

# UNOFFICIAL COPY

PREPARED BY:  
LANDMARK DIVIDEND LLC  
1700 E. WALNUT AVE., SUITE 400  
EL SEGUNDO, CA 90245  
ATTN: LEGAL DEPT.



Doc#: 1229833064 Fee: \$54.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 10/24/2012 10:50 AM Pg: 1 of 9

RETURN TO:  
M. CATER  
FIDELITY NATIONAL TITLE  
7130 GLEN FOREST DRIVE #300  
RICHMOND, VA 23226

SW 1/4, S11, Twp 36N, R13E Consideration \$23,000

## EASEMENT AND ASSIGNMENT OF LEASE AGREEMENT

This Easement and Assignment of Lease Agreement dated MAY 25, 2012 (this "Agreement") is by and between HARBOR PROPERTIES, an Illinois general partnership ("Grantor"), with principal offices at c/o Harry Lipner, Esq, 5235 W. 65<sup>th</sup> Street, Bedford Park, IL 60638 and LD HOLDINGS LLC, a Delaware limited liability company ("Grantee") with principal offices at 1700 E. Walnut Ave., Suite 400, El Segundo, CA 90245; and

**WHEREAS** Grantor owns certain real property located at: 3836 148<sup>th</sup> Street, Midlothian, Illinois ("Property"); and more particularly described in Exhibit "A" attached hereto; and

**WHEREAS** Grantor intends to grant to Grantee an exclusive easement (the "Easement") in, to, under and over a certain portion of the Property described in Exhibit "B" attached hereto (the "Easement Area") for telecommunications purposes; and

**WHEREAS** Grantor intends to sell, assign, set over, convey and transfer the existing telecommunications lease(s) or license(s) ("Lease(s)") more particularly described in Exhibit C to Grantee; and

**WHEREAS** Grantor intends to allow Grantee to use the Easement in order that Grantee may lease space to Tenants in the telecommunications business; and

**NOW THEREFORE, In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:**

**1. GRANT OF EASEMENT.** Grantor hereby grants to Grantee an exclusive easement over the Easement Area for the purpose of leasing space on the Property to telecommunications tenant(s) and uses associated with the exercise rights of telecommunications tenants under such leases.

**2. TERM.** Commencing on May 25, 2012, the Term of this Agreement shall be perpetual.

**3. TERMINATION.** Grantor may not terminate this Agreement; provided however, that in the event that Grantee voluntarily ceases to use the Easement for a continuous period of five (5) years, the Easement shall be deemed abandoned and this Agreement shall automatically terminate.

**4. ASSIGNMENT OF LEASE(S).** As part of the consideration provided for this Agreement, Grantor hereby assigns and conveys all of its right, title and interest in and to the Lease(s), more particularly

Handwritten initials and marks: S, P, S, SC, INT, and a large signature.

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described in Exhibit C. Grantor shall retain and continue to faithfully perform and discharge any and all of Grantor's obligations as lessor under the Lease(s) and Grantee assumes no obligations thereunder.

**5. NEW TELECOM TENANTS.** In the event that a new telecom tenant (other than an Existing Telecom Tenant) executes a lease for space on Grantor's Property, Grantor shall be entitled to all rents generated from the new telecom tenant as it is the intentions of Grantor and Grantee that no revenue sharing of future telecom shall be applicable and all benefits derived from new telecom tenants shall be for the benefit of Grantor only. Grantor agrees that in no event shall any such new lease interfere with the Existing Telecom Tenant(s)' use and enjoyment of the Easement Area.

**6. NON-EXCLUSIVE ACCESS EASEMENT.** As part of the consideration for this Agreement, Grantor hereby grants to Grantee an easement in, to, under and across the Property adequate to allow ingress and egress to the Easement Area.

**7. REPRESENTATIONS AND COVENANTS OF GRANTOR.** Grantor represents and warrants to Grantee, as of the date hereof, that:

- a. This Agreement and any other documents executed by Grantor in connection with it constitute the legal, valid and binding obligation of Grantor, enforceable against Grantor in accordance with their terms.
- b. The execution, delivery and performance by Grantor of this Agreement does not and will not violate or conflict with any provision of Grantor's organizational documents (if Grantor is an organization) or of any agreement to which Grantor is a party including mortgages and deeds of trust, or by which Grantor or the Property is bound and will not violate or conflict with any law, rule, regulation, judgment, order or decree to which Grantor is subject.
- c. There is no pending or threatened action, suit or proceeding that, if determined against Grantor, would adversely affect Grantor's ability to grant this easement or such other documents or to perform its obligations hereunder or thereunder.
- d. Grantor owns one hundred percent (100%) of the fee title to the Property and the lessor's interest in and to the Lease(s).
- e. Grantor has not previously deeded, granted, assigned, mortgaged, pledged, hypothecated, alienated or otherwise transferred any of its right, title and interest in and to the Lease(s), to any other person.
- f. Grantor shall comply with all applicable laws which may affect the Property.
- g. Grantor shall not, nor shall Grantor permit its lessees, licensees, employees, invitees or agents to use any portion of the Property, or the Easement in a way which interferes with the operations of tenants under the Leases, or any other of Grantee's future lessees or licensees, or to interfere with the Non-Exclusive Access Easements. Such interference shall be deemed a material breach by Grantor.

**8. SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and the successors and assigns of the parties to this Agreement. This Agreement shall run with the land upon which the Easement is located, and Grantor shall, in any and all deeds or other documents related to the sale, conveyance, assignment, mortgage, pledge, or other encumbrance or transfer of the Property, expressly provide that the Property is subject to all rights, liabilities and obligations under this Agreement (including without limitation, with respect to the Easement and the Non-Exclusive Easement). Grantor hereby expressly acknowledges and agrees that Grantee may from time to time sell, convey, assign, mortgage, pledge, encumber, hypothecate, securitize or otherwise transfer some or all of Grantee's right, title and interest in and to this Agreement, the Easement, the Non-Exclusive Easement and/or the Easement Area without notice to or consent of Grantor.

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## 9. ENVIRONMENTAL REPRESENTATIONS.

a. **Grantor Environmental Representation.** Grantor represents that it has no knowledge of any substance, chemical or waste (collectively "**Hazardous Substance**") on the Property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Grantor shall not introduce or use (or permit the use of) any Hazardous Substance on the Property in violation of any applicable federal, state or local environmental laws. Grantor shall be responsible for (and shall promptly conduct any investigation and remediation as required by any applicable environmental laws) all spills or other releases of any Hazardous Substance not caused solely by Grantee, that have occurred or which may occur on the Property.

b. **Grantee Environmental Representations.** Grantee shall not introduce or use any Hazardous Substance (hereinafter defined) on the Property or the Easement in violation of any applicable federal, state or local environmental laws. Notwithstanding the foregoing, Grantee shall not be responsible for any Hazardous Substances arising or present on or before the Effective Date. Liability of Grantee for any claims with respect to any Hazardous Substances at the Property or the Easement shall be limited to contamination which is shown by clear evidence to have been solely caused by a release of a Hazardous Substance by Grantee after the Effective Date, and in violation of any applicable federal, state or local environmental laws.

c. **Mutual Indemnification.** Each party agrees to defend, indemnify, and hold harmless the other from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liability including, but not limited to damages, costs, expenses, assessments, penalties, fines, cleanup, remedial, removal or restoration work required by any governmental authority, losses, judgments and reasonable attorneys' fees that the indemnified party may suffer or incur due to the existence or discovery of any Hazardous Substance on the Property caused by the other party. This indemnification shall also apply to the migration of any Hazardous Substance to other properties, and the release of any Hazardous Substance into the environment that relate to or arise from the indemnitor's activities on the Property. Grantor agrees to defend, indemnify, protect and hold Grantee harmless from claims resulting from actions on the Property not caused by Grantee prior to, and during the Term of, this Agreement. This indemnification shall survive the termination or expiration of this Agreement.

**10. NOTICES.** All notices, requests, demands and other communications hereunder shall be delivered by Certified Mail Return Receipt Requested, and/or a nationally recognized overnight courier. Notice shall be deemed accepted upon proof of delivery. Notices shall be delivered:

As to Grantor: c/o Harry Lipner, Esq  
5235 W. 65<sup>th</sup> Street  
Bedford Park, IL 60638

As to Grantee: c/o Landmark Dividend LLC  
1700 E. Walnut Ave., Suite 400  
El Segundo, CA 90245  
Attn: Legal Dept.

**11. DEFAULT.** It shall be an "Event of Default" if either Grantor or Grantee fails to observe or perform any of the terms, conditions or its respective obligations set forth in this Agreement. Upon receiving written notice of such a default or breach of this Agreement, the defaulting party shall have sixty (60) days to cure such default. In the event that the defaulting party fails to cure such default within the cure period, the non-defaulting party shall be entitled to exercise any rights permitted by applicable law.

## 12. GOVERNING LAW; CERTAIN WAIVERS.

(a) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS IN WHICH THE PROPERTY IS LOCATED, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS THEREOF.

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(b) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY WAIVES ANY RIGHT TO A JURY TRIAL IN ANY ACTION OR PROCEEDING TO ENFORCE OR INTERPRET THIS AGREEMENT.

(c) EACH PARTY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE SUPERIOR COURT OF COOK COUNTY AND THE UNITED STATES DISTRICT COURT FOR THE STATE OF ILLINOIS, AND EACH PARTY WAIVES ANY OBJECTION WHICH IT MAY HAVE TO THE LAYING OF VENUE IN SUCH COURT, WHETHER ON THE BASIS OF INCONVENIENT FORUM OR OTHERWISE.

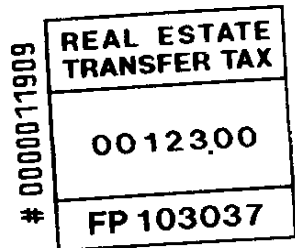
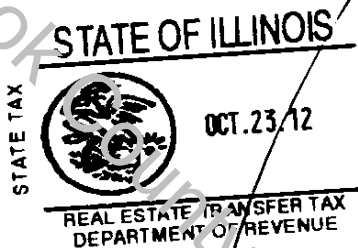
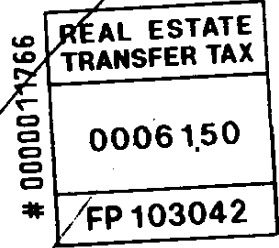
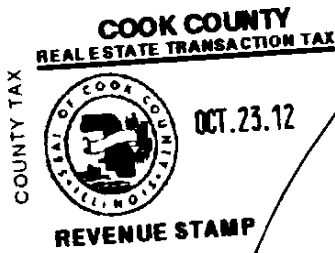
IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have caused this Agreement to be duly executed as of the date first written above.

GRANTOR:

HARBOR PROPERTIES, an Illinois general partnership

By: [Signature]  
Name: Harry Lipner  
Title: General Partner

Date: 5/25/2012



STATE OF IL )  
COUNTY OF Cook ) ss.

On May 25, 2012, before me, David A. Lapidus, a Notary Public in and for said County and State, personally appeared HARRY LIPNER, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official Seal.

[Signature]  
Notary Public



My Commission Expires: 7/10/12

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GRANTEE:

**LD HOLDINGS LLC,**  
a Delaware limited liability company

By: Landmark Dividend LLC, a Delaware  
limited liability company, its sole member

By: \_\_\_\_\_  
Name: Daniel E. Rebeck  
Title: Authorized Signatory  
Date: 5/25/2012

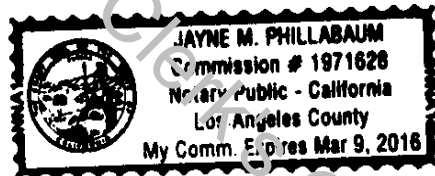
STATE OF California )  
COUNTY OF Los Angeles ) ss.

On 5/25, 2012, before me, Jayne M. Phillabaum a Notary Public in and for said  
County and State, personally appeared Daniel E. Rebeck, who proved to me on the  
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and  
acknowledged to me that ~~he/she~~ they executed the same in ~~his/her~~ their authorized capacity(ies), and that by  
~~his/her~~ their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) 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.

Jayne M. Phillabaum  
Notary Public  
My Commission Expires: 3/9/2016



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## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROPERTY

#### PARCEL 1:

Lots 65 and 66 (except the South 177 feet thereof) in Midlothian Highlands No. 2, a subdivision of that part of the North 1/2 East of the Chicago Rock Island and Pacific Railroad Company Lands and West of the East 693 feet thereof, of the Southwest 1/4 of Section 11, Township 36 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

#### PARCEL 2:

West 44 feet of Lot 67 and the West 44 feet of Lot 68 in Midlothian Highlands No. 2, a subdivision of that part of the North 1/2 East of the Chicago Rock Island and Pacific Railroad Company Lands and West of the East 693 feet thereof of the Southwest 1/4 of Section 11, Township 36 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

AND BEING the same property conveyed to Harbor Properties, an Illinois general partnership from Edward G. Shilka and Joseph P. Richards, Jr. as shareholders of the dissolved Illinois Corporation known as Sharp Management, Inc. by Warranty Deed dated May 23, 2007 and recorded May 24, 2007 in Instrument No. 0714408221.

Tax Parcel Nos. 28-11-303-001, 28-11-303-002

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## EXHIBIT B

### EASEMENT AREA DESCRIPTION

T-Mobile:

Grantor acknowledges and agrees that Grantee may survey the Easement Area, at Grantee's expense, and provide Grantor with a copy of such survey for Grantor's review and approval, which approval shall not be unreasonably denied, delayed or conditioned. Upon receipt of Grantor's approval, Grantee may amend, append, revise or replace this Exhibit B to include the approved survey of the Easement Area in Exhibit B.

See Attached

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OF LOT 68

**SUBJECT PROPERTY**

LOT 65 AND LOT 66 (EXCEPT THE SOUTH 177 FEET THEREOF) ALL IN MIDLOTHIAN HIGHLANDS NO. 2, A SUBDIVISION OF THAT PART OF THE NORTH HALF, EAST OF THE CHICAGO ROCK ISLAND AND PACIFIC RAILROAD COMPANY LANDS AND WEST OF THE EAST 693 FEET THEREOF, OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 36 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**LEASE PARCEL**

THAT PART OF LOT 66 IN MIDLOTHIAN HIGHLANDS NO. 2, A SUBDIVISION OF THAT PART OF THE NORTH HALF, EAST OF THE CHICAGO ROCK ISLAND AND PACIFIC RAILROAD COMPANY LANDS AND WEST OF THE EAST 693 FEET THEREOF, OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 36 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT AN IRON STAKE AT THE SOUTHEAST CORNER OF LOT 65 IN SAID SUBDIVISION; THENCE NORTH 2 DEGREES 7 MINUTES 19 SECONDS WEST, ALONG THE EAST LINE OF SAID LOT 65, 179.28 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE CENTER LINE OF A CHAIN LINK FENCE; THENCE NORTH 87 DEGREES 38 MINUTES 52 SECONDS EAST, ALONG SAID EXTENSION AND CENTER LINE, 20.00 FEET TO A POINT OF BEGINNING; THENCE CONTINUING NORTH 87 DEGREES 38 MINUTES 52 SECONDS EAST 40.00 FEET TO A POINT ON THE EAST LINE OF SAID LOT 68; THENCE NORTH 2 DEGREES 7 MINUTES 19 SECONDS WEST, ALONG SAID EAST LINE, 20.00 FEET; THENCE SOUTH 87 DEGREES 38 MINUTES 52 SECONDS WEST 40.00 FEET; THENCE SOUTH 2 DEGREES 7 MINUTES 19 SECONDS EAST 20.00 FEET TO THE POINT OF BEGINNING; ALL IN COOK COUNTY, ILLINOIS, AND CONTAINING 800 SQUARE FEET THEREIN.

**ACCESS EASEMENT**

THAT PART OF LOTS 65 AND 66 IN MIDLOTHIAN HIGHLANDS NO. 2, A SUBDIVISION OF THAT PART OF THE NORTH HALF, EAST OF THE CHICAGO ROCK ISLAND AND PACIFIC RAILROAD COMPANY LANDS AND WEST OF THE EAST 693 FEET THEREOF, OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 36 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT AN IRON STAKE AT THE SOUTHEAST CORNER OF SAID LOT 65; THENCE NORTH 2 DEGREES 7 MINUTES 19 SECONDS WEST, ALONG THE EAST LINE OF SAID LOT 65, 143.13 FEET TO A POINT OF BEGINNING; THENCE CONTINUING NORTH 2 DEGREES 7 MINUTES 19 SECONDS WEST 36.15 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE CENTER LINE OF A CHAIN LINK FENCE; THENCE NORTH 87 DEGREES 38 MINUTES 52 SECONDS EAST, ALONG SAID EXTENSION AND CENTER LINE, 20.00 FEET TO A POINT ON A LINE THAT IS 40.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOT 66; THENCE NORTH 2 DEGREES 7 MINUTES 19 SECONDS WEST, ALONG SAID PARALLEL LINE, 12.00 FEET; THENCE SOUTH 87 DEGREES 52 MINUTES 41 SECONDS WEST 33.82 FEET; THENCE SOUTH 40 DEGREES 48 MINUTES 52 SECONDS 148.56 FEET; THENCE SOUTH 2 DEGREES 7 MINUTES 19 SECONDS EAST 82.19 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 65, SAID LINE BEING ALSO THE NORTH LINE OF WEST 148TH STREET; THENCE NORTH 88 DEGREES 5 MINUTES 7 SECONDS EAST, ALONG SAID SOUTH LINE, 12.00 FEET; THENCE NORTH 2 DEGREES 7 MINUTES 19 SECONDS WEST 77.51 FEET; THENCE NORTH 40 DEGREES 48 MINUTES 52 SECONDS EAST 89.35 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE NORTH EDGE OF A CONCRETE RAMP; THENCE NORTH 88 DEGREES 5 MINUTES 55 SECONDS EAST, ALONG SAID EXTENSION AND NORTH EDGE, 41.95 FEET TO THE POINT OF BEGINNING; ALL IN COOK COUNTY, ILLINOIS, AND CONTAINING 3,985 SQUARE FEET THEREIN.

**UTILITY EASEMENT**

THAT PART OF LOTS 65 AND 66 IN MIDLOTHIAN HIGHLANDS NO. 2, A SUBDIVISION OF THAT PART OF THE NORTH HALF, EAST OF THE CHICAGO ROCK ISLAND AND PACIFIC RAILROAD COMPANY LANDS AND WEST OF THE EAST 693 FEET THEREOF, OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 36 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT AN IRON STAKE AT THE SOUTHEAST CORNER OF SAID LOT 65; THENCE NORTH 2 DEGREES 7 MINUTES 19 SECONDS WEST, ALONG THE EAST LINE OF SAID LOT 65, 179.28 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE CENTER LINE OF A CHAIN LINK FENCE; THENCE NORTH 87 DEGREES 38 MINUTES 52 SECONDS EAST, ALONG SAID EXTENSION AND CENTER LINE, 20.00 FEET TO A POINT ON A LINE THAT IS 40.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOT 66; THENCE NORTH 2 DEGREES 7 MINUTES 19 SECONDS WEST, ALONG SAID PARALLEL LINE, 2.00 FEET; THENCE SOUTH 87 DEGREES 52 MINUTES 41 SECONDS WEST 22.00 FEET; THENCE SOUTH 2 DEGREES 7 MINUTES 19 SECONDS EAST 181.35 FEET TO A POINT ON THE SOUTH LINE OF AFORESAID LOT 65; THENCE NORTH 88 DEGREES 5 MINUTES 7 SECONDS EAST, ALONG SAID SOUTH LINE, 2.00 FEET TO THE POINT OF BEGINNING; ALL IN COOK COUNTY, ILLINOIS, AND CONTAINING 404 SQUARE FEET THEREIN.

28-11-303-001



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## EXHIBIT C

### LEASE DESCRIPTION

That certain Site Lease dated August 30, 2000, by and between Harbor Properties, successor-in-interest to Sharp Management, Inc. ("Lessor"), whose address is c/o Harry Lipner, Esq, 5235 W. 65<sup>th</sup> Street, Bedford Park, IL 60638 and Cook Inlet/Voicestream Operating Company, LLC ("Lessee"), whose address is 3650 131<sup>st</sup> Avenue, Suite 200, Bellevue, WA 98006, for the property located at 3836 W. 148<sup>th</sup> Street, Midlothian, IL 60445.

Property of Cook County Clerk's Office