

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

AN ORDINANCE OF THE CITY OF DENTON, TEXAS PROVIDING FOR AUTHORIZATION OF A TOWER/GROUND LEASE AGREEMENT BETWEEN THE CITY OF DENTON, A TEXAS HOME RULE MUNICIPAL CORPORATION, AND DENTON COMMERCIAL INTERNET, INC., A TEXAS CORPORATION FOR DENTON COMMERCIAL INTERNET, INC.'S LEASE OF ANTENNA SPACE ON MCKENNA PARK RADIO TOWER AND GROUND IMMEDIATELY ADJACENT TO THE TOWER; AND PROVIDING FOR AN EFFECTIVE DATE.

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The City Council of the City of Denton finds that the execution of the attached Tower/Ground Lease Agreement is in the best interest of the City as it will allow additional commercially available wi-fi service to areas that have limited, or no access, to internet service.

SECTION 2. The City Manager, or his designee, is hereby authorized to execute the Tower/Ground Lease Agreement, attached hereto and incorporated herein, and to carry out the duties and responsibilities of the City under the same.

SECTION 3. This ordinance shall become effective immediately upon its passage and approval.


PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
CHRIS WATTS, MAYOR

ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
ANITA BURGESS, CITY ATTORNEY

BY:  \_\_\_\_\_

NOTE: AGREEMENT TO BY SIGNED BY LESSEE  
BEFORE CONSIDERATION BY CITY COUNCIL.

**TOWER/GROUND LEASE AGREEMENT**

THIS AGREEMENT, made this \_\_\_\_\_ day of August, 2016, (the "Effective Date") by and between the CITY OF DENTON, TEXAS, a Texas Municipal Corporation, hereinafter called "LESSOR" and Denton Commercial Internet, Inc., a Texas corporation, located at 109 E. Oak St., Denton, Texas 76201.

WHEREAS, LESSOR is the owner of the following described real property, including the McKenna Park Radio Tower (the "Tower") and compound, commonly known and as described in the attached Exhibit "A", in the City of Denton, Denton County, Texas; and

WHEREAS, LESSEE desires to lease antenna space from LESSOR on said Tower and ground space for LESSEE'S equipment building or cabinet, and all appurtenances thereto; together with access for ingress and egress, for the purpose of installing, operating and maintaining facilities to provide commercial mobile radio services ("CMRS"); and

NOW THEREFORE, in consideration of the covenants, conditions, agreements, and rents hereinafter set forth, the adequacy of which is hereby acknowledged, LESSOR and LESSEE agree as follows:

**1. LESSEE Rights.**

a. LESSOR hereby leases, lets and remises to LESSEE, and LESSEE takes from LESSOR, sufficient space on LESSOR'S Tower at 115, 112, and 60 feet AGL to attach LESSEE'S microwave dishes and access points a 2' x 3' area (approximately 6 square feet) of ground space adjacent to said Tower for LESSEE'S equipment building or cabinet and all appurtenances thereto. LESSOR also grants to LESSEE access for ingress and egress to and from said Tower and equipment building or cabinet. The equipment space and ground space described above are hereinafter referred to as the "Leased Premises", which together with the access for ingress and egress are more particularly shown on Exhibit "B."

b. LESSEE'S antenna array, equipment cabinet, telecommunications equipment (collectively the "CMRS facilities") and the location of these facilities, including where the antenna array attaches upon the Tower are more particularly illustrated and defined in Exhibit "B", which is attached hereto and made a part hereof for all purposes. LESSEE'S equipment building or cabinet shall be installed on a slab foundation or otherwise at LESSEE'S expense. Said CMRS equipment and equipment building or cabinet shall be owned by LESSEE and shall be removed from the Leased Premises by LESSEE within a reasonable period following termination of this Agreement, but in no event later than six (6) months thereafter. The equipment building or cabinet will be placed adjacent to the Tower as described in Exhibit "B."

c. LESSOR shall grant any and all easements on the Leased Premises as may be required by the appropriate electric, telephone, and any other utility company for the purpose of servicing LESSEE'S CMRS facilities. LESSEE shall not use or permit the property to be used for any purpose other than a CMRS facility. LESSOR shall allow LESSEE to install, operate, maintain, replace and remove its CMRS facilities, and related cables, wires, conduits, antennas, air conditioning equipment, and other appurtenances as it may from time to time require. Although such equipment and appurtenances may become fixtures, they shall be and shall remain the property of LESSEE, and LESSEE shall have the right to remove all of them at the expiration or termination of this Agreement. LESSEE, at its sole expense shall promptly repair the property

once the fixtures are removed by LESSEE so that the property will be in substantially the same condition that it was at the beginning of the Agreement, less reasonable wear and tear excepted. The parties agree that the CMRS equipment and equipment cabinet shall become the property of LESSOR if LESSEE fails to remove said CMRS equipment and equipment cabinet in accordance with the terms of this agreement. LESSEE shall have twenty-four (24) hour, seven (7) days a week access to the Leased Premises in order to perform its business functions.

d. LESSOR grants to LESSEE a non-exclusive right to occupy the McKenna Park Radio Tower. This Lease in no way limits LESSOR'S ability to lease the use of the said Tower to other entities for lawful pursuits, subject to the provisions, however, of this Agreement.

2. **Survey.** LESSOR hereby grants to LESSEE the right to survey the Leased Premises at LESSEE'S sole expense. Said survey, if made, shall become Exhibit "C" to this Agreement and shall supersede Exhibit "A" to the extent required.

3. **Access.** Prior to and after the Effective Date, LESSEE and its authorized agents shall have access to the Leased Premises at such times as LESSOR and LESSEE mutually agree for the purpose of undertaking any necessary tests, studies and inspections relating to LESSEE'S proposed use of the Leased Premises. During the term of this Agreement, only COMTRAIN certified, and adequately insured, agents, contractors or persons under LESSEE'S direct supervision and control will be permitted to climb the tower structure or to install or remove LESSEE'S antennas and/or transmission lines from the Tower. LESSEE will provide LESSOR with written documentation of both COMTRAIN certification and insurance coverage of any and all climbers it intends to use before the same climb the Tower. LESSOR retains the right to permit its own employees and agents and employees and agents of subsequent users of the tower structure, to climb the Tower structure for all purposes that do not interfere with the LESSEE'S use of the Tower, and so long as such subsequent users comply with the provisions of Paragraph 7.b. of this Agreement.

4. **Term.**

a. The term of this Agreement shall be ten (10) years beginning on the first (1st) day of the calendar month (hereafter, the "Commencement Date") following the earlier to occur of: (i) the issuance of all necessary City building permits or (ii) the commencement of LESSEE'S construction at the Leased Premises. Rent shall be paid in equal monthly installments, in advance, to LESSOR or to such other person, firm or place as LESSOR may from time to time so designate in writing at least thirty (30) days in advance of any rental payment date.

i. The first year's rental shall be \$8,064.00, payable to LESSOR by LESSEE in equal monthly installments of \$672.00 per month.

ii. The rent shall be payable in advance, on an equal monthly installment basis, on the 1st day of each month throughout the term hereof.

iii. On each annual anniversary of the Commencement Date of the Agreement, the rent in Paragraph 4.a.1. above shall be automatically increased by a rate of 3% per annum over the immediately preceding year's rental. By way of illustration, this provision, for the primary ten (10) year term of the Agreement, provides for ten (10) separate rate increases.

b. If, at the end of ten (10) years, this Agreement has not been terminated by either party giving to the other written notice of an intention to so terminate it at least nine (9) months prior to the end of such ten (10) year term, and the Agreement is not then in default, then LESSOR grants to LESSEE an option to continue the Agreement for a five (5) year renewal term under the same covenants, terms, and conditions, SAVE AND EXCEPT that the subject of rental payments due under said five (5) year option shall be negotiable by LESSOR and LESSEE (based on then-current fair market rental rates for comparable CMRS facility sites).

c. If, at the expiration of the first five (5) year renewal term provided for in paragraph 4.b. hereinabove, the Agreement is not then in default, then LESSOR grants to LESSEE a second, and final option to continue the Agreement for a second five (5) year renewal term under the same covenants, terms, and conditions, SAVE AND EXCEPT that the subject of rental payments due under the said second five (5) year option shall be negotiable by LESSOR and LESSEE (based on then-current fair market rental rates for comparable CMRS facility sites).

d. LESSOR and LESSEE agree that both the first five (5) year term option and the second five (5) year term option, if exercised, shall be negotiated as well as documented and executed no later than thirty (30) days prior to the expiration of the previous term.

e. PROVIDED HOWEVER, if LESSEE is not in default hereunder and shall have paid all rents and sums due and payable to LESSOR by LESSEE as required herein, LESSEE shall have the right to terminate this Agreement at any time following the expiration of three (3) years from the Effective Date hereof, with six (6) months prior written notice to LESSOR, without further obligation hereunder. Notwithstanding the preceding sentence, LESSEE shall have the right to terminate this Agreement upon thirty (30) days prior written notice if: (i) environmental contamination not caused by LESSEE is found on the Leased Premises or (ii) before issuance of all necessary Governmental Approvals.

##### **5. Contingencies.**

a. It is understood and agreed that LESSEE'S ability to use the Leased Premises is contingent upon its obtaining, either before or after the Effective Date of this Agreement, all of the certificates, permits, and other approvals that may be required by any federal, state or local authorities ("Government Approvals") as well as satisfactory soil boring tests, tower load studies, title review, and/or environmental studies that LESSEE, in its sole discretion, deems necessary ("Initial Tests"). LESSEE shall make due and timely application for all such necessary Government Approvals, which LESSEE shall obtain at its sole expense. LESSEE shall be allowed to place on the Leased Premises all signs required by federal, state, or local law.

b. LESSOR shall cooperate with LESSEE in its effort to obtain all Government Approvals and perform Initial Tests. LESSEE shall have the right to terminate this Agreement immediately if (i) any application for Governmental Approval is finally rejected; (ii) LESSEE, in its sole discretion, believes such application or obtaining any Governmental Approvals will be too costly, time consuming or there is reasonable likelihood that said application will be rejected; (iii) any Governmental Approval issued to LESSEE is cancelled or otherwise withdrawn or terminated by governmental authority; or (iv) in LESSEE'S reasonable opinion the results of any Initial Tests are unsatisfactory. Notice of said termination shall be given to LESSOR in writing by certified mail,

return receipt requested, at the address shown herein. All rentals paid for the lease of the Leased Premises through said termination date shall be retained by the LESSOR; and LESSEE shall pay LESSOR for any costs expended by LESSOR in preparing the Leased Premises for the location of LESSEE'S equipment. Upon such termination, this Agreement shall become null and void, and the parties shall have no further obligations, including the payment of money, to each other.

6. **LESSEE Covenants.** LESSEE covenants and agrees that LESSEE'S equipment, its installation, operation and maintenance will:

a. Not interfere with the operation of existing radio equipment at the Leased Premises. In the event there is harmful interference to said electronic equipment, LESSEE will promptly take all steps necessary to identify the problem, and, if caused by LESSEE'S equipment, take all reasonable steps to eliminate said harmful interference within seven (7) days after notice is received from LESSOR to LESSEE advising of the interference. If said interference cannot be eliminated within fifteen (15) days after receipt of notice thereof, LESSEE agrees to immediately suspend operations (transmissions) at the Leased Premises while the interference problems are studied and a means found to mitigate them. If said interference cannot be eliminated, then LESSEE shall remove its building and equipment from LESSOR'S property and this Agreement shall hereupon be terminated.

b. Comply with all applicable rules and regulations of the Federal Communications Commission ("FCC"), and electrical codes of the City and/or State. Under this Agreement, LESSOR assumes no responsibility for the licensing, operation and/or maintenance of LESSEE'S CMRS facilities and appurtenances. If the addition of LESSEE'S equipment on the Leased Premises requires an increase in the current height of the Tower or a change in the location of the Tower on the Leased Premises, LESSEE shall not install its equipment or increase the height of the Tower until obtaining clearance from LESSOR so that LESSEE may comply with all FCC and/or Federal Aviation Administration ("FAA") rules regarding Tower height and location.

7. **LESSOR Covenants.** LESSOR covenants that:

a. LESSOR is seized of good and sufficient title and interest to the Leased Premises and has full authority to enter into and perform this Agreement.

b. LESSOR shall cause all subsequent users of the Tower to coordinate with LESSEE prior to placing any equipment on the Tower to ensure that their frequencies and antenna locations will be compatible with LESSEE'S and to agree to a clause similar to that agreed to by LESSEE in Paragraph 6.a., above and promising to immediately eliminate harmful interference if said user's radio equipment should interfere with that of LESSEE.

c. LESSEE will enjoy undisturbed possession of the Leased Premises as provided in Paragraph 16.a.

8. **Indemnification.**

a. THE LESSEE SHALL DEFEND (AT THE OPTION OF THE LESSOR), INDEMNIFY, AND HOLD THE LESSOR, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF,

INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE LESSEE, OR THE LESSEE'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE LESSEE'S OBLIGATIONS UNDER THIS AGREEMENT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE LESSOR OR THE LESSEE (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

b. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for: (1) damage to or loss of the property of any person (including, but not limited to the LESSOR, the LESSEE, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); (2) violation of Environmental Regulations as defined in Paragraph 9.b. below; and/or (3) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the LESSOR, the LESSEE, the LESSEE's subcontractors, and third parties).

c. "Fault" shall include, but not be limited to, negligence, willful misconduct or a breach of any legally imposed strict liability standard.

**9. Environmental Issues.**

a. LESSEE represents, warrants, and covenants to LESSOR that LESSEE shall at no time during the term of this Agreement use or permit the Leased Premises to be used in violation of any Environmental Regulations. LESSEE will not exercise any control over environmental conditions or any activities, other than those conducted by LESSEE under this Agreement, at or near the Leased Premises that involve the generation, storage, treatment, or disposal of any hazardous substance, material, chemical, or waste. LESSEE and LESSOR also agree that LESSEE'S use of the Leased Premises will not involve the subsurface, except for the placement of a foundation for LESSEE'S equipment and facilities.

b. For the purposes of this clause, the term "Environmental Regulations" shall mean any law, statute, regulation, order or rule now or hereafter promulgated by any Governmental Authority, having jurisdiction, whether local, state or federal, relating to air pollution, water pollution, noise control and/or transporting, storing, handling, discharge, disposal or recovery of on-site or off-site hazardous substances or materials, as same may be amended from time to time, including without limitation the following: (i) the Clean Air Act (42 U.S.C. § 7401 et seq.); (ii) Marine Protection, Research and Sanctuaries Act (33 U.S.C. § 1401-1445); (iii) the Clean Water Act (33 U.S.C. § 1251 et seq.); (iv) Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. § 6901 et seq.); (v) Comprehensive Environmental Response Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. § 9601 et seq.); (vi) Toxic Substances Control Act (15 U.S.C. § 2601 et seq.); (vii) the Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. § 135 et seq.); (viii) the Safe Drinking Water Act (42 U.S.C. § 300 (f) et seq.); (ix) Occupational Health and Safety Act (29 U.S.C. § 651 et seq.); (x) the Hazardous Liquid Pipeline Safety Act (49 U.S.C. § 2001 et seq.); (xi) the Hazardous Materials Transportation Act (49 U.S.C. §

1801 et seq.); (xii) the Noise Control Act of 1972 (42 U.S.C. § 4901 et seq.); (xiii) Emergency Planning and Community Right to Know Act (42 U.S.C. §§ 11001-11050); and (xiv) the National Environmental Policy Act (42 U.S.C. §§ 4321-4347).

c. This Paragraph 9 shall survive the expiration or termination of this Agreement.

**10. Insurance.** During the term of this Agreement, LESSEE will carry commercial general liability insurance with customary coverage and exclusions in the following amounts:

Bodily Injury - \$1,000,000 for injury to any one person and \$2,000,000 for all injuries sustained by more than one person in any one occurrence.

Property Damage - \$100,000 for damage as a result of any one accident.

LESSEE agrees to furnish LESSOR with certificates of insurance certifying that LESSEE has in force and effect the above specified insurance. LESSEE further agrees to cause said policies of insurance to reflect LESSOR as an additional insured, to the extent permitted by applicable law.

**11. Taxes.** LESSEE shall pay all personal property taxes levied against its CMRS facilities and appurtenances located upon the Leased Premises before the same become delinquent.

**12. Utilities.** LESSEE shall have a separate power meter installed for its electric service and LESSEE agrees to pay any and all costs related to said electric service.

**13. Quiet Title.** LESSOR covenants that LESSEE, on paying the rent and performing the covenants by it herein made, shall and may peaceably and quietly have, hold and enjoy the Leased Premises under the terms and conditions specified in this Agreement.

**14. Choice of Law.** This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Texas. Any litigation concerning this Agreement shall be conducted exclusively in Denton County, Texas and the parties hereby agree to the venue and personal jurisdiction of these courts.

**15. Notices.** All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, postage prepaid, return receipt requested, addressed as shown below (or to any other address that the party to be notified may have designed to the sender by like notice):

LESSEE:

General Manager  
Denton Commercial Internet, Inc.  
P.O. Box 177  
Aubrey, Texas 76227

LESSOR:

City Manager  
City of Denton, Texas  
215 E. McKinney Street  
Denton, Texas 76201

with a copy to:

City Attorney  
City of Denton, Texas  
215 E. McKinney Street  
Denton, Texas 76201

**16. Non-Disturbance.**

a. Subject to the other terms of this Agreement, LESSOR covenants that LESSEE shall, and may peacefully have, hold and enjoy the Leased Premises for the term of this Agreement provided that LESSEE pays the rent payable to LESSOR under this Agreement and performs all of LESSEE'S covenants and agreements herein contained. LESSOR shall take no action that will or could adversely affect LESSEE'S use of the Leased Premises.

b. LESSOR acknowledges that the Leased Premises have little or no value to LESSEE if LESSEE cannot use the Leased Premises as fully contemplated by LESSEE, that the Leased Premises are unique, and that LESSEE has made or will make a large investment in the Leased Premises, and therefore, LESSOR agrees that LESSEE, in addition to the remedies set forth in Paragraph 19, shall be entitled to injunctive relief or other equitable relief to require LESSOR to comply with all provisions of this Agreement which may interfere in any way with LESSEE'S contemplated use of the Leased Premises, so that LESSEE may continue with such use of the Leased Premises as fully contemplated by LESSEE.

c. Any sale or transfer or assignment by the LESSOR of all or part of the Leased Premises or its interest in and to this Lease Agreement, shall be under and subject to this Agreement and LESSEE'S rights hereunder, such that LESSEE'S rights hereunder shall not be disturbed.

**17. Assignment.** Upon written notification from LESSEE to LESSOR, this Agreement may be sold, assigned, subleased, or transferred by LESSEE at any time, without the consent of LESSOR, to a subsidiary, partner or affiliate of LESSEE; or to a successor to the primary business of LESSEE, with the advance written notice of LESSOR, only to the extent that said successor is of equal or greater creditworthiness than LESSEE. Any other assignment of this Agreement shall require the advance written approval of LESSOR, such approval not to be unreasonably withheld.

**18. Successors; Assigns.** This Agreement shall extend to and bind the successors and assigns of the parties hereto.

**19. Default; Termination.**

a. If either party breaches a provision of this Agreement, the non-breaching party shall provide and deliver the other party written notice of the alleged breach. If the breaching party has not cured the breach within thirty (30) days of the receipt of such notice (the "Cure Period") or if the breach cannot be cured within the Cure Period, and the breaching party has not performed substantial work to cure the breach within the Cure Period, the non-breaching party may then give written notice of its intent to terminate this Agreement. Such termination shall



become effective ten (10) days after the breaching party's receipt of the notice of intent to terminate letter; provided that the breaching party has not cured the breach within such additional ten (10) day period.

b. If, at any time during the term of this Agreement, LESSEE determines, following discussion of the subject with LESSOR, in its reasonable discretion, that due to technological reasons, including serious signal interference, the Leased Premises is not appropriate for providing CMRS, and a third disinterested expert party, to be selected jointly by LESSOR and LESSEE who examines the situation is in agreement, then LESSEE may terminate this Agreement on thirty (30) days' notice to LESSOR. LESSEE shall also have the right to terminate this Agreement in accordance with Paragraphs 4.c. and 5.b.

**20. Maintenance.** LESSOR shall be responsible and liable for the maintenance of LESSOR'S Tower in compliance with any and all applicable laws, statutes, rules and regulations, including but not limited to, those rules and regulations, promulgated by the FCC and FAA regarding painting, marking and lighting of LESSOR'S Tower. LESSOR shall allow LESSEE to place any sign or placard on the Leased Premises or on the CMRS facilities and appurtenances attached thereto as required by federal, state, or local law, at no additional expense.

**21. No Representations.** It is hereby mutually agreed and understood that this Agreement contains all agreements, promises and understandings between the LESSOR and LESSEE and that no verbal or oral agreements, promises or understandings shall or will be binding upon either the LESSOR or LESSEE in any dispute, controversy or proceeding at law, and any addition to, variation or modification of this Agreement shall be void and ineffective unless in writing signed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hand and affixed their respective seals on the dates and year above written.

----- THIS SPACE INTENTIONALLY LEFT BLANK -----

**"LESSOR"**  
**CITY OF DENTON, TEXAS,**  
a Texas home-rule municipal corporation

By: \_\_\_\_\_  
Howard Martin, Interim City Manager

ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

By: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
ANITA BURGESS, CITY ATTORNEY

By: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF TEXAS       §  
COUNTY OF DENTON   §

BEFORE ME, the undersigned authority, on this the \_\_\_\_ day of August, 2016, personally appeared Howard Martin, Interim City Manager of the City of Denton, a Texas home rule municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said City Council of the City of Denton, Texas and that he executed the same as the act of such municipal corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

By: \_\_\_\_\_  
Notary Public, State of Texas

**"LESSEE"**

**DENTON COMMERCIAL INTERNET, INC.,**  
a Texas corporation

By: \_\_\_\_\_  
Michael Wasserman, President

**ACKNOWLEDGMENT**

STATE OF TEXAS       §  
COUNTY OF DENTON   §

BEFORE ME, the undersigned authority, on this the \_\_\_\_ day of August, 2016, personally appeared Michael Wasserman, President, Denton Commercial Internet, Inc., a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same was the act of the Denton Commercial Internet, Inc. and for the purposes and consideration therein expressed, and in the capacity therein stated.

By: \_\_\_\_\_  
Notary Public, State of Texas

## **EXHIBIT "A"**

### **Legal Description McKenna Park Communication Facility Area owned by the City of Denton**

BEING a 0.0791 Acre Tract of Land situated In the City of Denton, and being out of the ROBERT BEAUMONT SURVEY, Abstract No. 31, Denton County, Texas. and being part of a called 18.0 acre tract of land described to the City of Denton by a warranty deed as recorded in Volume 358. Page 559 of the Deed Records of Denton County, Texas and being more particularly described as follows;

COMMENCING the Southeast corner of said City of Denton tract of land now commonly known as McKenna Park;

THENCE North with the west right of way line of Thomas Road for a distance of 459.78 feet to a corner;

THENCE East departing said west right of way line for a distance of 169.72 feet to a metal corner for the PLACE Of BEGINNING;

THENCE North 89 degrees 08 minutes 33 seconds West for a distance of 98.47 feet to metal corner post for corner;

THENCE North 00 degrees 51 minutes 27 seconds East for o distance of 35.00 feet for corner;

THENCE South 89 degrees 08 minutes 33 seconds East for a distance of 98.47 feet for corner;

THENCE South 00 degrees 51 minutes 27 seconds West for a distance of 35.00 feet to PLACE OF BEGINNING and CONTAINING 3446 square feet of land or 0.0791 acre of land.

## **EXHIBIT "B"**

**Tower Attachment Specifications  
and Equipment Building or Cabinet Location  
for Denton Commercial Internet, Inc.'s use  
of McKenna Park Communication Facility**