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LISA HOEHNE, RECORDER

EASEMENT AND ASSIGNMENT OF LEASE AGREEMENT

PIN(S): 004-360-12
004-360-12
021-392-07
05-0341-06,11,29,31,36

STATE OF: NEVADA
COUNTY OF: EUREKA

Document Date: October 31, 2017

GRANTOR:

Address:

NEW NEVADA LANDS, LLC, a Delaware limited liability company
PO Box 850
4405 Commons Drive East, Suite 301
Destin, FL 32541

GRANTEE:

Address:

LANDMARK INFRASTRUCTURE HOLDING COMPANY LLC
P.O. Box 3429
2141 Rosecrans Ave., Suite 2100
El Segundo, CA 90245

Legal Description:

Attached as Exhibit A.

Prepared by and please return to:

Landmark Dividend, LLC
PO Box 2429
El Segundo, CA 90245
PO175830

EASEMENT AND ASSIGNMENT OF LEASE AGREEMENT

This Easement and Assignment of Lease Agreement (this "**Agreement**") dated October 31, 2017 (the "**Effective Date**") is by and between NEW NEVADA LANDS LLC, A DELAWARE LIMITED LIABILITY COMPANY ("**Grantor**"), and LANDMARK INFRASTRUCTURE HOLDING COMPANY LLC, a Delaware limited liability company ("**Grantee**"); and

WHEREAS Grantor owns certain real property located at: I-80 and Frenchie Road, Carlin, NV 89882 ("**Property**"); and more particularly described in Exhibit A attached hereto; and

WHEREAS Grantor intends to grant to Grantee an exclusive easement (the "**Fiber Facilities Easement**") in, to, under and over a certain portion of the Property described in Exhibit B attached hereto (the "**Fiber Facilities Easement Area**") for telecommunications purposes, and a non-exclusive easement (the "**Access Easement**") in, to, under and over certain portions of the Property described in Exhibit C attached hereto (the "**Access Easement Area**") for ingress, egress, maintenance and utility service for and to the Fiber Facilities Easement (the Fiber Facilities Easement and the Access Easement may be collectively referred to herein as the "**Easement**"); and

WHEREAS Grantor intends to sell, assign, set over, convey and transfer the existing fiber optic lease(s) or license(s) ("**Lease(s)**") more particularly described in Exhibit D 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 and telecommunications related business.

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 Fiber Facilities 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 October 31, 2017 (the "**Commencement Date**"), the Term of this Agreement shall be 50 years.

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 described in Exhibit D. 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. **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 adequate to allow ingress and egress, operation, maintenance of and utility service to the Fiber Facilities Easement Area.

6. **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

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(s), or any portion of the Property the Easement occupies, except as expressly disclosed to Grantee in writing. Except for the Lease(s), 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(s).

f. Grantor shall not allow or permit a breach or default to occur under the Leases and 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.

h. 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 Lease(s), 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.

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 Fiber Facilities Easement Area and/or the Access Easement Area without notice to or consent of Grantor.

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. 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 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: c/o New Nevada Lands, LLC
PO Box 850
4405 Commons Drive East, Suite 301
Destin, FL 32541

As to Grantee: c/o Landmark Dividend LLC
P.O. Box 3429
2141 Rosecrans Ave., Suite 2100
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. **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.

12. **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.

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:

NEW NEVADA LANDS LLC, a Mississippi limited liability company

By:

Name: Heath Rushing

Its: Manager

Date:

10/20/17

STATE OF

LA

COUNTY OF

ST. TAMMANY ss.

On Oct. 20, 2017, before me, Tracy A. Salvaggio, a Notary Public in and for said County and State, personally appeared Heath Rushing, 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.

WITNESS my hand and official Seal.

[Signature]
Notary Public

My Commission Expires: _____

[SEAL]

GRANTEE:

LANDMARK INFRASTRUCTURE
HOLDING COMPANY LLC, a Delaware
limited liability company

By: 

Name: Daniel R. Parsons

Title: Authorized Signatory

Date: 10-30-17

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.

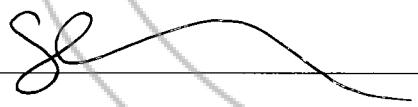
State of California

County of Los Angeles

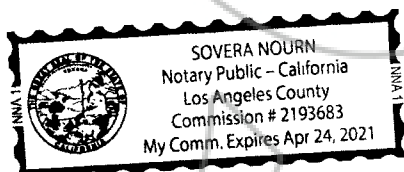
On October 30, 2017 before me, Sovera Nourn, Notary Public, personally appeared Daniel R. Parsons, who proved to me on the basis of satisfactory evidence to be the person(s) whose name (s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their 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)



F0175830

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

TOWNSHIP 32 NORTH, RANGE 51 EAST, M.D.B.&M. :

SECTION 17: ALL;

EXCEPTING FROM SECTION 17 ALL THAT PORTION OF SAID LAND AS CONVEYED TO AMERICAN TELEPHONE AND TELEGRAPH COMPANY IN DEED RECORDED NOVEMBER 22, 1950, IN BOOK 24, PAGE 105, DEED RECORDS OF EUREKA COUNTY, NEVADA FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHWEST QUARTER NW1/4 OF SECTION SEVENTEEN (17), TOWNSHIP THIRTY-TWO (32) NORTH, RANGE FIFTY-ONE (51) EAST, MOUNT DIABLO BASE AND MERIDIAN FROM WHICH POINT THE NORTHWEST CORNER OF SAID SECTION SEVENTEEN (17) BEARS NORTH TEN DEGREES, ONE MINUTE, EIGHT SECONDS WEST (N. 10°01'08" W.), A DISTANCE OF ONE THOUSAND FIVE HUNDRED ELEVEN AND 08/100 (1511.08) FEET;

AND RUNNING THENCE FROM SAID POINT OF BEGINNING SOUTH EIGHTY-EIGHT DEGREES, FIFTY-SEVEN MINUTES, FIFTEEN SECONDS EAST (S. 88°57'15" E.), A DISTANCE OF THREE HUNDRED AND 00/100 (300.00) FEET;

THENCE SOUTH ONE DEGREE, TWO MINUTES, FORTY-FIVE SECONDS WEST (S. 1°02'45" W.), A DISTANCE OF THREE HUNDRED AND 00/100 (300.00) FEET;

THENCE NORTH EIGHTY-EIGHT DEGREES, FIFTY-SEVEN MINUTES, FIFTEEN SECONDS WEST (N. 88°57'15" W.), A DISTANCE OF THREE HUNDRED AND 00/100 FEET;

THENCE NORTH ONE DEGREE, TWO MINUTES, FORTY-FIVE SECONDS EAST (N. 1°02'45" E.), A DISTANCE OF THREE HUNDRED AND 00/100 (300.00) FEET TO THE SAID POINT OF BEGINNING.

FURTHER EXCEPTING FROM SECTION 17 ALL THAT PORTION OF SAID LAND AS CONVEYED TO THE UNITED STATES OF AMERICA, DEPARTMENT OF TRANSPORTATION, IN DEED RECORDED DECEMBER 24, 1997, IN BOOK 316, PAGE 313, OFFICIAL RECORDS OF EUREKA COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND 100 FEET X 100 FEET (APPROXIMATELY), BEGINNING AT THE SOUTHWEST CORNER OF SECTION 17, TOWNSHIP 32 NORTH, RANGE 51 EAST, MOUNT DIABLO BASE AND MERIDIAN, COUNTY OF EUREKA, STATE OF NEVADA;

THENCE NORTH 11°42'02" EAST, 2146.64 FEET TO A ¾" IRON PIPE, BEING THE SOUTHWEST CORNER OF A FAA RCLR FACILITY AND THE TRUE POINT OF BEGINNING; THENCE NORTH 69°24'23" EAST, 100.03 FEET TO A ¾" IRON PIPE;

THENCE NORTH 20°43'27" WEST 90.84 FEET TO A POINT IN THE I-80 SOUTH RIGHT-OF-WAY LINE (STATION "OE" 987+37 OFFSET 200 FEET RIGHT), FROM WHICH A ¾" PIPE BEARS NORTH 20°43'27" WEST, 9.22 FEET DISTANT;

THENCE ALONG SAID RIGHT-OF-WAY LINE SOUTH 71°07'39" WEST, 100.02 FEET TO A POINT, FROM WHICH A ¾" IRON PIPE BEARS NORTH 20°40'00" WEST, 6.12 FEET DISTANT;

THENCE LEAVING SAID RIGHT-OF-WAY LINE SOUTH 20°40'00" EAST, 93.87 FEET TO THE TRUE POINT OF BEGINNING.

NOTE: THE ABOVE METES AND BOUNDS DESCRIPTION APPEARED PREVIOUSLY IN A CERTAIN DOCUMENT RECORDED NOVEMBER 30, 2011, BOOK 525, PAGE 373, INSTRUMENT NO. 218979, OFFICIAL RECORDS, EUREKA

Assessor's Parcel Number(s):

004-360-12

004-360-12

021-392-07

05-0341-06,11,29,31,36

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EXHIBIT B

FIBER FACILITIES EASEMENT AREA DESCRIPTION

Being an easement 10 feet in width through a Section 17, T.32N., R.51E, M.D.M., County of Eureka State of Nevada, 5 feet each side of the centerline of said easement described as follows:

From a point on the existing Nevada Bell easement in the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 17, T.32N., R.51E., from which the Northwest corner of said Section 17, bears N62°40'47"W, 2784.34 feet; thence S16°55'19"E, 1170.99 feet; thence S66°33'14"E, 50.86 feet; thence S51°47'46" E, 777.64 feet; thence S33°04'19"E, 683.74 feet; thence S89°52'36"E, 114.76 feet; thence S88°55'05"E, 94.48 feet; thence S77°31'48"E, 69.53 feet; thence S65°07'07"E, 49.12 feet; thence S82°14'42"E, 34.76 feet; thence N85°18'47"E, 39.14 feet; thence S70°09'45"E, 62.81 feet; thence S49°34'43"E, 48.20 feet; thence N89°48'44"E, 254.83 feet; thence S71°45'25"E, 171.25 feet to a point on the East line of Section 17 from which the Southeast corner of Section 17 bears S00°21'46"W, 1494.03 feet.

Excepting

That portion of the first above described course and distance which falls within the Interstate 80 Right of Way being 948.81 feet in length.

Said easement containing 0.61 acres more or less

Also

Being an easement for the purpose of erecting above and below ground facilities within the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 17, T.32N., R.51E., M.D.M. County of Eureka State of Nevada described as follows:

From a point on the southerly right of way line of Interstate 80 from which the Northwest corner of said Section 17 bears N49°15'44"W, 3635.40 feet; thence along the southerly right of way of Interstate 80 N71°10'30" E, 100.00 feet; thence S18°49'30"E, 100.00 feet; thence S71°10'30"W, 100.00 feet; thence N 18°49'30" W, 100.00 feet to the point of beginning.

Said easement containing 0.23 acres more or less

See attached plat Exhibit "A"

Grantor acknowledges and agrees that Grantee may survey the Fiber Facilities 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 Fiber Facilities Easement Area in Exhibit B.

DRAFT

EXHIBIT C

ACCESS EASEMENT AREA DESCRIPTION

In connection herewith, Grantor hereby permits Grantee to cross over any other Grantor-owned property which may be reasonably needed for purposes of ingress and egress to the Premises and for no other purpose, provided such ingress and egress does not unreasonably interfere with, impair or disrupt the existing or future use, occupancy and/or operation of such property, or any portion thereof, by Grantor or its lessees, licensees, or any other person or entity using, occupying or operating such property or any portion thereof. Additionally, Grantee's use for ingress and egress shall be in full compliance with all applicable laws and regulations.

Grantor acknowledges and agrees that Grantee may survey the Access 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 C to include the approved survey of the Access Easement Area in Exhibit C.

DRAFT

EXHIBIT D

LEASE DESCRIPTION

That certain License for Fiber Optic Telecommunications Facility dated as of June 1, 1994 by and between New Nevada Lands, LLC, a Delaware limited liability company, successor in interest to The Atchison, Topeka and Santa Fe Railway Company, a Delaware corporation ("Licensor") and NEVADA BELL, a Nevada corporation ("Licensee"), together with any amendments, addenda, modifications and/or assignments thereto, for which a Memorandum of License is duly recorded on September 29, 2000, as Document No. 175155, Book 337, Page 015 of the Eureka County, Nevada Registry.