

ORDINANCE NO. 097-023

AN ORDINANCE WHEREBY THE TOWN OF ADDISON, TEXAS, AND SOUTHWESTERN BELL TELEPHONE COMPANY AGREE TO AMEND ORDINANCE NO. 092-033 TO PROVIDE FOR A LONGER TERM AND TO ADD TERMINATION AND OTHER PROVISIONS AS A RESULT OF THE CHANGES MADE BY THE PUBLIC UTILITY REGULATORY ACT OF 1995, 74TH LEG., R.S. CH, 231, TEX. SESS. LAW SERV. 2017 (VERNON) (TO BE CODIFIED AS TEX. REV. CIV. STAT. ANN. ART. 1446C-0).

WHEREAS, the Town of Addison, hereinafter referred to as the "CITY", adopted and approved Ordinance No. 092-033 on May 26, 1992, which was accepted by Southwestern Bell Telephone Company, hereinafter referred to as the "TELEPHONE COMPANY"; and

WHEREAS, TELEPHONE COMPANY and the CITY desire to extend the term of Ordinance No. 092-033 as provided in this Ordinance; and

WHEREAS, it is to the mutual advantage of both the CITY and the TELEPHONE COMPANY that the term of Ordinance No. 092-033 be extended; and

WHEREAS, it is recognized by the parties that provisions set forth in Ordinance No. 092-033 may create legal issues with respect to the CITY's compliance with Section 3.2555 of the Public Utility Regulatory Act of 1995 effective September 1, 1995, hereinafter referred to as the "Revised PURA"; the parties agree and intend that this amendment to Ordinance No. 092-033 constitutes an interim arrangement to accommodate the needs of the parties, pending clarification of the interpretation and application of the Revised PURA.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ADDISON, TEXAS, THAT:

Section 1. Section 4 of Ordinance No. 092-033 entitled TERM is hereby amended to read as follows:

This ordinance shall be in force and in effect from July 1, 1997, through June 30, 1998, unless earlier terminated pursuant to Section 16, provided that at the expiration of this initial period, such term shall be automatically extended for successive periods of one (1) year, unless written notice of intent to terminate this agreement is given by either party not less than ninety (90) days prior to the termination of the then current period. When such notice is given this agreement shall terminate at the expiration of the then current period.

Section 2. Section 16 of Ordinance No. 092-033 entitled FUTURE CONTINGENCY is hereby amended to add the designation "(a)" before the existing paragraph of that Section and to add paragraphs (b), (c) and (d) as set forth below:

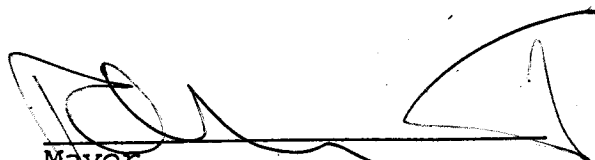
(b) Both parties agree that the extension of this Ordinance is an interim arrangement and is not intended to be used, and will not be cited or referred to by either party, as evidence of what is in compliance with the requirements of Section 3.2555 of the Revised PURA. TELEPHONE COMPANY and CITY both hereby reserve all arguments and/or positions as to the appropriate interpretation and application required by the Revised PURA.

(c) The CITY agrees to provide written notice to the TELEPHONE COMPANY of an original application or an agreement thereto, for a consent, franchise or permit with the CITY for use of the RIGHTS-OF-WAY in the CITY for the provision of any telecommunications service within ten (10) days from receipt of such application.

(d) Further, notwithstanding anything contained in this Ordinance to the contrary, both CITY and TELEPHONE COMPANY agree that either CITY or TELEPHONE COMPANY may terminate this Ordinance upon a minimum of thirty (30) days notice to the other party on or after the date that (1) any entity applies for an original of, or an amendment to, a consent, franchise or permit with the CITY for use of the RIGHTS-OF-WAY in the CITY for the provision of any telecommunications service; or (2) any entity with an existing consent, franchise, or permit for use of the RIGHTS-OF-WAY in the CITY files an application with the Public Utility Commission of Texas for a certificate of operating authority or a service provider certificate of operating authority which includes any geographic area which is wholly or partially within the corporate limits of the CITY.

Section 3. The TELEPHONE COMPANY shall have thirty (30) days from and after the passage and approval of this Ordinance to file its written acceptance hereof with the City Secretary, and upon such acceptance being filed, this Ordinance shall take effect and be in force as of July 1, 1997.

Passed and approved hereof this 27th day of May, A.D., 1997.

  
Mayor,  
Town of Addison, Texas

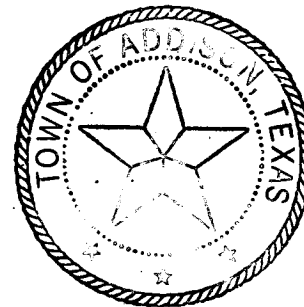
Published 9/19/97

ATTEST:

C MORAN  
City Secretary

I, Carmen Moran, City Secretary  
of the Town of Addison, Texas, do hereby certify that the  
foregoing is a true and correct copy of Ordinance Number  
097-023, finally passed and approved by the Town Council of  
Addison, Texas, at a regular meeting held on the 27th day of  
May, 1997.

C MORAN  
City Secretary



ACCEPTANCE

WHEREAS, the City of Addison, Texas did on the 27th day of May, 1997, enact Ordinance Number 097-023 entitled:

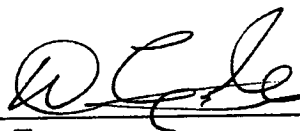
AN ORDINANCE WHEREBY THE CITY OF ADDISON, TEXAS AND SOUTHWESTERN BELL TELEPHONE COMPANY AGREE TO AMEND ORDINANCE NO. 092-033 TO PROVIDE FOR A LONGER TERM AND TO ADD TERMINATION AND OTHER PROVISIONS AS A RESULT OF THE CHANGES MADE BY THE PUBLIC UTILITY REGULATORY ACT OF 1995, 74<sup>TH</sup> LEG., R.S. CH, 231, TEX. SESS. LAW SERV. 2017 (VERNON) (TO BE CODIFIED AS TEX. REV. CIV. STAT. ANN. ART. 1446C-O).

and, WHEREAS, said Ordinance was on the 27th day of May, 1997, duly approved by the Mayor of said City and the Seal of said City was thereto affixed and attested by the City Secretary:

NOW THEREFORE, in compliance with the terms of said Ordinance as enacted, approved and attested, Southwestern Bell Telephone Company hereby accepts said Ordinance and files this its written acceptance with the City Secretary of the City of Addison, Texas in her Office.

Dated this 26<sup>th</sup> day of September 1997

SOUTHWESTERN BELL TELEPHONE  
COMPANY



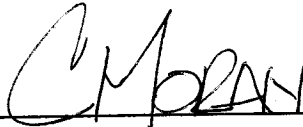
\_\_\_\_\_  
President-Texas

*WCS*

*EM*

Acceptance filed in the Office of the City Secretary of the City of Addison, Texas this

13<sup>th</sup> day of October, 1997.



\_\_\_\_\_  
City Secretary