

W.S.E.I.

## AGENDA COVER MEMORANDUM

**Memorandum Date:** June 13, 2007

**Agenda Date:** June 27, 2007

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**TO:** Board of County Commissioners

**DEPARTMENT:** Management Services

**PRESENTED BY:** Jeff Turk, Property Management Officer 2

**SUBJECT:** ORDER/IN THE MATTER OF GRANTING A UTILITY EASEMENT TO LIGHT SPEED NETWORKS, INC. FOR \$3,500 OVER COUNTY OWNED PROPERTY IDENTIFIED AS MAP NO. 17-03-29-40-00400 (MENTAL HEALTH PROPERTY AT 2411 MARTIN LUTHER KING BLVD)

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1. **PROPOSED MOTION:** THE BOARD MOVES TO GRANT A UTILITY EASEMENT TO LIGHT SPEED NETWORKS, INC. FOR \$3,500 OVER COUNTY OWNED PROPERTY IDENTIFIED AS MAP NO. 17-03-29-40-00400 (MENTAL HEALTH PROPERTY AT 2411 MARTIN LUTHER KING BLVD)

2. **AGENDA ITEM SUMMARY:**

Light Speed Networks has requested an easement on County property where the Mental Health building is located to install conduit for fiber optic cable. The easement will be approximately 10' x 107' and will be located within an existing EWEB easement. The County would receive \$3,500 as consideration for the easement which would be a General Fund revenue.

3. **BACK ROUND/IMPLICATIONS OF ACTION:**

- A. **Board Action and Other History**

In 1960, 1963 and 1970 the County granted utility easements to EWEB over the property. The easements run East/West and North/South along the back portion of the property. The easements are used by EWEB with power lines running both above and below ground within the easement area.

The easements granted to EWEB were non-exclusive but did allow EWEB to contract with other utility providers (telephone, cable TV) to co-locate facilities.

The easement being requested by Lightspeed will run North/South and be located within the existing EWEB easement (see attachment). Lightspeed will be installing fiber optic cable to service the Slocum Health Center. The cable will run underground and tap in to an EWEB vault located a few feet from the easement's path.

In addition to the \$3,500 as consideration for the easement, Lightspeed, at Lightspeed's sole expense, will install an additional conduit for exclusive use by the County (only the conduit is being installed – no fiber optic cable will be run through the conduit). The additional conduit was negotiated by Property Management staff after discussions with Dan Mulholland, Telecommunications Manager for LCOG. Mr. Mulholland did not see an immediate need for fiber optic cable at the location in the near future but indicated that should a need arise, it would be beneficial to have a conduit already present as installing the conduit is the more difficult and expensive task when installing fiber optic cable (installing the cable itself is a relatively simple process once the conduit is in place).

### **Policy Issues**

ORS 275.090 provides for granting easements over County property.

#### **C. Board Goals**

Pursuant to Section B1[c] of the County's strategic plan, the County shall look to maximize revenue from its real property assets.

#### **Financial and/or Resource Considerations**

The \$3,500 received as consideration for the easement will be revenue for the General Fund.

#### **E. Analysis**

The proposed easement will be located within land already encumbered with an easement to EWEB and therefore will not encumber additional land. The proposed easement will not interfere with the County's current use of the property. The proposed easement does contain a provision that it will expire if not used for a period of 5 consecutive years.

Mental Health manager Al Levine was informed of the easement request and had no objections other than possible noise issues during digging of the trench for the conduit. The easement does require work to be performed between 6:00 AM and 6:00 PM. Lightspeed has indicated that the trenching part of construction should not take more than 5 working days.

Property Management staff has discussed the easement with EWEB's property manager, Mark Oberly. Mr. Oberly stated that EWEB did not wish to enter into a co-location

agreement with Lightspeed but rather the County did. (Lightspeed's rights with its easement will be inferior and subject to the rights EWEB has with its easement).

**F. Alternatives/Options**

1. Grant the easement as proposed
2. Grant the easement under different conditions as directed by the Board.
3. Reject granting an easement under any conditions.

**V. TIMING/IMPLEMENTATION**

If the easement is granted, Lightspeed will begin work to install the fiber optic cable.

**VI. RECOMMENDATION**

It is recommended that option 1 be pursued.

**VII. FOLLOW-UP**

Upon the Board's approval, the Property Management Officer will record the executed easement in the deed records and coordinate with Lightspeed to begin work.

**VII. ATTACHMENTS**

Board Order  
Diagram of Easement Location  
Tax Map

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF GRANTING A UTILITY EASEMENT  
TO LIGHT SPEED NETWORKS, INC. FOR \$3,500 OVER  
COUNTY OWNED PROPERTY IDENTIFIED AS MAP NO.  
17-03-29-40-00400 (MENTAL HEALTH PROPERTY AT 2411  
MARTIN LUTHER KING BLVD)

WHEREAS this matter now coming before the Lane County Board of Commissioners and said Board deeming it in the best interest of Lane County to grant an easement to Lightspeed Networks, Inc. for installation of fiber optic cable over a portion of the following described property

Map # 17-03-29-40-00400, commonly known as 2411 Martin Luther King Blvd., Eugene.

WHEREAS said real property is owned by Lane County and

WHEREAS said real property is currently encumbered with utility easements granted to EWEB and

WHEREAS the easement being granted to Lightspeed Networks Inc. will lie within existing utility easements and will not encumber additional property

IT IS HEREBY ORDERED that, pursuant to ORS 275.090 that a utility easement substantially similar to attached "Exhibit A" be granted to Lightspeed Networks, Inc. for consideration of \$3,500, that the Board execute said easement and that the proceeds be disbursed to the General Fund of the County through account 124-5570260-446120.

IT IS FURTHER ORDERED, that this Order shall be entered into the records of the Board of Commissioners of the County.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Faye Stewart, Chair, Board of County Commissioners

APPROVED AS TO FORM

Date 6-14-07 lane county

\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

IN THE MATTER OF GRANTING A UTILITY EASEMENT TO LIGHT SPEED NETWORKS, INC. FOR \$3,500  
OVER COUNTY OWNED PROPERTY IDENTIFIED AS MAP NO. 17-03-29-40-00400 (MENTAL HEALTH  
PROPERTY AT 2411 MARTIN LUTHER KING BLVD)

EXHIBIT "A"

**EASEMENT AGREEMENT**

This easement agreement is made by and between Lane County, a political subdivision of the State of Oregon, as Grantor and LightSpeed Network Inc., DBA LS Networks, 921 SW Washington Street, Suite 370, Portland, Oregon 97205-2824 as Grantee.

WHEREAS, Grantor is owner of certain real property identified as Assessor's map No. 17-03-29-40-00400 and more particularly described as:

**That certain property as described in County Survey # 33853 filed October 15, 1996, Lane County Surveyor's Office.**

WHEREAS Grantee wishes to secure an easement under a portion of Grantor's property for the purpose of installing fiber optic cable with said portion on which said easement will be located being more particularly described as:

**A ten foot wide utility easement located 5' on either side of a centerline described as follows:**

**From a point of beginning located 225.53', South 60 degrees 53 minutes 47 seconds West of the Northeast corner of Grantor's herein described property; thence North 0 degrees 35 minutes 20 seconds West approximately 107.66 feet to the North property line of said Grantor's property (a diagram is attached as Exhibit "A").**

Grantor, in consideration of \$3,500 received from Grantee, hereby grants to Grantee, its heirs, assigns and successors in interest, a non-exclusive easement for installation of fiber optic cable under a portion of Grantor's property as described above subject to the following terms and conditions:

1. Grantee, subject to applicable rules, regulations and laws of regulatory agencies, shall have the right to construct, install, operate and maintain a conduit for placement of fiber optic cable under the easement area. Said easement area shall extend to a depth of ten (10) feet below ground level.
2. Grantee shall have the right to enter Grantor's property for the purpose of constructing said conduit and installing the fiber optic cable. Entry during construction shall be limited between the hours of 6:00AM – 6:00 PM. Grantee may remove brush and debris within the easement area necessary for construction and installation.
3. Upon completion of construction and installation said right to enter Grantor's property shall cease and Grantee's right to enter Grantee's property shall be limited to entry required for maintenance and repair of said conduit and fiber optic cable. Maintenance shall include clearing the easement area of brush, debris and other materials which impairs Grantee's use of the easement.
4. Grantee shall be responsible for the removal from Grantor's property of all debris, waste and similar materials resulting from construction or maintenance of the easement area. Grantor's property shall be returned to a condition substantially similar to its condition prior to construction or maintenance of the easement area.

5. Grantee acknowledges that Grantor has previously granted easements to the City of Eugene, Eugene Water and Electric Board and other parties which may include the easement area granted herein. It is specifically understood and agreed by grantee, and made a restriction and condition upon each and every right granted herein, that the rights hereby conveyed to grantee are inferior to, subject to, and in no way effective insofar as they may be inconsistent with any prior existing easement which may exist within the easement area granted herein or the interest of any party, public or private, in or to any of grantor's property, whether by easement, title, or other interest.
6. Grantee, its heirs, successors, assigns and contractors shall hold Grantor, its Commissioners, officers, agents and employees, harmless from any claims or liability resulting from or in connection with the construction, maintenance or use of the easement by Grantee, its heirs, successors, assigns, contractors, subcontractors, invitees or guests or any other party, known or unknown whether given permission by Grantee to use said easement or not.. Prior to commencing construction, Grantee shall provide Grantor with a Certificate of Insurance noting general liability coverage of not less than \$1,000,000.00. Said Certificate shall name Lane County, its Commissioners, officers, agents and employees as additional insureds.
7. Said easement shall be considered as being vacated by Grantee, its heirs, successors and assigns in the event said easement is not used, or is otherwise abandoned, for a period of 5 consecutive years.
8. Said easement is subject to liens and encumbrances of record.
9. This grant of easement shall run with the land and shall be binding on and shall inure to the benefits of Grantor and Grantee, their heirs, successors and assigns.
10. In addition to any other consideration given to Grantor under this agreement, Grantee, at Grantee's sole expense, shall install in the easement area an additional conduit capable of housing fiber optic cable. Said conduit shall become the property and responsibility of Grantor upon installation and shall be for Grantor's sole use. Said conduit shall run parallel with the conduit being installed for Grantee's use.



T. 17 S., R. 3 W., SEC. 29 SE 1/4

POSITION COMPUTED BY INTERSECTION OF DISTANCE (BY INSTRUMENT 73311) WITH BEARING (BY TITLE REPORT TIES-1748)

FD. 5/8" IRON ROD PER CSF 17180, EAST 0.55' & NORTH 0.05' FROM SET MONUMENT, ALSO BEING NORTH 173.48' ((NORTH 173.48')) AND EAST 827.08' ((EAST 826.95')) FROM SW COR. CS 1781

DIVERSION CHANNEL

NORTH 273.48' ((SOUTH 273.48'))

NORTHEAST PROPERTY CORNER TAX LOT No. 400

NOTE: 1/4 SECTION PLACED IN NORTHERLY

FD. 5/8" IRON ROD PER CSF 17180, EAST 0.16' & SOUTH 0.04' OF CALC. POSITION

N 88°24'40" E

WEST LINE OF REEL INSTRUMENT NO.

[[[58°57'30"W 230.00']]]

58°57'30"W 230.00'

FD. 5/8" IRON ROD PER CSF 17180, SOUTH 0.27' OF CALC. POSITION, HELD FOR EASTING OF WEST LINE 215'4480

REEL 2148 INSTR. NO. 4480

REEL 2148 INSTR. NO. 3792

FD. 5/8" IRON ROD OF UNKNOWN ORIGIN, HELD FOR EASTING OF WEST LINE 215'4480

230.00'

[[[58°57'30"E 370.00']]]

370.00'

CENTENNIAL BOULEVARD - CO. RD. 1304 (ESTABLISHED 2-18-88 BY ORDER C.J. 28/201)

LS 78+58.06 POT 40.00' RT

LS 78+58.07 POT 72.64' LT

FD. 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "LANE COUNTY" PER CSF 31285

LS 78+57.13 POT 76.83' LT

LS 78+57.21 POT 81.09' LT

FD. 5/8" IRON ROD OF UNKNOWN ORIGIN

SCALE 16' 32'

(FEET)

1/16"=1' WHEN PLOTTED ON 8.5x11 PAPER

TRUE NORTH

MAG. NORTH DECL.

**A EASEMENT EXHIBIT**  
1/16"=1'

<p>921 SW Washington St., Ste. 370 Portland, OR 97205 503-294-5300 214-889-4529 fax</p>	PROJECT NAME AND NUMBER LS NETWORKS'S SLOCUM EWEB FIBER PROJECT				
	DESCRIPTION FIBER EASEMENT AT TAX LOT 400				
<p>C.A. Simon and Associates, Inc. 805 E. McLoughlin Blvd. Vancouver, WA 98663-3358 360-694-6019 fax 360-694-6225</p>	ADDRESS T.17S., R.3W., S. 29 SE 1/4				
	TITLE FIBER EASEMENT AT TAX LOT 400				
DRAWING NO.					
DATE	5-21-07	SCALE	1/16"=1'	SHEET	1 OF 1
REV				1	1



