



General Manager
334 Front Street
Ketchikan, AK. 99901
(907) 228-5603 phone
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6b(1)

TRANSMITTAL MEMORANDUM

TO: The Honorable Mayor and City Council

FROM: Karl R. Amylon, General Manager

DATE: August 7, 2020

RE: **Ordinance No. 20-1917 – Approving An Initial Ten Year Term For The Prince Rupert Port Authority, City West Cable & Telephone Corp. And City Of Ketchikan Consent To Sublicense Agreement; Providing For The Filing of Referendum Petitions; And Establishing An Effective Date**

The attached ordinance was approved in first reading at the City Council meeting of August 6, 2020. If adopted in second reading, Ordinance No. 20-1917 provides for KPU's approval of an initial ten year term for the Prince Rupert Port Authority, CityWest Cable & Telephone Corp. and the City of Ketchikan Consent to Sublicense Agreement. The rationale for consenting and obligating KPU to such an agreement is detailed in Mr. Cushing's transmittal memorandum and requires no elaboration on the part of my office. I concur with the Telecommunications Division's Manager's recommendation.

Since the sublicense agreement contains proprietary information, if necessary, it is staff's intent to review the details of the proposed transaction with the City Council in executive session [see agenda statement 15b(1)].

Mr. Cushing will attend the City Council meeting of August 20, 2020, in order to address any questions and/or concerns that Councilmembers may have.

A motion has been prepared for City Council consideration.

RECOMMENDATION

Pursuant to Section 5-17 of the City Charter, it is recommended that the City Council adopt the motion approving in second reading Ordinance No. 20-1917 approving an initial ten year term for the Prince Rupert Port Authority, City West Cable & Telephone Corp. and City of Ketchikan Consent to Sublicense Agreement; providing for the filing of referendum petitions; and establishing an effective date.

Recommended Motion: Pursuant to Section 5-17 of the City Charter, I move the City Council approve in second reading Ordinance No. 20-1917 approving an initial ten year term for the Prince Rupert Port Authority, City West Cable & Telephone Corp. and City of Ketchikan Consent to Sublicense Agreement; providing for the filing of referendum petitions; and establishing an effective date.

Ordinance No. 20-1917 – Approving an Initial Ten Year Term for the Prince Rupert Port Authority, City West Cable & Telephone Corp. and City of Ketchikan Consent to Sublicense Agreement; Providing for the Filing of Referendum Petitions – First Reading

Copies of Ordinance No. 20-1917 were available for all present.

Moved by Kiffer, seconded by Bergeron pursuant to Section 5-17 of the City Charter, the City Council approve in first reading Ordinance No. 20-1917 approving an initial ten year term for the Print Rupert Port Authority, City West Cable & Telephone Corp. and City of Ketchikan Consent to Sublicense Agreement; providing for the filing of referendum petitions; and establishing an effective date.

Motion passed with Gage, Zenge, Chapel, Flora, Bergeron, Coose and Kiffer voting yea.

Moved by Kiffer, seconded by Bergeron the City Council authorize funding for license fees associated with the Consent to Sublicense Agreement from the Telecommunications Division's 2020 Internet Expansion Capital Account.

Motion passed with Gage, Zenge, Chapel, Flora, Bergeron, Coose and Kiffer voting yea.

Reimbursement to City West Cable & Telephone Corp. for Canadian Land Tenure

Moved by Kiffer, seconded by Bergeron pursuant to Section 3.12.030 of the Ketchikan Municipal Code, the City Council authorize the General Manager to make payment to City West Cable and Telephone Corp. in the amount of \$73,170.75 Canadian Dollars for reimbursement of the cost of Canadian Land Tenure in connection with KPU's subsea fiber cable project and approve funding from the Telecommunications Division's 2020 Internet Expansion Capital Account.

Motion passed with Gage, Zenge, Chapel, Flora, Bergeron, Coose and Kiffer voting yea.

Amendment No. 1 to Contract No. 19-45 – Schoenbar Road Raw Water Transmission Main Design – DOWL

Moved by Kiffer, seconded by Bergeron the City Council approve Amendment No. 1 to Contract No. 19-45, Schoenbar Road Raw Water Transmission Main Design, between the City of Ketchikan d/b/a Ketchikan Public Utilities and DOWL in the amount of \$126,300 for design of the alternative water main alignment approved by the City Council on July 2, 2020, bringing the total project cost to \$497,550; authorize funding from the Water Division's Schoenbar Road Phase I Capital Account; and direct the general manager to execute the amendment on behalf of the City Council.

Motion passed with Gage, Zenge, Chapel, Flora, Bergeron, Coose and Kiffer voting yea.

UNFINISHED BUSINESS

This item was moved to Consent Agenda.



Memorandum

To: Karl R. Amylon, KPU General Manager

From: Ed Cushing, KPU Telecommunications Division Manager

Date: July 17, 2020

Subject: **Ordinance 20-1917 – Approving an Initial 10 Year Term for the Prince Rupert Port Authority and City West Cable & Telephone Corp. and City of Ketchikan Consent to Sublicense Agreement**

The purpose of this memorandum is to request City Council approval of Ordinance 20-1917 approving an Initial 10 Year Term for the Prince Rupert Port Authority and City West Cable & Telephone Corp. and City of Ketchikan Consent-to-Sublicense Agreement.

In adopting the 2020 KPU Telecommunications (KPUTel) annual budget, the City Council appropriated \$11,500,000 to the Telecommunications Division for the Internet Expansion Capital Project – for constructing a (90-mile) subsea fiber optic cable system from Ketchikan to Prince Rupert, BC.

KPUTel's subsea cable will 'land' onshore at Ridley Island, BC. Ridley Island contains a very large international cargo ship port. The port is owned and operated by the Prince Rupert Port Authority (PRPA). The existing telecommunications infrastructure on Ridley Island is owned and operated by City West Cable & Telephone Corporation (CWTC). The relationship between PRPA and CWTC is governed by a Master Agreement.

Placement of KPUTel's submarine cable "shore landing" and related facilities on Ridley Island requires that KPUTel become authorized to participate in the PRPA/CWTC Master Agreement via KPUTel entering into a Sublicense agreement with PRPA and CWTC.

Accordingly, this memorandum seeks City Council approval of Ordinance 20-1917 – approving an Initial Ten Year Term for the Prince Rupert Port Authority and City West Cable & Telephone Corp. and City of Ketchikan Consent to Sublicense Agreement.

Background:

In 2017, in anticipation of preparing the 2018 KPU annual budget - in executive session - KPU Telecommunications presented information to the City Council relative to competitive considerations as to KPU's short, mid, and long-term network-planning considerations. The executive session included discussion of planning, engineering, and permitting new Internet

transport capacity to support increasing data-demands for KPUTel's retail and wholesale broadband customers.

On May 3, 2018, the City Council awarded Contract No. 18-14, Marine Survey and Engineering, to Westpark Electric Ltd. This contract was to perform the bathymetric survey, detailed engineering work, and otherwise obtain permits and related agreements required for the construction of a subsea fiber cable from Ketchikan to Prince Rupert, BC. The bathymetric survey and detailed engineering work was completed in 2018. Permitting work took place throughout 2018, 2019, and continued throughout the first quarter, 2020.

On October 1, 2019, City of Ketchikan voters approved the \$11.5 million revenue bond to finance the construction of the subsea fiber cable. Subsequently the City of Ketchikan Finance Department compiled the revenue bond package - and in 2020 has undertaken and completed related activities necessary to 'place' the bond and obtain the revenue bond loan proceeds.

All required government permits in Canada and Alaska were obtained in 2019 and 2020.

On March 19, 2020, the City Council awarded contract 20-10, Subsea Fiber Cable Construction Project to Westpark Electric, Ltd for the construction of the fiber cable.

Construction of the undersea cable is scheduled for completion in September 2020.

Consent to Sublicense Agreement:

The Consent to Sublicense Agreement between the Prince Rupert Port Authority and City West Cable & Telephone Corp. and City of Ketchikan includes a clause that allows for termination with 30 days' notice - which allowed the KPU Manager to sign the agreement without an Ordinance. However, since the intent of the agreement is for a long-term 10-year agreement with subsequent additional renewals - it is prudent to have the City Council approve an Ordinance pursuant to Section 5-17 of the Charter of the City of Ketchikan, Alaska, which states:

Section 5-17 Contracts and Sales

- (a) Any contract which by its terms will not be fully executed within five years and which cannot be terminated by the city upon not more than one month's notice without penalty; and (b) the sale or lease of any city property, real or personal, or the sale or other disposal of any interest therein, the value of which property, lease, or interest is more than \$30,000.00, shall be made only:
 - (1) By authority of an ordinance approved or enacted at an election by an affirmative vote of a majority of the qualified voters of the city who vote on the question of approving or enacting the ordinance (the ordinance being submitted to the voters by the council or by initiative of the voters); or
 - (2) By authority of a non-emergency ordinance passed by the council, which shall be published in full within ten days after its passage, and which shall include a section reading substantially as follows: "Section _____. If one or more referendum petitions with signatures are properly filed within one month after the passage and publication of this ordinance, this ordinance shall not go into effect until the petition or petitions are finally found to be illegal and/or insufficient, or, if any such petition is found legal and sufficient, until the ordinance is approved at an election by a majority of the qualified voters voting on the question. If no referendum petition with signatures is filed, this ordinance shall go into effect one month after its passage and publication."

Provided that an entire public utility belonging to the city may be sold or leased only by authority of an ordinance approved or enacted as provided in subdivision (1) above in this section.

Approval of an Initial Ten Year Term in the Consent to Sublicense Agreement between the Prince Rupert Port Authority and City West Cable & Telephone Corp. and City of Ketchikan is prudent for the shore landing located on Ridley Island in Prince Rupert since the Consent to Sublicense Agreement term exceeds 5 years.

Redacted versions of the Consent to Sublicense Agreement and associated Master Agreement and Site License Agreement are included in the packet. To address the confidentiality terms in the agreement as well as CityWest and Prince Rupert Port Authority "Trade Secrets" relative to the Agreements, we are recommending that the KPU General Manager establish an executive session so that the City Council Members have an opportunity to peruse the un-redacted version of the agreement if necessary. The un-redacted version of the agreement is available for the City Council Members to view at the City Clerk's office in advance of the August 6, 2020 City Council meeting.

Recommended Motion:

I move that the City Council approve Ordinance No. 20-1917 an Ordinance of the Council of the City of Ketchikan, Alaska; Approving an Initial Ten Year Term for the Prince Rupert Port Authority and City West Cable & Telephone Corp. and City of Ketchikan Consent to Sublicense Agreement; Providing for the Filing of Referendum Petitions; Establishing an Effective Date; and Authorizing the expenditures for the License Fees with funding from the 2020 KPU Telecommunications Budget for the Internet Expansion Capital Project.

cc: Lacey Simpson, KPU Assistant General Manager
Bob Newell, City Finance Director

THE CITY OF KETCHIKAN, ALASKA

ORDINANCE NO. 20-1917

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KETCHIKAN, ALASKA; APPROVING AN INITIAL TEN YEAR TERM FOR THE PRINCE RUPERT PORT AUTHORITY, CITY WEST CABLE & TELEPHONE CORP. AND CITY OF KETCHIKAN CONSENT TO SUBLICENSE AGREEMENT; PROVIDING FOR THE FILING OF REFERENDUM PETITIONS; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KETCHIKAN, ALASKA, AS FOLLOWS:

Section 1: Approval. Pursuant to Charter Section 5-17, the Prince Rupert Port Authority and City West Cable and Telephone Corp. Consent to Sublicense Agreement between the City of Ketchikan and Prince Rupert Port Authority and City West Cable & Telephone Corp., a copy of which was made available to be reviewed by the City Council at the August 6, 2020 City Council meeting is hereby approved for an initial term of ten years commencing as of July 1, 2020. A copy of said Consent to Sublicense Agreement is available for public inspection in the Office of the City Clerk, 334 Front Street, Ketchikan Alaska, with information required to be kept confidential pursuant to Alaska Trade Secrets Act redacted.

Section 2: Effective Date. In accordance with Charter Section 5.17, if one or more referendum petitions with signatures are properly filed within one (1) month after passage and publication of this ordinance, this ordinance shall not go into effect until the petition or petitions are finally found to be illegal and/or insufficient, or, if any such petition is found legal and sufficient, until this ordinance is approved at an election by a majority of the qualified voters voting on the question. If no referendum petition with signatures is filed, this ordinance shall go into effect one (1) month after its passage and publication.

PASSED ON FIRST READING: _____

FINAL PASSAGE: _____

Robert Sivertsen, Mayor

ATTEST:

Kim Stanker
City Clerk

EFFECTIVE		DATE:	
ROLL CALL	YEA	NAY	ABSENT
COOSE			
GAGE			
FLORA			
BERGERON			
KIFFER			
CHAPPEL			
ZENGE			
MAYOR			

CONSENT TO SUBLICENSE

THIS CONSENT TO SUBLICENSE (the "**Agreement**") dated for reference June 26, 2020

AMONG:

PRINCE RUPERT PORT AUTHORITY

200 – 215 Cow Bay Road
Prince Rupert, British Columbia
V8J 1A2

(the "**PRPA**")

AND:

CITY WEST CABLE & TELEPHONE CORP.

248 3rd Avenue West,
Prince Rupert, British Columbia
V8J 4H3

(the "**SUBLICENSOR**")

AND:

THE CITY OF KETCHIKAN D/B/A KETCHIKAN PUBLIC UTILITIES

2970 Tongass Avenue
Ketchikan, Alaska
99901

(the "**SUBLICENSEE**")

"**parties**" means PRPA, the Sublicensor, and the Sublicensee, and "**party**" means one of them.

WITNESSES THAT WHEREAS:

- A. Pursuant to a Master Agreement dated June 26, 2020, (the "**Master Agreement**") attached as **Schedule "A"** and a Site License Agreement dated June 26, 2020 attached as **Schedule "B"** (the "**Site License Agreement**", collectively the Master Agreement and Site License Agreement are hereinafter referred to as the "**Head License Agreement**") PRPA licensed to the Sublicensor certain lands and premises located in the City of Prince Rupert and the Prince Rupert Harbour as defined in the Site License Agreement;
- B. Pursuant to the Head License Agreements, the Sublicensor is prohibited from transferring, assigning, sublicensing, or sharing any of the Sublicensor's rights or

benefits under the Head Licence Agreements; transferring or disposing of any interest in or benefit of the Equipment, granting to any third party any right or license with respect to any Site, or authorizing the use of any Site or Access Area by any Person other than Licensee Parties without the prior written consent of PRPA, which consent is subject to such terms and conditions as may be stipulated by PRPA;

- C. The Sublicensor wishes to assign certain rights and privileges granted by the Head License Agreements to the Sublicensee; and
- D. The Sublicensor has requested that PRPA provide its consent to allow the sublicense dated March 19, 2020 and as Attached hereto as **Schedule "C"** (the "**Sublicense**") and PRPA has agreed to provide its consent to the Sublicense on the terms and subject to the conditions which are stipulated herein.

NOW THEREFORE in consideration of the sum of \$1.00 paid by each party to each other party and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each party), the parties covenant and agree as follows:

1. **Interpretation.** In this Agreement, words which are initially capitalized will have the same meanings attributed thereto in the Head Licence Agreement, except if otherwise specifically defined herein. The schedules and exhibits attached hereto are incorporated into and hereby form part of this Agreement.
2. **Terms of Consent.** PRPA hereby consents to the Sublicense to the Sublicensee, and the grant of such other interests in the Site and Access Areas to the Sublicensee as contemplated by the Head License Agreement subject to the following terms, covenants and conditions:
 - a) the Sublicensee hereby covenants to and agrees with PRPA that:
 - (i) the Sublicensee will, during the initial term of the Sublicense and any renewal or extension thereof (the "**Sublicense Term**"), observe and perform all of the terms, covenants and conditions to be observed and performed by the Sublicensee under the Sublicense dated March 19, 2020, including those terms, covenants and conditions to be observed and performed by the Sublicensee in favour and for the benefit of PRPA;
 - (ii) the Sublicensee will not do anything or fail to do anything in respect of the Site or Access Areas which would cause the Sublicensor to be in breach of its obligations under the Head License Agreement;
 - (ii) the Sublicensor has no greater interest in the Site and Access Areas than the Sublicensor under the Head License Agreement;
 - b) the Sublicensor hereby covenants to and agrees with PRPA that notwithstanding the Sublicense and PRPA's consent thereto, the Sublicensor remains liable to PRPA for the observance and performance of all of the terms, covenants and conditions to be

observed and performed by the Sublicensor under the Head License Agreement, and is not released from observing and performing any such terms, covenants and conditions.

- c) each of the Sublicensee and the Sublicensor hereby represents and warrants that the copy of the Sublicense attached hereto as Schedule "C" is a true and complete copy of the Sublicense and hereby covenants to and agrees with PRPA the parties will not amend the Sublicense without first obtaining the written consent of PRPA; and
 - d) PRPA's consent to the Sublicense will not be construed as a forfeiture or waiver of any of the other rights of PRPA contained in the Head License Agreement or PRPA's consent to any of the following:
 - (i) assignment or further sublicensing of any part of the Lands, Site, or Access Areas; or
 - (ii) further sublicensing or assignment of the Head License Agreement or Sublicense without the prior written consent of PRPA in accordance with the Head License Agreement.
5. **Enurement.** This Agreement will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. Where both the Sublicensor and the Sublicensee are liable to PRPA for the performance or observance of a covenant or agreement set out herein or in the Agreements, their liability will be joint and several.
3. **Severability.** The invalidity of any particular provision of this Agreement will not affect any other provision of it, but this Agreement will be construed as if the invalid provision has been omitted.
4. **Captions.** The captions appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision hereof.
5. **Execution.** Notwithstanding the execution and delivery of this Agreement by PRPA, PRPA's consent to the Sublicense set out herein will be deemed to not be effective until this Agreement is executed by each party and a fully executed copy is delivered to the Head Landlord.
9. **Governing Law.** This Agreement will be governed by and be construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein. The parties hereby irrevocably submit to the jurisdiction of the courts of the Province of British Columbia in any action or proceeding arising out of or relating to this Agreement and hereby irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such court.

10. **Counterparts.** This Agreement may be executed in one or more counterparts and each executed counterpart may be delivered by facsimile or by electronic mail with the same effect as if all parties had signed and delivered the same document and all counterparts will be construed together to be one and the same agreement.

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first written above.

PRINCE RUPERT PORT AUTHORITY

Per: _____

Name: Shaun Stevenson

Title: President and CEO

CITY WEST CABLE & TELEPHONE CORP.

Per: _____

Name: DONOVAN DIAS

Title: VP-SALES & PM & INTERIM CTO

**THE CITY OF KETCHIKAN D/B/A
KETCHIKAN PUBLIC UTILITIES**

Per: _____

Name: Karl B. Amylon

Title: General Manager

SCHEDULE A
MASTER AGREEMENT

See Attached

MASTER AGREEMENT

BETWEEN

PRINCE RUPERT PORT AUTHORITY

AND

CITY WEST CABLE & TELEPHONE CORP.

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MASTER AGREEMENT

THIS AGREEMENT effective this 26th day of June, 2020 (the "**Effective Date**").

BETWEEN:

PRINCE RUPERT PORT AUTHORITY, a port authority established pursuant to the Canada Marine Act, having an office at 215 Cow Bay Road, Prince Rupert, British Columbia, V8J 1A2 ("**PRPA**")

AND:

CITY WEST CABLE & TELEPHONE CORP., of 248 3rd Avenue West, Prince Rupert, British Columbia, V8J 1L1

(the "**Licensee**")

"**parties**" means PRPA and the Licensee, and "**party**" means one of them.

WHEREAS:

- A. PRPA owns or controls or has a right to use certain lands and premises in the Province of British Columbia.
- B. The Licensee has requested that PRPA grant to it licenses to use certain sites and structures on such lands and premises for the purpose, among other things, of the Licensee constructing, installing, maintaining and operating equipment to provide or enhance telecommunications services.
- C. Any grant of such licenses will be by way of one or more separate Site License Agreements between the parties to this Agreement.
- D. The parties have agreed that the terms and conditions of this Agreement will apply in the case of each and every Site License Agreement and the licenses granted thereunder.

NOW THEREFORE in consideration of the premises, the covenants and agreements of the parties as set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereby agree as follows:

1. APPLICATION AND DEFINITIONS

1.1 Application

The terms and conditions of this Agreement shall apply to and form part of each Site License Agreement expressed to be made pursuant to this Agreement, except to any extent provided otherwise in a Site License Agreement.

1.2 Definitions

In this Agreement and each Site License Agreement, including the recitals and schedules to this Agreement and the Site License Agreement, the following terms shall have the following meanings unless otherwise provided:

- (a) "**Access Area**" means an area over which, pursuant to a Site License Agreement, PRPA

grants to the Licensee a license to pass and re-pass for the purposes of access to and from a Site for the purposes referred to in Section 2.1 (a) of a Site License Agreement. For the purposes of a specific Site License Agreement, "Access Area" means the area described in Schedule C to the Site License Agreement, of the lands and premises described in Schedule A to the Site License Agreement.

- (b) **"Affiliate"** means, in respect of a party, a company or other entity which controls, is controlled by, or is under common control with, such party but only while such control exists. For the purposes of this definition, "control" means the power to determine, directly or indirectly, the management policies of such company or entity, through the ownership of a majority of its stock voting rights, or being entitled to appoint a majority of its board of directors or body performing a similar function, or by agreement or otherwise.
- (c) **"Agreement"** means this Master Agreement as may from time to time be amended, supplemented or replaced by written agreement by the parties.
- (d) **"Annual License Fee"** means in respect of a Site License Agreement the annual fee that is payable by the Licensee to PRPA pursuant to the Site License Agreement.
- (e) **"Approved Contractor"** means a contractor that has been pre-approved by PRPA (such approval not to be unreasonably withheld) to carry out work on the site.
- (f) **"Approved Navigation Plan"** means the navigation plan prepared by the Licensee and approved by PRPA, in its sole discretion, in respect of the Licensee's activities on, around or under a particular Site.
- (g) **"Commencement Date"** means in respect of a Site License Agreement the first day of the Term of the Site License Agreement.
- (h) **"Contaminants"** means any contaminants, pollutants, hazardous, deleterious, corrosive or toxic substances, flammable materials, explosive materials, radioactive materials, dangerous goods, waste, urea formaldehyde, asbestos, noxious substances, compounds known as chlorobiphenyls, special waste, and any other substance, material, solid, liquid, gas, vapour, odour, radiation, or combination of any of them, the storage, manufacture, disposal, treatment, generation, use, transport, remediation, or release of which into the environment is prohibited, regulated, controlled, or licensed under any Environmental Laws.
- (i) **"Equipment"** means the Licensee's antennae, remote radio units, equipment cabinets and enclosures, shelter, conduit, wires, cables, cable trays, supports, housings, attachments, mounts and other equipment for the provision of telecommunications services that the Licensee is permitted by PRPA to construct, install and affix to a Site pursuant to a Site License Agreement. For the purposes of a specific Site License Agreement, **"Equipment"** means the antennae, remote radio units, equipment cabinets and enclosures, shelter, conduit, wires, cables, cable trays, supports, housings, attachments, mounts and other equipment for the provision of telecommunication services described in the Equipment List forming part of Schedule B to the Site License Agreement.
- (j) **"Environmental Laws"** means all applicable statutes, laws, by-laws, regulations, codes, orders, environmental penalties, tickets, notices, standards, guidelines, criteria, policies

and directives, approvals, licences and permits now or at any time hereafter in effect, made or issued by any applicable municipal, provincial or federal government, or by any department, agency, tribunal, board or office thereof, or any other agency or source whatsoever, (collectively, an **"Authority"**), regulating, relating to or imposing liability or standard of conduct concerning the natural or human environment (including air, land, surface water, groundwater, waste, real and personal property, moveable and immoveable property, sustainability, building operations, recycling or resource consumption), public or occupational health and safety and the manufacture, importation, handling, use, reuse, recycling, transportation, storage, disposal, elimination and treatment of a substance, hazardous or otherwise.

- (k) **"Health Canada's Safety Code 6"** means Health Canada's human exposure guidelines to radiofrequency electromagnetic energy, as updated, amended, renamed and replaced from time to time, the current version of which is specified in a document entitled Limits of Human Exposure to Radiofrequency Electromagnetic Energy in the Frequency Range from 3 kHz to 300 GHz – *Safety Code 6* published in August 2009.
- (l) **"Incidental Equipment"** means all Equipment (including conduit, shelter, conduit, wires, cables, cable trays, clamps and fasteners, including any that is subsea or otherwise buried) except any antennae or remote radio units.
- (m) **"Intellectual Property"** means all proprietary rights and interests in the nature of patents, copyrights, trademarks, trade secrets, industrial designs, mask works, goodwill and the like including, but not by way of limitation, all procedures, methods, concepts, processes, techniques, computer programs, software, technical writings, notes, specifications, drawings, plans or other graphic representations and works of a similar nature, whether or not copyrighted or patented or registered or protected, or capable of such registration or protection.
- (n) **"Interfere" or "Interferes"** means any one or more of the following:
 - (i) interrupt, interfere with, endanger, impede, disturb, cause damage to, or remove support for, any PRPA Facilities, or interfere with, endanger, impede, disturb or diminish the operation, use, security or functionality of, any Site, any Access Area, any Lands or any PRPA Facilities;
 - (ii) interrupt, interfere with, endanger, impede or disturb the safe, secure and continued operation and use of the Port or of any PRPA Facilities, or the exercise of any of the rights granted to PRPA under this Agreement or any Site License Agreement;
 - (iii) doing any work on any Site or on any Lands otherwise than in accordance with a Site License Agreement and this Agreement;
 - (iv) interfere with, remove, diminish or impair any vertical support, lateral support or ventilation for, or cause the movement or settlement of, any PRPA Facilities;
 - (v) cause, permit or suffer any structure, equipment, act or function to exert any vertical load or lateral load upon or against, or impair the structural integrity of, any PRPA Facilities;

- (vi) without limiting the generality of the foregoing, interfere with or disrupt the operation of, or the transmission or reception of signals by, any communications device or equipment of PRPA or of any tenant, lessee, licensee or other occupant of the Port, the PRPA Facilities or the Lands, or compromise the operation, functionality or effectiveness of any such communications devices or equipment; or
- (vii) interfere with the rights of third parties under Land Rights Agreements or with respect to any Third Party Lands;

and "**Interference**" has a corresponding meaning.

- (o) "**Lands**" means lands, including foreshore areas, and premises that are owned or controlled by PRPA or that PRPA has a right to use:
 - (i) containing a Site where, pursuant to a Site License Agreement, PRPA permits the Licensee to construct, erect and affix Equipment; or
 - (ii) containing an Access Area over which, pursuant to a Site License Agreement, PRPA permits the Licensee to pass and re-pass for the purposes of access to and from a Site for the purposes referred to in Section 2.1 (a) of the Site License Agreement;

or both. For the purposes of a specific Site License Agreement, "Lands" means the lands and premises described in Part 1 of Schedule A to the Site License Agreement.

- (p) "**Land Rights Agreements**" means easements, statutory rights of way, leases, licenses, authorities, permits, arrangements and agreements pursuant to which PRPA has from time to time been granted, rights to possess, use or occupy lands, foreshore areas, premises and improvements for the purposes, among other things, of the construction, maintenance, repair and operation of PRPA Facilities. For the purposes of a specific Site License Agreement,
- (q) "**Land Rights Agreements**" means the agreements described in Part 2 of Schedule A to the Site License Agreement.
- (r) "**Laws**" applicable to any activity, matter or thing, means any and all requirements, provisions, statutes, laws, bylaws, orders, permits, codes, rules and regulations, from time to time in force, of any federal, provincial, municipal or local government, or any public authority, body, entity or other competent authority, relating to or applicable to such activity, matter or thing.
- (s) "**Licensee Parties**" means the employees, representatives, agents, contractors and invitees of the Licensee.
- (t) "**Permitted Use**" means the provision of telecommunications services as further described in the applicable Site License Agreement.
- (u) "**Person**" means any individual, corporation, firm, partnership, joint venture, consortium and any other association or entity.
- (v) "**Port**" means the Port of Prince Rupert, including all lands therein and operations

thereon as permitted or designated by PRPA from time-to-time.

- (w) **"Prime Rate"** means the annual rate of interest (regardless of how or when calculated) designated from time to time by the Bank of Canada as being the target for the overnight rate. If the **"Prime Rate"** as described above is held to be unenforceable for any reason, then the Prime Rate will be as determined by PRPA acting reasonably.
- (x) **"PRPA Facilities"** means facilities, structures, utilities, infrastructure, improvements, fixtures and equipment, whether constructed, installed or planned or yet to be constructed or planned, occupying or intended to occupy all or part of the Lands, that are:
 - (i) acquired, constructed or required for or comprised in any works undertaken by or for any of the PRPA Entities for or in connection with the Port;
 - (ii) acquired, constructed or required by or for any of the PRPA Entities for ancillary uses or purposes related to the operation now or in the future of the Port as such need is defined and redefined from time to time and in the future;
 - (iii) acquired, constructed or required by or for any of the PRPA Entities for commercial opportunities and a better utilization of the Lands and for commercial ventures not specifically related to the Port and not inconsistent with the better use and operation of the Port; and
 - (iv) renewals and replacements of, additions to, and substitutions for the foregoing;

and, without limiting the foregoing, includes anything that may from time to time be brought, acquired, built or constructed, erected or installed on, over, under or within the Lands by, for or on behalf of PRPA, or an Affiliate of PRPA, or British Columbia PRPA, for the purposes of or constituting a part of the Port including any and all improvements, structures, works, tunnels, buildings, towers, poles, apparatus, appliances, guideways, stations, controls, communications systems, power systems, conduits, pipes, ducts, lines, mains, antennas, footings, pillars, columns, pilings, foundations, cables, anchors, tracks, platforms, station access facilities, ticket machines, fare gates, ticket scanning machines, fare card reading machines, signs, fences, retaining walls, pipes, wires, machinery, equipment, and apparatus for telephone, telecommunications, electric lights, heat and power on, over, under or within the Lands, and all repairs to, replacements and renewals of and substitutions for the foregoing.
- (y) **"PRPA Fee Schedule"** means the list of fees payable by the Licensee to PRPA for various matters in respect of a Site or a Site License Agreement as issued by PRPA from time to time and as may be amended, supplemented or replaced by PRPA from time to time by notice to the Licensee; the list of fees in effect as at the date hereof is attached hereto as Schedule B.
- (z) **"PRPA Parties"** means PRPA, its Affiliates and their respective directors, officers, employees and agents.
- (aa) **"Renewal Term"** means in respect of a Site License Agreement a renewal term of the Site License Agreement.
- (bb) **"Required Governmental Approvals"** means:

- (1) any and all permits, licenses and other approvals required by applicable Laws for the Licensee to construct, erect, install and operate the Equipment at the Site pursuant to the Site License Agreement, including any approvals required under or by Fisheries and Oceans Canada, the *Canada Marine Act*, the *Canadian Navigable Waters Act*, the *Canadian Environmental Assessment Act* (CEAA 2012), the *Impact Assessment Act* (Canada) and, if applicable, the *Environmental Assessment Act* (British Columbia); and
- (2) without limiting (1) above, any and all permits, licenses and other approvals listed in Section [5.1] of the Site License Agreement applicable to the particular Site.
- (cc) **"Safety Code 6 Report"** means, in respect of any Equipment, a Site or a Site License Agreement, a radiofrequency exposure compliance report, prepared and certified by a qualified Canadian professional engineer (qualified to measure radio frequency exposure) in accordance with the requirements in Industry Canada's *Spectrum Management and Telecommunications Guideline GL-08 Guidelines for the Preparation of Radio Frequency (RF) Exposure Compliance Reports for Radiocommunication and Broadcasting Antenna Systems* dated November 2010, as updated, amended, renamed and replaced from time to time, showing that the measurements of radiofrequency exposure throughout the Site after the installation of the Equipment in accordance with the Equipment Schematic, and taking into consideration the local radio environment, do and will comply with Health Canada's Safety Code 6.
- (dd) **"Site"** means a location where, pursuant to a Site License Agreement, PRPA grants to the Licensee a license to construct, erect and affix the Licensee's equipment for the Permitted Use. For the purposes of a specific Site License Agreement, "Site" means the location described in Schedule B to the Site License Agreement, on the lands and premises described in Schedule A to the Site License Agreement.
- (ee) **"Site License Agreement"** means a license agreement entered into by PRPA and the Licensee pursuant to this Agreement pursuant to which PRPA grants to the Licensee inter alia a license in respect of particular Equipment at a particular Site, as such license agreement may from time to time be amended, supplemented or replaced by written agreement of the parties.
- (ff) **"Term"** means in respect of a Site License Agreement the term of the Site License Agreement set out in Section 3.1 of the Site License Agreement.
- (gg) **"Third Party Lands"** means lands, premises and improvements, over which PRPA, pursuant to Land Rights Agreements, holds rights to possess, use or occupy.
- (hh) **"Third Party User"** has the meaning given in Section 9.2(b).

2. GRANT OF LICENSE

2.1 Grant of License

The grant of a license for a Site and a license for an Access Area is contained in Section 2.1 of the applicable Site License Agreement. For greater certainty, the Licensee acknowledges that such grant shall not be effective unless and until the Licensee has obtained to the satisfaction of PRPA all Required Governmental Approvals required in connection with the activities to be performed by or on behalf of the

Licensee pursuant to the Site License Agreement, including any construction, occupation or use of the Site.

2.2 Reservations

The license granted in a Site License Agreement with respect to a Site or an Access Area over Lands shall be constructed narrowly and limited to the rights specifically granted. Notwithstanding the grant of such licenses in a Site License granted to the Licensee under this Agreement, the following rights and privileges are hereby expressly reserved to the PRPA (and its Affiliates, where indicated):

- (a) the right of PRPA and its Affiliates to access, use and exercise all their rights with respect to the Lands, the Site and the Access Area for their own purposes in priority and preference to the rights and licenses granted to the Licensee under this Agreement or a Site License Agreement;
- (b) the right of PRPA to grant licenses or other rights to other Persons over the Lands, the Site and the Access Area;
- (c) the right of PRPA and its Affiliates and their respective agents and contractors to enter the Lands, the Site and the Access Area to view the general condition and state of repair of the Lands, the Site, the Access Area and the Equipment;
- (d) the right of PRPA and its Affiliates and their respective agents and contractors to inspect the Site, the Access Area and the Equipment to ensure that the Licensee is in compliance with the terms and conditions of this Agreement and the applicable Site License Agreement; and
- (e) the right of PRPA to grant to others any other rights or privileges concerning the Lands, the Site and the Access Area.

2.3 Subject to Rights of Third Parties

The licenses granted in a Site License Agreement with respect to a Site or an Access Area over Lands shall be subject and subordinate to the rights of any third party under any Land Rights Agreements pursuant to which PRPA obtained any rights to possess, use or occupy such Lands. The rights of the Licensee under this Agreement or any Site License Agreement with respect to a Site or an Access Area over Lands shall not be greater than the rights granted to PRPA under the applicable Land Rights Agreements with respect to such Lands. The Licensee shall comply with the provisions of the applicable Land Rights Agreements with respect to the Licensee's use, operations and activities at or about a Site or an Access Area.

3. TERM

3.1 Term

The term of this Agreement shall commence on the Effective Date and continue for the longer of ten (10) years from the Effective Date or the last to expire or the term of any license granted by a Site License Agreement, as provided for in the Site License Agreement, subject to earlier termination as set out herein or in the Site License Agreement.

3.2 Renewal of Term

The Licensee acknowledges that any renewal or extension of the term of this Agreement is subject to, among other things, the approval of the board of directors of PRPA in their sole discretion. Therefore, the Licensee shall have no right to renew or otherwise extend the term of this Agreement unless approved by PRPA in its sole discretion and evidenced by agreement in writing between PRPA and the Licensee. The terms and conditions concerning the renewal or extension, if any, of the term of the license granted by a Site License Agreement are contained in the Site License Agreement.

3.3 No Tacit Renewal or Extension

If the Equipment that is the subject of a Site License Agreement remains at a Site after the expiration of the Term and any Renewal Term of the relevant Site License Agreement without further renewal of the Site License Agreement and without the execution of a new Site License Agreement, there will be no tacit renewal or extension of this Agreement or the Site License Agreement, and the Equipment will be deemed to be trespassing at the Site unless PRPA has expressly agreed in writing that such Equipment may remain at the Site following such expiration.

4. LICENSE FEE AND OTHER PAYMENTS

4.1 Annual License Fee

The Licensee shall pay to PRPA an Annual License Fee for the licenses granted by each Site License Agreement in the amount and at the times provided for in the Site License Agreement without notice or invoicing from PRPA.

4.2 Goods and Services Tax

In addition to the Annual License Fee, the Licensee shall pay to PRPA as and when required by Law all sales tax, goods and services tax, harmonized sales tax, value added tax, and any and all other taxes payable in respect of any taxable supply by PRPA hereunder or under a Site License Agreement.

4.3 Electricity

- (a) The Annual License Fee does not include, and the Licensee shall pay as and when due, the cost of all electricity that is supplied to the Equipment or is otherwise consumed or used by the Licensee's use of a Site or an Access Area, and all goods and services tax and any other relevant fees or tax levies thereon.
- (b) PRPA has no obligation or responsibility to provide or supply any electricity, including emergency or back-up electricity, to the Licensee or the Equipment or the Site, and the Licensee acknowledges that the provision of electricity including emergency or back-up electricity will be the sole responsibility of the Licensee.

4.4 Real Property Taxes

- (a) The Licensee shall be responsible for and shall pay to PRPA all real property taxes, and all levies, fees and taxes in lieu of real property taxes, that are attributable to any use or occupation of any Lands or any Site by the Licensee or to any Equipment.
- (b) The amount of any real property taxes for which the Licensee is responsible under Section shall be determined by PRPA acting reasonably.

4.5 Pro-Rata

If the need arises to calculate payments for any taxes or utilities for irregular periods of less than one year, an appropriate pro-rata adjustment will be made on a daily basis.

4.6 Administration Fee

If under this Agreement or any Site License Agreement the Licensee is or becomes obligated to pay to PRPA or to reimburse PRPA for any costs or expenses, then, in addition to all such costs and expenses, the Licensee shall pay to PRPA on invoicing by PRPA an administration fee equal to 15% of the amount of such costs and expenses.

4.7 Payments by Licensee

The Licensee shall be solely responsible for and shall pay when due all costs and expenses of exercising the Licensee's rights and performing the Licensee's obligations under this Agreement and any Site License Agreement, and the Licensee shall not seek any payment or contribution from PRPA with respect thereto.

5. USE OF SITE

5.1 Restricted Use

The Licensee shall not use any Site or Access Area except as expressly permitted under the Site License Agreement relating to such Site and Access Area.

5.2 Use of Site

Having regard to the provisions of Section 14.1, when using or accessing a Site or an Access Area and otherwise exercising its rights under this Agreement or any Site License Agreement the Licensee shall:

- (a) comply with each and every condition imposed on the Licensee under the Required Governmental Approvals;
- (b) without limiting the obligations under (a) above, ensure that the operations of the Licensee and of the Licensee Parties at such Site or on such Access Area comply with all Laws and all requirements of all Land Rights Agreements applicable to the Site or the Access Area or the Lands where the Site or Access Area is located;
- (c) ensure that all work performed by the Licensee and the Licensee Parties at such Site or on such Access Area is performed by Approved Contractors and in a neat, responsible and good and workmanlike manner by qualified persons using generally accepted construction and engineering standards and is consistent with such reasonable requirements as may be imposed by PRPA;
- (d) maintain such Site and such Access Area in a safe, neat, tidy, and clean condition at all times, and ensure that no garbage, refuse or other things other than the Equipment are left thereon or thereabout;
- (e) not commit or permit to be committed any waste upon such Site or such Access Area, or

any nuisance or other condition that may create a hazard or dangerous condition or unreasonably disturb any other Person;

- (f) not cut down any trees without PRPA's prior written consent;
- (g) not damage or permit to be damaged any PRPA Facilities or any equipment or asset of PRPA or of any tenant, lessee, licensee or other occupant at or about such Site or such Access Area, but if such damage is caused, notify PRPA forthwith and in any event within twenty-four (24) hours thereof and compensate PRPA or such operator, licensee, or other Person for all damage caused;
- (h) not do or omit to do anything or cause anyone to do or omit to do anything that may or would jeopardize, damage or diminish the structural integrity of such Site or Access Area or of any PRPA Facilities;
- (i) ensure that no Contaminants will be brought or introduced to, or released, stored, used or kept at the Access Area or Site (or on any other portion of the Lands) by the Licensee or the Licensee Parties;
- (j) carry out all of its rights and obligation set out in this Agreement and the Site License Agreement, including conducting all of its operations on or about the Lands, in strict compliance with all Environmental Laws and shall not cause, or permit to be caused, by any act, practice or omission or by negligence or otherwise any adverse effect, as such terms may be defined or applied under Environmental Laws from time to time;
- (k) carry out all of its rights and obligation set out in this Agreement and any Site License Agreement, including conducting all of its operations on or about the Access Area, Site or other portions of the Lands, in strict compliance with all Environmental Laws and shall not cause, or permit to be caused, by any act, practice or omission or by negligence or otherwise any adverse effect, as such terms may be defined or applied under Environmental Laws from time to time;
- (l) not permit any waste to accumulate on or about the Lands and shall ensure all such waste is removed by a licensed hauler in compliance with all Environmental Laws;
- (m) not carry out any remediation on or about the Lands or removal of Contaminants from the Lands without first obtaining the prior written consent of PRPA and any required consent of any governmental authority, except in the event of an emergency to avoid any further damage or loss including to property or health of persons;
- (n) not do or permit to be done on any Lands anything that would constitute a breach or default under any Lands Rights Agreements applicable to such Lands; and
- (o) not cause any Interference.

5.3 As Is Where Is

- (a) The Licensee expressly acknowledges and agrees that it takes and accepts each license to it of a Site or an Access Area on an "as is, where is" basis and subject to the rights of any third parties under any applicable Land Rights Agreements, and that PRPA does not make and has not made any representation or warranty:
 - (i) as to the suitability, fitness or availability of any Site or Access Area for any Equipment or the Permitted Use;
 - (ii) as to the condition, environmental or otherwise, of any Site or Access Area; or
 - (iii) as to the sufficiency of the rights granted by any underlying Land Rights Agreements for the use of a Site for the Equipment or the Permitted Use.
- (b) PRPA is under no obligation to the Licensee to perform any work or provide any materials to prepare or facilitate the use by the Licensee of a Site or an Access Area.

5.4 Site Access

Any access to a Site or an Access Area by the Licensee and the Licensee Parties shall be subject to and only in accordance with the provisions of this Agreement and the provisions set out in the Site License Agreement for such Site or Access Area.

5.5 Supervision

PRPA reserves the right for it and its subsidiaries and contractors to accompany, monitor and supervise the Licensee and the Licensee Parties with respect to any access to or activities at a Site or an Access Area or the Lands where such Site is located, and the Licensee shall pay to PRPA within thirty (30) days after invoicing the cost of such accompaniment, monitoring and supervision, including PRPA's internal costs and an administrative fee as set out in Section 4.6.

6. INSTALLATION AND CONSTRUCTION AT SITE

6.1 Timing of Installation

The Licensee shall not install or permit to be installed any Equipment at any Site except in accordance with a fully executed Site License Agreement, Required Governmental Approvals and Approved Navigation Plan for that Site and only after:

- (a) the Licensee has paid to PRPA the Annual License Fee under the Site License Agreement for the first year of the Term thereof; and
- (b) the Term of the Site License Agreement has begun.

6.2 Permits and Licenses

The Licensee shall obtain all permits, licenses and other approvals required by applicable Laws for the exercise of the Licensee's rights and the performance of the Licensee's obligations under this Agreement and any Site License Agreement, including all Required Governmental Approvals, and shall provide to PRPA when required under the terms of this Agreement or any Site License Agreement or otherwise promptly upon request by PRPA from time to time, copies of all such permits, licenses and approvals and

evidence reasonably satisfactory to PRPA of the Licensee's compliance with the same.

6.3 Port Use Paramount

In connection with the exercise of its rights and the performance of its obligations under this Agreement or any Site License Agreement, the Licensee shall, and shall cause the Licensee Parties to:

- (a) ensure that all Equipment and the installation, operation and use thereof, and all activities and work of or for the Licensee, do not interrupt or interfere with the regular operation of the Port;
- (b) upon receipt of written or oral notice from PRPA, forthwith discontinue the use and operation of any Equipment or any activities and work of or for the Licensee, if required by PRPA for the safety, protection, security or preservation of PRPA Facilities or the safe and secure operation of the Port.

6.4 Employees

The Licensee shall:

- (a) be the "prime contractor" (as defined in the Workers Compensation Act (British Columbia)) for WorkSafeBC purposes in respect of the work performed by or on behalf of the Licensee on a Site pursuant to a Site License Agreement and accept all responsibilities of the prime contractor as outlined in the WorkSafeBC Occupational Health & Safety Regulation, except that the Licensee may, with PRPA's prior written approval (such approval not to be unreasonably withheld), engage an Approved Contractor to do the work and be the "prime contractor", provided that the Licensee shall not be relieved of its obligations to PRPA under this Section 6.4;
- (b) ensure that all Licensee Parties who have access to or are carrying out work on the Site, the Access Area, the Lands or the PRPA Facilities:
 - (i) are qualified and authorized by the Licensee to carry out their work in accordance with this Agreement and the Site License Agreement; and
 - (ii) carry proper and reasonable identification identifying them as employees, representatives, agents, contractors or invitees of the Licensee;
- (c) pay or cause to be paid in full all assessments for full workers' compensation coverage in respect of all workmen, employees and others engaged in or upon any work at the Site or on the Access Area pursuant to a Site License Agreement, and present PRPA with proof thereof (including the Licensee's WorkSafeBC account number) prior to commencing any work pursuant to a Site License Agreement; and
- (d) ensure that all required payments are made with respect to the work performed pursuant to a Site License Agreement including, without limitation, WorkSafeBC assessments, mandatory pension contributions, employment insurance premiums and federal and provincial taxes.

6.5 Liens

In respect of each Site License Agreement, the Licensee covenants and agrees to keep the Lands, the Site, the Access Area and the PRPA Facilities clear of any and all builders' liens, material men's liens, workman's liens, and any other liens and claims therefor for labour, services or materials alleged to have been furnished to or to have been charged to or for the Licensee or anyone on its behalf at or for the Site or the Access Area or the Lands or any part thereof or with respect to any Equipment, and to cause any such liens and claims to be paid, satisfied, released and cancelled within fourteen (14) days after having notice thereof, failing which PRPA may, but shall not be obligated to, in addition to all of its other rights and remedies, at the cost of the Licensee, pay money into court to obtain removal of a lien and the Licensee shall pay to PRPA forthwith on invoicing by PRPA all costs and expenses incurred by PRPA in so doing, including the amount paid into court and PRPA's actual out of pocket legal fees, costs and expenses.

6.6 Disclaimer

The parties acknowledge and agree that:

- (a) any review, approval or acceptance at any time, past, present or future, by or on behalf of PRPA of any plans (including the Approved Navigation Plan), drawings, specifications, reports, schedules, methods of construction or other information or materials relating to:
 - (i) any Equipment or the construction, installation, operation or use thereof at a Site pursuant to a Site License Agreement; or
 - (ii) any work or other activities performed by or on behalf of the Licensee under a Site License Agreement; and
- (b) any consent to or inspection, examination, audit, testing, supervision, monitoring, approval or acceptance by or on behalf of PRPA of any Equipment or work or other activities carried out or proposed to be carried out by or on behalf of the Licensee in connection with or pursuant to a Site License Agreement at any time, past, present or future or any Equipment or a Site;

shall be for general compliance only and no such consent, review, inspection, examination, audit, testing, supervision, monitoring, approval or acceptance now or hereafter given or made by or on behalf of PRPA, whether negligent or otherwise, and no changes suggested or required by or on behalf of PRPA from time to time and incorporated into any drawings or specifications or work, and no pre-qualification or approval by PRPA of an Approved Contractor or any other contractor engaged in work of or for the Licensee, shall relieve the Licensee from any of its obligations under this Agreement or any Site License Agreement, or under any Laws, nor constitute a waiver or release by PRPA of any right of PRPA or any duty or liability owed by the Licensee, nor create or impose any obligation or liability on PRPA.

7. EQUIPMENT

7.1 Ownership of Equipment

Subject to Sections 7.6(b), and 13.14, Equipment placed at a Site pursuant to a Site License Agreement shall be and remain the personal or moveable property of the Licensee, notwithstanding that the Equipment may be annexed or affixed to the Site, and such Equipment shall be removable in whole or in part by the Licensee, provided that the Licensee complies with all provisions of this Agreement and the Site License Agreement concerning removal of the Equipment and restoration of the Site, the Access Area and the Lands.

7.2 Installation, Safety, Operation and Maintenance of Equipment

The Licensee:

- (a) shall design, construction and install the Equipment at the Site in a good and workmanlike manner, in accordance with drawings and specifications approved in writing by PRPA, in accordance with sound engineering standards, in accordance with all Laws, licenses and permits, in accordance with any directions or requirements of PRPA, and in accordance with the terms and conditions of this Agreement and the applicable Site License Agreement, all to the satisfaction of PRPA;
- (b) shall maintain, repair and keep all Equipment in good and proper operating condition and in good repair, in accordance with sound engineering standards, and in accordance with all Laws, to the satisfaction of PRPA;
- (c) shall ensure that all Equipment and the use and operation thereof will not undermine the structural integrity of a Site or any Lands or any PRPA Facilities or other equipment or improvements at such Site or on such Lands and will not cause Interference;
- (d) shall ensure that any and all signals, transmissions or radiation that may be emitted from the Equipment are in compliance with all Laws including, without limitation, Health Canada's Safety Code 6;
- (e) shall secure, repair and maintain the Equipment in a safe condition;
- (f) shall design and install the Equipment to be unobtrusive and, if requested by PRPA, shall include in such Equipment concealing camouflage screens;
- (g) shall act co-operatively and in good faith with PRPA and any tenant, lessee, licensee or other occupant at or about the Site or the Lands, and any third parties under applicable Land Rights Agreements, with respect to the Equipment and the exercise of the Licensee's rights pursuant to this Agreement or a Site License Agreement;
- (h) shall not carry out any maintenance of or to the Equipment except in accordance with this Agreement and the applicable Site License Agreement;
- (i) agrees that if PRPA suspects that any Equipment may be in a dangerous or unsafe condition or a risk to the safety and integrity of the applicable Site or any PRPA Facilities or any other equipment or improvements at the Site or on the Lands or may cause Interference or environmental harm (including any non-compliance with Environmental Laws), the Licensee shall at the written or oral direction of PRPA:

- (i) cause the Equipment and the Site to be immediately inspected by a qualified Canadian professional structural engineer and/or other professionals designated by PRPA;
- (ii) comply with the directions of such structural engineer; and
- (iii) immediately notify PRPA in writing of the findings of such structural engineer;

and if any Equipment or a Site is found by such structural engineer and/or any other professional to be in a dangerous or unsafe condition or a risk to the safety and integrity of the Site or any PRPA Facilities or any other equipment or improvements at the Site or on the Lands or to be Interfering or causing environmental harm (including any non-compliance with Environmental Laws), then the Licensee shall either:

- (iv) promptly place the Equipment in a safe condition and so as not to Interfere as certified by the structural engineer;
- (v) take all such action as PRPA may direct in connection with any actual or potential non-compliance by or on behalf of the Licensee or any Licensee Parties with Environmental Laws, including any remediation work resulting from any non-compliance by or on behalf of the Licensee or any Licensee Parties with this Agreement or any Site License Agreement; or
- (vi) comply with Sections 7.6 and 7.7 of this Agreement with respect to the removal of such Equipment from and restoration of the Site, the PRPA Facilities and the Lands;

and

- (j) agrees that if the Licensee fails to maintain the Equipment, the Site or the Lands, as required by this Section 7.2, PRPA may, but shall not be obligated to, and in addition to all of its other rights and remedies, without liability to the Licensee, after giving notice in writing to the Licensee, enter the Lands and the Site and take all such actions and do all such works as in PRPA's opinion are necessary to remedy such failure, and the Licensee shall pay to PRPA forthwith on invoicing by PRPA all costs and expenses incurred in so doing, including PRPA's internal costs and an administrative fee as set out in Section 4.6.

7.3 Scheduled and Emergency Shut-Off

PRPA shall not have any liability to the Licensee for shut-offs of electrical power to the Site or any Equipment thereon.

7.4 Equipment Not to Negatively Impact

The Licensee shall:

- (a) ensure that Equipment at a Site must not Interfere or have a material adverse impact on the operation of any of the following:

- (i) PRPA Facilities existing or of which the Licensee is aware or ought to have been aware would come into existence at the time of executing the applicable Site License;

- (ii) the operation of the Port or other equipment or improvements at the Site existing or of which the Licensee is aware or ought to have been aware at the time of executing the applicable Site License; and

- (iii) the Access Area, the Lands, or the Site

unless expressly authorized by PRPA.

- (b) not block access to or in any way obstruct, interfere with or hinder the use of the following:

- (i) PRPA Facilities existing or of which the Licensee is aware or ought to have been aware would come into existence at the time of executing the applicable Site License;

- (ii) the operation of the Port or other equipment or improvements at the Site existing or of which the Licensee is aware or ought to have been aware at the time of executing the applicable Site License would come into existence; and

- (iii) the Access Area, the Lands, or the Site.

unless expressly authorized by PRPA.

- (c) not cause any unreasonable levels of noise, as determined by PRPA acting reasonably, during the installation, repair or replacement of any Equipment, and not allow any noise that would be materially disruptive to the PRPA, its tenants, lessees, licensees and surrounding communities (it being understood that generators may be needed from time to time and such noise, for example, would not be considered to be an unreasonable level of noise) to be emitted by the Equipment at any other time.

7.5 Equipment to be Labelled

- (a) The Licensee shall prominently label any Equipment with:

- (i) appropriate safety warnings as required by Health Canada's Safety Code 6 and otherwise by any Laws;

- (ii) identification information including, but not limited to, the name of the Licensee; and

- (iii) any other information as may be required by PRPA.

- (b) If the Licensee fails to label any Equipment in accordance with Section 7.5(a), and if the Licensee does not remedy the failure to PRPA's reasonable satisfaction within seven (7) days after notice from PRPA to do so, then PRPA shall be entitled to:
 - (i) retain the services of a reputable third-party contractor to conduct such labelling; or
 - (ii) deactivate, decommission, remove, and sell or otherwise dispose of, any unlabeled Equipment on the Site without further notice or liability to the Licensee;

and the Licensee shall pay to PRPA forthwith on invoicing by PRPA the amount of all costs and expenses incurred and expenditures made by or on behalf of PRPA in so doing, including PRPA's internal costs and an administrative fee as set out in Section 4.6.

7.6 Removal of Equipment

- (a) Upon the expiration or earlier termination of a Site License Agreement or this Agreement, or upon any finding that any Equipment is in a dangerous or unsafe condition as described in Section 7.2(i), or upon the Equipment being required to be removed as provided in Section 8.3 or elsewhere in this Agreement or the Site License Agreement, the Licensee shall:
 - (i) deactivate, decommission or otherwise cease operation of the Equipment at the relevant Site or Sites; and
 - (ii) remove the Equipment from the relevant Site or Sites at the Licensee's sole cost, risk and expense, provided that such removal shall be carried out at a time agreed upon with PRPA, and such removal shall not Interfere or damage any PRPA Facilities or operations of PRPA or any equipment or facilities or operations of any other tenant, lessee, licensee, or other occupant at the Site or the Lands;

all to satisfaction of PRPA. Notwithstanding the foregoing, in addition to PRPA's rights under Section 13.14, at the request of the Licensee, PRPA may, in its sole discretion, agree in writing by document signed by an authorized signatory of PRPA to permit the Licensee to leave all or certain Equipment in place on the Site following the expiration or earlier termination of this Agreement, and may impose terms and conditions in connection therewith and, if the Licensee elects to leave such Equipment in place as permitted by PRPA, the Licensee shall at its sole cost comply with such terms and conditions.

- (b) If the Licensee fails to remove any Equipment from a Site as required by Section 7.6(a) or continues to occupy the Site after the expiration of the relevant Site License Agreement without any further written agreement by PRPA, PRPA may, at its option, in addition to all its other rights and remedies, and without liability to the Licensee, deactivate and decommission such Equipment, remove it from the Site and sell or otherwise dispose of it, without further notice or liability to the Licensee, and the Licensee shall pay to PRPA forthwith on invoicing by PRPA the amount of all costs and expenses incurred and expenditures made by or on behalf of PRPA in so doing, including PRPA's internal costs and an administrative fee as set out in Section 4.6.

7.7 Restoration and Repair of Site and Lands

- (a) Subject to Section 13.14, upon the expiration or earlier termination of a Site License Agreement or the earlier removal from a Site of any Equipment that is not replaced by the Licensee, the Licensee shall:
- (i) restore the Site (or the relevant portion of the Site from which any Equipment has been removed and not replaced) as nearly as possible to the condition the Site or such portion of the Site was in prior to the installation of such Equipment, and repair any damage to the Site caused by the original installation or the removal of the Equipment; and
 - (ii) repair any damage to the Lands or to any PRPA Facilities or other equipment or improvements on or within the vicinity of the Site or the Lands caused by the Licensee;

all to the reasonable satisfaction of PRPA.

- (b) If the Licensee fails to restore and repair as required by Section 7.7(a), PRPA may, in its sole discretion, in addition to all its other rights and remedies, and without liability to the Licensee, carry out the Licensee's obligations thereunder, in which event the Licensee shall pay to PRPA forthwith on invoicing by PRPA the amount of all costs and expenses incurred and expenditures made by or on behalf of PRPA in so doing, including PRPA's internal costs and an administrative fee as set out in Section 4.6.

7.8 Relocation of Equipment

- (a) If PRPA gives written notice to the Licensee to relocate any Equipment, the Licensee shall, within one-hundred and eighty (180) days after receipt of such notice from PRPA (or such shorter period of notice as is practical in the case of an emergency involving a material threat to persons, property or lands), relocate the Equipment specified in such notice to a different location on the Lands or a different property owned or controlled by PRPA (for the purposes of this Section 7.8, the "**Substituted Site**"), as reasonably specified by PRPA and approved by the Licensee acting reasonably, and shall restore the relevant portion of the original Site (for the purposes of this Section 7.8, the "**Original Site**") as nearly as possible to the condition it was in prior to the installation of such Equipment. If no Substituted Site is agreed upon by PRPA and the Licensee within sixty (60) days after PRPA gives the notice to relocate (or within such shorter period of time as is practical where the relocation is required in an emergency involving a material threat to persons, property or lands), PRPA may terminate the applicable Site License Agreement pursuant to Section 13.2. A failure by the Licensee to relocate Equipment pursuant to this Section 7.8 shall be deemed to be a default under the Site License Agreement in respect of the relevant Site.
- (b) The reasonable, documented cost of relocating Equipment pursuant to this Section 7.8 shall without interest be credited against the Annual License Fee subsequently becoming due pursuant to the Site License Agreement in respect of the relevant Equipment or be reimbursed by PRPA on such terms as are stipulated in the Site License Agreement.
- (c) Following the relocation of Equipment by the Licensee pursuant to this Section 7.8, the Substituted Site, together with any portion of the Original Site on which Equipment

remains, shall be deemed to constitute the Site for the purposes of the relevant Site License Agreement. If requested by PRPA, the Licensee shall execute and deliver a new Site License Agreement or an amendment to a Site License Agreement to document the relocation.

8. INTERFERENCE

8.1 No Interference with Port Operations or PRPA Facilities

Having regard to the provisions of Section 14.1, and notwithstanding any other provision of this Agreement or a Site License Agreement to the contrary, the Licensee shall not cause any Interference and shall ensure that neither the Licensee Parties nor the installation, affixation, repair, replacement, alteration, maintenance and operation of any Equipment cause any Interference.

8.2 No Interference with Communications

Having regard to the provisions of Section 14.1, and without limiting the generality of Section 8.1, the Licensee shall ensure that the installation, maintenance and operation of Equipment at a Site will not interfere with the operation of or the transmission of signals by:

- (a) communications devices of PRPA; or
- (b) communications devices of any other tenants, lessees, licensees or occupants of the Site or the Lands whose equipment was located at the Site or the Lands before the Equipment is located at the Site or the Lands.

8.3 Notice of Interference with Communications

Upon notice to the Licensee by PRPA that the Equipment at a Site pursuant to a Site License Agreement is Interfering, the Licensee shall immediately co-operate with PRPA to identify the source of the Interference and shall, within twenty-four (24) hours after PRPA's notice, cease all operations (except for testing as approved by PRPA) until the Interference has been corrected to the satisfaction of PRPA, unless the Licensee establishes to the satisfaction of PRPA, prior to the expiration of the twenty-four (24) hour period, that the Interference is not caused by the Equipment. The Licensee shall pay to PRPA forthwith on invoicing by PRPA the amount of all costs and expenses incurred and expenditures made by or on behalf of PRPA associated with any tests which PRPA, in its discretion, considers necessary in connection with any such Interference, including PRPA's internal costs and an administrative fee as set out in Section 4.6. If the interference has not been corrected within forty-eight (48) hours after notice to the Licensee of its occurrence, PRPA may, without waiving its other remedies, require the Licensee to remove any part or all of the Equipment from such Site in accordance with Section 7.6.

8.4 Emergency Situation

If an emergency situation occurs such that Equipment at a Site poses an immediate threat to the health and safety of the occupants of the Site or the Lands, or there is a disruption or outage in services to occupants of the Site or the Lands which PRPA, acting reasonably, determines is attributable to the Equipment or the conduct of the Licensee, then, upon written or oral notice thereof from PRPA, the Licensee shall, in accordance with the other terms of this Agreement including, without limitation, Sections 5.5 and 6.3, remedy the emergency situation immediately. If the Licensee fails to remedy such emergency situation immediately, or if PRPA determines that the Licensee's response or timing thereof is inadequate, then PRPA may, without liability to the Licensee, remedy the emergency situation by any

means PRPA deems appropriate, including by shutting off the electrical power to the Equipment in respect of the relevant Site, and the Licensee shall pay to PRPA forthwith on invoicing by PRPA the amount of all costs and expenses incurred and expenditures made by or on behalf of PRPA in so doing, including PRPA's internal costs and an administrative fee as set out in Section 4.6.

9. [RESERVED]

10. RELEASE AND INDEMNITY

10.1 Release of PRPA

The Licensee for itself and the Licensee Parties hereby remises, releases and forever discharges PRPA and the PRPA Parties of and from any and all claims, suits, actions, causes of actions, and demands of any nature or kind whatsoever that the Licensee and the Licensee Parties or any of them may at any time, directly or indirectly, have against PRPA and the PRPA Parties or any of them, for any and all liabilities, damages, losses, costs and expenses that the Licensee and the Licensee Parties or any of them may at any time suffer or incur, relating to, resulting from or arising out of or in connection with:

- (a) a Site License Agreement, or any exercise of the Licensee's rights thereunder, or any use of a Site or an Access Area pursuant thereto, except only for a default by PRPA under the applicable Site License Agreement or this Agreement;
- (b) any bodily injury (including death resulting at any time therefrom) or property damage or loss (including damage to or loss of any Equipment) suffered or incurred by the Licensee or any of the Licensee Parties in connection with a Site License Agreement or the exercise of the Licensee's rights thereunder, or on a Site or Access Area or the Lands where they are located, caused by any reason whatsoever, excluding gross negligence and willful misconduct on the part of PRPA or its Affiliates;
- (c) the condition of any Site or Access Area including but not limited to the environmental condition thereof;
- (d) the suitability, fitness or availability of any Site or Access Area for the purposes of the Licensee or the Equipment or the use or operation thereof;
- (e) any interruption of the supply of electricity or other services to any Equipment or a Site for any reason whatsoever including negligence on the part of PRPA or its Affiliates;
- (f) any damage to or loss of or failure or malfunction of any Equipment at a Site for any reason whatsoever excluding gross negligence and willful misconduct on the part of PRPA or its Affiliates;
- (g) any interference with Equipment at a Site, or the functionality of such Equipment or the exercise of the rights of the Licensee caused by any PRPA Facilities preexisting the date of Site Licence, PRPA Facilities built after the date of the Site License notice of which the Licensee was aware or ought to have been aware prior to entering into the Site License, equipment or activities of any third party at or about the Site preexisting the Site License, or any equipment or activities of any third party at or about the Site placed or being carried out after the date of the Site License of which the Licensee ought to have been aware;

- (h) any action taken by PRPA in the exercise of its rights under this Agreement consequential upon an emergency or a default by the Licensee under this Agreement;
- (i) any termination, in accordance with the provisions of this Agreement, of a Site License Agreement or of this Agreement; or
- (j) any expiration, termination or non-renewal of, or any inadequacy of rights under, any Land Rights Agreements, for any reason whatsoever including default or negligence on the part of PRPA or its Affiliates.

10.2 Indemnification of PRPA

The Licensee shall indemnify, defend and hold harmless the PRPA Parties and each of them from and against any and all claims (including without limitation claims of Licensee Parties and customers of the Licensee), suits, actions, causes of action, liabilities, damages, losses, costs and expenses (including without limitation actual legal fees and expenses) at any time brought against or suffered or incurred by any of the PRPA Parties (including without limitation in respect of bodily injury (including death resulting at any time therefrom) and property damage or loss (including damage to or loss of PRPA Facilities or Equipment)) related to, resulting from, or arising out of or in connection with, or that would not have been brought against or suffered or incurred but for:

- (a) this Agreement or a Site License Agreement, or the exercise of the Licensee's rights thereunder, or any use of a Site or an Access Area by the Licensee or any Licensee Parties pursuant thereto, or any Equipment located at a Site;
- (b) any acts or omissions of the Licensee or any Licensee Parties at, on or about a Site or an Access Area or the Lands upon which they are located;
- (c) any breach or default in the due observance or performance of any of the obligations of the Licensee under this Agreement or a Site License Agreement;
- (d) if PRPA requests it be removed, any failure of the Licensee to remove any Equipment from a Site and the Lands upon the expiration or termination of a Site License Agreement;
- (e) any damage to, or loss of or failure or malfunction of any Equipment at a Site for any reason or cause whatsoever, other than negligence or willful misconduct on the part of PRPA in circumstances other than:
 - (i) an emergency; or
 - (ii) where PRPA is remedying a default on the part of the Licensee;
- (f) any Interference caused by the Equipment at a Site or by the Licensee or any Licensee Parties in the exercise of the rights or performance of the obligations of the Licensee under this Agreement or a Site License Agreement; or
- (g) without limiting the foregoing, from the presence, release or discharge by or on behalf of the Licensee or any Licensee Parties of any Contaminants into, under, upon, from or about the Access Area, Site or other portions of the Lands or non-compliance with Environmental Laws.

The indemnity under this Section 10.2 shall apply and have effect notwithstanding any review, approval, consent, inspection, examination, audit, testing, monitoring, evaluation or supervision by PRPA or any of the PRPA Parties, and notwithstanding any negligence with respect thereto.

10.3 Limitation of Liability

Notwithstanding any other provision of this Agreement or a Site License Agreement;

- (a) PRPA and the PRPA Parties shall in no event be liable for any indirect or consequential or punitive damages or losses (including damages or losses of Licensee Parties or customers of the Licensee whether the Licensee is found liable for them or not) arising from any cause whatsoever relating to this Agreement or a Site License Agreement or any subject matters of either, including any negligence, or breach of this Agreement or a Site License Agreement, on the part of PRPA or any PRPA Parties; and
- (b) the maximum aggregate liability of PRPA and the PRPA Parties under this Agreement and all Site License Agreements shall be limited to:
 - (i) if such claim or action relates to a particular Site or Site License Agreement or any rights, obligations or activities in connection therewith or related thereto (including with respect to the use or anticipated use of that Site by the Licensee or Licensee Parties or any Equipment of Licensee or Licensee Parties placed or used on or about the Site licensed pursuant to that Site License Agreement), the Annual License Fees paid by the Licensee to PRPA in the calendar year in which the claim or action first arose under the particular Site License Agreement to which such claim or action relates; or
 - (ii) if such claim or action does not relate to a particular Site or Site License Agreement or any rights, obligations or activities in connection therewith or related thereto, the lesser of the Annual License Fees paid by the Licensee to PRPA under all Site License Agreements in respect of the calendar year in which such claim or action first arose and \$25,000; and
- (c) the Licensee and the Licensee Parties shall in no event be liable for any indirect or consequential or punitive damages or losses arising from any cause whatsoever relating to this Agreement or a Site License Agreement or any subject matters of either, including negligence, or any breach of this Agreement or a Site License Agreement, on the part of the Licensee or any Licensee Parties.

10.4 Survival

The provisions of this Article 10 will survive the expiration or termination of this Agreement and any Site License Agreement, notwithstanding any other provision contained in this Agreement or any Site License Agreement.

11. INSURANCE

11.1 Insurance

- (a) Subject to Section 11.2, the Licensee shall obtain and maintain or cause to be obtained and maintained during the Term, the following policies of insurance:

- (i) Comprehensive Builder's Risk in respect of all Equipment, including the cable, subsea fixtures and land-based installations of not less than \$10 million per occurrence and not less than \$10 million in the aggregate;
- (ii) Commercial general liability insurance with a limit of, subject to section 11.2, not less than \$10 million per occurrence and not less than \$10 million in the aggregate otherwise, protecting the Licensee, PRPA and the PRPA Parties against third-party claims or losses, for bodily injury, death, property damage or loss of use of property occurring on or about any Lands or any Site or Access Area and arising from or in connection with the Licensee's operations or its occupation or use of the Lands, the Site or the Access Area. The policy shall contain the following extensions of coverage:
 - (A) broad-form property damage and completed operations;
 - (B) personal injury;
 - (C) blanket contractual liability;
 - (D) contingent employer's liability;
 - (E) non-owned automobile liability; and
 - (F) employees as additional insureds,
 and, where such further risks exist, the following additional extensions of coverage:
 - (G) shoring, blasting, excavating, underpinning, demolition, removal, pile-driving and grading, as applicable;
 - (H) hoist liability; and
 - (I) operation of attached machinery;
- (iii) all-risks property insurance, including earthquake and flood insurance, with coverage up to full replacement costs, for loss of, or damage to, all Equipment and other property of every description owned by the Licensee or within the Licensee's care, custody or control. The policy shall include a waiver by the insurer of any right of subrogation against PRPA and the PRPA Parties whether or not the loss or damage may have arisen out of the negligence or wrongful act of PRPA or any of the PRPA Parties or any person for whom they are in law responsible;
- (iv) P&I from a Mutual Protection and Indemnity Association acceptable to PRPA of not less than \$10 million per occurrence and not less than \$10 million in the aggregate and including pollutions coverage, Specialist Operations coverage and wreck and debris removal;
- (v) Transit Insurance including Marine Cargo covering all risk of loss/damage to Equipment and supplies included in the work being performed on or about the Site and Lands; and

- (vi) Workmen's compensation and employer's liability Insurance as per statutory requirements.
- (b) Each of the policies of insurance required by Section 11.1 (a) shall:
 - (i) be obtained from and issued by an insurance company rated A.M. Best A or better and duly licensed or authorized to conduct business in the Province of British Columbia;
 - (ii) contain a provision that the coverage afforded will not be cancelled or reduced without the insurance company giving at least thirty (30) days' prior written notice by registered mail to PRPA;
 - (iii) be primary with respect to claims or losses arising out of the Licensee's operations and activities, such that any insurance maintained by PRPA shall be in excess of such insurance required by Section 11.1 (a) and shall not contribute to it; and
 - (iv) contain such terms and conditions additional to those set forth above, including coverage for such additional perils, as PRPA may reasonably require in such circumstances;
 - (v) except for the Workmen's compensation and employer's liability Insurance, contain a cross-liability and severability of interest clause and shall name PRPA and the PRPA Parties as additional insureds, and.
- (c) If any policies for such insurance provide for deductibles, the Licensee shall be responsible for and shall pay the deductible amount.

11.2 Evidence of Insurance

Immediately upon the execution of this Agreement, the Licensee shall provide evidence reasonably satisfactory to PRPA of each policy of insurance required by Section 11.1 (a), provided that evidence of the extensions of coverage referred to in Sections 11.1 (a)(i), (ii)(G) to (I), (iv) and (v) shall only be required in advance of activities where the risks to be covered by such extensions are present. [REDACTED]

12. [RESERVED]

13. -TERMINATION

13.1 Termination of this Agreement for Convenience

PRPA shall have the right to terminate this Agreement at any time for any reason or without reason by giving to the Licensee not less than [REDACTED] prior written notice of the effective date of such termination, and on such effective date this Agreement shall terminate. If this Agreement is terminated pursuant to this Section, each Annual License Fee under the Site License Agreements prepaid by the Licensee prior to the date of termination shall be pro-rated up to the date of termination and any part of such pre-paid Annual License Fee that is attributable to a period of time following the date of termination shall be refunded by PRPA to the Licensee. The Licensee shall be entitled to such other compensation as is stated in the Site License, if any, on such terms and in accordance with such conditions as

stipulated therein.

13.2 Termination of a Site License Agreement for Convenience

PRPA shall have the right to terminate any Site License Agreement at any time for any reason or without reason by giving to the Licensee not less than [REDACTED] prior written notice of the effective date of such termination, and on such effective date the Site License Agreement shall terminate. If a Site License Agreement is terminated pursuant to this Section, any Annual License Fee under the Site License Agreement pre-paid by the Licensee prior to the date of termination shall be pro-rated up to the date of termination and any part of such pre-paid Annual License Fee that is attributable to any period of time following the date of termination shall be refunded by PRPA to the Licensee. The Licensee shall be entitled to such other compensation as is stated in the Site License, if any, on such terms and in accordance with such conditions as stipulated therein.

13.3 Termination of this Agreement for Default

If and whenever:

- (a) the Licensee becomes insolvent, ceases to do business as a going concern, is adjudged a bankrupt, made subject to the appointment of a receiver or receiver manager, makes a general assignment for the benefit of creditors, seeks the protection of any legislation for the benefit of bankrupt or insolvent debtors or commences winding up or liquidation proceedings; or
- (b) the Licensee's permission under applicable Laws to provide radio communications services is revoked or suspended by any federal, provincial, municipal or local government, or any public authority, body or entity authorized or having jurisdiction to permit or regulate the Licensee's provision of such services;
- (c) there is a breach or series of breaches by the Licensee of its obligations under this Agreement and/or any one or more Site License Agreements that:
 - (i) continues for:
 - a. twenty-four hours or more after written notice thereof from PRPA to the Licensee in the case of a breach of Sections 8.3, 8.4 or material breach of the Approved Navigation Plan; or
 - b. in the case of any other breach, thirty (30) days, or such longer period of time that may be commercially necessary to remedy such breach, after written notice thereof from PRPA to the Licensee; or
 - (ii) occurs three (3) or more times during any sixty (60) month period;
- (d) there is any breach of Section 14.6 of this Agreement, or there is a sale of all or substantially all of the assets or undertaking of the Licensee not consented to in advance by PRPA;

then in any such case and in each and every such case PRPA may, at its option, by written notice to the Licensee, terminate this Agreement.

13.4 Termination of a Site License Agreement for Default

If and whenever:

- (a) there is any default in the payment of the Annual License Fee or any part thereof under a Site License Agreement or any other amount that becomes payable to PRPA under or in respect of a Site License Agreement including amounts owing under this Agreement in respect of a Site License Agreement (including under Schedule A in respect of the process leading to issuance of a Site License Agreement), as and when such Annual License Fee or other amount becomes due and payable, and such default is not cured within fourteen (14) days after PRPA gives the Licensee written notice thereof;
- (b) other than as provided in Sections 13.4(a), the Licensee defaults in observing or performing any of its obligations under:
 - (i) a Site License Agreement including its obligations under this Agreement that are incorporated by reference into a Site License Agreement; or
 - (ii) this Agreement with respect to a particular Site License Agreement, a particular Site, or particular Equipment;

and such default is not cured by the Licensee within thirty (30) days or such longer period of time that may be commercially necessary to remedy such breach (or twenty-four (24) hours in the case of a breach of Sections 8.3, 8.4 or material breach of the Approved Navigation Plan) after PRPA gives the Licensee written notice thereof;

- (c) by reason of fire, flood, earthquake, storm, or other event, a Site is damaged or destroyed and, in the opinion of PRPA, such Site cannot be restored to a condition that is suitable for use as contemplated by the relevant Site License Agreement within 180 days or is no longer suitable for use as contemplated by the Site License Agreement;
- (d) there is a failure of the Licensee to relocate Equipment in accordance with Section 7.8 of this Agreement; or
- (e) without limiting (b) above, the Licensee is in breach of any conditions imposed pursuant to the Required Government Approvals;

then in any such case and in each and every such case PRPA may, at its option, by written notice to the Licensee, terminate the relevant Site License Agreement with immediate effect.

13.5 Termination of a Site License Agreement- Land Rights

If, during the Term or a Renewal Term of a Site License Agreement for a Site or Access Area located on Third Party Lands, the applicable Land Rights Agreement expires or terminates or is not renewed for any reason, then the Site License Agreement for such Site and Access Area shall terminate at the same time and PRPA shall give the Licensee written notice of such termination.

13.6 Termination of a Site License Agreement – Required Governmental Approvals

The Licensee shall have the right to terminate a Site License Agreement at any time before any construction or site work is commenced at a Site pursuant to the Site License Agreement, if the Licensee is unable to obtain all Required Governmental Approvals, or if any such permits, licenses or approvals expires or is cancelled or terminated. The Licensee may exercise such right only by giving PRPA at least fifteen (15) days' prior written notice of the effective date of such termination and on such effective date the applicable Site License Agreement shall terminate. If a Site License Agreement is terminated

pursuant to this Section, any Annual License Fee under the Site License Agreement pre-paid by the Licensee prior to the date of termination shall be pro-rated up to the date of termination and any part of such pre-paid Annual License Fee that is attributable to any period of time following the date of termination shall be refunded by PRPA to the Licensee.

13.7 Effect of Termination of this Agreement

If for any reason whatsoever this Agreement is terminated, all Site License Agreements between the parties will terminate concurrently with termination of this Agreement.

13.8 No Liability for Termination

PRPA shall have no liability to the Licensee or any of its customers, for compensation or otherwise, in connection with or as a result of any termination in accordance with the provisions of this Agreement or of a Site License Agreement.

13.9 No Reimbursement of Annual License Fee

Subject to sections 13.1 and 13.2, the Licensee will not be entitled to any compensation, reimbursement or refund of any Annual License Fee or other fees paid or pre-paid pursuant to any Site License Agreement for any reason whatsoever, including without limitation termination of this Agreement or a Site License Agreement.

13.10 Termination Without Prejudice

Unless otherwise expressly provided herein, termination of this Agreement or a Site License Agreement will not affect any obligations or liabilities arising under this Agreement or a Site License Agreement prior to the effective date of such termination or that are consequential upon such termination or that expressly or impliedly are intended to survive such termination.

13.11 PRPA's Right to Perform

- (a) If the Licensee fails to observe or perform any of the covenants or obligations of the Licensee under or in respect of this Agreement or any Site License Agreement, PRPA may, at its option, in addition to all its other rights and remedies, after giving the Licensee prior written notice, perform or cause to be performed any of such covenants or obligations or any part thereof including, for such purpose, doing such reasonable things as may be requisite and entering upon the Site or the Lands to do such things, and the Licensee shall pay to PRPA forthwith on invoicing by PRPA the amount of all costs and expenses incurred and expenditures made by or on behalf of PRPA in so doing including PRPA's internal costs and an administrative fee as set out in Section 4.6; provided that, if PRPA commences or completes either the performance or the causing to be performed of any such covenants or obligations or any part thereof: PRPA will not be obliged to complete such performance or causing to be performed, or be later obliged to act in like fashion.
- (b) PRPA shall not be liable or in any way responsible for any loss, expense, inconvenience, annoyance or damage resulting to the Licensee or any other person on account of the exercise of PRPA's right under this Section 13.11 and, without limiting Section 10.2, the Licensee shall indemnify and save harmless PRPA from and against all cost, loss and damage whatsoever arising or occasioned thereby and will repay to PRPA upon demand the entire cost and expense thereof, including PRPA's internal costs and an administrative fee as set out in Section 4.6. No action taken by PRPA pursuant to this

Section 13.11 will be, or be construed to be, a waiver of any default by the Licensee, or as a waiver of any other rights of PRPA under this Agreement or any Site License Agreement.

13.12 Remedies Cumulative

No remedy conferred upon or reserved to PRPA herein, or by statute or otherwise, will be considered exclusive of any other remedy, and all remedies shall be cumulative and in addition to every other remedy available to PRPA and all such remedies and powers of PRPA may be exercised concurrently or successively or in any combination and from time to time and as often as may be deemed expedient by PRPA.

13.13 Interest

If the Licensee defaults in making any payment due to PRPA under this Agreement or a Site License Agreement, the Licensee shall pay to PRPA from the date the payment was due until the date payment is actually made, forthwith on invoicing by PRPA, interest on the amount due at a rate of interest per annum that is five percent (5%) per annum above the Prime Rate, calculated daily in arrears. It is agreed that if the Prime Rate changes, and so often as the same occurs, the rate of interest chargeable under this Agreement or a Site License Agreement will change on the same day and in the same amount as the Prime Rate changes. Acceptance of any late payment without interest will not constitute a waiver of PRPA's right to require interest on the amount due.

13.14 Purchase of incidental Equipment

The Licensee acknowledges and agrees that, upon the expiration or earlier termination of a Site License Agreement or the earlier removal from a Site of any Equipment that is not replaced by the Licensee, PRPA may elect to purchase from the Licensee any Incidental Equipment at the Site for the price of one dollar (\$1.00), as follows:

- (a) in the case of the termination by PRPA of a Site License Agreement in respect of a Site, PRPA shall indicate its election to purchase any Incidental Equipment at such Site in its written notice to the Licensee terminating such Site License Agreement; and
- (b) in the case of the expiration of a Site License Agreement in respect of a Site, PRPA shall indicate its election to purchase any Incidental Equipment at such Site by giving to the Licensee written notice of such election at least thirty (30) days prior to the date that such Site License Agreement expires;

and, if such election is made by PRPA, the Licensee shall not remove the Incidental Equipment from the Site and upon PRPA making payment therefor, the Incidental Equipment shall become the sole property of PRPA.

14. GENERAL PROVISIONS

14.1 Integrity and Security

The Licensee acknowledges that the Licensee's use of any Site, Access Area or Lands pursuant to a Site License Agreement has the potential to create risks to the integrity and security of the PRPA Facilities and to the safe, secure and continuous operation of the Port, and the Licensee agrees that, notwithstanding any other terms and conditions of this Agreement or a Site License Agreement:

- (a) the integrity and security of the PRPA Facilities, the safe, service and continuous operation of the Port is and shall be paramount to any rights, activities or operations of

the Licensee or any Equipment at a Site;

- (b) the governing principles in the conduct of the parties and the administration of this Agreement and any Site License Agreement in relation to the Licensee's use of any Site, Access Area or Lands pursuant to a Site License Agreement shall be that there must be no Interference, and that the integrity and security of the PRPA Facilities, and the safe, secure and uninterrupted operation of the Port and the PRPA Facilities, must at all times be preserved;
- (c) the principles set out above in this Section 14.1 shall be the predominant factors that PRPA shall be entitled to take into consideration in granting or withholding any approval, consent or acceptance under this Agreement or any Site License Agreement; and
- (d) in the case of any breach or threatened breach of this Agreement or any Site License Agreement that could violate any of such principles, PRPA shall be entitled to injunctive relief in any court of competent jurisdiction whether to restrain such breach or to enforce the terms of this Agreement or any Site License Agreement.

14.2 Change in Regulatory Status

The Licensee shall promptly notify PRPA of any changes in the Licensee's regulatory rights or status with respect to the provision of telecommunications services.

14.3 Compliance with Laws

The Licensee shall comply with all Laws with respect to the activities to be undertaken pursuant to this Agreement and each Site License Agreement.

14.4 Confidential Information

- (a) All drawings, specifications, technical information and other information of or relating to PRPA Facilities that may from time to time be provided by any of its Affiliates to the Licensee (other than drawings, specifications, technical and other information that is publicly available other than through a breach of this Agreement) constitutes confidential information of PRPA (in this Section called "**Confidential PRPA Information**").
- (b) All Confidential PRPA Information and all benefit and advantage to be derived therefrom shall be and remain the sole and absolute property of PRPA.
- (c) Subject to Section 14.4(d), the Licensee shall, and shall use reasonable commercial efforts to cause the Licensee Parties to:
 - (i) keep all Confidential PRPA Information confidential;
 - (ii) not disclose Confidential PRPA Information except to employees and contractors on a need to know basis for the purposes of performing work pursuant to this Agreement and the Site License Agreements and subject to the same obligations as those of the Licensee under this Section 14.5;
 - (iii) use Confidential PRPA Information solely for the purposes of performing work pursuant to this Agreement and the Site License Agreements and for no other purpose;

- (iv) take all precautions necessary to prevent unauthorized access to or use, disclosure or reproduction of Confidential PRPA Information; and
 - (v) as directed by PRPA at its request, either return to PRPA, or permanently destroy and delete, all electronic copies or records of, all Confidential PRPA Information and documents and materials containing Confidential PRPA Information and, in the case of any such destruction or deletion or both, deliver to PRPA within thirty (30) days after PRPA's request, a certificate of an officer of the Licensee confirming such destruction and deletion.
- (d) The Licensee shall be entitled to disclose Confidential PRPA Information:
- (i) as may be required by Law or any authority having lawful jurisdiction, or by court order; and
 - (ii) as may be reasonably required to enforce this Agreement or any Site License Agreement.

Where disclosure is required pursuant to this Section 14.4(d), the Licensee shall give PRPA as much notice as is reasonably possible in the circumstances prior to such disclosure, and shall to the extent it is reasonably able to do so without material additional expense, cooperate with PRPA with respect to any application or proceeding PRPA may take to obtain a protective order or other means of protecting the Confidential PRPA Information required to be disclosed.

- (e) All drawings provided by the Licensee to PRPA from time to time relating to areas to which service is or is proposed to be provided by the Equipment or any other radio communications equipment of the Licensee (other than drawings that are publicly available other than through a breach of this Agreement) constitutes confidential information of the Licensee (in this Section called "**Confidential Licensee Information**").
- (f) All Confidential Licensee Information and all benefit and advantage to be derived therefrom shall be and remain the sole and absolute property of the Licensee.
- (g) Subject to Section 14.5(h), PRPA shall, and shall use commercially reasonable efforts to cause the PRPA Parties to:
 - (i) keep all Confidential Licensee Information confidential;
 - (ii) not disclose Confidential Licensee Information except to PRPA Parties on a need to know basis and subject to the same obligations as those of PRPA under this Section 14.5, for the purposes of this Agreement and the Site License Agreements or for the purposes of performing work with respect to the PRPA Facilities or operating the PRPA Facilities or the Port;
 - (iii) use Confidential Licensee Information solely for the purposes of this Agreement and the Site License Agreements or for the purposes of performing work with respect to the PRPA Facilities or operating the Port or other PRPA Facilities, and for no other purpose;
 - (iv) take all precautions necessary to prevent unauthorized access to or use,

disclosure or reproduction of Confidential Licensee Information; and

- (v) after the expiration or termination of this Agreement or of the applicable Site License Agreement and all renewals thereof, on request of the Licensee, return to the Licensee all Confidential Licensee Information and documents and materials containing Confidential Licensee Information relating to that Site License Agreement or the Equipment governed thereby, and delete all electronic copies thereof;
- (h) PRPA shall be entitled to disclose Confidential Licensee Information:
 - (i) as may be required by Law or any authority having lawful jurisdiction, or by court order, including pursuant to the *Access to Information Act* and *Privacy Act* (Canada);
 - (ii) as may be reasonably required to enforce this Agreement or any Site License Agreement; or
 - (iii) to any third party on a confidential basis as may be reasonably required where the third party telecommunications service provider is using or proposes to use the same Site as is being used by the Licensee or other areas of the Port where information about these installations may be needed.

14.5 Assignment by Licensee

The Licensee shall not without the prior written consent of PRPA (such consent not to be unreasonably withheld):

- (i) transfer, assign, sub-license or share any of the Licensee's rights or benefits under this Agreement or any Site License Agreement;
- (ii) transfer or dispose of any interest in or benefit to the Equipment;
- (iii) grant to any third party any right or license with respect to any Site; or
- (iv) authorize the use of any Site or Access Area by any Person other than the Licensee Parties;

14.6 Assignment by PRPA

PRPA may assign or transfer, in whole or in part, this Agreement and any Site License Agreement to any person to whom ownership or administrative control over the Sites is transferred.

14.7 Time of Essence

Time is of the essence of this Agreement and each Site License Agreement.

14.8 Waiver

No failure to or delay in the exercise of any right under this Agreement on the part of PRPA will operate as a waiver of such right, nor will the single or partial exercise by PRPA of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right by PRPA.

14.9 No Changes or Waivers

No changes to or waiver of any provisions of this Agreement or the Site License Agreement will be binding or enforceable unless in writing signed by the parties.

14.10 Entire Agreement

This Agreement, together with the Site License Agreements, set forth all the covenants, promises, agreements, conditions and understandings between the parties with respect to the subject matters hereof and thereof, and there are no other representations, covenants, agreements, conditions or understandings, either oral or written, between them relating to such subject matters. Except as herein otherwise provided, no subsequent alterations, amendment, change or addition to this Agreement or the Site License Agreements will be binding upon either party unless in writing and signed by each of them.

14.11 Priority of Agreements

In case there is any conflict or inconsistency between this Agreement and a Site License Agreement:

- (a) if the matter relates to the particulars of the Site, the Equipment, the Land Rights Agreements in respect of the Site or the Lands, the Annual License Fee, or any other matter particulars of which are set out in the Site License Agreement, the terms of the Site License Agreement will prevail; and
- (b) for all other matters, this Agreement will prevail.

14.12 Notice

All notices, requests, demands, directions, and other communications provided for in this Agreement or a Site License Agreement must, unless otherwise provided in this Agreement or in the Site License Agreement, be in writing and will be deemed to have been given, delivered or made if they are in writing and either emailed, faxed, or actually delivered by personal delivery to the applicable party at the following address or such other address for notice of which a party gives notice hereunder:

If to PRPA:

Prince Rupert Port Authority
215 Cow Bay Road
Prince Rupert, British Columbia, V8J 1A2

Attention: President and CEO
Email: projects@rupertport.com
Fax: 250 627-8980

With a copy to:

Attention: General Counsel
Email: generalcounsel@rupertport.com

If to the Licensee:

CityWest Cable & Telephone Corp.
248 3rd Avenue West
Prince Rupert, British Columbia, V8J 1L1

Attention: Donovan Dias
 Email: Donovan.Dias@cwct.ca

With a copy to

Attention: Serina Repole, Executive Assistant
 Email: Serina.Repole@cwct.ca

Any notice given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof or if given by email or facsimile, on the day of transmittal thereof if given during the normal business hours of the recipient and on the business day during which such normal business hours next occur if not given during such hours on any day.

14.13 Headings

The headings and index in this Agreement and any Site License Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement.

14.14 British Columbia Law, Mediation, Arbitration

- (a) This Agreement and the Site License Agreement will be governed by and construed in accordance with the applicable laws of the Province of British Columbia and the federal laws of Canada applicable therein.
- (b) Upon the written request of either party to this agreement, a dispute regarding this Agreement or a Site License Agreement shall be referred to the Chief Executive Officer of the PRPA (or member of the executive) and the Chief Executive Officer of the Licensee (or member of the executive), both of whom shall make good faith efforts to resolve the dispute. If the parties are unable to resolve the dispute within ten (10) business days, either party to this Agreement may refer the dispute to arbitration pursuant to this Agreement.
- (c) Disputes arising out of or in connection with this Agreement or a Site License Agreement shall be referred to and finally resolved by arbitration of a single arbitrator under the International Commercial Arbitration Rules of Procedure of the British Columbia International Commercial Arbitration Centre. The appointing authority shall be the British Columbia International Commercial Arbitration Centre. The case shall be administered by the British Columbia International Commercial Arbitration Centre in accordance with its Rules.

14.15 Relationship

Nothing in this Agreement, nor any acts of the parties pursuant to this Agreement, shall create or be deemed to create any relationship between the parties hereto other than the relationship of licensor and licensee.

14.16 No Interest in Land

Without limiting the generality of Section 14.16, neither this Agreement nor any Site License Agreement grants to the Licensee or creates any interest in land and, without limiting the generality of the foregoing, does not create or constitute a legal demise. For greater certainty the Licensee shall not be permitted to register this Agreement, any Site License Agreement nor any interest arising therefrom.

14.17 Unavoidable Delay

- (a) If either party to this Agreement fails to observe or perform any of the covenants or obligations imposed upon it in this Agreement or any Site License Agreement and such failure has been occasioned by or in connection with or in consequence of Unavoidable Delay as hereinafter defined, such failure will be deemed not to be a breach of such covenants or obligations. For the purpose of this Agreement or any Site License Agreement, "Unavoidable Delay" means any act beyond the control of the Parties, including but without restricting the generality thereof, lightning, earthquakes, and storms, strikes, lockouts, shortage of necessary labour or other industrial disturbances, acts of public enemies, sabotages, war, terrorism, blockades, riots, epidemics, quarantine restrictions, landslides, floods, fires, washouts, and any acts, rules, regulations, orders, or directives of any government, civil disturbances, rebellion, explosions, transportation embargoes or failure or delays in transportation, the order of any court, or any other causes whether enumerated in this Section 14.17 or otherwise not reasonably within control of a party and that by the exercise of due diligence such party is unable to overcome. Notwithstanding anything to the contrary contained in this Section 14.17, impecunious circumstances on the part of either Party will not constitute Unavoidable Delay for purposes of this Section 14.17.
- (b) The party claiming Unavoidable Delay will notify the other party in writing within 45 days after the beginning of the occurrence and will, at the request of that party, submit confirmation from competent authorities certifying to the reality of the circumstances, facts, and dates contained in the notification.
- (c) Except as otherwise provided in this Agreement, Unavoidable Delay, notified as above, will automatically prolong the terms of the contractual obligations of both parties.
- (d) For delays and non-execution of obligations due to Unavoidable Delay, no party may claim penalties, interest, or any other compensation or participation in damages due to Unavoidable Delay.

14.18 Provisions Severable

If any provision of this Agreement or a Site License Agreements is held to be illegal or unenforceable, it will be considered separate and severable from the remainder of such agreement and the remaining provisions will remain in force and be binding on the parties as if the severed provisions had not been included.

14.19 Interpretation

The word "including", when following any general term or statement, is not to be construed as limiting the general term or statement to the specific items or matters, but rather as permitting the general term or statement to refer to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement as a whole and not to any particular position hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to sections, subsections, clauses, schedules and other parts are to sections, subsections, clauses, schedules or other parts of this Agreement.

14.20 Number and Gender

Words importing the singular number only include the plural and vice versa, words importing the masculine gender include the feminine and neuter genders and vice versa and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.

14.21 Reference to Statutes

A reference to a statute includes all regulations made thereunder, all amendments to the statute in force from time to time, and every statute that supplements or supersedes such statute.

14.22 Further Assurances

Each of the parties agrees to do all such things, sign all such documents and instruments and provide all such further assurances as may be reasonably required to carry out the purpose and intent of this Agreement and any Site License Agreement.

14.23 Enurement

This Agreement and each Site License Agreement will enure to the benefit of and be binding upon the parties and their heirs, executors, administrators and permitted successors and permitted assigns.

14.24 Counterparts

This Agreement may be signed in as many counterparts as may be necessary, each of which when so signed shall be deemed to be an original, and a facsimile sent by telecopier or a scanned and electronically transmitted copy of an originally signed counterpart of this Agreement shall be deemed, for all purposes, to be an original of this Agreement and such counterparts together shall constitute one and the same document.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their duly authorized representatives.

PRINCE RUPERT PORT AUTHORITYPer: 

Name: Shaun Stevenson

Title: President and CEO

CITY WEST CABLE & TELEPHONE CORP.Per: 

Name: DONOVAN DIAS

Title: VP - SALES & PM

SCHEDULE B
SITE LICENSE AGREEMENT

See Attached

SITE LICENSE AGREEMENT

THIS AGREEMENT made the 26th day of June 2020.

BETWEEN:

PRINCE RUPERT PORT AUTHORITY, a port authority
established pursuant to the Canada Marine Act

("PRPA")

AND:

CITY WEST CABLE & TELEPHONE CORP., of 248 3rd Avenue
West, Prince Rupert, British Columbia, V8J 1L1

(the "**Licensee**")

"**parties**" means PRPA and the Licensee, and "**party**" means one of them.

WHEREAS:

A. The parties have entered into the Master Agreement (defined herein) which contemplates that the parties may enter into site license agreements pursuant to which PRPA will grant to the Licensee licenses to use certain sites and structures for the purpose among other things of the Licensee constructing, installing, maintaining and operating the Licensee's equipment to provide or enhance telecommunications services as set out in the application attached as Schedule E.

B. The Licensee wishes to license from PRPA a part of the Lands or the structures thereon for such purposes.

C. The parties have agreed to enter into this Agreement pursuant to the Master Agreement.

NOW THEREFORE in consideration of the premises, the covenants and agreements of the parties as set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereby agree as follows:

ARTICLE 1 – APPLICATION AND DEFINITIONS

1.1 Application

- (a) This Agreement is entered into upon and subject to and incorporates by reference the terms and conditions of the Master Agreement, and all such terms and conditions are made a part of this Agreement except to any extent expressly provided otherwise in this Agreement.
- (b) The Licensee covenants and agrees to observe, perform and comply with all the terms and conditions of the Master Agreement, including those relating to each of

this Agreement, the Site, and the Equipment, as terms and conditions of this Agreement.

- (c) This Agreement shall constitute a separate, distinct and independent license and an independent contractual obligation of the Licensee and PRPA.

1.2 Definitions from Master Agreement

All capitalized terms used in this Agreement that are defined in the Master Agreement and not otherwise defined in this Agreement shall have the meanings given to them in the Master Agreement.

1.3 Additional Definitions

In this Agreement including the recitals and schedules, the following terms have the following meanings:

- (a) **"Access Area"** means the area described in Schedule C attached hereto.
- (b) **"Access Protocols"** means the access protocols for the access to, construction and maintenance of equipment on, and use of the Site and Lands, as listed in Schedule C.
- (c) **"Annual License Fee"** [REDACTED]
- (d) **"Approvals"** means the approvals listed in Section 5.1.
- (e) **"Commencement Date"** means July 1, 2020, or an earlier date agreed to by PRPA in writing.
- (f) **"CPI"** means the Consumer Price Index (All Items for Regional Cities) for the Province of British Columbia (or any index published in substitution for the Consumer Price Index or any other replacement index designated by PRPA, acting reasonably, if it is no longer published) published by Statistics Canada (or by any successor thereof or any other governmental agency including a provincial agency).
- (g) **"Equipment"** means the antennae, remote radio units, equipment cabinets and enclosures, wires, cables, cable trays, supports, housings, attachments, mounts and other equipment for the provision of telecommunications services described in the Equipment List forming part of Schedule B attached hereto.
- (h) **"Lands"** means the lands and premises described in Schedule A attached hereto.
- (i) **"Land Rights Agreements"** means easements, statutory rights of way, leases, licenses, authorities, permits, arrangements and agreements pursuant to which PRPA has from time to time been granted rights to possess, use or occupy the Lands or a portion thereof, including those listed in Schedule A.
- (j) **"Master Agreement"** means the Amended and Restated Master Agreement entered into by the parties effective the 26th day of June, 2020, as such

agreement may from time to time be amended, supplemented or replaced by written agreement of the parties.

- (k) **"Renewal Term"** has the meaning given in Section 6.1.
- (l) **"Site"** means the location described in Schedule B attached hereto.
- (m) **"Term"** has the meaning given in Section 3.1.

1.4 Schedules

The following schedules attached hereto form part of this Agreement:

- Schedule A - Description of the Lands
- Schedule B - Equipment List, Equipment Plan and Site Location
- Schedule C - Access Protocols
- Schedule D - Approved Navigation Plan
- Schedule E - Licensee Application

ARTICLE 2 – GRANT OF LICENSE

2.1 Grant of License

Subject to Section 5.1, PRPA grants to the Licensee for the Term:

- (a) a non-exclusive license to construct, install, affix, maintain, repair, replace, alter and operate the Equipment at the Site for the Permitted Use; and
- (b) a non-exclusive license to pass and re-pass, at the Licensee's sole risk and expense, over the Access Area, for the purposes of access to and from the Site for the purposes referred to in Section 2.1(a);

subject to the Land Rights Agreements (if any), and upon and subject to the terms, conditions, limitations and restrictions contained in this Agreement and the Master Agreement, which terms, conditions, limitations and restrictions the Licensee covenants and agrees to observe, perform and comply with.

2.2 No Legal Demise

This Agreement does not grant to the Licensee or create any interest in land and, without limiting the generality of the foregoing, does not create or constitute a legal demise.

2.3 Relocation

The Licensee acknowledges and agrees that PRPA may require the relocation of the Site and the Equipment in accordance with the terms and conditions of the Master Agreement.

2.4

[REDACTED]

[REDACTED]

[REDACTED]

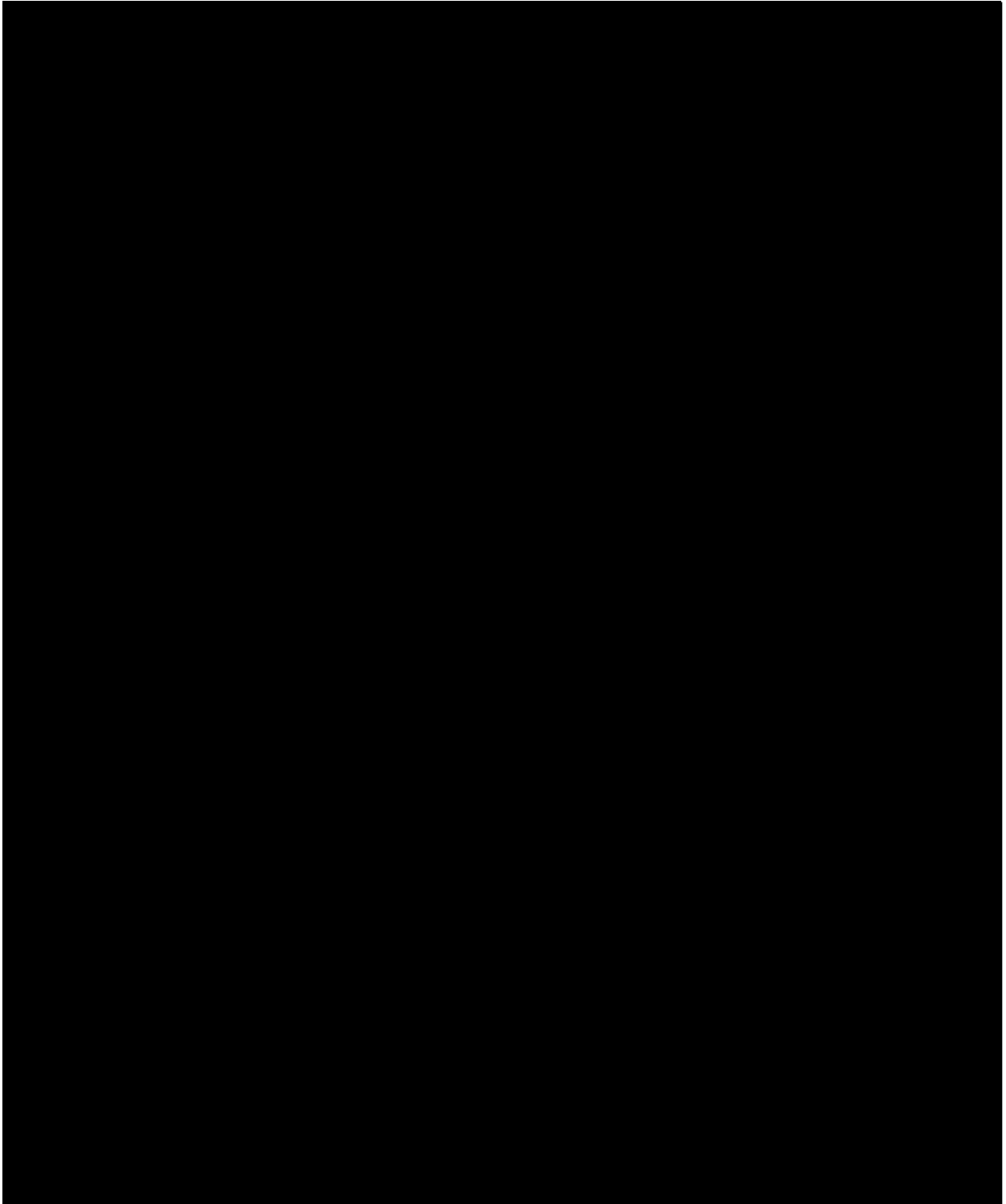
ARTICLE 3 - TERM

3.1 Term

This Agreement shall have a term of ten (10) years commencing on the Commencement Date and continuing until 11:59 p.m. on the day immediately preceding the tenth (10th) anniversary of the Commencement Date (the "**Term**"), unless terminated earlier in accordance with this Agreement or the Master Agreement.

3.2 Effect of Termination of Master Agreement

If for any reason whatsoever the Master Agreement is terminated, this Agreement shall terminate concurrently with the Master Agreement.



ARTICLE 4 - LICENSE FEE

4.1 Annual License Fee

The Licensee shall pay to PRPA for each year of the Term, without any deduction or set off whatsoever, the Annual License Fee, plus all applicable taxes, such payment to be made annually in advance on the Commencement Date and on each anniversary of the Commencement Date during the Term.

The Annual License Fee will be automatically increased each anniversary of the Commencement Date by CPI calculated by PRPA in its usual manner acting reasonably.

In case of any required substitution, PRPA, acting reasonably, shall be entitled to make all necessary conversions for comparison purposes

4.2 Real Property Taxes

In addition to the Annual License Fee, the Licensee shall be responsible for paying in respect of the Site and this Agreement all applicable real property taxes as set out in the Master Agreement.

ARTICLE 5 – SITE ACCESS AND INSTALLATION

5.1 Approvals

Without limiting its obligations under the Master Agreement and this Agreement, the Licensee acknowledges that the license granted pursuant to Section 2.1 is conditional on the Licensee remaining in compliance with its obligations and commitments under each of the following:

- (a) the "KPU fibre optic cable work plan and comments regarding interaction with proposed gas pipeline (revised cable alignment and crossing location)" prepared by the Licensee and approved by PRPA for the Permitted Use by the Licensee of the Site (the "**Approved Plan**") is attached as Schedule D to this Agreement;
- (b) authorizations issued pursuant to the *Canada Marine Act*;
- (c) the Determination Report made pursuant to the *Canadian Environmental Assessment Act*, 2012 (CEAA 2012);
- (d) the Determination Report made pursuant to the *Impact Assessment Act*;
- (e) the requirements set out in the letter from Fisheries and Oceans Canada regarding, "Submarine Fibre Optic Cable Installation, Prince Rupert Harbour, Port Edwards – Implementation of Measures to Avoid and Mitigate the Potential for Prohibited Effects to Fish and Fish Habitat", dated January 22, 2020;
- (f) the *Canadian Navigable Waters Act* permit; and
- (g) any other required governmental approvals.

The Licensee shall at all times conduct its activities on, around or under the Site in strict accordance with the above approvals and all other Required Governmental Approvals. Any changes being sought by the Licensee to any of the above approvals and all other Required Governmental Approvals within or where there is a potential effect on or within the lands or navigable waters of PRPA must be approved in writing in advance by PRPA. In addition, to the extent applicable, the Licensee shall retain a qualified code consultant satisfactory to PRPA to prepare and provide a Code Compliance Report and Safety Code 6 Report to PRPA which confirms that the design and installation of the Equipment complies with all applicable Laws, including all applicable construction, fire and safety codes.

5.2 Site Access

Any access to the Site or the Access Area by the Licensee and the Licensee Parties shall be subject to and only in accordance with the provisions of this Agreement, the Master Agreement, the Access Protocol and under any other agreements under which PRPA is bound with respect to the Lands. PRPA shall notify the Licensee from time-to-time of any such restrictions, or change in such restrictions.

5.3 Responsibility for Installation

The Licensee acknowledges that, notwithstanding the Approved Navigation Plan or any other approvals provided by PRPA, PRPA may require the Licensee to make, at the Licensee's cost and expense, changes to the design and installation, including changes to be made in the field, to address any conflicts with the operation of the Port.

5.4 No Interference

The Licensee acknowledges that the Licensee's activities under this Agreement to install its Equipment shall not take any action, or omit to take any action, that interferes with the operation of the Port. Therefore, the Licensee shall at all times cooperate with PRPA in planning, accessing and working on the Lands and the Site. In addition, notwithstanding anything to the contrary contained herein or in the Master Agreement, the Licensee shall not use the Equipment in a way which physically interferes in any way with or adversely affects the use by PRPA or any third party of any other equipment located on or about the Lands or the Site and shall ensure that the radio frequency used by the Licensee in connection with its Equipment complies with all applicable Laws, including rules established thereunder for the management of radio frequency interference.

ARTICLE 6 – RENEWAL

6.1 Renewal Rights and Annual License Fee During Renewal Term

The Licensee acknowledges that any renewal or extension of the Term is subject to, among other things, the approval of the board of directors of PRPA in their sole discretion. Therefore, the Licensee shall have no right to renew or otherwise extend the Term unless approved by PRPA in its sole discretion and evidenced by agreement in writing between PRPA and the Licensee. If a renewal or extension of this Agreement is so approved and is mutually

agreed upon between PRPA and the Licensee (such renewal term being herein called a **"Renewal Term"**) then, unless otherwise agreed in writing between PRPA and the Licensee concurrent with such renewal, such Renewal Term shall otherwise be on all the same terms and conditions as this Agreement except for the Annual License Fee (which shall be as hereinafter provided). The Licensee shall have no right to dispute the decision of PRPA or PRPA's board of directors not to renew or extend the Term of this Agreement.

6.2 Limitation of Renewal Rights

Notwithstanding Sections 2.1 and 6.1:

- (a) neither the Term nor any Renewal Term shall extend beyond the date that the Land Rights Agreements expire or terminate; and
- (b) if the Land Rights Agreements expire or terminate or are not renewed for any reason, then the Term and this Agreement shall terminate at the same time and PRPA shall give the Licensee notice of such termination.

6.3 Determination of Annual License Fee for a Renewal Term

The Annual License Fee for a particular Renewal Term (the **"Subject Renewal Term"**) shall be specified by PRPA at the time of its approval, if given, of any renewal or extension of this Agreement and shall be set out in the agreement to be entered into between PRPA and the Licensee to evidence such renewal. If for any reason the Annual License Fee is not specified in such agreement then the Annual License Fee payable during such Renewal Term shall be the License Fee last payable prior to the expiry of the Term increased by CPI. Thereafter, the Annual License Fee shall be automatically increased by CPI each anniversary of the commencement of the Renewal Term. CPI shall be calculated by PRPA in its usual manner acting reasonably.

In case of any required substitution of the CPI, PRPA, acting reasonably, shall be entitled to make the necessary conversions for comparison purposes.

The Licensee shall pay to PRPA for each year of a Renewal Term, without any deduction or set off whatsoever, the Annual License Fee for the Renewal Term, plus all applicable taxes, such payment to be made annually in advance on the first day of the Renewal Term and on each anniversary thereof during the Renewal Term.

6.4 Payments by Licensee

The Licensee shall be solely responsible for and shall pay when due all costs and expenses of exercising the Licensee's rights and performing the Licensee's obligations under this Agreement, and the Licensee shall not seek any payment or contribution from PRPA with respect thereto.

ARTICLE 7 - GENERAL PROVISIONS

7.1 Compliance with all Laws

The Licensee shall comply with all Laws with respect to any activities by or for the Licensee pursuant to this Agreement.

7.2 Confidential Information

Documents and information provided by the parties to each other are subject to confidentiality obligations and restrictions of the parties as set out in the Master Agreement, which the parties agree to comply with.

7.3 Assignment by Licensee

The Licensee shall not, without the prior written consent of PRPA (such consent not to be unreasonably withheld): transfer, assign, sub-license or share any of the Licensee's rights or benefits under this Agreement;

- (a) transfer or dispose of any interest in or benefit of the Equipment;
- (b) grant to any third party any right or license with respect to any Site; or
- (c) authorize the use of any Site or Access Area by any Person other than the Licensee Parties;

except to any extent expressly required or permitted by Section 14.5 of the Master Agreement.

7.4 Assignment by PRPA

PRPA may assign or transfer, in whole or in part, this Agreement to any person to whom ownership or administrative control over the Site is transferred.

7.5 Time of Essence

Time is of the essence of this Agreement.

7.6 Waiver and Remedies

No failure to or delay in the exercise of any right under this Agreement on the part of PRPA shall operate as a waiver of such right, nor shall the single or partial exercise by PRPA of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right by PRPA.

7.7 No Changes or Waivers

No changes to or waiver of any provisions of this Agreement or the Master Agreement shall be binding or enforceable unless in writing signed by the parties.

7.8 Entire Agreement

This Agreement and the Schedules attached hereto and forming a part hereof, together with the Master Agreement, set forth all the covenants, promises, agreements, conditions and understandings between the parties with respect to the subject matters hereof and thereof, and there are no other representations, covenants, agreements, conditions or understandings, either oral or written, between them relating to such subject matters. Except as herein otherwise provided, no subsequent alterations, amendment, change or addition to this Agreement or the Master Agreement shall be binding upon either party unless in writing and signed by each of them.

7.9 Priority of Agreements

In case there is any conflict or inconsistency between this Agreement and the Master Agreement:

- (a) if the matter relates to particulars of the Site, the Equipment, the Land Rights Agreements in respect of the Site or the Lands, the Annual License Fee, the Licensee's renewal rights, the matters set out in Section 7.1 of this Agreement or any other matter particulars of which are set out in this Agreement, the terms of this Agreement shall prevail; and
- (b) for all other matters, the Master Agreement shall prevail.

7.10 Notice

All notices, requests, demands, directions, and other communications provided for hereunder must, unless otherwise provided in this Agreement or the Master Agreement, be in writing and shall be deemed to have been given, delivered or made if they are in writing and either emailed, faxed or actually delivered by personal delivery to the applicable party at the following address or such other address for notice of which a party gives notice hereunder:

If to PRPA:

Prince Rupert Port Authority
215 Cow Bay Road
Prince Rupert, British Columbia, V8J 1A2

Attention: President and CEO
Email: projects@rupertport.com
Fax: 250 627-8980

With a copy to:

Attention: General Counsel
Email: generalcounsel@rupertport.com

If to the Licensee:

CityWest Cable & Telephone Corp.
248 3rd Avenue West
Prince Rupert, British Columbia, V8J 1L1

Attention: Donovan Dias
Email: Donovan.Dias@cwct.ca

With a copy to:

Attention: Serina Repole, Executive Assistant
Email: Serina.Repole@cwct.ca

Any notice given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof or if given by facsimile, on the day of transmittal thereof if given

during the normal business hours of the recipient and on the business day during which such normal business hours next occur if not given during such hours on any day.

7.11 Headings

The headings and index in this Agreement and the Master Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement.

7.12 British Columbia Law

This Agreement and the Master Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the parties hereby irrevocably attorn to the jurisdiction of the courts of the Province of British Columbia subject to Section 14.14 of the Master Agreement.

7.13 Relationship

Nothing in this Agreement, nor any acts of the parties pursuant to this Agreement, shall create or be deemed to create any relationship between the parties hereto other than the relationship of licensor and licensee.

7.14 Provisions Severable

If any provisions of this Agreement or the Master Agreements are illegal or unenforceable, they shall be considered separate and severable from the remainder of such agreements and the remaining provisions shall remain in force and be binding on the parties as if the severed provisions had not been included.

7.15 Interpretation

The word "**including**", when following any general term or statement, is not to be construed as limiting the general term or statement to the specific items or matters, but rather as permitting the general term or statement to refer to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement. The terms "**this Agreement**", "**hereof**", "**hereunder**" and similar expressions refer to this Agreement as a whole and not to any particular portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to sections, subsections, clauses, schedules and other parts are to sections, subsections, clauses, schedules or other parts of this Agreement.

7.16 Number and Gender

Words importing the singular number only include the plural and vice versa, words importing the masculine gender include the feminine and neuter genders and vice versa and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.

7.17 Reference to Statutes

A reference to a statute includes all regulations made thereunder, all amendments to the statute in force from time to time, and every statute that supplements or supersedes such statute.

7.18 Further Assurances

Each of the parties agrees to do all such things, sign all such documents and instruments and provide such further assurances as may be reasonably required to carry out the purpose and intent of this Agreement and the Master Agreement.

7.19 Enurement

This Agreement and the Master Agreement shall enure to the benefit of and be binding upon the parties and their heirs, executors, administrators, and permitted successors and permitted assigns.

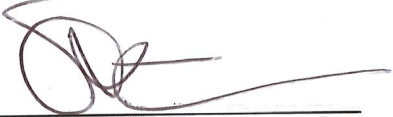
7.20 Counterparts

This Agreement may be signed in as many counterparts as may be necessary, each of which when so signed shall be deemed to be an original, and a facsimile sent by telecopier or a scanned and electronically transmitted copy of an originally signed counterpart of this Agreement shall be deemed, for all purposes, to be an original of this Agreement and such counterparts together shall constitute one and the same document.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their duly authorized representatives.

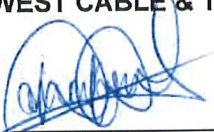
PRINCE RUPERT PORT AUTHORITY

Per:


Name: Shawn Stevenson
Title: President & CEO

CITY WEST CABLE & TELEPHONE CORP.

Per:


Name: DONOVAN DIAS
Title: VP-SALES & PM & INTERIM CTO

SCHEDULE A

DESCRIPTION OF THE LANDS & ENCUMBRANCES

PID: 005-296-048, PARCEL F DISTRICT LOT 447 RANGE 5 COAST DISTRICT PLAN 10474

PID: 014-967-570, DISTRICT LOT 447 RANGE 5 COAST DISTRICT EXCEPT PLANS 10471 10472 10473 10474 10475 10924 10925 10929 10930 10931 10932 AND 10933

PART OF THE BED OF PRINCE RUPERT HARBOUR

CHARGES, LIENS AND INTERESTS

1. Undersurface Rights K10380 in favour of The Grand Trunk Pacific Development Company Limited.
2. Possibility of Reverter L15454 in favour of Her Majesty the Queen in Right of the Province of British Columbia.
3. Possibility of Reverter K12105 in favour of Her Majesty the Queen in Right of the Province of British Columbia.
4. Statutory Right of Way CA7097647 in favour of British Columbia Hydro and Power Authority.

SCHEDULE B

EQUIPMENT LIST, EQUIPMENT PLAN AND SITE LOCATION

The Site Location is as described in Appendices B – D of **Schedule "E"** [Licensee Application].

In addition to the Equipment specified in Article 1, section 1.3 of this Agreement, the Equipment consists of the following:

1. Cast Iron Articulated Split Pipe;
2. Rock Filled Gabion Mats;
3. Concrete Cable Vault; and
4. Submarine Fiber Optic Cable.

All as more particularly described in **Schedule "E"** [Licensee Application].

SCHEDULE C

ACCESS AREA AND PROTOCOLS

The Licensee may only access the Site and install the Equipment after the detailed drawings, work plan and work schedule delivered by the Licensee have been approved by PRPA. Approvals for installation of the Equipment shall be coordinated as set out below, subject to change by prior written notice from PRPA to the Licensee.

The Licensee shall have on-going access to Equipment provided that:

- the access is pre-approved and coordinated with PRPA, as set out below (which contacts are subject to change by prior written notice from PRPA to the Licensee), with no less than seven (7) days' notice by the Licensee prior to the date of required access except that, in the case of an emergency, access shall be provided on a commercial best-efforts basis; and
- the access is by way of an Access Area that is determined by or on behalf of PRPA at or prior to the time of the access.

All access to and work in or on the Site by the Licensee must be in accordance with this Agreement and the Master Agreement, including the Approved Navigation Plan and the Required Governmental Approvals.

Approvals for installation of Equipment to be coordinated and Requests for on-going access to be forwarded to:

Name: Director of Project Services and Director of Infrastructure Planning and Delivery
Email: projectservices@rupertport.ocm
Phone: 250-627-8980

And to:

Name: Manager Marine Operations and Supervisor Marine Operations
Email: harbourmaster@rupertport.com
Phone: 250-627-2522 Ext. 2522

SCHEDULE D
APPROVED NAVIGATION PLAN

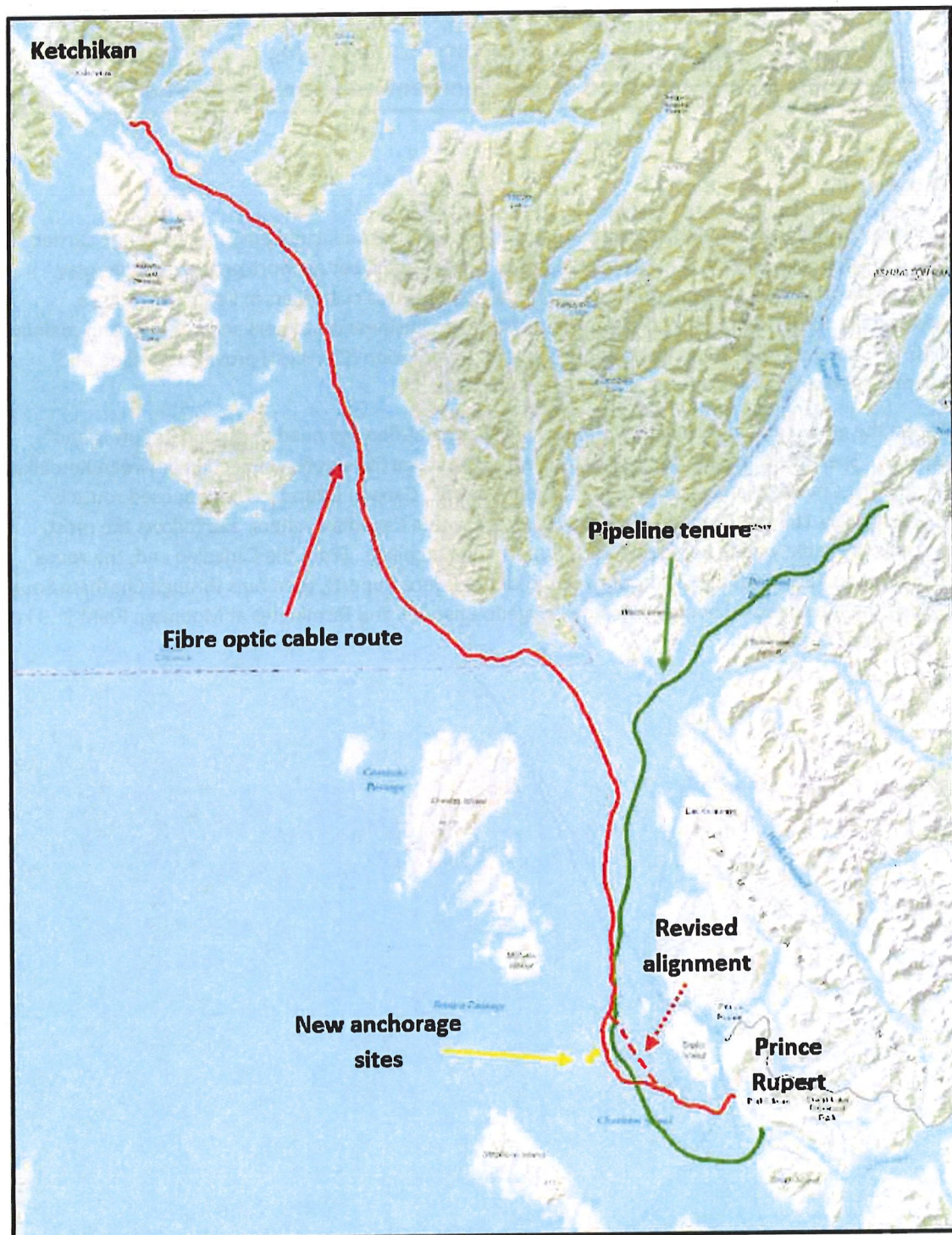
See Attached.

KPU fibre optic cable work plan and comments regarding interaction with proposed gas pipeline (revised cable alignment and crossing location)

Background

Ketchikan Public Utilities (KPU) Telecommunications Division is an incumbent local exchange carrier based in Ketchikan, Alaska, that operates a mixed Copper and Fiber network providing triple-play services (Voice, Video, and Internet) to residential and business customers in Ketchikan, Alaska. Additionally, KPU offers Hosted IP Telephone systems to business customers and has built and maintains a 4G- LTE network. City West Cable and Telephone Corporation (CityWest) provides wireline and internet services in Prince Rupert, British Columbia, Canada.

Due to the growing demands of the internet, KPU has identified the need to expand its “off island” capacity. Specifically, KPU is proposing to construct a subsea fibre optic connection between Ketchikan, AK, and the CityWest landing station in Prince Rupert, BC, Canada (Map 1). The proposed route is approximately 160 km in length, of which 70 km are within Canadian waters, and follows the most easterly navigable waters between Prince Rupert and Ketchikan. From the Canadian end, the route originates on Kaien Island (~ 7 km south of the city of Prince Rupert), then runs through Chatham Sound, crosses the international border, into Revillagigedo Channel, and terminates at Mountain Point (~ 9 km southeast of Ketchikan).



Map 1. Overview of proposed cable route from Prince Rupert to Ketchikan and crossing with existing pipeline tenure.

Work Plan

Cable installation will begin at CityWest's Ridley landing station in Prince Rupert and work towards KPU's landing at Mountain Point near Ketchikan. To connect the subsea cable to CityWest's terrestrial infrastructure, a concrete cable vault will be constructed at the Ridley landing station. A foundation for the concrete cable vault will be prepared above the mean high tide line by excavating the native material to a suitable elevation and grade. The vault will be constructed of precast concrete.

The fibre optic cable will be loaded onboard a cable laying ship, which will then be positioned offshore of the Ridley landing station. A smaller boat will then be used to pull the cable towards the shore and landing station. Balloons will be attached to the cable to prevent it from touching the bottom until it is positioned on the planned route by divers. Onshore equipment may be used to assist in pulling the cable onto land and into the cable vault, where it will be secured. Once the cable has been secured within the cable vault, the cable laying ship will begin to deploy the cable along an approved route. A vessel positioning system will be used to ensure accurate placement of cable within the approved right-of-way. Real time visual confirmation of touchdown conditions via video from a remotely operated vehicle may be necessary if added accuracy is required (e.g., laying through a boulder field).

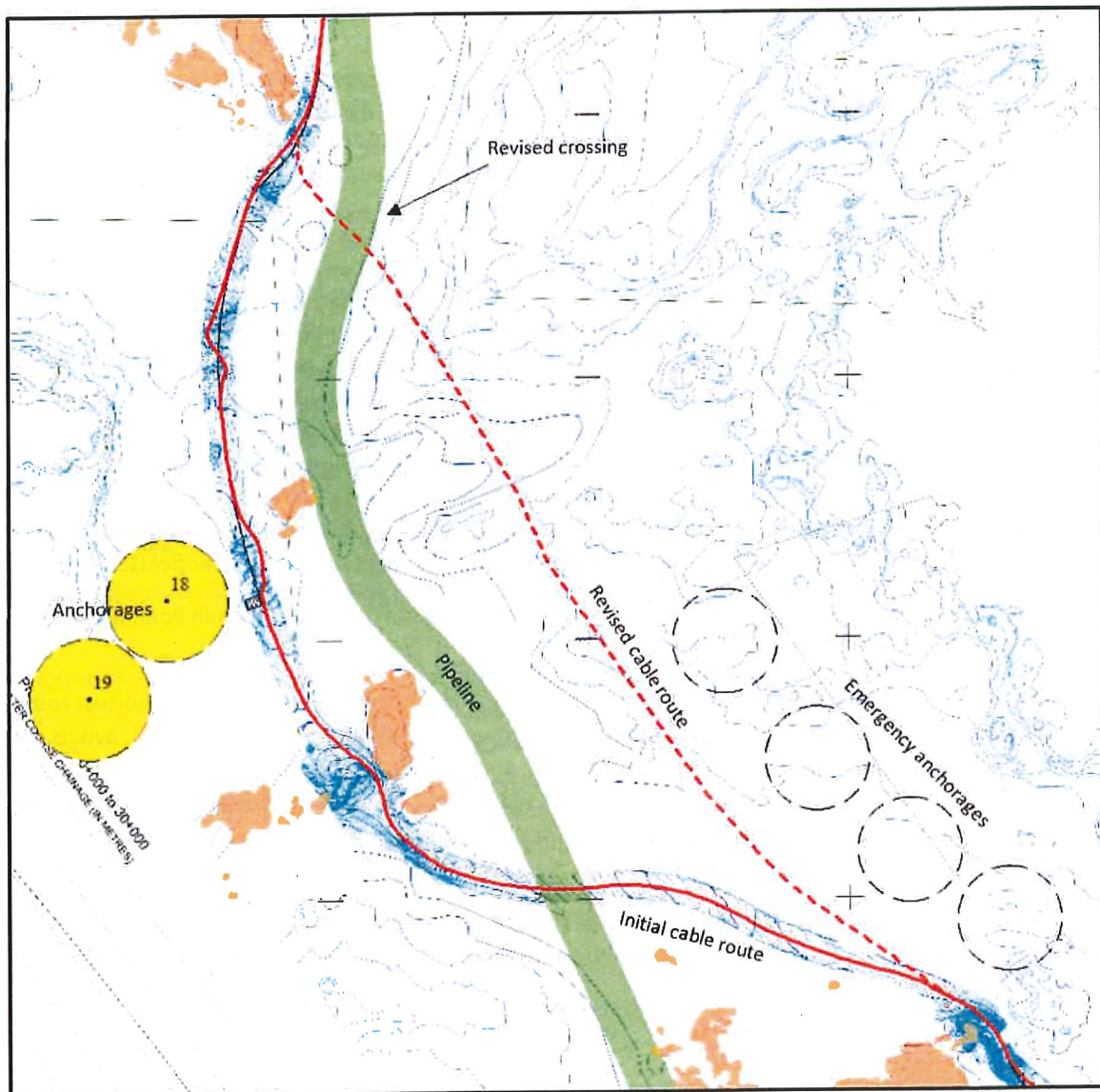
The same process will be used to land the cable at the termination point at Mountain Point as was described for the Ridley landing station.

Route selection was determined by a process that accounted for cable laying feasibility (shortest route possible, avoid areas deeper than 200 m, steep areas, rapid transitions, boulder fields, etc.), avoids risks to cable integrity (e.g., dumping grounds, shipwrecks, anchorages, high traffic areas, fishing grounds, etc.), and protects sensitive environmental features (e.g., avoids glass sponge reefs, conservancies, etc.). Initial route selection was based on available information gathered during various desktop exercises, which was then revised using bathymetric survey data collected during June of 2018.

Cable burial is not proposed for this project. However, physical protection of the cable within the nearshore area will be provided by installation of segmental, cast iron ballasting shells covered with rock-filled gabion mats.

Cable realignment

Due to the close proximity of the initial cable alignment to new anchorage sites (sites 18 and 19), the Prince Rupert Port Authority has requested that the route be shifted to the east. The resulting alignment is shown in Map 2.

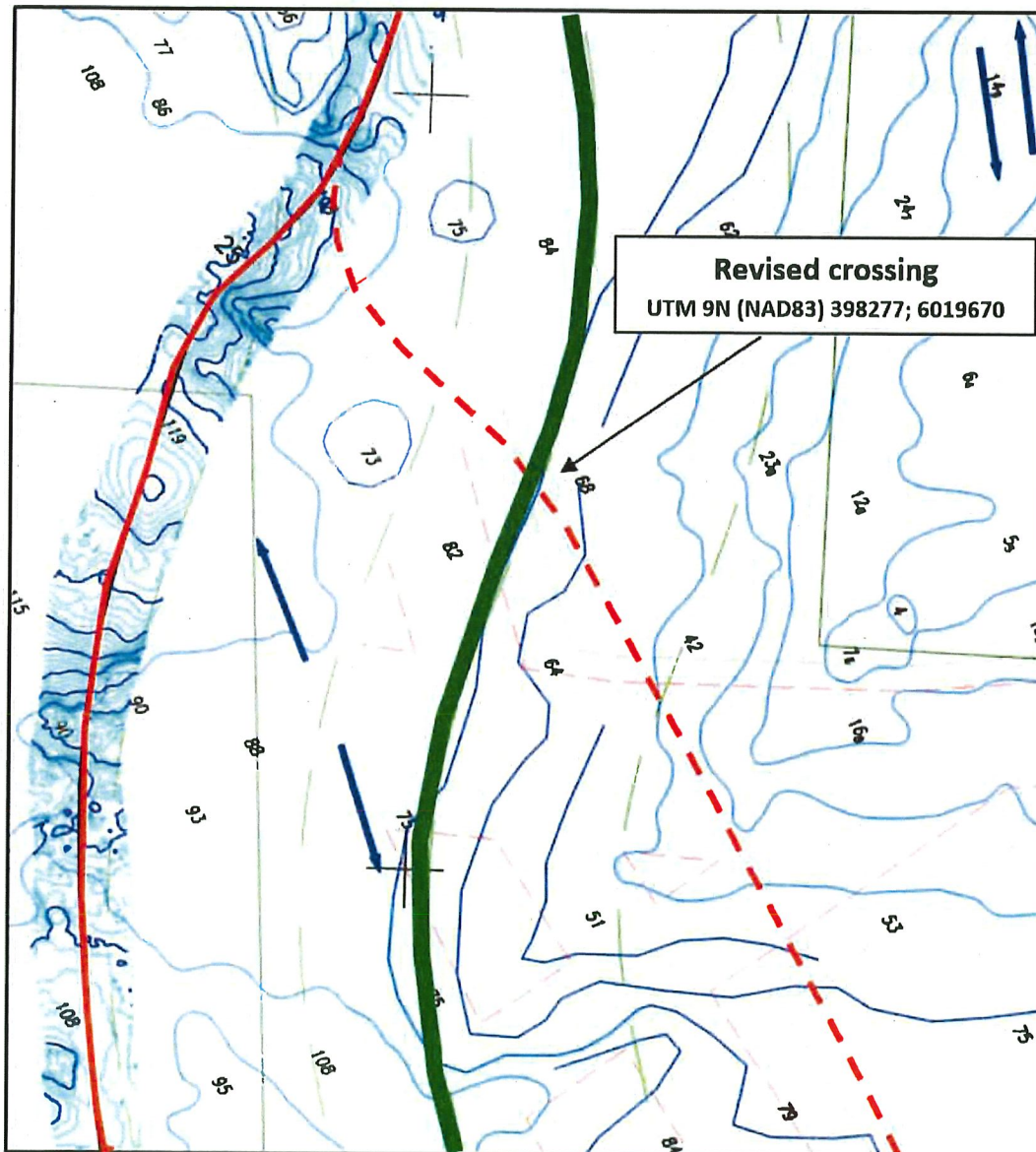


Map 2. Overview of suggested cable realignment required to avoid anchorage sites 18 and 19.

While a bathymetric survey has not been carried out along this revised route, the available data suggests that construction should be feasible. Environmentally, this new alignment does not pose any additional risks and does not impact any habitats or ecosystems of conservation concern (e.g., SAR critical habitats, glass sponge reefs). In addition, the revised alignment now completely avoids the Lucy Island Protection Management Zone.

Interaction with existing Prince Rupert Gas Transmission Ltd. Interim, right-of-way Crown Land tenure (Tenure File Number: 9708463)

As Map 1 shows, the cable route must cross an existing right-of-way for a proposed gas pipeline. The cable realignment described above has also resulted in a revised crossing location, as shown in Map 3.



Map 3. Overview of site where future pipeline would cross the revised cable route.

To best facilitate a future crossing of the fiber optic cable by the pipeline, the cable route was designed to cross this existing right-of-way at a perpendicular angle (minimize extent of interaction) and within a location with relatively benign topographic features. Options to mitigate impacts to cable operation should the pipeline be constructed include:

1. Physically protecting the cable in the vicinity of the crossing or
2. Cutting, splicing, and reinstalling the cable over top of the pipeline.

To facilitate option 2, an additional length of cable at a minimum equivalent of two and a half times water depth at the crossing location shall be left laid in an omega or s-bend in the immediate vicinity of the crossing site. At the revised crossing location, this would require approximately 200 m of extra cable.

Project Application

CityWest Submarine Fibre Link with Ketchikan, Alaska.

Submitted to:

Prince Rupert Port Authority

Submitted by:

City West Cable & Telephone Corp.

Donovan Dias

Vice President, Sales & Project Management

August 28, 2019

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1 Introduction

This application has been prepared for the Prince Rupert Port Authority as a portion of this proposed project is located within lands and waters administered by PRPA. The following sections follow the template suggested within the PRPA Project Application Guide (PRPA Project Development Office, 2014)

2 Name/address of proponent

City West Cable & Telephone Corp.
248 – 3rd Avenue West
Prince Rupert BC V8J 1L1

3 Project Information

3.1 Project name

KetchCan1 Submarine Fiber

3.2 Project purpose

City West Cable & Telephone Corp. (CityWest) is a wireline and internet services provider located in Prince Rupert, British Columbia (BC). The Telecommunications Division of Ketchikan Public Utilities (KPU) also provides internet and wireline service to customers in Ketchikan, Alaska. KPU networks interconnect with other telecom carriers in the USA and also in Canada, using a microwave digital radio (MDR) link that connects its facilities with CityWest's. CityWest has a long-standing relationship with KPU, providing internet gateway, bandwidth and other telecom services, and collaborating in the joint operation of facilities for the existing MDR link.

Due to the growing demands of the internet, KPU has identified the need to expand its "off island" capacity and is proposing to construct a new subsea fibre optic cable linking CityWest's Prince Rupert facility with KPU's Ketchikan facility.

3.3 Location

The submarine cable linking CityWest's Ridley Island facility with KPU's Mountain Point facility is approximately 166 km in length, of which, approximately 10 km are within PRPA lands and waters. CityWest's facility is located on the west shore of Ridley Island at 1415 Ridley Island Road (PID 005296048). From this facility, the cable will enter the Prince Rupert Harbour immediately north of the Prince Rupert Grain conveyor. The proposed cable route then enters Chatham Sound via an alignment that runs south of Digby Island and north of the Kinahan Islands. The cable is then routed through Chatham Sound along the eastern most navigable waters, across the international border into Revillagigedo Channel and terminates south of Ketchikan at Mountain Point (Figure 1).

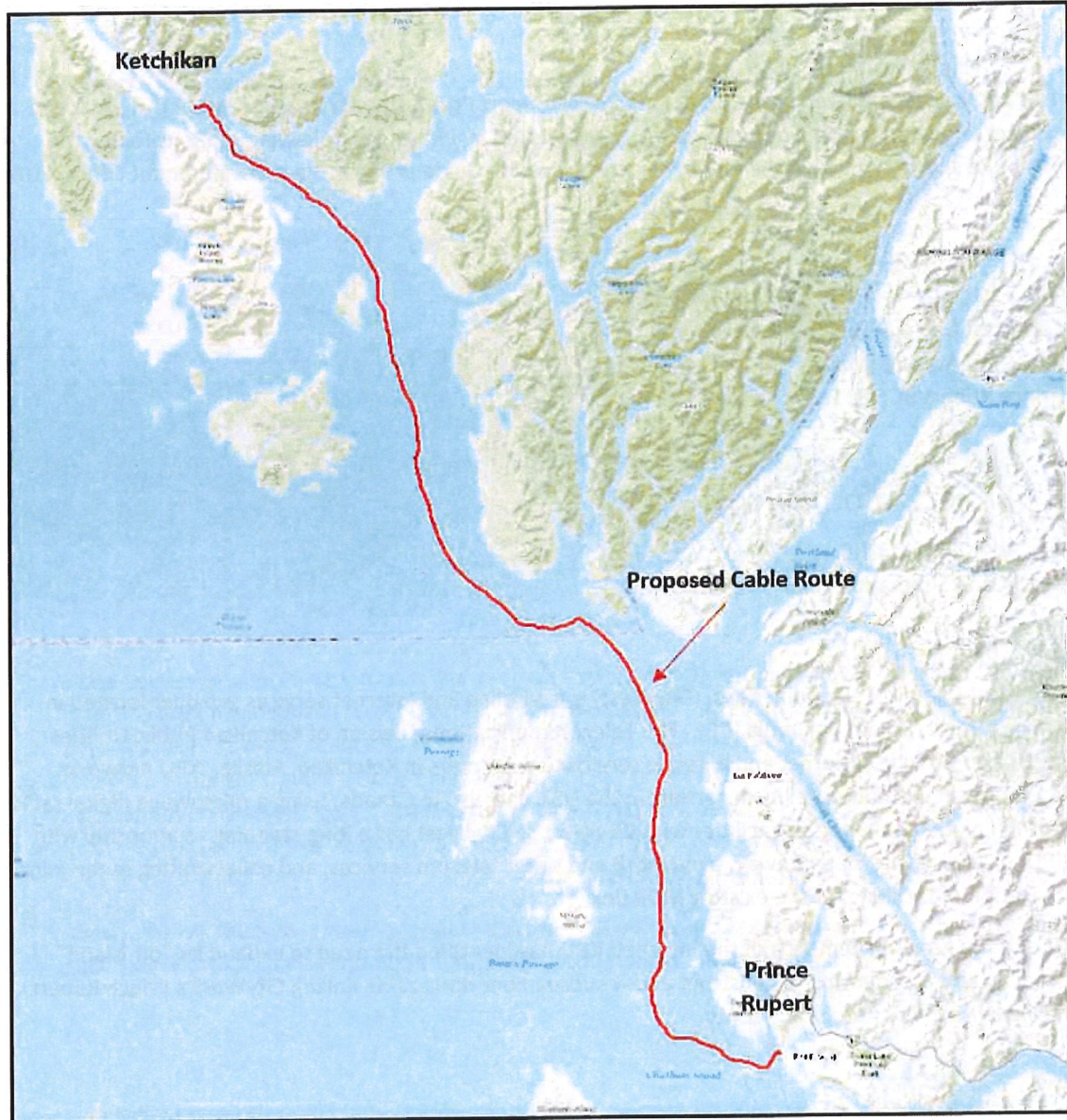


Figure 1. Overview map showing the general location of the proposed submarine fibre optic cable.

Appendix A provides a more detailed 1:125,000 overview of the total cable route. Appendix B provides a 1:10,000 view of the first 16 kilometers of the alignment. Appendix C provides a 1:1,500 close-up view of the approach to Ridley Island. A KMZ file of the cable alignment is available upon request.

3.4 Description of project activities and components

3.4.1 List of substantive equipment used for the project

Equipment necessary to complete terrestrial works will include:

- Excavator(s)
- Small loader/bobcat
- Rock hammer

Equipment necessary to complete marine works will include:

- Cable laying vessel
- Remotely operated vehicle
- Dive boat
- Crew boat

3.4.2 Description of activities and methodology

3.4.2.1 Cable laying

With the cable spool loaded onto a cable laying vessel (Figure 2) and positioned close to the Ridley Island landing station, a smaller boat will pull the cable towards shore with balloons attached to prevent it from touching the bottom (Figure 3). The small diameter cable (<2") will be pulled through the intertidal zone, up onto shore, and to a cable vault located above the mean high tide line, where the cable will be securely anchored to it. Divers will then remove balloons and place the cable along the planned route.



Figure 2. Standard cable laying ship and cable being deployed as ship departs landing.



Figure 3. Cable being pulled ashore from cable laying vessel by a smaller boat. Floats are being attached to cable to prevent cable from sinking. Floats will later be cut by divers who will ensure cable is accurately placed within approved right-of-way.

The cable laying vessel will then begin to deploy the cable along the planned route towards Mountain Point and, using a vessel positioning system, place the cable within the approved right of way with an accuracy of ± 5 m. Real time visual confirmation of touchdown conditions via video from a remotely operated vehicle may be necessary if laying through technically challenging conditions (e.g., laying through a boulder field).

Once the cable nears the Mountain Point landing, the cable laying vessel will be positioned near the shore and cable brought on land in a similar manner as described for the Ridley landing. The cable length required to reach the cable vault will be calculated and cable cut accordingly. The end of the cable will be brought towards the shore using a smaller boat and balloons attached until divers remove them for accurate touchdown within the planned route (Figure 3). The end of the cable will be securely anchored within the cable vault.

The cable will be left on the surface of the ocean floor and will not pose any risks to the environment if damaged (i.e., no internal oils present, therefore, no risk of leaks into the marine environment following any unforeseen physical damage to the cable).

3.4.2.2 Terrestrial works

The subsea fibre optic cable will come ashore at Ridley Island and will be anchored within a precast, concrete cable vault with approximate dimensions of 1.2 x 2.4 x 0.9 m, which will also house the subsea-to-terrestrial cable splice. The vault will be located above the mean high tide line. The vault will be delivered by flatbed truck and lifted into place using an excavator. The concrete vault will have two cast in half shell flange on the sea side (to mate with the articulated split pipe; detailed below under Cable

Protection) and a 100 mm PVC conduit on the terrestrial side. The PVC conduit will transfer the cable to CityWest's facility located immediately east of the cable vault. Appendix D provides further details for the shore landing.

3.4.2.3 Cable Protection

Cable burial is not proposed. Cable protection within nearshore area will be provided by encasing the cable within cast iron, articulated split pipe (ASP; Figure 4), which are installed by divers after the cable has been landed. ASPs are extensively used by the submarine cable industry. These pipes can be installed with minimal impact to existing marine environmental conditions, both during installation and in the longer term. The cast iron pipe is readily colonised by marine flora and fauna and, like the fibre optic cable, is non-toxic and inert in the marine environment. ASP will be installed from the cable vault, through the intertidal zone, and to a depth of 15' below mean low tide.

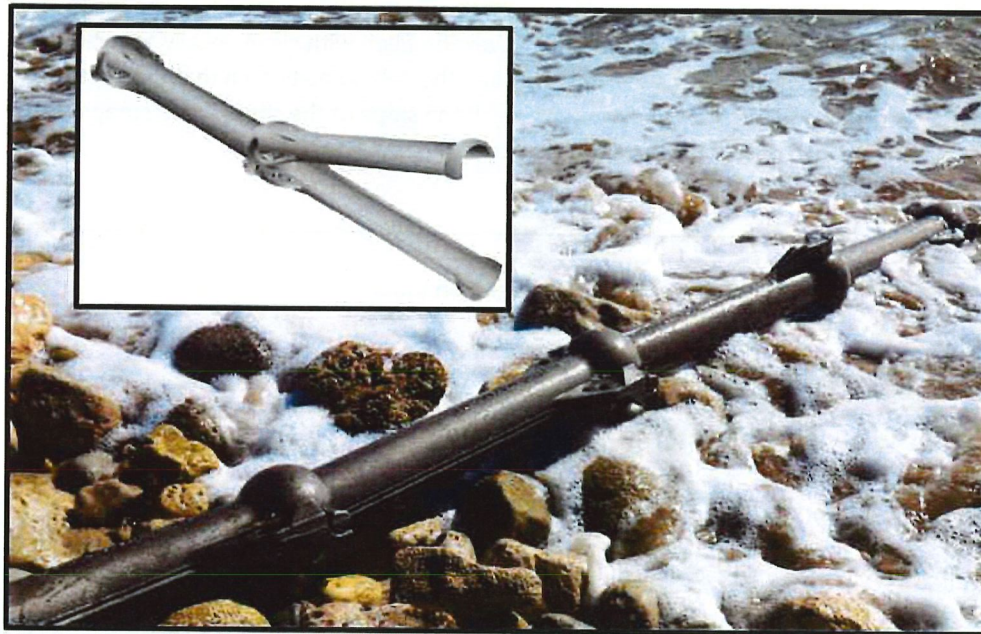


Figure 4. Cast iron, articulated split pipe comes in half shell segments, which are bolted together around the cable to provide both protection and ballast.

Additional cable protection will be provided by laying rock-filled gabion mats (Figure 5) on top of the ASP-encased cable.



Figure 5. Rock-filled gabion mat, similar to the kind that is proposed to be installed for added protection of fibre optic cable from the cable vault, through the intertidal zone, to the mean low tide line.

Gabion mats will be installed from the cable vault, through the intertidal zone, to the mean low tide line, will cover the cable to a depth of approximately 1', and be filled with clean, locally sourced rock (Figure 6). Along the beach, material will be backfilled around the gabion mats such that they better blend in with the local terrain and are not visually obtrusive. If the slope of the shore is too steep to allow for gabion mat placement, the ASP protection will be bolted directly to the rock.

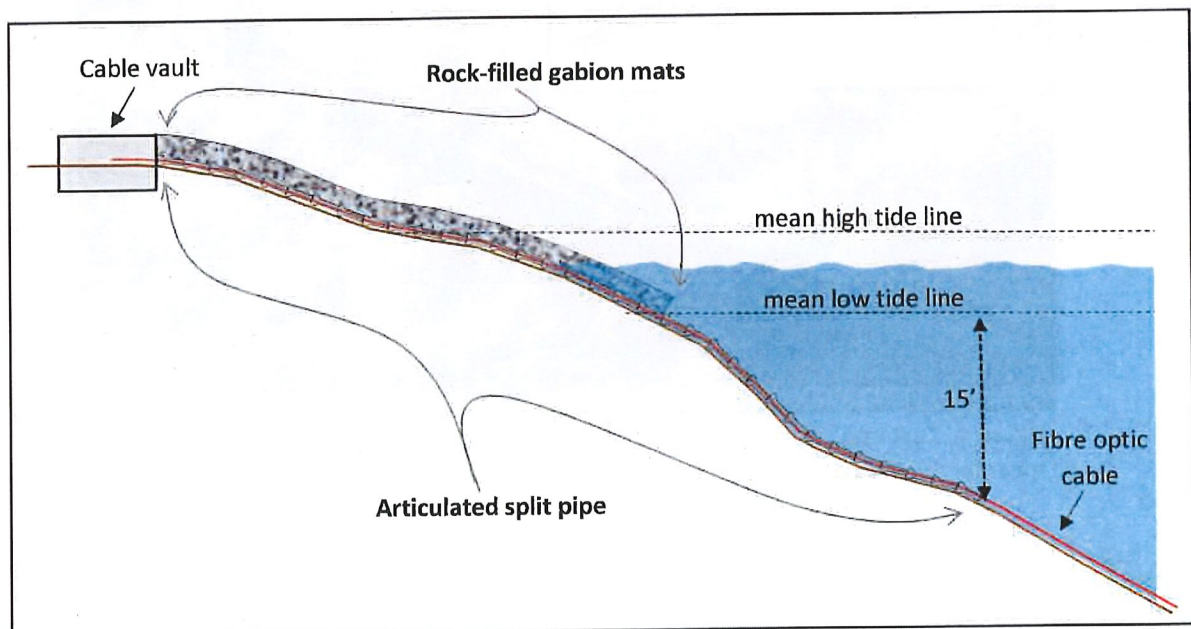


Figure 6. Sketch of proposed near-shore cable protection provided by cast iron, articulated split pipe extending from the cable vault to a depth of 15' below the mean low tide line and rock-filled gabion mats extending from the cable vault to the mean low tide line.

3.4.2.4 Terrestrial Trenching

The terrestrial fibre optic cable (similar to subsea cable with the armoring removed) will exit the cable vault within a 100 mm diameter PVC conduit, which will be installed from the cable vault into CityWest's facility at 1415 Ridley Island Road.

3.5 Navigation plan

3.5.1 Vessel name, description, operator

Unknown as a contractor has yet to be awarded this project.

3.5.2 Description of any associated vessel movements or placement of any obstructions to navigation, either temporary or permanent.

The slow speed (< 2 kts) of the cable laying vessel may cause temporary obstruction to vessel traffic during the cable installation process. This obstruction would be temporary and should be easy to avoid. In addition, Email notification will be provided to the Coast Guard (Notice to Mariners; NOTMAR), which is then communicated to all commercial traffic. Non-reporting traffic would also be routinely informed of cable laying works via frequent security broadcasts on VHF radio. Finally, the on-board marine mammal monitor would provide an enhanced level of vigilance for identifying any nearby traffic and would facilitate appropriate actions to avoid any unwanted interactions among vessels.

The proposed cable alignment avoided any mapped anchorage sites. However, once the cable location has been provided to the Canadian Hydrographic Service, navigational charts will depict this surface-laid cable and, accordingly, will restrict the potential for anchoring along the cable route.

3.5.3 Any other specific navigation considerations.

The presence of a surface-laid cable would impact bottom contact fisheries, such as shrimp trawling, which has historically been prevalent throughout Chatham Sound. However, bottom trawling has recently been prohibited throughout the entire area wherein which the proposed cable will be located (pers. comm., Robert Tadey, Fisheries and Oceans Canada, Groundfish Trawl Coordinator; email, June 20, 2019; Figure 7). As a result, this proposed project will not have any direct impacts or cause any navigational considerations for this fishery.

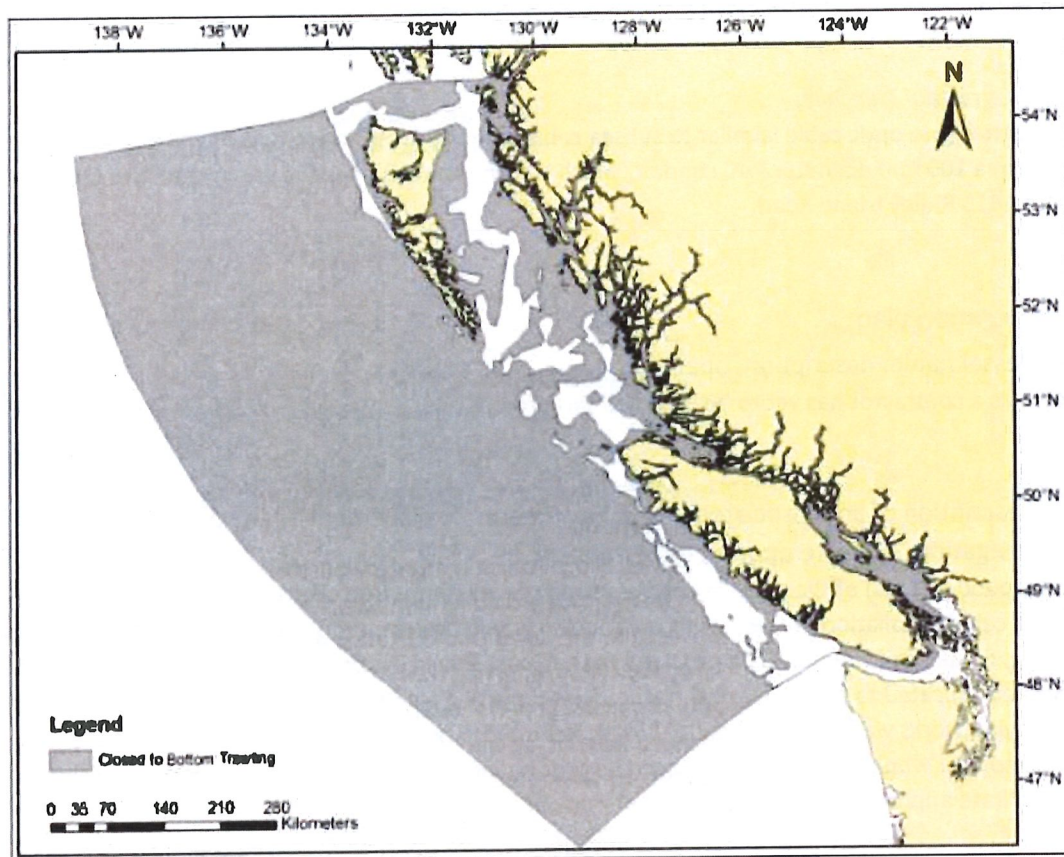


Figure 7. Map showing area recently closed to bottom contact trawl fisheries.

3.6 Schedule.

The general timing of all works (terrestrial and cable lay) is from March through September, 2020. Subsea cable installation is anticipated to take an approximate total time of 10 days. The specific timing for the cable installation is dependent on weather and ocean conditions, however, is expected to take place during late July/early August.

3.7 Reference that a health and safety plan have been prepared.

A project-specific health and safety plan will be prepared by the contractor awarded this project.

4 A summary of First Nations engagement.

All the First Nation communities of the region, without exception, support and are exploring options to advance and exploit connectivity based on the Ketchikan1 Submarine Fiber and other similar projects (e.g., Connected Coast¹). Project-specific engagement is described below.

4.1 Coastal First Nations

On June 1, 2018 - Patrick Kelly, then CEO of Coastal First Nations² (CFN), was contacted by phone and briefed on the proposed KPU link. Plans for subsea surveys were also discussed. Mr. Kelly undertook to brief the CFN board as well as to make personal calls to address details with leaders of Metlakatla and Laxkw'alaam. Several phone calls have since taken place between KPU and CFN executives/managers. Email exchange with CFN is summarized below.

June 2, 2018 - Email to Mr. Kelly with outline of project plans.

June 3, 2018 - Email reply from Mr. Kelly confirming briefing CFN board and calling community leaders.

June 4, 2018 - Email to Mr. Kelly with details of survey plans.

June 26, 2018 - Email to Mr. Kelly with survey progress update.

June 19, 2019 - Email to CFN Board providing briefing material, including maps with planned cable routes for this, and other projects (e.g., Connected Coast).

November 12, 2018 - Land tenure application submitted to FrontCounter BC, which resulted in further outreach to several First Nations. The resulting questions and concerns, as well as responses to these, are summarized below.

4.2 Kitsumkalum First Nation – March 19, 2019

Questions/concerns communicated via email on March 15, 2019. Email response provided on March 19.

Q - Kitsumkalum's main concern with this project is regarding the laying of the cable through areas of known glass sponge reefs. The report identifies that "Potential impacts to sensitive glass sponge reefs were minimized by a cable route designed to avoid all known reefs mapped by DFO and confirmed during Project bathymetric surveys". Kitsumkalum would like more detailed information on how the cable laying through these sensitive areas is proposed to be conducted. What does "minimized impacts" mean? Will there be impacts? Are there specific plans and commitments of how far away from the reefs the cable will lay? Are there plans or commitments if areas of sponge glass reef are unavoidable?

R - The proposed method for cable laying in the vicinity of any glass sponge reef is simply to lay the small diameter cable directly on the sea floor. Of primary concern for sponge reef conservation is to minimize

¹ For more information about the Connected Coast project, see www.connectedcoast.ca.

² The Coastal First Nations (CFN) is an alliance including member nations of Wuikinuxv, Heiltsuk, Kitasoo/Xaixais, Nuxalk, Gitga'at, Metlakatla, Old Massett, Skidegate, and Council of the Haida Nation and has been the primary point of contact for First Nations engagement for this project.

any direct physical disturbance and/or excessive sedimentation to these reefs. This project takes advantage of the recent comprehensive mapping of glass sponge reefs completed by DFO in 2018, which identified not only healthy reefs, but also damaged, dead, and buried reefs. Further refinement/confirmation of the DFO mapping was carried out during survey of the proposed cable route; however, no new reefs were identified during this phase of work. As a conservative approach, the proposed cable route was carefully designed to avoid all of the reef classes, not just the healthy reefs. No minimum distance to mapped reefs was used; however, with a touchdown accuracy of +/-5 m, direct impacts to any reefs is considered very unlikely. Once in place, the inert cable will not pose any threat to existing reefs or limit any expansion of reefs in the future.

Impacts to glass sponge reefs associated with this project will be minimized by a benign method of cable installation (laying cable on sea floor as opposed to burying the cable with a trencher or water jetting) and a cable route that was designed to avoid all traces of these reefs; healthy, damaged, dead, and buried.

4.3 Gitxalaa Nation – April 3, 2019

Questions/concerns communicated via email on April 1, 2019. Email response provided on April 3.

Q - Has the Proponent engaged with the Department of Fisheries and Oceans (DFO) to date on their self-assessment determination and effectiveness of the proposed mitigations to avoid serious harm?

R - Attempts were made to engage with DFO regarding a review of this project; however, we were told that no DFO involvement would be required/possible if the self-assessment concluded no serious harm to fish. It is possible that further interaction with DFO may occur as part of the environmental oversight resulting from the International Submarine Cable Landing Licence that has been applied for with ISED. This application is ongoing. We have also been engaged with Dr. Anya Dunham (DFO, Research Scientist, Habitat Ecology Program, Marine Spatial Ecology and Analysis Section, Ecosystem Sciences Division) since September of 2017 regarding efforts to avoid any impacts to the recently discovered glass sponge reefs throughout Chatham Sound. This correspondence provided timely spatial data that allowed the proposed cable alignment to avoid impacts to this sensitive ecosystem.

Q - How will the Proponent ensure they are adhering to recently revised requirements of the Fisheries Act Marine Mammal Regulations? Will there be a marine mammal observer on board?

R - Required minimum distance to marine mammals detailed within the revised MMA will be adhered to with the aid of an on board environmental monitor.

Q - Will the Project interfere with any of the approved or proposed habitat offsets for the vicinity of Ridley Island?

R - We are not aware of any offsetting plans that would be impacted by this project. The offsetting plans associated with the LNG development on Lelu Island are south of our project. The proposed

Fairview/Ridley Connector Road (Prince Rupert Port Authority) may have offsetting plans that could be impacted by our project. To date, engagement with PRPA has not indicated any conflicts in this regard.

Q - Has the entire route of the proposed cable been ground truthed by a Remote Operated Vehicle (ROV) to confirm that there will be no potential impacts to sensitive glass sponge reefs that may be unknown to DFO and not yet mapped?

R - Detailed mapping of glass sponge reefs was recently (2018) completed throughout Chatham Sound by DFO and was used during the preliminary determination of a cable route. This desktop exercise allowed the proposed alignment to avoid all categories of glass sponge reefs, which included live, degraded, dead, and buried. During the bathymetric survey phase, an ROV was used to confirm that the sonar used for the route survey was able to accurately detect glass sponge reefs identified during the DFO survey; which it was. The ROV was not used to assess the entire route; however, confidence is high that all glass sponge reefs have been avoided.

Q - What is the rationale in landing the cable on Ridley Island? Please clarify what, if any, interests the Port of Prince Rupert may hold in this project?

R - The cable is proposed to be landed on Ridley Island because of City West's facility that is located there. We are not aware of any interest that PRPA may have in this project; however, negotiations between City West and PRPA are ongoing.

Q - Please provide additional information about "standard operating procedures for any commercial marine works [that] should limit any potential for negative interaction of this project with any marine traffic."

R - Email notification will be provided to the Coast Guard (Notice to Mariners; NOTMAR), which is then communicated to all commercial traffic. Non-reporting traffic would also be routinely informed of cable laying works via frequent security broadcasts on VHF radio. In addition, the slow speeds of the cable laying vessel should make any temporary conflicts avoidable and likely of minor consequence to any marine traffic. Finally, the on-board marine mammal monitor would provide an enhanced level of vigilance for identifying any nearby traffic and would facilitate appropriate actions to avoid any unwanted interactions among vessels.

Q - How will the Proponent ensure that non-motile benthic sea creatures, are not harmed by laying the cable?

R - Laying of the cable on the sea floor may have a small impact on non-motile benthic organisms. However, the very limited footprint associated with laying this small diameter cable (<2") on the sea floor is expected to only have minimal, short term, and insignificant impact on this, and any other class of organisms. Scientific studies often conclude that the placement of submarine telecommunication lines have insignificant impacts to the environment and that the impacts that do occur are often short-

term and limited to the immediate vicinity of the cable. In addition, if the cable is installed within an area of soft sediments, the presence of a hard surface (the cable) can function as an anchor point for many organisms. This "reef effect" can result in an overall positive impact to species diversity, although, depending on the site-specific conditions, there may also be negative impacts associated with encouraging the establishment of organisms not typical of the pre-disturbance ecosystem. With regards to impacts to existing non-motile benthic sea creatures; the placement of an inert, small diameter fibre optic cable is not expected to have any long-term negative effects and, if anchoring substrates are limiting, the reef effect may even benefit this community.

Q - Please provide more information regarding the "applicable regulations and standard BMPs for proposed works" that will be employed to mitigate.

R - The term "regulations" was intended to reference all legal instruments (Acts, regulations, policies, etc.) which all construction activities are required to adhere to, as well as best management practices, guidelines, and international conventions that have as their objectives to avoid/prevent and minimize impacts to the environment. Of particular relevance for our proposed project is the Fisheries Act (Marine Mammal Regulations), Species at Risk Act, Migratory Birds Convention Act, Canadian Environmental Assessment Act, Canadian Environmental Protection Act, and Canada Shipping Act (particularly the Vessel Pollution and Dangerous Chemicals Regulations and Ballast Water Control and Management Regulations), BC Wildlife Act, and Environmental Management Act (Contaminated Sites Regulation, Hazardous Waste Regulation, Spill Reporting Regulation, and Waste Discharge Regulation), international conventions, including the International Maritime Organization's Convention for the Prevention of Pollution from Ships (MARPOL Annex I and III), and general BMPs, such as the mitigation measures recommended by DFO to avoid causing harm to fish and fish habitat (i.e., project planning, ESC, fish protection, and operation of machinery). The primary mitigation strategy for the proposed project is spatial avoidance of sensitive environmental features, which was accomplished during the design phase. Because of the low environmental impacts inherent with the proposed cable installation process (short term construction disturbance, slow moving cable laying ship, minimal construction footprint, and inert construction materials) and limited or no disturbance associated with operation, the standard operating procedures required by the aforementioned legal instruments and guidelines are expected to be sufficient to avoid or minimize potential impacts such that any residual effects would be considered insignificant. The once task-specific mitigation measure that is proposed is to have a Qualified Environmental Professional on board during cable laying works to monitor for marine mammals to ensure compliance with the Marine Mammal Regulations.

Q - Have any Remote Operated Vehicle studies been performed on the proposed cable route to ensure that sensitive marine ecosystems are not disturbed?

R - All known sensitive habitats (e.g., mapped critical SAR habitats [ECCC]), sensitive ecosystems (e.g., glass sponge reefs [DFO], kelp or eelgrass beds [PNCIMA]), and areas managed from conservation purposes (e.g., Lucy Islands Conservancy [BC Parks], Metlakatla Pass Protection Management Zone [North Coast Marine Plan]) were avoided by the proposed cable route. The one exception, as indicated in the application, is that the proposed cable route does enter the Lucy Island Protection Management

Zone. However, the installation of a subsea cable > 1.3 km from Lucy Island is expected to adhere to the management objectives of this PMZ, which are to conserve nesting birds, cultural values, and marine harvesting. ROV surveys were carried out within technical portions of the alignment (driven by construction feasibility, not environmental concerns) as well as within nearshore habitats. The latter were carried out, in part, to identify any environmental issues that could impact construction. The only issue that was identified by the ROV assessments was the presence of eelgrass beds in the vicinity of the US landing site at Mountain Point, south of Ketchikan, Alaska. This landing site has since been revised and will require additional survey to assess potential environmental impacts and mitigation, as necessary.

Q - What engagement, if any, has occurred with members of bottom contact fisheries and salmon gillnetters that may be impacted by the construction activities?

R - The only contact that has been made with regards to fisheries occurred in June of 2018 when DFO was contacted to inform them of the proposed project and to try to get information to minimize potential impacts to bottom contact fisheries. The individuals contacted were Dan Clark (Resource Management Biologist) and Coral Keehn (Shrimp Resource Manager).

4.4 Kitselas First Nation – April 23, 2019

Questions/concerns communicated via email on April 5, 2019. Email response provided on April 23.

Q - Section 4.1.7 of the Management Plan indicates the potential for spills into marine habitats during construction. As leaks and minor spills occur somewhat frequently in construction (e.g. AltaGas has had over 5 spills to land/water throughout construction of the RIPET on Ridley Island), Kitselas recommends that machinery utilize biodegradable hydraulic oil when conducting work near water.

R - We agree and will revise the management plan to reflect this recommendation to propose environmentally friendly hydraulic oil (non-toxic to aquatic life and readily or inherently biodegradable) within machinery working below or within 30 m of the mean high tide line.

Q - Section 4.1.7 of the Management Plan indicates the potential for acoustic disturbance to marine mammals. However, the Mitigations column of this section states that "acoustic disturbance produced by the proposed construction methods are not within the frequency range of concern to marine mammals." As a variety of marine mammals with different hearing ranges occur in the project area, please specify the frequency range of acoustic disturbance produced by the proposed construction methods. Mitigation measures may be required.

R - It is virtually impossible to eliminate all acoustic impacts from any endeavour, and this is particularly true in marine habitats. While the focus of research on acoustic impacts to marine mammals has been on very low frequency and loud disturbances such as those resulting from seismic airgun blasting/exploration (which have been linked to serious harm such as stress, injury, and even death), studies are increasingly considering all types of acoustic disturbance as potentially harmful to all marine animals (mammals, fish, and invertebrates). The most pervasive acoustic disturbance that is anticipated

during the installation of the fibre optic cable will be the noise generated by the cable laying vessel itself. While vessel noise tends to be higher in frequency (Hz) and lower in intensity (dB) than those metrics typically associated with serious harm to marine mammals, the specific acoustic signature of any ship is highly variable as it is a function of operating conditions (load, RPM, etc.), underwater terrain, and vessel-specific (e.g., engine, propeller). The most frequently cited method of mitigating/minimizing acoustic disturbance associated with vessel noise is to decrease the speed of the vessel (e.g., DFO's 2017 publication - Evaluation of the Scientific Evidence to Inform the Probability of Effectiveness of Mitigation Measures in Reducing Shipping-Related Noise Levels Received by Southern Resident Killer Whales). Because of the very slow speeds used by cable laying vessels (< 3 kts), vessel speed and associated noise cannot be feasibly further reduced. Having a marine mammal monitor on board the cable laying vessel and suspending construction activities if any cetacean or SARA-listed mammal is observed within a safety zone will further mitigate any negative impacts that construction noise may have on marine mammals.

Q - Section 3 of the Management Plan indicates that the cable vault construction will be occurring "above the mean high tide line". As the mean high tide line is an average of high tides over time (i.e. years), the water line may rise above this point during construction. It is recommended that the Licence holder ensure that construction of the cable vault takes place during a time when no high tide exceeds the cable vault construction area. It is also recommended that the Licence holder ensure that construction/placement of the fore and nearshore cable protection always occurs at low tide (i.e. when the tide is below the construction area).

R - We agree completely with these concerns and will require that all steps to be taken to avoid ever conducting shore and near-shore works in the water (i.e., carefully planned to coincide with low tides). That said, some near-shore works will have to take place within the water, such as installing cable protection to a depth of 5 m below mean low tide line. Any works in the wet will be carried out entirely by hand (i.e., machines will not be permitted to work within the water).

4.5 Gitga'at First Nation – June 11, 2019

Questions/concerns communicated via email on May 23, 2019. Email response provided on June 11.

Q - The preferred timing of the construction being July-August may have impacts on First Nations values as it is the peak time for both Commercial and Aboriginal fisheries for salmon.

Q - The area to the north is also an area where some people may fish for groundfish using longlines. Small vessel gear may not be strong enough to pick up the cable but it may be strong enough to damage it.

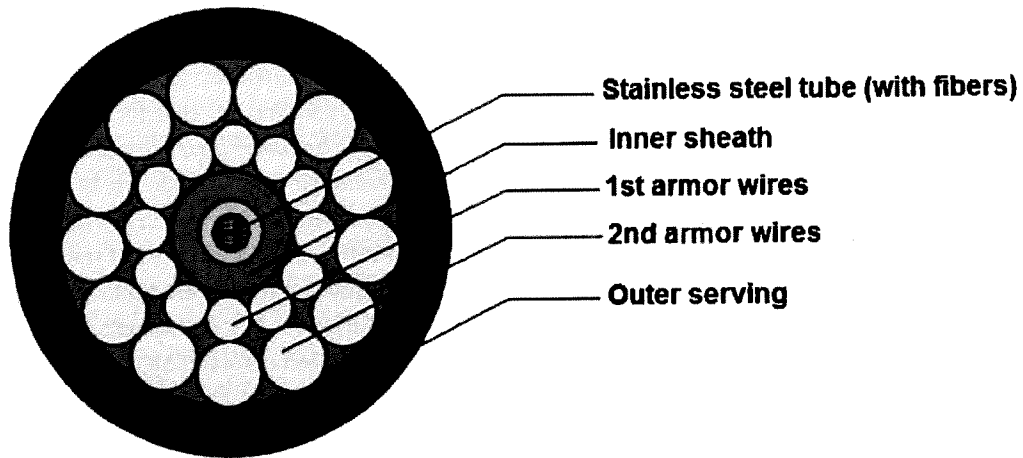
Q - We would like to learn more about the details of the actual cable to see if there is a risk of our fishermen damaging the cable.

R - With regards to timing of construction, the July-August period is being proposed due to concerns related to safety and construction feasibility as there is a much increased chance of rough seas outside of this summer period. While this period may overlap with times of harvest, impacts to fishing, or vessel

traffic in general, is expected to be minimal. Impacts to any activities in the vicinity of construction are predicted to be minimal for 2 main reasons. The first is that the cable laying ship will be travelling at very slow speeds (< 2 kts), which suggests that avoidance will be easy and unexpected interference very unlikely. Secondly, while the cable laying ship works at very slow speeds, progress is expected to be steady, suggesting that any impacts to a given fishing area would be very short-term and measured in hours, not days or weeks. While the construction process is inherently low impact, additional mitigation will be applied to further reduce any potential for negative interactions between construction and other groups. Notably, e-mail notification will be provided to the Coast Guard (Notice to Mariners; NOTMAR), which will then be communicated to all commercial traffic. Non-reporting traffic will also be routinely informed of cable laying works via frequent security broadcasts on VHF radio. While risks of snagging the cable via longline fishing is not zero, probabilities would be very low due to the fact that such fishing does not drag gear along the seafloor. In addition, a primary focus during the installation process is to have the cable lie directly on the sea floor (i.e., avoid cable being suspended between high points), which will both increase the likelihood that the cable will become incorporated into the sea floor over time and minimize the potential for any fishing gear becoming snagged. The final cable locations will be provided to both the Coast Guard and Canadian Hydrographic Service to ensure that this cable is clearly and accurately depicted on navigational charts. In addition, a cable awareness campaign has been proposed that would include outreach to the local fleet and fisheries associations to alert them of the presence of this cable. We would welcome any additional suggestions of mitigation steps for further minimizing any potential impacts resulting from this project.

Some general specifications of this armored cable are provided in the cable cross section drawing in Figure 8. While the drawing is typical of the cable that is proposed, it is not necessarily the final spec as the decision for procurement will come at a later stage. Outside diameter of the cable is about 1" to 1.25". Surface laid cable typically has only minimal and temporary environmental impacts. Due to its small size, light weight and slow rate of touch down on the ocean floor, any disruption of sea life on the ocean floor should be minimal and short-term. On soft substrates, the cable is expected to self-bury over time. The cable will not pose any risks to the environment if damaged (i.e., no internal oils present, therefore, no risk of leaks into the marine environment following any unforeseen physical damage to the cable) and is non-toxic, inert, and made of materials that are readily colonized by marine flora and fauna.

4. CABLE CROSS SECTION



5. CABLE CHARACTERISTIC

Cable Structure

Stainless steel tube (with fibers)	Nom. O.D	3.8mm
Inner sheath	Nom. O.D	10.0mm
1 st layer steel wire armor		12no./ 3.3mm
2 nd layer steel wire armor		13no./ 5.0mm
Outer serving(PP-yarn + Bitumen)	Nom. O.D	31.5mm

Physical Characteristic

Weight in air	3.2kg/m
Weight in sea water	2.5kg/m
Ultimate tensile strength (UTS)	420kN
Nominal temporary tensile strength (NTTS)	300kN
Nominal operating tensile strength (NOTS)	210kN
Nominal permanent tensile strength (NPTS)	150kN
Min. bending radius (installing)	1.20m
Min. bending radius (operating)	0.80m
Crush resistance (IEC-794-1-E3)	30kN
Impact resistance (IEC-794-1-E4)	400Nm
Working temperature	-20~+50℃
Storage temperature	-30~+60℃

Figure 8. Typical specifications for a cable similar to what may be used in this project.

4.6 Lax Kw'alaams First Nations – June 19, 2019

Questions/concerns communicated via email on June 10, 2019. Email response provided on June 19.

Q - In regards to the accuracy of laying the cable (5m). Is there any way to get the accuracy better? If so, Lax Kw'alaams would like to see that tightened up (just to ensure that the damage being done to the bottom of the ocean is restricted).

R - Little to no environmental damage is expected from the placement of this cable on the sea floor and any impacts that do occur should be temporary in nature. The small cable (outside diameter of 1 to 1.25") will be laid directly on the sea floor without any trenching or jetting. Due to its small size, light weight, and slow rate of touch down on the ocean floor, any disruption of sea life on the ocean floor should be minimal and short-term. On soft substrates, the cable is expected to self-bury over time. The cable will not pose any risks to the environment if damaged (i.e., no internal oils present, therefore, no risk of leaks into the marine environment following any unforeseen physical damage to the cable) and is non-toxic, inert, and made of materials that are readily colonized by marine flora and fauna.

The +/- 5 m accuracy mentioned in the application is a description of the typical precision possible for cable touchdown within deep waters installed by standard cable laying ships using a vessel positioning system. The actual accuracy is a function of water depth, wave action, currents, and wind. Because of the number of variables impacting cable placement, it would be misleading to suggest that higher accuracy would be possible; particularly in deep water. However, when increased accuracy is required, such as when laying cable near sensitive environmental features (e.g., glass sponge reefs) or through technically challenging areas, such as a boulder field, a remotely operated vehicle (ROV) can be used to provide a live, visual aid for cable touchdown. It should also be noted that cable laying within the nearshore area will be facilitated by divers and the resulting accuracy will be much improved throughout this environmentally sensitive area. Finally, as-built drawings will be provided once the cable has been installed and will provide a very accurate description of the final location of the cable.

Q - Lax Kw'alaams is concerned about the marine life found in the water and at the bottom of the sea floor, Will animal salvage (specifically of sessile invertebrates) be completed before the cable is laid. If not, can the proponent quantify the species and abundance of these invertebrate which will be killed? Will the proponent ensure mitigation measures are put in place?

R - Due to no cable burial being proposed (i.e., no trenching or jetting) and minimal footprint resulting from laying a 1 to 1.25" diameter cable on the sea floor, any impacts to marine life is expected to be very minimal and short-term in nature. Due to the slow rate of cable touchdown, any mobile benthos would be able to avoid impacts by moving just a short distance away. While there is some potential for cable laying to have a limited impact on slower growing, vulnerable, or fragile sessile species (Merck and Wasserthal, 2009. Assessment of the environmental impacts of cables. OSPAR Commission. 19 pp), the only such ecosystem known within our project area are the glass sponge reefs. Because these sensitive ecosystems have been accurately mapped and avoided during the design phase of this project, no impacts are expected to these fragile reefs. For these reasons, no animal salvage is proposed.

Q - With the installation of the cable vault and the rock hammering that will be done on the ground. Lax Kw'alaams is concerned that the vibrations may interfere with fish navigation and other marine mammals. While the rock hammering is being conducted, Lax Kw'alaams would like there to be a bubble curtain put in place to disperse any vibrations, install a hydrophone in the water within 200 m of the shore to ensure that noise levels do not get over 120dB. Lax Kw'alaams would also like there to be a marine mammal observer on site during this process with the ability to stop work until the marine mammal(s) has moved out of the area.

R - Minimizing acoustic and shockwave disturbance to aquatic animals is a priority for this project and the reason that rock hammering was proposed instead of blasting. As was discussed with Katherine Butts (Senior Fisheries Biologist with Lax Kw'alaams) on the phone, hydrophone monitoring to ensure that noise disturbance does not exceed 120 dB within 200 m of the shore seems unnecessary given information I was able to find in the literature. Specifically, rock hammering generates about 118 to 122 dBA at the source (Varhan and Murthy. 2007. An experimental investigation of jack hammer drill noise with special emphasis on drilling in rocks of different compressive strengths. *Noise Control Engineering Journal*, 55(3): 282-293), which decreases to approximately 85 dBA less than 20 m from the source (Thalheimer, E. 2000. Construction noise control program and mitigation strategy at the Central Artery/Tunnel Project. *Noise Control Eng. J.* 48(5): 157-165). Consequently, noise disturbance at the shoreline should be much less than 85 dBA and, by further extrapolation, considerably less 200 m beyond that.

With regards to installing a bubble curtain to attenuate underwater shock waves, I was unable to find any precedents for where this had been applied to mitigate terrestrial works (typically applied around in-water, point sources of disturbance). The only shockwave threshold for protecting marine animals that I have come across suggest that in-water peak particle velocity should be less than 13 mm/s to protect fish (DFO. 1998. Guidelines for the Use of Explosives In or Near Canadian Fisheries Waters). I was unable to find any literature on in-water shock wave levels expected from terrestrial rockhammering works, however, in-air shockwaves have been described as less than 1 mm/s at 4 m from the source (Andrews, J. et al. 2013. Transportation and Construction Vibration Guidance Manual. California Department of Transportation, Division of Environmental Analysis. 190 pp). In addition, the distance and substrate (rock, gravel, sand) between the cable vault works and the marine habitat should dissipate any shockwave as it radiates from the source through the ground, making it highly unlikely that the scattered energy that reaches the marine environment would be disruptive to aquatic life. The available data, although not specifically relevant to our scenario, suggests that any shockwave disturbance resulting from our rockhammering works would be insignificant to marine animals. If Lax Kw'alaams is still concerned about potential impacts, we would request a dialogue to determine how a bubble curtain would be deployed in this instance, as this mitigation strategy is typically applied around a point source, such as pile driving or underwater blasting, rather than along a shoreline.

Q - There is concern that during the construction, garbage, cigarette butts, food waste, plastic packaging, have the potential to enter the ocean environment and be deposited on the land. What measures will the proponent take to ensure this does not happen?

R - This project will not tolerate anything less than a clean worksite and a specific waste management plan will have to be prepared by the construction contractor, approved by the owner, and adhered to during construction. This plan will include measures for minimizing, containing, storing, and disposing of all wastes generated on site. At a minimum, standard mitigation will be required such as environmental awareness training for all personnel, easy access to appropriate disposal containers for containment of the anticipated construction wastes, and specific procedures for the transport off site for suitable disposal.

Q - With the land based activities, excavation at the high tide level will result in destruction of *Fucus* (seaweed). *Fucus* is an important food for many species including, herring (feed Whales), salmon, halibut, ground fish, cod, seals, and marine birds. Lax Kw'alaams would like to have the proponent mitigate the loss of this ecosystem vital food source.

R - The only excavation proposed for this project is for the installation of the cable vault, which is located well above the mean high tide line, and potentially a conduit trench above the vault. Therefore, no excavation will take place near the high tide level. However, the cable protection that is proposed within the intertidal zone down to the mean low tide line (rock-filled gabion mats placed over top of the cable) would have a temporary impact on any *Fucus* spp. potentially growing within that footprint. The impacted *Fucus* habitat is anticipated to be very minimal and can be described as an 8' wide path between the mean high and low tide lines. The specific length of this path has not yet been calculated (function of slope and contour of the nearshore area), but is estimated to be 20 feet long (total impacted area of ~160 ft², or ~15 m²).

The potential impacts to any existing seaweeds should be considered temporary as the rock-filled gabion mats are expected to become colonized by various seaweeds, and rockweed (*F. gardneri*) abundance in particular may even increase in response to this introduced complexity. Because of the limited extent and temporary nature of any potential impacts to seaweeds at the Ridley Island landing, further mitigation was not recommended.

It should be noted that the related brown alga seaweed, kelp, was not observed within the specific area of the Ridley Island landing during nearshore surveys carried out in 2018. Figure 9 provides a photo of the landing area.



Figure 9. A photo depicting the general conditions found at the Ridley Island Landing site.

Q - While working in the terrestrial environment, Lax Kw'alaams would like the proponent to have either an archaeological study done or have an archaeological monitor on site.

R - Agreed.

Q - If there is a chance archaeological find, Lax Kw'alaams would like to have a copy of the proponent's chance find policy for review.

R - A site-specific chance find management plan will have to be prepared by the construction contractor, approved by the owner, and adhered to during construction. This plan will highlight any potential archaeological artifacts that may be encountered at this site and will detail the response should anything of note be observed. The response would involve immediate stop of works and consultation with a qualified professional to determine significance of observation and subsequent impacts to the project.

Q - With the terrestrial work, will clearing and grubbing need to be done before the rock hammering? If so, Lax Kw'alaams would like the proponent to replace the vegetation once the terrestrial work is completed.

R - Agreed. Certified native seed and/or plants will be used to revegetate any disturbed areas.

Q - For terrestrial work, Lax Kw'alaams would like the proponent to install silt screens to prevent dirt and other sediments from entering the water system.

R - Because the proposed ground disturbance is limited to a small area of rockhammering for cable vault installation and conduit trenching above the vault (both of which will take place well above the mean high tide line), potential for any sediment reaching the marine environment is very limited. In addition,

the photo above suggests that the landing area is dominated by rock and coarse-textures materials, which do not generate sediment. However, the contractor will be required to be prepared to mitigate any potential sedimentation of marine habitats by having silt fencing on hand.

Q - Vehicles must not be repaired on site. If a vehicle is leaking, it must be removed from the site and repaired. Lax Kw'alaams will want to be informed of any spills on the site, Vehicles must be washed at the beginning of each day to ensure that invasive species are not brought onto site. No engine should be left to idle for more than 5 minutes.

R - Agreed.

4.7 Kitselas First Nation – June 25, 2019

Questions/concerns communicated via email on June 21, 2019. Email response provided on June 25.

Q - The applicant's Management Plan (section 1.1-1.2) states that an ROV study was conducted along the entire route, and that the final route was selected to avoid environmentally sensitive features such as the Chatham Sound glass sponge reefs. However, Kitselas is concerned about potential impacts to the reefs from sedimentation as a result of sediment suspension from cable laying activities, as the route appears to be in the vicinity of portions of the reefs (although, without a map that overlays the route and the reefs, this is an estimation). Kitselas recommends the use of an ROV when laying cable in the vicinity of glass sponge reefs for confirmation of touchdown conditions to ensure sediment suspension and dispersal are not likely to pose a threat to nearby glass sponges.

R - ROV surveys were not conducted along the entire proposed cable route but, rather, were done in select areas to confirm various conditions that could not be confirmed via standard survey methods. One of the ROV dives did confirm that standard survey methods were able to accurately identify glass sponge reefs. Accordingly, we are confident that the proposed route avoids all glass sponge reefs as confirmed by our survey methods and accurate mapping recently completed by Fisheries and Oceans Canada for reefs in this area. It should also be reiterated that the glass sponge reefs that were avoided included all classes of reefs; including live, damaged, and even buried reefs.

While excessive sedimentation is known to be harmful to glass sponge reefs, some sedimentation has actually been shown to benefit this class of sponges. That said, we do not anticipate any significant levels of sedimentation to occur as a result of the slow touchdown of this very small diameter cable (< 2"). Moreover, while we understand the logic of having visual confirmation that excessive sedimentation does not occur, propulsion and maneuvering of the ROV would result in far greater potential for kicking up sediment than the cable laying process itself.

5 Approvals from other authorities

BC/Canada

- Land tenure application submitted to FrontCounter BC/Ministry of Forests, Lands, Natural Resource Operations and Rural Development on November 12, 2018.
- Fisheries and Oceans Canada – online self-assessment indicated that notification and/or review of this project (i.e., a surface laid, submarine cable installation project) was not necessary.
- Terminating Cable Licence application submitted to Innovation, Science and Economic Development Canada on April 4, 2019.

Alaska/U.S.A.

- Easement application submitted to Alaska Department of Natural Resources on December 19, 2018.
- Submarine Cable Landing License application submitted to Federal Communications Commission on July 18, 2019.
- Pre-construction Notification submitted to the U.S. Army Corps of Engineers on August 15, 2019.

6 Environmental overview assessment

A formal evaluation of this project's compliance with section 67 of the *Canadian Environmental Assessment Act* (CEAA, 2012) is being conducted as part of the application for a Terminating Cable Licence application submitted to Innovation, Science and Economic Development Canada. A summary of the environmental overview assessment relevant to Canadian waters is provided below.

6.1 Environmental concerns

6.1.1 Glass sponge reefs

Glass sponge reefs, formed by framework skeleton sponges of the Order Hexactinosida, were known only from the fossil record until they were discovered growing in the Queen Charlotte Basin in the late 1980s. Since that time, their distribution has expanded to include the Georgia Basin and fiords in British Columbia and Alaska, including Chatham Sound. Currently, glass sponge reefs are known to exist only off BC and Alaska. These reef complexes are known to be a vulnerable marine ecosystem that are slow growing and susceptible to damage by bottom-contact fisheries. In addition, this ecosystem is known to provide important rearing habitat for several marine animals, including rockfish and shrimp. The proposed route was able to avoid the extensive distribution of sensitive glass sponge reefs recently mapped by Fisheries and Oceans Canada and confirmed during Project bathymetric surveys (Figure 10).

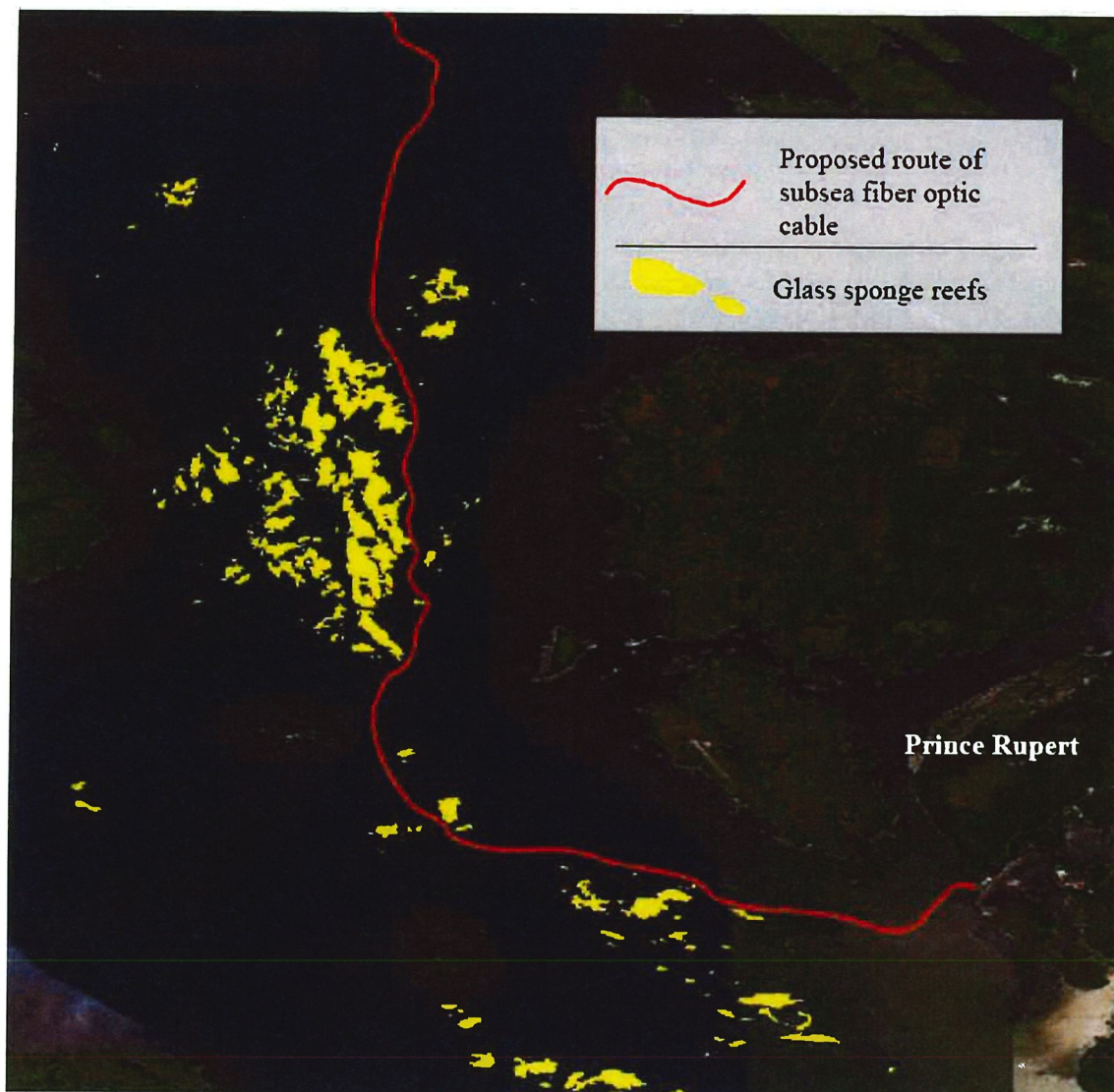


Figure 10. Overview of the proposed cable route and avoidance of extensive glass sponge reefs found throughout Chatham Sound (glass sponge reef distribution as per Shaw et al., 2018).

6.1.2 *Species at Risk Act; Fisheries Act*

While the proposed cable route is located within the range of several species of conservation concern, the specific alignment does not interact with critical habitats of any Schedule 1 species listed under the Canadian *Species at Risk Act* (SARA). In addition, proposed methods of installation comply with all Recovery Strategies and Actions Plans prepared by the Committee On The Status of Endangered Wildlife In Canada (COSEWIC) for SARA species potentially impacted by this project.

The *Fisheries Act* requires that projects avoid causing serious harm to fish unless authorized by the Minister of Fisheries and Oceans Canada. Fisheries and Oceans Canada conducts reviews of proposed

projects to ensure that mitigation efforts have minimized potential for negative effects to fish and fish habitats and, if necessary, provide authorization and associated conditions for the proposed works. The installation of underwater cables is specifically listed as a works that do not require Fisheries and Oceans Canada review, as long as cables are not buried within critical habitats of SARA-listed species. Because no critical habitats of SARA-listed species interact with this cable route, no further review was required.

6.1.3 Wetlands or estuarine habitats

The intertidal and terrestrial areas at the proposed Ridley Island landing do not interact with any wetlands or estuarine habitats.

6.2 Land use plans

There are three regional management plans that are relevant to the Canadian waters portion of this project. The proposed cable route was designed to avoid sensitive management areas where feasible to do so and proposed activities are compatible with management direction provided by these plans and strategies. Below is a brief description of the issues that could potentially interact with proposed project activities, followed by a rationale as to why these activities and land use should be allowed.

6.2.1 Pacific North Coast Integrated Management Area (PNCIMA) Plan

This regional plan identifies several areas of potential environmental concern. The PNCIMA Plan is not prescriptive in that it does not limit activities or recommend mitigation efforts but, rather, highlights areas of concern to be accounted for within development plans. Areas that interact with the proposed Project include:

- Chatham Sound Ecologically and Biologically Significant Area,
- Humpback Whale Important Area,
- Northern Resident Killer Whale Important Area,
- Herring Important Area,
- Inshore Tanner Crab Important Area, and
- Steller Sea Lion Important Area (within 50 km buffer of a haulout site).

Areas that potentially interact with the proposed Project include:

- Eelgrass Beds,
- Kelp Beds, and
- Important Marine Bird Areas.

The proposed project construction and operations use should not be precluded because of the potential for interaction with the areas listed above because:

- impacts associated with construction and operations of this subsea fibre optic cable are anticipated to be very minor:
 - cable alignment avoids sensitive areas,

- the small diameter cable (<2") will be laid directly on the seabed and will have a very limited footprint with negligible and temporary impacts to habitats,
- risk of collision with aquatic wildlife is very low due to the slow speeds of cable laying vessels (<2 kts), and
- while proposed works are within 50 km (~ 30 miles) of an identified Steller Sea Lion Haulout, impacts to this sensitive habitat would be expected to be insignificant as it will take place >25 km (> 15 miles) from the haulout site, and there is a large island (Stephens Island) located between the works and haulout site, and
- any disturbance during operations would occur only as required for repair works and, therefore, infrequently, if at all.
- construction methods are in keeping with Marine Mammal Regulations of the *Fisheries Act*, and the Recovery Strategies and Action Plans for Species at Risk (e.g., Humpback and Killer Whales, Steller Sea Lions), and
- the proposed cable route does not interact with any mapped Kelp and Eelgrass beds, nor were any observed during the ROV surveys of the Canadian nearshore areas.

6.2.2 North Coast Marine Plan

This plan recommends spatial zoning for Protection Management Zones (PMZs), which allocates space primarily for conservation objectives and may provide a basis for protecting localized conservation values. There are three PMZs located near the proposed cable route. The route avoids two of the PMZs (Metlakatla Pass and Dundas Island PMZs) but enters the eastern edge of the Lucy Island PMZ. The Plan indicates that development of linear utilities within the Lucy Island PMZ is "conditionally acceptable" subject to applicable laws, policy and relevant agreements, and provided they are consistent with (adhere to) the plan conditions; specifically, that activities should avoid disturbance to sensitive or critical features and habitat. The installation of a subsea cable located > 1.3 km from Lucy Island is expected to be in keeping with the management objectives of this PMZ, which are to conserve nesting birds, cultural values, and marine harvesting.

6.2.3 Port of Prince Rupert 2020 Land Use Management Plan

This plan contains objectives and policies for the physical development of the real property and immovables that it manages, holds or occupies and which take into account relevant social, economic and environmental matters and zoning bylaws applicable to neighbouring lands. The proposed cable installation project is located within the Ridley Island/Outer Harbour planning district and is consistent with the objectives outlined for this area. In addition, Table 5.a of the land management plan describes the foreshore habitat value of the area at the Prince Rupert Grain (PRG) Terminal as "low", suggesting potential environmental impacts to this area may also be considered as low. The rocky, modified terrain, existing industrial development associated with PRG (Figure 9), lack of kelp or eelgrass noted during ROV dives, and construction methods (lack of cable burial, small footprint, etc.), all support the claim that environmental impacts associated with this project should be considered insignificant.

6.3 Works

6.3.1 Cable laying works

Potential environmental impacts associated with commercial marine works generally relate to the following categories:

- Habitat alteration or destruction
- Marine vessel strikes on wildlife
- Acoustic, or other, disturbance to marine mammals
- Spills

A brief explanation as to why the proposed cable laying works should be considered as having only minor and temporary environmental impacts are provided below.

6.3.1.1 *Habitat alteration or destruction*

The proposed cable route is not within any protected areas or critical habitats for any species of conservation concern. The small cable (< 2" dia.) will be laid directly on the ocean floor and is made of a material that is readily colonized by marine flora and fauna. Finally, the cable will not contain any internal oils, therefore, no risk of leaks into the marine environment following any unforeseen physical damage to the cable.

6.3.1.2 *Marine vessel strikes on wildlife*

Boats operating erratically and/or at high speeds pose a risk to marine animals. Cable laying vessels move at very slow speeds (< 2 kts), much slower than those cited as posing significant hazards to marine animals. In addition, maneuvering of cable laying vessels is very gradual to accommodate accurate touchdown of cable at the desired location on the ocean floor.

While vessel strikes involving cable laying ship is very unlikely, risks associated with the proposed project will be further mitigated by having a qualified marine spotter onboard the ship to monitor waters for any wildlife in close proximity to cable laying works. The spotter would have authority to require mitigative action (e.g., temporary stop to works) if wildlife is deemed to be at risk or works encroach on protective buffers around specific species (e.g., within 100 and 200 m of Humpback and Killer Whales, respectively, as per Marine Mammal Regulation of the *Fisheries Act*).

6.3.1.3 *Acoustic disturbance to marine mammals*

The slow speeds used by marine vessels during cable laying generate minimal noise disturbance. In addition, any sonar equipment used during the project would operate at frequencies higher than those found to impact marine mammals. Risks of disturbance to marine mammals will be further mitigated by having a qualified marine spotter onboard the ship to monitor waters for any marine mammals in close proximity to cable laying works. The spotter would have authority to require mitigative action (e.g., temporary stop to works) if wildlife is deemed to be at risk or works encroach on protective buffers around specific species (e.g., within 100 and 200 m of Humpback and Killer Whales, respectively, as per Marine Mammal Regulation of the *Fisheries Act*).

6.3.1.4 *Spills*

Potential for spills from marine vessels will be minimized by ensuring that vessels are operated according to best industry practices, including standards required by the International Convention for the Prevention of Pollution from Ships, International Safety Management (ISM) Code, and Oil Companies International Marine Forum (OCIMF). Should a deleterious substance be accidentally released, it is required that the vessel would have a shipboard emergency response plan, as well as an arrangement with a certified response organization that would quickly respond to a spill on the polluter's behalf, as per US Coast Guard and Transport Canada requirements.

6.3.2 Nearshore and terrestrial works

Nearshore works will consist of manually pulling the fibre optic cable onto shore from cable laying ship and installation of nearshore cable protection (ASP and gabion mats, as described in section 3.4.2.3; Cable Protection). Terrestrial works will include rip rap placement above MHHW, installation of the precast concrete cable vault (to anchor subsea cable and house the subsea-to-terrestrial cable splice), and installation of 100 mm PVC conduit to house the cable from the vault to CityWest's facility. Details of vault and conduit installations are provided in sections 3.4.2.2 and 3.4.2.4, respectively.

The cable, ASP, and gabion mats are all made of inert materials that are readily colonized by marine flora and fauna.

6.3.2.1 *Ground works and spills*

Proposed machine works throughout the intertidal zone will be limited to the extent possible and will never occur in the wet. Delivery of ASP, gabion cages, and clean rock (to fill gabion mats) may be aided by a small excavator, although machine works will not take place in the wet and would be planned to coincide with the minus tide. Gabion mats may be filled with rock using the aid of a small excavator, as long as works are done in the dry. Any works that have to take place in the wet must be carried out entirely by hand.

To prevent spills, or minimize environmental impacts should a spill occur, crews will ensure that:

- all equipment will be in good working order and inspected for worn fittings, hoses, and leaks prior to arriving on site and daily during works. Any deficiencies will be addressed immediately and servicing conducted off site or at least 30 m above the mean high tide line and over top of secondary containment/drip trays,
- all machinery will be with environmentally friendly hydraulic fluid (non-toxic to aquatic life and readily or inherently biodegradable),
- no fuel will be stored on site,
- all fueling of machinery will be conducted at least 30 m above the mean high tide line and over top of secondary containment/drip tray,
- all machinery will be equipped with spill kits and crews trained in spill prevention and response, and

- a large spill kit will be maintained on site and contain supplies suitable to address spills to marine environments (e.g., marine spill boom).

Excavations for cable vault installation and trenching for PVC conduit will be completed by hand, or excavator. Blasting will not be permitted. Rock hammering may be necessary for breaking up rock.

6.3.2.2 Erosion and sediment control

The rocky terrain and likely coarse texture of the ground at the Ridley Island landing suggests that the potential for sedimentation of marine environments resulting from ground works is likely very low. Nonetheless, crews will be prepared to manage erosion and avoid sedimentation by:

- avoiding works during heavy rains,
- having silt fencing and straw on hand,
- covering any stockpiles of excavated materials with poly sheeting, and
- seeding any exposed soils with a suitable, native grass seed mixture certified to be free from any invasive species, as soon as works have been completed.

6.3.2.3 Marine mammal monitoring

To avoid any potential negative impacts of terrestrial works to marine mammals (e.g., acoustic disturbance), a qualified marine mammal observer will be present on site during any loud construction activities (e.g., rock hammering). The monitor would have the authority to require mitigative action, including issuing a stop to work order, if marine mammals are deemed to be at risk.

6.3.2.4 Archeological monitoring

While the potential to discover any artifacts or sites of archaeological significance are very low within the industrial work site impacted by this project, a qualified archaeological monitor will be present during any works that may have the potential to disturb such sites (i.e., excavations). The monitor would have the authority to stop works if any observations are made that warrants further investigation and/or protection.

6.3.2.5 Eelgrass

Eelgrass is one of the most ecologically important aquatic plants along the Pacific North Coast and is most prevalent on sandy, silty, and/or gravelly substrates in shallow waters up to the mean low tide line (i.e., plants must always be submerged). Effort will be made to route the cable outside of any eelgrass beds. Potential impacts to eelgrass would be limited to the narrow corridor occupied by the <2" diameter fibre optic cable. Very close to shore (to a depth of 15'), the impacted corridor would be slightly wider (~10 cm) as the cable will be encased within ASP (as described in section 3.4.2.3; Cable Protection). The gabion mat protection will only impact habitats above the mean low tide line; therefore, will have no impact on eelgrass.

6.3.2.6 Birds

The Convention for the Protection of Migratory Birds in the United States and Canada requires that migratory birds not be disturbed during nesting. Any vegetation disturbance should be planned to take place outside of the breeding period of migratory birds; generally April through August, although a Qualified Environmental Professional (QEP) should be consulted to determine actual period as it can be a function of site-specific conditions. If vegetation disturbance has to take place during the breeding period, works must be preceded by nest surveys carried out by a QEP. If any active nests are located, disturbance-free buffers would be established around active nests until such time as the nest is no longer active.

7 Hazardous substances

No hazardous substances will be installed or stored on site during this proposed project. The fibre optic cable and protection materials (cable armouring, ASP, and gabion mats) are all inert and readily colonized by marine flora and fauna. In addition, there are no internal oils within the fibre optic cable, therefore, no risk of leaks into the marine environment following any unforeseen physical damage to the cable.

Hazardous substances required for the operation of marine vessels and terrestrial equipment (fuel, lubricants, hydraulic fluids, etc.) will be managed to minimize potential for any leaks/spills and spread into the environment (spill response plan).

8 Maintenance/operations

Intermittent assessment of the cable performance will be carried out at the cable vaults and is expected to occur once or twice a year (unless more frequent inspections are warranted). In the unlikely event that the cable needs to be replaced, a new cable could be pulled through the articulated split pipe cable protection installed during construction. Therefore, intertidal disturbance would be a one-time event for this project.

9 Reclamation plan

Intertidal and terrestrial areas will be left clean of any construction materials. In addition, any excavated materials not reused as backfill around cable vault or within PVC conduit trench will be properly stored/disposed of off site. Any erosion and sediment control measures (e.g., silt fencing) will be removed as soon as they are no longer needed. As long as these measures are in place, they will be monitored frequently to ensure they are functioning as intended. Seeding of exposed soils with a native, erosion control, grass seed mix will take place for erosion and sediment control and aesthetics, as necessary. Annual maintenance operations at the vault will also include inspections of the entire work area to assess if any additional erosion and sediment control measures are necessary.

10 Appendices

Appendix A – 1:125,000 Index Map

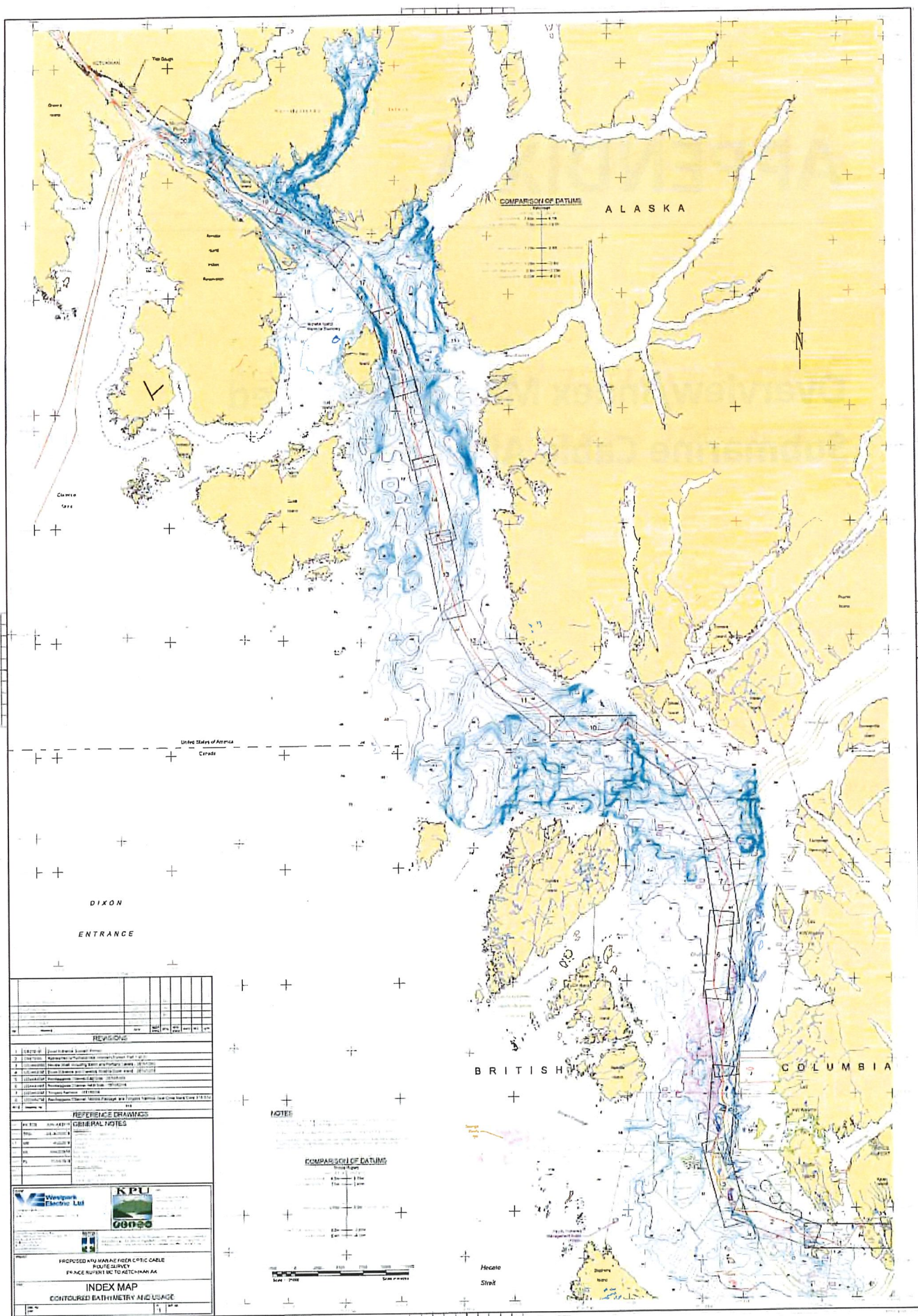
Appendix B – 1:10,000 Route Alignment Maps

Appendix C – 1:1,500 Ridley Island Landing Approach Map

Appendix D – Ridley Island Landing Site Plans

APPENDIX A

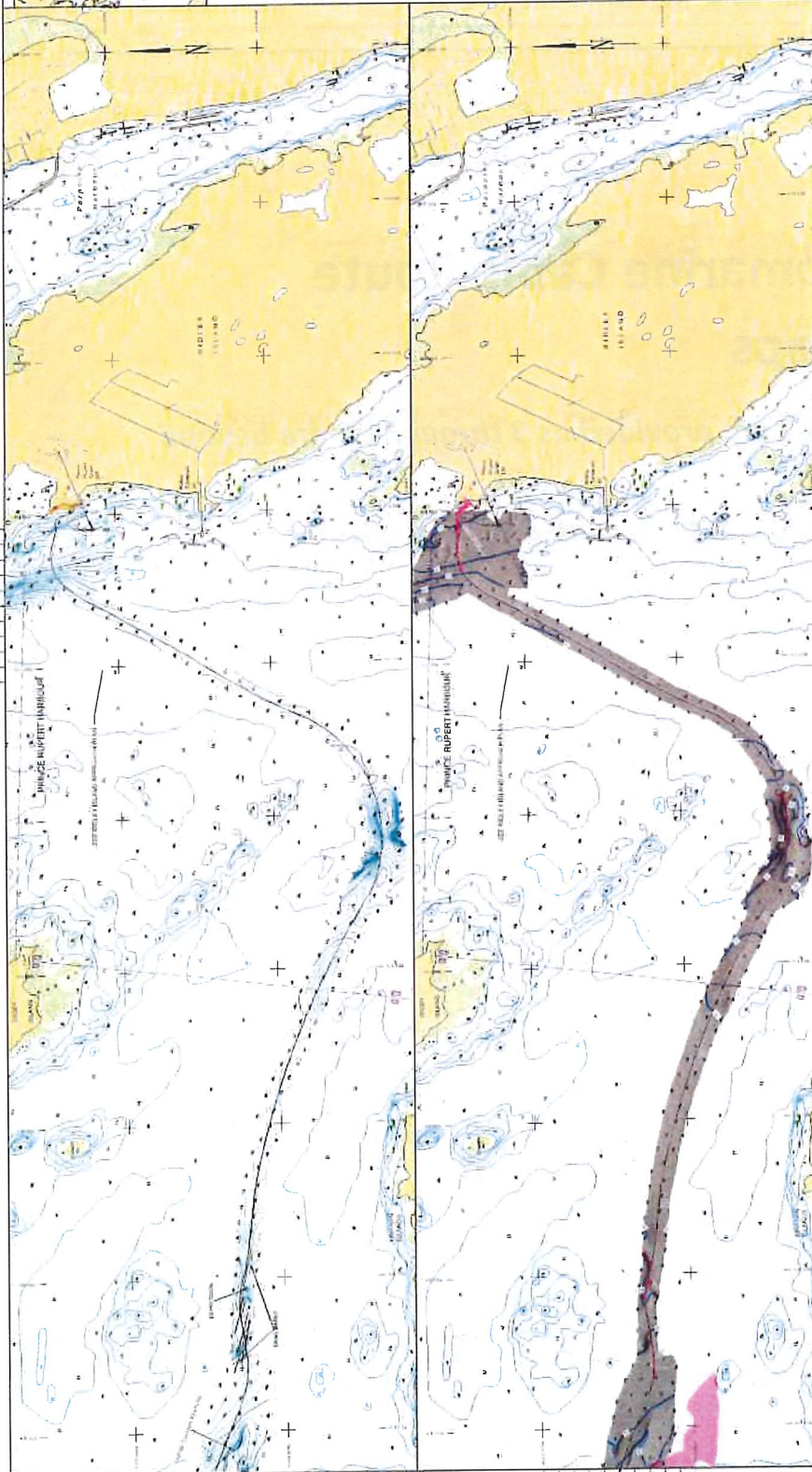
Overview/Index Map of Proposed Submarine Cable Alignment



APPENDIX B

Proposed Submarine Cable Route Alignment Maps

- *only maps 1 and 2 are provided as 3 through 20 are beyond PRPA jurisdiction*
- *maps 3 through 20 can be provided upon request*



NOTES

1. This chart is based on the latest available information and is subject to change without notice.

2. The chart is not to be used for navigation without the aid of a compass.

3. The chart is not to be used for navigation without the aid of a compass.

4. The chart is not to be used for navigation without the aid of a compass.

5. The chart is not to be used for navigation without the aid of a compass.

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10. The chart is not to be used for navigation without the aid of a compass.

LEGEND



REVISIONS	
No.	Description
1	Initial issue
2	Revised
3	Revised
4	Revised
5	Revised
6	Revised
7	Revised
8	Revised
9	Revised
10	Revised

OFFICIAL DRAWINGS	
No.	Description
1	Initial issue
2	Revised
3	Revised
4	Revised
5	Revised
6	Revised
7	Revised
8	Revised
9	Revised
10	Revised

K.P.U.
KINGSTON POLICE UNION

Logos for other organizations including the Canadian Coast Guard and various maritime safety groups.



NON-CUTL CHARTS IN METERS

APPENDIX C

Ridley Island Landing Approach Map

APPENDIX D

Ridley Island Landing Site Plan



DATE: SEP 6, 2018
SCALE: AS NOTED

REVISIONS	DATE	BY
FOR REVIEW	09/06/18	

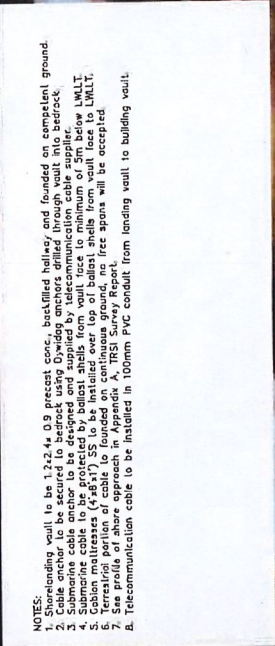
KETCHIKAN TO PRINCE RUPERT SUBSEA TELECOMMUNICATIONS CABLE
PRINCE RUPERT LANDING - SITE PLAN



WESTPARK CLIENT:

KPU

SHEET
1
OF 2



NOTES:

1. Extruding vault to be 1.72x4.09 percent core, bottled halway, and founded on competent ground.
2. Cable anchor to be secured to bedrock using Dwydags anchors drilled through vault into bedrock.
3. Submarine cable anchor to be designed and supplied by telecommunication cable supplier.
4. Submarine cable to be protected by ballast sheds from vault face to minimum of 5m below MSLT.
5. Submarine ballast (4x6x11) SS to be washed over top and bottom of cable and ballast shed, 100mm MSLT.
6. Termination of cable to be as per Appendix A, TRSI Survey Report.
7. Telecommunication cable to be installed in 100mm PVC conduit from landing vault to building vault.



**Westpark
Electric Ltd.**

DATE: SEP 6, 2018
SCALE: AS NOTED

REVISIONS	DATE	BY
FOR REVIEW	09.06.18	

KETCHIKAN TO PRINCE RUPERT SUBSEA TELECOMMUNICATIONS CABLE
PRINCE RUPERT LANDING - LANDING DETAILS

WESTPARK CLIENT:



KPU

2 OF 2 SHEET

SCHEDULE C

SUBLICENSE

See Attached



SUBLICENSE AGREEMENT

THIS SUBLICENSE AGREEMENT ("**Agreement**") is dated as of March 19, 2020.

BETWEEN:

CITY WEST CABLE & TELEPHONE CORP., having an office at 248 3rd Avenue West,
Prince Rupert, British Columbia, V8J 1L1

(the "**Sublicensor**")

AND:

THE CITY OF KETCHIKAN D/B/A KETCHIKAN PUBLIC UTILITIES, having an office at
2970 Tongass Avenue, Ketchikan, AK 99901

(the "**Sublicensee**")

(each a "**Party**" and collectively, the "**Parties**").

WHEREAS:

A. The Sublicensor and the Prince Rupert Port Authority (the "**PRPA**") are currently negotiating a license agreement pursuant to a Master Agreement (the "**Master Agreement**") and an incorporated Site License Agreement (the "**Site License Agreement**") and, collectively with the Master Agreement, the "**Head License Agreement**"), draft copies of which the Sublicensor has provided to the Sublicensee.

B. Pursuant to the Head License Agreement, the PRPA will grant to the Sublicensor the license to construct, install, affix, maintain, repair, replace, alter and operate the Equipment at the Site for the Permitted Use and a non-exclusive license to pass and re-pass over the Access Area (*capitalized terms in this Agreement not herein defined shall have the same meaning as provided for in the Head License Agreement*), subject to the terms and conditions of the License Agreement (collectively, the "**Head License Rights**").

C. The Sublicensee seeks a sublicense from the Sublicensor for access to the Site, Equipment and the Access Area for the purposes set out in this Agreement and the Parties have agreed to enter into this Agreement to provide for such access.

NOW THEREFORE in consideration of the premises, the covenants and agreements of the Parties as set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

1. APPLICATION

This Agreement is entered into upon and subject to and incorporates by reference the terms and conditions of the Head License Agreement, as executed and as may be amended from time to time thereafter, and all such terms and conditions are made a part of this Agreement. The Sublicensee covenants and agrees to observe, perform and comply with all the terms and conditions of the Head License Agreement, including those relating to each of this Agreement, the Site, the Access Area, the Equipment and the Sublicensee's Equipment, as terms and conditions of this Agreement. For greater certainty, if there is any conflict between the terms of this Agreement and the terms of the Head License Agreement, the terms of the Head License Agreement shall prevail and this Agreement shall be deemed to be amended accordingly.

2. DEFINITIONS FROM MASTER AGREEMENT

All capitalized terms used in this Agreement that are defined in the Head License Agreement and not otherwise defined in this Agreement shall have the meanings given to them in the Head License Agreement.

3. FACILITIES AND AUTHORIZED USES

The Sublicensor hereby grants the Sublicensee a sublicense to access, in common with the Sublicensor and others, such portions of the Equipment, Site and Access Area (including but not limited to cable vaults and cable ducts) as approved by the Sublicensor, acting reasonably, for Sublicensee's shore landing and terrestrial transport of Sublicensee's fiber optic cable network (collectively, the "**Sublicensee's Equipment**").

Sublicensee will have the right to reasonable access to the Equipment, Site and Access Area to operate and maintain the Sublicensee's Equipment, and any and all replacement equipment, 24 hours a day / 7 days a week. All such equipment must be compatible with and not adversely impact the operation and maintenance of Sublicensor's Equipment, or the equipment of any other party authorized to use the Equipment, Site and Access Area.

4. ACCESS TO RIGHTS OF WAY

Sublicensor shall construct conduits and vaults to telecommunications industry standards at the Site, in a manner that would permit the Sublicensee to install the Sublicensee's Equipment. Sublicensor shall make the vault and conduits available to the Sublicensee no later than August 1, 2020.

5. TERM AND LICENSE

The term of this Agreement is the period starting on the commencement of the term of the Site License Agreement and shall end one day prior to the expiry of the term of the Site License Agreement (the "**Initial Term**"). In the event that the Head License Agreement is renewed or extended, the Sublicensee may renew or extend (as the case may be) this Agreement for such additional period of time, less a day, ("**Renewal Term**") provided that the Sublicensee provide the

Sublicensor with written notice of its election to renew or extend within 30 days of receiving written notice from the Sublicensor that the Head License Agreement has been extended or renewed.

Sublicensor recognizes that Sublicensee is governed by the Charter of the City of Ketchikan (the "CCK") The Sublicensee represents that the CCK stipulates that the Sublicensee must have the option to terminate all contracts in excess of five years with one month's notice (the "Stipulation"). Provided the Sublicensee has taken all steps available to it to seek an exemption to the Stipulation as it relates to this Agreement and to the extent that the Stipulation continues to apply, the Sublicensee and the Sublicensor shall have the right to terminate this Agreement at any time with one month's written notice.

It is acknowledged and agreed that, notwithstanding the foregoing, if the Head License Agreement or the Site License Agreement is terminated or otherwise expires, this Agreement shall be terminated.

6. FIXTURES AND IMPROVEMENTS

Sublicensor shall invoice Sublicensee actual costs for construction of vaults and conduits. Sublicensee shall have the right to locate its fiber optic cable and related accessories in Sublicensor's vault and conduits. Sublicensee shall not be charged for such occupancy.

Upon expiry or termination of this Agreement for any reason, the Sublicensee shall forthwith remove all of the Sublicensee's Equipment and other installations and chattels from the Site and repair all damage caused by such removal, all at the Sublicensee's sole cost and expense.

7. DESTRUCTION OF PREMISES

If the vaults or conduits become unusable due to flood, fire, or other unavoidable cause, Sublicensor is obligated to repair or restore the vaults and conduits upon Sublicensee's request. The Parties will share the cost of repair or restoration.

8. MUTUAL INDEMNITY

Each Party will indemnify the other from and against any loss, cost, claim, liability, damage, or expense (including reasonable attorney's fees, but excluding economic loss and consequential damages), to third parties, including but not limited to the PRPA caused by negligence or misconduct by the indemnifying Party, its agents, employees, or contractors in the performance of this Agreement. In addition, the indemnifying Party will, to the extent of its negligence or misconduct, defend any action or suit brought by a third party against the indemnified Party for any loss, cost, claim, liability, damage, or expense caused by the indemnifying Party's negligence or misconduct, its employees, agents, or contractors, in the performance of this Agreement. No Party will have the duty to indemnify another to the extent of the other Party's own negligence or misconduct.

9. INSURANCE

Sublicensee shall carry insurance that shall be equal to or greater than the insurance the Sublicensor is obligated to carry pursuant to the Head License Agreement, which must be reviewed and approved by the Sublicensor, acting reasonably.

10. TAXES AND ASSESSMENTS

Sublicensee will not be liable for payment of any real and personal property taxes or assessments that may be levied on the Site or the Equipment or other property on the Site not belonging to Sublicensee. Sublicensee must pay taxes associated with the Sublicensee's Equipment, the Sublicensee's use of the Site, any sales tax due on any payment made under this Agreement.

11. ASSIGNMENT, SALE AND SUBLICENSE

The Parties may not sell or assign this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed, except Sublicensee may assign this Agreement to a Sublicensee's parent, subsidiary, or affiliate under common control without Sublicensor's consent. Sublicensee's sublessee(s) will be entitled to the same rights and privileges as Sublicensee.

12. CANCELLATION

Sublicensor may cancel this Agreement and recover possession of the Premises by giving Sublicensee 60 days' prior written notice, upon the happening of any of the events listed below, that are not cured within the 60 day notice period:

- a. The use of the vaults or conduits by Sublicensee for any purpose not authorized by this Agreement.
- b. The appointment of a trustee or receiver for the Sublicensee's assets in a proceeding brought by or against the Sublicensee.
- c. The failure of Sublicensee to perform any provision or covenant in this Agreement or the Head License Agreement. If such provision or covenant is not possible to perform within such 30 day cure period, Sublicensee shall not be in default under this Agreement if it has promptly commenced and is diligently pursuing the cure thereof.

Sublicensee may cancel this Agreement with 60 days' written notice if:

- d. for any reason the vaults or conduits become unsuitable for its communications purposes,
- e. a trustee or receiver is appointed for the Sublicensor's assets in a proceeding brought by or against Sublicensor,
- f. an amendment to the Head License Agreement is made which has a significant negative affect on the Sublicensee's ability to operate at the Site and the Sublicensee and the Sublicensor are not able to negotiate a mutually agreeable amendment to this Agreement, both acting reasonably, or
- g. Sublicensor fails to perform any provision or covenant in this Agreement within 30 days of written notice of such failure. If such provision or covenant is not possible to perform within such 30 day cure period, Sublicensor shall not be in default under this Agreement if it has promptly commenced and is diligently pursuing the cure thereof.

13. NOTICES

Any notices to be given under this Agreement by either Party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested, to the recipient at the address indicated below:

Sublicensor:

CityWest Cable & Telephone Corp.
Attn: Donovan Dias
248 3rd Avenue West
Prince Rupert, BC

Sublicensee:

The City of Ketchikan
d/b/a Ketchikan Public Utilities
Attn: Ed Cushing
2970 Tongass Avenue
Ketchikan, AK 99901

With a copy of legal notices to:

With a copy of legal notices to:

Moss & Barnett
Attn: Shannon M. Heim
150 South Fifth Street
Suite 1200
Minneapolis, MN 55402

or such other address or to the attention of such other person as the recipient Party may specify by prior written notice to the sending Party. Such notice will be effective as of the date of its receipt.

14. CONDITIONS PRECEDENT

The obligations of the Sublicensor and the Sublicensee under this Agreement are subject to the following conditions precedent being in effect or satisfied within the time herein provided:

- a. on or before March 31, 2020, the Head License Agreement shall be fully executed (the Sublicensor shall deliver a copy of same to the Sublicensee forthwith upon execution of same); and
- b. on or before 10 business days following receipt of the fully executed Head License Agreement:
 - a. the Sublicensee shall be satisfied, acting reasonably, with the terms and conditions of the fully executed Head License Agreement;
 - b. the Sublicensor shall be satisfied, acting reasonably, with the terms and conditions of the fully executed Head License Agreement as it relates to this Agreement;
 - c. the Sublicensor and the Sublicensee shall have agreed in writing, acting reasonably, to any changes to this Agreement as may be necessary to give effect to the intentions of this Agreement and the Head License Agreement; and
 - d. the Sublicensor and the Sublicensee shall have agreed in writing, acting reasonably, to the terms and conditions of an equipment and services agreement.

The Parties agree that this Agreement will become an unconditional agreement upon the satisfaction or waiver of the foregoing conditions precedent.

15. CONDEMNATION

If the whole of the vaults or conduits or such portion thereof as may be required for its reasonable use is taken by virtue of any condemnation or eminent domain proceeding, this Agreement will automatically terminate as of the date of the condemnation, or as of the date possession is taken by the condemning authority, whichever is later.

16. DISPUTES

In any disputes between the Parties, the laws of British Columbia, Canada will govern. Any lawsuit must be brought in the courts of the British Columbia. Sublicensee agrees to notify Sublicensor of any claim, demand, or lawsuit arising out of Sublicensee's occupation or use of the vaults or conduits. Upon Sublicensor's request, Sublicensee will reasonably cooperate and assist in the investigation and litigation of any claim, demand, or lawsuit affecting the vaults or conduits.

17. NO WAIVER; CONSENTS

The failure of a Party to insist upon the strict performance of any provision in this Agreement may not be considered as a waiver or relinquishment of that provision for the future. The waiver of any provision or covenant in this Agreement cannot be enforced or relied upon unless the waiver is in writing and executed by the Party waiving such provision. Whenever consent by one Party is required in this Agreement, the granting of such consent in any one instance will not constitute continuing consent to subsequent instances where such consent is required.

18. VALIDITY OF PARTS

If any provision of this Agreement is declared to be invalid by a court of competent jurisdiction, the remaining covenants and provisions will continue in full force.

19. QUIET ENJOYMENT; ACCESS

So long as Sublicensee is not in breach of this Agreement, it shall have the right of quiet enjoyment of the vaults or conduits for the Term and all Extensions thereof, regardless of any sale, transfer, assignment or foreclosure of the vaults or conduits. This Agreement shall be binding on each Party's successors and assigns. Under no circumstances shall Sublicensee be prevented or delayed from accessing its equipment during the Term and all Extensions, twenty-four hours a day, seven days a week.

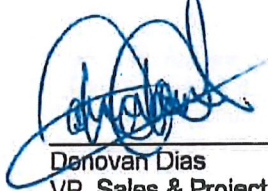
20. BINDING AGREEMENT; AMENDMENTS; COUNTERPARTS

This Agreement shall be binding upon each Party's heirs, representatives, executors, successors and assigns. This Agreement may only be amended in writing, and such amendment shall be signed by authorized representatives of both Parties. The Parties may execute this Agreement in counterparts, each of which shall be deemed an original, and both of which, collectively, taken together shall constitute one and the same Agreement. Delivery of an executed counterpart by electronic transmission email or fax shall be as effective as physical delivery of an executed counterpart.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement this 19th day of March 2020.

The Parties, hereby agree as detailed above and confirmed by the authorized signatories below.

CITY WEST CABLE & TELEPHONE CORP.



Denovan Dias
VP, Sales & Project Management

THE CITY OF KETCHIKAN
d/b/a Ketchikan Public Utilities



Ed Cushing
Division Manager, Telecommunications

EXHIBIT A
(List of Telecommunications Equipment Installed)

1. Sublicensor shall install a cable vault, conduits to Sublicensee's specifications as required for Sublicensee's placement of fiber optic cable from the initial point of shore landing to the vault and from the vault to the Site. Sublicensor shall construct the vault and conduits and and make ready for Sublicensee's use no later than August 1, 2020.

