

**ORDINANCE NO. \_\_\_\_\_**

An ordinance granting a private license to the Board of Regents of The University of Texas System to occupy, maintain and utilize a subsurface portion of Forest Park Road right-of-way located near the intersection of Forest Park Road and Bomar Avenue adjacent to City Blocks C/5759 and D/2370 within the limits hereinafter more fully described, for the purpose of occupying, maintaining and utilizing a subsurface communication ductbank; 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.

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**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 Board of Regents of The University of Texas System, an agency of the State of Texas, hereinafter referred to as "**GRANTEE**", to occupy, maintain and utilize for the purpose set out hereinbelow the tract 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 **ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00)** annually for the license herein granted, said sum to become due and payable on the 2<sup>nd</sup> day of January each year, in advance, during the term hereof; provided, however, that the first payment due hereunder in the sum of **ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00)** shall be paid prior to the final passage of this ordinance and shall cover the consideration for 2022. 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 the Department of Public Works may terminate this license. All sums payable to the City of Dallas hereunder shall be paid to the Chief Financial Officer of the City of Dallas and deposited in General Fund, Fund

**SECTION 3.** (continued)

0001, Department PBW, Unit 1181, Revenue Code 8200. 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 percent 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 Public Works of the City of Dallas: to occupy, maintain and utilize a subsurface communication ductbank.

**SECTION 5.** That this license is subject to the provisions set forth in Exhibit B, 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 areas 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 Public Works, any improvements and encroachments from the licensed areas 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 Public Works.

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

- (a) **GRANTEE** shall contact Public Works to get Right-Of-Way Permit and Cut Control at 214-948-4042 at least 48 hours prior to construction.
- (b) **GRANTEE** shall make all necessary utility locates prior to start of construction on the subsurface duct bank. If conflict with AT&T facilities, then **GRANTEE** will need to contact AT&T to discuss relocation options and methods.

**SECTION 8.** That upon the effectiveness of this ordinance, the Director of Department of Public Works, or 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 Public Works, or 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 9.** That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns, to the extent authorized by the Constitution and laws of the State of Texas.

**SECTION 10.** That this license may not be assigned without prior written approval from the Director of Department of Public Works, or 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 Public Works 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 Public Works, or designee, may terminate this license.

**SECTION 11.** That in lieu of the insurance requirements specified in Exhibit B, Subsection (c), **GRANTEE** may self-insure to the extent permitted by applicable law under any plan of self-insurance, maintained in accordance with sound accounting practices, against the risks described in this Subsection (c) and shall not be required to maintain insurance

**SECTION 11.** (continued)

hereunder provided that **GRANTEE** furnishes the City satisfactory evidence of the existence of an insurance reserve adequate for the risks covered by such plan of self-insurance, evidence of which shall be provided to the City prior to issuance of certified copy of the ordinance to **GRANTEE**.

**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 Public Works, or designee. Upon receipt of the fee pursuant to Section 3 of this ordinance, an acceptable certificate of insurance and the fee for publishing this ordinance which **GRANTEE** shall likewise pay, the Director of Department of Public Works, or designee, shall deliver to **GRANTEE** the certified copy of this ordinance. The Director of Department of Public Works, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

**SECTION 13.** That this ordinance is also designated for City purposes as Contract No. PBW-2021-00016239.

**SECTION 14.** That 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:  
CHRISTOPHER J. CASO,  
City Attorney

BY   
Assistant City Attorney

DR. ROBERT M. PEREZ, Director  
Department of Public Works

BY   
SOR Assistant Director

Passed \_\_\_\_\_.