the franchise, at its expense, a faithful performance bond executed by a surety company approved by the Controller and in form satisfactory to the City Attorney of the City in the amount of Twenty-Five thousand Dollars (\$25,000), renewable annually and conditioned upon the faithful performance by Grantee of all the terms, conditions, and covenants contained in said franchise, and in the event the Grantee shall fail to comply with any one or more of the provisions of this franchise, then there shall be recoverable jointly and severally from the principal and surety of such bond, any damages or losses incurred by the City as a result thereof. Said bond shall provide that thirty (30) days prior written notice of cancellation, material change, or intention to renew said bond be given to the City.

(b) Neither the provisions of any bond accepted by the City pursuant hereto nor any damages recovered by the City thereunder shall be construed to excuse faithful performance by the Grantee or limit the liability of the Grantee under this franchise or for damages, either to the full amount of the bond or otherwise, or preclude exercise of any other right or remedy given to the City by law, whether exercised concurrently or subsequently.

18. INSURANCE

Section 18. (a) Grantee agrees that at all times during the existence of this franchise it will, at its own expense, maintain in force, furnish to the City and file with the Chief Administrative Officer of the City, a general comprehensive liability insurance policy, in protection of City, members of boards and commissions, and its officers, agents and employees, and the Redevelopment Agency of the City and County of San Francisco, its members, officers, agents and employees, in a company approved by the Controller and in form satisfactory to the City Attorney of the City, protecting the City, said Agency, and said persons against liability for loss or damages from bodily injury, death and property damage occasioned by the operations of the Grantee under this franchise, with minimum liability limits of \$300,000 for personal injury or death of any one person, and \$300,000 for personal injury or death of two or more persons, in any one occurrence, and \$50,000 for damage to property resulting from any one occurrence. Additional public agencies and their personnel shall be added to any such policy as additional insureds, subject to the same terms and conditions, at the request of the City.

(b) The policies mentioned in the foregoing paragraph shall contain provision that a written notice of any cancellation or reduction in coverage of said policies shall be delivered to the City thirty (30) days in advance of the effective date thereof. If such insurance is provided in either case by a policy which also covers Grantee or any other entity or person than those above named, then such policy shall contain the standard cross-liability endorsement.

19. DEFINITIONS

Section 19. Wherever used herein, the following terms and phrases shall be defined as provided in this section:

(a) Community Antenna System: Antennas, coaxial cables, amplifiers, repeaters, other conductors, and other equipment or facilities, not limited to the foregoing, including any of the same, and any services performed by the use of same furnished by any public utility or other person or entity, whether pursuant to tariffs or any other arrangement, necessary for or incidental to the capture or the transmitting of television signals, for a consideration, or as a public service, to customers at the selection of the Grantee.

(b) Customer: Any person or entity who for any purpose receives or pays for the receipt of, or the right to receive, any Community Antenna system signal or signals.

(c) Total Gross Receipts: Any and all compensation and other consideration in any form whatever, and any contribution, grant, or subsidy received, directly or indirectly, from any source without exclusion whatever except as enumerated hereinbelow in the second paragraph of this subsection, by, for, or on behalf of the Grantee, any agent, lessee, licensee, or permittee of the Grantee, or any other person or entity operating or otherwise utilizing Community Antenna System facilities under any arrangement with the Grantee, in payment for any Community Antenna System signal or signals, or for installation, servicing, or other acts, not limited to the foregoing, performed in connection with any Community Antenna system equipment, regardless of the ownership thereof, which is connected, or designed for connection, to a Community Antenna System, or any part thereof.

Total Gross Receipts shall not include the amount of any taxes on the services furnished by the Grantee imposed directly on the customer by any city, state, or other governmental unit and collected specifically by the Grantee for such governmental unit.

20. AUTHORIZATION FOR SIGNALS

Section 20. It is understood and agreed that this franchise only confers authorization on the Grantee to conduct operations and erect, maintain, use or receive services from facilities to carry out the capture and distribution of those television signals which are broadcast through the air waves from properly authorized television stations operating pursuant to permission obtained from the Federal Communications Commission, or any successor thereof, and also to capture and deliver FM and multiplex radio signals from those FM and multiplex radio stations which are located or which may in the future be located, in the San Francisco Bay Area, provided, however, that the Grantee may originate and/or provide to its customers informational and other program material on one or more channels of its Community Antenna System; provided further that it is understood and agreed that, in any event, this franchise does not and shall not permit the transmission to any customer of the Grantee of any program or programs for which a separate charge is made to such customer for the receipt thereof; provided, however, that should Grantee desire to make any additional or other use of all or any part of the Community Antenna System facilities, then it agrees, notwithstanding any other authorization which it may now or subsequently possess from any governmental jurisdiction, that it will apply to the Board of Supervisors of the City for permission to conduct such use, and Grantee hereby further agrees that such use shall be subject to all provisions of this franchise, including, but not limited to, the payment of the compensation prescribed hereunder, and shall be further subject to additional terms and conditions as mutually agreed on by City and Grantee.

21. FCC AUTHORIZED SIGNAL

Section 21. It is understood and agreed that the Grantee may only deliver to any customer the signal of any television station that is permitted or authorized to be delivered by any Community Antenna System operating in the City and County of San Francisco under the rules and regulations of the Federal Communications Commission or any successor thereof, as established by said Commission from time to time; provided, however, that a professional athletic game or contest which takes place within the City and County of San Francisco, and which is not licensed for live telecasting in San Francisco by the owners of the organizations participating in such game or contest, shall not, without the written authorization of the Chief Administrative Officer of the City and County of San Francisco, be delivered or made available for delivery, directly or indirectly, to any customer of the Grantee or any other person or entity. No signals from any other television stations may be delivered by Grantee to any of its customers.

22-23: ACCEPTANCE: ILLEGALITY

Section 22. The Grantee shall file a written acceptance of this franchise with the Clerk of the Board of Supervisors of the City within thirty (30) days after the date that the ordinance granting this franchise becomes effective. This franchise shall go into effect only when such acceptance is duly filed, when the purchase price has been paid, and when the full performance bond and general comprehensive liability insurance policy provided for by this franchise have been filed and approved as required herein.

Section 23. If any section, subsection, sentence, clause or phrase in the ordinance is for any reason held illegal, invalid or unconstitutional, such invalidity shall not affect the validity of the ordinance or any of the remaining portions thereof. The invalidity of any portion of this ordinance shall not abate, reduce or otherwise affect any consideration or other obligation required of the Grantee by this franchise.

I hereby certify that the foregoing ordinance was passed for second reading by the Board of Supervisors of the City and County of San Francisco at its meeting of April 6, 1954.

ROBERT J. DOLAN, Clerk