

AN ORDINANCE TO GRANT A RIGHT-OF-WAY TO THE UNITED TELEPHONE-SOUTHEAST, INC., ITS SUCCESSORS AND ASSIGNS, WHICH RIGHT-OF-WAY, AMONG OTHER THINGS, AUTHORIZES UNITED TELEPHONE-SOUTHEAST, INC. TO USE THE STREETS AND OTHER PUBLIC PLACES IN THE TOWN OF MOUNT CARMEL, TENNESSEE, FOR THE PURPOSE OF ERECTING, CONSTRUCTING, MAINTAINING AND OPERATING POLES, WIRES, CONDUITS, CABLES, LINES AND ALL FIXTURES OF TELEPHONE AND TELEGRAPH THEREON AND THEREUNDER.

BE IT ORDAINED BY THE TOWN OF MOUNT CARMEL AS FOLLOWS:

SECTION 1. Whenever in this ordinance the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions (unless, in the given instance, the context wherein they are used shall clearly import a different meaning):

(a) The word "Grantee" shall mean United Telephone-Southeast, the corporation to which the right-of-way is granted by this ordinance, and its lawful successors or assigns.

(b) The word "Town" shall mean the Town of Mount Carmel, a municipal corporation of the State of Tennessee, in its present incorporated form, or in any later reorganized, consolidated or reincorporated form.

(c) The word "streets" shall mean the public streets, lanes, alleys, courts, parkways, or other public places in the Town as they now exist or as they may be opened, established or acquired in the Town at any time during the term of this grant.

(d) The phrase "facilities or equipment" shall mean the lines, wires, cables, conduits, poles, guys, manholes, appliances, attachments, appurtenances, and any other personal

property located or to be located in, upon, along, across, under or over the streets and used or useful in the operation of the Grantee's telephone system.

SECTION 2. That the rights and privileges, be and the same are hereby granted to United Telephone-Southeast, a corporation organized and existing under and by virtue of the laws of Virginia, and duly domesticated and authorized to do business in the State of Tennessee, herein referred to as the Grantee, for the term of twenty-five (25) years from and after the effective date hereof, to lay, construct, erect, install, operate, maintain, use, repair, or replace in, upon along, across, under or over the streets of the Town or remove from the streets of the Town its facilities or equipment, as its business may from time to time require.

SECTION 3: All work undertaken or performed, all service rendered, and all facilities or equipment operated, maintained or used pursuant to the provisions hereof shall be of the standard required by the laws of the State of Tennessee, by the orders of the Tennessee Public Service Commission or any other body or governmental authority having jurisdiction in the premises, and in accordance with engineering practices generally accepted and employed in the operation of a telephone system.

SECTION 4: The placing, laying down, construction, erection, extension, operation and maintenance by the Grantee of its facilities or equipment in, upon, along, across, under or over the streets of the Town shall be done without

unreasonable or unnecessary obstruction of said streets and in such manner as to produce the least practicable inconvenience to the said Town and its inhabitants. In placing, laying down, constructing, erecting, extending, operating, maintaining and repairing any of its said facilities or equipment, the Grantee shall take reasonable precaution against injury to the mains, cables, pipes, wires, conduits or any other property, facilities or equipment of any other corporation, person, firm or association engaged in conducting or transmitting gas, water, electricity or any other public utility or in rendering any public service.

SECTION 5. All pavement, macadam, sidewalks, streets or places or grounds of the Town taken up or in any way used or deal with by the Grantee shall be repaired with the least practicable delay, with like material and left in as good condition in every respect as before the work was begun.

SECTION 6. In constructing, repairing and operating its works, the Grantee shall use reasonable precaution to avoid damage or injury to person or property; and shall protect and save harmless the Town against all damages or claims which may result to the Town on account of the negligence of the Grantee.

SECTION 7. The grantee shall have the right to trim trees and bushes whenever necessary, said trees and bushes to be trimmed in such manner that none of the branches of same will come in contact with the facilities or equipment of the Grantee.

SECTION 8. No person, firm, association or corporation shall be permitted to make any connection with any of the

facilities or equipment of the Grantee, or in any manner to use the poles or any other property of the Grantee, unless authorized in writing by it so to do.

SECTION 9. In consideration of the benefits which in the judgment of the Town will accrue to it by reason of the construction and operation of said telephone system and as an inducement to the Grantee to construct, maintain and operate said system, the Town shall not impose a franchise fee upon the grantee for the rights hereby granted or the exercise thereof during the life of this grant and the grantee shall pay over to the Town on the annual renewal date of this franchise 0.250% (.00250) of all gross receipts received by the grantee from customers within the corporate limits of the Town.

SECTION 10. If, subsequent to the taking effect of this grant and during the term thereof, the Town shall acquire additional territory by annexation, consolidation or otherwise, all duties, rights and privileges of the Grantee hereunder shall automatically extend to such additional territory.

SECTION 11. All services rendered by the Grantee under this ordinance shall be furnished and paid for in accordance with and subject to all of the provisions of the applicable tariffs, rates and schedules of charges and terms and conditions of service fixed and approved by the Tennessee Public Service Commission, and such change or changes as may be made in said tariffs, terms and conditions of service from time to time.

SECTION 12. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 13. This right-of-way shall become effective and all its terms, provisions and conditions binding upon both the Town and Grantee fifteen (15) days after its final passage, provided the Grantee shall within said fifteen (15) days file with the Town Recorder its written acceptance of said right-of-way.

Passed 1st Reading April 22, 1993 Ayes 7 Nays 0 Other 0
Passed 2nd Reading May 27, 1993 Ayes 7 Nays 0 Other 0

James L. Dunn
MAYOR

ATTEST:

Nancy J. Carter
CITY RECORDER

APPROVED AS TO FORM:

Michael A. Fauch
CITY ATTORNEY

United Telephone - Southeast, Inc., by affixing the signature of its officer hereto, accepts and agrees to be bound by the terms of the ordinance hereinabove this 7th day of JUNE, 1993.

UNITED TELEPHONE-SOUTHEAST, INC.

By: W. John Brooks

ATTEST:

James B. Wright
WITNESS