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20126080500

Doc# 2012608050 Fee \$93.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

EDWARD M. HOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 05/05/2020 10:12 AM PG: 1 OF 10

TELECOM EASEMENT AGREEMENT

PIN: 12-34-400-022-0000

STATE OF: ILLINOIS
COUNTY OF: COOK

Document Date: FEBRUARY 25, 2020

GRANTOR: A.S. MELROSE PARK BUILDING, LLC, A COLORADO LIMITED LIABILITY COMPANY
Address: 2001 N 17th Ave
Melrose Park, IL 60160-1347

GRANTEE: LANDMARK INFRASTRUCTURE HOLDING COMPANY LLC
Address: P.O. Box 3429
El Segundo, CA 90245

Legal Description: Attached as Exhibit A.

Prepared by AND MAEL TAX STATEMENTS TO:

Landmark Dividend LLC
400 Continental Blvd., Suite 500
El Segundo, CA 90245
TC187389

REAL ESTATE TRANSFER TAX

11-Mar-2020



COUNTY: 55.00
ILLINOIS: 110.00
TOTAL: 165.00

12-34-400-022-0000 | 20200201625371 | 1-920-974-688

Return after recording to:
Solidifi Title and Closing LLC
88 Silva Lane, Suite 210
Middletown, RI 02842-7634
Order No: LMD-1463125-C

Property Address: 2001 N 17TH Avenue, Melrose Park, IL
"Unincorporated"

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P 10
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TELECOM EASEMENT AGREEMENT

This Easement and Assignment of Lease Agreement (this "Agreement") dated FEBRUARY 25, 2020, ~~2019~~ (the "Effective Date") is by and between **A.S. MELROSE PARK BUILDING, LLC**, a Colorado limited liability company ("**Grantor**"), and **LANDMARK INFRASTRUCTURE HOLDING COMPANY LLC**, a Delaware limited liability company ("**Grantee**");

WHEREAS Grantor owns certain real property located at: 2001 N. 17th Avenue, in the City of Melrose Park, in the County of Cook, State of Illinois ("**Property**"); and more particularly described in Exhibit A attached hereto;

WHEREAS Grantor and Grantee are parties to that certain Purchase and Sale of Telecom Easement and Assignment Agreement dated concurrently herewith (the "**Purchase Agreement**") the terms and conditions of which are incorporated herein by reference, pursuant to which, inter alia, Grantor agreed to grant to Grantee an exclusive easement (the "**Telecom Easement**") in, to, under and over a certain portion of the Property described in Exhibit B attached hereto (the "**Telecom Easement Area**") for telecommunications purposes, and a non-exclusive easement (the "**Access Easement**") in, to, under and over certain portions of the Property (the "**Access Easement Area**") for ingress, egress, maintenance and utility service for and to the Telecom Easement (the Telecom Easement and the Access Easement may be collectively referred to herein as the "**Easement**");

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 Telecom 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. Grantor further agrees that it shall faithfully perform and discharge any and all of lessor's obligations under the Telecom Lease (as defined herein) specifically related to fee ownership including, without limitation, access, quiet enjoyment, non-interference, cooperation and payment of property taxes.

2. **TERM.** Commencing on FEBRUARY 25, ~~2019~~ ²⁰²⁰ (the "Commencement Date"), 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 three (3) years, the Easement shall be deemed abandoned and this Agreement shall automatically terminate.

4. **NON-EXCLUSIVE ACCESS EASEMENT.** As part of the consideration for this Agreement, Grantor hereby grants to Grantee the Access Easement in, to, under and across the Property as reasonably necessary and adequate to allow ingress and egress, operation, maintenance of and utility service to the Telecom Easement Area. At all times, and subject to the terms of the Lease, Grantee shall utilize the Access Easement in a manner so as to limit interference with Grantor's ongoing business at the Property.

5. **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, without limitation, permits, mortgages and deeds of trust, or by

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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, judgment, order decree or proceeding (including any bankruptcy, insolvency, eminent domain, zoning or other land use regulation actions) that, if determined against Grantor, would adversely affect Grantor's ability to grant the Easement or such other documents or to perform its obligations hereunder or thereunder, or limit Grantee's ability to use the Easement as contemplated herein. Grantor has received no notice from any governmental or quasi-governmental authority either that the Property or the use thereof violates any statutes, ordinances, orders or regulations affecting any portion of the Property.

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, or any portion of the Property the Easement occupies, except as expressly disclosed to Grantee in writing including, but not limited to, by virtue of Grantee's receipt of a title report for the Property. Except for the Lease, Grantor has not executed or otherwise entered into any leases, tenancies, license or concession agreements, occupancy agreements or other agreements with respect to rights that would adversely affect Grantee's, or Grantee's tenants, possession or occupancy of any portion of the Easement or use of the Property pursuant to this Agreement or the Lease.

f. Grantor shall comply with all applicable laws which may affect the Property.

g. Grantor shall not settle or compromise any insurance claim or condemnation award relating to the Easement without Grantee's prior written approval, which shall not be unreasonably withheld, delayed or conditioned.

h. Grantor shall not, nor shall Grantor permit its lessees, licensees, employees, invitees or agents to use any portion of the Easement in a way which interferes with the operations of tenants under the Lease, or any other of Grantee's future lessees or licensees, or to interfere with the Access Easement. Such interference shall be deemed a material breach by Grantor.

i. If Grantor receives a notice of default or breach of its obligation to any lender with a superior interest in the Property and/or any rights to any leases or rents relating to the Property to those of Grantee, Grantor shall cure the default within the earlier of (i) 30 days, or (ii) the cure period under the terms of any applicable loan document between Grantor and such lender or in favor of such lender. If any payment due to Grantee under any lease of the Telecom Easement Area is interrupted by virtue of a default and/or exercise of its rights under an assignment of rents, assignment of leases or other similar claim by any lender with a superior interest to Grantee, Grantor shall make an equal payment to Grantee, until such interruption is terminated.

j. Grantor shall indemnify and hold harmless Grantee, and Grantee's successors and assigns against any and all damage, cost, expense (including reasonable attorney's fees and disbursements), loss or liability arising out of any default by Grantor under any agreement between Grantor and any lender with a superior interest to Grantee, including, but not limited to, the termination, interruption, diversion, or delay of any payment due to Grantee (or its successors or assigns) under any lease of the Telecom Easement Area.

7. **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). 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 Telecom Easement Area and/or the Access Easement Area without consent of Grantor, and Grantee shall provide notice of same to Grantor within 30 days.

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8. 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. Grantee shall not be responsible for any spills or other releases of any Hazardous Substance on the Property unless caused by Grantee.

b. Grantee Environmental Representations. Grantee shall not introduce or use any Hazardous Substance 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.

9. 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: 2001 N. 17th Avenue
Melrose Park, IL 60160-1347

As to Grantee: c/o Landmark Dividend LLC
P.O. Box 3429
400 Continental Blvd., Suite 500
El Segundo, CA 90245
Attn: Legal Dept.

10. 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. Notwithstanding anything herein to the contrary, if the required cure of the noticed default cannot reasonably be completed by Grantee within such 60-day period, Grantee's failure to perform shall not constitute an Event of Default so long as Grantee undertakes to cure the failure promptly and diligently and continuously pursues the cure thereof to completion. 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.

11. TELECOM LEASE. The parties acknowledge that, in connection with this Agreement, Grantee has been assigned that certain Site Agreement dated December 1, 1996, by and between 2001 N. 17th Avenue L.L.C., as landlord, and PrimeCo Personal Communications, L.P., as tenant, pursuant to that certain Assignment and Assumption of Lease Agreement of even date herewith.

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12. **AGREEMENT FULLY PERFORMED.** Notwithstanding anything herein to the contrary, this Agreement is deemed to be fully performed by Grantee as of the Commencement Date. In no event shall this Agreement be deemed an executory contract for purposes of the United States Bankruptcy Code, as amended (the "Code"), and this Agreement may not be rejected pursuant to Section 365 of the Code.

13. **GOVERNING LAW; CERTAIN WAIVERS.**

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

(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 APPLICABLE UNITED STATES DISTRICT COURT FOR THE DISTRICT THE PROPERTY IS LOCATED IN, 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.

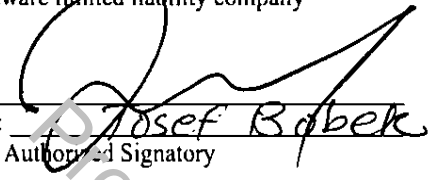
(SIGNATURE PAGES FOLLOW)

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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.

GRANTEE:

LANDMARK INFRASTRUCTURE HOLDING COMPANY LLC,
a Delaware limited liability company

By: 
Name: Josef Babek
Title: Authorized Signatory

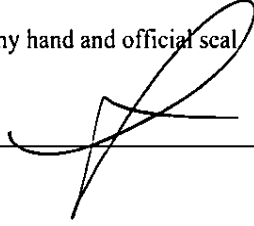
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles

On February 24, ²⁰²⁰~~2018~~ before me, K. Moore, a Notary Public, personally appeared Josef Babek, 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 the 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

Signature 

(Seal)



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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, CITY OF MELROSE PARK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

A PARCEL OF LAND BEING A PART OF LOT 4 IN BLOCK 2 OF FRANKLIN FARMS, BEING A SUBDIVISION OF THE NORTH 1/2 OF THE SOUTH EAST 1/4 AND THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE INDIAN BOUNDARY LINE EXCEPT THAT PART TAKEN FOR RAILROAD, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE NORTH LINE OF THE SOUTH 300 FEET OF THE NORTH 468.66 FEET OF SAID LOT 4, A DISTANCE OF 13.21 FEET WEST OF THE NORTH AND SOUTH CENTER LINE OF THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SAID SECTION; THENCE EAST ALONG THE NORTH LINE OF THE SOUTH 300 FEET OF THE NORTH 468.66 FEET OF SAID LOT 4, A DISTANCE OF 3.21 FEET TO A POINT 10.00 FEET WEST OF THE NORTH AND SOUTH CENTER LINE OF THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SAID SECTION, THENCE NORTH ALONG A LINE 10.00 FEET WEST AND PARALLEL WITH SAID NORTH AND SOUTH CENTER LINE A DISTANCE OF 34.18 FEET TO A POINT OF TANGENCY THENCE SOUTHWESTERLY ALONG AN ARC OF A CIRCLE CONVEX TO THE SOUTHEAST AND HAVING A RADIUS OF 113.18 FEET A DISTANCE OF 34.37 FEET TO THE POINT OF BEGINNING IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE NORTH 234 FEET OF THE SOUTH 300 FEET OF THE NORTH 468.66 FEET OF THAT PART OF LOT 4 IN BLOCK 2 IN FRANKLIN FARMS, BEING A SUBDIVISION OF THE NORTH 1/2 OF THE SOUTH EAST 1/4 AND THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE INDIAN BOUNDARY LINE (EXCEPT THAT PART TAKEN FOR RAILROAD) LYING EAST OF THE EAST LINE OF 17TH AVENUE BEING A LINE 32 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT 4 AND LYING WEST OF A LINE 10 FEET WEST OF AND PARALLEL WITH THE NORTH AND SOUTH CENTER LINES OF THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 34 IN COOK COUNTY ILLINOIS.

LESS AND EXCEPT ALL THAT PORTION DESCRIBED, LYING EAST OF THE RAILROAD RIGHT-OF-WAY.

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EXHIBIT B

TELECOM EASEMENT AREA DESCRIPTION

THE NORTH 50 FEET OF THE WEST 50 FEET OF THE EAST 65 FEET OF THE NORTH 234 FEET OF THE SOUTH 300 FEET OF THE NORTH 468.66 FEET OF THAT PART OF LOT 4 IN BLOCK 2 IN FRANKLIN FARMS, BEING A SUBDIVISION OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 AND THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE INDIAN BOUNDARY LINE (EXCEPT THAT PART TAKEN FOR RAILROAD) LYING EAST OF THE EAST LINE OF 17TH AVENUE BEING A LINE 33 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT 4 AND LYING WEST OF A LINE 10 FEET WEST OF AND PARALLEL WITH THE NORTH AND SOUTH CENTER LINES OF THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 34 IN COOK COUNTY ILLINOIS, ALSO BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF THE NORTH 234 FEET OF THE SOUTH 300 FEET OF THE NORTH 468.66 FEET OF SAID LOT 4 WITH THE EASTERLY RIGHT-OF-WAY LINE OF NORTH 17TH AVENUE; THENCE NORTH 88°16'30" EAST ALONG SAID NORTH LINE, 223.82 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 88°16'30" EAST ALONG SAID NORTH LINE, 50.00 FEET; THENCE SOUTH 1°53'47" EAST, 50.00 FEET; THENCE SOUTH 88°16'30" WEST, 50.00 FEET; THENCE NORTH 1°53'47" WEST, 50.00 FEET TO THE POINT OF BEGINNING. CONTAINING 2,500 SQUARE FEET (0.057 ACRES), MORE OR LESS.

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EXHIBIT C

ACCESS EASEMENT AREA DESCRIPTION

A 12.00 FOOT WIDE ACCESS & UTILITY EASEMENT IN THAT PART OF THE NORTH 234 FEET OF THE SOUTH 300 FEET OF THE NORTH 468.66 FEET OF THAT PART OF LOT 4 IN BLOCK 2 IN FRANKLIN FARMS, BEING A SUBDIVISION OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 AND THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE INDIAN BOUNDARY LINE (EXCEPT THAT PART TAKEN FOR RAILROAD) LYING EAST OF THE EAST LINE OF 17TH AVENUE BEING A LINE 33 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT 4 AND LYING WEST OF A LINE 10 FEET WEST OF AND PARALLEL WITH THE NORTH AND SOUTH CENTER LINES OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 34 IN COOK COUNTY ILLINOIS, LYING 6.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF THE NORTH 234 FEET OF THE SOUTH 300 FEET OF THE NORTH 468.66 FEET OF SAID LOT 4 WITH THE EASTERLY RIGHT-OF-WAY LINE OF NORTH 17TH AVENUE; THENCE NORTH $88^{\circ}16'30''$ EAST ALONG SAID NORTH LINE, 223.82 FEET; THENCE SOUTH $1^{\circ}53'47''$ EAST, 17.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH $88^{\circ}16'30''$ WEST, 68.04 FEET; THENCE SOUTH $60^{\circ}11'17''$ WEST, 147.02 FEET; THENCE SOUTH $52^{\circ}16'05''$ WEST, 31.91 FEET TO THE POINT OF TERMINATION ON THE AFORESAID EASTERLY RIGHT-OF-WAY LINE OF NORTH 17TH AVENUE.

CONTAINING 2,964 SQUARE FEET (0.068 ACRES), MORE OR LESS.