

**2012-012475**

**Klamath County, Oregon**

**11/09/2012 09:07:56 AM**

**Fee: \$82.00**

**EASEMENT AND ASSIGNMENT OF LEASE AGREEMENT**

STATE OF: OREGON  
COUNTY OF: KLAMATH

PIN:

Document Date: 10/12/2012

**GRANTOR:**

Address:

RLF KLAMATH PROPERTIES, LLC

619 N Cascade Ave

Colorado Springs, CO 80903-3231

**GRANTEE:**

Address:

LD HOLDINGS LLC

1700 E. Walnut Ave., Suite 400

El Segundo, CA 90245

Legal Description:

Attached as Exhibit A.

**Prepared by:**

LANDMARK DIVIDEND LLC

1700 E Walnut Ave, Suite 400

El Segundo, CA 90245

**Return after recording to:**

Fidelity National Title Group

ATTN: Melissa Cater

7130 Glen Forest Drive #300

Richmond, VA 23226

15171711

RECEIVED OCT 11 2012

#### EASEMENT AND ASSIGNMENT OF LEASE AGREEMENT

This Easement and Assignment of Lease Agreement dated Oct. 12, 2012 (this "**Agreement**") is by and between RLF Klamath Properties, LLC, a Colorado limited liability company ("**Grantor**"), with principal offices at 619 N Cascade Ave, Suite 200, Colorado Springs, CO, 80903-3231 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: Porter Butte, Klamath Falls OR 97601 ("**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 the date hereof, 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 described in Exhibit C. Grantor shall not interfere with such Lease(s), and shall continue to allow access to the lessee, consistent with the terms of this Easement Agreement.

**5. 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, as identified in Exhibit "B".

**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 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 similar telecommunications operations by 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.

**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 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.

**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 (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.

**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:  
619 N. Cascade Ave., Suite 200

Colorado Springs, CO 80903 -3231

As to Grantee:  
c/o Landmark Dividend LLC  
1700 E. Walnut Ave., Suite 400  
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. 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. 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.

(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 KLAMATH COUNTY AND THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF OREGON, 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.

GRANTEE:

WITNESSES:

**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. Rebeor**  
Title: Authorized Signatory **SVP of Operations**  
Date: October 10, 2012

[Signature]  
Name: **Christoph Fringian**  
[Signature]  
Name: **Jaym M. Phillebaum**

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss.

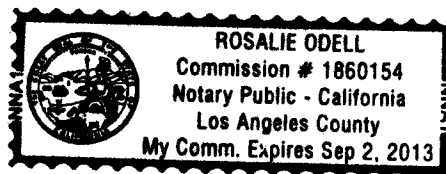
On OCTOBER 10, 2012, before me, ROSALIE ODELL, a Notary Public in and for said  
County and State, personally appeared DANIEL E. REBEOR, who proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that  
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.

Rosalie Odell  
Notary Public  
My Commission Expires: September 2, 2013

[SEAL]



**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:

WITNESSES:

RLF KLAMATH PROPERTIES, LLC,  
a Colorado limited liability Company

By: Resource Land Fund IV, LLC, a Colorado limited  
liability company  
its Manager

By: [Signature]  
Name: B. Joseph Leininger  
Title: Authorized Signatory  
Date: 10/10/12

[Signature]  
Name: Justin Eirsch  
[Signature]  
Name: Fernando Rocha

STATE OF Colorado )  
COUNTY OF El Paso ) ss.

On October 10, 2012, before me, Michael Mueller, a Notary Public in and for said County and State, personally appeared B Joseph Leininger, 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 Colorado that the foregoing paragraph is true and correct.

WITNESS my hand and official Seal.

[Signature]  
Notary Public  
My Commission Expires: Jan 11, 2015

[SEAL]

**MICHAEL MUELLER**  
NOTARY PUBLIC, STATE OF COLORADO  
My Comm. Expires January 11, 2015

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

SI/2 SE1/4 Section 12; NI/2 NE1/4 Section 13, Township 38 South, Range 7 East, Willamette Meridian, Klamath County, Oregon.

Tax Parcel Nos. 3807-00000-01200-000, 3807-00000-01300-000

**EXHIBIT B**

**EASEMENT AREA DESCRIPTION**

**LEASED PREMISES:**

Commencing at the monumented northwest corner of Section 13, Township 38 South, Range 7 East of the Willamette Meridian, in Klamath County, Oregon; thence South 81°15'31" East, 4351.0 feet, to an 18" cedar, for the true point of beginning;

Thence South 44°00'00" East 100.00 feet;

Thence South 46°00'00" West 100.00 feet;

Thence North 44°00'00" West 100.00 feet;

Thence North 46°00'00" East 100.00 feet to the true point of beginning.

Containing 10,000 square feet of land, more or less.



EXHIBIT C

LEASE DESCRIPTION

That certain Land Lease Agreement dated May 31, 2007, by and between RLF Klamath Properties, LLC, a Colorado limited liability company ("Lessor"), whose address is 619 N. Cascade Ave., Suite 200, Colorado Springs, CO 80903-3231, as successor in interest to Jeld-Wen Timber & Ranches, and United States Cellular Operating Company of Medford, an Oregon corporation ("Lessee"), whose address is Attn: Real Estate, 8410 W Bryn Mawr Ave Ste 700, Chicago, IL 60631-3463, for the property located at Porter Butte, Klamath Falls OR 97601, for which a Memorandum of Land Lease Agreement was duly recorded on November 6, 2007, as Instrument No. 2007-019001, of the Klamath County Registry, State of Oregon.