

DOC# 220454

05/15/2012

10:40AM

Official Record

Requested By LAWYERS TITLE INSURANCE CORPORATI

Eureka County - NV

Mike Rebaleati - Recorder

Page: 1 of 7 Fee: \$42.00

Recorded By FS RPTT: \$0.00

Book- 0531 Page- 0419



0220454

PREPARED BY:

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

RETURN TO:

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

APN'S: 04-290-08, 04-290-16, 04-360-01, 04-360-12

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

NON-DISTURBANCE AND ATTORNMENT AGREEMENT AND  
PARTIAL RELEASE OF ASSIGNMENT OF LEASES AND RENTS

THIS NON-DISTURBANCE AND ATTORNMENT AGREEMENT AND PARTIAL  
RELEASE OF ASSIGNMENT OF LEASES AND RENTS (this "Agreement"), dated this 20th  
day of March, 2012, by and between SOUTHERN AGCREDIT, FLCA ("Lender"), and NEW  
NEVADA LANDS, LLC, a Mississippi limited liability company ("Lessor"), and LD HOLDINGS  
LLC, a Delaware limited liability company ("Landmark").

WITNESSETH:

WHEREAS, Lessor, and certain tenant(s), are parties to a lease (the "Lease(s)") for a portion of  
the real property ("Leased Premises") as said real property is described in Exhibit "A" attached to this  
Agreement ("Real Property"); and

WHEREAS, Landmark and Lessor have entered into or propose to enter into a Lease Purchase  
Agreement (the "Purchase Agreement") which would, among other things, provide for the payment by  
Landmark of a lump sum to Lessor in exchange for an assignment by Lessor of all its right, title and  
interest in and to the Lease(s) more particularly described on Exhibit "B" hereto (the "Assigned  
Lease(s)") and a grant of an easement over the leased premises (the "Easement"); and

WHEREAS, Lender made or has agreed to make a loan to Lessor, secured by a Mortgage, Deed  
of Trust or other Security Agreement on the Real Property ("Mortgage"); and

WHEREAS, the parties hereto desire to enter into this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, and for  
other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby  
acknowledged by the parties hereto, Lender, Lessor and Landmark hereby agree as follows:

1. Non-Disturbance. So long as the Assigned Lease(s) are not terminated, the use,  
possession or enjoyment of Leased Premises by Landmark or its tenants, successors, assigns, mortgagees  
and secured creditors, including the collection of rents by Landmark, pursuant to the Assigned Lease(s)

13860986, 13860989, 13860990, 13860994, 13860995, 13860996

shall not be interfered with nor shall Easement be affected in any other manner, in any exercise of any power of sale in the Mortgage, , or by foreclosure or any action or proceeding instituted under or in connection with the Mortgage or other remedial proceeding (including any proceedings under the Bankruptcy Code, 11. U.S.C. §101 et seq.), except that the person or entity acquiring the interest of the Lessor under the Easement as a result of any such action or proceeding, and the successors and assigns thereof (hereinafter referred to as the "Purchaser") shall not be (a) liable for any act or omission of any prior site owner; or (b) subject to any offsets of defenses which Landmark under the Purchase Agreement might have against the prior site owner. **Lender and Lessor specifically acknowledge that Landmark shall have the exclusive right to collect any and all rents due by tenant(s) under the Assigned Lease(s), said Assigned Lease(s) being more fully described on Exhibit "B" hereof and, by execution of this instrument, any Assigned Leases are specifically released from (i) that certain Deed of Trust, Assignment of Leases and Rents and Fixture Filing by Lessor to and for the benefit of Lender dated as of November 29, 2011 and recorded November 30, 2011 in Book 525, Page 388, Document No. 218981, together with that certain UCC Financing Statement recorded November 30, 2011, in Book 525, Page 429, Document No. 218982, and (ii) and any and all other security interests executed in connection with the aforesaid or otherwise securing the loan.**

2. Landmark Not To Be Joined In Foreclosure. So long as the Assigned Lease(s) are not terminated, Lender will not join Landmark as a party defendant in any action or proceeding foreclosing the Mortgage unless such joinder is necessary to foreclose the Mortgage and then only for such purpose and not for the purpose of terminating the Assigned Lease(s).

3. Attornment. In the event the exercise of the power of sale in the Mortgage, or in the event of foreclosure of the Mortgage, or in event of a conveyance of the Lessor's Real Property in lieu of foreclosure, Landmark agrees to attorn to and accept the purchaser at the foreclosure sale or the Lender under the conveyance in lieu of foreclosure as the site owner for the balance then remaining of the term of the assignment subject to all terms and conditions of the Purchase Agreement and the terms of this Agreement. Said attornment shall be effective and self-operative without the execution of any further instruments upon the succession by Purchaser to the interest of Lessor. The rights and obligations of Landmark upon such attornment, shall be and are the same as now set forth in the Purchase Agreement.

4. Successors and Assigns. This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon the parties hereto and their respective heirs, administrators, representatives, successors and assigns, or any other person having an interest therein and any purchaser of the Site Owner's Property, including without limitation at or after a foreclosure sale or conveyance in lieu of foreclosure.

5. Provisions Binding: Authority. The terms and provisions hereof shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and permitted assigns, respectively, of Lender, Lessor and Landmark. The respective signatories for the parties to this Agreement represent and warrant to their respective counterparties that each is duly authorized to execute this Agreement on behalf of the party each signatory represents, and that said party is duly authorized to execute and deliver this Agreement.

6. Governing Law. This Agreement shall be interpreted and governed by the laws of the State in which the Lessor's Real Property is located.

7. Counterparts. This Agreement may be signed in multiple counterparts, each of which is an original, but all of which comprise one Agreement.

(SIGNATURE PAGES FOLLOW)



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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

"LENDER":  
SOUTHERN AGCREDIT, FLCA

By: Ted R. Markerson  
Printed Name: Ted R. Markerson  
Title: Chief Credit Officer

STATE OF Mississippi )  
COUNTY OF Madison ) ss.

On March 16, 2012, before me, Kathryn Leigh Tillman, a Notary Public in and for said County and State, personally appeared Ted R. Markerson, 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 Mississippi that the foregoing paragraph is true and correct.

WITNESS my hand and official Seal.

Kathryn Leigh Tillman  
Notary Public  
My Commission Expires: March 11, 2016



[SEAL]



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

"LESSOR":  
NEW NEVADA LANDS, LLC, a Mississippi limited liability company

By: Maria C. Davis  
Print Name: MARIA C. DAVIS  
Title: Manager

STATE OF Mississippi )  
COUNTY OF Madison ) ss.

On March 16, 2012, before me, Kathryn Leigh Tillman, a Notary Public in and for said County and State, personally appeared Maria C. Davis, 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 Mississippi that the foregoing paragraph is true and correct.

WITNESS my hand and official Seal.

Kathryn Leigh Tillman  
Notary Public  
My Commission Expires: March 11, 2016



[SEAL]



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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

"LANDMARK":

LD HOLDINGS LLC, a Delaware limited liability company

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

By: [Signature]  
Name: Daniel E. Rebecor  
Its: Authorized Signatory

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF LOS ANGELES )

On 3/20/2012 before me, ROCIO VELINOV, Notary Public, personally appeared Daniel E. Rebecor, 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.

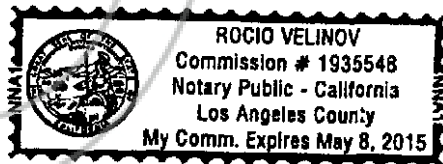
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official Seal.

[Signature]  
Notary Public

My Commission Expires: 5/8/2015

[SEAL]



**EXHIBIT "A"**

**Real Property Legal Description**

The land referred to herein is situated in the State of Nevada, County of Eureka, described as follows:

**Communications Lease #182126**

**Township 33 North, Range 51 East, M.D.M.**

Section 29 Tower on 100' X 100' parcel within NW4

.23 acres more or less

**Communications Lease #182129**

**Township 32 North, Range 51 East, M.D.M.**

Section 05 Access easement over SE4

**Township 33 North, Range 51 East, M.D.M.**

Section 29 Tower on 100' X 100' parcel in SE4 NW4; Access easement along existing roadway over SE4 NW4, E2 SW4

.23 acres more or less

Section 33 Access easement along existing roadway over SW4

**Communications Lease #184756**

**Township 33 North, Range 51 East, M.D.M.**

Section 29 Tower on 60' X 60' parcel within S2 NW4

.08 acres more or less

**Communications Lease #189031**

**Township 32 North, Range 51 East, M.D.M.**

Section 17 Tower on 100' X 100' parcel within Lot 3

.23 acres more or less

**Communications Lease #189084**

**Township 33 North, Range 51 East, M.D.M.**

Section 29 Tower on parcel within SE4 NW4

.06 acres more or less

**Communications Lease #189127**

**Township 33 North, Range 51 East, M.D.M.**

Section 29 All

.23 acres more or less



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## EXHIBIT "B"

### Description of Assigned Lease(s)

1. That certain Communications Lease Agreement #189084, by and between New Nevada Lands, LLC, a Mississippi limited liability company, successor-in-interest to Nevada Land and Resource Company, LLC, a Delaware limited liability company, as Lessor, and Sierra Electronics, a Nevada corporation, dated as of September 15, 2000, together with all amendments, modifications and memoranda related thereto, and of which a Memorandum of Lease is duly recorded on March 13, 2006, in Book 433, Page 58, Document No. 203895 of the Official Records of Eureka County, Nevada (LD Reference TC120678).
2. That certain License For Cellular Communications Site (#184756) by and between New Nevada Lands, LLC, a Mississippi limited liability company, successor-in-interest to Nevada Land and Resource Company, LLC, a Delaware limited liability company, successor in interest to The Atchison, Topeka and Santa Fe Railway Company, as Licensor, and Peach Acquisitions LLC, a Delaware limited liability company, successor-in-interest to GCC License Corporation, successor-in-interest to Nevada Two Cellular Corporation, as Licensee, dated as of August 31, 1992, together with all modifications and memoranda related thereto, and of which a Memorandum of Communications License is duly recorded on August 18, 2000, in Book 336, Page 280, Document No. 175054 of the Official Records of Eureka County, Nevada (LD Reference TC120682).
3. That certain Communications Lease Agreement (#189127) by and between New Nevada Lands, LLC, a Mississippi limited liability company, successor-in-interest to Nevada Land and Resource Company, LLC, a Delaware limited liability company, as Lessor, and Omnipoint Communications, Inc., a Delaware corporation, dba T-Mobile USA, as Lessee, dated as of November 12, 2008, together with all modifications and memoranda related thereto, and of which a Memorandum of Communications License is duly recorded on December 16, 2008, in Book 484, Page 78, Document No. 212952 of the Official Records of Eureka County, Nevada (LD Reference TC120687).
4. That certain Communication License (#189031) by and between New Nevada Lands, LLC, a Mississippi limited liability company, successor-in-interest to Nevada Land and Resource Company, LLC, a Delaware limited liability company, as Licensor, and Southern Pacific Transportation Company, a Delaware corporation, as Licensee, dated as of July 1, 1997, together with all modifications and memoranda related thereto, and of which a Memorandum of Communications License is duly recorded on August 18, 2000, in Book 336, Page 279, Document No. 175053 of the Official Records of Eureka County, Nevada (LD Reference TC120689).
5. That certain Communication License No. SPL-6804 (#182126) by and between New Nevada Lands, LLC, a Mississippi limited liability company, successor-in-interest to Nevada Land and Resource Company, LLC, a Delaware limited liability company, successor-in-interest to Southern Pacific Land Company, as Licensor, and Wells Rural Electric Company, as Licensee, dated as of September 7, 1988, together with all modifications and memoranda related thereto, and of which a Memorandum of Communications License is duly recorded on August 18, 2000, in Book 336, Page 282, Document No. 175056 of the Official Records of Eureka County, Nevada (LD Reference TC120691).
6. That certain Communication License No. SPL-446 (#182129) by and between New Nevada Lands, LLC, a Mississippi limited liability company, successor-in-interest to Nevada Land and Resource Company, LLC, a Delaware limited liability company, successor-in-interest to Southern Pacific Land Company, as Licensor, and State of Nevada, State Communication Board, as Licensee, dated as of December 1, 1975, together with all modifications and memoranda related thereto, and of which a Memorandum of Communications License is duly recorded on August 18, 2000, in Book 336, Page 281, Document No. 175055 of the Official Records of Eureka County, Nevada (LD Reference TC120694).



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