

DEED OF EASEMENT

THIS DEED OF EASEMENT ("Deed") is made and entered into this __ day of April 2022 by BIG ELK MEADOWS ASSOCIATION, a Colorado Home Owners Association with a legal address of P.O. Box 440, 29 Willow Drive, Lyons, Colorado 80540 ("BEMA, Grantor"), to and for the benefit of xBar7 Communications, LLC, a Colorado limited liability company with a legal address of 231 Gray Mountain Drive, Lyons, Colorado, 80540 (" xBar7 Grantee").

WITNESSETH:

WHEREAS, BEMA, Grantor is the owner of that certain real property legally described as follows:

Larimer County, CO Parcel: 2435400001, 1070 BIG ELK MEADOWS RD, Tax District 3005

Larimer County, CO Parcel: 2435400002, 1070 BIG ELK MEADOWS RD, Tax District 3005

WHEREAS, Grantee is a Communications Company providing Internet service to various communities in the Northern Colorado area, and is willing in providing said services to BEMA, Grantor:

WHEREAS, xBar7, Grantee would require a path for the installation of underground fiber optical communications cables to provide Broadband Internet services to the residences of Big Elk Meadows. The path will follow the roads (Willow Dr, Aspen Dr, Cedar Dr, Balsam Dr, Hemlock Dr, Hickory Dr, Hemlock Dr) on BEMA property. Underpassing the roads where necessary to tie in individual residences.

WHEREAS, xBar7, Grantee's fiber path encroaches onto the Parcel as legally described in EXHIBIT A attached hereto and incorporated herein by this reference ("Encroachments"); and

WHEREAS, xBar7, Grantee would require ongoing access to the fiber path, underground handholes and splice terminals so as to be able to build, operate and maintain the fiber optical lines and equipment; and

WHEREAS, Grantor now desires to establish an easement for the Encroachment on the terms and conditions set forth herein.

NOW, THEREFORE, As compensation for the easement, xBar7 will provide a pair of dark fiber

1. between the BEM Office building at 29 Willow Drive and the Water Treatment Plant. "Waterplant"
2. between the BEM Office building at 29 Willow Drive and the Shed on Aspen Dr. "Storage"
3. Between the BEM Office building at 29 Willow Drive and the well on North Aspen Dr "Well"

Locations and approximate path are described in EXHIBIT B.

The dark fiber will be terminated in a splice enclosure at the outside of each of those buildings, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. Grant of Easement. Grantor hereby dedicates, creates, establishes, and declares a 5 year, exclusive easement over, through, upon, and across that portion of the BEMA, Grantor's Parcel as described in EXHIBIT A and EXHIBIT B ("Easement Area"), for the use and benefit of xBar7, Grantee and Grantee's heirs, successors, assigns, and personal representatives; and further states that said easement to xBar7, Grantee shall auto renew for the same term as long as xBar7, Grantee provides broadband service in Big Elk Meadows subdivision.

2. Easement Appurtenant. This Deed is for the benefit of and shall inure to Grantee and his successors and assigns. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the benefit of all assigns, successors, and tenants of the parties hereto.

3. Commencement. This Deed shall be effective on the date it has been executed by BEMA, Grantor and delivered to xBar7, Grantee.

4. Legal Enforcement. Jurisdiction and venue for any legal action between Grantor and Grantee or their successors or assigns based on this Deed shall be in the combined courts of Larimer County, Colorado. If any party commences an action against the other for relief, declaratory, injunctive, or otherwise, to construe or enforce this Deed, the prevailing party shall be awarded reasonable costs and attorneys' fees.

5. BEMA, Grantor's Obligations.

BEMA, Grantor shall make an initial announcement of the relationship between the parties herein to the BEMA membership via email once the initial installation is operational.

BEMA will work with xBar7 to facilitate the location of the fiber path to minimize impact

to the environment, visual aesthetics in the Meadows and to the members.

6. xBar7, Grantee's Obligations. xBar7, Grantee, will construct the fiber lines at or near the location suggested in EXHIBIT A and EXHIBIT B with minimal impact to the surrounding environment. xBar7, Grantee will acquire all permits, licensing, grants and other legal and financial requirements for the installation.

All equipment required to operate and maintain service to the community will be provided, owned and maintained by xBar7, Grantee.

xBar7, Grantee is holding a liability insurance of \$ 1 Million or higher. All contractors hired by xBar7 must be covered by insurance.

xBar7, Grantee will not hold the property owner liable for damage to equipment, accident accessing/maintaining the stations or power outage.

xBar7, Grantee will maintain and upgrade all equipment as needed without financial support from BEMA.

8. Choice of Law. This agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

9. Representations and Warranties. The undersigned represents and warrants that they have full binding authority to execute this Deed and carry out the obligations contained herein. The easement grant is without warranty of title and is subject to all prior liens, encumbrances, easements, restrictions, reservations, and rights of way affecting the East Parcel

GRANTOR:

Big Elk Meadows Association, a Colorado limited liability company.

By: _____ ,

President of Big Elk Meadows Association

Date: _____

STATE OF COLORADO)) ss

COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this ____ day of April 2022

By

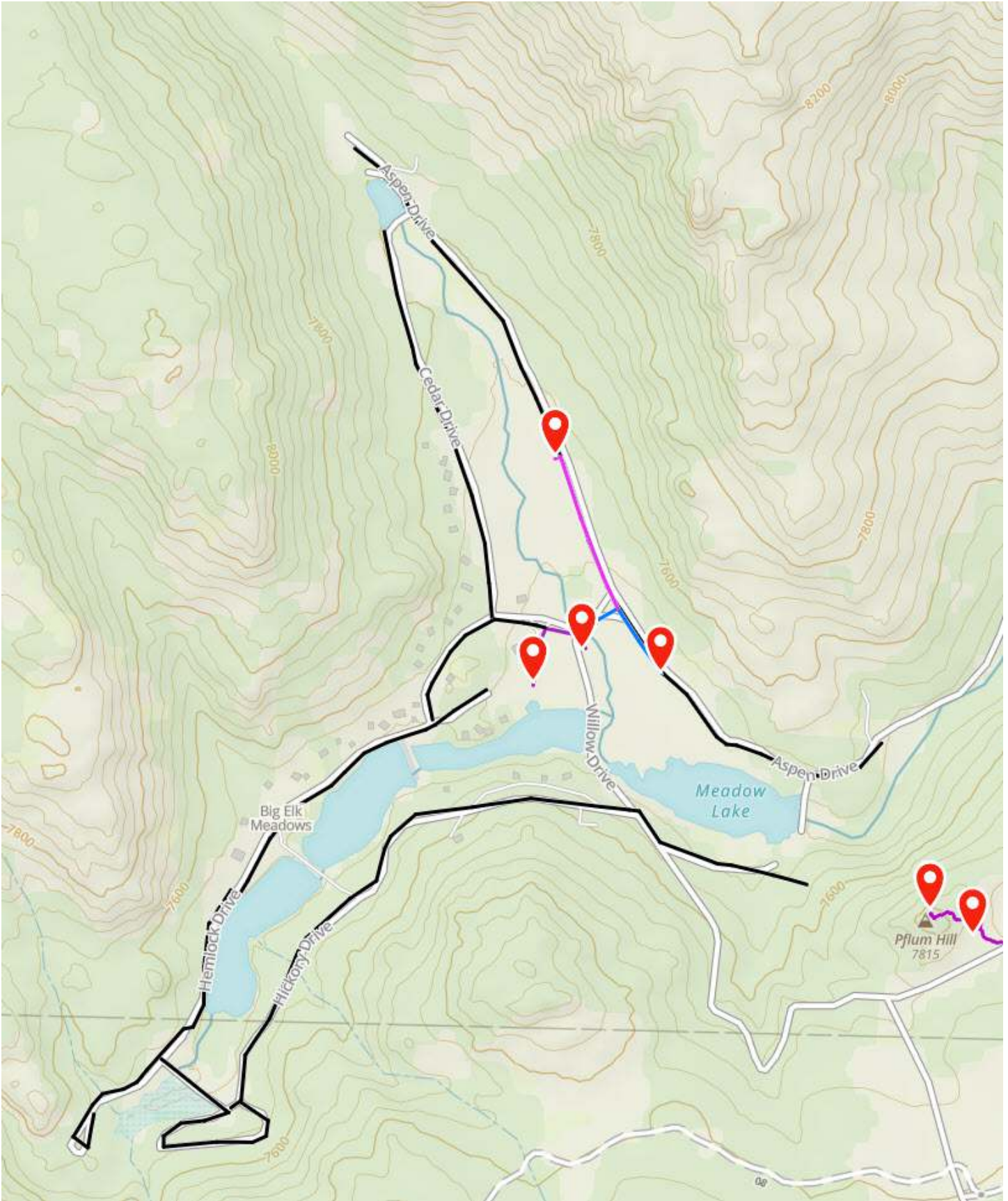
My commission expires:

SEAL

_____ Notary Public

“EXHIBIT A”, PAGE 1 OF 1

This image is provided as high-resolution PDF “fiberpath.pdf” as well



“EXHIBIT B”, PAGE 1 OF 1

