



## ADMINISTRATIVE REPORT

Report Date: June 12, 2015  
Contact: Cheryl Nelms  
Contact No.: 604.873.7348  
RTS No.: 009988  
VanRIMS No.: 08-2000-20  
Meeting Date: July 8, 2015

TO: Standing Committee on City Finance and Services

FROM: General Manager of Engineering Services  
General Manager of Human Resources, Digital Strategy and IT

SUBJECT: Report Back on Contracting Protocol and Lease Rates for  
Telecommunications Installations on City-Owned Poles

### **RECOMMENDATION**

- A. THAT Council approve changes to the “Contracting Protocol for Antenna Installations on City-Owned Poles” (the “Protocol”) attached as Appendix A.
- B. THAT the General Manager of Engineering Services and the Director of Legal Services be authorized to execute and deliver license agreements for antenna installations on City-owned street poles, and related infrastructure, in the revised form of agreement attached as Appendix B.
- C. THAT no legal rights or obligations will arise or be created by Council's adoption of Recommendations A and B, unless and until a license agreement has been executed and delivered by the respective parties.

### **REPORT SUMMARY**

In 2013, Council approved a policy framework for leasing City streetlight poles to telecommunications companies for the purpose of attaching wireless equipment. The framework consisted of the “Contracting Protocol for Antenna Installations on City-Owned Poles” (The Protocol) and the form of licence agreement for “Antenna Installations on City-Owned Poles”.

The Protocol established a rate structure for the lease of space on streetlight poles, as well as a lease rate for use of City-owned underground ducts to connect wireless antennae to power and data networks.

The development of the Protocol and form of license agreement for wireless antenna installations was guided by a set of three overarching objectives:

- Facilitation of infrastructure investment and economic development
- Promotion of green initiatives
- Enablement of partnerships and collaborations

The lease of City assets to support enhanced telecommunications capacity and service is also aligned with the Digital Strategy priorities related to Infrastructure and the Digital Economy.

Council's approval of the Protocol in 2013 included direction to review the framework and its outcomes after an initial 2 year period.

This report includes an assessment of the wireless antenna license agreements concluded since 2013, summarises a review of the existing lease rates and feedback from telecommunications companies operating within the City of Vancouver and recommends certain adjustments to the current lease rate structure and the approved form of agreement with the aim of advancing the three key policy objectives set out above.

### ***COUNCIL AUTHORITY/PREVIOUS DECISIONS***

On June 12, 2012, Council adopted a motion regarding "Transforming Technology in Street Infrastructure". The motion requested that staff report on work under way to address issues related to the expansion of cell infrastructure in Vancouver; review and update policies for installation of such infrastructure; assess the viability of new technologies to support the growing demand for wireless telecommunications services; and pursue pilot projects involving the implementation of innovative telecommunications, lighting and electric vehicle charging technologies using City streetlight poles.

The "Contracting Protocol for Antenna Installations on City-Owned Poles" was approved by Council on February 12, 2013. The Protocol established guidelines and lease rates for the installation of telecommunications antennae on City assets, including scope for the City and telecommunications firms to reach agreement on the provision of public amenities as offsets for lease costs.

Council approved the form of licence agreement for "Antenna Installations on City-Owned Poles" on July 24, 2013.

### ***CITY MANAGER'S/GENERAL MANAGER'S COMMENTS***

The General Manager of Engineering Services and the General Manager of Human Resources, Digital Strategy and IT recommend approval of the recommendations set out herein.

### ***REPORT***

#### ***Background/Context***

Over the past decade, there has been exponential growth in the demand for wireless data services. The growth is attributed to the evolution of wireless technology devices such as smart phones, tablets and notebooks, and their uptake by consumers and businesses. Telecommunications service providers are challenged to meet the pace of growth and are making investments to expand and enhance wireless infrastructure across Vancouver. In particular, providers are seeking to install additional antennae.

### **Understanding Vancouver's Wireless Landscape**

Mobile devices transmit voice and data to local base stations. In Vancouver, these base stations consist of macrocells, minicells, microcells and Wi-Fi. Macrocells are high-powered cellular base stations that receive and transmit both voice and data, and are normally mounted on monopoles, towers and rooftops. Typically, these heights provide clearance from surrounding buildings and terrain, allowing signals to travel many kilometres. Minicells are medium-powered cellular base stations that receive and transmit both voice and data, and are normally mounted at street level on utility poles. They are cylindrical in form, a few metres tall, and provide coverage up to a kilometre. Microcells are low-powered cellular base stations that are the size of a phonebook, and provide coverage of up to a few hundred metres. Wi-Fi is supported by low-powered carrier-grade routers that only receive and transmit data and are mounted in outdoor applications or indoors within buildings. Generally, Wi-Fi routers have limited ranges of up to a hundred metres.

Established wireless providers generally have well developed macrocells and augment their systems with smaller antennae (microcells) to provide necessary service infill. Emerging wireless providers that are developing regional networks target their infrastructure investments in areas with the greatest return, and generally install macrocells or minicells in densely populated areas.

As the demand for data services grows, it is expected that wireless providers will require many more infill antennae to meet the service expectations of their customers. The implications for the City of Vancouver are twofold as carriers upgrade their networks to accommodate growth:

- The density of antenna installations will increase as infill sites are developed; and
- Antennae will be placed closer to ground level (e.g., from low-rise building rooftops, to hydro poles and potentially street light poles).

Traditionally, because of the lack of tall buildings in many residential areas, service providers have found it difficult to locate suitable antenna sites in such areas. Even in Downtown, existing installations on top of buildings will not meet the demands for service expected in the next few years. With both the limited amount of rooftop real estate and lack of effective street-level service penetration, service providers are searching for alternatives.

### **The Benefits of Installing Antennae on City Street Light Poles**

Benefits of using street light poles for the purpose of telecommunications antenna installations include the following:

- As the street light poles are owned by the City, the City maintains authority over all such installations;
- The City can administer well-balanced siting and design criteria that integrate antenna systems into the public realm;
- The telecommunications providers' need to install independent monopoles and towers could be reduced or eliminated;
- Installation of new antennae may create opportunities for the provision of valuable ancillary amenities, including power connections to support food carts, special events, EV charging stations and BIA initiatives;

- Provided the cost of leasing City street poles and surplus underground duct capacity remains competitive with other options available to telecommunications providers, such leases present an opportunity for the City to generate revenue without the need for incremental investment.

The installation of wireless antennae provision on street poles is constrained by power and network connectivity. Telecommunications antennae require access to fiber optic line (i.e., communication lines) and power circuits; fiber optic lines and power circuits are connected to street pole attachments by cables that run through underground duct. Where the City owns underground duct that is not utilized to full capacity, this duct can be made available for lease to telecommunications providers. The lease of City duct capacity has the benefit of mitigating the significant cost and disruption of additional excavation work by service providers.

It should be noted that City-owned duct may not be available in some cases, and that the ability to lease duct may be constrained by the space available and/or the age and condition.

As indicated in the July 24, 2013 report that recommended approval of the Contracting Protocol, staff anticipated processing agreements for approximately 100 antenna attachments that would generate up to \$125,000 in annual revenue. The report also projected that this revenue would continue to grow beyond 2014 with continued demand for more license agreements.

To-date, 10 agreements accounting for approximately 46 antenna attachments have been finalized, generating \$113,059 in duct and pole attachment lease fees annually (please see Financial section below for additional detail).

While the ongoing annual revenue is close to the original forecast, the number of attachments installed is substantially less than anticipated. For Shaw and TELUS, it is noteworthy that the companies' costs associated with the lease of underground duct exceed the lease fees for street pole attachments. (Rogers does not lease underground duct from the City). In Shaw's case, the cost of accessing the City's underground duct exceeds the cost of the leased pole space by over 200%.

### ***Strategic Analysis***

#### **Industry Feedback regarding the Protocol**

In the original development of the Protocol, City staff consulted representatives of the telecommunications companies that provide wireless services in Vancouver. For purposes of this review, staff re-engaged those providers and offered the opportunity to comment on the Protocol and its application since 2013. Staff met with representatives from Rogers, TELUS, Wind Mobile and Shaw.

All four companies reinforced the importance of the Protocol in establishing clear guidelines and process for wireless antenna attachments on City assets. The opportunity under the existing Protocol to consider amenities as an offset for lease costs was viewed as an important and valuable benefit. Additionally, the companies commented favourably on their interactions with City staff on this issue.

The biggest challenge that the companies cited regarding the use of City-owned poles for wireless attachments is the cost to build the sites. In particular, there was reference to the high cost of leasing City-owned underground duct for network and

power connections. The current lease rate of \$8.00 per metre of duct was characterized as too high to achieve a sufficient return on capital investment, thereby acting as a barrier to the use of City-owned poles. The cost challenge was described as especially problematic in relation to any potential large-scale wireless infrastructure investments. City staff were requested to consider a revised pricing model whereby the cost of leasing underground duct was considered together with the cost of leasing space on the street poles.

Certain companies also conveyed concerns related to the existing design guidelines for wireless attachments and related equipment. Height guidelines and antenna dimension restrictions were specifically referenced in this regard. Also, a substantive challenge was identified regarding the current restriction on the size of street-level kiosks that house the providers' network connections.

Finally, companies commented on the fact that there is no option under the current Protocol to lease City-owned underground duct as a standalone asset for purposes other than connecting wireless antenna attachments on street poles. Underground duct could be used for communications network connections independent of pole installations.

#### **Current Rate Analysis**

Staff have examined the current rates for leasing poles and underground duct, including a comparison with other jurisdictions and agencies. The comparative survey indicated that the number of similar installations across Canada is currently limited and that allowable designs varied widely between municipalities. Vancouver was generally found to be at the higher end of comparable rate structures. Only the City of Calgary and Toronto Hydro were found to have both rates and allowable designs that have facilitated and enabled sizable capital investments from third parties, as identified by the City of Vancouver as a policy goal.

Specifically the current rate for duct leasing, particularly related to the volume of the duct space required as part of a wireless attachment has been identified by staff as being priced too high in our Protocol. For purposes of accommodating connections to wireless antennae on street poles, telecommunications providers require relatively small space within the City's duct. When compared against the lease rates charged by other jurisdictions and utilities for leasing much larger underground duct capacity, our price for wireless associated duct rates is too high and as a result we are getting little uptake.

#### **Recommendations for Improvement to the Protocol and Rate Structure**

Taking into consideration the outcome of the Protocol to date, benchmarking data, and input received from telecommunications providers, staff are recommending a small number of revisions to the Protocol, which are shown in Appendix A. Those changes are summarized as follows:

1. Increase the allowable dimension size of network kiosks from 1 cubic meter to 1.5 cubic metres.
  - Experience to date has demonstrated that the current restriction is very hard to satisfy and as such, an appropriate adjustment is advisable.
2. Reduce the lease rate for underground duct to more closely align it with benchmarked market rates and take into account the limited duct capacity required for wireless antennae connections.

- The revised rate now more accurately reflects actual volume utilisation related to the number of fibers. (Please see table below for additional detail.)
3. Introduce volume-based lease rate reductions to incentivise broader scoped capital investment in Vancouver’s digital infrastructure. (Please see table below for additional detail.)
  4. Update fees for plan review to align with staff time spent reviewing submissions. Our experience has demonstrated that more time is necessary and the fee will be increased to address that. (Please see table below for additional detail.)
  5. Extend the opportunity currently available for amenity offsets against costs for City-owned duct lease charges.

Staff will continue to work on the feasibility and appropriate rate structure for leasing underground duct to telecommunications providers for purposes other than wireless antennae connections.

At this time, staff are not recommending a change to the existing height restrictions on Minicell antennae. This issue also requires further review to determine the necessity and impact for any change to the existing guidelines.

The following table summarizes the current lease rates for wireless attachments and underground duct and the recommended changes referenced above.

Type	Current Fee	Recommended Fee
<b>PLAN REVIEW FEES</b>		
Minicell attachment	\$1200	\$2000
Microcell or Wi-Fi attachment	\$150	\$250
<b>MINICELL ATTACHMENTS (annual lease fees)</b>		
Pole attachment fee (under 12m height)	\$3000 per pole	Apply 30% reduction to current lease fees for 10 or more poles leased
Pole attachment fee (12m - 13m height)	\$4000 per pole	
Pole attachment fee (13m - 14m height)	\$5000 per pole	
Pole attachment fee (14m - 15m height)	\$6000 per pole	
Pole attachment fee (over 15m height)	\$7000 per pole	
<b>MICROCELL AND WI-FI ATTACHMENTS (annual lease fees)</b>		
Pole attachment fee	\$500 per pole	1-49 poles \$500
		50-99 poles \$350
		100+ poles \$250
<b>UNDERGROUND DUCT (annual lease fees)</b>		
Duct lease fee (more than 48 fibres)	\$8.00 per metre	\$8.00 per metre
Duct lease fee (7-48 fibres)		
Under 7500 metres leased	\$8.00 per metre	\$4.00 per metre
7500 - 15000 metres leased		\$2.80 per metre
Over 15000 metres leased		\$2.00 per metre
Duct lease fee (6 fibres or less)	\$2.25 per metre	\$2.25 per metre

**Implications/Related Issues/Risk (if applicable)**

**Financial**

With the council approval of the license agreement on July 24, 2013, staff estimated a possible 100 antenna attachments that would generate up to about \$125,000 in annual revenue (excluding duct lease fees). The report also projected that this revenue would continue to grow beyond 2014 with continued demand for more license agreements. Since the license agreement was approved, Staff have executed 10 antennae license agreements, generating \$21,600 in one-time plan review charges and \$113,059 annually to date. The agreements are summed up as follows:

Type	Executed Contracts	2015 Annual Fees
'Mini Cell' Attachment Licenses	8 agreements (14 sites)	\$52,000
'Microcell' Attachment Licenses	1 agreement (12 sites)	\$6,000
'Wi-Fi' Attachment Licenses	1 agreement (20 sites)	\$10,000
Associated Duct Licenses	8677m	\$45,059
Total		\$113,059

As the above existing license agreements expire and are renewed at the new rates, there will be a negative revenue impact of approximately \$17,000. Staff are expecting this to be offset with the revenue from additional volume generated by the new rate structure including any potential loss in revenue from the duct licenses. It is difficult to project the demand and timing of installations, however, based on our consultation with Telecommunications companies, there is potential for 50-100 installations in the next 1-2 years, resulting in a net revenue increase of \$30,000-\$80,000 relative to current annual revenues. Actual revenue received will depend on market conditions and the demand for installations.

**Environmental**

Agreements may include provisions to supply power for public amenities such as electric vehicle charging stations and outlet plugs that could be used in place of generators to power food carts and special events. Such provisions will be put in place only where a proposed antenna location coincides with a food cart or potential EV charging location.

There are no other environmental impacts.

## **CONCLUSION**

Driven by growth in the number and capability of mobile devices, demand for mobile access to data is expected to continue into the foreseeable future. This trend creates a compelling need for investment in a robust telecommunications infrastructure to serve Vancouver's citizens and support a thriving, technology-enabled local economy. The speed at which the technology environment is evolving necessitates that City policies are subject to ongoing review to ensure that they remain relevant and continue to support the City's broader economic and digital objectives.

The recommended changes to the Protocol, as detailed in Appendix A, are intended to create an environment conducive to private investment in Vancouver's telecommunications infrastructure, while maintaining appropriate stewardship of City assets and the public realm.

\* \* \* \* \*



## Changes to the ‘Contracting Protocol for Antenna Installations on City-Owned Poles’:

[All additions are shown in ***bold italics and underlined***. Deletions are shown in ~~strikeout~~.]

### ENGINEERING SERVICES UTILITIES MANAGEMENT BRANCH

#### CONTRACTING PROTOCOL FOR ANTENNA INSTALLATIONS ON CITY-OWNED POLES

##### **PURPOSE**

The purpose of this protocol is to set forth certain guidelines and decision-criteria to be applied by the City of Vancouver (the “City”) in assessing whether, and on what terms, to enter into agreements that grant persons rights to install antennae on City-owned poles. The City urges persons seeking to enter into such agreements with the City (“Proponents”) to refer to this protocol before proposing any such agreements. The City reserves the right to revise this protocol at any time, and from time to time.

##### **SCOPE**

This protocol applies to the assessment of all proposed agreements between the City and other parties relating to antenna installations on poles owned by the City, as well as ancillary street level-systems. In the circumstances in which the City enters into an agreement that grants a Proponent a right to install any such antenna, the Proponent is not required to obtain a building or development permit, but the Proponent must obtain any other required permits.

##### **REGULATORY CONTEXT**

In Canada, the federal government, through Industry Canada and Health Canada, is primarily responsible for regulating wireless telecommunications and antennae. Proponents are responsible for ensuring that they comply with all federal legal requirements, including, without limitation and to the extent applicable, Industry Canada’s Client Procedures Circular 2-0-03 and Health Canada’s Safety Code 6. The City may require evidence of compliance with applicable federal, provincial or City requirements before it enters into an agreement with a Proponent that grants the Proponent the right to install antennae on City-owned poles (any such agreement, a “License Agreement”).

##### **GUIDING PRINCIPLES**

The following guiding principles describe certain City objectives that inform the remainder of this protocol.

<b><i>Infrastructure Investment</i></b>	Facilitate telecommunication infrastructure growth that supports the technology needs of the Vancouver business community and propels economic development.
<b><i>Promoting Green &amp; Digital Initiatives</i></b>	Encourage undertakings that support both the Digital Strategy and Greenest City Action Plan through investment in improved wired and wireless infrastructure and the provision of power for food carts, special events and electric vehicle charging stations.
<b><i>Partnerships &amp; Collaborations</i></b>	Cultivate strong business relationships and seek opportunities to leverage benefits from strategic partnerships and collaborations.

## **DESIGN PRINCIPLES**

The following design principles have been established by the City to support a well-balanced approach to integrating antenna systems into the public realm.

- Efforts should be made to minimise the size of antenna systems.
- Design and site decisions should respect view corridors.
- Antenna systems should be sympathetic to their environment and be designed in a manner that compliments the surrounding architecture and built form.
- Innovation in design, including the integration of public amenities into antenna systems ***and pole attachments***, is encouraged.

## **CITY GUIDELINES AND REQUIREMENTS**

### **1. PROPOSAL AND APPROVAL PROCESS**

#### ***1.1 Pre-Proposal Consultation***

The City's Engineering Services Department requires that Proponents undertake pre-proposal consultation, with City staff, to discuss proposed antenna system installations on City-owned poles.

#### ***1.2 Proposal Requirements***

A Proponent must submit a proposal to the City's Engineering Services Department before the City will enter into any License Agreement. At minimum, the Proponent must provide:

- A company name and contact information;
- A description of the intended purpose of the antenna system;
- A site plan identifying the proposed locations of antennae and associated mechanical equipment, as well as the locations of existing antenna systems;
- Photo-realistic renderings of the proposed antenna system;
- Any other information requested during the pre-proposal consultation.

The proposal must be accompanied by the plan review charge.

### **1.3 Proposal Review and Approval Process**

The review and approval process established by the City is outlined below.

1. The City will review the proposal submitted for completeness.
2. An onsite meeting may be required to discuss the proposed installation.
3. Following the proposal review and the onsite meeting, if any, the City will respond within seven business days, either granting preliminary approval or notifying the Proponent of the City's decision to not enter into a License Agreement.
4. Following preliminary approval, if any, the Proponent must submit an engineering drawing of the proposed installation, including a site-plan and detailed side-view, with dimensions and elevations. Drawing submissions must adhere to the specifications set out in the City's Utilities Design and Construction Manual.
5. The City will endeavour to issue final drawing approvals within 10 business days, unless drawing revisions are necessary.
6. Final permission to proceed will be granted only upon the execution of a License Agreement with the City.

Engineering Services may establish more specific review and approval procedures in conformity with the foregoing.

### **1.4 Proponent Responsibilities**

Each Proponent will be responsible for:

- Securing all required authorizations, approvals and permits, prior to commencing construction (including required City permits);
- All costs associated with modifying or replacing City-owned poles;
- **All costs associated with auditing or accessing associated City-owned duct;**
- Provision for supplying and maintaining power and all other associated costs; **and**
- **Coordinating equipment shut down procedures with City staff.**

## **2. NOTIFICATION REQUIREMENTS**

Engineering Services may establish public or community notification requirements in respect of particular types of poles and placement locations from time to time in conformity with this protocol.

## **3. LOCATION AND SITING**

### **3.1 Antenna Placement Criteria**

When considering placements of antennae on City-owned poles, the City will be guided by the following preferences. It is preferable that antennae be:

- Within commercial and industrial-zoned districts;
- On arterial streets (see "reference streets" on VanMap);
- Adjacent to parks, green spaces, golf courses and industrial areas;
- In a manner that does not adversely impact view corridors; and
- Not directly in front of doors, windows, balconies or residential frontages.

The City may enter into License Agreements contrary to these preferences in its discretion, but in those circumstances, the City is more likely to require the relevant Proponent to undertake public or community notification.

### **3.2 Mechanical Equipment Placement Criteria**

Mechanical equipment, namely antenna kiosks, shall meet the requirements set out in Sections 3.8, 6.12 and 6.13 of the Utilities Design and Construction Manual.

Exceptions to mechanical equipment placement criteria will be evaluated on a case-by-case basis, however where requirements cannot be met, the City may require such equipment to be located in an underground vault.

## **4. DESIGN GUIDELINES**

### **4.1 General**

- Proponents will be responsible for all design work, including but not limited to, geotechnical investigation, structural and foundation design, and electrical design work for antenna systems.
- All underground design work must adhere to the requirements set out in the Utilities Design and Construction Manual.

### **4.2 Pole and Antenna Design**

- Antennae designed to be mounted on top of a City-owned pole must be cylindrical in form and fabricated to match the diameter of the supporting pole. Panel antennae will only be permitted exceptionally;
- The total height of a City-owned pole and any attached antenna must be no more than 14.9 metres; and
- When possible, an antenna must be painted and textured to match the supporting pole.

### **4.3 Mechanical Equipment Design**

- Kiosks must be designed in a manner which integrates them into their surroundings, including through the use of decorative wraps that are graffiti-resistant;
- Kiosk dimensions must not exceed 1.5 cubic metre; and
- Cables and wires must be concealed or covered.

## **5. CONSTRUCTION REQUIREMENTS**

All construction work must meet the requirements set out in the Utilities Design and Construction Manual.

## **6. CONTRACT CHARGES**

### **6.1 Minicell Installations**

#### Plan Review

Prior to entering into a License Agreement for a minicell installation, the City will require the payment of \$2000 to offset City costs for plan review.

#### Annual Payments for Pole Use

The ongoing consideration required by the City under License Agreements for minicell installations will be as follows:

- \$3,000 per pole, for each new pole installation where the total height of the new pole-antenna combination is less than or equal to 12.0m;
- \$4,000 per pole, for each new pole installation where the total height of the new pole-antenna combination is greater than 12.0m but less than or equal to 13.0m;
- \$5,000 per pole, for each new pole installation where the total height of the new pole-antenna combination is greater than 13.0m but less than or equal to 14.0;
- \$6,000 per pole, for each new pole installation where the total height of the new pole-antenna combination is greater than 14.0m but less than or equal to 14.4m; and
- \$7,000 per pole, for each new pole installation where the total height of the new pole-antenna combination is greater than 14.4m but less than or equal to 14.9m.

**As an incentive for use of City-owned poles, rate reductions will be applied at the following volumes of executed agreements:**

- **10+ Poles = 30% annual rate reduction**

#### Special Considerations

As an incentive for pole-antenna combinations that both (1) incorporate innovative design or engineering and (2) provide power outlets, the City will reduce the annual charges for pole use by ten percent for a period of ten years for such installations (as determined by the City).

In addition, the annual payment for pole use will be reduced by \$500 for those installations that do not require an aboveground kiosk.

For purposes hereof "minicell" refers to a top-mount antenna, cylindrical in form that is integrated into the top of a street light pole.

## **6.2 Microcell and Wi-Fi Installations**

#### Plan Review

Prior to entering into a License Agreement for any installation other than a minicell installation, the City will require the payment of **\$250** to offset City costs for plan review.

#### Annual Payments for Pole Use

**The ongoing consideration required by the City under License Agreements for Microcell and Wi-Fi installations will be as follows:**

- **1-49 Microcell or Wi-Fi antenna installations = \$500 / pole / year**
- **50-99 Microcell or Wi-Fi antenna installations = \$350 / pole / year (30% annual rate reduction)**
- **100 or more Microcell or Wi-Fi antenna installations = \$250 / pole / year (50% annual rate reduction)**

### 6.3 City-owned Duct Use

#### Annual Payments for Use of City-owned Duct

The ongoing consideration required by the City under License Agreements for City-owned Duct will be as follows:

#### Cable count of more than 48 fibers

- Any length of Standard Duct - \$8 / m / year

#### Cable count of 48 fibers or less

- 1m to less than 7,500m of Standard Duct = \$4 / m / year
- 7,500m to less than 15,000m of Standard Duct = \$2.80 / m / year (30% annual rate reduction)
- 15,000m or more of Standard Duct = \$2.00 / m / year (50% annual rate reduction)

#### Cable count of 6 fibers or less

- Any length = \$2.25 / m / year

Duct use is limited to placement of power or fiber optic cables with a maximum outside diameter of 24mm.

## 7. PUBLIC BENEFITS

Proponents are encouraged to consider innovative designs that incorporate public amenities into antenna systems, or pole attachments. On occasion, the City may require Proponents to integrate power supply for amenities into their designs or provide other public benefits, and be responsible for all associated costs. Power could be used for, among other things, food carts, special events, power washing, lighting or electric vehicle charging. In such cases, annual pole use and City-owned duct lease payments would be reduced (or would not apply for a period of time) in order to offset the costs of the amenities or other public benefits (but without taking into account Proponent's financing charges).

## 8. LICENSE AGREEMENT TERMS

License Agreements shall be based on the form approved by Vancouver City Council from time to time.

**CITY OF VANCOUVER**

**STREET POLE ANTENNA AGREEMENT**

**CITY OF VANCOUVER  
MASTER STREET POLE ANTENNA AGREEMENT**

**[MODIFY THIS FORM AS NECESSARY]<sup>1</sup>**

This agreement (this “Agreement”) is made effective as of **[DATE]**.

**SUBJECT CITY PROPERTY:** As set forth in Schedule A, as amended from time to time (the “City Property”)<sup>2</sup>

**LICENSOR:** **CITY OF VANCOUVER**, a municipal corporation having offices at 453 West 12<sup>th</sup> Avenue, Vancouver, British Columbia, V5Y 1V4, acting in its capacity as owner of the City Property (the “Licensor”)<sup>3</sup>

**LICENSEE:** **[LEGAL NAME OF LICENSEE]** (the “Licensee”)

**1.0 LICENSOR APPROVAL AND CONSENT**

All Licensor rights, obligations, approvals, consents, directions, decisions, actions or other things required or permitted or otherwise provided for herein shall be effectively decided, carried out, performed, received, exercised or discharged as the case may be by or as directed by the Licensor through its authorized officers, officials, employees or agents (the “Licensor’s Personnel”).

**2.0 GRANT OF LICENSE AND TERM**

2.1 The Licensor grants to the Licensee, subject to this Agreement:

- (a) for the Term (as hereinafter defined), a non-exclusive right, by way of license, to use for the Permitted Use (as defined herein) those portions of the City Property on which the Equipment (as defined herein) shall be installed as described or shown in the drawings included within Schedule A, as amended (each a “License Area”), in each case for the Term applicable to the particular License Area, following, where applicable, the installation by the Licensee to the Licensor’s satisfaction, of new street poles and other equipment forming City Property, as specified in the relevant Schedule A, as amended, and referred to in Section 2.1(c) below;

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<sup>1</sup> This agreement is a form that is to be modified as necessary for each definitive license. The items that are in square-brackets are optional or variable items that need to be addressed. Other items that may be modified are noted in footnotes. No square brackets or footnotes should remain in a definitive license agreement.

<sup>2</sup> The property may include poles that are cost-shared with TransLink/Coast Mountain Bus Company, in which case this form may be modified to provide for the sharing of rights and obligations between the City and TransLink/Coast Mountain Bus Company and to make other changes required as a result of TransLink/Coast Mountain Bus Company being a Licensor.

<sup>3</sup> Translink/Coast Mountain Bus Company may be included as a joint Licensor when applicable.

- (b) following the installation, where applicable, by the Licensee to the Licensor's satisfaction, of new street poles and other equipment forming City Property, as specified in the relevant Schedule A, as amended, and referred to in Section 2.1(c) below a non-exclusive right, by way of license, to pass and re-pass over, at its own risk, such other portions of City Property adjacent to the relevant License Area as is necessary during the applicable Term to make use of the relevant License Area for the Permitted Use, subject to such conditions, limitations and restrictions provided for herein or as the Licensor may otherwise require from time to time; and
  - (c) in order to permit, and as a precondition to, the initial installation of Equipment in a License Area (where such precondition is described in the relevant Schedule A), consent of the Licensor for the Licensee to, at the Licensee's own risk and expense, install new street poles and other equipment as specified in the relevant Schedule A, which such new street poles and other equipment shall, upon installation, be deemed to be conveyed to and become the sole property of the Licensor, as stated in Section 11.1, and which may be identified as City Property in the relevant Schedule A, as amended, and form part of the relevant License Area.
  - (d) **[MODIFY AS NECESSARY TO REFER TO USES OF CITY DUCT SPACES.]**
  - (e) **[MODIFY AS NECESSARY TO REFER TO VALUE-ADDED SERVICES]**
- 2.2 The Licensor and the Licensee hereby agree that it is their intent that this Agreement may establish the terms and conditions for multiple licenses (respecting multiple street poles) and that Schedule A hereof may therefore, without limitation, be amended to specify additional such licenses, from time to time, by the Licensor and the Licensee completing, and each executing, documents in the form of Schedule B in relation thereto.
- 2.3 This Agreement shall have a term of **20** years, commencing on the date first written above and ending at 11:59 p.m. on **[DATE]**, unless the Agreement is sooner terminated in accordance with this Agreement or the term is varied by an amendment hereto executed by the Licensor and the Licensee.
- 2.4 Each right by way of license established pursuant to Section **Error! Reference source not found.** shall have the term (each a "Term") specified in relation to the relevant License Area in Schedule A, as amended (subject to extension of such Term through Renewal Terms, as described herein), and shall end at 11:59 pm. on the last day of the Term (the "Expiry Date" of such Term), unless this Agreement sooner expires or is sooner terminated in accordance with this Agreement, in which case "Expiry Date" shall be deemed to mean, in relation to every Term hereunder which would otherwise extend beyond the expiry or termination of this Agreement, the time and date of expiry or termination of this Agreement and, in relation to each such Term, "Term" shall be deemed to mean the period commencing on the date established hereunder and ending on such Expiry Date.



### 3.0 PRICE

- 3.1 The Licensee shall pay the Licensor in respect of each License Area, without any deduction or set-off, but subject to adjustment as provided for herein in respect of any Renewal Terms, annual consideration in the amount specified in Schedule A, as amended, in relation to such License Area (each, an “**Annual License Amount**”), plus all applicable taxes, with the Annual License Amount for the 12-month period beginning on the first date of any Term (the “**Commencement Date**”) to be paid on or before the Commencement Date and each subsequent Annual License Amount to be paid on or before the next anniversary date of the Commencement Date.
- 3.2 In addition to the Annual License Amount, the Licensee shall pay to the Licensor for each License Area: (i) an amount, in lieu of expenses incurred by the Licensor to review the Licensee’s plans and drawings for such License Area, equal to the amount specified in the relevant Schedule A upon execution of the relevant amendment adding such License Area to Schedule A, provided that if such amount has been paid by the Licensee to the Licensor prior to the date of such amendment in respect of the specific subject matter hereof, the Licensee is not required to make a further payment of the same amount; and (ii) each time that the Licensor reasonably inspects the use of a License Area, an inspection cost reimbursement equal to the amount specified in the relevant Schedule A.
- 3.3 All taxes payable in respect of or attributable to this Agreement (including, without limitation, any taxes on the equipment and structures installed by the Licensee pursuant hereto) shall be paid by the Licensee when due and the Licensee shall indemnify and hold harmless the Licensor in relation to any claim for any taxes arising from this Agreement, and this Section 3.3 shall survive any termination of this Agreement.

### 4.0 RENEWAL

- 4.1 Subject always to Section 14.0, provided that the Licensee is not in default of this Agreement, the Licensee may, at its option, extend the initial Term in respect of any License Area for two further and consecutive periods, each of which shall be equal to the number of years indicated for renewal terms in the relevant Schedule A (each, a “**Renewal Term**”). Each such renewal of the Term shall occur automatically and shall not require any prior notice to the Licensor and in that manner shall take effect automatically unless the Licensee, by giving written notice to the Licensor at least 90 days before the end of the relevant initial Term or the then current Renewal Term, as the case may be, expressly elects not to exercise the right of renewal.
- 4.2 Each Renewal Term shall be on the same terms and conditions as set out in this Agreement, except that:
- (a) the right to renew the Term in respect of any License Area shall be limited to a cumulative total for all time of two Renewal Terms as provided for above herein and consequently, the right of renewal contained in this Agreement shall be reduced accordingly each time such renewal right is exercised in respect of a License Area; and

- (b) each time the Term is renewed, the Annual License Amount in relation to a particular License Area shall be adjusted to increase it (but never to decrease it) by the greater of:
  - (i) an amount equivalent to the percentage change in the Consumer Price Index (CPI) for the Province of British Columbia for all items over the immediately preceding initial Term term or the immediately preceding Renewal Term, as applicable; or
  - (ii) an amount equivalent to any increase in the fair market value for the rights granted herein to the Licensee, except that if the parties fail to agree on the increase in the fair market value at least 30 days prior to the Expiry Date of the initial Term or the expiry of a subsequent Renewal Term, then such disagreement shall be referred to arbitration pursuant to the *Arbitration Act* (British Columbia) or any successor legislation.

## 5.0 USE OF LICENSED AREA<sup>4</sup>

- 5.1 The Licensee's use of each License Area and such other parts of the appurtenant City Property as may be expressly permitted hereunder shall be for the purpose and only for the purpose of the Licensee (or its contractors), at its expense, installing, constructing, placing, removing, replacing, relocating, inspecting, maintaining, repairing, supplementing and operating within such License Area, in the provision to the public of radio-communication services, the specific structures and equipment described in Schedule A as amended, in relation to such License Area (the "**Equipment**" in relation to such License Area), subject to the Licensee complying at all times in respect thereof with the further requirements of such Schedule A and all applicable laws, regulations, policies, guidelines and other requirements of any and all authorities, agencies and bodies having jurisdiction in respect of the Equipment and the Licensee's use and operation thereof and the Licensee's activities and operations hereunder (the "**Permitted Use**").
- 5.2 Within 30 days of completion of the initial installation of, and within 30 days of any further work as may be permitted hereunder in respect of, the Equipment for a License Area or, where applicable, other items installed pursuant to Section 2.1(c) hereof (including under Section 5.5 or Section 6.1, except for any work that does not involve any initial installation of, or any modification to, any item), the Licensee shall deliver to the Licensor "as-built" drawings prepared by a Canadian professional engineer, an Applied Science Technologist or a similar professional, satisfactory to the Licensor, showing the exact location and dimensions of the Equipment and, where applicable, other items installed pursuant to Section 2.1(c) hereof ("**Record Drawings**"), failing which this Agreement shall be subject to termination by the Licensor pursuant to Section 14.3.<sup>5</sup>

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<sup>4</sup> Where the License Area includes City duct space, this section may be modified in the City's discretion to require installations of Equipment (including cables) in such duct spaces to be carried out by the City.

<sup>5</sup> This paragraph (and further paragraphs dealing with record drawings) may be modified to remove the requirement that as-built drawings be provided in those cases in which no underground infrastructure is

- 5.3 If Record Drawings delivered to the Licensor under Section 5.2 are satisfactory to the Licensor, they shall be attached as Schedule C to this Agreement. If any Record Drawings delivered to the Licensor show that the relevant Equipment, as installed, or, where applicable, another item, as installed, differs, in any manner, including as to location of installation, from the description thereof in Schedule A, as amended (or, if applicable, from a modification thereto previously expressly approved in writing by the Licensor or a modification otherwise permitted under Section 5.5 or Section 6.1), then, at the Licensor's sole discretion:
- (a) the Licensee, at its expense, within 30 days of the Licensor's request, and to the Licensor's satisfaction, shall modify the relevant Equipment or other item or its location so that it is consistent with Schedule A, as amended (or, if applicable, with a modification thereto previously expressly approved in writing by the Licensor or otherwise permitted under Section 5.5 or Section 6.1) and provide the Licensor with another set of Record Drawings for the relevant License Area for approval by the Licensor which shall be attached as Schedule C to this Agreement; or
  - (b) the Licensor may agree in writing to the applicable variation from the requirements of Schedule A, as amended (or, if applicable, from a modification thereto previously expressly approved in writing by the Licensor or otherwise permitted under Section 5.5 or Section 6.1), whereupon a License Area, Equipment and, where applicable, the requirements of Section 2.1(c) hereof, shall be deemed to be as shown in the relevant Record Drawings and such Record Drawings shall be incorporated as Schedule C to this Agreement and the Annual License Amount in relation thereto may be adjusted accordingly as the Licensor may reasonably require.
- 5.4 Should the Licensee refuse or fail to modify any Equipment or another item as directed by the Licensor in accordance with Section 5.3(a), then this Agreement shall be subject to termination by the Licensor pursuant to Section 14.3.
- 5.5 Once all of the Equipment and, where applicable, all street poles and other equipment described in the relevant Schedule A, as amended, have in relation to a License Area all been installed in accordance with this Agreement, the Licensee shall not modify such Equipment at any time in any way without delivering a written detailed notice of its proposed modification(s) to the Licensor at least 20 days prior to making such modification(s). If the Licensor delivers notice to the Licensee within 15 days of receipt of the Licensee's aforesaid notice that the Licensor objects to the proposed modification(s), or intends to impose conditions to the proposed modification(s), then the modification(s) shall not be made except on such terms and conditions as the Licensor may, acting reasonably, require. If notice is not delivered by the Licensor within such 15 days, then the proposed modification(s) may be undertaken by the Licensee, in full accordance with the Licensee's aforesaid notice. Notwithstanding the foregoing, the Licensee may at any time make such modifications as are strictly necessary to address emergencies reasonably involving material threats to persons or property or make such other modifications as are approved in writing by the general manager of the Licensor's Engineering Department (the "City Engineer").

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used or installed and the City Engineer is satisfied that as-built drawings are not necessary. Even where the paragraph is included, note that Section 14.3 provides for a 60-day cure period.

- 5.6 Subject to any applicable restrictions and requirements imposed by law or pursuant to this Agreement, the Licensee shall have 24-hour access to all Equipment, seven days a week (*force majeure*, as determined by the Licensor acting reasonably, excepted).
- 5.7 The Licensee shall not install any equipment, instruments or other things in a License Area other than the Equipment specified in Schedule A, as amended, in respect of such License Area or install any equipment, instruments or other things on the Licensor's property outside of the any License Area, and shall not in any way, except as stated in Section 5.5, modify any Equipment (or any property of the Licensor, including, where applicable, property of the Licensor installed by the Licensee hereunder) at any time without the explicit prior written permission of the Licensor and in accordance with this Agreement, and the Licensee acknowledges that any such unapproved installations of equipment, instruments or other things inside or outside of a License Area or such unapproved modifications to any Equipment or property of the Licensor shall be deemed automatically to constitute a material breach of this Agreement.
- 5.8 The Licensee must comply with all applicable City of Vancouver by-laws in connection with the installation of its Equipment and, where applicable, of all street poles and other equipment described in the relevant Schedule A, and must comply with all provisions of the Licensor's "ENGINEERING SERVICES UTILITIES MANAGEMENT BRANCH CONTRACTING PROTOCOL FOR ANTENNA INSTALLATIONS ON CITY-OWNED POLES," as adopted by Vancouver City Council, and as amended from time to time (the "Protocol"), whether or not a particular provision thereof is also set forth in Schedule A, as amended, or elsewhere herein, provided that, if the annual payments for pole use set forth in such protocol are amended, such amendments shall not affect this Agreement.
- 6.0 PRIOR NOTICE & LICENSOR ADDITIONAL COSTS**
- 6.1 Prior to commencing any work in a License Area or otherwise on the Licensor's property, including without limitation the installation, maintenance, repair or removal of any Equipment or, where applicable, any street poles or other equipment described in the relevant Schedule A (and including any work under Section 5.5), the Licensee shall give the Licensor at least five days' advance notice of its proposed work (or such longer notice under Section 5.5), provide the Licensor, to its satisfaction, with all construction drawings, plans and specifications for, and a detailed written description of, the work contemplated and obtain the express prior written approval of the Licensor with respect to such work and of all plans and specifications and descriptions (except as otherwise expressly provided in Section 5.5 or where such approval is expressly provided hereby). Notwithstanding the foregoing, the Licensee may at any time undertake such work as is necessary to address emergencies reasonably involving material threats to persons or property (subject, however, to compliance with Section 5.2 if the work involves any initial installation or modification of any item).
- 6.2 The Licensee shall pay the Licensor within 30 days of the Licensor invoicing the Licensee, any additional verifiable costs reasonably incurred by the Licensor in repairing, maintaining or constructing any works or improvements on, or consisting of, any City Property or carrying out any work of any kind on any City Property, in each case as a result of the presence of Equipment thereon, if and whenever the Licensor incurs such additional costs.

## 7.0 UTILITIES<sup>6</sup>

- 7.1 Utilities connections (including electricity and communications connections and all related duct work) required for the operation of any Equipment, and all utilities consumption attributable to the operation of any Equipment, shall be the sole responsibility of the Licensee, and, where indicated in the relevant Schedule A, the Licensee shall cause to be installed separately metered and billed utility services for all Equipment in relation to a particular License Area, for which it shall be solely responsible.
- 7.2 If the Licensee does not have a separately billed electricity service for its Equipment in relation to a particular License Area or is otherwise not billed directly by any utility supplier, then the Licensee shall reimburse the Licensor on a monthly or quarterly basis for its respective portions of the applicable utility rates, charges, costs and expenses incurred by the Licensor, as allocated by the Licensor and communicated to the Licensee, based upon the Licensee's use of each of the respective utilities for the relevant Equipment, as determined by the Licensor.
- 7.3 The Licensee shall reimburse the Licensor at the end of the initial Term in respect of a License Area and each Renewal Term, and monthly thereafter if granted an extension, for any required adjustments to the utility costs incurred by the Licensor based upon the Licensee's use of the relevant City Property and which are not accurately calculated on a monthly or quarterly basis.
- 7.4 Any other provision hereof notwithstanding, the Licensor shall be solely responsible for the utility connections required for, and the utilities consumption attributable to, the operation of any amenity<sup>7</sup> described in the relevant Schedule A to be installed by the Licensee pursuant hereto.
- 7.5 ***[MODIFY AS NECESSARY.]***

## 8.0 EQUIPMENT

- 8.1 All Equipment shall remain the personal property of the Licensee at all times and shall be removed by the Licensee, at its expense, no later than the Expiry Date in respect of the relevant License Area or, if earlier, 30 days following the termination date of the Agreement, provided that the Licensee shall obtain the prior written approval of the Licensor with respect to any voluntary removal of the relevant Equipment by the Licensee, including approval of the timing thereof.
- 8.2 Upon the Expiry Date in relation to a License Area (or, if earlier, 30 days following the termination date of the Agreement) or the earlier removal or abandonment by the Licensee of any Equipment installed in the License Area that is not replaced by the Licensee in accordance herewith, the Licensee, at its expense, shall restore the

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<sup>6</sup> In almost all cases, the City will require the licensee to install a separate meter for its equipment requiring electricity.

<sup>7</sup> As noted above, amenities will be of the type described in the City's "ENGINEERING SERVICES UTILITIES MANAGEMENT BRANCH CONTRACTING PROTOCOL FOR ANTENNA INSTALLATIONS ON CITY-OWNED POLES," as adopted by Vancouver City Council.

- relevant License Area (or the relevant portion of that License Area from which Equipment has been removed and not replaced or on which Equipment has been abandoned) to a condition substantially equivalent to its original condition, at the sole cost and expense of the Licensee, all to the satisfaction of the Licensor, it being agreed that, in cases of a new street pole installed by the Licensee pursuant to Section 2.1(c), "original condition," as used in this paragraph, means the original condition of such new pole, but without any Equipment.
- 8.3 If the Licensee fails to remove any Equipment from a City Property that is required to be removed pursuant to the terms of this Agreement or fails to restore a License Area as required by Section 8.2 or fails to repair any related damage to a City Property, or to any of the Licensor's property or improvements on or within the vicinity of a City Property resulting from such removal of the Licensee's Equipment, the Licensor may, but shall not be obligated to, carry out the Licensee's obligations and remove any such Equipment or repair the relevant License Area or any damage caused to the Licensor's property incidental to this Agreement, in which event the Licensee shall, forthwith following receipt of any written request from the Licensor, pay to the Licensor the amount of any costs from time to time incurred by the Licensor in so doing, plus a reasonable sum (not greater than 20% of such costs) as a surcharge for overhead.
- 8.4 Any other provision hereof notwithstanding, any item (whether a street pole or other equipment) installed pursuant to Section 2.1(c) hereof shall, upon installation, become the exclusive property of the Licensor as stated in Section 11.1 and shall not be removed by the Licensee without the written consent of the Licensor.
- 8.5 The Licensee must provide prompt notice to the Licensor when any Equipment ceases to be used by the Licensee or is otherwise abandoned by the Licensee.
- 8.6 The Licensee shall secure, repair and maintain all Equipment in a safe condition and free of graffiti for so long as it is located on City Property, provided that the Licensee shall not be required to secure, repair or maintain any item (whether a street pole or other equipment) installed pursuant to Section 2.1(c) hereof except for those item specifically identified in the relevant Schedule A as being the responsibility of the Licensee to secure, repair or maintain, and the Licensee shall cooperate with the Licensor and shall promptly comply with the Licensor's reasonable instructions in relation to any repairs to, or any replacement of, any street pole on which Equipment is installed that is necessitated by any accident, wilful damage or natural event; provided that, subject to Section 8.7, the costs for the repair or replacement of the street pole shall be borne by the Licensor. (For the avoidance of doubt, the Licensee shall be solely responsible for the repair or replacement of Equipment necessitated by or in connection with any such repair or replacement of a street pole arising from any accident, wilful damage or natural event.)
- 8.7 Promptly upon the execution of an amendment to Schedule A, the Licensee shall cause to be placed in its storage facility within or in close proximity to the City of Vancouver the number of street poles identified in the relevant Schedule A that are of the same type as those to be installed pursuant to Section 2.1(c) hereof, and shall thereafter, without charge for the street poles or the delivery service, deliver such street poles to the Licensor within the City of Vancouver promptly upon the request of the Licensor.

8.8 Any other provision hereof notwithstanding, any amenities described in Schedule A in respect of a License Area that installed by the Licensee pursuant hereto shall not be removed, replaced or modified by the Licensee without the prior written consent of the Licensor.

## 9.0 CERTIFICATION

9.1 Prior to commencement of any construction work hereunder (but not in the case of emergency work described in Section 5.5 and Section 6.1), the Licensee, at its expense, shall provide the Licensor with street pole foundation drawings (where applicable) and structural loading drawings, signed and sealed by a duly licensed and qualified Canadian professional engineer, satisfactory to the Licensor, showing that each street pole foundation shall be structurally sound (where such street pole is to be installed by the Licensee) and that the structural loading of the relevant Equipment shall not be excessive for the relevant street pole(s), failing which the Licensee shall not proceed with such construction work.<sup>8</sup>

9.2 Without limitation to anything else herein, the Licensee, at its expense, shall ensure that all safety requirements applicable to the installation, maintenance and use of the Equipment are complied with as required at all times, including, without limitation, that a Safety Code 6 radio frequency inspection report is prepared within 30 days of commencement of operations or of any subsequent material changes to any Equipment, which report shall be authored by a qualified person or qualified persons meeting any requirements for such person or persons set by Industry Canada, and which report shall result from an inspection or inspections of the relevant License Area and other affected locations, together with such other tests, surveys and inquiries as such person or persons deem(s) advisable in such circumstances, and which report shall include a written summary of the nature and results of all tests, surveys and inquiries conducted and recommendations for any remedial or precautionary actions to be taken in relation to the level of radio frequency radiation. The cost of any reports required hereby or requested by the Licensor shall be paid by the Licensee. In the event that any such report concludes that the level of radio frequency radiation exceeds the level established in Safety Code 6, the Licensee shall immediately disconnect the electricity supply to its relevant Equipment and shall not re-connect it until such time as it is possible to do so without exceeding the level of radio frequency radiation established in Safety Code 6.

## 10.0 COMPLIANCE WITH LAWS

10.1 As a fundamental term of the Agreement, the Licensee represents, warrants, covenants and agrees that its Equipment and its operations on and near every License Area shall comply with all applicable federal, provincial and local laws, regulations and legal standards, including without limitation environmental laws and regulations.

10.2 Without prejudice to the generality of the foregoing, as a fundamental term of the Agreement, the Licensee represents, warrants, covenants and agrees that any and all

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<sup>8</sup> This certification requirement may be modified or removed from some definitive license agreements if the City Engineer determines that the nature of an antenna installation is such that, reasonably, this certification ought not to be required.

signals, transmissions or radiation that may be emitted from its Equipment are in compliance with all applicable laws, regulations and legal standards.

- 10.3 In the event that the Licensee or any Equipment fails to comply with any applicable laws, regulations or standards (other than in the circumstances described in Section 9.2), the Licensee shall immediately disconnect the electricity supply to any relevant Equipment, if necessary to avoid any violation of any applicable law, regulation or legal standard, and shall, within 90 days, produce and deliver to the Licensor a plan to remedy all of the relevant legal deficiencies, which plan is reasonably acceptable to the Licensor, and thereafter shall promptly implement such plan, failing which this Agreement may, upon written notice, be terminated by the Licensor pursuant to Section 14.3 and for purposes of such termination, the 60-day notice requirement stated in Section 14.3 shall not apply.

#### **11.0 CONVEYANCE; NO LIENS**

- 11.1 The new street poles and other equipment specified in of Schedule A, as amended, and referred to in Section 2.1(c) shall be installed by the Licensee in accordance with Schedule A, as amended, and all rights, titles and interests thereto or therein shall, upon the installation of each by the Licensee, be deemed to be transferred and conveyed by the Licensee to the Licensor, and the Licensee shall thereafter promptly execute all documents and do all other things necessary to ensure that such street poles and other equipment are effectively and fully conveyed to the Licensor, free of any liens, charges or encumbrances, and this Section 11.1 shall survive any termination of this Agreement.
- 11.2 The Licensee, at its expense, shall promptly discharge any liens and other encumbrances at any time filed against any City Property or the Licensor's interest in any City Property, or, where applicable, any other property specified in the relevant Schedule A, as amended, and referred to in Section 2.1(c), arising as the result of any act or omission of the Licensee, and shall keep all City Property and every License Area and, where applicable, any other property specified in the relevant Schedule A, as amended, and referred to in Section 2.1(c) free from any and all such liens and other encumbrances. If the Licensee fails to do so within 15 days of receiving notice of a lien or other encumbrance, the Licensor may, but shall be under no obligation to, take such action as may be necessary or expedient to discharge such lien or other encumbrance (whether or not the same is admitted or denied by the Licensee), including without limitation, paying into a court of competent jurisdiction the amount required to obtain a discharge of such lien or other encumbrance in the name of the Licensee, and any amounts so paid, together with all disbursements and costs in respect of such proceedings shall, on a solicitor and own-client basis, be forthwith due and payable by the Licensee to the Licensor.
- 11.3 Prior to the commencement of any construction, alterations or improvements on the License Area or otherwise on property of the Licensor and, when so directed by the Licensor, the Licensee shall, on behalf of the Licensor, post and keep posted on the License Area or otherwise on property of the Licensor any notices that the Licensor may desire to post under the provisions of any applicable builders' lien legislation.



## 12.0 NOTICE

Notices shall be in writing and sent by email, facsimile or mail (postage prepaid) and shall be deemed to be received upon the date of emailing or facsimile transmission (or if that day is not a City of Vancouver business day, on the next following City of Vancouver business day) or seven days after the date of mailing (or if that day is not a City of Vancouver business day, on the next following City of Vancouver business day), to the address or fax number of the party set forth below:

**City of Vancouver**

453 West 12<sup>th</sup> Avenue  
Vancouver, British Columbia V5Y 1V4

Attention: **[NAME]**

Email: **[EMAIL]**

Fax number: **[NUMBER]**

**[LEGAL NAME]**

**[ADDRESS]**

Attention: **[NAME]**

Email: **[EMAIL]**

Fax number: **[NUMBER]**

## 13.0 ASSIGNMENT

13.1 Assignment of this Agreement or sublicensing of rights by the Licensee may be made only to a corporate affiliate of the Licensee, any principal lender of the Licensee or a purchaser of all of the Licensee's assets and operations. No other assignment or sublicense is permitted without the Licensor's prior written consent.

13.2 The Licensee shall not permit use of all or any portion of any License Area or the exercise of any rights of the Licensee hereunder by any other entities (other than permitted assigns and sub-licensees) unless the Licensor gives its prior written consent.

13.3 Any assignment or sublicensing shall not relieve the Licensee of its obligations under this Agreement.

## 14.0 TERMINATION

14.1 Termination of this Agreement with respect to a particular License Area may be exercised by the Licensee at any time on 60 days' written notice without further liability if the Licensee cannot obtain all necessary rights and approvals required from any governmental authority to use and operate the Equipment specified in Schedule A, as amended, in relation to such License Area, or if any such right or approval is cancelled, expires or is terminated, or if for any other bona fide reason (e.g., interference with the Licensee's signals or commercial impracticality) the Licensee determines that it shall be unable to use the License Area or exercise its license rights in respect thereof for any of their intended purposes. If the Licensee terminates this Agreement with respect to all License Areas pursuant to this Section 14.1, then such termination or the final such termination shall be deemed to work a termination of this Agreement.

- 14.2 The Licensor may during a Renewal Term, for any reason whatsoever, terminate this Agreement in whole, or in respect of a particular License Area only, in each case on 60 days' written notice to the Licensee, and without any compensation, damages or other amounts of any nature or kind whatsoever being due or payable by the Licensor to the Licensee as a result of the early termination.
- 14.3 If, after receipt of 60 days' written notice from the Licensor, the Licensee fails to remedy a breach of this Agreement or defaults on its obligations set out herein, including, without limitation, payment of any Annual License Amount, then the Licensor, in addition to any other remedy it may have available to it, may immediately terminate this Agreement and all rights of the Licensee hereunder shall cease and expire.
- 14.4 If the Licensee or Licensor terminates this Agreement in whole or in part pursuant to either of sections 14.1 and 14.2, neither the Licensor nor the Licensee shall be entitled to any compensation of any nature or kind whatsoever from the other as a remedy for such termination and neither the Licensee nor the Licensor shall be liable to the other in respect thereof, nor shall either party have any recourse against the other as a direct result of such termination. The Licensor and the Licensee, respectively, hereby each release the other from any and all claims for damages, economic losses, costs or any other compensation of any nature or kind whatsoever resulting from the Licensee or the Licensor exercising its termination rights as provided for in Section 14.1 or Section 14.2. Notwithstanding the foregoing, the aforementioned release shall not relieve the Licensee from any of its specific obligations, debts, liabilities or indemnification obligations existing under this Agreement, including, without limitation, its release and indemnification obligations under Section 3.3, 15.1 and Section 15.2, and its obligations under sections 8.1 and 8.2.
- 14.5 Notwithstanding anything to the contrary in this Agreement, upon the termination of this Agreement in whole or in respect of any particular License Area or License Areas for any reason whatsoever by the Licensee or the Licensor, any prepaid Annual License Amounts shall not be re-adjusted, prorated, repaid or refunded by the Licensor to the Licensee.
- 15.0 RELEASE AND INDEMNITY**
- 15.1 The Licensee hereby releases the Licensor and the Licensor's Personnel from any and all liability for any losses, injuries, damages or expenses suffered or incurred by the Licensee or the Licensee's officers, employees, agents or contractors (the "Licensee's Personnel") in connection with (a) the use of City Property or any License Area by the Licensee or the Licensee's Personnel, (b) the performance of any work on or near City Property, (c) the presence of Equipment or other items installed hereunder, or of the Licensee's Personnel, on or near City Property, or (d) any damage to Equipment, and this Section 15.1 shall, notwithstanding any other provision hereof, survive the termination of this Agreement.
- 15.2 The Licensee shall indemnify, defend and hold harmless the Licensor and the Licensor's Personnel for, from and against any and all losses, injuries, damages and expenses, including all legal expenses, suffered, incurred or experienced by them or any of them, and shall indemnify and defend them and hold them harmless for, from and

against all complaints, demands, claims, actions, suits, judgments and orders in respect of any and all losses, injuries, damages and expenses suffered by them or any of them, arising out of, connected with or attributable in whole or in part to Equipment or items referred to in Section 2.1(c) hereof or to the acts or omissions of the Licensee or the Licensee's Personnel connected with this Agreement, including:

- (a) any breach, violation or non-performance by the Licensee or the Licensee's Personnel of any terms, conditions, covenants or obligations under this Agreement;
- (b) any damage to, or loss or destruction of, or loss of use of, any of the Licensor's property, or any other real or personal property, including Equipment or items referred to in Section 2.1(c) hereof, occasioned by the use of City Property or any License Area by the Licensee or the Licensee's Personnel or the use or existence of any Equipment thereon or items referred to in Section 2.1(c) hereof;
- (c) any injury to or death to any person resulting from the use of any License Area, City Property, or any portion thereof, by the Licensee or the Licensee's Personnel or relating to any Equipment or items referred to in Section 2.1(c) hereof;
- (d) the performance of any work on any City Property by the Licensee or the Licensee's Personnel pursuant to this Agreement;
- (e) any failure on the part of the Licensee to comply with health or safety laws or regulations;
- (f) any failure or malfunction of any Equipment or its services, or any items referred to in Section 2.1(c) hereof, for whatever reason or cause; or
- (g) the Licensee's or the Licensee's Personnel's installation, operation, maintenance, relocation, replacement, repair or removal of any Equipment or its or their use of any License Area,

and this Section 15.2 shall, notwithstanding any other provision hereof, survive the termination of this Agreement.

- 15.3 Notwithstanding any other provision hereof, in no event will either party be liable for any indirect, consequential or economic losses of the other party (but without prejudice to the obligation of the Licensee to, to the extent required by Section 15.2, indemnify, defend and hold harmless the Licensor and the Licensor's Personnel for, from and against losses, injuries, damages and expenses arising from the indirect, consequential or economic losses of third parties).

## 16.0 INSURANCE<sup>9</sup>

16.1 The Licensee shall obtain and maintain during the term of this Agreement, the following policies of insurance:

- (a) Commercial general liability insurance with a limit of not less than \$5,000,000 per occurrence, protecting the Licensee and the Licensor against third-party claims or losses, for bodily injury, death, property damage or loss of use of property occurring within or about any City Property or License Area and arising from the Licensee's operations or its occupation or use of any License Area. The policy shall contain a cross-liability or joint-severability clause naming the Licensor and the Licensor's Personnel as additional insureds. The policy shall contain the following extensions of coverage:
  - (i) broad-form property damage and completed operations;
  - (ii) personal injury;
  - (iii) blanket contractual liability;
  - (iv) contingent employer's liability; and
  - (v) non-owned automobile liability,  
and, where such further risks exist, the following additional extensions of coverage:
    - (vi) shoring, blasting, excavating, underpinning, demolition, removal, pile-driving and grading, as applicable;
    - (vii) hoist liability; and
    - (viii) operation of attached machinery.
- (b) All-risks property insurance, including earthquake and flood insurance, with coverage up to full replacement costs, for loss of, or damage to, property of every description owned by the Licensee, as well as property of others of which the Licensee has care, custody or control. The policy shall name the Licensor and the Licensor's Personnel as additional insureds and loss payees, in respect of their interests, and shall contain a clause that waives the insurer's right of subrogation against the Licensor and the Licensor's Personnel.

16.2 Each of the policies of insurance required by Section 16.1 shall:

- (a) be obtained from and issued by an insurance company that is duly licensed or authorized to conduct business in the Province of British Columbia;

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<sup>9</sup> Self-insurance, or other variations from the insurance provisions set forth in this form, may be allowed in certain situations for certain counterparties, within the discretion of the City, after consultation with the City's risk management staff.

- (b) contain a provision that the coverage afforded will not be cancelled or reduced without the insurance company giving at least **[sixty / thirty] ([60 / 30])** days' prior written notice by registered mail to the Licensor; and
- (c) be primary with respect to claims or losses arising out of the Licensee's operations and activities, such that any insurance or self-insurance maintained by the Licensor shall be in excess of such insurance required by Section 16.1 and shall not contribute with it.

16.3 Immediately upon the execution of this Agreement, the Licensee shall provide evidence satisfactory to the Licensor of each policy of insurance required by Section 16.1.

#### 17.0 SUITABILITY OF LOCATIONS

17.1 The Licensor shall permit the Licensee and its contractors reasonable access, as is necessary, to City Property, in advance of the installation of any item on such City Property pursuant to Section 2.0, for the purpose of satisfying itself, at its own expense, as to the appropriate conditions for its intended use of the relevant License Area, provided that the Licensee shall repair any damage caused by any test or inspections.

17.2 The Licensor makes no representations or warranties with respect to the suitability of any City Property or License Area for any installation, activity or purpose whatever, or with respect to the existence of any hazardous substances or conditions on any City Property or License Area, and the Licensee shall not bring on to any City Property any hazardous substances and is responsible for any substances or conditions on any City Property which result from activities of the Licensee. The Licensee is not responsible for any hazardous substances or conditions pre-existing on any City Property.

17.3 **"Hazardous substances"** means, for the purposes of this Agreement, any deleterious, dangerous, hazardous, corrosive or toxic substances, pollutants, goods or waste the manufacture, storage, handling, treatment, generation, use or transport or release, disposal or discharge into the environment of which any environmental laws control, regulate, license or prohibit or which are or may be deleterious, dangerous or hazardous to human, animal or plant health or life or the environment.

#### 18.0 RELOCATION

18.1 The Licensee shall, at its own expense and at no cost to the Licensor, within 30 days of written notice from the Licensor (or such shorter period of notice as is practical in the case of an emergency involving a material threat to persons or property) at any time, relocate any portion of its Equipment cited in such notice to a different within or on the relevant City Property or a new location on a different Licensor property, as required by the Licensor acting reasonably (including, without limitation, due to a Licensor project or construction requirement), and shall restore the relevant portion of the License Area to a condition substantially equivalent to its original condition. A failure to relocate Equipment pursuant to this section shall be deemed to be a material default under this Agreement.

- 18.2 The reasonable, documented cost of relocation of Equipment pursuant to Section 18.1 shall be recorded as a non-refundable credit against the Annual License Amounts payable hereunder, thereby relieving the Licensee of the requirement to make subsequent payments to the Licensor otherwise due hereunder, in an aggregate amount equal to such reasonable, documented cost.
- 18.3 Following the relocation of Equipment by the Licensee pursuant to Section 18.1, the Licensor's property on which the relevant Equipment has been relocated shall be deemed to constitute City Property for purposes of this Agreement.
- 18.4 This Agreement will apply to the installation of Equipment at the new Licensor property referred to in section 18.1 and 18.2 as if it were originally contemplated hereby. The new Licensor property referred to in section 18.1 and 18.2 may be a new street pole to be installed by the Licensee, in which case the provisions of this Agreement shall apply to such street pole as if it were originally referred to in Section 2.1(c).

## 19.0 LICENSEE COVENANTS

- 19.1 During the term of this Agreement, the Licensee shall:
- (a) use all City Property and install, maintain and operate all Equipment in compliance with all applicable laws, by-laws, rules and regulations of the appropriate jurisdictions pertaining to telecommunications equipment, the environment, health, welfare and occupational safety;
  - (b) be the "prime contractor" (as defined in the *Workers Compensation Act*) for WorkSafeBC purposes in respect of the work performed by or on behalf of the Licensee on the City Property and accept all responsibilities of the prime contractor as outlined in the Licensor's current Multiple-Employer Workplace/Contractor Coordination program, the *Workers Compensation Act* (Part 3) and the *WorkSafeBC Occupational Health & Safety Regulation*, except that the Licensee may, with the Licensor's approval, engage a contractor to perform work and cause such contractor to agree to act as the prime contractor, provided that the Licensee shall not be relieved of its obligations to the Licensor under this Section 19.1(b);
  - (c) ensure that all required payments are made with respect to the work performed hereunder, including, without limitation, WorkSafeBC assessments, mandatory pension contributions, employment insurance premia and federal and provincial taxes;
  - (d) provide to the Licensor, free of charge, documentary guidelines for Licensor employees working around Equipment;
  - (e) at its expense, take such steps as are necessary, including removal of Equipment if required, to prevent any interference with, or adverse effects on the frequencies of any equipment on the relevant City Property installed prior to relevant Equipment or belonging to any existing users of relevant City Property prior to the date of installation of relevant Equipment by the Licensee. For greater certainty, the Licensee shall not be responsible for or be

required to remove any Equipment if any interference is caused by, related to or is impacting upon any subsequently installed telecommunication equipment and belonging to any subsequent licensees or users of the relevant City Property, or any portion thereof, as may be permitted to be installed at any time hereafter by the Licensor;

- (f) ensure that Equipment does not have a material negative impact on the operation of any improvements on City Property and not block access to or in any way obstruct, interfere with or hinder the use of City Property unless expressly authorized by the Licensor;
- (g) not commit or permit to be committed any waste upon City Property or a nuisance or other conditions that may unreasonably disturb any member of the public and ensure that no garbage, refuse or other things other than Equipment are left by the Licensee or its contractors or agents on or about City Property, and that, at all times after the Licensee carries out any activities whatsoever on City Property pursuant to this Agreement, it leaves City Property in a neat, tidy, clean and safe condition;
- (h) promptly notify the Licensor of any change in the Licensee's regulatory status;
- (i) not change the purpose for which any Equipment is used without the prior written agreement of the Licensor;
- (j) label each item of Equipment placed on City Property with identification information including, but not limited to, the name of the Licensee and any other information as may be required by the Licensor, acting reasonably; provided that if the Licensee fails to label Equipment in accordance with the foregoing, the Licensor shall be entitled to retain the services of a reputable third-party contractor to conduct such labelling and the costs of same shall be paid for by the Licensee forthwith upon receipt of the invoice from the Licensor; and
- (k) not cause any excessive or objectionable levels of noise, as determined by the Licensor acting reasonably, during the installation, repair or replacement of Equipment, and not allow any audible noise to be emitted by Equipment at any other time.

## **20.0 DAMAGE AND DESTRUCTION**

- 20.1 If, due to damage to or destruction of, or removal of, any City Property, a License Area in or on such City Property becomes unavailable to the Licensee and the Licensor does not repair or replace the relevant City Property within a reasonable period of time, the Licensee may terminate this Agreement with respect to the License Area pursuant to Section 14.1. (For the avoidance of doubt, this Section 20.1 shall not give rise to any obligations for the Licensee to repair or replace any City Property (but without prejudice to any such obligations arising under other sections of this Agreement).)
- 20.2 The Licensor shall not be responsible for any claims resulting from any lightning or other electrical current passing through any City Property, License Area or facilities

that causes any damage to Equipment or results in the interruption of any service by the Licensee.

## 21.0 MISCELLANEOUS

- 21.1 No interest in land. No leasehold interest shall pass to or be vested in the Licensee by virtue of this Agreement.
- 21.2 No Derogation. Nothing contained or implied in this Agreement shall derogate from the obligations of the Licensee under any other agreement with the Licensor or prejudice or affect the Licensor's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter* as amended from time to time and the rights, powers, duties and obligations of the Licensor under all public and private statutes, by-laws, orders and regulations, which may be as fully and effectively exercised in relation to any City Property as if this Agreement had not been executed and delivered by the Licensee and the Licensor.
- 21.3 Priority. Notwithstanding any other provision hereof, the rights of the Licensee hereunder shall be limited or shall not apply to the extent they are inconsistent with the full exercise of the rights granted by the Licensor to another licensee in respect of a License Area, if any, under a contract dated before the date hereof, and the Licensee shall comply with all reasonable requests of any such other licensee in relation to the use of the relevant License Area.
- 21.4 Overholding. If the Licensee remains in possession of any License Area at the end of the final Term in relation thereto with the written consent of the Licensor, the licenses hereunder in relation to the particular License Area shall continue on a monthly basis for a monthly license fee equal to one twelfth of the then current Annual License Amount until the Licensee receives 30 days' written notice that it is required to remove the relevant Equipment in accordance with Section 8.0 herein;
- 21.5 Authority. Each party represents and warrants that it has full authority to enter into and sign this Agreement and bind itself accordingly.
- 21.6 Schedules. The schedules attached to this Agreement form a part of this Agreement and any obligation imposed on the Licensee in such a schedule shall be deemed to be a covenant of the Licensee in this Agreement. To the extent that there is an inconsistency between the terms and conditions of this Agreement and anything in such schedules, the terms and conditions of this Agreement shall prevail only to the extent of the conflict.
- 21.7 Entire Agreement. This Agreement contains all agreements, promises and understandings between the Licensor and the Licensee in relation to the subject matter hereof.
- 21.8 Enurement. The terms and conditions of this Agreement shall enure and bind the successors and assigns of the Licensor and the Licensee.
- 21.9 Severability. Invalid provisions are severable and do not impair the validity of the balance of this Agreement.



- 21.10 Payment. The Licensee's obligations to pay money under this Agreement are additional to, and not in substitution for, all other amounts payable by the Licensee to the Licensor by separate agreement or bylaw.
- 21.11 Governing Law. This Agreement shall be governed by the laws of the Province of British Columbia and the laws of Canada applicable therein, and the parties hereby submit to the jurisdiction of the courts of British Columbia.
- 21.12 Time of the Essence. Time shall be of the essence of this Agreement.
- 21.13 Counterparts. This Agreement may be executed in one or more counterparts each of which shall constitute an original and together shall constitute one and the same Agreement. This Agreement may be executed by the parties and transmitted electronically or by facsimile and if so executed and transmitted, this Agreement shall be for all purposes as effective as if the parties had delivered an executed original Agreement

DATED this \_\_\_\_, day of \_\_\_\_\_, 20\_\_.

**CITY OF VANCOUVER**

by its authorized signatories:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

***[LEGAL NAME OF LICENSEE]***

by its authorized signatories:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

***We have authority to bind the Licensee.***

**SCHEDULE A - DESCRIPTIONS AND DRAWINGS OF  
LOCATIONS, STREET POLES AND EQUIPMENT**

*[Each of the following headings must be addressed in each Schedule A. Where the heading is not applicable, maintain heading and write "N/A"]*

Description of Equipment

Description of City Property

Requirement to Provide and Install New Street Poles or Other Equipment

Initial Term

Annual License Amount

Fee for Reviewing Plans

Inspection Fee

Length of Renewal Terms

Further Requirements Regarding Use of the License Area

Requirement for Separate Metering

Description of Additional Amenities

Item that are the Responsibility of the Licensee to Secure, Repair or Maintain

Number of Street Poles to be put in Licensee Storage Facilities

**SCHEDULE B - FORM OF AMENDMENT TO SCHEDULE A  
AMENDMENT NO. <#>, ADDING LICENSE AREA NO. <#>**

This amendment (addition) to Schedule A of the CITY OF VANCOUVER MASTER STREET POLE ANTENNA AGREEMENT dated and made effective as of **[DATE]** between the City of Vancouver (the "Licensor") and **[LEGAL NAME OF LICENSEE]** (together, the "Parties") is hereby agreed between and subscribed by the Parties as of **[DATE]**.

For the avoidance of doubt, this amendment adds to, but shall not replace or result in the cancellation of any exiting part of Schedule A.

*[Each of the following headings must be addressed in each Schedule A. Where the heading is not applicable, maintain heading and write "N/A"]*

Description of Equipment

Description of City Property

Requirement to Provide and Install New Street Poles or Other Equipment

Initial Term

Annual License Amount

Fee for Reviewing Plans

Inspection Fee

Length of Renewal Terms

Further Requirements Regarding Use of the License Area

Requirement for Separate Metering

Description of Additional Amenities

Item that are the Responsibility of the Licensee to Secure, Repair or Maintain

Number of Street Poles to be put in Licensee Storage Facilities

**CITY OF VANCOUVER**  
by its authorized signatories:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

Date: \_\_\_\_\_

***[LEGAL NAME OF LICENSEE]***  
by its authorized signatories:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

Date: \_\_\_\_\_

**SCHEDULE C - DRAWINGS**  
*[see attached]*