

ORDINANCE NO. 90-05

AN ORDINANCE OF HOLMES COUNTY, FLORIDA; GRANTING A NON-EXCLUSIVE CABLE TELEVISION FRANCHISE TO VISTA COMMUNICATIONS, INC.; TO OPERATE A CABLE TELEVISION SYSTEM WITHIN THE UNINCORPORATED AREAS OF HOLMES COUNTY, FLORIDA; PROVIDING A CONSTRUCTION SCHEDULE FOR THE INITIAL PORTION OF THE SYSTEM; PROVIDING FOR CALCELLATION OF THE FRANCHISE IF THE CONSTRUCTION SCHEDULE IS NOT COMPLIED WITH; ESTABLISHING CERTAIN REQUIREMENTS FOR THE OPERATION AND MAINTENANCE OF THE SYSTEM; PROVIDING PENALTIES FOR VIOLATION OF THE FRANCHISE; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HOLMES COUNTY, FLORIDA, as follows:

Section 1. This ordinance is adopted pursuant to the provisions of F.S. 125.66.

Section 2. The Board of County Commissioners of Holmes County, Florida, hereinafter called the County, hereby grants unto Vista Communications, Inc., hereinafter called the Company, the non-exclusive right, authority and privilege to build, construct, equip, own, lease, maintain and operate in the unincorporated areas of Holmes County, Florida, wires, lines, poles, arms, cables, conduits, appurtenances and fixtures, for the purpose of operating a cable television business. With prior County approval, and subject to County restrictions, the Company shall have the right and privilege to use all streets, alleys, public grounds and public thoroughfares of the County now or hereinafter acquired.

The Company is hereby granted the non-exclusive right to furnish cable television service to the people, firms and corporations of the County; the right to connect with other lines within the County; the right to own and conduct a cable television system; the right to receive and transmit to any person, firm, corporation or organization; to furnish cable television programs and service to any person, firm, or corporation; and to have and enjoy such other and further rights and privileges as are usually granted to cable television companies.

Section 3. The franchise granted herein shall not be assignable or transferrable by the Company without the prior written approval of the County, which approval shall not be unreasonably withheld.

Section 4. This franchise shall continue in force for a period of fifteen(15) years, and upon the expiration thereof may, subject to the County's approval, be renewed for additional periods of not more than fifteen (15) years each.

Section 5. The Company shall commence actual construction of its cable system on or before November 5, 1990, and shall start installation of Noma and Esto subscribers on or before November 5, 1990. In the event the Company fails to comply with this agreed upon time schedule, the County shall have the right to revoke the franchise granted herein.

Section 6. All poles , brackets, guy wires, conduits, cables, etc., erected by the Company shall be so placed, erected or constructed as to cause minimum interference with the proper use of streets and public ways and to cause minimum inconvenience to property owners. No paved roads may be cut, and where any such materials are placed or erected in or under any public road or sidewalk within the County, said Company , its successors or assigns, shall restore the work area at once to as good condition as before said work was done.

Section 7. The cable television system shall be built in full conformity with the latest practice or code governing such construction and in such a manner as to not create a public hazard of any nature.

Section 8. Said Company is hereby authorized and empowered to trim, at its own expense the trees extending into any streets, alleys, public thoroughfares or public ground to prevent the limbs or branches

from interfering with its cable television system. Nothing in this provision shall entitle the Company to trespass on private property.

Section 9. The Company, its successors or assigns, shall hold the County free and harmless of all damages, costs and expenses that may arise by reason of the negligence, carelessness or misconduct of itself, its agents or employees in erecting, maintaining and operating said plant or cable television system, or because of the placing of said poles, brackets, wires, guy wires, cables, conduits or other appurtenances used in connection with said plant or cable television system, and for this purpose the Company, its successors or assigns, shall carry property damage and public liability insurance in some responsible insurance company qualified to do business in the State of Florida, and acceptable to the County. The amount of such insurance to be carried for liability due to damage to property shall be \$100,000.00 as to any one accident and against liability due to injury or death of person, \$100,000.00 as to any one person, and \$300,000.00 to any one accident. The County shall notify Company, its successors or assigns within two (2) weeks after the presentation of any claim or damage, either by suit or other, made against the County on account of any negligence as aforesaid on his part.

The Company shall maintain in full force and effect throughout the duration of this ordinance sufficient Workmen's Compensation insurance coverage to adequately and fully protect its employees as required by law.

Section 10. The Company agrees that it will install, and at all times maintain, good quality equipment capable of transmitting clear reception of all programs which are provided by the Company under the cable television system herein authorized and that it will transmit in color all programs which are in color at the origin of the telecast thereof.

Section 11. As a part of the consideration for the granting of the franchise, Company, its successors or assigns shall furnish to the County, free of charge, one cable television connection for each public building and each school. Said cable television connections to be installed, maintained and kept in good condition at all times without cost to the County.

In consideration of the terms of this franchise, the Company agrees that within 120 days after the end of each calendar year, Company will pay to the County an amount equal to five (5%) percent of the Company's gross revenue received for basic service to cable customers located in the County. Gross revenue as used herein shall mean only the gross amount of regular basic monthly services charges actually paid by subscribers.

The Company shall keep complete records of accounts showing dates and payments received. The duly authorized agent of the County shall have the right, power and authority to inspect and audit the records of gross basic revenue of any annual period at any reasonable time within three (3) years after expiration of such annual anniversary.

Section 12. The Company further agrees that it will not in any manner discriminate between the County or any inhabitants thereof in furnishing cable television service to any and all persons residing within the County upon the terms that cable television services are normally furnished.

Section 13. Any modifications to Rules and Regulations of the Federal Communications Commission governing this operation shall be incorporated into this franchise within one (1) year of adoption of the modification or at the time of franchise renewal, whichever occurs first.

Section 14. All ordinances and parts of ordinances that conflict herewith, are hereby repealed.

Section 15. It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of Company's cable television system for the purpose of enabling himself or others to receive any television signals, radio signals, pictures, programs, sounds or any other information or intelligence transmitted over Company's cable system without payment to Company.

It shall be unlawful for any person, without the consent of the owners, to willfully tamper with, remove or injure any cable, wires or other equipment used for the reception, processing or distribution of television signals, radio signals, pictures, programs, sounds or any other information or intelligence transmitted over Company's cable system.

It shall be a misdemeanor punishable by a fine of not more than five hundred (\$500.00) Dollars, or by confinement in jail for a term not to exceed six (6) months, or both, for any person to violate any of the provisions of this ordinance.

Section 16. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 17. If Company shall at any time fail to comply with any of the requirements imposed upon it under this ordinance, or should breach any of its agreements herein contained and fail to rectify such breach within a reasonable time period after requested to do so in writing by the County, then the County may, at its option, repeal and cancel the franchise herein granted, provided, however, there shall be no such repeal or cancellation until there shall have been a public hearing before the County Board after due notice to the Company, at which hearing Company shall be afforded full opportunity to resist such cancellation.

Section 18. This ordinance shall become effective immediately upon its passage and its passage and its being filed with the Office of the Secretary of State.

ADOPTED on this 5th day of November, 1990.

ATTEST: Cody [Signature] (SEAL)
Clerk

BOARD OF COUNTY COMMISSIONERS OF
HOLMES COUNTY, FLORIDA,
BY: [Signature]
Chairman

