

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO	CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY) n/a
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TO: CITY COUNCIL	FROM (ORIGINATING DEPARTMENT): Real Estate Assets	DATE: 09/18/2012
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SUBJECT: Fiber optic communications cable - Grant of Easement

PRIMARY CONTACT (NAME, PHONE): Barry Slotten, 619-236-6724, MS 51-A	SECONDARY CONTACT (NAME, PHONE): Lane MacKenzie, 619-236-6050, MS 51-A
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COMPLETE FOR ACCOUNTING PURPOSES

FUND					
DEPT / FUNCTIONAL AREA					
ORG / COST CENTER					
OBJECT / GENERAL LEDGER ACCT					
JOB / WBS OR INTERNAL ORDER					
C.I.P./CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

FUND					
DEPT / FUNCTIONAL AREA					
ORG / COST CENTER					
OBJECT / GENERAL LEDGER ACCT					
JOB / WBS OR INTERNAL ORDER					
C.I.P./CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

COST SUMMARY (IF APPLICABLE):

ROUTING AND APPROVALS

CONTRIBUTORS/REVIEWERS:	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
Park and Recreation	Comptroller	ORIG DEPT.	Barwick, James
Liaison Office		CFO	
Financial Management		DEPUTY CHIEF	
Equal Opportunity Contracting		COO	
Environmental Analysis		CITY ATTORNEY	
		COUNCIL PRESIDENTS OFFICE	

PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

1. Authorize the grant of an easement to opticAccess, LLC, to maintain, use and repair as needed the underground communication line across a portion of Pueblo Lot 1793 of the Pueblo Lands of the City of San Diego, in the City of San Diego, County of San Diego, State of California according to the map thereof made by

James Pascoe in 1870, filed as Miscellaneous Map No. 36.	
STAFF RECOMMENDATIONS: Adopt the Resolution.	
SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)	
COUNCIL DISTRICT(S):	2
COMMUNITY AREA(S):	Pacific Beach Park
ENVIRONMENTAL IMPACT:	The City of San Diego as Responsible Agency under CEQA has reviewed and considered the Final Certified EIR for the Global West Fiber Optic Cable Project (EIR No. 692, SCH. No. 99021067), prepared by the State Lands Commission, Sacramento, California, June 27, 2000 and approved by the California Coastal Commission, December 12, 2000 and amended April 26, 2001.
CITY CLERK INSTRUCTIONS:	DO NOT RECORD. Return documents to Real Estate Assets Department, Attention: Barry Slotten, M.S. 51A, for further handling.

**COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO**

DATE: 09/18/2012

ORIGINATING DEPARTMENT: Real Estate Assets

SUBJECT: Fiber optic communications cable - Grant of Easement

COUNCIL DISTRICT(S): 2

CONTACT/PHONE NUMBER: Barry Slotten/619-236-6724, MS 51-A

DESCRIPTIVE SUMMARY OF ITEM:

Adopt a resolution authorizing the grant of an easement for a high-speed fiber optic undersea communications cable system to provide reliable transmission of voice, video, data and internet traffic into and between San Francisco, Monterey, San Luis Obispo, Santa Barbara, Los Angeles and San Diego. This easement will run from undersea at the mean high tide line at Pacific Beach Park to the easterly boundary of the Park. From there the cable enters an existing underground conduit running down the center of Pacific Beach Drive.

STAFF RECOMMENDATION:

Adopt the Resolution.

EXECUTIVE SUMMARY OF ITEM BACKGROUND: In 2001, Global Photon Systems, Inc., a San Diego company doing business as Global West Network, Inc., applied for and was granted a Right of Entry Permit to construct a high-speed fiber optic undersea communications cable system into and between San Francisco, Monterey, San Luis Obispo, Santa Barbara, Los Angeles and San Diego. This was with the approval of the Park and Recreation Department. The cable was laid in the Pacific Ocean and comes to land in each of the cities mentioned. The cable is less than 1 inch in diameter, carries no electrical power, and transmits only light through glass fibers. Construction was completed in 2001.

In San Diego, the undersea cable became an underground cable at Pacific Beach Park, running under the Park and connecting up with an underground utility conduit running down the center of Pacific Beach Drive, which is in the utility franchise. The Permit area across the Park is approximately 126 feet in length, six inches wide, and covers approximately 65 square feet.

Global West Network then requested the grant of an easement over the aforementioned property, and the Real Estate Assets Department began the process of submitting the proper request to City Council. Just prior to appearing before Council to acquire the easement, Global West Network went bankrupt, shut their doors, and the easement request was abandoned.

Now, opticAccess, LLC, a privately held fiber optic-based communications provider serving the west coast of the United States, has acquired the former Global West Network fiber optic network of lines, and is (re)applying for this easement.

FISCAL CONSIDERATIONS: The City will receive a processing fee of \$1,750.00 and a fee of \$2,500.00 for the easement purchased. All revenue will be deposited into Fund 100000.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE): This item is Exempt from Equal Opportunity Contracting Program Review as per the November 14, 2011 memo, as it does not involve contracting and/or subcontracting opportunities.

PREVIOUS COUNCIL and/or COMMITTEE ACTION (describe any changes made to the item from what was presented at committee): None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: City of San Diego and several wireless carriers, cable companies and large enterprise users that need access to wholesale telecommunications services. Re-commissioning the existing cable greatly reduces the impact to the City of San Diego as no new construction is required, nor any disturbance to City rights-of-way and beach access.

Barwick, James
Originating Department

Deputy Chief/Chief Operating Officer



San Diego
THE MUIRLANDS

BIRD
ROCK

TURQUOISE
BLVD

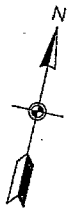
MISSION
BLVD

MISSION BAY

SUBJECT

22037

92109



CITY OF SAN DIEGO

PACIFIC BEACH PARK.
 POR. 1793
 0.67 ACRES
 APN 423-211-28

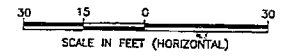
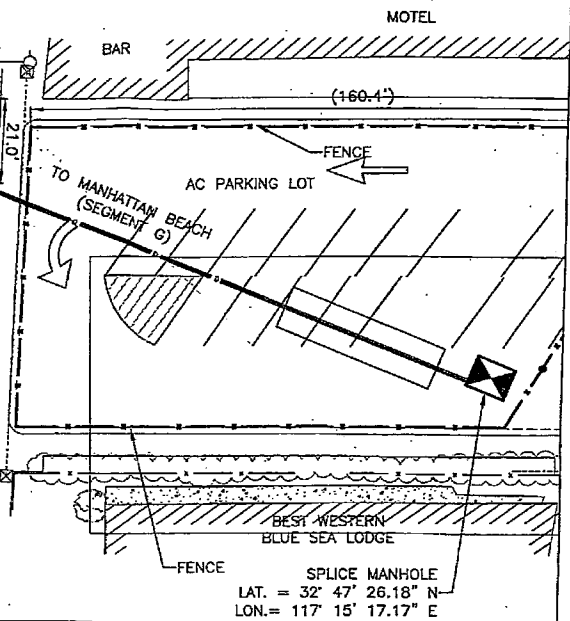
N 1868952.60486
 E 6252689.93850
 LAT. 32° 47' 26.42" N
 LON. 117° 15' 19.39" E

N 1868962.98124
 E 6252620.55746
 LAT. 32° 47' 26.51" N
 LON. 117° 15' 20.20" E

PACIFIC BEACH SAND
 APPROX. M.H.T.L.

N 1868944.31646
 E 6252745.35802
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 LON. 117° 15' 18.74" E

PACIFIC BEACH PARK
 POR. 1803
 0.87 ACRES
 APN 423-330-23



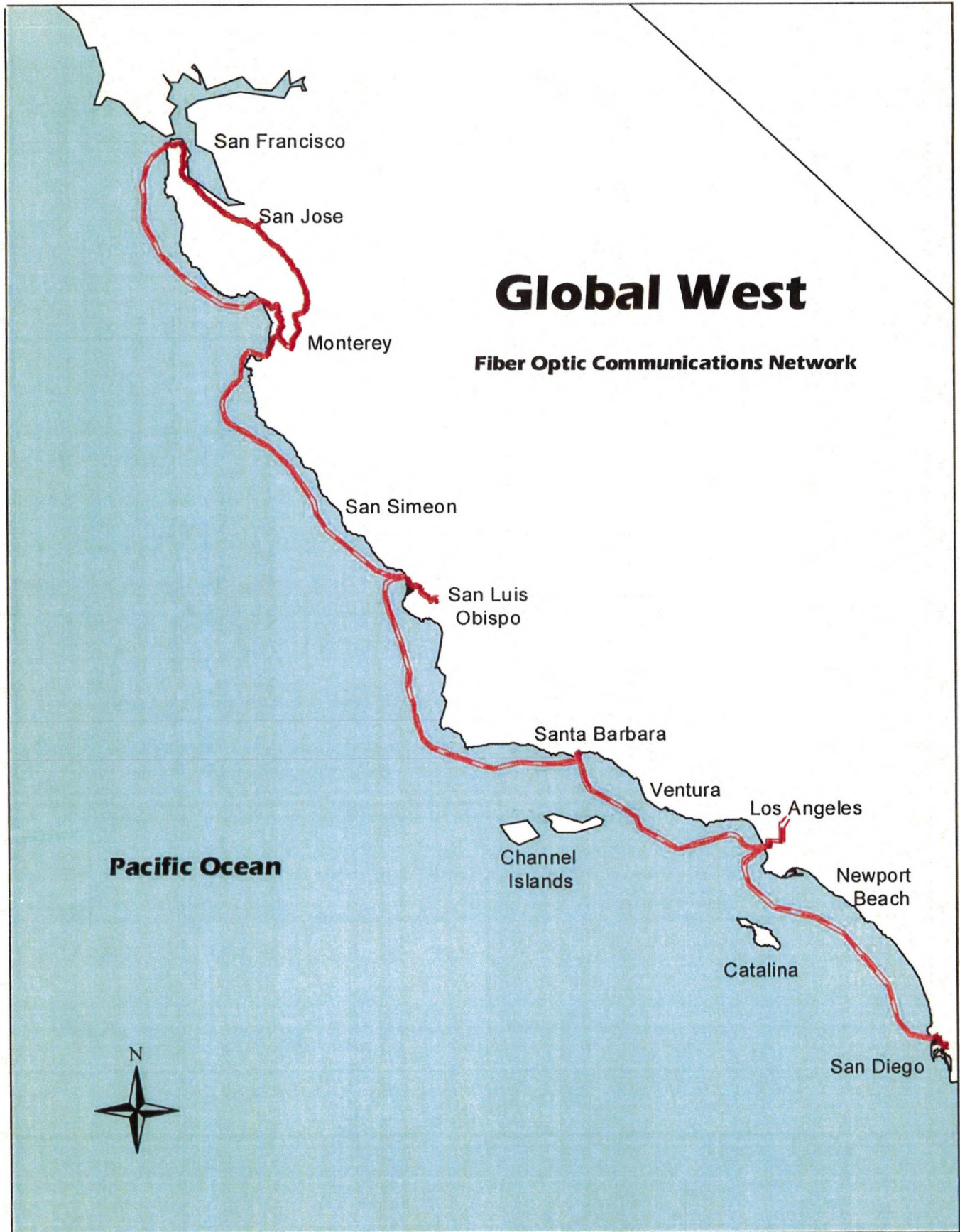
REV	DESCRIPTION	DRAWN BY	CHK'D BY	APV'D BY	ANS APV'D	DATE

GLOBAL WEST NETWORK, INC.



PROJECT: PACIFIC BEACH CABLE LANDING FACILITY	PROJECT CODE: 24629
TITLE: DETAILED SITE LANDING	
DRAWN MJE	DRAWING FILE NAME: SDSITEPL-q-E
CHKD. BLW	SHEET NO.
APPR. ACD	APPROVED ORIGINAL ISSUE
REV	

FILE:

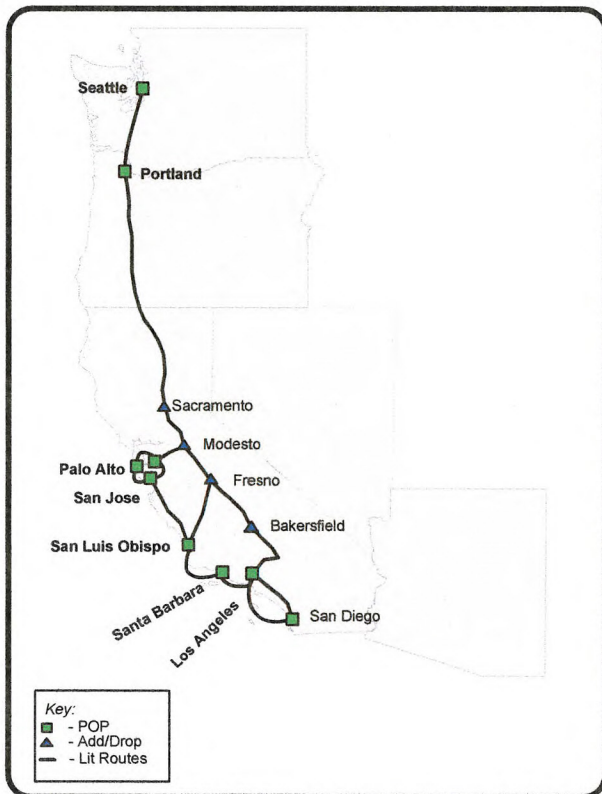
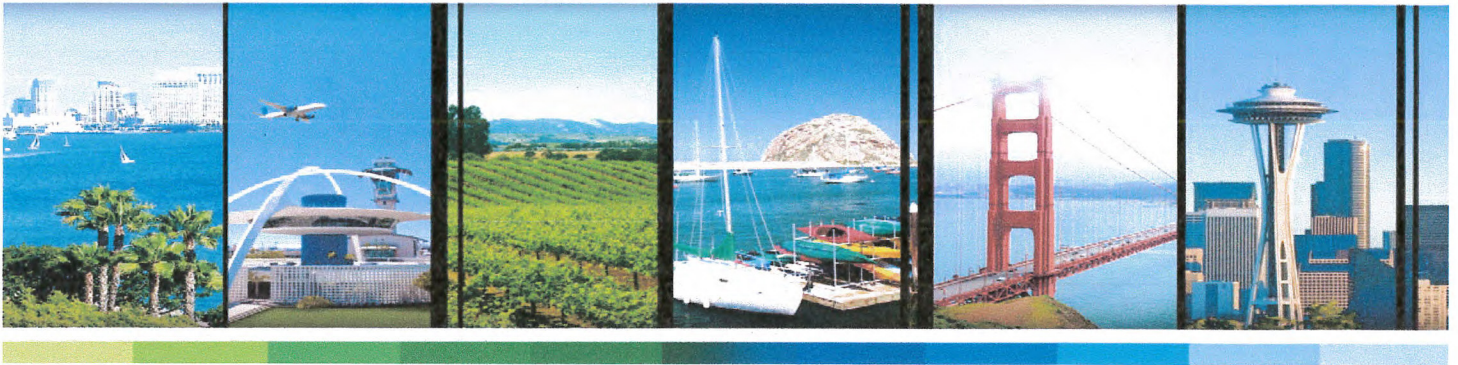


Global West

Fiber Optic Communications Network

Pacific Ocean





Our networks do more than just transmit information. They enable ideas, empower individuals, and get global business done.

We design, build, integrate, and manage high-bandwidth networks that solve connectivity needs in customized and flexible ways.

WAVELENGTHS:

The fastest connection available today. Based on next generation Dense Wave Division Multiplexing

DIM FIBER:

Creating a high-capacity, dedicated, lowest cost alternative to dark fiber with similar salability across long-haul spans.

METRO DARK FIBER:

Fully scalable, unrestricted bandwidth, and flexible to meet the growing needs of your business.



CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

**NOTICE OF PROPOSED IMMATERIAL PERMIT AMENDMENT****E-00-008-A3**

TO: All Interested Parties

FROM: Peter M. Douglas, Executive Director

DATE: May 1, 2001

SUBJECT: Application to amend coastal development permit ("CDP") No. E-00-008 granted to Global West Network, Inc. for installation of a festoon fiber optic cable in state and federal waters along the California coastline landing onshore at four locations -- Morro Bay, Santa Barbara, Manhattan Beach and San Diego. Project components include burying the cable from mean high tide line to, on average, 10 miles offshore; boring seven conduits (two each at Morro Bay, Santa Barbara, Manhattan Beach and one at San Diego) under the seafloor from shore and surfacing in approximately 30-60 feet of water and; pulling cable onshore in San Diego in existing underground conduits for a distance of approximately 2.5 miles.

The Executive Director of the Coastal Commission has reviewed a proposed amendment to the above-referenced permit, which would result in the following change to the project at the City of Morro Bay landing:

Temporary installation of a wire telemetry system (TruTracker), comprised of a DC power supply, a coil of AWG #8 or #6 wire, and a computerized receiver, to guide the drill bit during horizontal directional drilling operations. Two wires, approximately 200-300 feet in length, will extend linearly from the North Point Natural Area parking lot to generally the mean high tide line. The system will be used two days (one day per borehole).

Findings

The proposed amendment has been deemed "immaterial" for the following reasons:

- Installation and operation of the TruTracker system will avoid impacting any sensitive biological resources. An existing pathway to the beach will be used to install the wires by hand. The wires will be suspended in a linear fashion, perpendicular to the beach, at least one foot above the ground surface on fiberglass poles attached to tripods or at a height that will avoid contact with any vegetation. The tripods will be placed on the existing pathway. At the beach, the wires will be laid on top of rock outcrops or buried 6-12 inches under sandy areas.

- The voltage requirement for operation of the TruTracker system is 24 volts at approximately 30 amps. According to the applicant, there has been no record of human injury from the use of the TruTracker system. The entire length of the wires will be insulated and therefore should not pose a hazard to beach users.
- Public access or recreation will not be restricted as a result of the project. Where the wires cross the pathway, they will be suspended a minimum of 8 feet above the ground to allow for pedestrian passage. On sandy beach areas, the wires will be buried 6-12 inches deep. The wires will be monitored periodically at least three times each day to ensure that they remain buried or properly suspended.
- Some of the vegetated areas at the North Point Natural Area cable landing may be suitable habitat for the federally endangered Morro shoulderband snail (*Helminthoglypta walkeriana*). The applicant submitted to the Coastal Commission and the U.S. Fish and Wildlife Service (USFWS) a "take" avoidance plan committing to avoid "take" of the Morro shoulderband snail. The applicant commits to (1) avoid areas of coastal scrub vegetation supporting the Morro shoulderband snail; (2) train construction personnel by a USFWS-approved biologist to recognize and avoid the Morro shoulderband snail and related species and habitats; (3) monitor construction activities by a USFWS-approved biologist; and (4) direct its monitor to designate an area for avoidance in the event that a Morro shoulderband snail is discovered. The monitor will then notify a valid Section 10(a)(1)(A) permit-holder who will identify the species of the snail and relocate it if it is a Morro shoulderband snail.
- Existing Special Condition 31 of coastal development permit E-00-008 ensures that if the applicant fails to demonstrate to the USFWS that the project can be constructed without "take" of Morro shoulderband snails, the applicant shall submit a permit amendment to incorporate mitigation requirements determined by the USFWS.

Immaterial Permit Amendment

Pursuant to the California Code of Regulations—Title 14, Division 5.5, Volume 19, section 13166(b)—the Executive Director has determined this amendment to be IMMATERIAL.

Pursuant to section 13166(b)(1), if no written objection to this notice of immaterial amendment is received at the Commission office within ten (10) working days of mailing said notice, the determination of immateriality shall be conclusive and the amendment shall be approved.

Pursuant to section 13166(b)(2), if a written objection to this notice of an immaterial amendment is received within ten (10) working days of mailing notice, and the executive director determines that the objection does not raise an issue of conformity with the Coastal Act or certified local coastal program if applicable, the immaterial amendment shall not be effective until the amendment and objection are reported to the Commission at its next regularly scheduled meeting. If any three (3) Commissioners object to the executive director's designation of immateriality, the amendment application shall be referred to the Commission for action as set forth in section 13166(c). Otherwise, the immaterial amendment shall become effective.

Pursuant to section 13166(b)(3), if a written objection to this notice of an immaterial amendment is received within ten (10) working days of mailing notice, and the executive director determines that the objection does raise an issue of conformity with the Coastal Act or a certified local coastal program if applicable, the immaterial amendment application shall be referred to the Commission for action as set forth in section 13166(c).

If you wish to register an objection to this notice, please send the objection in writing to Dan Chia at the above address. If you have any questions, you may contact him at (415) 904-5248 or via email at: dchia@coastal.ca.gov.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



NOTICE OF PROPOSED IMMATERIAL PERMIT AMENDMENT

E-00-008-A2

TO: All Interested Parties

FROM: Peter M. Douglas, Executive Director

DATE: April 26, 2001

RECEIVED
CITY OF SAN DIEGO
01 APR 30 AM 9:27
REAL ESTATE ASSETS DEPT.

SUBJECT: Application to amend coastal development permit ("CDP") No. E-00-008 granted to Global West Network, Inc. for installation of a festoon fiber optic cable in state and federal waters along the California coastline landing onshore at four locations -- Morro Bay, Santa Barbara, Manhattan Beach and San Diego. Project components include burying the cable from mean high tide line to, on average, 10 miles offshore; boring seven conduits (two each at Morro Bay, Santa Barbara, Manhattan Beach and one at San Diego) under the seafloor from shore and surfacing in approximately 30-60 feet of water and; pulling cable onshore in San Diego in existing underground conduits for a distance of approximately 2.5 miles. The route in San Diego consists of: (1) Pacific Beach Dr. from cable landing to Bayard Street; (2) Pacific Beach Drive from West Briarfield Circle to Dawes Street and; (3) Dawes Street from Pacific Beach Drive to Oliver Avenue.

The Executive Director of the Coastal Commission has reviewed a proposed amendment to the above-referenced permit, which would result in the following change to the route in the City of San Diego:

- (1) Pacific Beach Drive from cable landing south along Strand Way to Wave Crest Court;
- (2) east along Wave Crest Court for approximately 35-40 feet¹.

Findings

The proposed amendment has been deemed "immaterial" for the following reasons:

- The proposed terrestrial cable re-route in San Diego is a minor change, adding approximately 100 feet to the original route. The cable will be placed entirely in existing conduit. No new construction is required.

¹ The route continues to Mission Blvd, travels south on Mission Blvd. to a manhole at the corner of Mission Blvd. and Santa Rita Place, and then continues north along Mission Blvd. to Pacific Beach Drive (the route then follows the original route as described above). However, these areas are outside the Commission's retained permit jurisdiction.

- All work in the new route will be completed within a few hours and will not impede the public's access to or recreation on the coast.

Immaterial Permit Amendment

Pursuant to the California Code of Regulations—Title 14, Division 5.5, Volume 19, section 13166(b)—the Executive Director has determined this amendment to be IMMATERIAL.

Pursuant to section 13166(b)(1), if no written objection to this notice of immaterial amendment is received at the Commission office within ten (10) working days of mailing said notice, the determination of immateriality shall be conclusive and the amendment shall be approved.

Pursuant to section 13166(b)(2), if a written objection to this notice of an immaterial amendment is received within ten (10) working days of mailing notice, and the executive director determines that the objection does not raise an issue of conformity with the Coastal Act or certified local coastal program if applicable, the immaterial amendment shall not be effective until the amendment and objection are reported to the Commission at its next regularly scheduled meeting. If any three (3) Commissioners object to the executive director's designation of immateriality, the amendment application shall be referred to the Commission for action as set forth in section 13166(c). Otherwise, the immaterial amendment shall become effective.

Pursuant to section 13166(b)(3), if a written objection to this notice of an immaterial amendment is received within ten (10) working days of mailing notice, and the executive director determines that the objection does raise an issue of conformity with the Coastal Act or a certified local coastal program if applicable, the immaterial amendment application shall be referred to the Commission for action as set forth in section 13166(c).

If you wish to register an objection to this notice, please send the objection in writing to Dan Chia at the above address. If you have any questions, you may contact him at (415) 904-5248 or via email at: dchia@coastal.ca.gov.



THE CITY OF SAN DIEGO

March 28, 2001

Files: Global Photon
Job: 922909

Global Photon
600 West Broadway, Suite 1200
San Diego CA 92101

Attention: Tim Stammnitz, President

Re: Right of Entry Permit -

The City of San Diego ("City") hereby grants permission to Global West Network, Inc. ("Permittee") to enter upon the above-referenced City-owned property ("Permit Area"), as delineated on the attached Exhibit "A," upon the following terms and conditions:

1. Permittee's use of the Permit Area shall be limited to the construction of an underground fiber optic cable facility. The Permit Area is defined as six inches wide and 126.15 feet long, extending from Ocean Front Walk westerly to the Mean High Tide Line, as marked in green on the attached Exhibit A. No above ground beach access is permitted.
2. Consideration to City for granting this Permit shall be a \$360 non-refundable processing fee and a \$100.00 monthly Permit fee commencing on the effective date hereof, payable in advance.
3. This Permit shall be in effect upon final execution hereof by City and Permittee and shall expire on December 31, 2001, or upon earlier recordation of an easement, or earlier execution of a lease or a franchise agreement.
4. Permittee certifies that a policy of public liability and property damage insurance, in which "The City of San Diego" is named as an additional insured, has been secured in an amount of not less than \$1 million combined single limit liability with an occurrence claims form and that said policy shall be kept in force for the duration of this Permit. A certificate of said insurance shall be filed with the City Real Estate Assets Department upon execution of this Permit.
5. Permittee agrees to defend, indemnify, protect, and hold the City, its agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to



Real Estate Assets

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199
Tel (619) 236-6020 Fax (619) 236-6706

Permittee's employees, invitees, guests, agents, or officers, which arise out of or are in any manner directly or indirectly connected with the development or operation of the Permit Area, or the work and operations to be performed under this Permit, and all expenses of investigating and defending against same; provided, however, that Permittee's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the City, its agents, officers, or employees.

6. Permittee agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in Permittee's use of the Permit Area, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.
7. All risks in connection with Permittee's use of the Permit Area and any damages to the improvements thereon, thereunder, or in the vicinity thereof shall be borne in full by Permittee.
8. Permittee shall not use the Permit Area in any manner which, in the opinion of the City Manager, creates a nuisance or disturbs the quiet enjoyment of persons in the surrounding area.
9. This Permit is revocable at any time by the City of San Diego. Permittee shall remove all facilities and restore Permit Area to its original state within 30 days of the termination of this Permit for any reason, except recordation of an easement or entry into a lease or franchise agreement between the City and Permittee as provided in Section 3 of this Permit. It is mutually agreed that the City of San Diego shall not be obligated for any loss, financial or otherwise, which may be incurred by Permittee as a result of termination of this Permit, and, further, that Permittee expressly waives any claim for expense or loss which Permittee might incur as a result of termination of this Permit.
10. Permittee recognizes and understands that this Permit may create a possessory interest subject to property taxation and that Permittee may be subject to the payment of property taxes levied on such interest. Permittee further agrees that such tax payment shall not reduce any fee paid the City of San Diego hereunder and that such tax shall be paid by Permittee before becoming delinquent.

11. Permittee shall at its sole cost and expense comply with all the requirements of all municipal, state, and federal authorities now in effect or which may hereafter be in effect, which pertain to the Permit Area.
12. Permittee shall file with the City Real Estate Assets Department a \$100,000 cash performance bond to assure that, upon expiration or earlier termination of this Permit, Permittee shall at its sole cost remove all materials and repair and/or restore the Permit Area to its original condition, including any hazardous or toxic waste remediation, to the satisfaction of the City Manager.
13. Permittee shall not assign any rights granted by this Permit nor any interest therein without the prior written approval of the City Manager. Approval of any such proposed assignment may be withheld in the sole and absolute discretion of the City Manager. Any assignment by operation of law shall automatically terminate this Permit.
14. No signs shall be displayed on the Permit Area without the prior written consent of the City Manager.
15. Maintenance of the Permit Area shall be the sole responsibility of Permittee during the entire term of this Permit.
16. Construction of the facility as hereinabove provided, including screening and landscaping, shall be accomplished to the City Manager's satisfaction at Permittee's sole cost.
17. The City of San Diego, as Responsible Agency under CEQA has reviewed and considered the Final Certified EIR for the Global West Fiber Optic Cable Project (EIR No. 692, SCH. No. 99021067), prepared by the State Lands Commission, Sacramento, California, March 2000.

Please acknowledge your agreement to the foregoing terms and conditions on the enclosed copy of this letter and return it to the City Real Estate Assets Department, together with your insurance certificate, cash performance bond, and check for \$1,260.00 made payable to the "City Treasurer," within 10 days from receipt hereof.

If you should require additional information or have any questions, please call Bert Gaudio, Property Agent, at 236-6063.

Very truly yours,



Lucille Goodman
Supervising Property Agent
Real Estate Assets Department

THE ABOVE IS ACKNOWLEDGED AND ACCEPTED THIS 28 DAY OF MARCH 2001.

Global West Network, Inc.

By Timothy C. Hemmick, President/CEO

By Gloria L. Carr

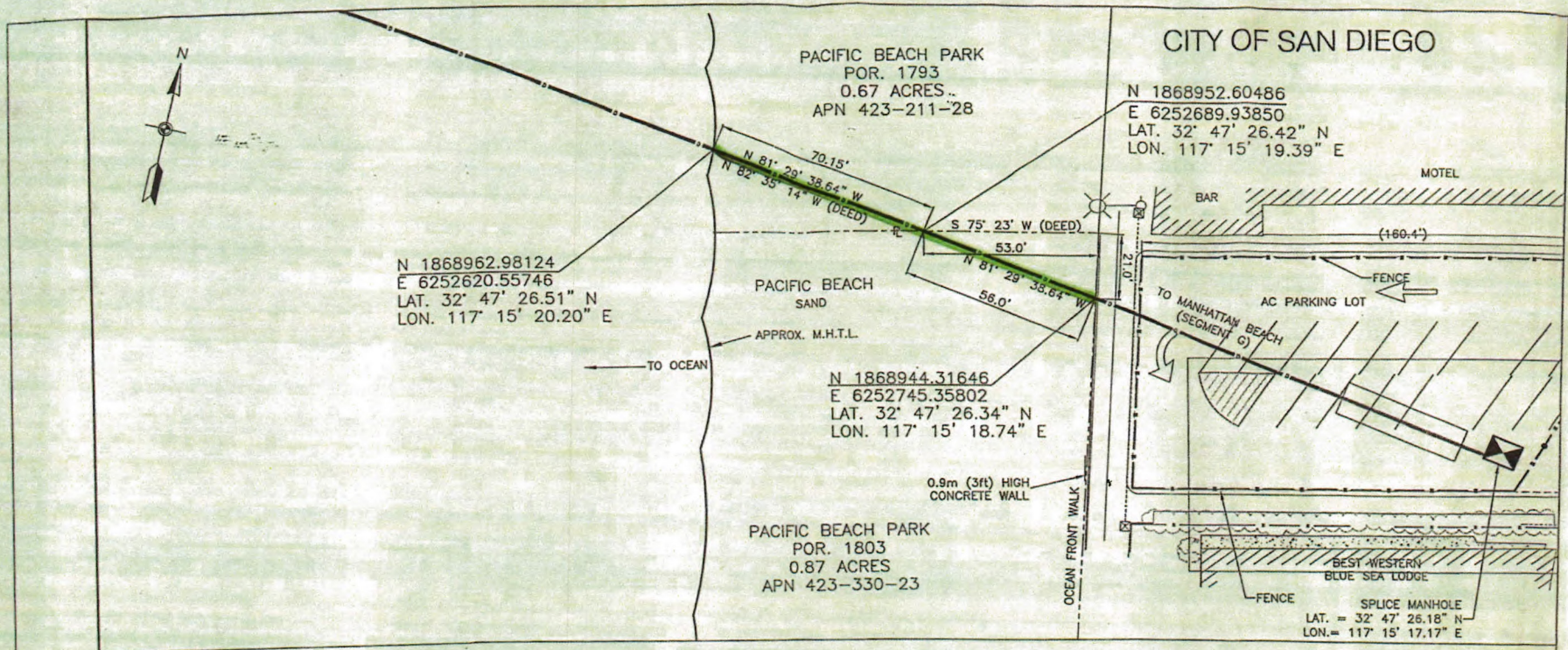
APPROVED AS TO FORM AND LEGALITY

CASEY GWINN, City Attorney

By Casey Gwinn
Deputy City Attorney

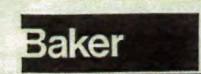
ENVIRONMENTAL ANALYSIS SECTION
ENVIRONMENTAL CLEARANCE:

By Allison Ramp



REV	DESCRIPTION	DRAWN BY	CHK'D BY	AP'D BY	ANS AP'D	DATE

GLOBAL WEST NETWORK, INC.



PROJECT: PACIFIC BEACH CABLE LANDING FACILITY	PROJECT COOD: 24629
TITLE: DETAILED SITE LANDING	
DRAWN: MJE	DRAWING FILE NAME: SDSITEPL-a-E
CHKD: BLW	SHEET NO.:
APPR: ACD	APPROVED ORIGINAL ISSUE

EXHIBIT A