

Danett Kennedy 720-888-6461  
720-567-1058

EL has to  
install fiber  
before we can  
bill.  
Call Debby  
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RESOLUTION NO. 5933

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, AUTHORIZING EXECUTION OF A FIBER OPTIC FACILITIES LICENSE WITH PROGRESS TELECOMMUNICATIONS CORPORATION, AND PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:**

THAT the Mayor and the City Clerk of the City of Leesburg are hereby authorized and directed to execute a Fiber Optics Facilities License with Progress Telecommunications Corporation, 100 Second Avenue South, Suite 400 South, St. Petersburg, Florida 33701 for the purpose of licensing the use of 6 dark fibers on the Route Segment between the Florida Power Corporation Eustis South Microwave Substation located at 1 West Plaza Drive, Eustis, Florida and Florida Power Corporation's Central Florida Substation located at 8797 E. SR 44, Wildwood, Florida for the amount of Twenty Five Thousand (\$25,000.00) Dollars per year, in substantially the form of contract as attached hereto as Exhibit "A".

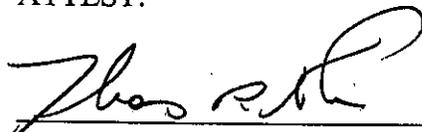
THAT THIS RESOLUTION shall take affect immediately upon its adoption.

PASSED AND ADOPTED at the regular meeting of the City Commission of the City of Leesburg, Florida, held on the 8th day of May, 2000.

THE CITY OF LEESBURG, FLORIDA

By:   
Mayor / Chet Blackmon

ATTEST:

  
City Clerk/Thomas Klinker



**CITY OF LEESBURG, FLORIDA  
FIBER OPTIC FACILITIES LICENSE**

THIS LICENSE AGREEMENT (the "License") is entered into as of this 8<sup>th</sup> day of May, 2000 by and between the City of Leesburg, Florida, herein referred to as LICENSOR and Progress Telecommunications Corporation, a Florida corporation, 100 Second Avenue South, St. Petersburg, Florida 33701-3324, herein referred to as LICENSEE.

WHEREAS, LICENSOR operates or is constructing a fiber optic telecommunication system for its own use; and

WHEREAS, certain dark fibers within that system not immediately required by LICENSOR for its own use during the term of this License can be used by others in a manner that will not interfere with LICENSOR'S own or another lessee's telecommunications service requirements; and

WHEREAS, LICENSEE intends to provide fiber optic telecommunications services and will require the availability of dark fibers as part thereof; and

WHEREAS, LICENSOR is willing, during the term of this License, to grant to LICENSEE a license for the use of dark fiber as herein provided; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises contained herein, the parties agree as follows:

**1. SCOPE OF LICENSE**

LICENSEE intends to use the dark fiber provided hereunder to provide telecommunications services between certain points, subject to the terms and conditions herein, and LICENSOR hereby agrees to provide the dark fiber in order to facilitate the services that LICENSEE will provide. The particular dark fibers to be licensed by LICENSEE are more particularly described on the Exhibit A(s) attached hereto and are incorporated herein by reference. A separate Exhibit A will be attached for each Route Segment as identified by the Route number.

**2. EFFECTIVE DATE AND TERM**

This License shall become effective as of the first date written above and continue in effect until terminated in accordance with the provisions of Section 11.

Each Route Segment, as identified in an Exhibit A, shall have its own term as specified in that Exhibit A, which term shall commence on the date specified in the Notice of Acceptance (Exhibit E), as hereinafter defined. Each Route Segment shall automatically renew for additional one-year terms unless either party provides written notice at least ninety (90) days prior to the end of the existing term.

### **3. DEFINITIONS**

For purposes of this License and as used herein, the terms set forth below shall be defined as follows:

**Acceptance Test** - The tests conducted on the licensed fibers to ensure that the licensed fibers meet or exceed the fiber specifications outlined in Exhibit C.

**Affiliate** - With respect to any person, any other entity (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of more than fifty percent (50%) the outstanding capital stock or other equity interests having ordinary voting power.

**Cable** - The LICENSOR fiber optic cable incorporating the LICENSOR Fibers and the fibers to be utilized by LICENSEE pursuant to this License.

**Fiber Acceptance Date** - The date of the Notice of Acceptance which evidences that the Licensed Fibers in the Cable constituting a communication circuit between LICENSEE service points as defined in each Exhibit A have passed the Acceptance Test and have met the conditions of Section 5: Acceptance of Licensed Fibers.

**Interest Rate** - The lesser of 18% per annum or the maximum permitted by law.

**Licensed Fibers** - The dark optical fibers hereunder which are to be licensed to LICENSEE under the terms and conditions set forth herein.

**LICENSEE** - Progress Telecommunications Corporation, its directors, officers, employees, agents, successors, and permitted assigns.

**LICENSOR** - City of Leesburg or its successors and permitted assigns.

**LICENSOR Fibers** - For purposes of this License, all optical fibers not dedicated for LICENSEE's use shall be considered LICENSOR Fibers whether used by LICENSOR or used by a third party.

**NESC** - The current edition of the National Electrical Safety Code, as amended or revised.

**Notice of Acceptance** - As outlined in Section 5, LICENSEE's written approval that the Licensed Fibers have passed the Acceptance Test. The Notice of Acceptance shall be similar in form to Exhibit E and shall constitute the effective date for the term of each Exhibit A. A separate Exhibit E will be prepared for each Route Segment.

**Outage** - " Outage" shall mean a disruption in service or a measurable deviation from the services specifications set forth in Exhibit C. An Outage may be referred to as either scheduled or unscheduled.

**Preparation Costs** - Costs incurred by LICENSOR associated with the installation, upgrading or replacement of overhead or underground facilities necessary to safely and properly support the Cable in accordance with the requirements of the National Electrical Safety Code ("NESC"). LICENSOR Preparation Costs for each Route Segment shall be as described in an Exhibit A.

**Route Segment** - A portion of the Cable containing the Licensed Fibers installed between two points as set forth in each Exhibit A further defined as:

- a. **Off-Network** - constructed specifically due to the requirement for connectivity between LICENSEE's service points and the existing or planned LICENSOR's fiber optic telecommunications network.
- b. **On-Network** - contiguous or within the existing LICENSOR fiber optic telecommunications system or to be constructed in conjunction with the planned expansion of the LICENSOR's fiber optic telecommunications system.

#### **4. APPLICATION PROCESS FOR LICENSED FIBERS**

- 4.1 During the term of this License, the execution by both parties of any Exhibit A attached hereto and by reference made a part hereof, shall be the exclusive procedure to be used by LICENSEE in obtaining the use of the Licensed Fibers from LICENSOR.
- 4.2 Upon receipt of a written request for service from LICENSEE, LICENSOR will review such request and if accepted, LICENSOR will furnish to LICENSEE a statement of the annual fee requirements and anticipated Fiber Acceptance Date(s) as shown on Exhibit A for LICENSEE's review and acceptance. In addition, LICENSOR will furnish for LICENSEE's review and acceptance a statement of any LICENSOR Preparation Costs to be incurred in connection with the proposed Route Segment in the format set forth on Exhibit A.
- 4.3 Upon execution of all appropriate Exhibits by LICENSOR and LICENSEE, the Exhibits shall be attached hereto and made a part hereof, LICENSEE shall make payment for any LICENSOR Preparation Costs necessary and LICENSOR will

provide the Licensed Fibers to LICENSEE in accordance herewith. LICENSOR further agrees to provide written notification to LICENSEE upon availability of the Licensed Fibers.

**5. ACCEPTANCE OF LICENSED FIBERS**

- 5.1 Upon completion of any preparations and full payment by LICENSEE of any Preparation Costs, LICENSOR will Acceptance Test the Licensed Fibers to establish that the Licensed Fibers meet or exceed the Fiber specifications outlined in Exhibit C.
- 5.2 LICENSOR shall provide LICENSEE with five (5) business days advance notice of the anticipated date of the Acceptance Test and LICENSEE may observe or participate in the Acceptance Test provided LICENSOR determines that LICENSEE's participation does not interfere with or impede LICENSOR's Acceptance Test.
- 5.3 In the event the Licensed Fibers satisfy the Acceptance Test, LICENSOR shall notify LICENSEE in writing of the availability of the Licensed Fibers.
- 5.4 Within five (5) business days of LICENSEE receiving such notice of availability, LICENSEE shall give LICENSOR written Notice of Acceptance and/or written comments or exceptions to the Licensed Fibers. In the event LICENSEE does not provide LICENSOR written Notice of Acceptance and/or written comments or exceptions to the Licensed Fibers within five (5) business days, it shall be deemed that LICENSEE has accepted the Licensed Fibers identified in such notice.
- 5.5 If LICENSOR determines that any of the Licensed Fibers fail to meet the specifications of Exhibit C, or if LICENSEE gives LICENSOR written notice of exceptions to the Licensed Fibers, LICENSOR shall attempt to correct such failure promptly, whereupon LICENSOR shall conduct another Acceptance Test as described in Section 5. This procedure shall be repeated until all Licensed Fibers meet or exceed the specifications outlined in Exhibit C, subject to the provisions of this Section 5.
- 5.6 The parties shall work expeditiously to obtain Acceptance of all Licensed Fibers.
- 5.7 LICENSEE may, at its option, conditionally accept those Licensed Fibers meeting or exceeding the specifications outlined in Exhibit C and, upon such conditional acceptance, commence payment of a pro-rata amount of the fees set forth in Exhibit A in accordance with Section 6.1.
- 5.8 In the event LICENSOR or LICENSEE continues to identify deficiencies after the third round of testing, or after ninety (90) days from the date of the initial

Acceptance Test for those Licensed Fibers, whichever occurs first, LICENSEE will:

- a. cooperate with LICENSOR to determine some remedial action, if such remediation is reasonable;
- b. if remedial action cannot be taken, cannot be agreed to, or is not reasonable, the parties may agree that LICENSEE accept the available Licensed Fibers which meet the specifications of Exhibit C, in which case the relevant Exhibit A will be amended to reflect the number of fibers actually licensed by LICENSEE;

**6. PRICE AND PAYMENT**

- 6.1** Subject to the allowances for interruptions set forth in Section 9 hereof, LICENSEE shall pay LICENSOR a license fee for the use of the Licensed Fibers provided by LICENSOR, said license fee to commence on the actual Fiber Acceptance Date. The term and fee payable to LICENSOR for the Licensed Fibers shall be as shown on attached Exhibit(s) A, as amended. Said license fees shall be payable annually, in advance, on the Fiber Acceptance Date and each anniversary of that date during the term of this License Agreement.
- 6.2** LICENSEE shall render, by check, the amount set forth on such statement to the payment address provided in the invoice. Overdue payments shall accrue interest from, and including, the due date to, but excluding, the date of payment at the Interest Rate.
- 6.3** If LICENSEE, in good faith, disputes the amount of any statement, LICENSEE shall notify the LICENSOR within thirty (30) days of receipt of the invoice of the amount in dispute by providing a written explanation of the basis for the dispute. The LICENSEE may withhold payment of the disputed amount. LICENSOR will evaluate the dispute within sixty (60) days and notify LICENSEE of the results of its evaluation. The parties hereby agree to cooperate to resolve any billing disputes expeditiously through negotiation, or through mediation as set forth in Section 21. If the dispute is resolved in favor of the LICENSOR, LICENSEE shall immediately pay such disputed amounts together with interest calculated at the Interest Rate from the date such payment was initially due.
- 6.4** If for any reason LICENSEE is delinquent in the payment of any amounts due to LICENSOR under this Agreement for more than thirty (30) days, after written notice of the past due amount, LICENSEE shall pay interest on such unpaid amount, calculated at the Interest Rate from the date such payment is due until

such payment is made.

6.5 Any renewal term shall be charged at the same rate as the initial term.

7. **OWNERSHIP**

The Licensed Fibers shall at all times remain the sole and exclusive property of LICENSOR. Legal title shall be held by LICENSOR. Neither the use of nor the provision of LICENSED Fibers by LICENSOR to LICENSEE hereunder, nor the payments by LICENSEE contemplated hereby, shall create or vest in LICENSEE any easement, interest or any other ownership or property right of any nature in the Cable. LICENSEE shall not grant any security interest in the Licensed Fibers or any part or component thereof. No undertaking under any provision of this License shall be deemed to constitute the dedication of LICENSOR's system or any portion thereof to the public or to LICENSEE, and it is understood and agreed that any such undertaking shall cease upon termination of the License.

8. **USE OF FIBER, TAXES, FRANCHISES AND EASEMENTS**

8.1 LICENSEE warrants that its use of the Licensed Fibers shall at all times be in compliance with law and that LICENSEE has received and is in compliance with all regulatory authorizations. LICENSEE further warrants that LICENSEE shall not use, provide the use, or receive a fee for the use of the Licensed Fibers or capacity to others without having obtained such authorization as set forth in Section 8.5.

8.2 LICENSOR shall be responsible for and shall pay any and all taxes or fees with respect to ownership of the Cable, which taxes or fees are: (i) imposed or assessed prior to the Acceptance Date, or; (ii) imposed or assessed (regardless of time) solely with respect to the Cable in exchange for the approval of construction or in the granting of an interest in public property or a public right-of-way relating to the situation of the Cable in public right-of-way. Any fees incurred by reason of the operation or use of the Licensed Fibers or the provision of telecommunication services by LICENSEE shall be the responsibility of LICENSEE.

8.3 LICENSEE shall be responsible for and shall pay any and all taxes or fees, including, but not limited to, franchise fees, imposed as a result of its operation or use of the Licensed Fibers pursuant to this License. LICENSEE shall, at its own expense, obtain all municipal street franchise rights that may be required for the operation or use of the Licensed Fibers thereof by LICENSEE. LICENSEE shall be responsible for and shall pay any and all taxes or fees, including but not limited to, any sales or use tax, levied or based on the payment of the license fee set forth in Section 6.1.

8.3 Other than as set forth in Section 8.1 and 8.2, LICENSOR shall be responsible, at

its own expense, for the acquisition of any easement or rights-of-way rights that may be required in order to permit the installation and/or ownership of the Cable.

- 8.4 During the term of this License, LICENSOR may use or permit the use of the LICENSOR Fibers and the telecommunication capacity thereof for any lawful purpose. Nothing in this License shall be construed or interpreted to prohibit LICENSOR from licensing the use of the LICENSOR Fibers or otherwise providing telecommunications capacity to others or from installing or permitting others to install additional Fibers or telecommunication capacity, including without limitation, fiber optic telecommunication capacity, within the right-of-way constituting any Route Segment or to prohibit LICENSOR from operating such telecommunication capacity (alone or in combination with others) in competition with the Licensed Fibers; provided however, that no such installation or operation shall interfere with LICENSEE's use of the Licensed Fibers and the telecommunication capacity thereof.
- 8.5 LICENSEE shall not sublicense or exchange any or all of the Licensed Fibers to any entity without first obtaining the prior written consent of LICENSOR. In the event that LICENSEE receives written approval to sublicense or exchange any or all of the Licensed Fibers for a cash payment or other monetary equivalent, and the sublicense or exchange amount is in excess of the amount paid by LICENSEE to LICENSOR, LICENSOR will be entitled to an amount equal to the difference between the sublicense or exchange amount and the license fee paid to LICENSOR by LICENSEE.

## 9. PERFORMANCE AND MAINTENANCE

- 9.1 LICENSOR warrants and agrees that the provision of the Licensed Fibers hereunder shall be in conformity with and shall comply with all the requirements of this License. LICENSOR further warrants and agrees that the Licensed Fibers shall meet or exceed the specifications outlined in Exhibit C.
- 9.2 LICENSOR agrees to perform periodic inspections of the Cable and supporting structures. LICENSOR further agrees to perform periodic inspections, testing, and any and all maintenance required for the provision of the Licensed Fibers and to maintain and provide adequate spare equipment and parts as is appropriate for its obligations hereunder. LICENSOR will attempt to schedule service-affecting work from midnight to 6 A.M. on Sunday morning and Monday morning during the first and third weekends of each month, excluding the period beginning November 15th and ending on the following January 15th, during which period LICENSOR will use its best efforts to exclude all service-affecting routine maintenance. LICENSOR will notify LICENSEE in advance as per Exhibit D.
- 9.3 In the event of any scheduled Outage of provision of the Licensed Fibers to

LICENSEE, LICENSOR shall provide notice to LICENSEE, and shall specify in such notice the nature and cause of the interruption, the extent of the repairs required, and the estimated time to restore. LICENSOR further agrees to use its best efforts to restore the provision of the Licensed Fibers on an expedited basis, and to restore the Route Segment and any splicing of the Licensed Fibers in a systematic and rotational manner, with Licensed Fibers having equal priority to other Fibers within the Cable. Unless otherwise prevented due to a force majeure event as defined herein, LICENSOR will respond within two (2) hours, and keep the Outage to less than eight (8) hours whenever practicable. In the event, an Outage requires replacement or reconstruction of a portion of the Cable, or its supporting structures, LICENSOR will use its best efforts to restore temporary service until such time as the Cable is returned to service. If an Outage exceeds 24 hours, LICENSOR will extend to LICENSEE a credit equal to one day's license fee for the affected Route Segment (to be considered 1/30th of the then current monthly rate) for each consecutive 24-hour Outage interval, or fraction thereof, in excess of the initial 24 hours. (e.g. 26-hour Outage = 1 day credit; 40-hour Outage = 1 day credit; 50-hour Outage = 2 day credit). The credit shall be applied to the subsequent month's license fee payment. This credit shall be LICENSEE's sole remedy in the event of an interruption in service for other than a Force Majeure event.

- 9.4 LICENSEE shall be solely responsible for all costs associated with, the purchase, installation, operation, maintenance and repair of all LICENSEE equipment and LICENSEE facilities required in connection with the use of the Licensed Fibers.
- 9.5 LICENSEE may request that LICENSOR splice into the Licensed Fibers at additional, pre-existing splice points in the future, subject to LICENSOR's approval, not to be unreasonably withheld. LICENSEE will schedule all such splicing activities with LICENSOR at a mutually agreed-upon time. All such splicing will be performed by LICENSOR, and LICENSEE shall reimburse LICENSOR for all LICENSOR Preparation Costs as defined in Section 3 and specified in a LICENSOR Preparation Costs estimate LICENSOR shall furnish to LICENSEE upon such request of additional splice(s).

## **10. ALTERATION OF ROUTE**

- 10.1** Upon reasonable notice to LICENSEE, LICENSOR may relocate all or any part of the Cable to one or more alternate routes or rights-of-way (including without limitation replacing overhead cable with underground cable, or replacing underground cable with overhead cable, if such replacement is in connection with an abandonment, relocation or replacement of electric transmission facilities over, under, on, upon or in which the Cable has been installed). LICENSEE shall not be responsible for LICENSOR costs and expenses incurred in the alteration or relocation of the Cable as they pertain to the On-Network Route Segment except as provided in Section 10.2 herein.
- 10.2** If LICENSOR is required to relocate all or part of the Cable to one or more alternate routes or rights-of-way (including without limitation replacing overhead cable with underground cable, or replacing underground cable with overhead cable in connection with an abandonment, relocation or replacement of electric transmission facilities over, under, on, upon or in which the Cable has been installed) or as required by public authorities or by a final order or decree of a court or administrative agency, LICENSOR may, upon reasonable notice to LICENSEE, relocate all or any part of the Cable to one or more alternate routes or rights-of-way (including without limitation replacing overhead cable with underground cable, or replacing underground cable with overhead cable). LICENSEE shall be responsible for the prorated cost of such relocation based on the number of Licensed Fibers as a percentage of the total number of fibers in the Cable.
- 10.3** In the event relocation of all or any part of the Cable occurs, LICENSOR shall give LICENSEE as much prior notice as reasonably practicable, and the parties shall cooperate to accomplish the transfer of service over the Cable to the new route or right-of-way so as to minimize any interference with the use of the Licensed Fibers or the LICENSOR Fibers by either party and to avoid unreasonably impairing the ability of each to provide telecommunication service of the type, quality and reliability contemplated by this License.
- 10.4** LICENSEE shall be solely responsible for LICENSOR costs and expenses incurred in the alteration or relocation of Cable as they pertain to Off-Network Route Segments.

## **11. TERMINATION**

- 11.1** This License may be terminated by
- a. The expiration of the terms of all Route Segments, as identified by Exhibit A (s) to this License; or

b. By written agreement of the parties.

**11.2** In the event that LICENSEE and LICENSOR elect to terminate with respect to any particular Route Segment pursuant to Section 11.1 above, such termination shall not effect any Route Segment not included in the agreement and LICENSEE shall continue to pay the pro-rata license fee for any Route Segments not terminated.

**11.3** In addition to any other rights of termination specified in Section 11, this License, or any individual Exhibit A, may be terminated upon thirty (30) days prior written notice, as follows:

- a. By either party, with respect to particular Route Segments, in the event that a final order or judgment is entered in any lawsuit or regulatory proceeding restraining performance under this License, declaring or otherwise rendering performance unlawful or compelling removal, or discontinuation or divestiture of all or part of the Route Segment, or directing LICENSOR to pay an exorbitant or grossly disproportional amount, in LICENSOR's sole judgment, for the acquisition of any easement or rights-of-way and such order or judgment has not been vacated, reversed, or stayed within thirty (30) days from the date of entry thereof.
- b. By LICENSOR, with respect to particular Route Segments, in the event of a failure or expiration of the Licensed Fibers anytime after its initial term.
- c. By LICENSOR, with respect to particular Route Segments, if a failure or early expiration of the Licensed Fibers creates a casualty loss of the Licensed Fibers and LICENSOR determines in its discretion not to return the Licensed Fibers to the standards set forth in Exhibit C.
- d. By LICENSOR, if LICENSOR's activities hereunder become subject to regulation of any kind whatsoever under any law to a greater or different extent than that existing on the effective date of this License and the execution by both parties of Exhibit A, and such regulation either (i) renders this License illegal or unenforceable or (ii) materially adversely affects the business of the LICENSOR, with respect to its financial position or otherwise, then, LICENSOR shall at such time have the right to seek to renegotiate the rates set forth in Exhibit A and if a mutually agreeable rate cannot be reached, shall have a right to terminate this License.

**12. EFFECT OF TERMINATION**

Upon any termination pursuant to Section 11 and payment of any amount required pursuant to Section 6, except as provided below, this License, or the relevant Exhibit(s) A if only a portion of the Route Segments are affected, shall be terminated and neither party nor any of its directors, officers, stockholders or Affiliates shall have any continuing liability to the other party or its directors, officers, stockholders or Affiliates under the terminated License or terminated Exhibit A. Provided, however, that the obligations of the parties under Section 15 and Section 18 of this License, and the obligations of LICENSEE to pay license fees through the effective date of such termination or the date of the outage giving rise to the termination (whichever first occurs), shall remain in full force and effect, and no termination pursuant to Section 11 shall entitle LICENSEE to the return of any license fee theretofore paid or afford to LICENSEE any defense to the payment of license fees then due and payable, except to the extent any such license fee(s) have been unearned by LICENSOR, as, for example, when termination occurs in the middle of the month.

**13. DEFAULT**

- 13.1** An event of default ("Event of Default") by LICENSEE exists if any one or more of the following events shall occur and be continuing past any applicable cure periods:
- a. LICENSEE shall admit in writing its inability to pay its debts as such debts become due;
  - b. LICENSEE shall (1) apply for or consent to the appointment of, or the taking of possession by, a receiver, administrator, custodian, trustee or liquidator of itself or of all or a substantial part of its property or assets, (2) make a general assignment for the benefit of its creditors, (3) commence a voluntary case under the U.S. Bankruptcy Code, (4) file a petition or otherwise commence a proceeding under any bankruptcy, insolvency, reorganization winding-up, or composition or readjustment of debts or similar law, (5) fail to controvert in a timely and appropriate manner, or acquiesce in writing to, any petition filed against it in an involuntary case under the U.S. Bankruptcy Code, or (6) take any action for the purpose of effecting any of the foregoing;
  - c. A proceeding or case shall be commenced, without the application or consent of LICENSEE, in any court of competent jurisdiction, seeking (1) its liquidation, reorganization, dissolution or winding-up, or the composition or readjustment of its debts, (2) the appointment of a trustee, receiver, administrator, custodian, liquidator or the like of LICENSEE or of all or any substantial part of its assets, or (3) similar relief in respect of any law relating to bankruptcy, insolvency, reorganization, winding-up, or

composition or readjustment of debts, which is not dismissed within 90 days thereafter;

- d. LICENSEE shall fail to perform any material obligation under this License (other than the obligation to pay license fees) and such failure shall continue for a period of thirty (30) days following written notice from LICENSOR to LICENSEE specifying such nonperformance, provided that if such failure cannot be cured within such 30-day period with the exercise of reasonable due diligence, LICENSOR shall grant a reasonable additional period of time in which to cure such failure, so long as LICENSEE is acting promptly and diligently to cure;
- e. LICENSEE shall fail or refuse to remit to LICENSOR within ten (10) days following written notice that such amount is past due, any license fees or other amounts then due and payable; or
- f. Except as hereinafter provided in Section 22, LICENSEE causes or permits the encumbrance of all or any part of its interest in this License or the Licensed Fiber, without the prior written consent of LICENSOR; such consent may be withheld by LICENSOR in its sole discretion.

**13.2** An Event of Default by LICENSOR shall exist if any one or more of the following events shall occur and be continuing past any applicable cure period:

- a. LICENSOR shall (1) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property, (2) make a general assignment for the benefit of its creditors, (3) commence a voluntary case under the U.S. Bankruptcy Code, (4) file a petition seeking to take advantage of any law relating to the bankruptcy, insolvency, reorganization, winding-up, or composition or readjustment of debts, (5) fail to controvert in a timely and appropriate manner, or acquiesce in writing to, any petition filed against it in an involuntary case under the U.S. Bankruptcy Code, or (6) take any action for the purpose of effecting any of the foregoing;
- b. A proceeding or case shall be commenced, without the application or consent of LICENSOR, in any court of competent jurisdiction, seeking (1) its liquidation, reorganization, dissolution or winding-up, or the composition or readjustment of its debts, (2) the appointment of a trustee, receiver, custodian, liquidator or the like of LICENSOR or of all or any substantial part of its assets, or (3) similar relief in respect of LICENSOR under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or readjustment of debts, which is not dismissed within 90 days thereafter;

- c. LICENSOR shall fail to perform any material obligation under this License and such failure shall continue for a period of thirty (30) days following written notice from LICENSEE to LICENSOR specifying such nonperformance, provided that if such failure cannot be cured within such 30-day period with the exercise of reasonable due diligence, LICENSEE shall grant a reasonable additional period of time in which to cure such failure; or
- d. An interruption or reduction in the use or quantity of the Licensed Fibers by LICENSEE which is not subject to the termination provisions contained in Section 11 herein, and which continues for a period of 30 days following written notice from LICENSEE to LICENSOR of the interruption or reduction in use, provided that if use of the Licensed Fibers is not restored within such 30-day period with the exercise of reasonable due diligence, LICENSEE shall grant a reasonable additional period of time in which to restore use of the Licensed Fibers.

### 13.3 Rights Upon Default

- a. Upon the occurrence of an Event of Default by LICENSEE, LICENSOR shall have the right to immediate and exclusive possession, use and control of the Licensed Fibers by any lawful means, without demand or notice of any kind to LICENSEE except as may be required by law, and without terminating this License or the license created hereby, and LICENSOR may forthwith terminate this License and/or the exhibits hereto by written notice to LICENSEE.

LICENSOR may declare immediately due and payable all the remaining installments of the license fee for the remainder of the term hereof of the applicable Exhibit A and such amount, discounted to a present value amount using a rate equal to the one year US Treasury yield as of such date, shall be construed as liquidated damages and shall constitute a debt provable in bankruptcy or receivership.

- b. Upon the occurrence of an Event of Default by LICENSOR, LICENSEE shall be entitled to terminate the Exhibit(s) pertaining to a particular Route Segment(s) by written notice to LICENSOR, and recover any amounts paid for future use of such Route Segments. Unless otherwise explicitly set forth in this License, this shall constitute LICENSEE's sole remedy for LICENSOR default.
- c. The LICENSOR's right to terminate a specific Exhibit or this License shall be in addition to, and not in substitution for, any other rights that a

LICENSOR may have as a result of an Event of Default by the other party. In the exercise of its right of termination as herein provided, LICENSOR may, at its option, elect to terminate this License in its entirety or only with respect to the particular Route Segment to which LICENSEE may be in default of its obligations under this License.

#### **14. REMEDIES**

LICENSOR and LICENSEE may sue from time to time to recover any amounts due or enforce any rights under this License, and no suit or recovery shall bar any subsequent action brought for any amount not theretofore reduced to judgment in favor of LICENSOR or LICENSEE. Except as otherwise provided by law, no receipt of monies by LICENSOR from LICENSEE shall reinstate this License. All remedies provided in this License are cumulative and exclusive and are in addition to any remedies available at law or in equity. All remedies may be exercised and enforced concurrently or sequentially as often as occasion therefore may arise.

#### **15. INDEMNIFICATION AND INSURANCE**

**15.1** In the case of loss, damage or injury (including death) to any person(s) or property, a party (the "Indemnifying Party") shall indemnify, hold harmless and defend the other party, including the other party's Affiliates, and its agents, contractors, successors and assigns and the respective officers, directors, agents and employees, (the "Indemnified Party") harmless from and against, and shall reimburse the above-named parties for all liabilities, obligations, damages, fines, penalties, claims, demands, costs, judgments and expenses, including but not limited to reasonable attorneys' fees, which may be imposed upon or incurred or paid by or asserted against the Indemnified Party arising directly out of the performance by the Indemnifying Party of its obligations under this License; provided, however, that neither party shall be required to indemnify the other party for such other party's gross negligence or willful misconduct. Each party further agrees to waive all rights against and to release the other party from any liability which it may incur for payment, if any, of benefits to its own employees under any statutory obligation. Nothing herein shall create, or be interpreted as creating, a contractual relationship of one party with the customers of the other party; neither does it create a duty thereto.

**15.2** The Indemnified Party shall notify the Indemnifying Party to describe the claim or action to the Indemnifying Party. The Indemnifying Party may undertake the defense of any such claim or action and permit the Indemnified Party to participate therein at the Indemnified Party's own expense. The settlement of any such claim or action by an Indemnified Party without the Indemnifying Party's prior written consent, which consent shall not be unreasonably withheld or delayed, shall release the Indemnifying Party from its obligations hereunder with respect to such claim or action so settled.

- 15.3** LICENSEE shall further require as a condition precedent to the LICENSOR's authorized sublicense or assignment of Licensed Fibers to others, that such others agree to indemnify and save LICENSOR harmless through incorporation of the provisions of Sections 15.1 and 15.2 into its respective agreements for sublicense or assignment of Licensed Fibers to such others.
- 15.4** Notwithstanding any other provision of this License, neither party hereto shall be liable to the other for any special, indirect or consequential damages or lost profits to anyone arising out of this License or the performance or nonperformance of any activity pursuant to this License even if such party has been informed of the possibility of such damages.
- 15.5** Throughout the term of this License, the LICENSEE shall, at its sole cost and expense, maintain Worker's Compensation Insurance in the amounts required by statute, General Liability Insurance of not less than \$5,000,000 combined single limit (CSL) and Automobile Liability Insurance, which shall include all owned, non-owned, and hired vehicles, of not less than \$1,000,000 combined single limit (CSL), with Broad Form endorsement providing blanket contractual liability coverage and name LICENSOR as an additional insured on the policies (excluding the Worker's Compensation policy), and agree to waive all rights of subrogation.
- 15.6** LICENSEE shall furnish proof of insurance coverage to each other upon request, however, this requirement shall not preclude either party from maintaining any required insurance coverage in whole or in part through self-insurance if it is the party's practice to provide such coverage or similar coverage applicable to other aspects of its business through self-insurance.

**16. PUBLICITY**

Neither party shall publish or use any advertising, sales promotions, or other publicity materials that use the other party's name, logo, trademarks or service marks without the prior written approval of the other party. Each party shall have the right to review and approve any publicity materials, press releases or other public statements by the other that refer to, or that describe any aspect of, this License. Each party agrees not to issue any such publicity materials, press releases or public statements without the prior written approval of the other party. Nothing in this License establishes a license for either party to use any of the other party's brands, marks or logos without the prior written approval of the other party.

**17. ACCESS AND SECURITY**

- 17.1** LICENSEE agrees to allow LICENSOR direct ingress and egress to LICENSEE's Premises at such times as may be required for LICENSOR to perform any appropriate testing, maintenance and repair of the Cable located at LICENSEE's Premises. LICENSEE may require that a representative of LICENSEE accompany any representatives of LICENSOR having access to the LICENSEE's Premises; provided, however, that such requirement shall not delay or otherwise interfere with LICENSOR's ingress and egress to LICENSEE's PREMISES.
- 17.2** LICENSEE and LICENSEE's designee's shall have the right to visit any facilities of LICENSOR over, under, on, upon or in which the Cable is installed, upon reasonable prior oral or written notice to LICENSOR (considered to be 5 business days notice for a request not Outage-related and as soon as possible for Outage-related), provided that LICENSOR may require that a representative of LICENSOR accompany any representatives of LICENSEE or of LICENSEE's designee making a visit. Such visitation right shall include the right to inspect the Cable and to review performance or service data, and other documents used in conjunction with this License. Employees and agents of LICENSEE or of LICENSEE's designee shall, while on the premises of LICENSOR, comply with all rules and regulations including, without limitation, security/safety requirements and, where required by government regulations, receipt of satisfactory governmental clearances. LICENSOR shall have the right to notify LICENSEE that certain LICENSEE or LICENSEE's designated employees are excluded if, in the reasonable judgment of LICENSOR, the exclusion of such employees is necessary for the proper security and maintenance of LICENSOR's facilities.
- 17.3** LICENSOR agrees to allow LICENSEE direct ingress and egress to LICENSOR's Premises at such times as may be required for LICENSEE to perform any appropriate testing, maintenance and repair. LICENSOR may require that a representative of LICENSOR accompany any representatives of LICENSEE on such visits to LICENSOR property otherwise outside the LICENSEE Premises. Employees and agents of LICENSEE or of LICENSEE's designee shall, while on the premises of LICENSOR, comply with all rules and regulations including, without limitation, security/safety requirements and, where required by government regulations, receipt of satisfactory governmental clearances. LICENSOR shall have the right to notify LICENSEE that certain LICENSEE or LICENSEE designated employees are excluded if, in the reasonable judgment of LICENSOR, the exclusion of such employees is necessary for the proper security and maintenance of LICENSOR's facilities.
- 17.4** Notwithstanding the provisions of this Section, each party acknowledges that the operational efficiency of the other depends on the continuous availability of its trained personnel and, accordingly, both parties will act cooperatively to resolve

any situations which may arise that threaten the security, operations or maintenance of either party's facilities prior to excluding any personnel.

**18. COMPLIANCE WITH LAWS**

Each party to this License shall comply with all applicable laws, statutes, regulations, rules, ordinances, orders, injunctions, writs, decrees or awards of any government or political subdivision thereof, or any agency, authority, bureau, commission, department or instrumentality thereof, or any court tribunal, or arbitrator in all applicable, material respects in connection with all activities and all performance under or in connection with this License.

**19. FORCE MAJEURE**

Notwithstanding any provision of this License, the performance of the obligations set forth in this License other than obligations to pay money, shall be suspended or excused in the event such performance is adversely affected by an event of Force Majeure or its adverse effects. Such acts or events include, but are not limited to, the following:

- a. Act of God, landslides, sinkholes, lighting, hurricane, earthquakes, fires, explosions, floods, acts of a public enemy, wars, blockades, insurrections, riot, or civil disturbances;
- b. Labor disputes, strikes, work slowdown, or work stoppages;
- c. Orders, writs, decrees or judgments of any federal, state, or local court, administrative agency, or governmental body, so long as not the result of wanton or willful action or inaction of the party relying thereon; *provided however*, the contesting in good faith by such party of any such order or judgment, or the good faith failure by such party to contest any such order or judgment, shall not constitute or be construed to constitute a wanton or willful action or inaction of such party;
- d. The adoption of or change after the date of the execution of this License in any federal, state, or local laws, rules, regulations, ordinances, permits, or licenses, or changes in the interpretation of such laws, regulations, ordinances, permits, or licenses by a court or public agency having jurisdiction;
- e. The failure of any subcontractor or any supplier to furnish labor, services, materials, or equipment in accordance with its contractual obligations, together with the inability of the party relying thereon to obtain reasonable substitute performance within a reasonable time, *provided*, that in any case where such subcontractor or supplier is an Affiliate of the party seeking to rely upon such failure as an event of Force Majeure, such failure shall be deemed an event of Force Majeure only to the extent that such failure is itself due to an event of Force

Majeure or its adverse effect; or

- f. A defect in manufactured equipment or manufactured components, *provided* that in any use where such equipment or component was manufactured by the party (or an Affiliate of such party) seeking to rely upon such defect as an event of Force Majeure, such defect shall be deemed an event of Force Majeure only to the extent that the defect was caused by an independent event of Force Majeure.

## **20. DISPUTE RESOLUTION PROCEDURES**

- 20.1** LICENSOR and LICENSEE shall attempt in good faith to resolve any disputes that may arise under this License. In the event that LICENSOR and LICENSEE are unable to resolve any such dispute within thirty (30) days of the date on which the dispute arises, they shall have recourse to mediation within ten (10) business days after a written request by either party and agreement on a mediator. The disputing parties shall attempt in good faith to resolve their dispute in accordance with the procedures and timetable established by the mediator. If a resolution of the dispute is not reached by the 30th day after the appointment of the mediator, or such later date as may be agreed to by the parties, the mediator shall promptly provide the disputing parties with a written, confidential, non-binding recommendation on resolution of the dispute, including the mediator's assessment of the merits of the principal positions being advanced by each of the disputing parties. At a time and place specified by the mediator after delivery of the foregoing recommendation, the disputing parties shall meet in a good faith attempt to resolve the dispute in light of the mediator's recommendation. Each disputing party shall be represented at the meeting by a person with authority to settle the dispute, along with such other persons as each disputing party shall deem appropriate. If the disputing parties are unable to resolve the dispute at or in connection with the meeting, then: (1) any disputing party may commence such judicial proceedings as may be appropriate; and (2) the recommendation of the mediator shall have no further force or effect, and shall not be admissible for any purpose, in any subsequent judicial proceeding. The costs of the time, expenses, and other charges of the mediator and of the mediation process shall be borne by the parties to the dispute, with each side in a mediated matter bearing one half of such costs. Each party shall bear its own costs and attorneys' fees incurred in connection with any mediation under this License.
  
- 20.2** Unless otherwise agreed in writing or prohibited by applicable law, the parties shall continue to provide service, honor all other commitments under this License and continue to make payments in accordance with this License during the course of any dispute resolution and during the pendency of any action at law or in equity relating hereto.

**21. ASSIGNMENT**

LICENSOR may assign this Agreement and shall provide LICENSEE with notice within thirty days of such assignment. LICENSEE may not assign rights and obligations under this License, in whole or in part, except with prior written consent of LICENSOR, which consent will not unreasonably be withheld. In any event, LICENSEE shall remain secondarily liable for all obligations unless LICENSOR provides written consent that LICENSEE will not remain secondarily liable for all obligations.

**22. EXPENSES**

Except for cost and expenses specifically assumed by a party under this License, each party hereto shall pay its own expenses incident to this License (including without limitation amendments hereto) and the transactions contemplated hereunder including without limitation all legal and accounting fees and disbursements.

**23. AMENDMENT**

This License shall not be amended, altered or modified except by an instrument in writing duly executed by the parties.

**24. BINDING EFFECT; LIMITATION OF BENEFITS**

This License shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. It is the explicit intention of the parties hereto that no person or entity other than the parties hereto is or shall be entitled to bring any action to enforce any provision of this License against either of the parties hereto, and that the covenants, undertaking, and Licenses set forth in this License shall be solely for the benefit of, and shall be enforceable only by, the parties hereto or their respective successors or permitted assigns.

**25. NOTICES**

Unless otherwise provided in this License all notices, demands, requests, reports, approvals or other communications which may be or are required to be given, served or sent pursuant to this License shall be in writing and shall be hand delivered, mailed by first class, registered or certified mail, return receipt requested, postage prepaid, delivered by overnight courier with proof of delivery or transmitted by Facsimile followed by mail, addressed as follows:

To LICENSEE: Progress Telecommunications Corporation  
100 Second Avenue South, Suite 400 South  
St. Petersburg, Florida 33701  
Attention: Director – Sales and Marketing

To LICENSEE City of Leesburg Electric Department

2010 Griffin Road  
Leesburg, Florida 34748  
Attention: Debbie Morris

Each party may designate by notice in writing a new address for itself to which any notice, demand, request, report, approval or communication may thereafter be so given, served or sent. Each notice, demand, request, report, approval or communication which shall be sent in the manner described above, shall be deemed sufficiently given, served, sent or received for all purposes at such time as it is delivered to the addressee (with the return receipt or the delivery receipt being deemed conclusive evidence of such a delivery) or at such time as delivery is refused by the addressee upon presentation.

**26. SEVERABILITY**

If any part of any provision of this License or any other License, document or writing given pursuant to or in connection with this License shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of said provision or the remaining provisions of said License; provided that if any such ineffectiveness or unenforceability of any provision of this License in the good faith judgment of either party, renders the benefits to such party of this License as a whole uneconomical in light of the obligations of such party under this License as a whole, then LICENSOR and LICENSEE shall negotiate in good faith in an effort to restore insofar as possible the economic benefits of the Licensed Fibers to LICENSEE and the economic benefits of the LICENSOR Fibers and the license fee hereunder to LICENSOR.

**27. RELATIONSHIP OF PARTIES**

In all matters pertaining to this License, the relationship of LICENSOR AND LICENSEE shall be that of licensor and licensee, and neither LICENSOR nor LICENSEE shall make any representations or warranties that their relationship is other than that of licensor and licensee. This License is not intended to create nor shall it be construed to create any partnership, joint venture, employment or agency relationship between LICENSEE and LICENSOR and no party hereto shall have the power to bind or obligate any other party. No party hereto shall be liable for the payment or performance of any debts, obligations, or liabilities of the other party, unless expressly assumed in writing herein or otherwise. Each party retains full control over the employment, direction, compensation and discharge of its employees, and will be solely responsible for all compensation of such employees, including without limitation social security, withholding and workers compensation responsibilities.

**28. EXERCISE OF RIGHT**

No failure or delay on the part of LICENSOR in exercising any right, power or privilege hereunder and no course of dealing by LICENSOR shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege by LICENSOR hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

**29. ADDITIONAL ACTIONS AND DOCUMENTS**

Each of the parties hereto hereby agrees to take or cause to be taken such further actions, to execute, acknowledge, deliver and file or cause to be executed, acknowledged, delivered and filed such further documents and instruments, and to use its best commercial efforts to obtain such consents, as may be necessary or as may be reasonably requested in order to fully effectuate the purposes, terms and conditions of this License, whether at or after the execution of this License.

**30. SURVIVAL**

No provision of this License, no covenant, agreement, statement, representation, warranty or indemnity shall apply or otherwise continue in effect with respect to any portion of the Cable located or installed on any Route Segment as to which the term of this License has expired; provided that any payment obligation which has accrued prior to such expiration and any indemnity obligation resulting from events which occurred prior to such expiration shall continue in effect until satisfied in full in accordance with the terms hereof.

**31. ENTIRE AGREEMENT**

This License constitutes the entire agreement between the parties with respect to the transactions contemplated herein, and it supersedes all prior oral or written agreements, commitments or understandings with respect to the matters provided for herein.

**32. HEADINGS**

Article and section headings contained in this License are inserted for convenience of reference only, shall not be deemed to be a part of this License for any purpose, and shall not in any way define or affect the meaning, construction or scope of any of the provisions hereof.

**33. GOVERNING LAW**

The laws of the State of Florida excluding the conflict of law provisions thereof shall govern the validity, interpretation and performance of this License and each of its provisions.

**34. FORUM FOR MEDIATION OR LITIGATION**

In the event that mediation or litigation is required in order to resolve any dispute or disagreement connected with this License, it is agreed by and between the parties hereto that venue and jurisdiction for any such mediation or litigation shall be in Lake County, Florida. Unless otherwise provided by law, any and all litigation between the parties hereto arising out of this Agreement shall be instituted and maintained in the Fifth Judicial Circuit Court in Lake County, Florida. Any cause of action arising by virtue of the laws of the United States shall be instituted in the United States District Court for the Middle District of Florida, Ocala Division.

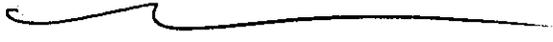
**35. EXHIBITS**

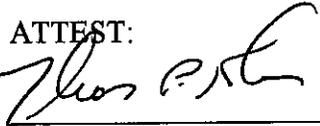
The following Exhibits shall be attached to and incorporated within this License as necessary. In the event of any inconsistency between the terms contained in the Exhibits and the body of the License, the Exhibits shall control only with respect to the specific inconsistency.

- Exhibit A: Licensed Fibers Rates and Preparation Costs
- Exhibit C: Fiber Optic Cable Specifications
- Exhibit D: Escalation Procedures
- Exhibit E: Sample Notice of Acceptance

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and do hereby warrant and represent that their respective signatory whose signature appears below has been and is on the date of this Agreement duly authorized by all necessary and appropriate corporate action to execute this Agreement.

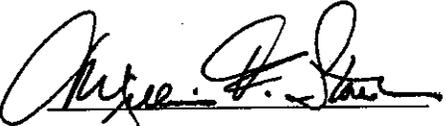
CITY OF LEESBURG (LICENSOR)

  
\_\_\_\_\_  
MAYOR CHET BLACKMON

ATTEST:  
  
\_\_\_\_\_  
CITY CLERK/ THOMAS KLINKER

Date: 5/8/00

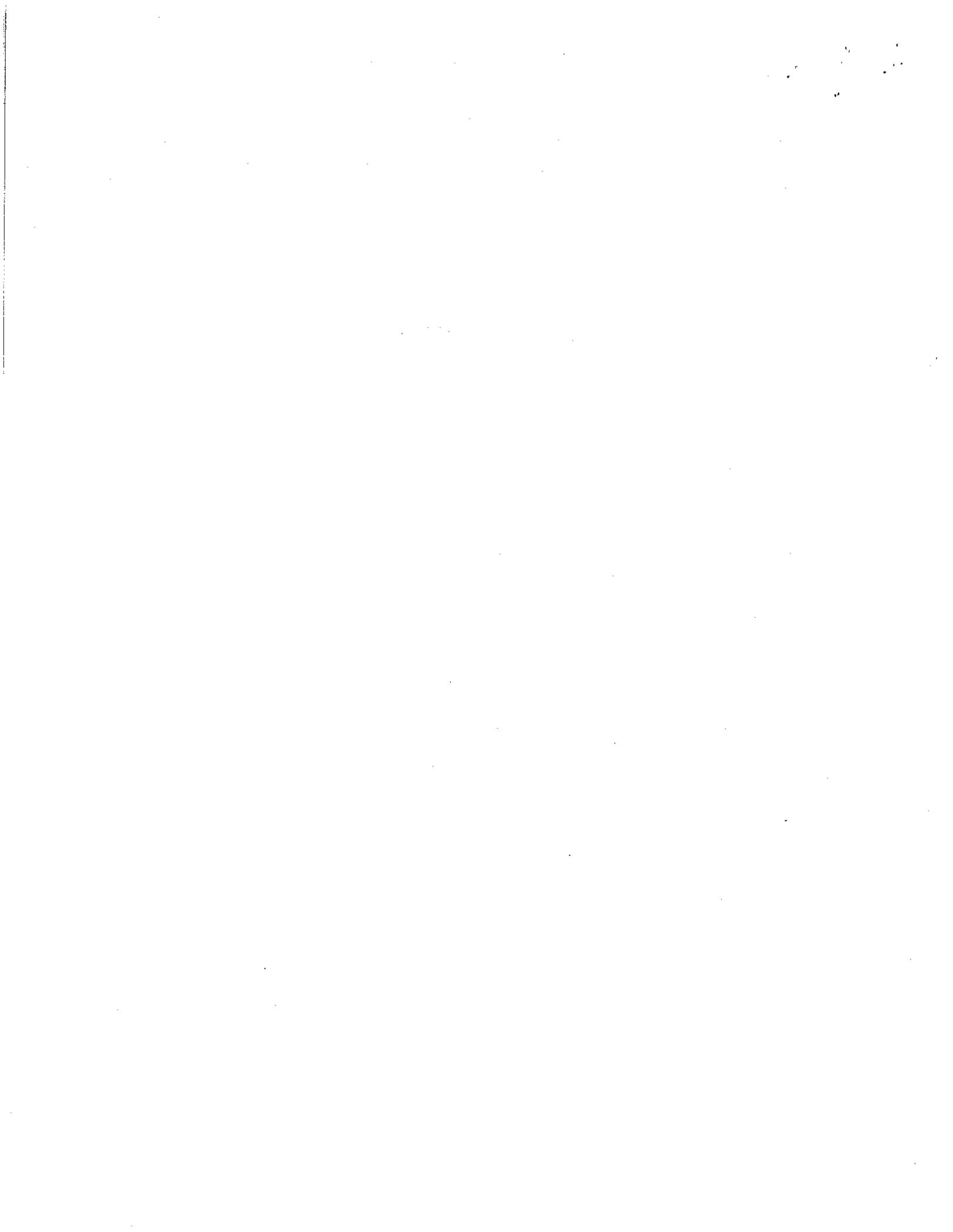
PROGRESS TELECOMMUNICATIONS CORPORATION (LICENSEE)

By:   
\_\_\_\_\_  
William F. STOEHs  
Printed

Title: DIRECTOR, SALES & MARKETING

Date: 5/4/00





# EXHIBIT A

## Route Selection, Fiber Rates and Preparation Costs

Contract Number: \_\_\_\_\_

A.	LICENSEE Route Segment(s)	Quantity of Fiber	Annual Rate
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Route 1.0 : Eustis South (EUSS) Microwave Substation, located at 1 West Plaza Drive, Eustis Florida to FPC's Central Florida Substation Located at 8797 E. SR 44, Wildwood, Florida	6 Fibers	\$ 25,000.00
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B.	Anticipated Fiber Acceptance Date	Term of Service
	Date	Ten (10) years

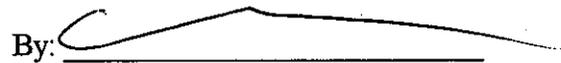
C.	Preparation Cost Calculations
	There are No Preparation Costs for Route 1.0.

D.	LICENSEE Authorization	LICENSOR Authorization
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LICENSEE

LICENSOR

By: 

By: 

Print: William F. Stovets

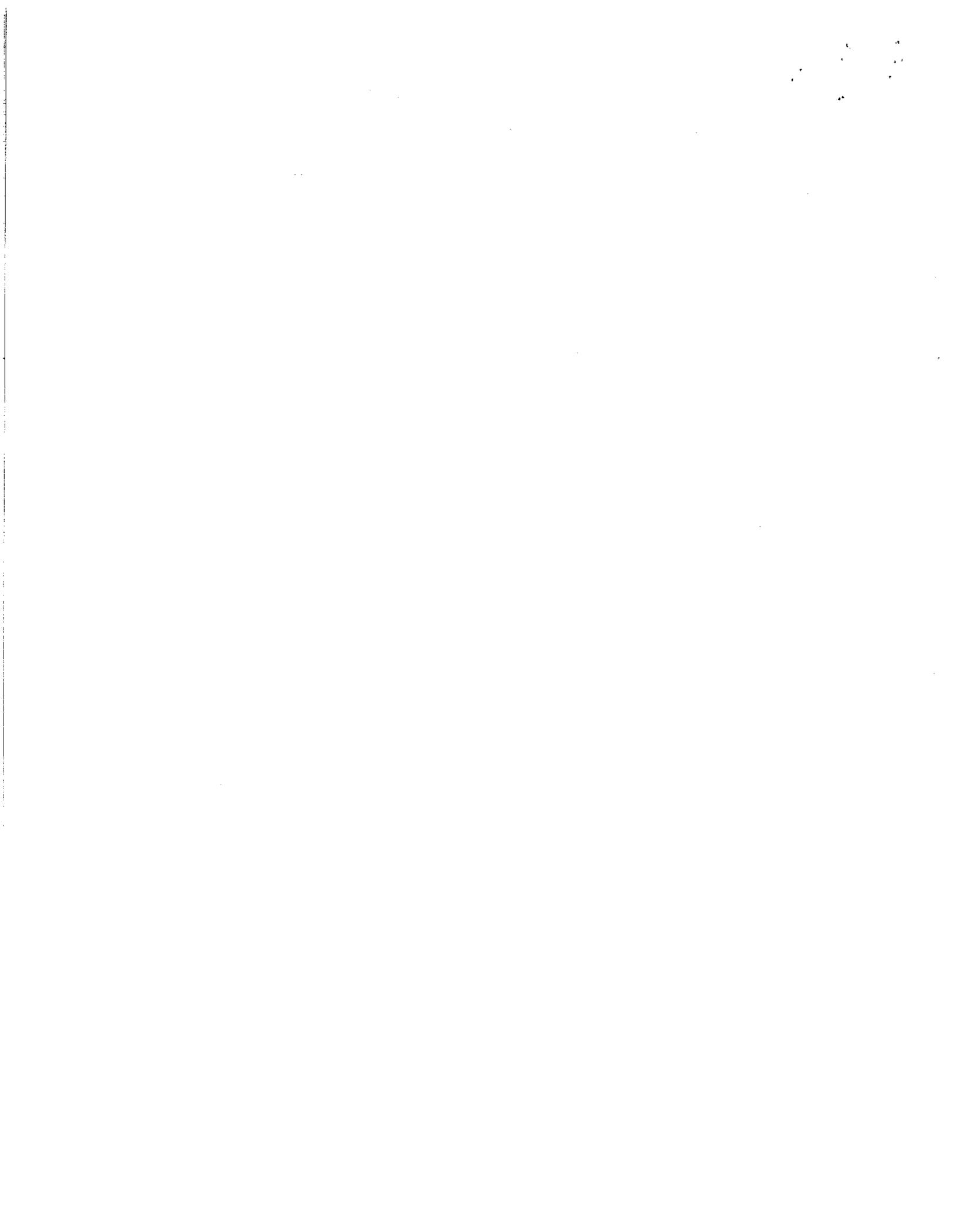
Print: Chet Blackmon

Title: Director, Sales & Marketing

Title: Mayor

Date: 5/4/00

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



# EXHIBIT C

## Fiber Optic Cable and Regeneration Facilities Specifications

Contract Number: \_\_\_\_\_

### Fiber Optic Cable

#### Optical Fibers:

All optical fibers will meet or exceed the Corning SMF-28, dual 1310/1550 window optical glass specifications or 62.5/125, 50/125 micron Multimode.

#### Optical Span Attenuation (includes cable and splicing):

Maximum attenuation for 1310 nm systems will be 0.4dB/km.

Maximum attenuation for 1550 nm systems will be 0.3dB/km.

#### Span Specifications:

Discontinuities (known as steps, splices, or attenuation non-uniformities) shall be measured with an optical time domain reflectometer to determine the loss of the localized attenuation.

No fiber shall show a point discontinuity greater than 1.0 dB. However, Fiber spans that include a discontinuity in excess of specifications may still be considered acceptable, with mutual agreement of lessor and lessee, provided said Fiber still meets lessee's overall attenuation and dispersion specifications.

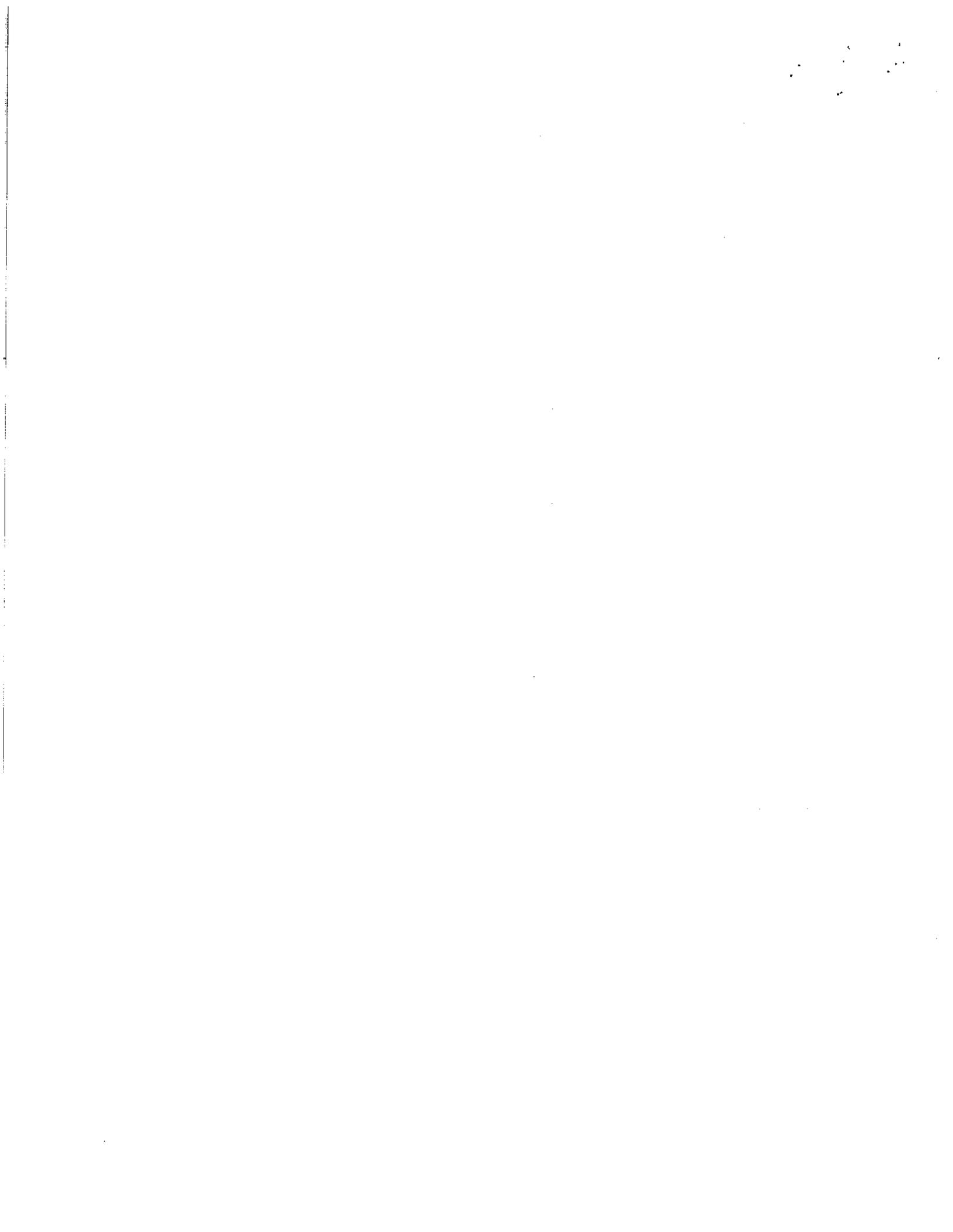
#### General Construction:

The Fiber optic cable will be constructed in accordance with sound commercial practices. The National Electric Safety Code will be followed in every case except where local regulations are more stringent, in which case local regulations shall govern.

Connector assemblies will be ST design and will meet or exceed 50 dB return loss specifications. Connectors will have a mean insertion loss characteristic of <0.4 dB with a maximum insertion loss of <0.6dB.

Fiber protection for fan-out and termination of the cable will have 900  $\mu$ m tight buffer tube, a Kevlar strength member, a cable jacket, and will have an overall diameter of 3.0mm.

Optical and span test data including OTDR traces will be submitted by lessor to lessee at an agreed upon schedule.



# EXHIBIT D

## Escalation Procedures

Contract Number: \_\_\_\_\_

A.

### City of Leesburg Contact List and Escalation Procedures

For emergency repairs, contact the **City of Leesburg's Municipal Operations Center** at:

**1-352-728-9830**

City of Leesburg's MOC is staffed 24 hours a day, 365 days a year. Please call the phone number shown above, and give the following information to the analyst who answers your call:

- Your Company
- Your Name
- Your Phone Number
- The nature of your call (outage, informational, planned maintenance, etc.)
- Any pertinent details (where the outage is located, etc.)

Be certain to inform the dispatcher as to what number they should return your call for updates on outage repairs, etc.

**Please call the MOC only in a real emergency.**

For scheduled maintenance, please contact your Account Manager.

B.

### LICENSEE Contact List and Escalation Procedures

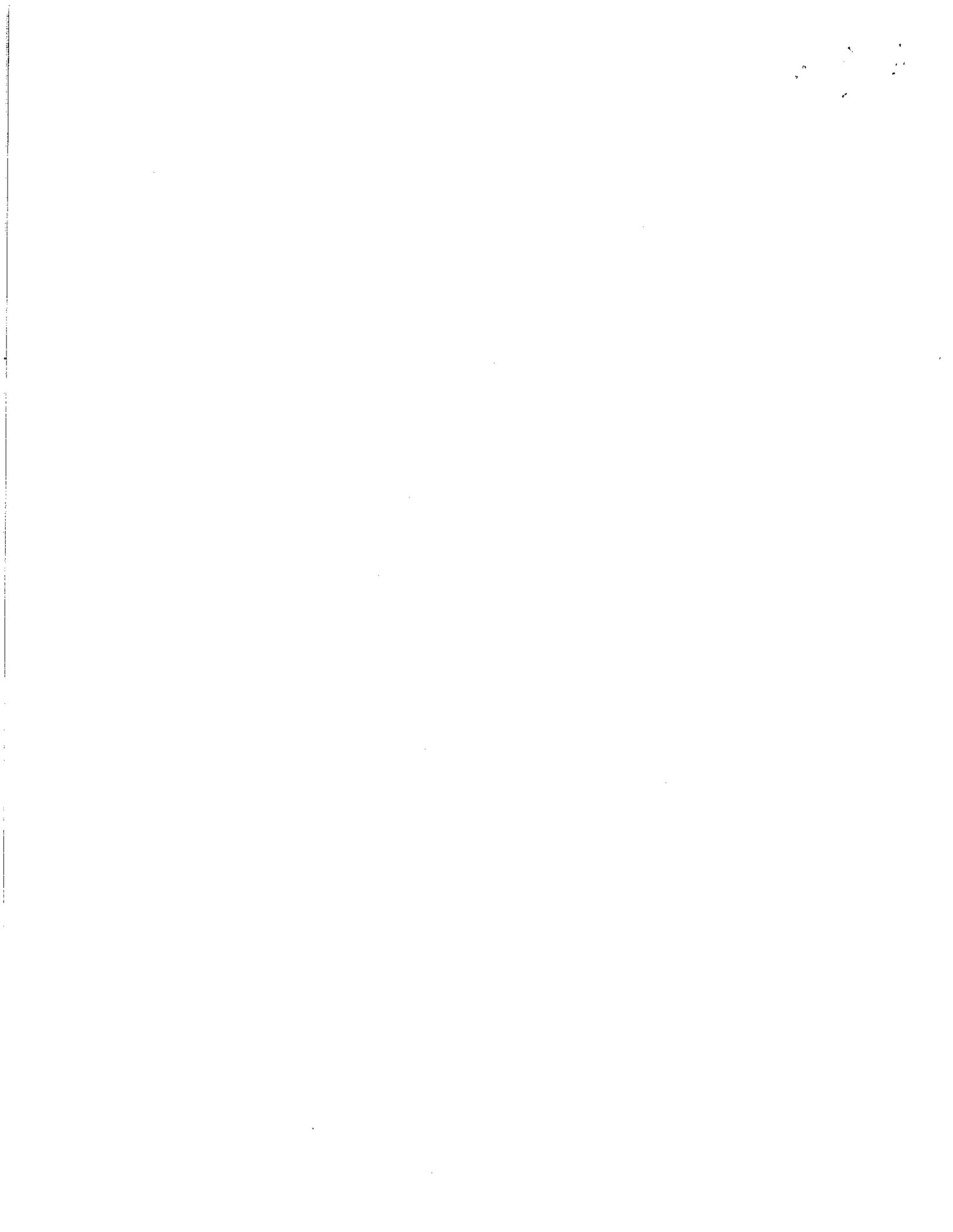
For emergency repairs, contact LICENSEE's Network Operations Center at

**1-888-782-6621**

LICENSEE's NOC is staffed 24 hours a day, 365 days a year. Please call the phone number shown above, and give the following information to the analyst who answers your call:

- Your Company
- Your Name
- Your Phone Number
- The nature of your call (outage, informational, planned maintenance, etc.)
- Any pertinent details (where the outage is located, etc.)

For scheduled maintenance, contact LICENSEE's Scheduled Event Management Center at 1-888-782-6621



# EXHIBIT D

## Escalation Procedures

Contract Number: \_\_\_\_\_

### Escalation for LICENSEE

### Network Operation Center

Contact	Title	Function	Voice	Fax	Pager	Email	Reports to
Network Operations Center	Network Ops Engineer	Network Operations	727-820-5444 888-782-6621	727-820-5122	N/A	<u>Ptcnoc@fpc.com</u>	John Leavitt
John Leavitt	Mgr, Network Operations	Network Operations	727-820-5897	727-820-5122	800-280-6493 Pin 276-1413	<u>John.leavitt@fpc.com</u>	Oscar Perez
Oscar R. Perez	Senior Mgr, Network Operations	Network Operations	727-820-5101	727-820-5122	800-280-6493 Pin 276-1020	<u>Oscar.perez@fpc.com</u>	Elizabeth Walker
Elizabeth Walker	Director, Network Operations	Network Operations	727-820-5679	727-820-5952	N/A	<u>Elizabeth.a.walker@fpc.com</u>	Ron Mudry
Ron Mudry	VP General Manager	Executive	727-820-5851	727-820-5829	800-844-8087 Pin 147-5756	<u>Ron.mudry@fpc.com</u>	Joe Richardson



# EXHIBIT E

## Fiber Acceptance Notification

Contract Number: \_\_\_\_\_

This Fiber Acceptance Notice has been prepared pursuant to Section 5 of the Progress Telecommunications Corporation Fiber Optic Facilities License between Progress Telecommunications Corporation ("Licensor", and \_\_\_\_\_ ("Licensee"), dated, \_\_\_\_\_, 2000 ("Agreement"). Licensee has completed testing of the following leased facilities in accordance with the Agreement:

LICENSEE Route Segment(s)	Quantity of Fiber
Route 1.0 : Eustis South (EUSS) Microwave Substation, located at 1 West Plaza Drive, Eustis Florida to FPC's Central Florida Substation Located at 8797 E. SR 44, Wildwood, Florida	6 Fibers

By their respective signatures below, Licensor certifies, and Licensee agrees, that the above-described leased facilities have been tested and that the results of such tests (which are attached hereto) conform to the Specifications attached as Exhibit C to the Agreement.

LICENSOR REPRESENTATIVE: \_\_\_\_\_

DATE: \_\_\_\_\_

LICENSEE REPRESENTATIVE: \_\_\_\_\_

SERVICE ACCEPTANCE DATE: \_\_\_\_\_  
(Commencement Date)

.....  
USE THIS SPACE BELOW IF FACILITIES ARE NOT ACCEPTED BY LICENSEE:

The facilities tested DO NOT meet the Specifications for the following reasons:

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LICENSEE REPRESENTATIVE: \_\_\_\_\_

DATE: \_\_\_\_\_





# LEESBURG

*The Lakefront City*

Consent  
B-3

## AGENDA MEMORANDUM

**Meeting Date: May 8, 2000**

**Subject: Progress Telecom Fiber License Agreement**

**Staff Recommendation:** City Commission approval of the proposed Fiber License Agreement. With the possibility of deregulation the City needs to look at other sources of revenue. Fiber Optic cable is in high demand and this is an opportunity for the City to expand our Communications Utility service area.

**Analysis:** The Electric Department will be installing 57,600 feet of single-mode, 48 pair fiber. Progress Telecom will be using 3 pair of this fiber, leaving the City 45 additional pair to market. This fiber cable will be installed from Florida Power Central Fl. Substation at 8797 E SR44, Wildwood to Florida Power Eustis South Microwave Substation at 1 West Plaza Drive, Eustis. In addition to Progress Telecom the City has been contacted by other businesses interested in leasing some of the fiber pairs involved in this installation. Some of these potential customers are Waterman Hospital, Lake County School Board, Lake County Government, Long Distance Telephone Carrier, Cable Systems and SmithKline Beecham Laboratories. This agreement is for a ten year term with four, 5-year, renewal options.

**Options:** The City Commission can approve this agreement which allows for the installation of the fiber cable or disapprove this agreement which will result in a loss of income to the City from Progress Telecom and other customers.

**Fiscal Impact:** The cost of this fiber cable installation is estimated at \$241,090. This budget will need to be amended to cover the costs of this installation. The project number for this job is 450001, 045-5099-539-1210 through 045-5099-539-6471. Progress Telecom will pay the City an annual license fee of \$25,000., and since the initial term of this agreement is 10 years the total income is \$250,000. If Progress Telecom elects to renew the four 5-year terms that will give us an additional income of \$500,000. Assuming a 6% rate of return and no other customers on this cable, the payback period will be approximately 15 years.

Submission Date 4-12-00 Time: 4:25PM

<p>Department: _Communications_____</p> <p>Prepared by: _Debbie Morris_____</p> <p>Reviewed by <i>JL</i> Dept Head J. Langston &amp; D. Morris</p> <p>City Atty. _____</p> <p>Finance <i>JRS 04/19/00</i></p> <p>Other _____</p> <p>Attachments Yes <u>XX</u> No _____</p> <p>Submitted by: Joe Langston &amp; Robert Johnson</p> <p>City Manager <i>ALD</i></p>	<p>Advertised:</p> <p>Dates: _____</p> <p>Newspapers: _____ _____</p> <p>Not Required: <u>XX</u></p>	<p>Costs:</p> <p>Current FY Total _____</p> <p>Funding Source:</p> <p>Capital Imp. _____</p> <p>Operating _____</p> <p>Other _____</p> <p>Appropriation Code:</p> <p># _____</p>
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