CITY OF TONKA BAY
ITEM NO. 9F

Memo

To: Honorable Mayor and City Council

From: Joe Kohlmann, City Administrator

Date: December 11, 2012

Re: Antenna Leases – Staff Review

Staff has received the *attached* Antenna lease proposal from Landmark Dividend. They are offering to purchase the City's Antenna Leases. Highlights of the proposal include:

1) $491,141 lump sum payment for perpetual rights to our leases
2) Share any future revenues from new carriers 60/40
3) Share any increase in future lease renewal 60/40
4) Eliminates risk of cell site may not go to the full term of lease
5) Clear and concise one page closing agreement

Our current leases are scheduled to expire (5 year renewal terms inserted):

Cell Net : 2/13
Sprint : 2021
Nextel : 2026

Staff is looking for Council to determine if there should be formal Staff review of the proposal from Landmark Dividend.

Attached a letter outlining the proposal
Attached is an overview of Landmark's proposal
Attached is an option agreement
Attached is a sample Purchase and Sale of Telecom Easement and Assignment

Council Action to be considered:
Motion to approve Staff review of the proposal from Landmark Dividend.

LANDMARK
DIVIDEND

November 28, 2012

Joe Kohlman
City Of Tonka Bay
4901 Manitou Rd
Excelsior, MN 55331-9561

Dear Joe,

It would be a pleasure to work with Tonka Bay and as you review our option agreement it is important to understand that Landmark Dividend does two things:

- We secure the existing lease assets by investing into the site and assuming any and all future terminations.
- We provide an opportunity in some cases for additional lease income by marketing the location as part of our growing portfolio.

Landmark Dividend is looking to make you an offer based on 3 components:

1. $491,141.54 total lump sum in exchange for your rental payments plus a $4,500 signing bonus if Option is signed by December 31st, 2012. **Total offer is $495,641.54**
2. Landmark agrees to share any future revenues from new carriers 60/40 who were brought to the tower by Landmark, and require space outside of leased premises.
3. If current lease is renewed by Landmark Dividend at expiration, Landmark will split 60/40 any increase in monthly scheduled revenue from a successor lease.

To most site owners there are basically four reasons why they do business with Landmark Dividend:

1. We can eliminate the risk that the cell site may not go to the full term of the lease. E.g. Merging carriers, network consolidation, and new technology.
2. We offer a lump sum that can be used possibly to satisfy another need. We create an alternative to the monthly checks that you now receive that may or may not continue for the next 1, 5, or 10 years.
3. Clear and concise one page closing agreement.
4. We are able to bring more exposure to a site with the potential of adding new tenants.

As far as marketing your site, Landmark Dividend has created a turn key program for wireless companies to add new locations in selected areas. We understand the marketplace and know where they need coverage and what they are willing to pay. This reduces the time and cost it takes them to improve their coverage area. We will seek out and negotiate these deals for you, allowing the owners to focus on their core business.

At this point, please look over the offer letter and Option Agreement. If you are interested in looking further into the deal, I would need a signature on the Option Agreement and our online application filled out. I have also enclosed a boilerplate version of our Purchase Easement and Assignment agreement which is our main contract for the assignment of the lease and easement to Landmark.

Once signed, our attorneys will then send out contracts for you and your attorneys to look over and come to an agreement so we can close the deal which would be about 2 months out.

Sincerely,

Jonathan C. Bruntjen
Vice President of Acquisitions
Landmark Dividend LLC
952.232.6219 | Direct Phone
612.889.6311 | Mobile Phone
612.677.3030| Direct Fax

LANDMARK
DIVIDEND

EXPLAINING THE BASICS:

- Landmark does not become a party to the Lease;
- Landmark cannot change the terms and conditions of the Lease;
- Landmark does not take a fee interest in the land, fixtures or equipment;
- The Carrier is STILL responsible for all obligations, under the lease (i.e. insurance, maintenance of the leased premises etc.);
- Landmark will not monetize the tax or utility proration's as agreed upon by Carrier (they will continue to come to the Landlord from the carrier – or in certain situations, if there is one check from carrier to Landlord, Landmark will reimburse the Landlord as to the tax or utility perorations);
- Landmark places no liens on the property;

IN A NUTSHELL – AN OVERVIEW:

- Landmark's Purchase and Sale of Lease and Replacement Lease are merely a reiteration of the Landlord's original lease with the carrier. Landmark has reviewed thousands of Leases and as a result, our document is reflective of each of the important points which are crucial to the Landlord during the term of the Lease and to Landmark as Assignee during the term of the Landmark transaction.

WHY THIS IS KEY TO THE LANDLORD:

- The Landlord does not want, nor legally can Landmark, take any more or any less interest than each of the parties have in the original Lease;

THE REPLACEMENT LEASE:

- The Replacement Lease is the Lease that Landmark has the right to enter into in the event that the original carrier lease cancels;
- The Replacement Lease must be in the same terms and conditions of the original carrier lease; Landmark cannot negotiate different terms and conditions without permission of the LL;
- The Replacement Lease cannot be negotiated for even one day beyond the Reversion Date;
- In the event that a carrier would like to negotiate beyond the Reversion Date, Landmark MUST contact the Landlord and negotiate with the Landlord;
- The Replacement Lease is for the exact Leased Premises as defined in the Lease; Landmark can only replace the equipment as defined within the exact Leased Premises, nothing more.

BENEFIT TO LANDLORD:

- Landmark is the Leader in this industry and has several on staff telecom specialists; What this means to the Landlord is that when negotiating the Replacement Lease, Landmark's experts will look at the market in the Landlord's demographic area to determine the most beneficial Lease with market terms, conditions, rents, escalators, co-location etc. As a result of Landmark's limitations under the Replacement Lease paragraph of the documents, (most specifically with regard to entering into a Replacement Lease that is in exact terms and conditions of the original Lease), Landmark would have to go back to the Landlord to seek permission; this is Site Preservation for the Landlord.
- As Landmark is the creator of this asset class and the single largest privately held Landlord in the US, Landmark has relationships with carriers nationwide. This creates a symbiotic relationship with the carriers as when they are building new sites. Our database serves as an ocean of possibilities as our sites are already zoned, constructed and located, which saves the carriers thousands of dollars;
- WHAT THIS MEANS TO THE LANDLORD is that in the event of cancellation, Landmark is in a better position than an individual Landlord to replace the carrier and to perhaps bring other carriers to our client's existing locations (if permitted under the terms of the original Lease).

LANDMARK
DIVIDEND

1700 E Walnut Ave – Suite 400 – El Segundo, CA 90245
(866) 392-4200 - (310) 294-8160

November 28, 2012

Joe Kohlman
City Of Tonka Bay
4901 Manitou Rd
Excelsior, MN 55331-9561
USA

RE: Option Agreement – Lease Easement Purchase

Landmark Dividend LLC ("Landmark") is pleased to offer you the following proposal. Landmark has completed an initial analysis of the lease(s) and associated revenue for 2 lease(s) located on property owned by you (the "Premises") and identified in **Exhibit A** (the "Lease(s)"). Based on this preliminary analysis, Landmark will provide **$491,141.54** in exchange for a perpetual easement to the Premises and assignment of your interest in the Leases and associated rent revenue.

By signing below, you grant Landmark an option to complete the contemplated transaction and purchase from you the landlord interest in the Leases. Landmark may exercise the option granted herein at any time within 90 calendar days of the date of full execution of this letter and receipt of necessary due diligence items.

You acknowledge that a $100 non-refundable cash deposit by Landmark and Landmark's commitment to expend time, effort and expense to evaluate this transaction are good, valuable and sufficient consideration for the option granted herein. You agree to cooperate fully with Landmark in connection with its evaluation of this transaction. You shall not, directly or indirectly, (a) offer the Leases or the Premises for sale or assignment to any other person; (b) negotiate, solicit or entertain any offers to sell or assign any interest in the Leases or Premises to any other person; or (c) modify, amend, supplement, extend, renew, terminate or cancel the Leases.

This letter is intended as and shall be a legally binding commitment. In the event of a breach of this letter agreement, Landmark shall, in addition to its other rights and remedies, be entitled to compensation for its time, effort and expense to evaluate this transaction and, in any action to enforce this letter agreement, to recovery of its reasonable attorneys' fees.

Your signature below will indicate your agreement to the foregoing and will provide authorization for Landmark to proceed with the evaluation of this transaction and completion of its due diligence including but not limited to verification with the tenants of the accuracy of the due diligence items.

We look forward to working with you on this transaction. Should you have any questions, please feel free to contact me at any time.

AGREED TO AND ACCEPTED AS INDICATED BELOW AS OF THE _____ DAY OF _____, _____

LANDMARK DIVIDEND LLC

City Of Tonka Bay

_____

_____
Joe Kohlman

Exhibit A

Tenant/ Carrier	Term Purchased	Current Rent	Rent Frequency	Escalation Rate	Escalation Frequency	Date of Next Escalation
Sprint/Nextel	Perpetual	$1,560.00	Monthly	4.00 %	Annually	January 01, 2014
Sprint/Nextel	Perpetual	$26,040.00	Annually	5.00 %	Annually	January 01, 2014

PURCHASE AND SALE OF TELECOM EASEMENT AND ASSIGNMENT AGREEMENT

THIS PURCH .SE AND SALE OF TELECOM EASEMENT AND ASSIGNMENT AGREEMENT ("**Agreement**") dated _____ 20___ (the "**Effective Date**") is by and between _____, a corporation/individual as Grantor ("**Grantor**") and LD HOLDINGS LLC, a Delaware limited liability company as Grantee ("**Grantee**");

1. PURCHASE AND SALE OF EASEMENT AND ASSIGNMENT OF TELECOM AGREEMENTS. Grantor owns certain real property located at _____ in the County of _____, State of _____ as more fully described in the legal description attached hereto as Exhibit A (the "**Property**"). Grantor hereby grants and conveys to Grantee an exclusive perpetual easement (the "**Telecom Easement**") in, to, under and over portion or portions of the Property as more fully described in Exhibit B attached hereto (the "**Leased Premises**") for the telecommunications-related activities set forth in the Existing Telecom Agreement(s). Grantor hereby sells, transfers and assigns to Grantee all of Grantor's right, title and interest in and to that certain lease(s) or license(s) copies of which are attached hereto as Exhibit C (the "**Existing Telecom Agreement(s)**"); provided however, Grantor shall retain and continue to faithfully perform and discharge any and all of Grantor's obligations as lessor under the Existing Telecom Agreement(s).

2. PURCHASE PRICE. On or about the Effective Date, Grantee shall pay to Grantor a one-time, lump-sum payment in an amount equal to $_____ (the "**Purchase Price**"). In the event that any tenant or tenants under the Existing Telecom Agreement(s) (each, a "**Telecom Tenant**") pay(s) to Grantor any fees other than base rent and any escalations thereto, for the purpose of utility service or access, such fees shall continue to be paid by Telecom Tenant(s) to Grantor, although Grantee may collect and distribute same.

3. TERM. Commencing upon the Effective Date, the term of this Agreement and the Telecom Easement shall be perpetual. Grantor may not terminate this Agreement. In the event that Grantee voluntarily ceases to use the Telecom Easement for a continuous period of five (5) consecutive years the Telecom Easement shall be deemed abandoned and automatically terminate.

4. REPRESENTATIONS AND COVENANTS OF GRANTOR. Grantor represents and warrants to Grantee, as of the date hereof, that: (a) The execution, delivery and performance by Grantor of this Agreement does not and will not violate any agreement to which Grantor is a party including mortgages and deeds of trust, or violate or conflict with any law, rule, regulation, judgment, order or decree to which Grantor is subject; (b) 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 Telecom Easement or in and to the Existing Telecom Agreement(s) to any other person; (c) Grantor has not breached or defaulted on any of Grantor's obligations under the Existing Telecom Agreement(s), and Telecom Tenant(s) has not breached or defaulted any of Telecom Tenant(s)' obligations under the Existing Telecom Agreement(s); (d) At no time prior to the date hereof has Grantor delivered or received notice of a breach or default by either Grantor or Telecom Tenant(s) under the Existing Telecom Agreement(s) or notice of any fact, condition or circumstance which would constitute a breach or default by either Grantor or Telecom Tenant(s) under the Existing Telecom Agreement(s); (e) Neither Telecom Tenant(s), nor its agents or contractors has notified Grantor of any intention or desire to terminate the Existing Telecom Agreement(s) or surrender or abandon the Existing Telecom Agreement(s); (f) Grantor will forward any rent payments received from Telecom Tenant(s) (excluding the rental amounts withheld from the disbursement and reflected on the Settlement Statement at Closing), to Grantee within 5 business days of receipt thereof. The covenant contained in clause (f) of the foregoing sentence shall survive the execution, delivery and recordation of the Telecom Easement contemplated hereby.

5. REPRESENTATIONS OF GRANTEE. Grantee represents and warrants to Grantor, as of the date hereof, that: (a) This Agreement and all other documents executed by Grantee constitute the legal, valid and binding obligation of Grantee, enforceable against Grantee in accordance with their terms; (b) Grantee is a validly existing limited liability company and the signatory of this document has the authority to do so under the documents forming the existence of the limited liability company. The execution, delivery and performance by Grantee of this Agreement does not and will not violate or conflict with any provision of Grantee's organizational documents or of any agreement to which Grantee is a party or conflict with any law, rule, regulation, judgment, order or decree to which Grantee is subject.

6. INDEMNIFICATION. Grantor and Grantee shall each indemnify and hold harmless the other against any and all claims, damages, costs and expenses (including attorney fees) caused by or arising out of the negligent acts or omissions or willful misconduct in the operations or activities on the Property by the indemnifying party or the employees, agents, or contractors of the indemnifying party.

7. FURTHER ASSIGNMENT. Upon the Effective Date Grantee may pledge, assign, mortgage, grant a security interest, or otherwise encumber its interest in and to this Agreement. This Agreement and the Telecom Easement may be assigned to secured parties, successors-in-interest, acquiring entities or individuals, and any other party to whom Grantee may be required to provide collateral or demonstrate credit-worthiness.

8. 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 to **Grantor** at _____ and to **Grantee**: c/o Landmark Dividend LLC, 1700 E. Walnut Ave., Suite 400, El Segundo, CA 90245.

9. MISCELLANEOUS.

a. **Governing Law; Severability.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event that any provision of this Agreement is found to be invalid, illegal or unenforceable in any respect, by a court of competent jurisdiction, such provision shall only be ineffective to the extent of such invalidity, illegality or unenforceability. The remaining provisions of this Agreement shall remain in full force and effect.

b. **Amendments, Etc.** This Agreement may not be amended or modified unless in writing signed by the parties and consented to by any lender of Grantee that has delivered notice of its status and its notice address to Grantor. No act or failure to act shall be deemed to constitute an amendment, modification or termination hereof. This Agreement may be executed in counterparts each of which, when taken together, shall constitute a single agreement.

c. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and successors and assigns of the parties to this Agreement. The rights of Grantee under the Telecom Easement shall run with the land upon which the Telecom Easement is located.

d. **Recording and Memorandum.** Grantor and Grantee shall, on or after the Effective Date, acknowledge, execute and record the exchange of rights created under this Agreement in the Form of Telecom Easement attached as Exhibit D. Grantee's interest in this Agreement and the Telecom Easement is intended to be, and shall be, an interest in real property.

e. **Attorneys' Fees.** In any action or proceeding brought to enforce any provision of this Agreement, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs, whether through arbitration or a court of competent jurisdiction. All damages or other sums payable by one party to another hereunder shall bear interest from the date incurred or payable until paid at a rate equal to the greater of (a) ten percent (10%) per annum or (b) the highest rate permitted by applicable law.

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: [INSERT NAME]	GRANTEE: LD HOLDINGS LLC
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

SAMPLE

EXHIBIT B

EXISTING TELECOM LEASE AREA

SAMPLE

EXHIBIT C

EXISTING TELECOM AGREEMENT(S)

SAMPLE

EXHIBIT D

FORM OF TELECOM EASEMENT

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

EASEMENT AND ASSIGNMENT OF LEASE AGREEMENT

This Easement and Assignment of Lease Agreement dated _____, 2011 (this "**Agreement**") is by and between _____, a _____, with principal offices at _____ ("**Grantor**") 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: _____ ("**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 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 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 an easement in, to, under and across the Property adequate to allow ingress and egress to the 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 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 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:

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 _____ COUNTY AND THE UNITED STATES DISTRICT COURT FOR THE _____ DISTRICT OF _____, 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:

[INSERT NAME]

By: _____
Name: _____
Title: _____

Date: _____

STATE OF _____
ss.
COUNTY OF _____

On this day personally appeared before me _____ and _____me known to be the _____signed the same as _____ free and voluntary act and deed for the uses and purposes therein mentioned.

Subscribed and sworn to me by _____and _____on this _____ day of _____, 20 _____.

_____
Notary Public in and for the State of _____
_____ (printed)
Residing at: _____
My commission expires: _____

GRANTEE:

LD HOLDINGS LLC,
a Delaware limited liability company

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

By: _____
Name: _____
Title: _____

Date: _____

STATE OF _____

ss.

COUNTY OF _____

On this day personally appeared before me _____ and _____me known to be the _____signed the same as _____ free and voluntary act and deed for the uses and purposes therein mentioned.

Subscribed and sworn to me by _____and _____on this _____ day of _____, 20 _____.

_____
Notary Public in and for the State of _____
_____ (printed)
Residing at: _____
My commission expires: _____

SAMPLE

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B

EASEMENT AREA DESCRIPTION

EXHIBIT C

LEASE DESCRIPTION

That certain Lease Agreement dated _____, by and between _____, whose address is _____ ("Lessor") and _____ ("Lessee"), whose address is _____, for the property located at _____ for which a Memorandum of Agreement is duly recorded on _____, as Instrument No. _____, of the _____ County Registry.

SAMPLE