

ORDINANCE NO. 28845

An ordinance granting a private license to Southern Methodist University to occupy, maintain, and utilize portions of Mockingbird Lane right-of-way located near its intersection with Airline Road, adjacent to City Block B/2020 within the limits hereinafter more fully described, for the purpose of installing, using and maintaining a subsurface duct bank for private data lines; providing for the terms and conditions of this license; providing for the annual compensation to be paid to the City of Dallas; providing for payment of the publication fee; and providing an effective date of this license and ordinance.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That a private license, hereinafter referred to as "license", subject to the restrictions and conditions of this ordinance, is hereby granted to Southern Methodist University, a Texas non-profit corporation, its successors and assigns, hereinafter referred to as "**GRANTEE**" to occupy, maintain, and utilize for the purpose set out hereinbelow the tracts of land described in Exhibit A, hereinafter referred to as "licensed area" which is attached hereto and made a part hereof.

SECTION 2. That this license is granted for a term of forty (40) years, unless sooner terminated according to other terms and provisions herein contained.

SECTION 3. That **GRANTEE** shall pay to the City of Dallas the sum of **TWO THOUSAND SIX HUNDRED FIFTY- SIX AND NO/100 (\$2,656.00) DOLLARS** annually for the license herein granted, said sum to become due and payable on the 2nd day of January each year, in advance, during the term hereof, provided, however, that the first payment due hereunder in the sum of **TWO THOUSAND SIX HUNDRED FIFTY-SIX AND NO/100 (\$2,656.00) DOLLARS** shall become due and payable upon the final passage of this ordinance and shall cover the consideration for 2012. Such consideration shall be in addition to and exclusive of any other taxes or special assessments required by law to be paid by **GRANTEE**. Should **GRANTEE** fail to pay the above stated annual fee within sixty (60) days of the due date, the Director of Department of Sustainable Development and Construction may terminate this license.

All sums payable to the City of Dallas hereunder shall be paid to the City Controller of the City of Dallas and deposited in Fund 0001, Dept. DEV, Unit 1181, Revenue Source 8428. In the event **GRANTEE's** check for the license fee is dishonored, **GRANTEE** shall pay to the City a processing fee of \$25.00 for each dishonored check. Additionally, all monies owed to the City under this license shall be subject to the assessment of interest at a rate of 10% a year from the day after any monies become due until it is paid in full, in accordance with Section 2-1.1 of the Dallas City Code.

SECTION 4. That the licensed area shall be used by **GRANTEE** for the following purpose under the direction of the Director of Department of Sustainable Development and Construction of the City of Dallas: installing, using and maintaining a subsurface duct bank for private power and data lines within the public right-of-way.

SECTION 5. That this license is subject to the provisions set forth in EXHIBIT B and EXHIBIT C, attached hereto and made a part hereof.

SECTION 6. That this license is nonexclusive and is made expressly subject and subordinate to the right of the City to use the licensed area for any public purpose. The Governing Body of the City of Dallas reserves the right by resolution duly passed by said Governing body, to terminate and cancel this license upon giving **GRANTEE** sixty (60) days notice of its intent to cancel. Upon termination, all rights granted hereunder shall thereupon be considered fully terminated and cancelled and the City of Dallas shall not be held liable by reason thereof. Said resolution shall be final and shall not be subject to review by the Courts. **GRANTEE** shall have the right of cancellation upon giving the City of Dallas sixty (60) days written notice of its intention to cancel, and in either event upon the termination or cancellation by the City or **GRANTEE**, as the case may be, this license shall become null and void and **GRANTEE** or anyone claiming any rights under this instrument shall remove, to the extent required by the Director of Department of Sustainable Development and Construction, any improvements and encroachments from the licensed area at **GRANTEE's** expense. Failure to do so shall subject **GRANTEE** to the provisions contained in EXHIBIT B, Subsection (a). All work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Department of Sustainable Development and Construction.

SECTION 7. That the license is subject to the following conditions, terms and

reservations:

- a) **GRANTEE** shall maintain a minimum of one foot vertical clearance between ONCOR and licensee facilities. ONCOR has underground distribution facilities along the south side of Mockingbird Lane. **GRANTEE** shall call 1-800-DIG-TESS to locate Oncor facilities before any excavation or underground installation or maintenance
- b) **GRANTEE** shall provide final shop drawings, drafted by a professional engineer of the State of Texas, of the exact duct bank location within the City's right-of-way to utility companies and Dallas Water Utilities.
- c) **GRANTEE** shall provide that any required traffic construction plans are approved by Transportation Section of Street Services.
- d) **GRANTEE** shall complete a right-of-way permit and submit three sets of sealed drawings and insurance certificate to Public Works Department. Please call 214-948-4445 prior to construction.
- e) **GRANTEE** acknowledges that ATMOS retains all franchise rights for any utility in the right-of-way on Mockingbird Lane in the license agreement area.
- f) **GRANTEE** shall be responsible for any damage done to any of the existing infrastructure within the duct bank location within the City's right-of-way, and **GRANTEE** shall make all necessary repairs as may be identified by the City of Dallas at no extra cost to the City of Dallas and per City criteria to the satisfaction of the City of Dallas.
- g) **GRANTEE** shall obtain a street cut permit. Please call 214-948-4042 at least 48 hours prior to work performed in the City's right-of-way.

SECTION 8. That the license granted hereby shall not become effective until and unless **GRANTEE** files a final acceptance, in writing, to the terms and conditions of this ordinance with the Director of Department of Sustainable Development and Construction and said written acceptance shall be forwarded to the City Secretary of the City of Dallas. In the event said written final acceptance is not filed within six (6) months after the passage of this ordinance as provided for herein, then the Director of Department of Sustainable Development and Construction, or her designee, may terminate this license.

SECTION 9. That upon receipt of **GRANTEE's** final written acceptance, the Director of Department of Sustainable Development and Construction, or her designee, is hereby authorized to execute a NOTICE OF LICENSE and to file same in the deed records of Dallas County, Texas. Additionally, the Director of Department of Sustainable Development and Construction, or her designee, is hereby authorized to execute a cancellation of Notice of License upon termination by the City or **GRANTEE** and to file such cancellation of Notice of License in the deed records of Dallas County, Texas.

SECTION 10. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 11. That this license may not be assigned without prior written approval from the Director of Department of Sustainable Development and Construction, or her designee. Such assignment shall recite that it is subject to the terms, restrictions, and conditions contained in this ordinance. The assignee shall deliver evidence of ownership of property abutting the licensed area, and a copy of the assignment, along with the assignee's written acceptance of the provisions of this ordinance, to the Director of Department of Sustainable Development and Construction within 10 days of such assignment; said assignment and written acceptance shall be forwarded to the City Secretary of the City of Dallas. Should **GRANTEE** fail to obtain prior written approval for assignment of this license or fail to provide the City of Dallas with the required written acceptance and a copy of the assignment, the Director of Department of Sustainable Development and Construction, or her designee, may terminate this license.

28845

SECTION 12. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or her designee. Upon receipt of the fee for the year 2012, an acceptable certificate of insurance, and the fee for publishing this ordinance which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction, or her designee, shall deliver to **GRANTEE** the certified copy of this ordinance. The Director of Department of Sustainable Development and Construction, or her designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 13. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:
THOMAS P. PERKINS, JR.
City Attorney

THERESA O'DONNELL
Director of Department of Sustainable
Development and Construction

BY


Assistant City Attorney

BY


Assistant Director

Passed

DEC 12 2012

28845

122998
EXHIBIT A

**LICENSE AGREEMENT
MOCKINGBIRD LANE
BETWEEN BLOCK 10, EAST UNIVERSITY PLACE AND
BLOCK B/2020, LONE STAR REALTY COMPANY'S SUBDIVISION
JOHN W. SMITH SURVEY, ABSTRACT NO. 1334 AND
JOEL SYKES SURVEY, ABSTRACT NO. 1338
CITY OF DALLAS, DALLAS COUNTY, TEXAS**

Being an 1,190 square foot tract of land situated in the John W. Smith Survey, Abstract No. 1334 and Joel Sykes Survey, Abstract No. 1338, City of Dallas, Dallas County, Texas, being a part of Mockingbird Lane between Block 10, East University Place, an addition to the City of University Park recorded in Volume 5, Page 71, Map Records, Dallas County, Texas and Block B/2020, Lone Star Realty Company's Subdivision, an addition to the City of Dallas recorded in Volume 2, Page 335, Map Records, Dallas County, Texas and being more particularly described as follows:

COMMENCING at a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner at the intersection of the east line of a 10' alley adjacent to said Block B/2020 and the south line of Mockingbird Lane (variable width right-of-way), said rod being in the west line of Lot 4, Block B/2020, said Lone Star Realty Company's Subdivision, said rod being the southwest corner of a tract of land conveyed to the City of Dallas by Warranty Deed recorded in Volume 1629, Page 480, Deed Records, Dallas County, Texas;

THENCE North 89° 20' 45" East along the south line of said City of Dallas tract and the south line of said Mockingbird Lane, passing at distance of 57.52 feet the southeast corner of said City of Dallas Tract and the southwest corner of a tract of land conveyed to City of Dallas by Warranty Deed recorded in Volume 1624, Page 613, Deed Records, Dallas County, Texas, and continuing for a total distance of 72.02 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner in the north line of a tract of land conveyed to Southern Methodist University by Special Warranty Deed recorded in Instrument No. 201200169943, Official Public Records, Dallas County, Texas, said rod being the **POINT OF BEGINNING**;

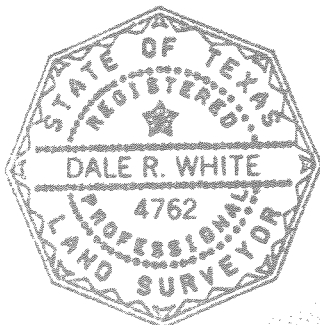
THENCE North 00° 00' 00" West, departing the south line of said City of Dallas tract, the south line of said Mockingbird Lane and the north line of said Southern Methodist University tract, a distance of 79.33 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set on the north line of said Mockingbird Lane and the south line of a tract of land conveyed to Peruna Holdings Corporation by Special Warranty Deed recorded in Instrument No. 200503583060, Official Public Records, Dallas County, Texas;

THENCE North 89° 16' 39" East along the north line of said Mockingbird Lane and the south line of said Peruna Holdings Corporation tract a distance of 15.00 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner;

THENCE South 00° 00' 00" East, departing the north line of said Mockingbird Lane and the south line of said Peruna Holdings Corporation tract, a distance of 79.34 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner in the south line of said City of Dallas tract, the south line of said Mockingbird Lane and the north line of said Southern Methodist University tract;

THENCE South 89° 20' 45" West along the south line of said City of Dallas tract, the south line of said Mockingbird Lane and the north line of said Southern Methodist University tract a distance of 15.00 feet to the **POINT OF BEGINNING** and containing 1,190 square feet or 0.027 acres, more or less.

BASIS OF BEARINGS: The east line of Airline Road right-of-way dedication (S00°35'53"E) as recorded in Instrument Number 201100319417, Official Public Records, Dallas County, Texas.



Dale R. White
Dale R. White R.P.L.S. No. 4762
04/25/2012
Revised 08/22/2012
Revised 09/04/2012

(For SPRG use only)

Reviewed By: *[Signature]*
Date: 09.05.2012
SPRG NO.: 2455

**SHEET 1 OF 2
25,592X**

28845

EXHIBIT A

122998

AIRLINE ROAD
(VARIABLE WIDTH
RIGHT-OF-WAY)

MNS
RIGHT-OF-WAY DEDICATION
INSTRUMENT NO. 201100319417
O.P.R.D.C.T.
S00°35'53"E
74.52'
YCIRS
MNS
S89°16'39"W
29.32'

BLOCK 10
EAST UNIVERSITY PLACE
VOL. 5, PG. 71
M.R.D.C.T.

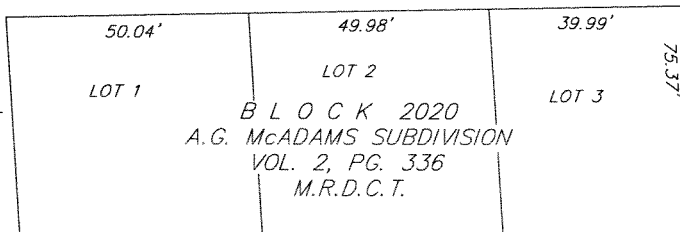
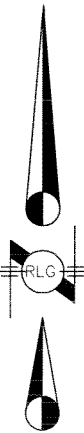
PERUNA HOLDINGS CORPORATION
INSTRUMENT NO. 200503583060
O.P.R.D.C.T.

MOCKINGBIRD LANE

JOEL SYKES SURVEY, ABSTRACT NO. 1338
JOHN W. SMITH SURVEY, ABSTRACT NO. 1334

(VARIABLE WIDTH RIGHT-OF-WAY)

JOHN COLE SURVEY, ABSTRACT NO. 272
JOHN W. SMITH SURVEY, ABSTRACT NO. 1334



LEGEND

- CORPORATE LIMIT
- YCIRS 1/2" IRON ROD SET
WITH YELLOW PLASTIC CAP
STAMPED "RLG INC"
- O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS,
DALLAS COUNTY, TEXAS
- M.R.D.C.T. MAP RECORDS, DALLAS
COUNTY, TEXAS
- D.R.D.C.T. DEED RECORDS, DALLAS
COUNTY, TEXAS
- MNS MAG NAIL SET

BASIS OF BEARINGS: THE EAST LINE OF AIRLINE ROAD
RIGHT-OF-WAY DEDICATION (S00°35'53"E) AS RECORDED IN
INSTRUMENT NUMBER 201100319417, OFFICIAL PUBLIC RECORDS,
DALLAS COUNTY, TEXAS.

CONTROLLING MONUMENTS: 5/8" IRON ROD WITH PLASTIC CAP
STAMPED "KHA" FOUND NORTH 01° 25' 09" EAST 239.36' FROM
THE MOST SOUTHWEST CORNER AND A CONCRETE MONUMENT
WITH ALUMINUM TXDOT DISK FOUND AT THE MOST NORTHERLY
NORTHEAST CORNER OF A TRACT OF LAND CONVEYED TO
SOUTHERN METHODIST UNIVERSITY, INSTRUMENT NO.
200600326977, O.P.R.D.C.T.

RAYMOND L. GOODSON, JR., INC.
5445 LA SIERRA, STE 300, LB 17
DALLAS, TX. 75231-4138
214-739-8100
rlg@rlginc.com
TEXAS PE REG #F-493
TBPLS REG #100341-00

(For SPRG use only)

Reviewed By: *RLG*

Date: 09.05.2012

SPRG NO.: 2455

0 20 40 80

(FEET)
1 inch = 40 ft.



SOUTHERN METHODIST UNIVERSITY
INSTRUMENT NO. 201200169943
O.P.R.D.C.T.

Dale R. White
Dale R. White R.P.L.S. No. 4762
04/25/2012
Revised 08/22/2012
Revised 09/04/2012

LICENSE AGREEMENT MOCKINGBIRD LANE

BETWEEN BLOCK 10, EAST UNIVERSITY PLACE AND
BLOCK B/2020, LONE STAR REALTY COMPANY'S SUBDIVISION
JOHN W. SMITH SURVEY, ABSTRACT NO. 1334 AND
JOEL SYKES SURVEY, ABSTRACT NO. 1338
CITY OF DALLAS, DALLAS COUNTY, TEXAS

SHEET 2 OF 2

SCALE	1" = 40'	DATE	04/25/2012
JOB NO.	09383.20	E-FILE	093830PLAMB
DWG NO.	25,592X		

EXHIBIT B
COMMERCIAL ENTITY
ADDITIONAL LICENSE PROVISIONS

That this license is granted subject to the following additional conditions, terms and reservations:

- (a) That at such time as this license is terminated or canceled for any reason whatsoever, **GRANTEE**, upon orders issued by the City acting through the Director of Sustainable Development and Construction, or designee, shall remove all installations, improvements and appurtenances owned by it situated in, under or attached to the licensed area, and shall restore the premises to its former condition in accordance with the requirements of the Director of Sustainable Development and Construction at the sole cost of **GRANTEE**. In the event, upon termination of this license, **GRANTEE** shall fail to remove its installations, improvements and appurtenances and to restore the licensed area in compliance with orders issued by City, or such work is not done to the satisfaction of the Director of Sustainable Development and Construction, then in either event the City shall have the right to do all work necessary to restore said area to its former condition or cause such work to be done, and to assess the cost of all such work against **GRANTEE**; in neither event shall the City of Dallas be liable to **GRANTEE** on account thereof.
- (b) It is further understood that if and when the City of Dallas, in the exercise of its discretion, shall determine that the grade of any street, sidewalk or parkway should be modified or changed, or that any other work should be done in connection with any public improvement which will affect the licensed area, and/or any of **GRANTEE's** installations and improvements thereon, any modifications or changes to **GRANTEE's** facilities in the licensed area or in construction or reconstruction of any public improvement attributable to **GRANTEE's** use of the licensed area and/or its installations and improvements thereon, shall be made at the sole expense of **GRANTEE** and to the satisfaction of the Director of Sustainable Development and Construction.
- (c) At such time as this license is granted, it is agreed, and a condition hereof, that **GRANTEE** shall procure and keep in full force and effect **Commercial General Liability Insurance** coverage issued by an insurance company authorized and approved by the State of Texas, acceptable to the City of Dallas and issued in the standard form approved by the Texas Department of Insurance. The insured provisions of this policy must name the City of Dallas as an additional insured protecting the City of Dallas against any and all claims for damages to persons or property as a result of or arising out of the use, operation and maintenance by **GRANTEE** of the licensed area and **GRANTEE's** installations, improvements, landscaping and equipment in connection therewith and located therein. The Commercial General Liability coverage must include, but not limited to, Premises/Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of not less than \$500,000 per occurrence and \$500,000 annual aggregate. This insurance shall also include coverage for underground, explosion and collapse hazards (i.e. not excluded). If this insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than

**COMMERCIAL ENTITY
ADDITIONAL LICENSE PROVISIONS**

twelve (12) months following termination of this license and removal of the installations, improvements and appurtenances and restoration of the licensed area pursuant to paragraph (a) above. Coverage, including any renewals, shall contain the same retroactive date as the original policy applicable to this license. The City of Dallas reserves the right to review the insurance requirements set forth herein during the effective term of the license and to adjust insurance coverages and their limits when deemed necessary and prudent by the City of Dallas' Risk Management based upon changes in statutory law, court decisions, or the claims history of the industry as well as the City of Dallas.

1. **GRANTEE** agrees that with respect to the above required insurance, all insurance contracts and certificates of insurance will contain and state, in writing, that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to Department of Sustainable Development and Construction.
 2. **GRANTEE** shall carry said insurance at its expense and shall furnish the City of Dallas proof of such insurance. In the event said insurance should terminate during the licensing term hereof, or **GRANTEE** fails to furnish proof of insurance coverage in accordance with the specifications as required by this section, the Director of Sustainable Development and Construction, or designee, may terminate the license granted herein.
- (d) **GRANTEE** is prohibited from using the licensed area in any manner which violates Federal, State or local laws, regulations, rules and orders, regardless of when they become or became effective, including without limitation, those related to health, safety, noise, environmental protection, waste disposal and water and air quality, and shall provide satisfactory evidence of compliance upon the request of the City of Dallas. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the licensed area due to **GRANTEE's** use and occupancy thereof, **GRANTEE**, at its expense, shall be obligated to clean up the licensed area to the satisfaction of the City of Dallas and any governmental body having jurisdiction thereover. The City of Dallas may, at its option, clean the licensed area. If the City of Dallas elects to do so, **GRANTEE** shall promptly pay to the City of Dallas the reasonable cost of such cleanup upon receipt of bills therefore. **GRANTEE** agrees that the indemnity provisions contained in paragraph (g) herein shall be fully applicable to the requirements of this paragraph, in event of **GRANTEE's** breach of this paragraph, or as a result of any such discharge, leakage, spillage, emission or pollution arising out of the **GRANTEE's** use of the licensed area.
- (e) This license is subject to all State laws, the provisions of the Charter of the City of Dallas as it now exists, or may hereafter be adopted or amended, and the ordinances of the City of Dallas now in effect or those which may hereafter be passed or adopted. The City of Dallas shall have the right to increase or decrease the compensation to be charged for the use contemplated by this grant in

EXHIBIT B
COMMERCIAL ENTITY
ADDITIONAL LICENSE PROVISIONS

accordance with the provisions of the Dallas City Code as it now exists, or as may hereafter be adopted or amended.

- (f) The Governing Body of the City of Dallas reserves the right, at any time without notice, to terminate and cancel this license, by resolution, upon a finding by the Governing Body that this license is inconsistent with the public use of the property or whenever the purpose or use of the license is likely to become a nuisance and all rights granted hereunder shall thereupon be considered fully terminated and canceled and the City of Dallas shall not be held liable by reason thereof. The decision of the Governing Body of the City in this matter shall be final and binding upon all parties insofar as the City's determination as to whether the **GRANTEE's** use of this license constitutes a nuisance or is inconsistent with the public use of the property.
- (g) As a condition hereof, **GRANTEE** agrees and is bound to the extent allowed by law to defend, indemnify and hold the City of Dallas, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for bodily injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by the use, occupancy and maintenance of the licensed area or **GRANTEE's** installations and improvements within the licensed area, from any act or omission of any representative, agent, customer and/or employee of **GRANTEE**, or by **GRANTEE's** breach of any of the terms or provisions of this license, or by any negligent or strictly liable act or omission of **GRANTEE**, its officers, agents, employees or contractors in the use, occupancy and maintenance of **GRANTEE's** installations and improvements within the licensed area; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of the City of Dallas, its officers, agents, employees or separate contractors, and in the event of joint and concurring negligence or fault of both the **GRANTEE** and the City of Dallas, responsibility and liability, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to the City of Dallas under Texas law and without waiving any defenses of the parties under Texas law. This obligation to indemnify and defend shall also include any claim for damage that any utility or communication company, whether publicly or privately owned, may sustain or receive by reason of **GRANTEE's** use of the licensed area or **GRANTEE's** improvements and equipment located thereon. In addition to the foregoing, **GRANTEE** covenants and agrees never to make a claim of any kind or character whatsoever against the City of Dallas for damage of any kind that it may suffer by reason of the installation, construction, reconstruction, operation or maintenance of any public improvement, utility or communication facility on the licensed area, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water or wastewater mains or storm sewer facilities, regardless of

EXHIBIT B
COMMERCIAL ENTITY
ADDITIONAL LICENSE PROVISIONS

whether such damage is due to flooding, infiltration, backflow or seepage caused from the failure of any installation, natural causes, City's negligence, or from any other cause whatsoever.

- (h) This license is subject to any existing utilities or communication facilities, including drainage, presently located within the licensed area, owned and/or operated by the City of Dallas or any utility or communications company, public or private, and to any vested rights presently owned by an utility or communications company, public or private, for the use of the licensed area for facilities presently located within the boundaries of said licensed area. It is the intent of the foregoing that this permission herein is made expressly subject to the utilization of the licensed area for communication and utility purposes, both public and private, including drainage, over, under, through, across and along the licensed area. No buildings shall be constructed or placed upon, over or across the licensed area in such a manner as to interfere with the operation of any utilities and communication facilities. All and any communication company and utility, both public and private, shall have the right to remove and keep removed all or parts of any buildings which may in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within the licensed area. All communication companies and utilities, both public and private, shall have the full right to remove and keep removed all parts of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance and efficiency of its respective system and shall at all times have the full right of ingress and egress to or from and upon the licensed area for the purpose of constructing, relocating, inspecting, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone.

28845

Exhibit C
Additional License Provisions

1. **LICENSEE** shall not provide local exchange telephone services or other services directly regulated by the Texas Public Utility Commission ("PUC") without obtaining:
 - (1) PUC approval to provide the service; and
 - (2) a separate license or franchise from the City of Dallas for the provision of any such service.
2. **LICENSEE** shall own all lines and facilities used by it within the licensed area.
3. **LICENSEE** shall not lease, sell, permit or otherwise authorize others, which do not have a City of Dallas telecommunications or video franchise, to use any or all of its lines, facilities, conduit space or transmission capacity in any line, cable or facility placed in the licensed area without the prior, written consent of both the Revenue and Taxation and Property Management Divisions of the City of Dallas prior to the finalization of the transaction.
4. **LICENSEE** shall use its installations and facilities solely for itself and its property; if the installations and facilities are not for **LICENSEE's** use, the terms and conditions of Section 3 above will apply.
5. **LICENSEE** shall not directly connect or permit others using its lines, facilities, conduit space or transmission capacity to directly connect to customers or offer retail services from all or any portion of its lines or facilities.
6. **LICENSEE** shall not use its aerial/subsurface cable and/or fiber optic lines to provide cable services or other video services, as defined in Title 47, Chapter 5 of the United States Code, as amended (47 U.S.C.A., Section 521, et seq), or as recognized by the Federal Communications Commission ("FCC").
7. If **LICENSEE** desires to provide any telecommunications, video or cable services not authorized by this license, it agrees to, as part of any license authorizing provision of that service, to pay a separate fee to the City of Dallas for the provision of local exchange telephone services, a service directly regulated by the PUC, cable services, other defined video services, other video services recognized by the FCC, Personal Communication Service or like service.
8. Should **LICENSEE** violate the terms of this EXHIBIT C, then the rights of **LICENSEE** under this license shall automatically cease and terminate and the provisions of Section 5 of this Temporary License Agreement shall control.