



202405200023

05/20/2024 10:33 AM Pages: 1 of 7 Fees: \$309.50
Skagit County Auditor

Return Address:

ATTN: DAVID von MORITZ
WaveDivision Holdings, LLC
3700 Monte Villa Pkwy
Bothell, WA 98021

REVIEWED BY
SKAGIT COUNTY TREASURER

DEPUTY Arena Thompson

DATE 5-20-24

Document Title(s) (or transactions contained therein):

1. Utility Easement Agreement

Reference Number(s) of Documents assigned or released: N/A
(on page of documents(s))

Grantor(s) (Last name first, then first name and initials):

1. PORT OF SKAGIT COUNTY, a Washington municipal corporation
- 2.

Grantee(s) (Last name first, then first name and initials):

1. WAVEDIVISION HOLDINGS, LLC

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

PTN Lot 1, SP 93-070; Ptn NW $\frac{1}{4}$ of NW $\frac{1}{4}$ SEC 33, TWP 35N, R03E

☒ Full legal is on page(s) 6 of document.

Assessor's Property Tax Parcel/Account Number

350333-2-005-0100 (P109551)

UTILITY EASEMENT AGREEMENT

This Utility Easement Agreement (this "**Agreement**") is made and entered into as of this 21st day of March, 2024 (the "**Effective Date**"), by and between PORT OF SKAGIT COUNTY, a Washington municipal corporation (the "**Grantor**"), and WAVEDIVISION HOLDINGS, LLC a Delaware limited liability company ("**Astound**").

Background

Grantor owns certain real property located in Skagit County, Washington, comprised of approximately 5.16 acres, commonly known as Unimproved Land having Skagit County Assessor's Tax Parcel No. 350333-2-005-0100 (P109551), as more particularly described on **Schedule 1** to this Agreement (the "**Property**"). Astound provides its customers with a variety of telecommunications, high speed data transmission, broadband Internet access and other similar services. Grantor desires to grant Astound a utility easement allowing Astound to install and maintain certain coaxial and/or fiber optic cable and associated equipment and facilities (collectively, the "**Network Facilities**") on, in, over, under, upon and through a portion of the Property, under the terms and conditions contained in this Agreement.

Agreement

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

1. Grant of Easement and Right of Access. Grantor hereby grants and conveys to Astound a perpetual, non-exclusive easement in gross (the "**Easement**") over, under, upon and across the following portion of the Property (the "**Easement Area**" herein) :

THAT PORTION OF THE ABOVE DESCRIBED PROPERTY BEING A STRIP OF LAND TEN (10) FEET IN WIDTH WITH FIVE (5) FEET OF SUCH WIDTH ON EACH SIDE OF A CENTERLINE APPROXIMATELY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH PROPERTY LINE 60 FEET EAST OF THE NORTHWEST PROPERTY CORNER;

THENCE IN A SOUTHERLY DIRECTION TO A POINT ON THE WEST PROPERTY LINE APPROXIMATELY 530 FEET SOUTH OF THE NORTHWEST PROPERTY CORNER AND THE TERMINUS OF THIS LINE DESCRIPTION;

THAT PORTION OF THE ABOVE DESCRIBED PROPERTY BEING A STRIP OF LAND TEN (10) FEET IN WIDTH WITH FIVE (5) FEET OF SUCH WIDTH ON EACH SIDE OF A CENTERLINE APPROXIMATELY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH PROPERTY LINE 60 FEET EAST OF THE NORTHWEST PROPERTY CORNER;

THENCE IN A SOUTHERLY DIRECTION 80 FEET TO THE TRUE POINT OF BEGINNING;

THENCE WESTERLY TO A POINT ON THE WEST PROPERTY LINE AND THE TERMINUS OF THIS LINE DESCRIPTION; AND,

THAT PORTION OF THE ABOVE DESCRIBED PROPERTY BEING A STRIP OF LAND TEN (10) FEET IN WIDTH WITH FIVE (5) FEET OF SUCH WIDTH ON EACH SIDE OF A CENTERLINE APPROXIMATELY DESCRIBED AS FOLLOWS:

UTILITY EASEMENT AGREEMENT
WAVEDIVISION HOLDINGS, LLC

pg. 1
03/09/2023

BEGINNING AT A POINT ON THE NORTH PROPERTY LINE 60 FEET EAST OF THE NORTHWEST PROPERTY CORNER;
THENCE IN A SOUTHERLY DIRECTION 330 FEET TO THE TRUE POINT OF BEGINNING;
THENCE EASTERLY A DISTANCE OF 15 FEET AND THE TERMINUS OF THIS LINE DESCRIPTION;
CO-LOCATED WITH PUGET SOUND ENERGY FACILITIES AND LYING ENTIRELY WITHIN THE EASEMENT AREA AS SHOWN ON EXHIBIT "A" ATTACHED TO THAT CERTAIN EASEMENT TO PUGET SOUND ENERGY DATED MARCH 23, 2011 AND RECORDED MAY 5, 2011 UNDER SKAGIT COUNTY AUDITOR'S FILE NO.# 201105050077.

Astound may use the Easement Area solely for installing, maintaining and operating its Network Facilities (the "Permitted Use"). In connection with the Easement, Grantor also grants to Astound a continuing right of access (the "Access Right") over, across, upon and through those portions of the Property that are reasonably necessary for Astound 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 Astound and subject to Astound'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.

3. Covenants of the Parties. Grantor covenants and agrees that Grantor shall not grant to any other individual or entity, any easements, licenses or other rights in or to the Property that could materially and adversely interfere with Astound's Permitted Use of the Easement Area and Astound's Network Facilities installed on the Easement Area. Grantor further covenants and agrees Grantor shall in no way disturb, alter or move any part of the Network Facilities or otherwise interfere with Astound's rights and obligations as provided under this Agreement.

4. Site Restoration. All work performed by Grantee on Grantor's property as the result of rights provided by this easement shall be performed in such a manner as to avoid damage to Grantor's property. All work areas shall be promptly restored to their pre-existing condition following construction or maintenance activities within the Easement Area. Exposed soils shall be reseeded and work areas shall be cleared of all excess materials and debris following completion of the work.

5. Indemnity. Grantee agrees to indemnify Grantor from and against liability incurred by Grantor as a result of Grantee's negligence in the exercise of the rights herein granted to Grantee, but nothing herein shall require Grantee to indemnify Grantor for that portion of any such liability attributable to the negligence of Grantor or the negligence of others.
Environmental Compliance: All work performed by Grantee or Grantee's contractor(s) on Grantor's property as a result of rights provided by this easement shall be performed in compliance with all environmental laws and regulations of the United States, the State of Washington, and any municipality or agency of any of said entities, now in existence or hereafter promulgated, applicable to the Grantor's use of the Easement Area, including the

construction of any improvements thereon. Grantee shall fully indemnify and hold harmless Grantor from any cost, claim, penalty or attorney fee incurred by Grantor due to any failure by Grantee or its contractor(s) to meet this obligation. The venue for any lawsuit between the parties is exclusively in Skagit County Superior Court. The prevailing party in any such action shall receive an award of its reasonable costs and attorney fees, including those incurred on appeal.

6. Abandonment. The rights herein granted shall continue until such time as Grantee ceases to use the Easement Area for a period of five (5) successive years, in which event, this easement shall terminate and all rights hereunder, and any improvements remaining in the Easement Area, shall revert to or otherwise become the property of Grantor; provided, however, that no abandonment shall be deemed to have occurred by reason of Grantee's failure to initially install its systems on the Easement Area within any period of time from the date hereof.

7. Preservation of Navigable Airspace. All facilities to be located within the Easement Area shall be limited to a maximum elevation that is below the imaginary surfaces established under the Code of Federal Regulations, Title 14, Part 77, Subparts 77.19, 77.21, or 77.23 for the protection of take off and landing areas at Skagit Regional Airport, as defined at the time of construction.

8. Easement Runs With the Land. The Easement and Access Right granted to Astound 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. Astound shall hold the rights and benefits granted by this Agreement in gross, and Astound's right under this Agreement shall be freely assignable.

9. Representations of the Parties. Each of the parties represents and warrants to the other that: (i) they have all necessary power and authority to enter into and perform the terms of this Agreement; and (ii) they have duly executed and acknowledged this Agreement and that this Agreement constitutes a valid and binding agreement of such party, enforceable in accordance with its terms.

10. Miscellaneous. Grantor agrees to take or cause to be taken such further actions, to execute, deliver and file such further documents and instruments and to obtain such consents as may be necessary or may be reasonably requested by Astound to fully effectuate the purposes of this Agreement and the Easement granted by this Agreement. Astound shall be responsible for personal property taxes, if any, that are assessed with respect to the Network Facilities and Grantor shall be responsible for all real property and personal property taxes, if any, assessed with respect to the Property. 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.

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:

PORT OF SKAGIT COUNTY

By

Name:

Title:

ASTOUND:WAVEDIVISION HOLDINGS, LLC, a
Delaware limited liability company

By

Name:

Title:

STATE OF WASHINGTON)

) ss.

COUNTY OF SKAGIT)

On this 21 day of March, 2024, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Sara Young to me known to be the Executive Director of the PORT OF SKAGIT COUNTY, the Washington Port District that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said port district, for the uses and purposes therein mentioned, and on oath stated that (s)he is authorized to execute the said instrument.

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



UTILITY EASEMENT AGREEMENT
WAVEDIVISION HOLDINGS, LLC

Maria Miramontes
(Signature of Notary)
Maria Miramontes
(Print or stamp name of Notary)
NOTARY PUBLIC in and for the State
of Washington, residing at Arlington
My appointment expires: 08/25/2025

pg. 4
03/09/2023

CALIFORNIA NOTARY ACKNOWLEDGEMENT

A notary public or other officer completing this certificated verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Placer

On April 18, 2024 before me, Susan White-Villarreal, Notary Public, personally appeared Jared Sonne, Sr. VP / General Manager, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]
Signature



(Seal)

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

Schedule 1**Legal Description of Property**

LOT 1 OF SHORT PLAT NO. 93-70, RECORDED UNDER AUDITOR'S FILE NO. 9310280082,
RECORDS OF SKAGIT COUNTY, WASHINGTON;

BEING A PORTION OF THE NORTH ½ OF THE NORTHWEST ¼ OF THE NORTHWEST ¼ OF
SECTION 33, TOWNSHIP 35 NORTH, RANGE 3 EAST, W.M.,

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON

SKAGIT COUNTY TAX PARCEL NO. 350333-2-005-0100 (P109551)

UTILITY EASEMENT AGREEMENT
WAVEDIVISION HOLDINGS, LLC

pg. 6
03/09/2023