



201602100065

Skagit County Auditor \$81.00  
2/10/2016 Page 1 of 9 3:51PM

**Return Address:**

ATTN: Jim Penney  
Wave Business Solutions, LLC  
401 Kirkland Parkplace, Suite 500  
Kirkland, WA 98033

**UTILITY EASEMENT AGREEMENT**

**SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX**

2016 422

FEB 10 2016

Grantor(s): **Grandy Lake Forest Associates, LLC**  
Grantee: **Wave Business Solutions, LLC**  
Abbreviated Legal: **Ptn. NE¼, Sect. 10, Twp. 33N, Rge. 4E, W.M.**  
Assessor's Parcel No.: **330410-1-001-0010 P16599**  
Reference Nos. of Documents Assigned or Releases: **N/A**

Amount Paid \$ 22.<sup>80</sup>  
Skagit Co. Treasurer  
By *man* Deputy

This Utility Easement Agreement (this "Agreement") is made and entered into as of this 19<sup>th</sup> day of January, 2015 (the "Effective Date"), by and between **Grandy Lake Forest Associates, LLC, a Washington limited liability company** (the "Grantor"), and **WAVE BUSINESS SOLUTIONS, LLC, a Washington limited liability company** ("Wave").

Background

Grantor owns certain real property located in Skagit County, Washington, described on **Schedule 1** to this Agreement (the "**Property**"). Wave provides its customers with a variety of telecommunications, high speed data transmission, broadband Internet access and other similar services. Grantor desires to grant Wave a utility easement allowing Wave to install and maintain (collectively, the "**Network Facilities**") underground on a portion of the Property.

*of \$1000.00* \* Agreement

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Wave now agree as follows:

1. Grant of Easement and Right of Access. Grantor hereby grants and conveys to Wave a perpetual, non-exclusive easement in gross (the "**Easement**") under and within the Right of Way of the existing road located in a portion of the Property (the "**Easement Area**"):

**That portion of the herein described property being a strip of land 5 feet in width, 2½ feet on either side of the telecommunications facilities as staked and to be permanently installed following the approximate centerline alignment shown on the attached Schedule 2.**

**Said installation shall be limited to a single underground conduit, the telecommunications facilities within and the necessary appurtenances to reasonably operate same.**

\* See attached Agreement to Purchase *JPB*

Wave may use the Easement Area solely for anchoring and installing their Network Facilities (the "Permitted Use"). In connection with the Easement, Grantor also grants to Wave a continuing right of access (the "Access Right") over, across, upon and through those portions of the Property that are reasonably necessary for Wave to access in order to reach the Easement Area and perform the Permitted Use.

2. Ownership of the Network Facilities. The Network Facilities are and shall at all times be and remain the sole and exclusive property of Wave and subject to Wave's sole and exclusive management and control, and neither Grantor nor any subsequent owner(s) of the Property or any part thereof shall acquire any right, title, or interest in any Network Facilities. Wave shall keep and maintain the Network Facilities in good condition and repair.

3. Covenants and Representations of the Parties. Wave covenants and agrees to use its commercially reasonable efforts to promptly remediate any damage to the Property proximately resulting from Wave's use of the Easement Area. Grantor covenants and agrees that Grantor: (i) shall not grant to any other individual or entity, any easements, licenses or other rights in or to the Property where it would be clearly known in advance of construction to materially and adversely interfere with Wave's Permitted Use of the Easement Area and Wave's Network Facilities installed on the Easement Area; (ii) shall not knowingly alter or move any part of the Network Facilities or otherwise interfere with Wave's rights and obligations as provided under this Agreement. Each of the parties represents and warrants to the other that it has all necessary power and authority to enter into and perform the terms of this Agreement.

4. Easement Runs With the Land. The Easement and Access Right granted to Wave by this Agreement are intended to touch and concern the Property, and shall run with the Property and be binding on Grantor's successors in title to the Property in perpetuity. Wave shall hold the rights and benefits granted by this Agreement in gross, and Wave's rights under this Agreement shall be freely assignable.

5. Miscellaneous. This Agreement shall not be amended, altered or modified except by an instrument in writing duly executed and acknowledged by the parties hereto. This Agreement shall be governed and construed in accordance with the laws of the State in which the Property is located. This Agreement may be executed in multiple counterparts, and all counterparts shall collectively constitute a single agreement.

6. Operational Requirements. Attached Schedule 3 are Operational Requirements for work under this Agreement.

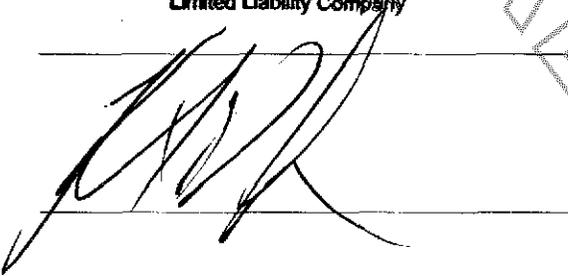
7. Indemnification. Wave shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Grantor and its agents, contractors, successors, or assigns from and against any and all liability for damages, costs, losses, and expenses to the extent the same result from, arise out of or are due to the herein described authorized use of the Property by Wave or anyone else entering the Property at Wave's direction or invitation, or the failure on the part of Wave to perform fully its promises contained herein, unless caused by the sole active negligence or willful misconduct of Grantor.

IN WITNESS WHEREOF, the parties, intending to be legally bound hereby, have duly executed this Agreement for the purposes and consideration expressed in it and delivered this Agreement as of the date first written above.

**GRANTOR:**

**Grandy Lake Forest Associates, a  
Washington limited liability company**

by: **Arbor Pacific Forestry Services, Inc.  
Agent for  
Grandy Lake Forest Associates  
Limited Liability Company**



**WAVE:**

**Wave Business Solutions, a  
Washington limited liability company**

By

Name: **James A. Penney**

Title: **EVP, Business & Legal Affairs**



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Skagit )

On this 19<sup>th</sup> day of January, 2015, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Kenneth D. Esbarn, to me known to be the person who signed as Agent of Grandy Lake Forest Associates, LLC, a Washington limited liability company, the company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated that he was duly elected, qualified and acting as said officer of the company, and that he was authorized to execute said instrument.

GIVEN UNDER my hand and official seal hereto affixed the day and year in this certificate first above written.



Virginia S. Voigt  
(Signature of Notary)

VIRGINIA S. VOIGT

(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State  
of Washington, residing at Mount Vernon.  
My appointment expires: 6/1/17

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this 2<sup>nd</sup> day of February, 2016, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared JAMES A. PENNEY, to me known to be the person who signed as Executive Vice President, Business & Legal Affairs of WAVE BUSINESS SOLUTIONS, LLC, the company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated that he was duly elected, qualified and acting as said officer of the company, and that he was authorized to execute said instrument.

GIVEN UNDER my hand and official seal hereto affixed the day and year in this certificate first above written.



Bree Urban  
(Signature of Notary)

Bree Urban  
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State  
of Washington, residing at Seattle.  
My appointment expires: August 1, 2018.

[The remainder of this page is intentionally left blank.]

**Schedule 1**  
**to**  
**Utility Easement Agreement**  
**Legal Description of Property**

The Southeast Quarter of the Northeast Quarter of Section 10, Township 33 North, Range 4 East,  
W.M.

Situate in the County of Skagit, State of Washington.

Assessor's Parcel No.: 330410-1-001-0010 P16599.

Schedule 2  
to Utility Easement  
Agreement

SURVEY  
AF 201103090011

PRIVATE  
ROAD

P16609

OIL AND MINERAL RIGHTS ON  
S 1/2 OF NW 1/4 DEEDED TO  
PACIFIC NICHEL CO. 2/17/39

P16606

S11 T33N R4E

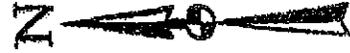
S10 T33N R4E

P16603

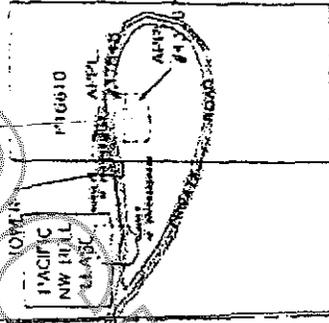
P16601

P16599

Communications  
Facilities



Not to scale



UNOFFICIAL DOCUMENT

**Schedule 3  
to  
Utility Easement Agreement**

**Operational Requirements**

Sections of the Easement Area lying beneath the driving surface of the road must comply with the following operational requirements:

1. The communications cable must be at least 3 feet away from the shoulder of the ditch and at least 3 feet away from the shoulder of the fillslope and at a minimum depth of 3 feet below the road surface. See figure #1.

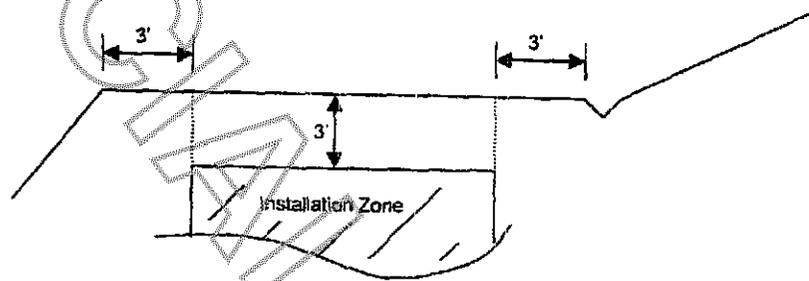


Figure #1

2. At existing ditch relief culvert locations the communications cable must divert from the installation zone of the road and be installed at least 3 feet above and away from the culvert inlet.
3. At existing stream culvert locations the communications cable must divert from the installation zone of the road and be installed at least 6 feet above and away from the culvert inlet.
4. Upon request, the Grantor may grant permission to deviate from the aforementioned standard installation above and away from the culvert inlet. In these situations, the communications cable must be installed underneath the existing culvert at a depth to be determined by the Grantor at the time of the request.
5. Upon completion of the communications cable installation, the road must be restored to its original condition including, but not limited to, surfacing material, drainage profile and culvert inlet function.
6. The underground communications cable must not interfere with the Grantors normal and usual use of the road, including performance of road maintenance and reconstruction projects. Such projects include, but are not limited to, surface blading, ditch profiling, slump debris removal, culvert

replacement, culvert installation, storm damage repair, surface rock application, catch basin construction, riprap buttressing and road realignment.

The Grantor retains the right to perform road maintenance and reconstruction projects unimpeded by the location of the underground communications cable. The Grantee shall be solely responsible financially and functionally for relocating the communications cable as necessary to accommodate, at any time, the Grantors performance of road maintenance and reconstruction projects upon the forest road where the Easement is located. Functionally, the Grantor retains the ability and authority to perform such projects as if the underground communications cable were not even present in the road.

The Grantee shall be solely responsible for all aspects of relocation including, but not limited to, detection, delineation, deenergization, excavation, splicing, looping, slacking, trenching, backfilling and financing necessary to allow the Grantor to exercise it reserved road maintenance and reconstruction rights. The Grantee shall hold the Grantor harmless for all aspects of having the communications cable under the road including, but not limited to, relocation.