

City of Fayetteville Staff Review Form

2019-0118

Legistar File ID

3/5/2019

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Tim Nyander

2/13/2019

WATER SEWER (720)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends the approval of a Land Lease Agreement with NCWPCS MPL 28 - YEAR SITES TOWER HOLDINGS LLC, a subsidiary of Crown Castle USA Inc. for land space near the Township water tank.

Budget Impact:

N/A		Water and Sewer	
Account Number		Fund	
N/A		N/A	
Project Number		Project Title	
Budgeted Item?	NA	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	NA	Item Cost	\$ -
Budget Adjustment Attached?	NA	Budget Adjustment	\$ -
		Remaining Budget	\$ -

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF MARCH 5, 2019

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Water & Sewer Committee

FROM: Tim Nyander, Utilities Director

DATE: February 13, 2019

SUBJECT: Land Lease Agreement with NCWPCS MPL 28 - YEAR SITES TOWER HOLDINGS LLC, a subsidiary of Crown Castle USA Inc.

RECOMMENDATION:

Staff recommends the approval of a Land Lease Agreement with NCWPCS MPL 28 - YEAR SITES TOWER HOLDINGS LLC, a subsidiary of Crown Castle USA Inc. ("Crown Castle") for land space near the Township water tank.

BACKGROUND:

The original agreement for this land space near the Township water tank was between the City and Telecorp Realty, LLC (later purchased by AT&T). The land space was used for an antenna tower, building equipment cabinets, and communication equipment. Crown Castle purchased the management and operation rights to this tower from AT&T in 2013. The lease expired recently, so a new Land Lease Agreement was negotiated with Crown Castle.

DISCUSSION:

The proposed Land Lease Agreement with Crown Castle will include the land space for the existing cell tower and equipment, as well as access and utility easements to the premises. For the first term of five (5) years, the City will receive \$1,750.00 monthly from Crown Castle. The proposed lease will be automatically extended for three (3) additional five (5) year terms, with an increase of ten percent (10%) per term.

BUDGET/STAFF IMPACT:

The lease will generate \$1,750.00 per month in revenue for the Water and Sewer fund.

Attachments:

Land Lease Agreement

LAND LEASE AGREEMENT

This Agreement, made this _____ day of _____, 20__, between the CITY OF FAYETTEVILLE, ARKANSAS, 113 W. Mountain Street, Fayetteville, AR 72701, hereinafter designated FAYETTEVILLE, and NCWPCS MPL 28 - YEAR SITES TOWER HOLDINGS LLC a Delaware limited liability company by CCATT LLC, a Delaware limited liability company, its Attorney-in-Fact, c/o Crown Castle USA Inc., 2000 Corporate Drive, Canonsburg, PA 15317, hereinafter designated as CROWN CASTLE. FAYETTEVILLE and CROWN CASTLE are at times collectively referred to hereinafter as the "Parties".

1. PREMISES. FAYETTEVILLE hereby leases to CROWN CASTLE, a portion of that certain parcel of property it owns known as the Township Water Tank site, referred to hereinafter as the Township Water Tank site, located in Washington County, Arkansas, and described in **Exhibit "A"** attached hereto (the "Land Space"), together with the non-exclusive but constant (24 hours per day, 7 days a week) access and utility easement over, under, or along the existing utility and access easement, said portion of the Land Space and necessary easement (hereinafter collectively referred to as the "Premises") being substantially as described herein in **Exhibit "B"** attached hereto and made a part hereof. CROWN CASTLE agrees not to block the access easement at any time and to coordinate and cooperate with FAYETTEVILLE and all tenants in their use of and access to their facilities.

2. SURVEY. FAYETTEVILLE also hereby grants to CROWN CASTLE, the right to survey the site and the Premises. Fayetteville may also survey the site and provide such survey to CROWN CASTLE. After review and acceptance of the survey by FAYETTEVILLE, the survey shall then become **Exhibit "C"** which shall be attached hereto and made a part hereof and shall control in the event of boundary and access discrepancies between it and **Exhibit "B"**.

3. TERM. This Agreement shall be effective as of the date of execution by both parties, and the and shall be in effect for a term of five (5) years. Rental payments shall commence on the effective date and shall be due at a total monthly rental of **One Thousand Seven Hundred Fifty Dollars (\$1,750.00)** to be paid on the first day of the month, in advance, to FAYETTEVILLE.

4. EXTENSIONS. This Agreement shall automatically be extended for three (3) additional five (5) year terms unless CROWN CASTLE terminates it at the end of the then current term by giving FAYETTEVILLE written notice of its intent to terminate at least six (6) months prior to the end of the then current term. FAYETTEVILLE may terminate this agreement at the end of any term by giving CROWN CASTLE written notice of its intent to terminate at least two (2) years prior to the end of the then current term. Any holdover period after termination of the agreement shall be subject to the month-to-month provisions of Section 10 of this Agreement. CROWN CASTLE shall have the right to terminate this Agreement at any time upon two (2) years' written notice to FAYETTEVILLE in the event CROWN CASTLE determines that the Premises are not appropriate for CROWN CASTLE's operations for economic, environmental, governmental or

technological reasons, including without limitation, permitting, zoning, signal strength, coverage or interference.

5. EXTENSION RENTALS. The monthly rental for the first five year extension term shall be increased by the amount of ten percent (10%); the monthly rental for the second five year extension term shall be further increased by the amount of ten percent (10%); and the monthly rental for the third five year extension term shall be further increased by the amount of ten percent (10%).

6. USE; GOVERNMENTAL APPROVALS. CROWN CASTLE shall use the Premises for the purpose of constructing, maintaining, repairing and operating a communications facility and uses incidental thereto. Security measures may be placed around the communications facilities with the approval of FAYETTEVILLE, (not including the access easement). All improvements, equipment and conduits shall be at CROWN CASTLE's expense and the installation of all improvements shall be at the discretion and option of CROWN CASTLE. CROWN CASTLE shall have the right to replace, repair, or otherwise modify its equipment and/or conduits or any portion thereof and the frequencies over which the equipment operates. It is understood and agreed that CROWN CASTLE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as satisfactory structural tests which will permit CROWN CASTLE use of the Premises as set forth above. FAYETTEVILLE shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by CROWN CASTLE. In the event that any of such applications for such Governmental Approvals should be finally rejected; any Governmental Approval issued to CROWN CASTLE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority CROWN CASTLE, shall have the right to terminate this Agreement. Notice of CROWN CASTLE's exercise of its right to terminate shall be given to FAYETTEVILLE in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by CROWN CASTLE, or upon such later date as designated by CROWN CASTLE. All rentals paid to said termination date shall be retained by FAYETTEVILLE. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each party to the other hereunder. Otherwise, CROWN CASTLE shall have no further obligations for the payment of rent to FAYETTEVILLE. If this site becomes technologically unsuitable for CROWN CASTLE's purposes, CROWN CASTLE may terminate this lease upon ninety days notice.

7. INSURANCE. CROWN CASTLE agrees that at its own cost and expense, it will maintain commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence.

8. LIMITATION OF LIABILITY. In no event will either FAYETTEVILLE or CROWN CASTLE be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or loss or interruption of use of service, under any theory of tort, strict liability or negligence.

9. INTERFERENCE. CROWN CASTLE agrees to install equipment of the type and frequency which will not cause material interference which is measurable in accordance with then existing industry standards to any equipment of FAYETTEVILLE or its lessees of the Property which predated the original installation of CROWN CASTLE's equipment. In the event any after-installed CROWN CASTLE's equipment causes such interference, and after FAYETTEVILLE has notified CROWN CASTLE in writing of such interference, CROWN CASTLE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at CROWN CASTLE's option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will FAYETTEVILLE be entitled to terminate this Agreement or relocate the equipment as long as CROWN CASTLE is making a good faith effort to remedy the interference issue. CROWN CASTLE agrees to indemnify and hold Fayetteville harmless from any claim by other tenants that CROWN CASTLE's equipment has damaged or interfered with their equipment or service to their customers, except to the extent arising from the negligence or willful misconduct of FAYETTEVILLE. FAYETTEVILLE agrees that it or other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause material interference which is measurable in accordance with then existing industry standards to the then existing equipment of CROWN CASTLE.

10. REMOVAL AT END OF TERM. CROWN CASTLE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its building(s), antenna structure(s) (except footings), equipment, fixtures and all personal property to a depth of three (3) feet and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. FAYETTEVILLE agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of CROWN CASTLE shall remain the personal property of CROWN CASTLE and CROWN CASTLE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws. If such time for removal causes CROWN CASTLE to remain on the Premises after termination of this Agreement, CROWN CASTLE shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed. At the expiration of this Agreement FAYETTEVILLE may, at its sole option, allow CROWN CASTLE to continue its tenancy on a month-to-month basis for the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term. The month-to-month tenancy shall be terminated upon thirty days notice by FAYETTEVILLE to CROWN CASTLE.

11. QUIET ENJOYMENT. FAYETTEVILLE covenants that CROWN CASTLE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises. FAYETTEVILLE agrees that this lease shall survive and remain in force if FAYETTEVILLE sells or transfers any part of the Land Space.

12. TITLE. FAYETTEVILLE represents and warrants to CROWN CASTLE as of the execution date of this Agreement, and covenants during the Term that FAYETTEVILLE is seized

of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement and that there are no covenants, easement or restrictions which prevent or adversely affect the use of occupancy of the Premises by CROWN CASTLE as set forth above.

13. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between FAYETTEVILLE and CROWN CASTLE and that no verbal or oral agreements, promises or understandings shall be binding upon either FAYETTEVILLE or CROWN CASTLE. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

14. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of Arkansas and venue shall be in Washington County, Arkansas.

15. ASSIGNMENT. This Agreement may be sold, assigned or transferred by CROWN CASTLE without any approval or consent of FAYETTEVILLE to CROWN CASTLE's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of CROWN CASTLE's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of FAYETTEVILLE, which such consent will not be unreasonably withheld or delayed. No change of stock ownership or control of CROWN CASTLE shall constitute an assignment hereunder. CROWN CASTLE may Sublease any portion of the Property at its sole discretion upon notice to FAYETTEVILLE. Any Sublease that is entered into by CROWN CASTLE shall be subject to the provisions of this Agreement and shall be binding upon the successors, assigns, heirs and legal representatives of the respective parties hereto. The term "Sublease", "Sublet", "Sublessee" and any other similar term shall apply to any situation by which CROWN CASTLE allows a third party use of the Property for co-location, whether it be by formal sublease, license or other agreement. All rights and responsibilities of CROWN CASTLE set forth in this Agreement shall be enjoyed by and binding on any Sublessee or Assignee.

(a) In the event CROWN CASTLE Subleases any portion of the Property, in accordance with this Agreement, any rental paid by any Sublessee(s) shall be divided between FAYETTEVILLE and CROWN CASTLE in the following manner: (i) The first cell phone carrier's antenna array (also known as the anchor tenant) is paid for by the monthly rent charged to CROWN CASTLE pursuant to this Land Lease Agreement; (ii) The rental actually received by CROWN CASTLE (excluding any reimbursement of taxes, construction costs, installation costs, revenue share reimbursement or other expenses incurred by CROWN CASTLE) from the existing Sublessee Sprint/Nextel shall be divided with 75% of the revenue going to CROWN CASTLE and 25% to FAYETTEVILLE; and (iii) The rental actually received by CROWN CASTLE (excluding

any reimbursement of taxes, construction costs, installation costs, revenue share reimbursement or other expenses incurred by CROWN CASTLE) from any unaffiliated third party Sublessees not already a Sublessee on the Property (each a "Future Sublessee") shall be divided with 50% of the revenue going to CROWN CASTLE and 50% to FAYETTEVILLE. Sprint/Nextel and any Future Sublessee shall be instructed to pay the foregoing percentage amounts directly to CROWN CASTLE. CROWN CASTLE shall be responsible to Fayetteville for the collection or payment of rents by Sprint/Nextel and any Future Sublessee and their remittance to FAYETTEVILLE within thirty (30) days after receipt of said payments by CROWN CASTLE. However, CROWN CASTLE shall have no liability to FAYETTEVILLE in the event of failure of payment by Sprint/Nextel or any Future Sublessee. In this event, CROWN CASTLE shall have no liability of any nature to FAYETTEVILLE for failure to Sublet all or any part of the premises to Sprint/Nextel or any or all potential Future Sublessee(s). Once per calendar year, FAYETTEVILLE may submit a written request to CROWN CASTLE for a business summary report pertaining to CROWN CASTLE's payment obligations for the prior twelve (12) month period, and CROWN CASTLE shall provide such written accounting to FAYETTEVILLE within sixty (60) days after CROWN CASTLE's receipt of such written request. Notwithstanding anything in this paragraph to the contrary, the parties agree and acknowledge that revenue derived from AT&T and any successors and/or assignees of AT&T, as long as continually operates as the anchor tenant, shall be expressly excluded from the payments to FAYETTEVILLE set forth in this paragraph, and FAYETTEVILLE shall have no right to receive any portion of such revenue.

(b) Notwithstanding any other provision of this Agreement, CROWN CASTLE shall not be required to obtain approval from FAYETTEVILLE for the Subletting of the Property or part thereof. CROWN CASTLE shall have the sole right to determine whether it will Sublet any portion of the Property or whether it will Sublease to any specific Sublessee.

16. NOTICES. All notices hereunder must be in writing and shall be sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

CITY OF FAYETTEVILLE:

CITY OF FAYETTEVILLE

Office of the Mayor
113 W. Mountain Street
Fayetteville, AR 72701

CROWN CASTLE :

NCWPCS MPL 28 - Year Sites
Tower Holdings LLC
Legal Department
Attn: Network Legal
208 S. Akard Street
Dallas, TX 75202-4206

With copy to:
CCATT LLC
c/o Crown Castle USA Inc.
2000 Corporate Drive
Canonsburg, PA 15317

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

17. SUCCESSORS. This Agreement shall extend to and bind the heirs, personal representative, successors and assigns of the Parties hereto.

18. DEFAULT.

(a) In the event there is a breach by CROWN CASTLE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, FAYETTEVILLE shall give CROWN CASTLE written notice of such breach. After receipt of such written notice, CROWN CASTLE shall have fifteen (15) days in which to cure any monetary breach and thirty (30) days in which to cure any non-monetary breach, provided CROWN CASTLE shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and CROWN CASTLE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. FAYETTEVILLE may not maintain any action or effect any remedies for default against CROWN CASTLE unless and until CROWN CASTLE has failed to cure the breach within the time periods provided in this Paragraph. However, more than three (3) separate breaches within a twelve (12) month period relating to blocking or interfering with the access easement or the rights of other tenants to successfully operate their equipment without electronic or other interference shall give FAYETTEVILLE the right to terminate this contract even if such breaches are temporary and cured within thirty days.

(b) In the event there is a breach by FAYETTEVILLE with respect to any of the provisions of this Agreement or its obligations under it, CROWN CASTLE shall give FAYETTEVILLE written notice of such breach. After receipt of such written notice, FAYETTEVILLE shall have thirty (30) days in which to cure any such breach, provided FAYETTEVILLE shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and FAYETTEVILLE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. CROWN CASTLE may not maintain any action or effect any remedies for default against FAYETTEVILLE unless and until FAYETTEVILLE has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if FAYETTEVILLE fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by FAYETTEVILLE if the failure to perform such an obligation interferes with CROWN CASTLE's ability to conduct its business on the Property; provided, however, that if the nature of FAYETTEVILLE's obligation is such that more than five (5) days after such notice is reasonably

required for its performance, then it shall not be a default under this Agreement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion.

19. REMEDIES. Upon a default, the non-defaulting party may at its option (but without obligation to do so), perform the defaulting party's duty or obligation on the defaulting party's behalf. The costs and expenses of any such performance by the non-defaulting party shall be due and payable by the defaulting party upon invoice therefor. In the event of a default by either party with respect to a material provision of this Agreement, without limiting the non-defaulting party in the exercise of any right or remedy which the non-defaulting may have by reason of such default, the non-defaulting party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting party under the laws or judicial decisions of the state in which the Premises are located; provided, however, FAYETTEVILLE and CROWN CASTLE shall use reasonable efforts to mitigate any damages in connection with a default by FAYETTEVILLE or CROWN CASTLE. If CROWN CASTLE so performs any of FAYETTEVILLE's obligations hereunder, the full amount of the reasonable and actual cost and expense incurred by CROWN CASTLE shall immediately be owing by FAYETTEVILLE to CROWN CASTLE, and FAYETTEVILLE shall pay to CROWN CASTLE upon demand the full undisputed amount thereof with interest thereon from the date of payment at the highest rate permitted by applicable Laws. Notwithstanding the foregoing, if FAYETTEVILLE does not pay CROWN CASTLE the full undisputed amount within thirty (30) days of its receipt of an invoice setting forth the amount due from CROWN CASTLE, CROWN CASTLE may offset the full undisputed amount, including all accrued interest, due against all fees due and owing to FAYETTEVILLE until the full undisputed amount, including all accrued interest, is fully reimbursed to CROWN CASTLE.

20. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following the event, CROWN CASTLE may terminate this by sending written notice to FAYETTEVILLE. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which CROWN CASTLE's use of the Premises is impaired.

21. CONDEMNATION. If FAYETTEVILLE receives written or other notice of a proposed taking by eminent domain of any part of the parcel of land upon which the Premises is situated, FAYETTEVILLE will notify CROWN CASTLE of the proposed taking within five (5) days of receiving said notice. In the event of any condemnation of all or any portion of the Property, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation of the Premises or Property, CROWN CASTLE, in CROWN CASTLE's sole discretion, is unable to use the Premises for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt CROWN CASTLE's operations at the Premises for more than forty-five (45) days, CROWN CASTLE may, at CROWN CASTLE's option, to be exercised in writing within fifteen (15) days after FAYETTEVILLE shall have given CROWN CASTLE written notice

of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. CROWN CASTLE may on its own behalf make a claim in any condemnation proceeding involving the Premises. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement. If CROWN CASTLE does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in the same proportion as the rentable area of the Premises taken bears to the total rentable area of the Premises. In the event that this Agreement is not terminated by reason of such condemnation, CROWN CASTLE shall promptly repair any damage to the Premises caused by such condemning authority.

22. SUBMISSION OF AGREEMENT/PARTIAL INVALIDITY/AUTHORITY. The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

23. APPLICABLE LAWS. CROWN CASTLE shall, in respect to the condition of the Premises and at CROWN CASTLE's sole cost and expense, comply with (a) all Laws relating solely to CROWN CASTLE's specific and unique nature of use of the Premises; and (b) all building codes requiring modifications to the Premises due to the improvements being made by CROWN CASTLE in the Premises.

24. SURVIVAL. Any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

25. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

26. IRS FORM W-9. FAYETTEVILLE agrees to provide CROWN CASTLE with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by CROWN CASTLE. In the event the Premises is transferred, the succeeding landlord shall have a duty at the time of such transfer to provide CROWN CASTLE with a completed IRS Form W-9, or its equivalent, and other related paperwork to effect a transfer in the rent to the new landlord. .

27. Original Agreement. FAYETTEVILLE and CROWN CASTLE are parties to that certain Site Lease Agreement dated October 26, 1998, by and between FAYETTEVILLE as lessor and CROWN CASTLE's predecessor in interest, Telecorp Realty, L.L.C. as lessee, (the "Original Agreement"). The Original Agreement is hereby amended by deleting it in its entirety and restating the Original Agreement as provided for in this Agreement upon the full execution of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

**NCWPCS MPL 28 - YEAR SITES
TOWER HOLDINGS LLC,**
a Delaware limited liability company

By: CCATT LLC,
a Delaware limited liability company,
Its: Attorney in Fact

By: 
NAME
Title: **Lisa A. Sedgwick**
Senior Transaction Manager

CROWN CASTLE Legal Approval

CITY OF FAYETTEVILLE

By: _____
LIONELD JORDAN
Mayor

ATTEST:

By: _____
SONDRA E. SMITH
City Clerk-Treasurer

EXHIBIT "A"
LAND SITE DESCRIPTION

PARENT PARCEL DESCRIPTION

A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS 594 FEET EAST AND 300 FEET NORTH OF THE SOUTHWEST CORNER OF SAID 40-ACRE TRACT, AND RUNNING, THENCE EAST 101'; THENCE NORTH 525'; THENCE WEST 101'; THENCE SOUTH 525' TO THE POINT OF BEGINNING; CONTAINING 1.22 ACRES, MORE OR LESS.

COMPOUND PARCEL DESCRIPTION

A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35 AFORESAID; THENCE SOUTH 87°38'14" EAST, ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, A DISTANCE OF 594.31 TO A POINT; THENCE NORTH 02°13'58" EAST, DEPARTING FROM SAID SOUTH LINE, A DISTANCE OF 400.00 FEET TO A POINT; THENCE NORTH 75°05'57" EAST, A DISTANCE OF 71.69 FEET TO THE POINT OF BEGINNING; THENCE NORTH 49°50'43" WEST, A DISTANCE OF 38.32 FEET TO A POINT; THENCE SOUTH 45°24'08" WEST, A DISTANCE OF 8.91 FEET TO A POINT; THENCE NORTH 46°04'16" WEST, A DISTANCE OF 26.78 FEET TO A POINT; THENCE NORTH 13°41'35" EAST, A DISTANCE OF 31.49 FEET TO A POINT; THENCE NORTH 31°18'25" WEST, A DISTANCE OF 8.22 FEET TO A POINT; THENCE NORTH 11°52'56" EAST, A DISTANCE OF 48.34 FEET TO A POINT; THENCE SOUTH 87°04'27" EAST, A DISTANCE OF 39.97 FEET TO A POINT; THENCE SOUTH 24°29'01" EAST, A DISTANCE OF 28.41 FEET TO A POINT; THENCE SOUTH 11°10'07" WEST, A DISTANCE OF 32.19 FEET TO A POINT; THENCE SOUTH 47°04'22" EAST, A DISTANCE OF 38.53 FEET TO A POINT; THENCE SOUTH 40°43'35" WEST, A DISTANCE OF 47.87 FEET TO A POINT; THENCE NORTH 87°38'14" WEST, A DISTANCE OF 0.66 FEET TO THE POINT OF BEGINNING.

CONTAINING IN ALL 6,457 SQ. FT. OR 0.15 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT "B"
PREMISES DESCRIPTION

LEASE PARCEL DESCRIPTION

A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35 AFORESAID; THENCE SOUTH 87°38'14" EAST, ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, A DISTANCE OF 594.31 TO A POINT; THENCE NORTH 02°13'58" EAST, DEPARTING FROM SAID SOUTH LINE, A DISTANCE OF 400.00 FEET TO A POINT; THENCE NORTH 75°05'57" EAST, A DISTANCE OF 71.69 FEET TO THE POINT OF BEGINNING; THENCE NORTH 49°50'43" WEST, A DISTANCE OF 38.32 FEET TO A POINT; THENCE SOUTH 45°24'08" WEST, A DISTANCE OF 8.91 FEET TO A POINT; THENCE NORTH 46°04'16" WEST, A DISTANCE OF 9.33 FEET TO A POINT; THENCE NORTH 40°43'35" EAST, A DISTANCE OF 58.89 FEET TO A POINT; THENCE SOUTH 47°04'22" EAST, A DISTANCE OF 48.92 FEET TO A POINT; THENCE SOUTH 40°43'35" WEST, A DISTANCE OF 47.87 FEET TO A POINT; THENCE NORTH 87°38'14" WEST, A DISTANCE OF 0.66 FEET TO THE POINT OF BEGINNING.

CONTAINING IN ALL 2,500 SQ. FT. OR 0.06 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

ACCESS EASEMENT #1

A PART OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION THIRTY-FIVE (35), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE S89°35'37"E 474.50 FEET TO THE TRUE POINT OF BEGINNING AND FROM WHICH AN EXISTING REFERENCE IRON BEARS N00°44'28"E 20.10 FEET; THENCE N00°44'28"E 300.00 FEET TO A SET IRON; THENCE S89°35'37"E 119.50 FEET TO AN EXISTING IRON PIPE; THENCE S00°44'28"W 300.00 FEET TO A POINT FROM WHICH AN EXISTING REFERENCE IRON BEARS N00°44'28"E 20.10 FEET; THENCE N89°35'37"W 119.50 FEET TO THE POINT OF BEGINNING, CONTAINING 0.82 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

THE ABOVE DESCRIBED 0.82 ACRE TRACT BEING SUBJECT TO THE RIGHT-OF-WAY OF TOWNSHIP ROAD OVER AND ACROSS THE SOUTH TWENTY-FIVE (25) FEET THEREOF. THE ABOVE DESCRIBED 0.82 ACRE TRACT ALSO BEING SUBJECT TO AN ACCESS EASEMENT, SAID EASEMENT BEING TWENTY-FIVE (25) FEET OF EQUAL

AND UNIFORM WIDTH AND LYING EAST OF AND BEING PARALLEL WITH AND ADJACENT TO THE WEST LINE OF SAID 0.82 ACRE TRACT.

ACCESS EASEMENT #2

A PERMANENT EASEMENT OF 25 FEET IN WIDTH BEING A PART OF THE FOLLOWING TRACT: A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS 474 AND 1/2 FEET EAST OF THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT AND RUNNING THENCE EAST 119 AND 1/2 FEET; THENCE NORTH 825 FEET; THENCE WEST 119 AND 1/2 FEET; THENCE SOUTH 825 FEET TO THE POINT OF BEGINNING CONTAINING 2.25 ACRES, MORE OR LESS, EXCEPT A STRIP 25 FEET WIDE OFF OF THE SOUTH END OF SAID TRACT NOW USED FOR PUBLIC ROAD.

ACCESS EASEMENT #3

AN EASEMENT FOR ACCESS PURPOSES, BEING 25.0 FEET IN WIDTH AND LYING IN A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35 AFORESAID; THENCE SOUTH 87°38'14" EAST, ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, A DISTANCE OF 594.31 TO A POINT; THENCE NORTH 02°13'58" EAST, DEPARTING FROM SAID SOUTH LINE, A DISTANCE OF 408.44 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 02°13'58" EAST, A DISTANCE OF 34.73 FEET TO A POINT; THEN NORTH 48°16'44" EAST, A DISTANCE OF 17.73 FEET TO A POINT; THENCE SOUTH 46°04'16" EAST, A DISTANCE OF 25.07 FEET TO A POINT; THENCE SOUTH 48°16'44" WEST, A DISTANCE OF 43.74 FEET TO THE POINT OF BEGINNING.

CONTAINING IN ALL 768 SQ. FT. OR 0.02 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

[illegible]

EXHIBIT "D"
SCHEDULE OF EQUIPMENT

- Monopole
- Power Supply
- Antennas (Quantity)
 - APXVSPP18-C (3 total)
 - TTTT65AP-1XR (3 total)
 - DBXLH-8585A-R2M (6 total)
 - SBNHH-1D65B (7 total)
 - SBJAH4-ID65B-DL (6 total)
- 23 Feedlines