

After recording return to:
Windwave Communications
73500 Rupe Kennedy Road
PO Box 1390
Boardman, OR
97818

EASEMENT

1. Grant of Easement and Burdened Property. For value received, CITY OF HERMISTON, an Oregon municipal corporation (hereinafter referred to as the "Grantor") hereby grants to WINDWAVE COMMUNICATIONS, its successors and assigns, (hereinafter referred to as the "Grantee") a nonexclusive easement ("Easement") through or under the surface of a portion of certain real property situated in Umatilla County, State of Oregon, the following described land (hereinafter referred to as the "Property") of the Grantor:

PARCEL 1, PARTITION PLAT 2024-21 located in the City of Hermiston, Umatilla County, Oregon

2. Description of Easement. This Easement is further described in Exhibit A and depicted in Exhibit B. Exhibit A and Exhibit B are attached and incorporated with this agreement. Grantee may not deviate from, amend, or modify the course of the Easement as shown on Exhibit A and Exhibit B without first obtaining Grantor's written consent.
3. Purpose of Easement. Grantee may use the Easement for the purpose of constructing, reconstructing, operating, maintaining, repairing, replacing, enlarging, and removing Grantee's fiberoptic line and all necessary or desirable accessories and appurtenances thereto, (together, the "Facilities"). Grantee, its contractors, or agents, shall have reasonable right of ingress and egress on the Property for all activities undertaken in connection with the purpose for which this Easement has been granted.
4. Standard of Care. Grantee and each of its contractors or agents shall conduct all of its activities permitted by Section 3 above consistent with applicable law and safety standards. Grantee shall be responsible for obtaining and maintaining any and all permits and approvals that may be required to construct, own, operate, and maintain its facilities.
5. Duration of Easement. The Easement granted herein shall become effective upon execution by both Parties ("Effective Date") and shall remain in effect so long as Grantee (or its permitted assignee) maintains its permitted facilities (or replacement facilities) within the Easement. The Easement, and all of Grantee's rights granted herein, shall expire, subject to the conditions set forth below, if and when Grantee no longer owns and operates its permitted facilities (or replacement facilities) within the Easement area, or has abandoned its facilities

in place within the Easement area. In the event Grantor believes that Grantee has abandoned and/or no longer maintains or operates its facilities within the Easement area, Grantor will provide written notice to Grantee of its request to terminate the Easement. If Grantee does not respond in good faith to such notice within thirty (30) days of receipt thereof and indicating that Grantee's facilities have not been abandoned, or indicating that Grantee intends to continue to maintain or operate the facilities, Grantor may terminate this Easement and all rights granted hereunder to Grantee shall automatically revert to Grantor. Notwithstanding the foregoing, the Easement, and all of Grantee's rights granted herein, shall expire on the tenth anniversary of the Effective Date unless Grantee has constructed, or is diligently pursuing the construction of, the permitted facilities within the Easement area. Upon termination of the Easement, Grantee shall have the right to remove any of its facilities from the Easement area and, insofar as is commercially reasonable, return the Property to the condition that it was in prior to the execution of this Easement.

6. No Interference with Grantee's Easement. Grantor agrees to not place or cause to be placed any structure, building, or obstruction upon or affecting the Easement Area, and to not take any action that would unreasonably interfere with the Facilities or with Grantee's use of the Easement Area.
7. No Unreasonable Interference by Grantee with the Use of Remaining Property. In exercising its rights under this Easement, including the construction, operation and maintenance of its facilities in the Easement area, Grantee and its contractors and agents shall not unreasonably interfere with any other property, facilities or activities existing or occurring on the Property whether by Grantor or by any other third-party permitted by Grantor to use or occupy the Property; provided that Grantor complies with the terms of this Easement, including, but not limited to Section 6 hereof.
8. Surface Restoration to Land. In the construction, reconstruction, installation, use, operation, maintenance, repair, replacement, upgrading, or removal of its Facilities, or for any ingress on the Easement area by Grantee or anyone on behalf of the Grantee, Grantee shall promptly restore, replace, or repair the surface of the Easement Area to as close to its condition immediately prior to such work as may be reasonably possible.
9. Indemnity. Grantee shall indemnify, defend and hold harmless Grantor, including each of its directors, officers and employees, from and against any and all third-party claims against or loss incurred by Grantor arising from or relating to Grantee's use of this Easement. Notwithstanding the foregoing, the indemnity provided hereunder shall not apply if such claims or loss incurred by Grantor results from or is related to Grantor's negligence or willful misconduct.

10. Assignment. The rights under this Easement may not be assigned by Grantee to any other person or entity without obtaining Grantor's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Grantee may assign its rights under this Easement without Grantor's consent to (i) an affiliate of Grantee or (ii) a corporation or any other business entity in conjunction with a merger, consolidation or other business reorganization to which Grantee is a party.
11. Governing Law and Jurisdiction. This Easement shall be construed in accordance with the laws of the State of Oregon. In the event of litigation, this Easement shall be enforceable by either Grantor or the Grantee. In the event of any dispute over this Easement or its subject matter, the exclusive venue and jurisdiction for any litigation arising hereunder shall be in the Umatilla County Circuit Court and each Party hereby submits to the jurisdiction of said state Court.
12. Binding Effect Upon Successors/ Easement Runs with Land. The respective rights granted and the obligations assigned hereunder shall be binding upon and inure to the benefit of the parties and their respective heirs, successors and assigns and shall run with the land in accordance with Section 5 "Duration of Easement" herein.
13. Relocation or Reconfiguration of Easement. In the event Grantor wishes to redevelop, reconfigure or otherwise alter or extend the Easement area at any time, Grantor shall have the right to relocate the Easement, including any of Grantee's improvements therein, to a different location provided that (i) the cost of such relocation shall be borne by Grantor, (ii) Grantor shall give the Grantee reasonable prior notice of such relocation and the parties shall, both acting reasonably, agree to the methodology for such relocation, and (iii) the relocation shall be carried out either by the Grantee itself or by a third party first approved by the Grantee acting reasonably and consented to by Grantor.
14. Ownership of the Facilities. Grantor agree that the Facilities located in, upon, or under Grantor's Property pursuant to this Easement, which were installed at Grantee's expense, shall remain the property of Grantee and shall be removable at the option and expense of Grantee.
15. Effective Date. This Easement shall take effect as of the date of final execution, as indicated in the signature block.

[SIGNATURES ON FOLLOWING PAGES]

FOR GRANTOR:

Signature

Name (print)

Title

Date

STATE OF _____)
) ss.
County of _____)

THIS CERTIFIES that on this _____ day of _____, 20 _____, before me personally appeared the above-named Byron D. Smith, the City Manager of the **City of Hermiston, Oregon**, known to me to be the identical person described in the foregoing instrument and who acknowledged to me that by a free and voluntary act s/he executed the same.

Notary Public for: _____

My Commission Expires: _____

FOR GRANTEE:

Signature

Name (print)

Title

Date

STATE OF _____)
_____) ss.
County of _____)

THIS CERTIFIES that on this _____ day of _____, 20 _____, before me personally appeared the above-named _____, the _____ of **Windwave Communications**, known to me to be the identical person described in the foregoing instrument and who acknowledged to me that by a free and voluntary act s/he executed the same.

Notary Public for: _____

My Commission Expires: _____

LEGAL DESCRIPTION FOR FIBEROPTIC LINE EASEMENTS ACROSS
PARTITION PLAT NO. 2024-21, LOCATED IN SECTION 23, T.4N., R.28E., W.M.,
UMATILLA COUNTY, OREGON
W.O. 25-6332

LEGAL DESCRIPTION

A centerline legal description for a ten (10) feet wide fiberoptic line easement, five (5) feet of each side of centerline, located across Parcel 1 of Partition Plat No. 2024-21, Records of Umatilla County, Oregon, located in Section 23, Township 4 North, Range 28 East, W.M., Umatilla County, Oregon, more particularly described as follows:

Beginning at the Northeast corner of said Parcel 1, thence South 00°46'08" East along the East line of said Parcel 1 a distance of 30.00 feet to the True Point of Beginning 2, thence South 89°45'38" West along a line parallel with the North line of said Parcel 1 a distance of 740.22 feet to the West line of said Parcel 1 and the termination point of this centerline description. Sidelines are to be extended to or terminated at the East and West lines of said Parcel 1.

EXHIBIT B

EXHIBIT MAP FOR FIBEROPTIC LINE
EASEMENT LOCATED IN P.P. NO.
2024-21, SECTION 23, T.4N., R.28E.,
W.M., UMATILLA COUNTY, OREGON

