

2020-013564

Klamath County, Oregon

10/21/2020 08:14:01 AM

Fee: \$107.00

Record and Return to:

Luke Giordano
TitleVest Agency, LLC
110 East 42nd Street, 10th Floor
New York, NY 10017

Prepared by:

Jon L. Lober
TPA IV, LLC
1170 Peachtree Street, Suite 1650
Atlanta, GA 30309

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

SITE MANAGEMENT AGREEMENT

This SITE MANAGEMENT AGREEMENT ("SMA") is made and shall be effective on the 17 day of September, 2020 ("Effective Date"), by and between CLV PROPERTIES, LLC ("Owner") and TPA IV, LLC, a Delaware limited liability company, its successors and assigns ("Owner Advocate").

RECITALS:

- A. Owner has granted an easement interest in Owner's property located at 5500 Running Y Road, Klamath Falls, Oregon 97601 (the "Property" as further described in Exhibit A) to TPA IV, LLC, a Delaware limited liability company ("Buyer"), including the assignment of one or more telecommunication leases, pursuant to that certain Easement Agreement ("Easement") dated September 17, 2020, to be recorded contemporaneously with this SMA.
- B. Owner desires Owner Advocate perform the Scope of Services (hereinafter defined) to manage Owner's telecommunication interests in the Property.

NOW, THEREFORE, for the sum of TEN AND NO/100 DOLLARS and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge as paid on or about the Effective Date, Owner and Owner Advocate agree as follows:

1. **Appointment of Owner Advocate.** Owner hereby appoints Owner Advocate as Owner's representative and authorized agent for all telecommunication matters on the Property that have not otherwise been reserved to Buyer pursuant to the Easement. Owner Advocate hereby accepts such appointment. Owner Advocate shall be appointed for an initial term of five (5) years commencing on the Effective Date hereof. The appointment shall automatically extend for additional terms of one (1) year each unless one party gives the other party written notice of their intention not to renew the appointment at least thirty (30) days prior to the expiration of the then-current term. In exchange for Owner Advocate's continuing service to Owner, Owner Advocate shall retain forty percent (40%) of the rent due to Owner from any lease or similar conveyance for telecommunications purposes on the Property outside the easement area conveyed in the Easement from which Owner is due any rent or other payments ("Owner's Lease"). All communications regarding the Owner's Lease shall be delivered by each tenant under each Owner's Lease ("Tenant") to Owner Advocate at Owner Advocate's notice address herein. All rent payments due Owner related to any Owner's Lease shall be delivered by each Tenant to Owner Advocates lock box at the following address:

TPA IV, LLC
P.O. Box 31250
Tampa, FL 33631-3250

2. **Scope of Services.** For so long as this SMA remains in effect, Owner Advocate agrees to exercise commercially reasonable efforts and resources to perform the "Scope of Services" listed below:
 - a. **New and Existing Telecommunication Tenants.** Owner Advocate shall review new telecommunication tenant leases as well as upgrade proposals, amendments, proposed modifications of utility and access easements, and construction plans on behalf of Owner.
 - b. **Collocation, Lease and Revenue Share Rent Servicing and Audits.** For any revenue stream related to each Tenant lease under which Owner is due any rent, Owner Advocate shall collect such rent and analyze rent rolls and leasing cash flows to confirm proper payment when an underpayment is suspected and periodically as part of a general revenue review.
 - c. **Record Keeping.** Owner Advocate shall retain and shall make available to Owner copies of telecommunication leases, amendments and other telecommunication tenant documents related to the Property that Owner and third parties (such as wireless carriers) have provided to Owner Advocate.
 - d. **Decommissioning, Rent Reduction and Lease Extension Consultation.** Owner Advocate shall assist Owner in reviewing decommissioning letters and proposing best practices for developing and/or assessing a decommissioning strategy. Owner Advocate shall also assist Owner in reviewing rent reduction and lease extension proposals.

In furtherance of the foregoing Scope of Services, Owner hereby authorizes and directs each Tenant on the Property to pay to Owner Advocate all rents due under Owner's Lease. Owner agrees to provide and hereby authorizes and directs each Tenant on the Property to provide Owner Advocate with copies of all leases, amendments, proposals for modifications, rent reductions and all other communications regarding the Scope of Services. Owner agrees that Owner Advocate may charge third parties fees for document review and other services performed pursuant to this SMA. Owner agrees these fees are to defray Owner Advocates operational expenses and shall not be offset or deducted from any rent payments.

3. **Right of First Refusal.** Owner grants to Owner Advocate the right to acquire through assignment, purchase, or other means any lease or similar conveyance for telecommunications purposes in which Owner retains an interest outside the easement area conveyed in the Easement. Owner shall deliver to Owner Advocate, a written copy of any offer to purchase Owner's Lease. Owner Advocate shall have fifteen (15) business days to match the terms of any offer by delivering written notice of Owner Advocate's intent to match the offer.

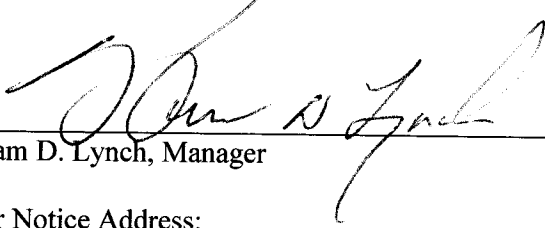
4. **Miscellaneous.**

- a. **Non-Interference.** Owner and Owner Advocate agree that the exercise of the obligations contained herein shall not interfere with Buyer's then-existing operations on Owner's Property.
- b. **Owner acknowledges and understands that Owner Advocate, its subsidiaries and/or its affiliates are in the business of owning, operating and leasing wireless telecommunications facilities. OWNER HEREBY WAIVES ANY CONFLICT OF INTEREST THAT MAY ARISE UNDER THIS SMA AND HEREBY RELEASES AND HOLDS HARMLESS OWNER ADVOCATE FROM ANY AND ALL CLAIMS, INJURIES, DAMAGES OR LOSSES SUSTAINED BY OWNER ARISING HEREUNDER, EXCEPT FOR THE GROSS NEGLIGENCE OR WILFULL MISCONDUCT OF OWNER ADVOCATE. This obligation shall survive the expiration or earlier termination of this SMA.**
- c. **Counterparts.** This SMA may be executed in separate counterparts with each counterpart deemed an original and all of which together shall constitute a single agreement.
- d. **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 SMA. It is the intention of the parties hereto that this SMA shall run with the Property, be freely assignable and binding upon all future owners and lessees of the Property and all persons claiming under them for the Term of this SMA. Upon the absolute assumption of all of the obligations under this SMA, the assignor will be relieved of all obligations and liabilities hereunder.
- e. **Severability.** If any provision contained in this SMA (or any portion of such provision) shall be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision of this SMA (or any portion of any such provision.)
- f. **Entire Agreement.** This SMA and any documents, certificates, instruments and agreements referred to herein constitute the entire agreement between Owner and Owner Advocate. Without limiting the generality of the foregoing, Owner acknowledges that it has not received or relied upon any advice of Owner Advocate or its representatives regarding the merits or tax consequences of this SMA.

[Signature pages and exhibits follow]

IN WITNESS WHEREOF the parties hereto have executed this Site Management Agreement as of the date on page one above.

OWNER: CLV PROPERTIES, LLC



William D. Lynch, Manager

Owner Notice Address:
CLV Properties, LLC
P. O. Box 2207
Rancho Santa Fe, California 92067

ACKNOWLEDGMENT

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 San Diego)

On September 16, 2020 before me, Samantha Johansen, Notary Public
(insert name and title of the officer)

personally appeared William D. Lynch
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)



IN WITNESS WHEREOF the parties hereto have executed this Site Management Agreement as of the date on page one above.

OWNER ADVOCATE: TPA IV, LLC



Jesse M. Wellner, Chief Executive Officer

Owner Advocate Notice Address:
TPA IV, LLC
1170 Peachtree Street, Suite 1650
Atlanta, GA 30309
Attn: TowerPoint Sites

Sites@TowerPoint.com
Toll Free: 866-574-2355

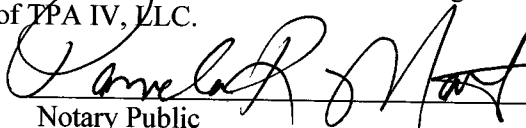
STATE OF GEORGIA

COUNTY OF FULTON

} ss.

On this 14th day of September, 2020, before me, the undersigned notary public, personally appeared ~~Jesse M. Wellner~~, and proved to me through satisfactory evidence of identification, which was personal knowledge/driver's license/passport/ _____ (circle one), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as Chief Executive Officer of TPA IV, LLC.

{affix notary seal or stamp}



Notary Public
My Commission Expires: 10-19-2022

Pamela R Martin
NOTARY PUBLIC
Cherokee County, GEORGIA
My Commission Expires 10/19/2022

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Parcel 1 Land Partition No. 33-07, a replat of Parcel 1 of Land Partition 53-06, located in the South 1/2 of Section 9, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon.