

4.6 Occupancy Conditioned on Payment. SWBT shall not permit the Tenant to have access to the Premises for any purpose other than inspection until SWBT is in receipt of complete payment of the Preparation Charge.

4.7 Subcontractor Charges. Within one hundred twenty (120) days of the completion date of the Premises, SWBT shall perform a true-up of all Subcontractor Charges using the actual amounts billed by subcontractors. Any amounts incurred above the Subcontractor Charges will be billed to the Tenant or, alternatively, any amount below such Charges will be remitted to the Tenant.

4.8 Breach Prior to Commencement Date. In the event that the Tenant materially breaches this Agreement by purporting to terminate this Agreement after SWBT has begun preparation of the Premises but before SWBT has been paid the entire amounts due hereunder, then in addition to any other remedies that SWBT might have, the Tenant shall be liable in the amount equal to the non-recoverable costs less estimated net salvage. Non-recoverable costs include the non-recoverable cost of equipment and material ordered, provided or used; true-up Subcontractor Charges, the non-recoverable cost of installation and removal, including the costs of equipment and material ordered, provided or used; labor; transportation and any other associated costs.

4.9 Late Payment Charge. In the event that any charge is not paid when due, the unpaid amounts shall bear interest in accordance with the terms and conditions set forth in SWBT's intrastate tariff late payment provision(s) applicable to access services for the State in which the Premises is located, or the highest rate permitted by law, whichever is lower, from the due date until paid.

ARTICLE V - USE OF PREMISES

5.1 Nature of Use. Consistent with the nature of the Building and the environment of the Premises, the Tenant shall not use the Premises for general office, retail, or sales purposes. No signage or markings of any kind by the Tenant shall be permitted on the Building or on the grounds surrounding the Building.

5.2 Equipment List. A list of all of the Tenant's equipment and facilities that will be placed within the Premises is set forth on Exhibit 1, attached and incorporated herein, with the associated power requirements, floor loading, and heat release of each piece. The Tenant warrants and represents that Exhibit 1 is a complete and accurate list, and acknowledges that any incompleteness or inaccuracy would be a material breach of this Agreement. The Tenant shall not place or leave any equipment or facilities within the Premises beyond those listed on Exhibit 1 without the express written consent of SWBT.

5.2.1 Subsequent Requests to Place Equipment. In the event that subsequent to the execution of this Agreement the Tenant desires to place in the Premises any equipment or facilities not set forth on Exhibit 1, the Tenant shall furnish to SWBT a written list and description thereof substantially in the form of Attachment A, which is attached and incorporated. Thereafter, in its sole discretion, SWBT may provide such written consent or may condition any such consent on additional charges arising from the request, including any engineering design charges and any additional requirements such as power and environmental requirements for such listed and described equipment and/or

facilities. Upon the execution by both parties of a final list and description, including any applicable charges, this Agreement shall be deemed to have been amended to include the terms and conditions of the final list and description.

5.2.2 Limitations. The foregoing imposes no obligation upon SWBT to purchase additional plant or equipment, relinquish used or forecasted space or facilities, or to undertake the construction of new quarters or to construct additions to existing quarters in order to satisfy a subsequent request for additional space or the placement of additional equipment or facilities.

5.3 Administrative Uses. The Tenant may use the Premises for placement of telecommunications equipment and ancillary facilities, as well as associated office space for technical personnel monitoring and maintaining such equipment and facilities. The Tenant's employees, agents and contractors shall be permitted access to the Premises at all reasonable times, provided that the Tenant's employees, agents and contractors comply with SWBT's policies and practices pertaining to fire, safety and security. The Tenant agrees to comply promptly with all laws, ordinances and regulations affecting the use of the Premises. Upon the expiration of the Agreement, the Tenant shall surrender the Premises to SWBT, in the same condition as when first occupied by the Tenant, ordinary wear and tear excepted.

5.4 Threat to Network or Facilities. Any use of the Premise or activities therein which represent a significant demonstrable technical threat to SWBT's network or facilities, including the Building, are strictly prohibited and constitute a material breach of this Agreement.

5.5 Interference or Impairment. Notwithstanding any other provision hereof, the characteristics and methods of operation of any equipment or facilities placed in the Premises shall not interfere with or impair service over any facilities of SWBT or the facilities of any other person or entity located in the Building; create hazards for or cause damage to those facilities, the Premises, or the Building; impair the privacy of any communications carried in, from, or through the Building; or create hazards or cause physical harm to any individual or the public. Any of the foregoing events would be a material breach of this Agreement.

5.6 Interconnection to Others. The Tenant shall not be permitted to directly connect to any third party's facilities and/or services within the Building.

5.7 Personalty and its Removal. Subject to this Article, the Tenant may place or install in or on the Premises such fixtures and equipment as it shall deem desirable for the conduct of business. Personal property, fixtures and equipment placed by the Tenant in the Premises shall not become a part of the Premises, even if nailed, screwed or otherwise fastened to the Premises, but shall retain their status as personalty and may be removed by Tenant at any time. Any damage caused to the Premises by the removal of such property shall be promptly repaired by Tenant at its expense.

5.8 Alterations. In no case shall the Tenant or any person purporting to be acting through or on behalf of the Tenant make any rearrangement, modification, improvement, addition, repair, or other alteration to the Premises or the Building without the advance written permission and direction of SWBT. SWBT shall consider a modification, improvement, addition, repair, or other alteration requested by the Tenant, provided that

SWBT shall have the right to reject or modify any such request. The cost of any such construction shall be paid by Tenant in accordance with SWBT's then-standard custom work order process.

ARTICLE VI - STANDARDS

6.1 Minimum Standards. This Agreement is made available subject to and in accordance with the (i) Bellcore Network Equipment Building System (NEBS) Generic Requirements (GR-63-CORE and GR-1089-CORE), as may be amended at any time and from time to time, and any successor documents; (ii) SWBT's Technical Publication for Central Office Floor Space Arrangements dated July, 1996, as may be amended from time to time; (iii) SWBT's Technical Publication 76300, Installation Guide, followed in installing network equipment and facilities within SWBT central offices, as may be amended from time to time; (iv) SWBT's Emergency Operating Procedures, as may be amended from time to time; and (v) any statutory and/or regulatory requirements in effect at the execution of this Agreement or that subsequently become effective and then when effective. The Tenant shall strictly observe and abide by each.

6.2 Revisions. Any revision to SWBT's Technical Publication for Central Office Floor Space Arrangements, its Technical Publication 76300, or its Emergency Operating Procedures shall become effective and thereafter applicable under this Agreement thirty (30) days after such revision is released by SWBT; provided, however, that any revision made to address situations potentially harmful to SWBT's network or the Premises, or to comply with statutory and/or regulatory requirements shall become effective immediately.

6.3 Compliance Certification. The Tenant warrants and represents compliance with the Bellcore Network Equipment Building System (NEBS) Generic Requirements (GR-63-CORE and GR-1089-CORE) for each item set forth on Exhibit 1. The Tenant also warrants and represents that any equipment or facilities that may be placed in the Premises pursuant to Section 7.2.1 or otherwise shall be so compliant. **DISCLOSURE OF ANY NON-COMPLIANT ITEM ON EXHIBIT 1, PURSUANT TO SECTION V, OR OTHERWISE SHALL NOT QUALIFY THIS ABSOLUTE CERTIFICATION IN ANY MANNER.**

ARTICLE VII - RESPONSIBILITIES OF THE TENANT

7.1 Contact Number. The Tenant is responsible for providing to SWBT personnel a contact number for Tenant technical personnel who are readily accessible 24 hours a day, 7 days a week, 365 days a year.

7.2 Removal. The Tenant is responsible for removing any equipment, property or other items that it brings into the Premises or any other part of the Building. If Tenant fails to remove any equipment, property, or other items from the Premises within thirty (30) days after discontinuance of use, SWBT may perform the removal and shall charge the Tenant for any materials used in any such removal, and the time spent on such removal at the then-applicable hourly rate for custom work. Further, in addition to the other provisions herein, the Tenant shall indemnify and hold SWBT harmless from any and all claims, expenses, fees, or other costs associated with any such removal by SWBT.

7.3 Verbal Notifications Required. The Tenant is responsible for immediate verbal notification to SWBT of significant problems which could impact or degrade SWBT's network, facilities, or services, and for providing an estimated clearing time for restoral. In addition, written notification must be provided within twenty-four (24) hours.

ARTICLE VIII - QUIET ENJOYMENT

Subject to the other provisions hereof as may be required by law, SWBT covenants that it has full right and authority to permit the use of the Premises by the Tenant and that, so long as the Tenant performs all of its obligations herein, the Tenant may peaceably and quietly enjoy the Premises during the term hereof.

ARTICLE IX - ASSIGNMENT

The Tenant shall not assign or otherwise transfer this Agreement, neither in whole nor in part, or permit the use of any part of the Premises by any other person or entity, without the prior written consent of SWBT. Any purported assignment or transfer made without such consent shall be voidable at the option of SWBT. The Tenant shall not permit any third party to jointly occupy the Premises.

ARTICLE X - CASUALTY LOSS

10.1 Damage to Premises. If the Premises are damaged by fire or other casualty, and

- (i) The Premises are not rendered untenable in whole or in part, SWBT shall repair the same at its expense (as hereafter limited) and the rent shall not be abated, or
- (ii) The Premises are rendered untenable in whole or in part and such damage or destruction can be repaired within ninety (90) days, SWBT has the option to repair the Premises at its expense (as hereafter limited) and rent shall be proportionately abated while Tenant was deprived of the use. If the Premises cannot be repaired within ninety (90) days, or SWBT opts not to rebuild, then this Agreement shall (upon notice to the Tenant within thirty (30) days following such occurrence) terminate as of the date of such damage.

Any obligation on the part of SWBT to repair the Premises shall be limited to repairing, restoring and rebuilding the Premises as originally prepared for the Tenant and shall not include any obligation to repair, restore, rebuild or replace any alterations or improvements made by the Tenant or by SWBT on request of the Tenant; or any fixture or other equipment installed in the Premises by the Tenant or by SWBT on request of the Tenant.

10.2. Damage to Building. In the event that the Building shall be so damaged by fire or other casualty that closing, demolition or substantial alteration or reconstruction thereof shall, in SWBT's opinion, be advisable, then, notwithstanding that the Premises may be unaffected thereby, SWBT, at its option, may terminate this Agreement by giving the Tenant ten (10) days prior written notice within thirty (30) days following the date of such occurrence, if at all possible.

ARTICLE XI - RE-ENTRY

If the Tenant shall default in performance of any agreement herein, and the default shall continue for thirty (30) days after receipt of written notice, or if the Tenant is declared bankrupt or insolvent or makes an assignment for the benefit of creditors, SWBT may, immediately or at any time thereafter, without notice or demand, enter and repossess the Premises, expel the Tenant and any claiming under the Tenant, remove the Tenant's property at Tenant's expense, forcibly if necessary, and thereupon this Agreement shall terminate, without prejudice to any other remedies SWBT might have.

ARTICLE XII - LIMITATION OF LIABILITY

12.1 Limitation. All equipment and property in or about the Premises shall be at Tenant's sole risk, and Tenant does hereby, now and forever, release SWBT from any claims for personal or property damages, unless caused by or contributed to by the willful or gross negligent acts or omissions of SWBT. In no event shall SWBT be responsible for any indirect, special, consequential, lost profit, or punitive damages, whether in contract or tort.

SWBT shall have no liability whatsoever to the customers of the Tenant for claims arising from the provision of any service provided by the Tenant to its customers.

12.2 Third Parties. The Tenant acknowledges and understands that SWBT may provide space in or access to the Building to other persons or entities ("Others"), which may include competitors of Tenants; that such space may be close to the Premises, possibly including space adjacent to the Premises and/or with access to the outside of the Premises; and that the cage around the Premises is a permeable boundary that will not prevent the Others from observing or even damaging the Tenant's equipment and facilities. In addition to any other applicable limitation, SWBT shall have absolutely no liability with respect to any action or omission by any Other, regardless of the degree of culpability of any such Other or SWBT, and regardless of whether any claimed SWBT liability arises in tort or in contract. The Tenant shall save and hold SWBT harmless from any and all costs, expenses, and claims of or through the Tenant that are associated with any such acts or omission by any Other.

ARTICLE XIII - INDEMNIFICATION OF SWBT

In addition to any other provision hereof, the Tenant agrees to indemnify, defend and save harmless SWBT (including its officers, directors, employees, and other agents) from any and all claims, liabilities, losses, damages, fines, penalties, costs, attorney's fees or other expenses of any kind, arising in connection with Tenant's use of the Premises, conduct of its business or any activity, in or about the Premises, performance of any terms of this Agreement, or any act or omission of the Tenant (including its officers, directors, employees, agents, contractors, servants, invitees, or licensees). Defense of any claim shall be reasonably satisfactory to SWBT.

ARTICLE XIV - SERVICES, UTILITIES, MAINTENANCE AND FACILITIES

14.1 Operating Services. SWBT, at its sole cost and expense, shall maintain for the Building customary building services, utilities (excluding telephone facilities), including janitor and elevator services, 24 hours a day, 365 days a year. Any business telephone services ordered by the Tenant for its administrative use within its Dedicated Space will be provided in accordance with applicable SWBT tariffs.

14.2 Utilities. SWBT will provide negative DC and AC power, back-up power, heat, air conditioning and other environmental support necessary for the Tenant's equipment, in the same manner that it provides such support items for its own equipment within that building.

14.3 Maintenance. SWBT shall maintain the exterior of the Building and grounds, and all entrances, stairways, passageways, and exits used by the Tenant to access the Premises.

14.4 Legal Requirements. SWBT agrees to make, at its expense, all changes and additions to the Premises required by laws, ordinances, orders or regulations of any municipality, county, state or other public authority including the furnishing of required sanitary facilities and fire protection facilities.

ARTICLE XV - LIMITATION OF ACTIONS; DISPUTE RESOLUTION

15.1 Finality of Disputes. No claim arising from this Agreement shall be brought more than twenty-four (24) months from the date of occurrence which gives rise to the claim.

15.2 Alternative to Litigation. The parties desire to resolve disputes arising in connection with this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the parties agree to use the following alternative dispute resolution procedure as their sole remedy with respect to any controversy or claim arising from or relating to this Agreement.

15.3 Resolution of Disputes Between Parties. At the written request of a party, each party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. The location, form, frequency, duration and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may use other alternative dispute resolution procedures, such as mediation, to assist in the negotiations. Discussions and correspondence among the representatives for purposes of settlement, exempt from discovery and production, shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and, if otherwise admissible, may be admitted in evidence in the arbitration or lawsuit.

15.4 Arbitration. If the negotiations do not resolve the dispute within sixty (60) days of the initial written request, the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. A Party may demand such arbitration in accordance with the

procedures set forth in those rules. Discovery shall be controlled by the arbitrator and shall be permitted only to the extent set forth in this Section. Each party may submit in writing to the other party, and the receiving party shall so respond, to a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following:

- (a) Interrogatories
- (b) Demands to produce documents
- (c) Requests for admission

Additional discovery may be permitted upon mutual agreement of the parties. The arbitration hearing shall be commenced within sixty (60) days of the demand for arbitration. The arbitration shall be held in the state of Missouri. The arbitrator shall control the scheduling so as to process the matter expeditiously. The parties shall submit written briefs five days before the hearing. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) days after the close of hearings. The arbitrator has no authority to order punitive or consequential damages. The times specified in this section may be extended upon mutual agreement of the parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

15.5 Costs. Each party shall bear its own costs of these procedures. A party seeking discovery shall reimburse the responding party the costs of production of documents (including search time and reproduction costs). The parties shall equally split the fees of the arbitration and the arbitrator.

ARTICLE XVI - SUCCESSORS BOUND

Without limiting Article XI hereof, the conditions and agreements contained herein shall bind and inure to the benefit of SWBT, the Tenant and their respective successors and, except as otherwise provided herein, assigns.

ARTICLE XVII - CONFLICT OF INTEREST

The Tenant represents that no employee or agent of SWBT has been or will be employed, retained, paid a fee, or otherwise has received or will receive any personal compensation or consideration from the Tenant, or any of the Tenant's employees or agents in connection with the arranging or negotiation of this Agreement or associated documents.

ARTICLE XVIII - NON-EXCLUSIVE REMEDIES

No remedy herein conferred upon is intended to be exclusive of any other remedy in equity, provided by law, or otherwise, but each shall be in addition to every other such remedy.

ARTICLE XIX - NOTICES

Except as may be specifically permitted in this Agreement, any notice, demand, or payment required or desired to be given by one party to the other shall be in writing and shall be valid and sufficient if dispatched by registered or certified mail, return receipt requested, postage prepaid, in the United States mails, or by facsimile transmission; provided, however, that notices sent by such registered or certified mail shall be effective

on the third business day after mailing and those sent by facsimile transmission shall only be effective on the date transmitted if such notice is also sent by such registered or certified mail no later than the next business day after transmission, all addressed as follows:

If to SWBT: Account Manager-CPAT, One Bell Plaza, Room 522, Dallas, TX 75202

If to the Tenant: Director-Planning & Design, 1651 N. Collins Blvd., Ste. 550, Richardson, TX 75080

Either party hereto may change its address by written notice given to the other party hereto in the manner set forth above.

ARTICLE XX - COMPLIANCE WITH LAWS

The Tenant and all persons acting through or on behalf of the Tenant shall comply with the provisions of the Fair Labor Standards Act, the Occupational Safety and Health Act, and all other applicable federal, state, county, and local laws, ordinances, regulations and codes (including identification and procurement of required permits, certificates, approvals and inspections) in its performance hereunder. The Tenant further agrees during the term of this Agreement to comply with all applicable Executive and Federal regulations as set forth in SW9368, attached as Exhibit 2 and incorporated herein, as may be modified from time to time.

ARTICLE XXI - OSHA STATEMENT

The Tenant, in recognition of SWBT's status as an employer, agrees to abide by and to undertake the duty of compliance on behalf of SWBT with all federal, state and local laws, safety and health regulations relating to the Premises which the Tenant has assumed the duty to maintain pursuant to this Agreement, and to indemnify and hold SWBT harmless for any judgments, citations, fines, or other penalties which are assessed against SWBT as the result of the Tenant's failure to comply with any of the foregoing. SWBT, in its status as an employer, shall comply with all federal, state and local laws, safety and health standards and regulations with respect to the structural and those other portions of the Premises which SWBT has agreed to maintain pursuant hereto.

ARTICLE XXII - INSURANCE

22.1 Coverage Requirements. The Tenant shall, at its sole cost and expense procure, maintain, pay for and keep in force the following insurance coverage and any additional insurance and/or bonds required by law and underwritten by insurance companies having a BEST Insurance rating of A+VII or better, and which is authorized to do business in the jurisdiction in which the Premises are located. SWBT shall be named as an ADDITIONAL INSURED on general liability policy.

(1) Comprehensive General Liability insurance including Products/Completed Operations Liability insurance including the Broad Form Comprehensive General Liability endorsement (or its equivalent(s)) with a

Combined Single limit for Bodily Injury and Property Damage of \$1,000,000. Said coverage shall include the contractual, independent contractors products/completed operations, broad form property, personal injury and fire legal liability.

(2) If use of an automobile is required or if the Tenant is provided or otherwise allowed parking space by SWBT in connection with this Agreement, automobile liability insurance with minimum limits of \$1 million each accident for Bodily Injury, Death and Property Damage combine. Coverage shall extend to all owned, hired and non-owned automobiles. The Tenant hereby waives any rights of recovery against SWBT for damage to the Tenant's vehicles while on the grounds of the Building and the Tenant will hold SWBT harmless and indemnify it with respect to any such damage or damage to vehicles of the Tenant's employees, contractors, invitees, licensees or agents.

(3) Workers' Compensation insurance with benefits afforded in accordance with the laws of the state in which the Premise is located.

(4) Employer's Liability insurance with minimum limits of \$100,000 for bodily injury by accident, \$100,000 for bodily injury by disease per employee and \$500,000 for bodily injury by disease policy aggregate.

(5) Umbrella/Excess liability coverage in an amount of \$5 million excess of coverage specified above.

(6) All Risk Property coverage on a full replacement cost basis insuring all of the Tenant's personal property situated on or within the Building or the Premises. The Tenant releases SWBT from and waives any and all right of recovery, claim, action or cause of action against SWBT, its agents, directors, officers, employees, independent contractors, and other representatives for any loss or damage that may occur to equipment or any other personal property belonging to Tenant or located on or in the space at the instance of the Tenant by reason of fire or water or the elements or any other risks would customarily be included in a standard all risk casualty insurance policy covering such property, regardless of cause or origin, including negligence of SWBT, its agents, directors, officers, employees, independent contractors, and other representatives. Property insurance on the Tenant's fixtures and other personal property shall contain a waiver of subrogation against SWBT, and any rights of the Tenant against SWBT for damage to the Tenant's fixtures or personal property are hereby waived.

The Tenant may also elect to purchase business interruption and contingent business interruption insurance, knowing that SWBT has no liability for loss of profit or revenues should an interruption of service occur. Self insurance of the insurance requirements listed above shall be permitted subject to Tenant 1) having a tangible net worth of \$50M or greater, and 2) filing a financial statement annually with the SEC and/or having a financial strength rating of 4A or 5A assigned by Dun & Bradstreet.

22.2 Coverage Increases. The limits set forth in Section 22.1 may be increased by SWBT from time to time during the term of occupancy to at least such minimum limits as

shall then be customary in respect of comparable situations within the existing SWBT buildings.

22.3 Primary Coverage. All policies purchased by the Tenant shall be deemed to be primary and not contributing to or in excess of any similar coverage purchased by SWBT.

22.4 Effective Date. All insurance must be in effect on or before occupancy date and shall remain in force as long as any of the Tenant's facilities or equipment remain within the Premises or the Building. If the Tenant fails to maintain the coverage, SWBT may pay the premiums thereon and, if so, shall be reimbursed by the Tenant.

22.5 Supporting Documentation. The Tenant shall submit certificates of insurance and copies of policies reflecting the coverages specified above prior to the commencement of the work called for in this Agreement. The Tenant shall arrange for SWBT to receive thirty (30) days advance written notice from the Tenant's insurance company(ies) of cancellation, non-renewal or substantial alteration of its terms.

22.6 Carrier Recommendations. The Tenant must also immediately conform to the recommendation(s) made by SWBT's Property Insurance Company with respect to the Premises, and Tenant's use of the Premises.

22.7 Material Breach. Failure to comply with the provisions of this section will be deemed a material violation of this Agreement.

ARTICLE XIII - SWBT'S RIGHT OF ACCESS

SWBT, its agents, employees, and other SWBT-authorized persons shall have the right to enter the Premises at any reasonable time to examine its condition, make repairs required to be made by SWBT hereunder, and for any other purpose deemed reasonable by SWBT. SWBT may access the Premises for purpose of averting any threat of harm imposed by the Tenant or its equipment or facilities upon the operation of SWBT equipment, facilities and/or personnel located outside of the Premises. If routine inspections are required, they shall be conducted at a mutually agreeable time.

ARTICLE XXIV - MISCELLANEOUS

24.1 Exhibits The following Exhibits are attached hereto and made part hereof:

Exhibit 1 Physical Collocation Application Form For Non-Standard Arrangements/Central Office Floor Space Application Form

Exhibit 2 Non Discrimination Compliance Agreement

24.2 Variations. In the event of variation or discrepancy between any duplicate originals hereof, including exhibits, the original Agreement held by SWBT shall control.

24.3 Governing Law. This Agreement shall be governed by the laws of the State in which the Premises is located, without regard to the choice of law principles thereof.

24.4 Joint and Several. If Tenant constitutes more than one person, partnership, corporation, or other legal entities, the obligation of all such entities under this Agreement is joint and several.

24.5 Future Negotiations. SWBT may refuse requests for additional space in the Building or in any other SWBT premises if the Tenant is in material breach of this Agreement, including having any past due charges hereunder. In any and each such event, the Tenant hereby releases and shall hold SWBT harmless from any duty to negotiate with the Tenant or any of its affiliates for any additional space.

24.6 Severability. If any of the provisions hereof are deemed invalid, such invalidity shall not invalidate the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid provision(s), and the rights and obligations of SWBT and the Tenant shall be construed accordingly.

24.7 Paragraph Headings and Article Numbers. The headings of the articles and paragraphs herein are inserted for convenience only and are not intended to affect the meaning or interpretation of this Agreement.

24.8 Entire Agreement. This Agreement with the attached schedules and exhibits, and referenced documentation and materials attached hereto set forth the entire understanding of the parties and supersedes all prior agreements, arrangements and understandings relating to this subject matter and may not be changed except in writing by the parties. No representation, promise, inducement or statement of intention has been made by either party which is not embodied herein, and there are no other oral or written understandings or agreements between the parties relating to the subject matter hereof except as may be referenced herein.

24.9 No Third Party Beneficiaries. Nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto.

24.10 Construction. This Agreement shall be interpreted and governed without regard to which party drafted this Agreement.

24.11 Multiple Originals. This Agreement may be executed in multiple copies, each of which shall be deemed an original.

24.12 Wavier of Obligations. (a) Whenever this Agreement requires the consent of a party, any request for such consent shall be in writing.

(b) Neither party shall be deemed to have waived or impaired any right, authority, or option reserved by this Agreement (including the right to demand exact compliance with every term, condition and covenant herein, or to declare any breach hereof to be a default and to terminate this Agreement prior to the expiration of its term), by virtue of any custom or practice of the parties at variance with the terms hereof or any failure, refusal or neglect to exercise any right under this Agreement or to insist upon exact compliance by the other with its obligations hereunder, including any rule or procedure, or any waiver, forbearance, delay, failure or omission by SWBT to exercise any right, power or option, whether of the same, similar or different nature, with respect to one or more other entities having space in or on SWBT real property..

24.13 Rights Cumulative. The rights of a party hereunder are cumulative and no exercise or enforcement by such party of any right or remedy hereunder shall preclude the exercise or enforcement of any other right or remedy hereunder or to which such party is entitled to enforce.

24.14 Binding Effect. (a) This Agreement is binding upon the parties hereto, their respective executors, administrators, heirs, assigns and successors in interest.

(b) All obligations by either party which expressly or by their nature survive the expiration or termination of this Agreement shall continue in full force and effect subsequent to and notwithstanding its expiration or termination and until they are satisfied in full or by their nature.

24.15 Impossibility of Performance. Neither party shall be liable for loss or damage or deemed to be in breach of this Agreement if its failure to perform its obligations results from: (a) compliance with any law, ruling, order, regulation, requirement or instruction of any federal, state or municipal government or any department or agency thereof or court of competent jurisdiction; (b) acts of God; (c) acts of omissions of the other party; (d) fires, strikes, labor difficulties, embargoes, war, insurrection or riot; or any other intervening act beyond the reasonable control of the party claiming such a delay. Any delay resulting from any of said causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable. In any such event, the Tenant's employees, authorized agents and contractors will comply with the Emergency Operating Procedures established by SWBT.

24.16 Survival. The terms, provisions, representations, and warranties contained in this Agreement that by their nature and/or context are intended to survive the performance thereof by either or both parties hereunder shall so survive the completion of performances and termination of this Agreement, including the making of any and all payments due hereunder.

24.17 Adjustments: Audits and Records. In order to enable SWBT to comply with applicable requirements, if any, of Parts 32 and 64 of the Rules (Rules) of the Federal Communications Commission (FCC) pertaining to accounting classifications and affiliate transactions and any similar state or federal requirements, the parties agree that:

(i) any amount due hereunder shall be no less than that which is required by the applicable provisions, if any, of any such Rules or requirements. In the event that the compensation hereunder is less than that which is required by such applicable provision, SWBT may amend the amount by written notice and Tenant shall promptly pay such amended amount; and

(ii) Tenant shall maintain and shall make available to SWBT, or its auditors, upon two days' notice, complete and accurate records related to this Agreement in accordance with generally accepted accounting principles. Tenant shall notify SWBT prior to destroying or otherwise permanently disposing of such records and, at SWBT's option, shall transfer such records to SWBT. SWBT shall have the right through its representatives to inspect and audit, during normal business hours, the records related to this Agreement

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed and delivered this Agreement as of the day and year first above written.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION AGREEMENT.

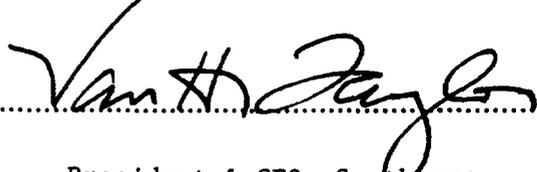
SOUTHWESTERN BELL TELEPHONE COMPANY

By: 

Title: General Manager-CPAT..... *4/30/97*

Name: Larry B. Cooper

Tenant: Southwestern Bell Communications Services, Inc.

By:..... 

Title:..... President & CEO, Southwestern Bell Communications Services, Inc.

Name: Van H. Taylor

ATTACHMENT A

**Southwestern Bell Telephone Company
Account Manager-CPAT, One Bell Plaza, Room 522, Dallas, TX 75202
Re: Southwestern Bell Communications Services, Inc.-Kansas City McGee**

Pursuant to the referenced Central Office Lease Agreement ("Agreement"), this letter constitutes a request to place the following additional equipment and/or facilities in the Premises:

<u>Generic Name</u>	<u># of Bays</u>	<u>Floor Loading</u>	<u>Power Req.</u>	<u>Heat Release</u>
---------------------	------------------	----------------------	-------------------	---------------------

If this request is acceptable to Southwestern Bell Telephone Company ("SWBT"), please indicate that acceptance by executing both originals and returning one to the undersigned. With the return of an executed original, the Agreement shall be deemed amended to reflect that the listed equipment and facilities may be located in the Premises. In all other respects, the Agreement shall be unaffected.

If not acceptable, please let me know of SWBT's objections or conditions to its acceptance.

All capitalized terms not defined in this letter but defined in the Agreement shall have the meaning ascribed to such term in the Agreement.

TENANT:

AGREED AND ACCEPTED:

**SOUTHWESTERN BELL
TELEPHONE COMPANY**

By: _____

By: _____

Title: _____

Title: _____

Name: _____

Name: _____

Date: _____

PHYSICAL COLLOCATION APPLICATION FORM FOR NON-STANDARD ARRANGEMENTS

Section 1 - General Information

- INTERCONNECTOR: Southwestern Bell Communications Services ACNA: SBC
- ADDRESS: 130 E. Travis, Suite 550; San Antonio, TX 78205
- CONTACT NAME: Randy Still, Director-Planning & Design
PHONE: 214-464-6523 FAX: 214-464-5576
- I HAVE READ AND UNDERSTAND SWBT'S COLLOCATION TECHNICAL STANDARDS:
NAME: Randy Still SIGNATURE: *Randy Still* DATE: 3/15/96
- COLLOCATION CENTRAL OFFICE: Kansas City McGee
CLLI: KSCYM055 ADDRESS: 1101 McGee
CITY / STATE: Kansas City, MO 64106

Section 2 - For SWBT Use : DATE / TIME RECEIVED: 3-15-96 10:40A

ICSC:

- NAME: J. Mayfield ADDRESS: 1BP Rm 2800 D1s, Tx 75
PHONE: 214 464-1538 FAX: 214 464-1671
CASE #: KC 031596007P CLLI: KSCYM055HBJ
BAN #: 120102-0004
N196406

Assigned SWBT Interconnection Coordinator:

- NAME: Hope Haebek ADDRESS: 1BP Rm 2800 D1s, Tx 75
PHONE: 214 464-8330 FAX: 214 464-1671
- Date FAX sent to SWBT interconnection coordinator: 3-15-96

PHYSICAL COLLOCATION APPLICATION FORM FOR NON-STANDARD ARRANGEMENTS

ACNA: SBC

CLLI: KSCYM055

Section 3 - Floor Space Requirements

1. NUMBER OF EQUIPMENT FRAMES TO BE INSTALLED: 100
2. INITIAL FLOOR SPACE REQUIRED (in 100 square foot increments): 2,400 sq. ft.
3. ATTACH PROPOSED LAYOUT FOR SPACE. INCLUDE 7'0" x 23" POT FRAME IN LAYOUT. INDICATE BOTH INITIAL AND FUTURE GROWTH REQUIREMENTS.
4. SPECIAL REQUIREMENTS (i.e. No. of parking spaces, restroom access required?, etc) These requirements will be provided where technically feasible. Attach separate sheet if necessary.

Section 4 - Technical Equipment Specifications

1. SPECIFY -48 VOLT BATTERY AND GRUND REQUIREMENTS: 2,800 amps total req'd for equipment
QUANTITY OF LOADS: _____ CAPACITY PER LOAD: _____ AMPS.
3. SPECIFY 3 YEAR FORECAST OF -48 VOLT DC POWER: 400 AMPS. per year
(total of 4,000 amps at end of 3 years)
4. * SPECIFY AC POWER REQUIREMENTS (NOT TO EXCEED 110 VOLTS):
UNPROTECTED: VOLTS: _____ REQD AMPS: _____ # OF CKTS: _____
ESSENTIAL: VOLTS: _____ REQD AMPS: _____ # OF CKTS: _____

* AC power to be negotiated at a later date.

PHYSICAL COLLOCATION APPLICATION FORM FOR NON-STANDARD ARRANGEMENTS

ACNA: SBC CLLI: KSCYM055

Section 4 - Technical Equipment Specifications (continued)

- 5. ONE YEAR SERVICE FORECAST - QUANTITY OF DS1: 3,767 DS3: 38
- 6. QUANTITY OF SWBT PROVIDED DSX PANELS IN POT FRAME (optional):
 - DSX1 - (84 CKTS PER PANEL) - PROVIDE: 45 PANELS
 - DSX3 - (24 CKTS PER PANEL) - PROVIDE: 2 PANELS
- 7. SYNCHRONIZATION REQUIRED ? YES NO
- 8. ADDITIONAL INFORMATION FOR ARRANGEMENTS OF MORE THAN 400 sq. ft.:

Describe the interconnector planned scope of work required from SWBT for this request. Include full floor space program (continue response on separate sheet if needed):

- List all functions and associated square footage.
- Define all operational and environmental requirements for each function.

Based on cooperative meetings (when required) between SWBT and the interconnector, after a complete scope of work is provided, a quotation of nonRECURRING and RECURRING rates will be provided by SWBT to the interconnector within 60 days

PHYSICAL COLLOCATION APPLICATION FORM FOR NON-STANDARD ARRANGEMENTS

ACNA: SBC

CLLI: KSCYM055

Section 5 - Insurance Information

1. ATTACH INSURANCE CERTIFICATES AND COPIES OF POLICIES REFLECTING COVERAGE DELINEATED IN THE PHYSICAL COLLOCATION AGREEMENT.

Section 6 - Detailed technical Information:

1. Requested space available date: 06/01/96
2. List all equipment planned to be placed on this application:

<u>GENERIC NAME</u>	<u># OF BAYS</u>	<u>FLOOR LOADING</u>	<u>HEAT RELEASE</u>
Long Distance Digital Switch (Nortel, Lucent, or DSC)	84		
3/1 Digital Cross- Connect System (Alcatel or Tellabs)	7		
DSX-1 bays	5		
DSX-3 bay	1		
Signal Transfer Point (DSC)	2		
Signal Control Point (DSC)	1		

06:11:57

PHYSICAL COLLOCATION APPLICATION FORM
FOR NON-STANDARD ARRANGEMENTS

ACNA: SBC

CLLI: KSCYM055

Section 7 - OSP Cable Information

N/A-Leasing facilities.

1. IS DIVERSE ENTRY REQUESTED? YES NO

2. DIRECTIONS FROM WHICH CABLE(S) ORIGINATES? (BE SPECIFIC):

3. NUMBER OF CABLES TO BE PLACED: SIZE (DIAMETER):

4. TYPE OF CABLE (MANUFACTURER'S NAME):

NOTE: SWBT OSP Engineering will provide the interconnector contact with the total length of unbroken dielectric cable to extend from outside the entrance manhole through the collocator space. The interconnector will leave sufficient cable length outside the entrance manhole to allow SWBT to fully extend the cable through the vault and into the partitioned space. Excess cable will be brought into the partitioned space and left as slack for the interconnector to install to their equipment.

5. INTERCONNECTOR CONTACT FOR REFERRING CABLE LENGTH INFORMATION:

NAME: PHONE:

6. FOR SWBT REFERENCE USE ONLY:

CABLE(S) TO BE PLACED IN ENTRANCE MANHOLE(S):

CUSTOM WORK ORDER REQUIRED? YES NO CWO #:

FT OF CABLE REQ'D: FT

FT OF CABLE REQ'D: FT DATE INFO. PROVIDED CONTACT:

NAME: DATE:

QUOTATION AND CONFIRMATION FOR COLLOCATOR

PHYSICAL COLLOCATION APPLICATION FORM FOR NON-STANDARD ARRANGEMENTS

- 1. INTERCONNECTOR: Southwestern Bell Communications Systems
2. ADDRESS: 130 E. Travis, Suite 550; San Antonio, TX 78205
3. CONTACT NAME: Randy Still
PHONE #: 214-464-6523 FAX #: 214-464-5576
4. CLASS OF SERVICE: XPO
5. CENTRAL OFFICE: CLLI:
ADDRESS:
7. INTERCONNECTOR BILLING ACCOUNT NUMBER:

Total Arrangement Charges: MONTHLY: \$ PREPARATION: \$

SWBT completion (space ready) days after receipt of confirmation and 50% of preparation charges.

Interconnector equipment installed days after SWBT completion.

Attached is SWBT provided floor space layout for this request.

THIS FORM ALONG WITH A CHECK FOR 50% OF THE PREPARATION CHARGES SHOULD BE FORWARDED TO THE FOLLOWING SOUTHWESTERN BELL ICSC DEPARTMENT:

NAME: ADDRESS:

CITY / STATE / ZIP:

SWBT ACCOUNT MANAGER: PHONE:

SIGNATURE: DATE:

Southwestern Bell Telephone

PHYSICAL COLLOCATION WORK COMPLETION FORM

INTERCONNECTOR: _____ ADDRESS: _____

CENTRAL OFFICE: _____ CITY: _____ STATE: _____

SWBT INTERCONN. COORD.: _____

PHONE #: _____ FAX #: _____

CASE #: _____ CLLI: _____

SWBT COMPLN DATE: _____ OCCUPANCY DATE: _____

SWBT portion of this collocation project has been completed in accordance with the physical collocation agreement and the collocation specifications approved for this job. The space is now ready for occupancy. All associated work is complete.

EXCEPTIONS TO CONSTRUCTION WORK: _____

PREPARATION AND MONTHLY CHARGES AS SPECIFIED IN THE PHYSICAL COLLOCATION AGREEMENT COMMENCE UPON COMPLETION DATE SHOWN ABOVE.

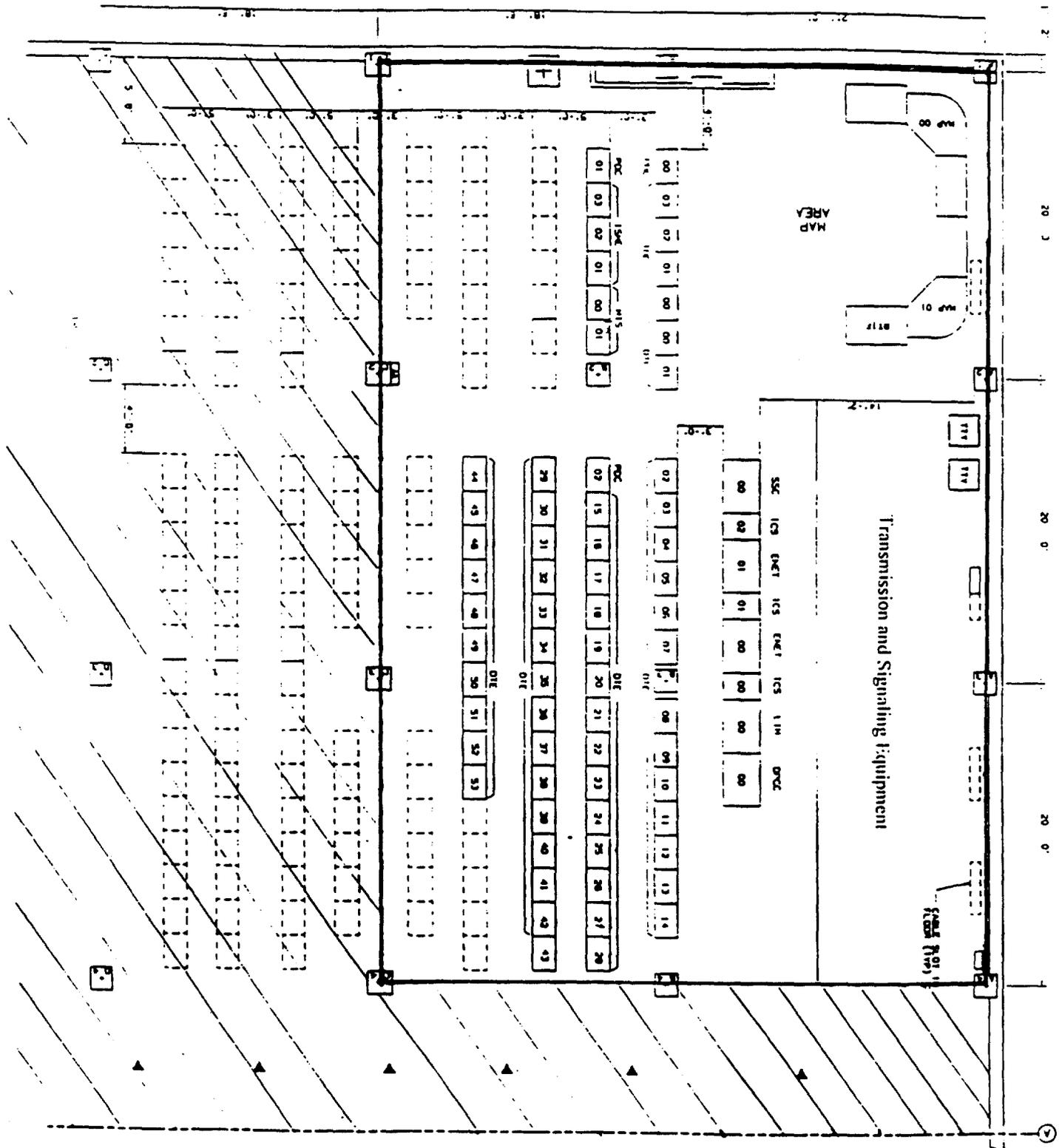
SOUTHWESTERN BELL TELEPHONE COMPANY
NETWORK SALES SUPPORT

NAME (TYPE OR PRINT): _____

SIGNATURE: _____ DATE: _____

DATE NSS FORWARDED COMPLETION FORM TO SWBT INTERCONNECT COORDINATOR AND ICSC:

NAME: _____ DATE: _____



MAR int 11: 3.

Southwestern Bell Telephone

SW-45 19A (REV. 3/91)

Retention Period - 1 Year

MEMO PAYMENT

NAME Southwestern Bell Comm Svcs
ADDRESS 130 E Travis Ste 500
CITY STATE SAN ANTONIO, TX 78205
REMARKS Advance Pmt for N196406 for Physical Collocation Case # KC031596007P

NPA 120	TELEPHONE OR ACCOUNT NUMBER 102-0004	
CUST CODE 406	<input checked="" type="checkbox"/> CB-PAYMENT-LIVE OR FINAL <input type="checkbox"/> CH-SALVAGE ON W/O <input type="checkbox"/> ZZ-SPECIAL BILL	
RAO	BUSINESS <input type="checkbox"/>	YEAR/WO
AMOUNT PAID \$ 7,360.00		
	REPORTABLE <input type="checkbox"/>	BOC 61

Member of Southern Bell System

Official File Copy if Recd: Retention _____

120 102-0004 cc 406 1297

SOUTHWESTERN BELL COMMUNICATIONS SERVICES, INC.
175 E. HOUSTON
SAN ANTONIO, TX 78205

90-1789/815

DATE March 14, 1996

PAY TO THE ORDER OF SWBT-ICSC *** \$ 7,360.00

Seven thousand three hundred sixty & no/100 *** DOLLARS

BOATMEN'S
BOATMEN'S BANK OF WINDALIA, WINDALIA, MISSOURI 63307-1427

5 MAR = 11:29 FOR _____ *Puller*

⑈001297⑈ ⑆081517897⑆ 0100081906⑈

Southwestern Bell Communications Services

Exhibit 1 Page 10

March 16, 1996

Randy Still
Director-
Planning and Design

SWBT-ICSC
One Bell Plaza, Rm. 2800
Dallas, TX 75202

62:11 = 8-4 5

Per Southwestern Bell Telephone Company's Interconnector's Technical Publication for Non-Standard Physical Collocation, Issue 1, please find enclosed five Non-Standard Physical Collocation Applications. Also, find enclosed five drafts, payable to SWBT, for the required Engineering Design Charges.

Southwestern Bell Communications Services is requesting Non-Standard Physical Collocation for the following locations:

Dallas

Houston

Kansas City

San Antonio

St. Louis

DLLSTXTA

HSTNTX08

KSCYMO55

SNANTXCA

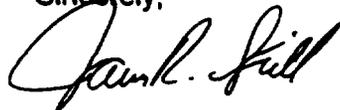
STLSMO21

Also please note that insurance information requesting in Section 5 of the application is not included because insurance criteria is contained in the as-yet-unreleased "Collocation Agreement." This was verified in a call to the SWBT Interconnection Coordination Team on March 15, 1996.

I would like a response within 5 days should any above location be unavailable for our collocation requirements so that an alternate site may be selected.

Your signature and date and time stamp of the enclosed copy of this letter indicates your receipt of the applications.

Sincerely,



Enclosures

130 E. Travis
Suite 550
San Antonio, Texas 78205

Phone 210-352-7260
Fax 210-352-7329

Dallas, May 10, 1996

Ray Sulsh
SBCS Inc.
One Bell Plaza, Room 1145
Dallas, Texas 75202

Ms. Hope Harbeck
Southwestern Bell Telephone Co.
One Bell Plaza, Room 522
Dallas, Texas 75202

Ms. Harbeck,

As you requested, attached are addendum to SBCS's requests for non-standard collocation for each switch site to complete our requests. Should you have any questions, please contact me at (214) 464-3168.

Thank you,



Ray Sulsh