

1 **ORDINANCE NO. _____**

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3 **AN ORDINANCE TO FIX AND IMPOSE THE AMOUNT OF FEES AND**
4 **CHARGES TO BE PAID TO THE CITY OF LITTLE ROCK, ARKANSAS,**
5 **BY ALL COMPANIES THAT PROVIDE INTERSTATE OR INTRASTATE**
6 **LONG DISTANCE TELECOMMUNICATION SERVICE, AND ALL**
7 **BUSINESS INCIDENTAL TO, OR CONNECTED WITH, THE**
8 **CONDUCTING OF SUCH TELEPHONE BUSINESS IN THE CITY OF**
9 **LITTLE ROCK, ARKANSAS; AMENDING SECTION 3 OF ORDINANCE**
10 **NO. 15,706 (JULY 5, 1989); AND FOR OTHER PURPOSES.**

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12 **WHEREAS**, the City entered into a franchise agreement with Southwestern Bell Telephone on
13 December 17, 1962; and

14 **WHEREAS**, the City has had the authority to require such franchises for public utilities utilizing the
15 City rights-of-way since 1935 by virtue of Act 324 of 1935, and upon any other statutory or legal authority;
16 and

17 **WHEREAS**, the transmission of communications by telephone or telegraph meets the definition of
18 public utility under Arkansas law by virtue of Act 324 of 1935; and

19 **WHEREAS**, subsequent to the passage of the original franchise agreement, and its subsequent
20 amendments, there have been monumental changes in the telecommunications industry, including the
21 divestiture of the long distance telephone service monopoly once enjoyed by Southwestern Bell Telephone
22 and American Telephone and Telegraph Companies so that numerous companies compete to provide
23 customers with Long Distance Telecommunications Services within the City of Little Rock; and

24 **WHEREAS**, the City is entitled to receive such just and reasonable fees from the providers of long
25 distance telecommunication services for their use of the City streets, alleys, airways, and other public rights-
26 of-way, which the City may lawfully impose and the companies are obligated to pay.

27 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY**
28 **OF LITTLE ROCK, ARKANSAS:**

29 **Section 1.** Section 3 of Ordinance No. 15,706, as amended, is hereby amended to include the following:

30 For the year beginning January 1, 2016, there is hereby levied against, and shall be
31 collected from, all providers of Long Distance Telecommunications Services a fee in the
32 amount of \$0.004 per minute for toll calls charged to a service address within the corporate
33 limits of the City of Little Rock, Arkansas. The provider of Long Distance
34 Telecommunications Services shall be responsible for assuring that this fee is paid to the

1 City. This fee is levied as a franchise fee and shall be collected by the provider of long
2 distance telecommunications services in accordance with Arkansas State Law.

3 **Section 2.** Payments to the City by companies providing long distance telecommunications services in
4 accordance with the franchise fee imposed herein shall be made monthly within thirty (30) days of the end
5 of each month commencing January 1, 2016.

6 **Section 3.** The City reserves the right to perform any necessary public works or make any necessary
7 public improvements to the City's rights-of-way or airways (to the extent airways are related to facilities
8 attached to or between poles) during the term of this Agreement. If, as a result of any action by the City, or
9 by any action authorized by the City for the benefit of the public good, relocation of any of the Company's
10 conduit or other facilities is required, such relocation shall be accomplished at the sole expense of the
11 Company. Nothing in this Franchise shall be deemed a waiver of the City's right to require the Company
12 to comply with all applicable zoning and other applicable regulatory ordinances or to pay any reasonable
13 permit fees or to seek appropriate authorizations from the Company to perform any work in connection
14 with the Franchise. Should the City close, eliminate, or discontinue use of any public street during the term
15 of this Franchise, or any renewal term, this Franchise shall cease with respect to such streets upon the date
16 of final action by the City with respect to the closure, elimination or discontinuance of such streets.

17 **Section 4. Severability.** In the event any title, section, paragraph, item, sentence, clause, phrase or
18 word of this ordinance is declared or adjudged to be invalid or unconstitutional such declaration or
19 adjudication shall not affect the remaining portions of the ordinance which shall remain in full force and
20 effect as if the portion so declared or adjudged invalid or unconstitutional were not originally a part of the
21 ordinance.

22 **Section 5. Repealer.** All laws, ordinances, resolutions, and parts of the same that are inconsistent
23 with the provisions of this ordinance are hereby repealed to the extent of such inconsistency; provided,
24 nothing herein shall be construed to alter or change the terms or conditions of the present franchise under
25 which the providers of long distance telecommunications services are operating, pursuant to Ordinance
26 15,706 and 15,729.

27 **Section 6. Effective Date.** *This ordinance shall be available for public review for at least ten (10)*
28 *days, but in no event shall the collection of this franchise fee occur before January 1, 2016.*

29 **PASSED: December 15, 2015**

30 **ATTEST:**

APPROVED:

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32 _____
33 **Susan Langley, City Clerk**

_____ **Mark Stodola, Mayor**

1 **APPROVED AS TO LEGAL FORM:**

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4 **Thomas M. Carpenter, City Attorney**

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