

2017-006690

Klamath County, Oregon



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06/20/2017 10:16:52 AM

Fee: \$72.00

RECORDING COVER SHEET (Please Print or Type)

This cover sheet was prepared by the person presenting the instrument for recording. The information on this sheet is a reflection of the attached instrument and was added for the purpose of meeting first page recording requirements in the State of Oregon, ORS 205.234, and does NOT affect the instrument.

THIS SPACE RESERVED FOR USE BY
THE COUNTY RECORDING OFFICE

AFTER RECORDING RETURN TO:

LS Networks

Attn: Contract Administration

921 SW Washington St, Suite 370

Portland, OR 97205

1) TITLE(S) OF THE TRANSACTION(S) ORS 205.234(a)

Right of Entry and Easement

2) DIRECT PARTY / GRANTOR(S) ORS 205.125(1)(b) and 205.160

714 Main LLC

3) INDIRECT PARTY / GRANTEE(S) ORS 205.125(1)(a) and 205.160

LightSpeed Networks, Inc., an Oregon Corporation, dba LS Networks

4) TRUE AND ACTUAL CONSIDERATION

ORS 93.030(5) – Amount in dollars or other

\$

☒ Other**5) SEND TAX STATEMENTS TO:**

N/A

6) SATISFACTION of ORDER or WARRANT

ORS 205.125(1)(e)

CHECK ONE:

☐

FULL

(If applicable)

☐

PARTIAL

7) The amount of the monetary obligation imposed by the order or warrant. ORS 205.125(1)(c)

\$

8) If this instrument is being Re-Recorded, complete the following statement, in accordance with ORS 205.244: "RERECORDED AT THE REQUEST OF _____ TO CORRECT _____"

PREVIOUSLY RECORDED IN BOOK _____ AND PAGE _____, OR AS FEE
NUMBER _____."

RIGHT OF ENTRY AND EASEMENT

This Right of Entry Agreement (this "Agreement") is dated as of the day of MAY 31ST, 2017, between LightSpeed Networks, Inc., an Oregon corporation, dba LSN ("LSN") at 921 SW Washington Street, Suite 370, Portland, Oregon, 97205 and 714 Main LLC (the "Owner") at 3036 Front St., Klamath Falls, OR 97601.

RECITALS

WHEREAS, Owner is the owner of a parcel of land together with the commercial building situated thereon, shown in Exhibit A attached hereto and made a part hereof (the "Property"); and

WHEREAS, a tenant of the Property has requested telecommunications service from LSN, LSN has requested and Owner has agreed to allow LSN to install, operate and maintain certain cables, conduit, and any other telecommunications equipment at the Property in order to furnish telecommunications services to certain tenants, licensees and other occupants located at the Property.

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

1. The System

(a) Owner hereby grants to LSN a perpetual right to install, operate, replace, improve, expand and maintain certain cables, conduit and all other telecommunications equipment necessary at the Property to furnish telecommunications services (the "System") to certain tenants, licensees and other occupants of the Property. LSN shall have the right to access the Property, install the System, in the risers and telephone closets, and on the building exterior, as shown in the Entry Plan in attached Exhibit B, with adequate space and power provided by Owner, throughout the Property, at no cost to Owner. The System, and all components, whether originally installed or later added, shall be and remains the personal property of LSN.

(b) Owner hereby grants to LSN the perpetual easements necessary for LSN to install, operate, replace, improve, expand and maintain its telecommunications cables from the public right-of-way through the Property to the building. Upon termination of this Agreement or abandonment of the System, LSN and Owner shall mutually determine if LSN should either (i) remove the telecommunications cables in a timely fashion and repair all damage caused by such removal, or (ii) execute all documentation necessary for the ownership of the telecommunications cables to be transferred from LSN to the Owner.

2. Installation of the System. LSN shall install the System in a good and workmanlike manner in accordance with the Entry Plan in Exhibit B, approved by Owner. In the event that LSN causes any damage to the Property, or any damage to any third party personal property located on the Property, in the course of installing, maintaining, repairing, replacing, improving, expanding or

operating the System, LSN shall, at Owners option, either repair such damage at its cost and expense or reimburse Owner for the reasonable costs of such repairs.

3. Security. Owner will provide the same level of security for the Systems as it provides for the Property in general and will not permit persons not authorized in writing by LSN to move, interfere, make connections with or otherwise have access to the System located on the Property.
4. LSN's Access to the Property. Owner shall provide LSN with all necessary access to all areas of the Property, including without limitation, twenty-four (24) hour per day access in the event of an emergency, in order to enable LSN to install, operate, repair, replace, improve, expand and maintain the System and otherwise for the performance of any of LSN's obligations under this Agreement. The costs and related expenses of all such activities required in connection with the System shall be the sole responsibility of LSN.
5. Exclusive Property. Owner shall have no responsibility whatsoever to maintain any of the System installed by LSN. The System and the installed property of LSN are for the exclusive use of LSN, and remain the exclusive property of LSN and are not considered fixtures, wherever located.
6. Indemnification; Damages. LSN shall indemnify, defend and hold harmless Owner in connection with any claims, losses, damages, liabilities and lawsuits brought by a third party to the extent they arise from, or are alleged to arise from, LSN's acts or omissions in connection with performance under this Agreement. Owner shall indemnify, defend and hold harmless LSN and shall assume the risk of any damages to the extent that they arise from Owners' tortious acts, negligence, or omissions. Except as stated herein, neither party shall be liable to the other for any consequential, punitive, indirect or special damages. The substantially prevailing party in the event of any litigation shall be entitled to all attorney fees incurred as a result of the litigation, and any related expert fees and costs.
7. Relocation. If Owner, due to remodeling or other changes to the Building that require the System to be relocated, Owner will provide advanced notice to LSN sufficient to allow it to relocate the System, and LSN agrees to work with the Owner to relocate the System Equipment to a mutually agreeable location.
8. Insurance. LSN shall maintain comprehensive liability insurance, including property damage and personal injury, and wrongful death, in an amount adequate for the project.
9. Compliance with Laws. The parties shall comply with all applicable laws, codes, rulings and regulations with respect to the System and this Agreement.
10. Force Majeure. Notwithstanding anything to the contrary contained in this Agreement, neither party shall be liable for its failure to perform any of its obligations hereunder by reason of an Act of God, labor dispute, fire, flood, storm, legal enactment, or governmental order or regulation.
11. Binding Nature; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and transferees. Owner shall provide advance notice to LSN in the event of a sale, transfer, conveyance of its ownership in

the Property, and in such event, LSN shall have the right to remove the System from the Property.

12. Representations. Each party represents and warrants to the other that (a) such entity is qualified to do business in the jurisdiction in which is the Property is located, (b) all necessary partnership or corporate approvals, if any, have been obtained to authorize the execution, delivery and performance of this Agreement, (c) this Agreement, upon the execution and delivery thereof by such party, is the valid and legally binding obligation of such party enforceable in accordance with its terms. Owner represents it has good title to the Property.
13. Notices. Any notices required hereunder shall be in writing and shall be sent by (a) U.S. mail, postage prepaid, return-receipt requested or (b) a nationally recognized overnight courier service to the applicable party at the address set forth below, or at such other address as may be designated at a later date in a notice delivered pursuant to the terms hereof.

NOTICE TO OWNER: 714 MAIN LLC
3036 Front St.
Klamath Falls, OR 97601

NOTICE TO LSN: LSN
Attn: Contracts Management
921 SW Washington Street, Suite 370
Portland, OR 97205

14. Entire Understanding. This Agreement contains the entire understanding of the parties and may not be modified except by a writing signed by both of the parties. Any exhibits or schedules to this Agreement are by this reference incorporated fully herein and any reference to "this Agreement" shall be considered to include all exhibits.
15. Counterparts. This Agreement may be executed in any number of counterparts all of which when taken together shall constitute one and the same document.
16. Governing Law. This Agreement, including its interpretation, construction, and application, shall be exclusively governed by the laws of the State of Oregon without giving effect to any jurisdiction's conflicts of laws; and any and all causes of action between the parties arising from or related to this agreement shall be brought exclusively only in a court of competent jurisdiction in state court in Multnomah County, Oregon.
17. Further Assurances. If required each of the parties hereto agrees to execute such further documentation as shall be reasonably required by the other party in order to effectuate the intention of this Agreement.

IN WITNESS HEREOF the authorized representative of the Parties have executed this Agreement as of the day and year first above written.

714 Main, LLC, an Oregon
Limited Liability Company
Owner: Sally Bailo
Name & Title: Sally Bailo
Its: Managing Member

LSN: [Signature]
Name & Title: Michael Weidman, President & CEO

STATE OF OREGON §
COUNTY OF KLAMATH

On this day personally appeared before me Sally Bailo, known to be the authorized representative for the Owner, signed the same as his/her free and voluntary act and deed for the uses and purposes herein mentioned.

Subscribed and sworn to me by Sally Bailo on this 15th day of
May, 2017.

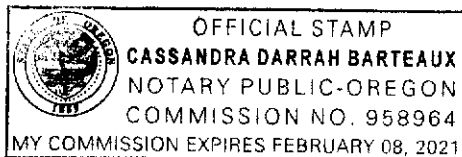


[Signature]
Notary Public in the State of _____
Oregon (printed)
Residing at: Klamath Falls, OR
My commission expires: 09-20-2017

STATE OF OREGON §
COUNTY OF MULTNOMAH

On this day personally appeared before me Michael Weidman, known to be the authorized representative for LSN, signed the same as his/her free and voluntary act and deed for the uses and purposes herein mentioned.

Subscribed and sworn to me by MICHAEL WEIDMAN on this 31ST day of
MAY, 2017.



[Signature]
Notary Public in the State of Oregon
CASSANDRA DARRAH BARTEAUX (printed)
Residing at: PORTLAND, OR
My commission expires: 2/8/2021

EXHIBIT "A"

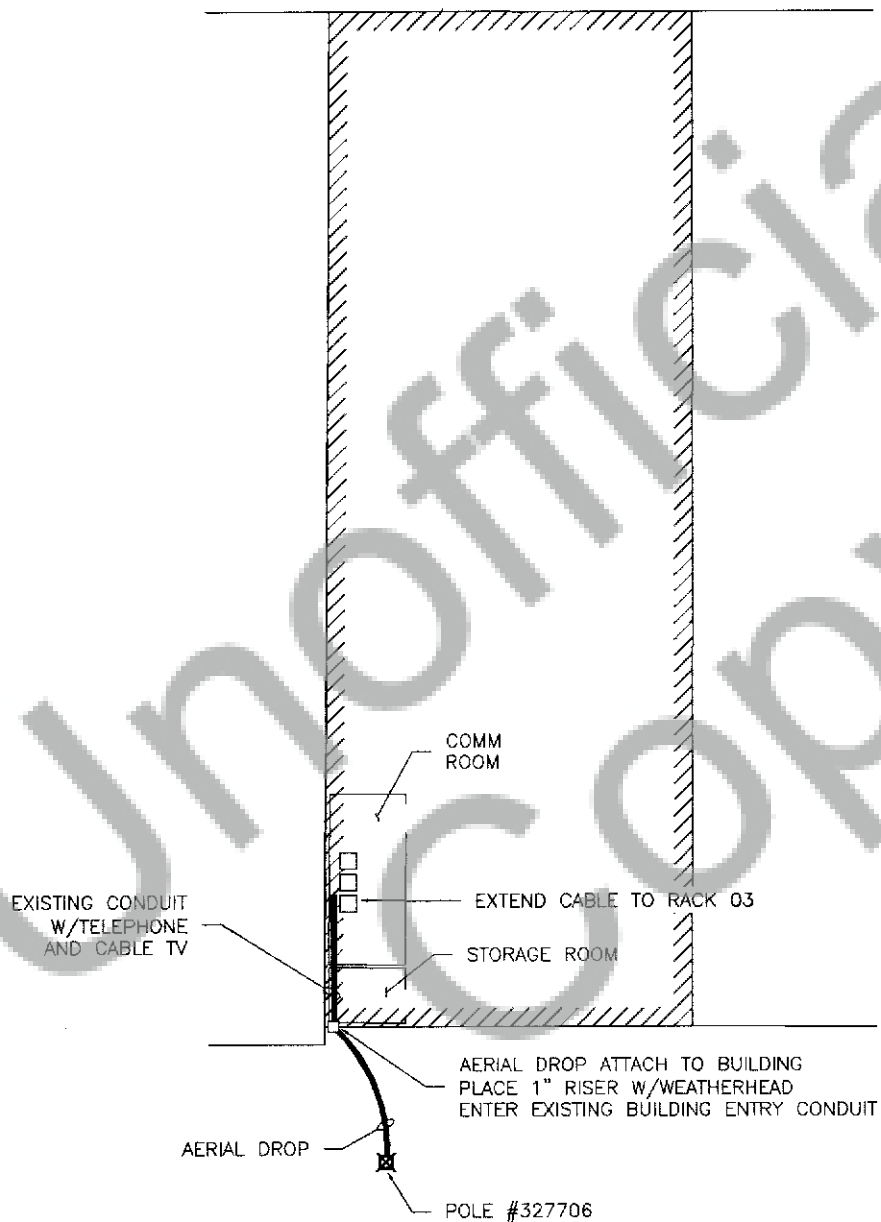
LEGAL DESCRIPTION:

The West 40 feet of the North 118 feet of Lot 6 Block 39 of the Original Town of Linkville, now the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. And that portion of vacated alley which inured thereto by Ordinance #5210 recorded May 22, 1961 in Volume 329 page 641, Deed records of Klamath county, Oregon.

Assessor's Parcel No. 414055

Situs Address: 714 Main St.
Klamath Falls, OR

EXHIBIT 'B'



KLAMATH COUNTY
PARCEL #R-3809-032AA-14800-000

