

CAUSE NO. <sup>1929476</sup>\_\_\_\_\_

|                            |   |                                     |
|----------------------------|---|-------------------------------------|
| CITY OF HUNTSVILLE, TEXAS, | § | IN THE DISTRICT COURT OF            |
| Plaintiff                  | § |                                     |
|                            | § |                                     |
| VS.                        | § | WALKER COUNTY, TEXAS                |
|                            | § |                                     |
| OCEANLINK, INC. , and      | § | Walker County - 12th District Court |
| ALTICE USA, INC.           | § |                                     |
| Defendants                 | § | _____th JUDICIAL DISTRICT           |

**PLAINTIFF’S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the City of Huntsville, a Home Rule City, located in Walker County, Texas, Plaintiff (hereinafter referred to sometimes as the “City”), and files this its Original Petition, complaining of Defendants: OceanLink, Inc., (“Ocean”); and Altice USA, Inc. (“Altice”); and for cause of action would show the Court as follows:

**I.**

***Discovery Control Plan***

1. Plaintiff intends to conduct discovery under Level 1 of the Texas Rules of Civil Procedure 190.3 because Plaintiff seeks monetary relief of less than \$50,000.

**II.**

***Parties and Service***

2.1 Plaintiff, the City, is a Home Rule municipality located in Walker County, Texas, and organized under the laws of the State of Texas.

2.2 Defendant, OceanLink, Inc. is a Texas for profit Corporation and may be served with citation by serving its registered agent and President Nilly Saleh, at 16206 Crestmoor Way, Houston, TX 77082.

2.3 Defendant Altice USA, Inc. is a foreign Corporation organized and existing under the law of the state of Delaware. Defendant engaged in business in Texas but has not designated or maintained a resident agent for service of process in Texas. Defendant may be served with process by serving the Texas Secretary of State at the James E. Rudder Building, 1019 Brazos, Austin Texas 78701 as its agent for service pursuant to Tex. Civ. Prac. & Rem. Code §§17.042(2); 17.043; 17.044(b), and 17.045. The Secretary of State is requested to forward process to the Defendant by serving its Corporate Officer, Senior Vice President & General Counsel Michael Olsen at 1111 Stewart Ave., Bethpage NY 11714.

### **III.**

#### ***Venue***

3.1 The events giving rise to this lawsuit occurred in Walker County, in the right of way of the City; accordingly, venue is proper in this Court pursuant to 15.002(a)(1) of the Texas Civil Practice and Remedies Code.

### **IV.**

#### ***Background Facts and Damages***

4.1 The City, as a governmental entity, maintains and owns a right of way commonly known as Elks Drive in Huntsville, Texas. On or about March 1, 2019, Defendant Ocean, and or its agents, were operating a boring machine on Elks Drive in Huntsville, Texas for a cable line owned by Altice d/b/a SuddenLink, when Ocean hit the City's 12-inch water main. Based upon information and belief, Ocean was working on behalf of Altice to install a new cable line.

4.2 The intrusion and break to the City's water main caused by the action of Ocean caused an approximately a 20-foot by 20-foot hole in the road (Elks Drive). The City had to repair the waterline due to the negligence of Ocean. After the repairs made by the City, the City

had to fill the hole and repave the road. The materials required included 6-12 yard loads of clay and two loads of rock to fill in the hole.

4.3 Defendants Ocean and Altice, jointly and severally, owed a duty to use due care when replacing, installing or repairing cable lines in the city limits of the City. Defendant Ocean failed to call in the correct location of its work site with Texas 811 (a locate service). The call to the Texas Locate service by Ocean was for a location not on Elks Drive (where Ocean drilled and struck the City water main). The Defendants, jointly and severally, were negligent and their negligence caused damage to the water main of the City.

4.4 The City incorporates the above paragraphs 4.1, 4.2 and 4.3 and would show it incurred costs of \$23,350.60 to repair the water main pipe, fill up the hole cause by the water leaking from the breach in the water main and to make repairs to the surface of the City road. Demand was made in writing upon Defendants OceanLink and Altice for this amount, but they each denied any responsibility.

## **V.**

### ***Spoliation***

5.1 Based upon information and belief, Defendants have acted to cover up the act of mistakenly drilling in the City right of way and have discarded or otherwise destroyed documents, and other records showing they drilled in the wrong location. As such, under the law of Texas, any documents secreted, discarded or destroyed are presumed to be unfavorable to the Defendants who had the duty to maintain and produce them.

## **VI.**

### ***Discovery***

6.1 Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendants Ocean and

Altice are requested to disclose within thirty (30) days of service of this request the information or material described in Rule 194.2 of the Texas Rules of Civil Procedure. Furthermore, Defendants Ocean and Altice are under a duty to seasonably supplement answers in accordance with Rule 193.5 of the Texas Rules of Civil Procedure. In addition to the content subject to disclosure under Rule 194.2, Plaintiff requests disclosure of all documents, electronic information, and tangible items that Defendants Ocean and Altice have in their possession, custody, or control and may use to support its claims or defenses. See Tex.R.Civ.P. 190.2(b)(6).

## **VII.**

### ***Prayer***

WHEREFORE, PREMISES CONSIDERED, Plaintiff, The City of Huntsville, Texas, prays that the Named Defendants be cited to answer and appear herein and that, upon a final hearing hereof, Plaintiff, have and recover of and from, jointly and severally, the Defendants Ocean and Altice, such damages as may be proven by competent evidence, pre- and post-judgment interest, all costs of court, and such other and further relief, both general and special, legal and equitable to which Plaintiff may show itself justly entitled.

Respectfully Submitted  
LILES PARKER, PLLC

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