

RESOLUTION NO. 2015 - 256

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF A GOVERNMENT ENTITY TOWER LICENSE AGREEMENT BETWEEN ST. JOHNS COUNTY AND CCTMO LLC (CROWN CASTLE), AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF THE COUNTY.**

**WHEREAS**, Crown Castle owns the communication tower described in Exhibit A of the attached lease; and

**WHEREAS**, the County has an existing Automated Meter Reading (AMR) system in the area and this tower location meets all of the Radio Frequency (RF) requirements for coverage; and

**WHEREAS**, subject to the terms and conditions contained in the attached agreement, the County and Crown Castle mutually seek to enter into the attached agreement; and

**WHEREAS**, entering into this agreement serves a public purpose by aiding in the efficient reading of water meters; and

**WHEREAS**, to the extent that there are typographical, scrivener or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, THAT:**

Section 1. The above recitals as hereby incorporated into the body of this Resolution and adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of the attached Government Entity Tower License Agreement and authorizes the County Administrator, or designee, to execute said Agreement.

Section 3. The Clerk of Court is instructed to record the original Government Entity Tower License Agreement in Official Records of St. Johns County, Florida.

**PASSED AND ADOPTED** by the Board of Board of County Commissioners of St. Johns County, Florida this   1   day of September 2015.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

Attest: Robin L. Platt  
Deputy Clerk

By: Priscilla L. Bennett  
Priscilla L. Bennett, Chair

Effective Date: 9/1/2015

RENDITION DATE 9/3/2015



Customer Site Name: N/A  
Customer Site No.: N/A

Crown Site Name: Fish Island  
JDE Business Unit: 824063  
License Identifier: 446012

**GOVERNMENT ENTITY TOWER LICENSE AGREEMENT**

THIS GOVERNMENT ENTITY TOWER LICENSE AGREEMENT (this "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date") between CCTMO LLC, a Delaware limited liability company, with a place of business at 2000 Corporate Drive, Canonsburg, Washington County, Pennsylvania 15317 ("Licensor"), and St. Johns County, Florida, with its principal office at 1205 State Route 16, St. Augustine, St. Johns County, Florida 32084 ("Licensee").

In consideration of the mutual covenants contained herein and intending to be legally bound hereby, the parties hereto agree as follows:

**1. DEFINITIONS**

The following terms as used in this Agreement are defined as follows:

**"Acquiring Party"** Any person acquiring title to Licensor's interest in the real property of which the Site forms a part through a Conveyance.

**"Adjustment Date"** The date on which the Basic Payment shall be adjusted as set forth in Section 5.2 below.

**"AM Detuning Study"** A study to determine whether measures must be taken to avoid disturbance of an AM radio station signal pattern, as described in Section 2.3 below.

**"Base Fee"** The then-current Basic Payment, as described in Section 5.2 below.

**"Basic Payment"** The consideration paid by Licensee for the right to use the Licensed Space as described in Section 5.1 below and subject to adjustment as described in Section 5.2 below.

**"Closeout Documentation"** As-built drawings and other installation documentation required by Licensor, as described in Section 2.6 below.

**"Conveyance"** Including, without limitation, any exercise by a Lender of its rights under the Security Instrument, including a foreclosure, sheriff's or trustee's sale under the power of sale contained in the Security Instrument, the termination of any superior lease of the Site and any other transfer, sale or conveyance of the Licensor's interest in the property of which the Site forms a part under peril of foreclosure or similar remedy, including, without limitation to the generality of the foregoing, an assignment or sale in lieu of foreclosure or similar remedy.

Prepared by: L. Rains  
Prepared on: 1/7/2015  
Revised on: 8/7/2015

**Customer Site Name:** N/A  
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**“Equipment”** Licensee’s communications equipment including, but not limited to Licensee’s antennas, cables, connectors, wires, radios, radio shelter or cabinet, and related transmission and reception hardware and software, and other personal property.

**“FCC”** The Federal Communications Commission.

**“Government Entity”** Any federal, state or local governmental unit or agency thereof with jurisdiction applicable to the Site.

**“Intermodulation Study”** A study to determine whether an RF interference problem may arise, as described in Section 2.3 below.

**“Intermodulation Study Fee”** The fee payable by Licensee to Licensor to defray Licensor’s costs incurred in preparing or obtaining an Intermodulation Study. The amount of the Fee shall be reasonably commensurate with the scope and complexity of the subject Intermodulation Study.

**“Lender”** Any and all lenders, creditors, indenture trustees and similar parties.

**“Licensed Space”** That portion of the Site which is licensed to Licensee hereunder.

**“Licensee”** The party named as “Licensee” in the first paragraph hereof and its successors in interest.

**“Licensor”** The party named as “Licensor” in the first paragraph hereof and its successors in interest.

**“Modification”** (i) Any modification to the Equipment as specified herein or an approved Site Engineering Application; (ii) any alterations in the frequency ranges or FCC licensed allocation or power levels specified in the approved Site Engineering Application; (iii) any change in Licensee’s technology protocol (e.g., GSM, CDMA, TDMA, iDEN, etc.); (iv) any addition of Equipment or occupation of additional space, or relocation of Equipment on the tower or on the ground, or relocation of ground space or equipment shelter space; or (v) any repair to the Equipment that affects tower loading capacity.

**“Modification Application Fee”** The fee payable by Licensee to Licensor in the amount of Zero Dollars (\$0.00) to defray Licensor’s costs incurred in evaluating a Site Engineering Application.

**“Prime Lease”** The lease(s), sublease(s) or other prior agreement(s) or instrument(s) (e.g., deed) from which Licensor derives its rights in the Site and/or which contain(s) restrictions on use of the Site, as described in Article 18 below.

**“Pro Rata Share”** The fraction or decimal equivalent determined by dividing one (1) by the total number of then-existing users of the Site. In no event shall the Pro Rata Share exceed fifty percent (50%).

**“Regulatory Compliance Costs”** The reasonable costs, including reasonable attorneys’ fees, incurred by Licensor at the Site after the Effective Date in order to comply with any applicable law, regulation, rule, guideline, directive or requirement promulgated by a Government Entity.

**“RF”** Radio frequency.

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**“Security Instrument”** Any and all mortgages, deeds of trust or other deeds, and any similar security agreements that encumber the Site to secure the debt of Licensor.

**“Site”** The property referred to in Section 2.1 below, which is owned, leased, or otherwise controlled by Licensor and which contains the Licensed Space.

**“Site Application Fee”** The fee paid by Licensee to Licensor to evaluate a Site Engineering Application to determine whether the tower and Site have sufficient capacity to accommodate the Equipment.

**“Site Engineering Application”** The application form (as may be amended by Licensor from time to time), which shall be submitted to Licensor by Licensee when Licensee desires to apply for a license to install or make a Modification to Equipment. The approved Site Engineering Application is attached to, and incorporated into, this Agreement as part of **Exhibit B**.

**“Site Plan”** The site plan referred to in Section 2.2 below, a copy of which is attached hereto as **Exhibit C**.

**“Site Rules”** The “Site Rules”, or its successor, issued by Licensor from time to time, as described in Section 2.2 below.

**“Structural Analysis”** An engineering analysis performed to determine whether the physical and structural capacity of the tower are sufficient to accommodate the proposed Equipment, which analysis takes into consideration factors such as weight, wind loading and physical space requirements.

**“Structural Analysis Fee”** The fee payable by Licensee to Licensor in the amount of Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00) to defray Licensor’s costs incurred with respect to its performance of a Structural Analysis.

**“Subsequent Use”** Any installation or modification to Licensor’s or another user’s equipment subsequent to the installation or modification of the Equipment as described in Section 6.1 below.

**“Term”** The term of this Agreement, as set forth in Article 4 below.

**“Term Commencement Date”** October 1, 2015.

**“Tower Level Drawing”** The tower level drawing referred to in Section 2.2 below, a copy of which is attached hereto as part of **Exhibit B**.

**“Work”** The installation of Equipment or construction of an approved Modification to Equipment at the Site, as set forth in Section 2.5 below.

## **2. SITE, LICENSE, EQUIPMENT, LICENSED SPACE, APPLICATION FOR MODIFICATIONS, CONDITIONS PRECEDENT**

2.1 **The Site.** The Site consists of that certain parcel of property, located in the city of St. Augustine, the county of St. Johns, and the state of Florida, which is described in **Exhibit A** hereto.

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**2.2 License to Install, Operate and Maintain the Equipment.** Licensor hereby grants a license to Licensee to install, operate and maintain the Equipment at the Site within the Licensed Space, as such Equipment and Licensed Space is described in, and subject to, the approved Site Engineering Application and Tower Level Drawing attached hereto as **Exhibit B** and as shown in the Site Plan attached hereto as **Exhibit C**. Such license is subject to the Site Rules and is restricted exclusively to the installation, operation and maintenance of antennas and equipment consistent with the specifications and in the locations identified in **Exhibit B** and **Exhibit C**. If Licensee fails to install the total number of permitted antennas and transmission lines as described in **Exhibit B** and **Exhibit C** within one hundred eighty (180) days of commencement of its initial installation of Equipment, the right to install any such antennas and lines not installed shall be deemed waived, with no reduction of the Basic Payment. No capacity or rights will be reserved for future installation of such Equipment after such one hundred eighty (180) day period.

**2.3 Application for Modifications.** Licensee shall apply to make Modifications by submitting a Site Engineering Application to Licensor together with payment of the Modification Application Fee. A Structural Analysis, AM Detuning Study or an Intermodulation Study may be required by Licensor in connection with a proposed Modification, and Licensee will be liable for the cost thereof. Any approved Modification shall be evidenced by an amendment to this Agreement, and the Site Engineering Application approved by Licensor describing the Modification shall be an exhibit to said amendment.

**2.4 Conditions Precedent to Installation of Equipment or Modification.** Notwithstanding anything to the contrary herein, the parties agree that Licensee's right to install Equipment or make a Modification to Equipment at the Site shall not commence until the following conditions are satisfied: (i) Licensor has received any written consent required under the Prime Lease to allow Licensor to license the Licensed Space to Licensee; (ii) a Site Engineering Application has been approved by Licensor; (iii) the Site Application Fee, Structural Analysis Fee, Intermodulation Study Fee and fee for AM Detuning Study (if any) have been paid; (iv) Licensee has received all required permits (if any) for its installation of, or Modification to, the Equipment and all required regulatory or governmental approvals of Licensee's proposed use of the Site, and Licensor has received, reviewed, and accepted copies of such required permits (if any) and such required regulatory or governmental approvals; and (v) Licensor has received a waiver of any applicable rights of first refusal in and to the space or Licensed Space that Licensee identifies in the Site Engineering Application. With respect to Licensee's initial installation of Equipment at the Site, if any applicable conditions precedent are not satisfied within one hundred eighty (180) days of the date of full execution of this Agreement, either party shall have the right to terminate this Agreement upon written notice to the other party, unless and until all applicable conditions precedent are thereafter satisfied. Upon satisfaction of all conditions precedent, Licensor shall provide written notice to Licensee to confirm said satisfaction. In the event that Licensee breaches this Agreement by installing Equipment or making a Modification other than as permitted hereunder, then in addition to all other remedies available to Licensor, Licensor shall be entitled to receive, and Licensee shall pay to Licensor, upon notice from Licensor, an administrative fee equal to six (6) times the Basic Payment, if payable monthly, or one-half (1/2) the Basic Payment, if payable annually, based on the amount of the Basic Payment at the time of said notice.

**2.5 Performance of Work.** Licensee may engage Licensor to install Licensee's Equipment, and to make approved Modifications to Licensee's Equipment pursuant to this Article 2 (the "Work"), upon terms mutually agreed upon by the parties in writing; provided, however, in the event that Licensee does not engage Licensor to perform the Work, Licensee shall (i) only engage a vendor approved by Licensor to perform the Work and (ii) pay to Licensor Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00) upon completion of the Work for the purpose of defraying the cost associated with Licensor's inspection of the Work. Notwithstanding Licensor's inspection of any Work not performed by Licensor, Licensor shall in no way be liable for any defect in the Work or any of the materials used, and Licensee shall not rely on Licensor's inspection of the Work as confirmation that no defects exist. All Work shall be performed in accordance with the standards set forth in the Site Rules.

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2.6 **Closeout Documentation.** In the event that Licensee engages Licensor to perform any Work for Licensee, Licensor shall provide to Licensee all Closeout Documentation within forty-five (45) days of completion of the Work. In the event that Licensee does not engage Licensor to perform any Work for Licensee and Licensee engages a vendor approved by Licensor to perform the Work in accordance with Section 2.5, Licensee shall provide to Licensor all Closeout Documentation within forty-five (45) days of completion of the Work; provided, however, in the event that Licensee fails to provide to Licensor said Closeout Documentation within said forty-five (45) day period, Licensee shall pay to Licensor Five Hundred and 00/100 Dollars (\$500.00) for the purpose of defraying Licensor's costs associated with preparation of the Closeout Documentation required hereunder.

### 3. ACCESS, USE OF SITE

3.1 **Access to Site.** Licensor hereby grants to Licensee a non-exclusive license for pedestrian and vehicular ingress to and egress from the Site over the designated access area to the Site as described in **Exhibit A**, on a 24 hour per day, 7 day per week basis, subject, however, to any restrictions in the Prime Lease or any underlying easement, for the purposes of maintaining, operating and repairing the Equipment, together with license to maintain, operate and repair utility lines, wires, cables, pipes, lines, or any other means of providing utility service, including electric and telephone service, to the Licensed Space. Licensor shall have no duty to remove snow or otherwise maintain the access area.

3.2 **Authorized Persons; Safety of Personnel.** Licensee's right of access shall be limited to authorized employees, contractors or subcontractors of Licensee, or persons under their direct supervision. Licensee shall not allow any person to climb a tower without ensuring that such person works for a vendor approved by Licensor for the subject work.

3.3 **Notice to District Manager.** Licensee agrees to provide Licensor's designated District Manager (or other designated person) prior notice of any access to be made by Licensee to the Site, except in the event of an emergency, in which event Licensee shall provide notice within twenty-four (24) hours following such emergency access. For the purposes hereof, an emergency shall be deemed to be a situation that reasonably appears to present an imminent risk of bodily injury or property damage.

3.4 **Licensee's Use of the Site.** Licensee shall use the Licensed Space at the Site to install, operate and maintain only the Equipment and shall transmit and receive only within the FCC licensed frequency ranges and at the power levels specified herein.

3.5 **Permits, Authorizations and Licenses.** Licensee shall be solely responsible for obtaining, at its own expense, all permits, authorizations and licenses associated with its occupancy of Licensed Space at the Site and utilization of Equipment thereon and shall promptly provide copies thereof to Licensor.

3.6 **Zoning Approval.** Licensee must provide Licensor with copies of any zoning application or amendment that Licensee submits to the applicable zoning authority in relation to its installation or modification of Equipment at the Site, at least seventy-two (72) hours prior to submission to the applicable zoning authority. Licensor reserves the right to (i) require that it be named as co-applicant on any such zoning application or amendment and/or (ii) require revisions to any such zoning application or amendment. Licensor also reserves the right, prior to any decision by the applicable zoning authority, to approve or reject any conditions of approval, limitations or other obligations that would apply to the owner of the Site or property, or any existing or future Site licensee, as a condition of such zoning authority's approval; provided, however, Licensor shall not unreasonably withhold or delay approval of any such conditions of approval, limitations or other obligations. Licensee agrees that any Modification, or change in use of the Licensed Space, as approved herein, requires an amendment hereto which may entitle Licensor to additional compensation. Licensee shall be solely responsible for all costs and expenses associated with (i) any zoning application or amendment submitted by Licensee, (ii) making any improvements or

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performing any other obligations required as a condition of approval with respect to same and (iii) any other related expenses.

3.7 **Utilities.** Licensee shall pay for all electricity and other utilities it uses. If separate metering is unavailable, Licensee shall pay a share of such costs as allocated by Licensor.

#### 4. TERM

4.1 **Term of Agreement.** The term of this Agreement shall commence on the Term Commencement Date and continue for a period of five (5) years, ending on the day immediately prior to the fifth (5th) anniversary of the Term Commencement Date at twelve o'clock (12:00 p.m.) EST (the "Term").

4.2 **Automatic Term Renewal.** The Term shall automatically extend for four (4) renewal periods of five (5) years each unless either party provides written notice to the other of its election not to renew the Term at least ninety (90) days prior to the end of the current Term.

4.3 **Term Subject to Prime Lease.** Notwithstanding the foregoing, if Licensor's rights in the Site are derived from a Prime Lease, then the Term shall continue and remain in effect only as long as Licensor retains its interest under said Prime Lease.

#### 5. CONSIDERATION

5.1 **Basic Payment.** Licensee shall pay to Licensor Three Hundred and 00/100 Dollars (\$300.00) per month (the "Basic Payment") for its license and use of the Licensed Space. The Basic Payment shall be paid in advance and without demand, in equal monthly payments payable on the Term Commencement Date, and on the first day of each month thereafter continuing for the Term, subject to extensions as provided for herein. Payments shall be made by check payable to CCTMO LLC at P.O. Box 301853, Dallas, TX 75303-1853. Licensee shall include the JDE Business Unit No. 824063 on or with each payment. Licensee shall also make any payments required to be made by a user of the Site to the lessor or landlord under the Prime Lease, attached hereto as Exhibit D.

5.2 **Adjustments to Basic Payment.** The Basic Payment shall be increased on the first anniversary of the Term Commencement Date and every anniversary of the Term Commencement Date thereafter (the "Adjustment Date") by three percent (3%). Licensor's failure to demand any such increase shall not be construed as a waiver of any right thereto and Licensee shall be obligated to remit all increases notwithstanding any lack of notice or demand thereof. The adjustment to the Basic Payment shall be calculated by the following formula:

The adjusted Basic Payment = Base Fee + (Base Fee × 3%).

"Base Fee" shall mean the then-current Basic Payment.

5.3 **Regulatory Compliance Costs.** In the event that Licensor incurs Regulatory Compliance Costs at the Site during the Term, Licensee shall pay to Licensor its Pro Rata Share of such Regulatory Compliance Costs within thirty (30) days of receipt of Licensor's invoice for same.

5.4 **Taxes, Fees and Assessments.** Licensee shall pay directly to the applicable Government Entity or to Licensor if Licensor is invoiced by such Government Entity, all taxes, fees, assessments or other charges assessed by any Government Entity against the Equipment and/or Licensee's use of the Site or the Licensed Space. Licensee shall pay to Licensor or the appropriate taxing authority, if and when due, any sales, use, ad valorem or other taxes or assessments which are assessed or due by reason of this Agreement or Licensee's use of the Site or the

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Licensed Space. Licensee shall also pay to Licensor its Pro Rata Share of all taxes, fees, assessments or charges assessed by any Government Entity against the Site or against Licensor's improvements thereon. Licensor shall provide notice of any assessments to be paid by Licensee promptly upon receipt. Licensor shall invoice Licensee annually, indicating the amount of the assessment, its Pro Rata Share and the amount due. Said invoices shall be paid within thirty (30) days of Licensee's receipt.

## **6. INTERFERENCE**

6.1 **Interference to Licensee's Operations.** Licensor agrees that neither Licensor nor Licensor's other users of the Site or property adjacent to the Site controlled or owned by Licensor, whose equipment is installed or modified subsequently to Licensee's Equipment ("Subsequent Use"), shall permit their equipment to interfere with Licensee's permitted transmissions or reception. In the event that Licensee experiences RF interference caused by such Subsequent Use, Licensee shall notify Licensor in writing of such RF interference and Licensor shall cause the party whose Subsequent Use is causing said RF interference to reduce power and/or cease operations in order to correct and eliminate such RF interference within seventy-two (72) hours after Licensor's receipt of such notice. In the event Licensor is notified of any RF interference experienced by Licensee alleged to be caused by a Subsequent Use, the entity responsible for the Subsequent Use shall be obligated to perform (or cause to be performed) whatever actions are commercially reasonable and necessary at no cost or expense to Licensee to eliminate such RF interference. Licensor further agrees that any licenses or other agreements with third parties for a Subsequent Use will contain provisions that similarly require such users to correct or eliminate RF interference with Licensee's operation of its Equipment following receipt of a notice of such interference.

6.2 **Interference by Licensee.** Notwithstanding any prior approval by Licensor of Licensee's Equipment, Licensee agrees that it will not allow its Equipment to cause RF interference to Licensor and/or other pre-existing uses of users of the Site in excess of levels permitted by the FCC. If Licensee is notified in writing that its operations are causing such RF interference, Licensee will immediately take all necessary steps to determine the cause of and eliminate such RF interference. If the interference continues for a period in excess of seventy-two (72) hours following such notification, Licensor shall have the right to require Licensee to reduce power and/or cease operations until such time as Licensee can make repairs to the interfering Equipment. In the event that Licensee fails to promptly take such action as agreed, then Licensor shall have the right to terminate the operation of the Equipment causing such RF interference, at Licensee's cost, and without liability to Licensor for any inconvenience, disturbance, loss of business or other damage to Licensee as the result of such actions. Licensee shall indemnify and hold Licensor and its subsidiaries and affiliates harmless from all costs, expenses, damages, claims and liability that result from RF interference caused by Licensee's Equipment.

## **7. RELOCATION OF EQUIPMENT BY LICENSOR**

7.1 **Relocation of Equipment at Licensor's Option.** Licensor shall have the right to change the location of the Equipment (including re-location of Equipment on the tower to an elevation used by other licensees) upon sixty (60) days written notice to Licensee, provided that said change does not, when complete, materially alter the signal pattern of the Equipment existing prior to the change. Any such relocation shall be performed at Licensor's expense and with reasonably minimal disruption to Licensee's operations and shall be evidenced by an amendment to this Agreement.

7.2 INTENTIONALLY DELETED.

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Prepared on: 1/7/2015  
Revised on: 8/7/2015

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CROWN CASTLE STANDARD FORM GOVERNMENT ENTITY TLA 2-21-07



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#### **8. RF EXPOSURE**

Licensee agrees to reduce power or suspend operation of its Equipment if necessary and upon reasonable notice to prevent exposure of workers or the public to RF radiation in excess of the then-existing regulatory standards.

#### **9. LIENS**

Licensee shall keep the Licensed Space, the Site and any interest it or Licensor has therein free from any liens arising from any work performed, materials furnished or obligations incurred by or at the request of Licensee, including any mortgages or other financing obligations, and shall discharge any such lien filed, in a manner satisfactory to Licensor, within thirty (30) days after Licensee receives written notice from any party that the lien has been filed.

#### **10. MUTUAL INDEMNIFICATION**

Each party shall indemnify, defend and hold the other party, its affiliates, subsidiaries, directors, officers, employees and contractors, harmless from and against any claim, action, damages, liability, loss, cost or expense (including reasonable attorney's fees), resulting from or arising out of the indemnifying party's and/or any of its contractors', subcontractors', servants', agents' or invitees' use or occupancy of the Site.

#### **11. INSURANCE**

Licensee shall carry public liability insurance covering its use of the Site with companies and in a form satisfactory to Licensor. The policy shall name Licensee as insured and Licensor as an additional insured. The policy shall bear endorsements to the effect that the insurer agrees to notify Licensor not less than thirty (30) days in advance of any modification or cancellation thereof. At a minimum, Licensee and all parties accessing the Site for or on behalf of Licensee (other than independent contractors, which must provide coverage specified by Licensor) shall obtain the following insurance coverage: (i) Statutory Workers' Compensation including \$500,000 Employers' Liability; (ii) Comprehensive General Liability including personal injury, broad form property damage, independent contractor, XCU and products/completed operations with limits not less than \$2,000,000 per occurrence; (iii) Automobile Liability with limits not less than \$1,000,000 per occurrence; and (iv) Fire and extended coverage insurance on all of Licensee's improvements at the Site including all of Licensee's Equipment and other personal property at the Site. The amount of the insurance limits identified above shall be increased on every fifth (5<sup>th</sup>) anniversary of the date of this Agreement by twenty-five percent (25%) over the amount of the insurance limits for the immediately preceding five (5) year period. All insurers will be rated A.M. Best A-(FSC VIII) or better and must be licensed to do business in the jurisdiction where the Site is located. The insurance requirements in this Agreement shall not be construed to limit or otherwise affect the liability of Licensee. All policies required to be provided pursuant to this Article 11 shall contain a waiver of subrogation in favor of Licensor. Licensee shall provide certificates evidencing said coverage to Licensor upon execution hereof. Licensee shall provide a copy of said policies to Licensor upon request.

#### **12. CASUALTY OR CONDEMNATION**

12.1 **Casualty.** In the event that the Site, or any part thereof, is damaged by fire or other casualty not caused by Licensee, Licensor shall have ninety (90) days from the date of damage, if the damage is less than total destruction of the Site, in which to make repairs, and one hundred and eighty (180) days from date of destruction, if the Site (including the tower structure) is destroyed, in which to replace the destroyed portion of the Site. If Licensor fails for any reason to make such repair or restoration within the stipulated period and the damage or destruction effectively precludes Licensee's use of the Site as authorized under this Agreement, then either party

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may, at its option, terminate this Agreement without further liability of the parties, as of the date of partial or complete destruction. If, for any reason whatsoever, Licensee's use of the Site is interrupted due to casualty, Licensee's sole remedy shall be abatement of the Basic Payment for the period during which Licensee's use of the Site is interrupted. Except with regard to repair of the Site as stated in this Section 12.1, Licensor shall not be responsible for any damage caused by vandalism or acts of God. In no event shall Licensor be liable to Licensee for damage to the Equipment or interruption or termination of Licensee's operations caused by forces majeure or acts of God.

12.2 **Condemnation.** If any part of the Site shall be taken under the power of eminent domain Licensor and Licensee shall be entitled to assert their respective claims in accordance with applicable state law.

### **13. DEFAULT, REMEDIES, WAIVER OF CONSEQUENTIAL DAMAGES**

Either of the following shall constitute an event of default hereunder: (i) Licensee's failure to either pay any amount due hereunder within ten (10) days of written notice from Licensor that said payment is delinquent; or (ii) either party's failure to cure any breach of any covenant of such party (not related to timeliness of payments) herein within thirty (30) days of written notice the non-breaching party of said breach; provided, however, such thirty (30) day cure period shall be extended upon the breaching party's request if deemed by the non-breaching party to be reasonably necessary to permit the breaching party to complete the cure, and further provided that the breaching party shall commence any cure within the thirty (30) day period and thereafter continuously and diligently pursue and complete such cure. In the event of default by Licensee, Licensee shall immediately make full payment of all amounts that Licensor would have been entitled to receive hereunder for the remainder of the then-current Term and Licensor shall have the right to accelerate and collect said payments. All delinquent amounts shall bear interest at the lesser of one and one-half percent (1 ½%) per month, or the maximum amount permitted by law. Except as otherwise provided in this Agreement, neither party shall be liable to the other for consequential, indirect, special, punitive or exemplary damages for any cause of action whether in contract, tort or otherwise, hereunder.

### **14. USE OF HAZARDOUS CHEMICALS**

Licensee must inform Licensor if it will house batteries or fuel tanks at the Site. The use of any other hazardous chemicals at the Site requires Licensor's prior written approval. Licensee agrees to provide to Licensor no later than each January 15th, an annual inventory of its hazardous chemicals at the Site.

### **15. GOVERNING LAW, VENUE**

The laws of the state where the Site is located, regardless of conflict of law principles, shall govern this Agreement, and any dispute related to this Agreement shall be resolved by arbitration or litigation in said state.

### **16. ASSIGNMENT, SUBLEASE, SHARING**

This Agreement may not be sold, assigned or transferred, in whole or in part, by Licensee without the prior written approval or consent of Licensor, which consent may be withheld at Licensor's sole discretion. Any such assignment shall be evidenced by a form provided by Licensor and executed by Licensor, Licensee and the assignee. Licensee shall not sublease or license its interest in this Agreement, either directly or through subsidiaries or affiliated entities. Licensee shall not share the use of its Equipment with any third party.

### **17. NOTICES**

All notices hereunder shall be in writing and shall be given by (i) established express delivery service which maintains delivery records, (ii) hand delivery or (iii) certified or registered mail, postage prepaid, return

Prepared by: L. Rains  
Prepared on: 1/7/2015  
Revised on: 8/7/2015

**Customer Site Name:** N/A  
**Customer Site Number:** N/A

**Crown Site Name:** Fish Island  
**JDE Business Unit:** 824063  
**License Identifier:** 446012

receipt requested. Notices may also be given by facsimile transmission, provided the notice is concurrently given by one of the above methods. Notices are effective upon receipt, or upon attempted delivery if delivery is refused or if delivery is impossible. The notices shall be sent to the parties at the following addresses:

**As to Licensee:** St. Johns County, Florida  
1205 State Route 16  
St. Augustine, FL 32084  
Attention: Frank Kenton, Utility Administrative Manager  
Telephone Number: (904) 209-2705  
Facsimile Number: (904) 209-2706

**As to Licensor:** CCTMO LLC  
2000 Corporate Drive  
Canonsburg, PA 15317  
Attention: Legal Department  
Telephone Number: (724) 416-2000  
Facsimile Number: (724) 416-2353

Licensor or Licensee may from time to time designate any other address for this purpose by giving written notice to the other party.

#### **18. PRIME LEASE AGREEMENT**

Licensor and Licensee acknowledge that Licensee's use of the Site is subject and subordinate to the Prime Lease. A redacted copy of the Prime Lease is attached as Exhibit D hereto. Licensee agrees to be bound by and to perform all of the duties and responsibilities required of the lessee, grantee or licensee as set forth in the Prime Lease to the extent they are applicable to the access to and use of the Site.

#### **19. TERMINATION**

19.1 **Withdrawal or Termination of Approval or Permit.** In the event any previously approved zoning or other permit of a Government Entity affecting the use of the Site as a communications facility is withdrawn or terminated, this Agreement shall be deemed to have been terminated effective as of the date of the termination of the permit or approval.

19.2 **Termination of Prime Lease.** In the event that the Prime Lease terminates for any reason, this Agreement shall be deemed to have terminated effective as of the date of the termination of the Prime Lease.

#### **20. NO WAIVER**

No provision of this Agreement will be deemed to have been waived by either party unless the waiver is in writing and signed by the party against whom enforcement is attempted.

#### **21. NON-DISCLOSURE**

The parties agree that except to the extent required by law, without the express written consent of the other party, neither party shall reveal, disclose or publish to any third party the terms of this Agreement or any portion thereof, except to such party's auditor, accountant, lender or attorney or to a Government Entity if required by regulation, subpoena or government order to do so. Notwithstanding the foregoing, either party may disclose the

**Prepared by:** L. Rains  
**Prepared on:** 1/7/2015  
**Revised on:** 8/7/2015

Customer Site Name: N/A  
Customer Site Number: N/A

Crown Site Name: Fish Island  
JDE Business Unit: 824063  
License Identifier: 446012

terms of this Agreement to any of its affiliated entities, and Licensor may disclose the terms of this Agreement to any of its lenders or creditors or to third parties that are existing or potential lessees or licensees of space at the Site as may be reasonably necessary with respect to the operation, leasing, licensing and marketing of the Site, including, without limitation, terms relating to Licensee's permitted frequencies for the purposes of RF compliance tests and terms relating to Licensee's Equipment installed, or to be installed, on the tower for the purposes of structural analysis.

## **22. SUBORDINATION, NON-DISTURBANCE, ATTORNMENT**

**22.1 Subordination.** Subject to Section 22.2, this Agreement and Licensee's rights hereunder are and will be subject and subordinate in all respects to: (i) the Security Instrument from Licensor in favor of Lender insofar as the Security Instrument affects the property of which the Site forms a part; (ii) any and all advances to be made thereunder; and (iii) any and all renewals, extensions, modifications, consolidations and replacements thereof. Said subordination is made with the same force and effect as if the Security Instrument had been executed prior to the execution of this Agreement.

**22.2 Non-Disturbance.** The subordination described in Section 22.1 is conditioned upon the agreement by Lender that, so long as this Agreement is in full force and effect and Licensee is not in material default (beyond applicable notice and cure periods) hereunder, Lender, for itself and on behalf of its successors in interest, and for any Acquiring Party, agrees that the right of possession of the Site and all other rights of Licensee pursuant to the terms of this Agreement shall remain in full force and effect and shall not be affected or disturbed by Lender in the exercise of its rights under the Security Instrument.

**22.3 Liability of Parties.** Licensee and Licensor agree (i) that any Conveyance shall be made subject to this Agreement and the rights of Licensee hereunder and (ii) that the parties shall be bound to one another and have the same remedies against one another for any breach of this Agreement as Licensee and Licensor had before such Conveyance; provided, however, that Lender or any Acquiring Party shall not be liable for any act or omission of Licensor or any other predecessor-in-interest to Lender or any Acquiring Party. Licensee agrees that Lender may join Licensee as a party in any action or proceeding to foreclose, provided that such joinder is necessary to foreclose on the Security Instrument and not for the purpose of terminating this Agreement.

**22.4 Attornment.** Licensee agrees that, upon receipt by Licensee of notice to attorn from Lender or any Acquiring Party, along with reasonable supporting documentation, (i) Licensee shall not seek to terminate this Agreement and shall remain bound under this Agreement, and (ii) Licensee shall attorn to, accept and recognize Lender or any Acquiring Party as the licensor or lessor hereunder pursuant to the provisions expressly set forth herein for the then remaining balance of the Term of this Agreement and any extensions or expansions thereof as made pursuant hereto. Licensee agrees, however, to execute and deliver, at any time and from time to time, upon the request of Lender or any Acquiring Party any reasonable instrument which may be necessary or appropriate to evidence such attornment.

[Remainder of Page Intentionally Left Blank]

Prepared by: L. Rains  
Prepared on: 1/7/2015  
Revised on: 8/7/2015

**Customer Site Name:** N/A  
**Customer Site Number:** N/A

**Crown Site Name:** Fish Island  
**JDE Business Unit:** 824063  
**License Identifier:** 446012

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

**Licensor**

**Witnesses:**

**CCTMO LLC**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**Licensee**

**Witnesses:**

**St. Johns County, Florida**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**Prepared by:** L. Rains  
**Prepared on:** 1/7/2015  
**Revised on:** 8/7/2015

**Customer Site Name: N/A**  
**Customer Site Number: N/A**

**Crown Site Name: Fish Island**  
**JDE Business Unit: 824063**  
**License Identifier: 446012**

**EXHIBIT A to Government Entity Tower License Agreement**

**SITE AND ACCESS AREA LEGAL DESCRIPTIONS**

(See attached metes and bounds description of Site and access area.)

**Prepared by: L. Rains**  
**Prepared on: 1/7/2015**  
**Revised on: 8/7/2015**

## THE LEASED PREMISES

### LEASE PARCEL

A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS VOLUME 236, PAGE 174 OF THE PUBLIC RECORD OF ST. JOHNS COUNTY, FLORIDA LYING NORTH OF FISH ISLAND ROAD AND ALL LYING WITHIN SECTION 28, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 28; THENCE SOUTH 01°23'37" EAST, ALONG THE WEST LINE OF SAID SECTION 28, 450.52 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF FISH ISLAND ROAD, A 66 FOOT RIGHT OF WAY; THENCE NORTH 82°27'23" EAST, ALONG THE SAID NORTH RIGHT OF WAY LINE, 410.94 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 82°27'23" EAST, ALONG SAID NORTH RIGHT OF WAY LINE, 125.00 FEET; THENCE NORTH 01°23'37" WEST, DEPARTING SAID NORTH RIGHT OF WAY LINE, 125.00 FEET; THENCE SOUTH 82°27'23" WEST, 125.00 FEET; THENCE SOUTH 01°23'37" EAST, 125.00 FEET TO AN INTERSECTION WITH THE AFOREMENTIONED NORTH RIGHT OF WAY LINE AND THE POINT OF BEGINNING CONTAINING 0.36 ACRES, MORE OR LESS.

### 15' UTILITY EASEMENT

A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS VOLUME 236, PAGE 174 OF THE PUBLIC RECORD OF ST. JOHNS COUNTY, FLORIDA LYING NORTH OF FISH ISLAND ROAD AND ALL LYING WITHIN SECTION 28, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 28; THENCE SOUTH 01°23'37" EAST, ALONG THE WEST LINE OF SAID SECTION 28, 450.52 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF FISH ISLAND ROAD, A 66 FOOT RIGHT OF WAY; THENCE NORTH 82°27'23" EAST, ALONG THE SAID NORTH RIGHT OF WAY LINE, 523.44 FEET TO THE POINT OF BEGINNING OF A 15.00 FOOT STRIP OF LAND LYING 7.50 FEET PARALLEL TO THE FOLLOWING DESCRIBED LINE; THENCE NORTH 42°24'53" WEST, 75.74 FEET TO THE POINT OF TERMINUS OF SAID LINE. CONTAINING 11360 SQUARE FEET, MORE OR LESS.

**Customer Site Name:** N/A  
**Customer Site Number:** N/A

**Crown Site Name:** Fish Island  
**JDE Business Unit:** 824063  
**License Identifier:** 446012

**EXHIBIT B to Government Entity Tower License Agreement**

**APPROVED SITE ENGINEERING APPLICATION AND TOWER LEVEL DRAWING**

(See attached approved Site Engineering Application and CAD-generated Tower Level Drawing describing the antenna on the tower structure and all other Equipment, including their locations.)

**Prepared by:** L. Rains  
**Prepared on:** 1/7/2015  
**Revised on:** 8/7/2015

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**CROWN CASTLE STANDARD FORM GOVERNMENT ENTITY TLA 2-21-07**





## Customer Approved: Dec 18 2014

**Application ID:** 266175

**Revision #** 0

**Submitted By:** Scott Montgomery

**Original Submit Date:** Oct 17 2014

**Desired Install Date:** Oct 31 2014

**Reason for Application:** First time antenna installation at this site

**JDE Job Number** 311907

**Applications are subject to applicable Crown Castle engineering, regulatory, zoning/planning, and priority property-owner approval. Approval conditions may result in alternative requirements for type and/or placement of equipment. Approval conditions may also lead to additional or revised engineering analysis at Crown Castle discretion and upon consent of the customer.**

### Company Information

**MLA:** Stand Alone Agreement - TLA

**Company:** St. Johns County, Florida

**Address:** 1205 SR 16

**City/Town:** ST. AUGUSTINE

**State:** FL **Postal Code:** 32085

**Customer Job Number:** N/A

**Customer Payment Reference:** N/A

**Customer Site Name:** N/A

**Customer Site Number :** N/A

### Site Information

**Crown Castle Site Name:** Fish Island

**Crown Castle Site ID:** 824063

**Crown Castle District:** Florida

**Address:** 865 Fish Island Rd

**City/Town:** ST AUGUSTINE

**State:** FL **Postal Code:** 32084

**County:** St. Johns

**Latitude:** 29° 51' 54.9" **Longitude:** -81° 17' 33.6"

**Structure Type:** SELF SUPPORT **Structure Height:** 305 ft

### Legal Entity Information

**Operating Legal Entity:** St. Johns County, Florida

**Primary Contact:** FRANK KENTON

**Phone:** 9042092705

**E-mail:** fkenton@sjcf.us

**Fax:** 9042092706

**Address:** 1205 SR 16

**City/Town:** St. Augustine

**State:** FL **Postal Code:** 32084

**RF Contact:** N/A

**Phone:** N/A

**E-mail:** N/A

### Project Management Vendor

**Project Management Vendor:** Crown Castle - PMV

### Service Information

Svc	Technology	EIRP (WATTS)	Std Frequency	Frequencies		Receive	
				Transmit Start	Transmit Stop	Start	Stop
1	FM Radio	100.0	ESMR-900	941.0	941.0	932.0	932.025



**Antenna Information**

Pos.	Mount Class / CAD	C	Line	Mount	Elev	Level	Azimuth	Face	Leg or	Mfg. / Model	Svc	Transmit Start	Transmit Stop	Receive Start	Receive Stop	Use	Orient	Status
A	Side Arm Mount Side Arm Mount [SO 304-1]	268	263.0	120	FT			Leg B		AMPHENOL1		941.0	941.0	932.0	932.0	25TX/RX	Upright	Proposed
										BCD-87010-NE-X-25								

**Feedline Information**

Pos.	Customer Mount Class	Qty	Mfg.	Model	Length	Location	Ladder Type	Status
A	Side Arm Mount	1	Primary: ANDREW Secondary: N/A	AVA6-50	318.0	Face 3G	Feedline Ladder	Proposed

**Optional Component Information**

Pos.	Customer Mount Class	Qty.	Mfg.	Model	Type	Tower Mounted Equipment Elevation	Status
A	Side Arm Mount	N/A	N/A	N/A	N/A	N/A	N/A

**Power Requirements**

VAC	Need Crown Power	Phase	Amps
N/A	No	N/A	0

**Lease, Pad, and Building Requirements**

Building	Building Id #:	Building Type:	Length	Width	Height	SQ. Footage	Irregular SQ. Footage	Status
	N/A	N/A						
Lease	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Pad	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Building	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

**Other Pad Requirements**

No cabinets, dishes or other pads exist for this application

**Number of Existing Cabinets:** 0

**Number of Proposed Cabinets:** 0

**Generator Requirements**

No generators exist for this application

**Battery Requirements**

Type	Qty.	Mfg.	Model	Is Battery Backup Required?
N/A	0	N/A	N/A	No
N/A	0	N/A	N/A	No

**Scope of Work/Additional Information**

**Scope of Work:**



Installation of one Flexnet antenna and one run of 1-1/4" coax for Saint Johns County, wireless meter reading system. Saint Johns County has there own shelter at site location and will provide their own electrical.

**\*\*Indicates where Cut Sheet data has been entered.**

**NOTICE: Structural Analysis shall be performed in accordance with the current revision of the TIA/EIA 222 standard and applicable local building permit codes and standards. EME analysis shall be consistent with current revision of FCC/OSHA standard OETB 65. AM detuning, when required, will be performed to 47 CFR22.371. The customer is responsible for all analysis expenses. All construction drawings are subject to Crown Castle engineering approval prior to commencement of tower attachments and compound installations. Installation of equipment not conforming to approved drawings may violate the terms of the occupancy agreement and will be corrected at the customer's expense. Crown Castle requires drawings for pre-construction approval and as built drawings for physical configuration validation to be submitted as unlocked AutoCAD files (Version 2000i preferred).**

**Appendix A - Antenna, Feedline, TME Specifications**

**Antenna Specifications**

Quantity	Manufacturer	Model	Type	Height	Width	Depth	Weight	Flat Plate Area
1	AMPHENOL	BCD-87010-NE-X-25	PANEL	134.0 IN	2.6 IN	2.6 IN	27.0 LBS	2.4 FT2

**Feedline Specifications**

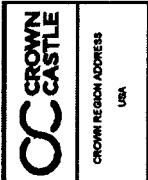
Quantity	Manufacturer	Model	Nominal Size	Nominal O.D.
1	ANDREW	AVA6-50	1-1/4"	1.56 IN



ORIENT	CUSTOMER	STATUS	MODEL	TECH	QTY	SIZE	QTY	TYPE	TYPE	TYPE	TYPE	TYPE
UP	ST. JOHNS COUNTY FL	208 PROPOSED	800-8719-3E-1-5	108	1	1-1/4"	0					

OPERATING LEGAL ENTITY: **ST. JOHNS COUNTY UTILITY DEPARTMENT**

COMMENTS LOG



SPACE RESERVED FOR PROFESSIONAL SEAL

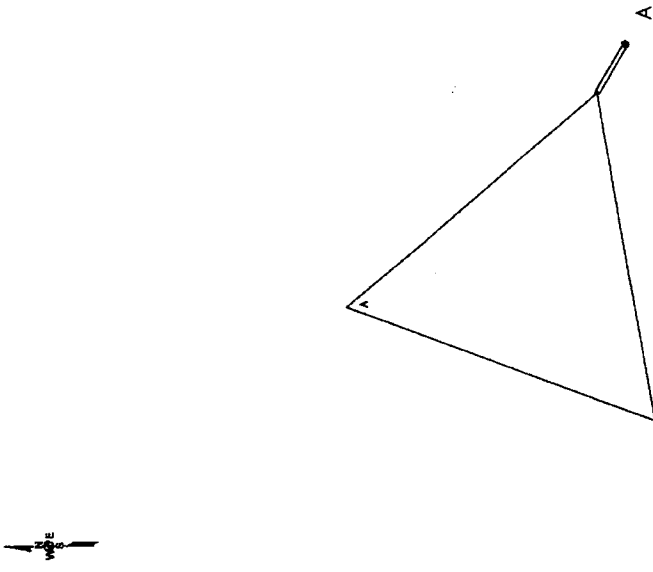
NO.	DATE	DESCRIPTION

DRAWING/RECORD BY: BECAD  
 DRAWING DATE: 10/28/21

SITE NUMBER:  
 SITE NAME:  
 SITE NAME:  
 PNH ISLAND  
 BUSINESS UNIT NUMBER  
 SPOORS  
 SITE ADDRESS

805 PINE ISLAND RD  
 FT. LAUDERDALE, FL 33304  
 ST. JOHNS COUNTY  
 US

SHEET TITLE  
**263 FT PROPOSED LEVEL**  
 SHEET NUMBER



BUSINESS UNIT: 821083 TOWER ID: A LEVEL: 263

LEVEL DRAWING  
 PLOT DATE: 8/10/21 FILE NAME: 821083\_A\_263.dwg (821083)

A1-X



**Customer Site Name: N/A**  
**Customer Site Number: N/A**

**Crown Site Name: Fish Island**  
**JDE Business Unit: 824063**  
**License Identifier: 446012**

**EXHIBIT C to Government Entity Tower License Agreement**

**SITE PLAN; LOCATION AND DIMENSIONS (LENGTH, WIDTH, HEIGHT)  
OF EQUIPMENT BUILDING/FLOOR SPACE  
AND ANY OTHER INSTALLATION AT THE SITE**

**(See attached equipment cabinet and generator location, if any.)**

**Prepared by: L. Rains**  
**Prepared on: 1/7/2015**  
**Revised on: 8/7/2015**

**15**

**CROWN CASTLE STANDARD FORM GOVERNMENT ENTITY TLA 2-21-07**





**Customer Site Name: N/A**  
**Customer Site Number: N/A**

**Crown Site Name: Fish Island**  
**JDE Business Unit: 824063**  
**License Identifier: 446012**

**EXHIBIT D to Government Entity Tower License Agreement**

**PRIME LEASE AGREEMENT**

(See attached redacted copy of the ground lease.)

**Prepared by: L. Rains**  
**Prepared on: 1/7/2015**  
**Revised on: 8/7/2015**

**USE AND LEASE AGREEMENT**

**BETWEEN**

**CITY OF ST. AUGUSTINE**

**AND**

**InterCel Jacksonville MTA, Inc.**

THIS USE AND LEASE AGREEMENT ("Lease") is made and entered into this 12<sup>th</sup> day of August, 1996, between CITY OF ST. AUGUSTINE, with an address of 75 King Street, St. Augustine, Florida 32085-0210, hereinafter referred to as the "City", and InterCel Jacksonville MTA, Inc., a Delaware corporation, with an address of 1239 O.G. Skinner Drive, West Point, Georgia 31833, hereinafter referred to as the "Lessee".

**WITNESSETH:**

WHEREAS, City is the owner of a parcel of land (the "Land") as described on Exhibit "A" attached hereto and by reference made a part hereof; and

WHEREAS, pursuant to a separate agreement with City, St. Johns County currently has an existing 305' guyed communications tower (hereinafter referred to as "existing tower") located and erected on a portion of the Land; and

WHEREAS, pursuant to this Agreement the existing tower structure will be dismantled and entirely replaced by Lessee with a 305' self supporting lattice tower, said replacement tower is hereinafter referred to as the "Tower".

WHEREAS, Lessee desires to lease from City, and City agrees to lease to Lessee, a 125' x 125' portion of the Land consisting of approximately 15,625 square feet located at 865 Fish Island Rd., in St. Johns County, State of Florida, (the "Premises"), together with the non-exclusive right, privilege and easement over and across a portion of the Land for access and utility service thereto (the "Access/Utility Easement"). Said Premises and Access/Utility Easement are more particularly shown on Exhibit "B", attached hereto and by reference made a part hereof, and collectively identified as the "Premises".

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged from one party to the other, City and Lessee hereby agree as follows:

1. The foregoing recitations are true and correct and are hereby incorporated herein by reference.

2. **REPLACEMENT OF EXISTING TOWER.** Both City and Lessee acknowledge and agree the Tower, and associated equipment, shall be located approximately 200 feet from the existing tower, or as substantially in this location as may be required and as shown in Exhibit "C", to accommodate both City and Lessee's communication uses as specified herein. City does hereby grant Lessee the nonexclusive right for ingress and egress to the Land, including the Premises and City parking area seven (7) days a week, twenty-four (24) hours a day, for the installation of the Tower and related site improvements, all at Lessee's expense. In the event any public utility shall require any utility easements City agrees to cooperate, in a timely manner, with Lessee in Lessee's efforts to obtain utility services to the Premises, at no cost to Lessee.

A. At no cost to City, Lessee shall dismantle the existing tower and construct the replacement Tower. Pursuant to the attached Exhibit "D", City has provided Lessee with an exact description of all antennas, equipment and heights required for the installation for current and future communication needs by City and certain other third party users as further described herein.

B. Lessee shall prepare, at its expense, all necessary drawings and site plans, which City shall have the right to approve in its reasonable discretion, and Lessee agrees to make and file all required applications to secure the proper zoning and/or site planning of the Tower and the Land as may be required for the use contemplated herein. City shall have been deemed to have approved the drawings if City has not given written notice of its approval or disapproval to Lessee within ten (10) business days of City's receipt of such drawings. Lessee will be responsible for any filing fee expenses that may be associated with the zoning and/or site plan procedure. In addition, Lessee shall have the right to file any applications for certificates, permits and other approvals that may be required by any federal, state or local authorities. City agrees to cooperate, in a timely manner, with Lessee in its efforts to obtain such approvals with the appropriate authorities.

C. It is understood and agreed that Lessee's obligations to dismantle the existing tower, as provided herein, are contingent upon: i) the City obtaining St. Johns County's consent and approval for Lessee to dismantle and remove County's existing tower; ii) the City obtaining all necessary consents and approvals from the existing tower users, as defined herein, to relocate or remove their respective antennas and communications equipment to the Tower, pursuant to the terms of this Agreement; iii) the existing tower users obtaining all of the certificates, permits and other approvals that may be required by any federal, state or local authorities for the existing tower users to relocate to the replacement Tower and providing evidence of such approvals to Lessee and City; iv) the City and Lessee obtaining, after the execution date of this Agreement, all of the certificates, permits and other approvals that may be required by any federal, state or local authorities for the construction of the replacement Tower, and; v) upon Lessee not exercising its right of termination pursuant to paragraph 8, herein.

D. City shall permit Lessee free ingress and egress to the Land to conduct surveys, structural strength analysis, radio propagation tests, an inter modulation study to verify the compatibility of City's and Lessee's equipment, and other activities of a similar nature, as Lessee may deem necessary, at the sole cost of Lessee. Lessee agrees to repair any damage caused by its activities and agrees that said activities will be conducted in a manner that will not permanently damage City's Property. In addition, Lessee is hereby granted the right to enter upon the Land for the purposes of a) making subsoil tests in the form of test borings and test pits of reasonable size and in required locations, and; b) satisfying itself that any environmental hazardous material is not present on the Land or in any improvements thereto. City shall provide and make available to Lessee, within ten (10) days of the effective date of this Agreement, copies of any and all past environmental audits, including but not limited to, soil and ground water reports and asbestos material surveys applicable to City's Property. City shall advise Lessee in writing, to the best of the City's knowledge, if the Land or any adjacent property has ever been used in the past for a gasoline station, dry cleaner, photo development, or any other type of business normally using various types of hazardous materials.

E. Lessee, at its sole cost and expense, shall cause the approved Tower and Tower Site work to be done and completed in a good, substantial and workmanlike manner, and in compliance with all legal requirements. Lessee shall be solely responsible for construction means, methods, techniques, sequences and procedures, and for coordinating all activities related to the work. City shall have no duty or obligation to inspect the work, but shall have the absolute right to do so and shall have the right to determine, in its sole reasonable discretion and at its expense, that the construction has been performed in accordance with the approved drawings and has been performed in the manner required by this section.

F. After completion of the Tower:

i) Subject to FCC final approval of the relocation of the existing tower users whose antennas are presently installed at heights AGL within the Lessee's anticipated reserved space, Lessee shall have the right to locate and install antennas and other communications facilities and equipment between the 200' AGL and 260' AGL designated elevations of the Tower structure and reserves the exclusive right to the use of that space on the Tower. If such FCC approval is not forthcoming, Lessee shall at a minimum retain the right to the exclusive use of the Tower between the 240' AGL and 268' AGL Tower Space, and shall have the right to use such other heights and locations on the Tower as will not conflict with those antennas as shown on Exhibit "D" hereto.

ii) Lessee shall, within 30 days from the issuance of the certificate of completion of the Tower, remove from the existing tower the St. Johns County Sheriff's antennas and related equipment and relocate the Sheriff's respective antennas and communications equipment onto the Tower, at Lessee's expense, pursuant to the terms of this Agreement;

iii) All other existing tower users, as defined herein, shall, within 30 days of their respective receipt of FCC approval to relocate to the Tower, notify Lessee of such FCC approval and remove from the existing tower their respective antennas and communications equipment and secure Lessee's consent as to the manner of installation and relocation of same onto the Tower, at their expense, pursuant to the terms of this Agreement. Such consent shall not be unreasonably withheld.

iv) Upon approval of the work and verification by City that the Tower is satisfactorily operational and the relocation of the existing tower users, Lessee shall within a reasonable time thereafter (which shall not exceed 60 days), dismantle the existing tower, at its expense.

v) Subject to the terms of this Agreement, ownership and control of the Tower shall remain with Lessee.

G. Survey. Lessee shall survey the Land and the Premises, at its sole expense. The survey legal description shall then replace Exhibit "A" and/or Exhibit "B", which shall be attached hereto and made a part hereof, and shall control in the event of any inconsistencies between the survey legal descriptions and Exhibits "A" and/or "B" attached to this Agreement. Upon City's request, Lessee agrees to provide City with a copy of the completed survey.

3. USE OF THE TOWER BY EXISTING TOWER USERS. A. City may locate on the Tower its governmental communication antennas and equipment (including the facilities and equipment of those third parties who have heretofore contracted with City for the placement of such facilities and equipment pursuant to the terms and conditions contained herein) and no others. Such antennas and equipment shall be mounted at an elevation and with such equipment and related cables satisfactory to the existing tower User and as approved by Lessee, with such approval not to be unreasonably withheld. An exact description of all antennas, equipment and height for the installation for current and future uses anticipated by such User is more specifically described in Exhibit "D" attached hereto and made a part hereof.

The responsibility for the cost of the initial installation of said antennas and equipment shall be as specified in paragraph 2.F., above. Each such User shall be responsible for the cost of any required maintenance to said antennas and equipment. Said maintenance is to be performed by each User, or its contractors, in a workmanlike manner and all work is to be done in a manner consistent with high quality construction standards.

B. It is acknowledged and understood that certain other entities have heretofore contracted with City for the placement of their communications antennas and related equipment on the existing tower. City agrees not to directly or indirectly permit, lease, or rent any additional Tower space to any other entities beyond those already specified in Exhibit "D" herein.

In order to protect the integrity of the Tower, Lessee agrees to act as Tower Administrator to assure that any subsequent installation and/or maintenance performed on the Tower by Lessee or any other approved User, (hereinafter referred to as "User") shall be done in a workmanlike manner consistent with high quality construction standards. Each User will be required to provide Lessee with at least forty-eight (48) hours notice prior to any installation and/or maintenance that will require access to the Tower, unless an emergency shall exist in which case notice shall be provided to Lessee at least twenty-four (24) hours after access to the Tower has occurred.

C. It is the intent of both City and Lessee that the designed Tower capacity and Tower loading for the Tower shall be reserved to accommodate the antennas and equipment of Lessee and each User, and Lessee agrees to cooperate in good faith to reserve, protect and carry out such intent. In the event that any User desires to modify, or abandon its proposed antennas and related equipment as identified in Exhibit "D", Lessee may, without prior notice to any other User, adjust the affected User's reserved Tower loading and Tower capacity accordingly. Any necessary Tower studies that are secured for this purpose shall be conducted by Lessee, at the requesting party's expense.

D. to the extent permitted by law, each User shall indemnify and hold harmless Lessee against any and all claims, demands, actions, losses, damages, judgments, and any and all costs and expenses (including without limitation attorneys' fees and costs of litigation), resulting from or incurred by Lessee on account of or arising from any User's use of the Tower, the Premises, or from any other activity permitted or caused by such User or any such third party's use in or about the Land.

E. It is understood and agreed between City and Lessee that Lessee will enter into separate Agreements with the Other Users that will include:

i) Reasonable rules and regulations to be promulgated by Lessee for the other Users use and maintenance of the Tower and facilities, and which may be amended from time to time, and;

ii) Each User will agree to be responsible for installation, maintenance and the operating costs of its own facilities and utilities service, and;

iii) Lessee will prepare and submit to each User an annual statement of the Lessee's costs of maintaining the landscaping and common areas of the Premises, and each User shall be responsible for the payment of its proportionate share of those expenses, in accordance with the terms of the separate agreements.

4. **INTERFERENCE.** Lessee agrees to install communications equipment of a type and frequency which will not cause interference with current communications at the existing tower at the time of such installation of the replacement Tower. Lessee acknowledges that, pursuant to the current agreement between the other Users and the City, the placement of communications equipment on the Tower or the Land by City and any such Users are not a violation of any restriction contained herein; however, all such Users and any additional third party User's shall be subject to the terms and conditions of this Agreement.

#### THE LEASE.

5. **Premises.** City hereby leases and lets to Lessee, and Lessee hereby leases and lets from City, a 125' x 125' portion of the Land consisting of approximately 15,625 square feet (the "Equipment Space"), together with the non-exclusive right, privilege and easement over and across a portion of the Land for parking, pedestrian and vehicular access to and from the Equipment Space as may be required to construct, install, operate, maintain and repair Lessee's Facilities, together with the right, privilege and easement over, under and across said portion of the Land for the purposes of providing and maintaining necessary utilities to Lessee's Facilities.

A. **Tower Space.** Lessee hereby leases to City space on the Tower to the extent necessary to enable City to erect, maintain and operate various antennas as part of its telecommunications system and for no other purposes. City may mount its various antennas at such levels as are approved by the FCC and/or other authorities whose approval is required for the installation and use of City antennas and equipment, at such levels of the Tower as City may require, other than and excluding those levels reserved for the exclusive use of Lessee. The exact location between said elevations on the Tower will be determined by Lessee so as to avoid interference with any User's equipment, cables, lines, antennas and/or any other property located on the Tower, as may be applicable.

i) Lessee agrees that City may attach necessary transmission lines, cables, antennas, fixtures, and other associated equipment to the Tower Space to make said antennas operational. City will provide all mounting hardware necessary for its installation.

B) **Utilities.** City agrees to cooperate with Lessee to obtain utility services within said Access/Utility Easement by signing such documents or easements as may be required by the providing utility companies. In the event the aforementioned Access/Utility Easement cannot be utilized, City agrees to provide a substitute easement, at no cost to Lessee, including the grant to the Lessee or to the providing utility, in, over, across, under and through such additional portion of the Land as may be reasonably required by such utility.

i) Lessee shall be solely responsible for, and shall promptly pay all charges for utilities serving the Premises and for the cost of the installation, maintenance, and repair of all utility meters associated with such utility service, except as provided for in paragraph 3. E. ii) above.

6. **TERM.** A. **Initial Term.** The initial term of this Lease shall be for a ten (10) year term beginning on the date Lessee places its communications equipment in service at the Tower (the "Commencement Date"). Notwithstanding the above, if construction of the Tower has not commenced by September 20, 1996, Lessee may, at its discretion, elect to terminate this Agreement by providing City with thirty (30) days prior written notice.

B. Extension Terms. Provided that Lessee has not breached any material term of this Lease during its initial term and this Lease has not been terminated as provided herein, Lessee shall have the option to extend this Lease for up to four (4) additional five (5) year terms (each an "Extension Term"). Lessee shall automatically be deemed to have exercised its option as to each Extension Term unless Lessee delivers written notice to City of its desire to conclude this Lease, not less than ninety (90) days prior to the end of the then existing initial term or Extension Term, as the case may be. During each Extension Term, all terms and conditions of this Lease shall remain in full force and effect.

C. If at the end of the fourth (4th) Extension Term, or earlier as provided herein, this Lease has not been terminated by either party, this Lease shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter until terminated by either party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of such term.

7. RENTAL FEES. A. In consideration of Lessee constructing the Tower, the Tower Site improvements and dismantling and removing the existing tower, all at its expense and permitting the Users to utilize the Tower, Lessee's annual rental fees shall be abated (hereinafter referred to as the "Abatement Period") until the beginning of the 21st anniversary year of this Agreement, if this Agreement has not been previously terminated, when Lessee shall commence annual payments to the City at the rental amount specified below. For purposes of this section, an anniversary year shall be defined to mean a period of 12 consecutive months from the Commencement Date.

B. If this Agreement has not been terminated by Lessee, commencing with the 21st anniversary of this Agreement, Lessee shall pay to City as rental for the Premises, an annual rental payment of plus applicable sales tax, to be paid annually thereafter, in advance. Thereafter, if this Agreement has not been terminated by Lessee, the annual rental amount shall be increased by each year. Lessee shall make such payment to the address set forth herein for notices, or to such other address as City shall from time to time designate by written notice.

8. LESSEE'S USE AND FACILITIES. During this Lease, Lessee shall use the Premises, including the Tower, for the purpose of constructing, maintaining and operating a communications facility and uses incidental thereto, and shall have the right, at its expense, to construct or otherwise erect any improvements related to this purpose that Lessee deems necessary or desirable on all or any part of the Premises, now or in the future, including but not limited to a building or buildings, suitable for its proposed use and a security fence. Lessee shall have the right to install, construct, repair, maintain, operate or remove its communications facilities, including without limitation its equipment building, transmitters, receivers, generators for emergency power, antennas and related equipment and support structures and trade fixtures ("Lessee's Facilities"). Title to Lessee's Facilities shall be and remain solely in Lessee. All equipment, antenna support structures and trade fixtures placed on the Premises, by Lessee are and shall remain the property of Lessee and shall not be deemed fixtures on the land.

Lessee's Facilities shall be installed, constructed and maintained by Lessee at Lessee's sole cost and expense, in a good and workmanlike manner in accordance with Lessee's specifications. Lessee, at Lessee's sole cost and expense, shall maintain Lessee's Facilities in good order and repair. Lessee shall observe and comply with all applicable laws, statutes, ordinances, rules and regulations of the federal, state, and local governments and of all other governmental authorities, affecting the Lessee's Facilities or appurtenances thereto or any part thereof.

At any time during this Lease, Lessee shall have the right to terminate this Lease upon the occurrence of any of the following events: (A) If the approval of or issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction and/or operation of the communications facility as now or hereafter intended by Lessee cannot be obtained in Lessee's discretion, or is revoked; or (B) If Lessee determines, in its discretion, that the Premises are not appropriate for its intended uses, or upon interference with Lessee's reception or transmission. Upon not less than thirty (30) days prior written notice of termination of this Agreement by Lessee, this Lease shall automatically terminate and neither party shall have any further rights or obligations arising hereunder, except for the express terms pursuant to Paragraph 21 of this Agreement.

9. **NOTICES.** All notices, demands, requests, consents, and approvals desired, necessary, required or permitted to be given pursuant to the terms of this Lease shall be in writing and shall be deemed to have been properly given if personally delivered or sent, postage prepaid, by first class registered or certified United States mail, return receipt requested, addressed to each party hereto at the following address:

City: City of St. Augustine  
75 Kings Street  
St. Augustine, Florida 32085-0210  
Attention: City Manager

Lessee: InterCel Jacksonville MTA, Inc.  
C/o InterCel, Inc.  
1239 O.G. Skinner Drive  
West Point, Georgia 31833  
Attention: V.P. of Operations

Copy to: Alan L. Gabriel, Esq.  
The Law Offices of Alan L. Gabriel  
International Building, Penthouse East  
2455 East Sunrise Blvd.  
Fort Lauderdale, Florida 33304

or at such other address in the United States as City or Lessee may from time to time designate in writing to the other. City agrees to send copies of all notices required or permitted to be given to Lessee to each leasehold mortgagee that notifies City in writing of its interest and the address to which notices are to be sent.

10. **ASSIGNMENT.** Lessee may not assign, mortgage or otherwise encumber this Agreement, without City's prior written consent. Upon any such assignment of this Agreement Lessee shall remain fully responsible for the payment of rent unless City assents in writing that the assignee is credit worthy and capable of satisfying the remaining rental obligation under the Agreement. Upon such a determination by the City, the City may release the Lessee from the remaining obligations due under the remainder of the lease term or extension thereto. Notwithstanding the foregoing, Lessee may upon prior written notice to City, assign this Agreement to its general partner, a parent corporation or any of its subsidiaries, or any affiliate. Further, Lessee may, in its discretion, sublease all or any part of the Premises and permit the use of any portion of the Premises by other entities consistent with the use by Lessee of the Premises. All colocation revenue generated by subleasing the Premises shall inure to Lessee exclusively.

11. **LIENS.** Lessee shall not create or permit to remain, and shall promptly discharge, at its sole cost and expense, any lien, encumbrance or charge upon the Premises, or any part thereof, or upon Lessee's rights under this agreement that arises from the use or occupancy of the Premises by Lessee or by reason of any labor, service or material furnished or claimed to have been furnished to or for the benefit of Lessee or by reason of any construction, repairs or demolition by or at the direction of Lessee.

12. **INSURANCE.** Lessee agrees to acquire and maintain, at its expense, during the term of this Agreement commercial general liability insurance against claims for personal injury or property damage liability with a limit of not less than One Million and No/100 Dollars (\$1,000,000.00) insuring City and Lessee in the event of personal injury or of damage to property arising out of the use and occupancy of the Premises and appurtenant areas by Lessee, which insurance shall specifically name City as a "co-insured." A certificate of insurance will be provided to City if requested. Such insurance may be carried in whole or in part under any blanket policies that include other properties and provide separate coverage for the Premises.

13. **INDEMNITY.** Lessee agrees to indemnify and hold the City harmless from and against any loss, damage, or injury, including costs and expenses of defending against such claims, caused by, or on behalf of, or through the fault of the Lessee. As permitted by law, City agrees to indemnify and hold the Lessee harmless from and against any loss, damage, or injury, including costs and expenses of defending against such claims, caused by, or on behalf of, or through the fault of the City. Nothing in this Paragraph shall require a party to indemnify the other party against such other party's own willful or negligent misconduct.

14. **DEFAULT.** The following events shall constitute events of default under this Lease:

A. Lessee's failure to pay any installment of rent, or other sums due under this Lease, when the same shall be due and payable and the continuance of such failure for a period of twenty (20) days after the payment due date and actual receipt of written notice thereof from City; or

B. Lessee's or City's failure to perform any of the covenants, conditions and agreements herein contained and to be performed by such party and the continuance of such failure without the curing of same for a period of thirty (30) days after receipt of notice in writing from the party alleging such breach, specifying the precise nature of such failure. Provided, however, where any such default cannot reasonably be cured within said period, the defaulting party shall not be deemed to be in default under this Agreement if such party commences to cure such default within said period and thereafter diligently pursues such cure to completion.

Upon the occurrence of an event of default by Lessee for the nonpayment of rent, at the option of City, City may terminate this Lease by written notice to the defaulting party, in which event Lessee shall promptly surrender the Premises, without prejudice to any other rights which such non-defaulting party may have.

C. City's Default. In the event of a breach by City of any of the covenants or provisions hereof and City's failure to cure any breach of any other provision of the Agreement after thirty (30) days written notice and demand, Lessee shall have the right of injunction and the right to invoke any remedy allowed at law or in equity.

15. **TAXES.** Lessee shall be responsible for payment of all personal property taxes assessed directly upon and arising solely from its use of the communications facility on the Premises. City shall be responsible for payment of all real property taxes; provided, however, Lessee shall be responsible for making any necessary returns for and paying any and all property taxes separately levied or assessed against its improvements on the Premises. Lessee shall pay an amount equal to any increase in real estate taxes directly attributable to any improvement to the Premises made by Lessee.

Upon payment of such tax by City, Lessee shall reimburse City for the amount of any such tax payment within (60) sixty days of receipt of sufficient documentation indicating the amount paid and the calculation of Lessee's pro-rata share. Upon written request by Lessee, City shall furnish evidence of payment of all taxes.

16. **CITY'S TITLE.** City represents and warrants that, provided Lessee is not in default hereunder, Lessee shall peaceably and quietly hold and enjoy the Premises during the term of this Lease. City represents and warrants to Lessee that City owns fee simple title to the Land and Premises free and clear of any liens, encumbrances and restrictions that would impair Lessee's intended use of the Premises and that City has the power and authority to execute and deliver this Lease and to carry out and perform all covenants to be performed by City hereunder.

17. **SUBORDINATION AND NON-DISTURBANCE.** At City's option, this Agreement shall be subordinate to any mortgage, bond or similar instrument (collectively "Mortgage") by City which from time to time may encumber all or part of the Premises; provided however, the holder of every such Mortgage shall recognize the validity of this Lease in the event of a foreclosure of City's interest, and Lessee's right to remain in occupancy of the Premises as long as Lessee is not in default of this Lease, by executing a non-disturbance agreement in a form reasonably acceptable to the Lessee. Lessee agrees to execute in a timely manner whatever instruments as may reasonably be required to evidence this subordination clause. In the event the Premises is currently encumbered by a Mortgage, City, no later than thirty (30) days after the execution of this Agreement shall obtain and furnish to Lessee a non-disturbance instrument in a form acceptable to Lessee.

18. **TITLE INSURANCE.** Both City and Lessee agree that each party will execute a Memorandum of Lease. Lessee shall record a Memorandum of Lease or this Lease in the public records of the City where the Premises is located. City agrees that Lessee may obtain title insurance on the Premises. City, at City's expense, shall cooperate with Lessee's efforts to obtain such title insurance policy by executing documents or obtaining requested documentation as required by the title insurance company. At Lessee's option, should City fail to provide the requested documentation, or fail to provide the non-disturbance instrument(s) as noted in Paragraph 17 of this Agreement Lessee may terminate this Agreement.

19. **CONDEMNATION.** If the Land, or such portion of the Land as will make the Premises unusable for Lessee's use, in Lessee's reasonable discretion, or if the whole of the Premises, or such portion thereof as will make the Premises unusable for the purposes herein leased, is condemned by any legally constituted authority, or conveyed to such authority in lieu of such condemnation, then in any of said events, the term of this Agreement shall end on the date when possession thereof is taken by the condemning authority, and rental shall be accounted for between City and Lessee as of such date. In the event any portion of the Premises is taken by condemnation or a conveyance in lieu thereof (other than as set forth in the preceding sentence), at Lessee's option, Lessee may (i) terminate this Agreement, or (ii) elect to continue this Agreement without reduction or set off with respect to the rent due. Lessee may claim and recover from the condemning authority such award as may be allowed by law, only to the extent that such recovery does not in any way diminish City's rights to recover from such condemning authority.

20. **SALE.** Should City, at any time during the term of this Agreement, decide to sell all or any part of Land or the Premises to a purchaser other than Lessee, such sale shall be under and subject to this Agreement and Lessee's rights hereunder. City agrees not to sell, lease, use, or permit to be used any other portions of the Land, or property contiguous thereto owned or controlled by the City, for the placement of other communications facilities or for any other purposes if, in Lessee's judgment, such other communication facilities or other uses would interfere with the use of the Premises by Lessee.

21. **TERMINATION.** Upon termination of this Agreement, Lessee shall; i) offer City the first option to purchase said Tower structure and certain remaining improvements for the agreed upon sum of

at such time as Lessee may elect to terminate this Agreement. Ownership and title to the Tower shall be transferred to City by such instrument of conveyance as is more specifically described in Exhibit "E" attached hereto and made a part hereof. In addition, Lessee shall, within a reasonable period of time, remove its personal property and other fixtures. City shall have sixty days in which to exercise this option. ii) If City should elect, Lessee shall dismantle and remove the Tower, within a reasonable period of time, remove its personal property and other fixtures and, if necessary, restore the Premises to its original above ground condition, normal wear and tear excepted. This Agreement shall terminate as of the date of the termination of Lessee's leasehold interest and Lessee shall pay its pro-rata share of the rent until the effective date of such termination.

22. **ATTORNEY FEES AND COSTS.** In connection with any enforcement action to enforce the provisions and the rights granted by this Agreement, or should litigation arise out of this Agreement, the prevailing party, whether City or Lessee, shall be entitled to recover all expenditures including reasonable attorney's fees and legal assistant fees for services rendered in connection therewith, including appellate proceedings and postjudgment proceedings.

23. **SEVERABILITY.** In the event any one or more of the paragraphs or provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be continued as if such invalid, illegal or unenforceable provisions had never been contained herein; and the parties hereby declare that they would have agreed to the remaining portions or applications of this Agreement if they had known that such affected provisions or portions thereof would be determined to be illegal, invalid, or unenforceable.

24. **CAPTIONS AND HEADINGS.** Paragraph or section headings used in this Agreement are for convenience of reference only and do not affect any provision of this Agreement.

25. **ENTIRE AGREEMENT.** This Agreement constitutes the full and complete agreement between the parties hereto with respect to the subject matter hereof and said parties shall not be bound by any statement, special condition or agreements not herein expressed. No alteration or amendment to this Agreement by the parties hereto shall be effective unless in writing and signed by the parties hereto. This Agreement and the performance thereof shall be governed, construed, interpreted and regulated by the laws of the State of Florida. Time is of the essence in this Agreement.

26. **SUCCESSORS IN INTEREST.** This Agreement shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.

27. **PARTIES TO BE REASONABLE.** Whenever under this Agreement the consent or approval of either party is required or a determination must be made by either party, no such consent or approval shall be unreasonably withheld or delayed, and all such determinations shall be made on a reasonable basis and in a reasonable manner. In the event that a party hereunder does not actually receive a written response from the other party hereunder to a request for an approval within fourteen (14) days after the request for the approval is delivered to the other party, the other party shall be conclusively deemed to have approved the request.

28. **RADON GAS.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your City health unit.

29. This Agreement shall be executed in duplicate, each of which shall be deemed an original and constitute but one and the same Agreement.

30. **FAA AND FCC REQUIREMENTS.** Lessee shall comply, at Lessee's sole cost and expense, with all tower marking and lighting requirements of the Federal Aviation Administration ("FAA") and Federal Communications Commission ("FCC").

31. **MAINTENANCE OF TOWER FACILITIES.** Lessee, at Lessee's sole cost and expense, except as provided for in paragraphs 3.E. ii), and 3.E. iii) hereof, shall maintain the Tower Facilities in good order and repair. Lessee shall observe and comply with all applicable laws, statutes, ordinances, requirements, orders, directives, rules and regulations of the federal, state, and local governments and of all other governmental authorities, now in effect or hereafter enacted, affecting the Land, Tower Facilities or appurtenances thereto or any part thereof.

32. **INTERFERENCE.** Lessee shall operate Lessee's Facilities in a manner that will not cause substantial interference to any other Tower User provided that the rights of such other Tower User predate the date of this Agreement. From and after the date of this Agreement, Lessee shall not permit its tenants or any other User to install new equipment on or about the Tower Facilities if such equipment is likely to cause interference with Lessee and/or any User's operations. Lessee shall, within five (5) days of receipt of written notice of such interference, which notice shall include the reasonable engineering basis for the belief that such other User or tenant is causing interference, require such other User or tenant to either resolve the interference or cease operation of the facilities which are causing such interference. The terms of this provision shall be included in any subsequent lease which Lessee might, from time to time, choose to enter into with any future tenant or User.

33. **DAMAGE OR DESTRUCTION.** A. In the event that, at any time during the term of this Agreement, the Tower should be destroyed or damaged in whole or in part, Lessee, at its own cost and expense, may, upon written notice to City, either; i) elect to rebuild the Tower as provided for in this paragraph 33, then in that case this Agreement shall re-commence at that point in time as if this Agreement had just been approved by the parties hereto, or; ii) terminate this Agreement as of the date set forth in such notice and all rentals and other sums, if any, shall be accounted for between City and Lessee as of the date the Tower became unavailable to Lessee. Rent, if any, shall abate to the extent that, and for the period that, the Premises are not usable for the conduct of Lessee's business.

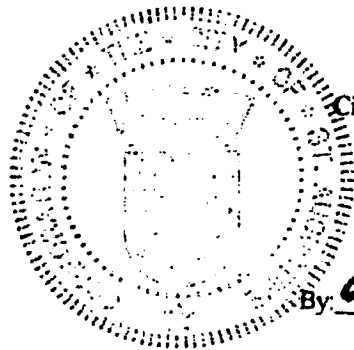
B. In the event of any such damage or destruction which renders the Tower or the Premises non-operable for a period reasonably expected to exceed five (5) days, Lessee shall have, and City hereby grants to Lessee, the right to bring and maintain upon the Land such temporary communications facilities as Lessee shall reasonably determine are necessary to continue to operate Lessee's communications system and provided i) that such temporary facilities do not materially interfere with City's or any other User's communications operations on the Land or the repair or replacement of the damaged facilities; ii) that Lessee obtains all necessary permits and authorizations for the construction and operation of such temporary facilities; iii) that Lessee shall remove such temporary facilities upon the sooner of (a) the restoration of service by Lessee's Facilities, or (b) termination of this Agreement.

C. In the event the Tower becomes partially or totally destroyed, or otherwise affected, so as to be rendered useless for the placement of Lessee's Facilities as contemplated under this Agreement, whether by Act of God or any other cause other than an act of Owner or its agents, or an act of Lessee or its agents, in violation of this Agreement, neither City nor Lessee shall have the duty to replace or rebuild the Tower.

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

CITY

Signed, sealed and delivered  
in the presence of:



City of St. Augustine

By:

Len Weeks

Print Name: Len Weeks  
Title: Mayor-Commissioner

Witness Nell Porter

Print Name: Nell Porter

Witness Paula B. Owens

Print Name: PAULA B. OWENS

Address: 75 King Street  
St. Augustine, FL 32085-0210

Executed this 12<sup>th</sup> day of AUGUST, 1996.

STATE OF FLORIDA

COUNTY OF

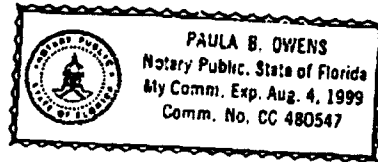
The foregoing instrument was acknowledged before me this 12th day of AUGUST, 1996, by LEN WEEKS,  
as ~~Mayor~~ Commissioner of City of St. Augustine, a Municipality, who is personally known to me or who has  
produced N/A as identification and who did (did not) take an oath.

*Paula B. Owens*  
NOTARY PUBLIC

My Commission Expires:

Print Name:

(Seal)



Lessee

Signed, sealed and delivered  
in the presence of:

InterCel Jacksonville MTA, Inc.,  
a Delaware Corporation

Pamela S. Jewell  
Witness  
Print Name: PAMELA S. JEWELL

By: Walter R. Pettiss  
Print Name: Walter R. Pettiss  
Title : Executive Vice President

Robert V. Davenport Executed on 4<sup>th</sup> day of August, 1996.  
Witness  
Print Name: Robert V. Davenport

STATE OF FLORIDA

City OF DUVAL

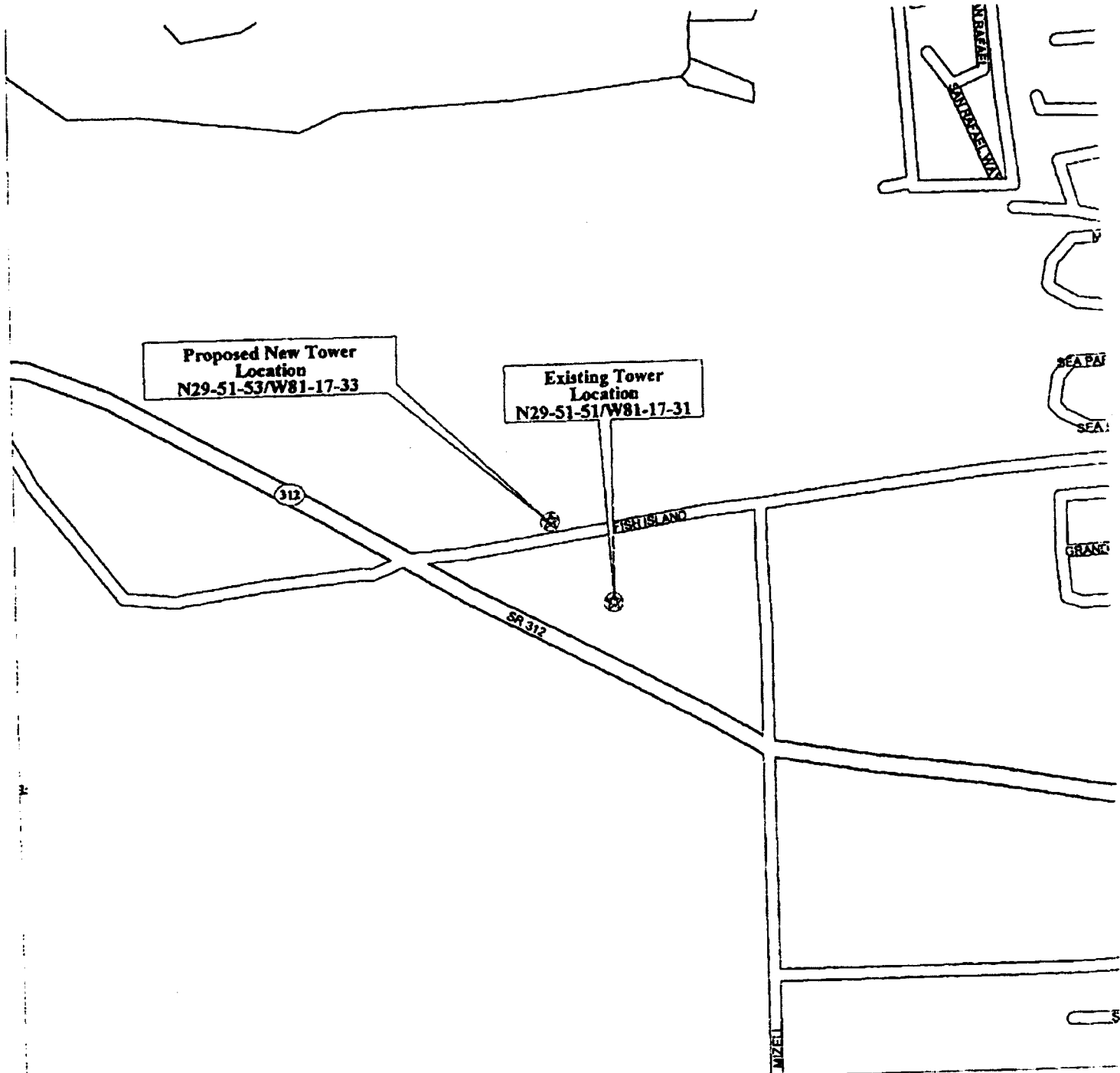
The foregoing instrument was acknowledged before me this 4<sup>th</sup> day  
of August, 1996, by Walter R. Pettiss,  
as Executive Vice President of InterCel Jacksonville MTA, Inc.,  
a Delaware corporation, who is personally known to me or who has  
produced \_\_\_\_\_ as identification and who did (did not) take  
an oath.

Robert V. Davenport  
NOTARY PUBLIC  
Print Name: ROBERT V. DAVENPORT  
Notary Public, State of Florida  
(seal) My Comm. expires Nov. 15, 1997.  
Comm. No. GC 330504

My Commission Expires:

4601stag.grd  
6/28/96rev. 8/2/96

- 1) **EXHIBIT "A"** -- Sketch of the Land and Tower Site.
- 2) **EXHIBIT "B"** -- Location of Tower and Equipment Building at Tower Site.
- 3) **EXHIBIT "C"** -- Lessee's antennas and equipment list.
- 4) **EXHIBIT "D"** -- City's (including other User's) current and future antennas and equipment list.
- 5) **EXHIBIT "E"** -- Bill of Sale.
- 6) **EXHIBIT "\_"** -- Survey sketch and legal description of Lessee's leased parcel and tower space.



cp 993 DeLorme Mapping

**LEGEND**

- State Route
- Population Center
- Street, Road
- == State Route
- ~ River
- - - Open Water

Scale 1:7,812 (at center)

500 Feet

200 Meters

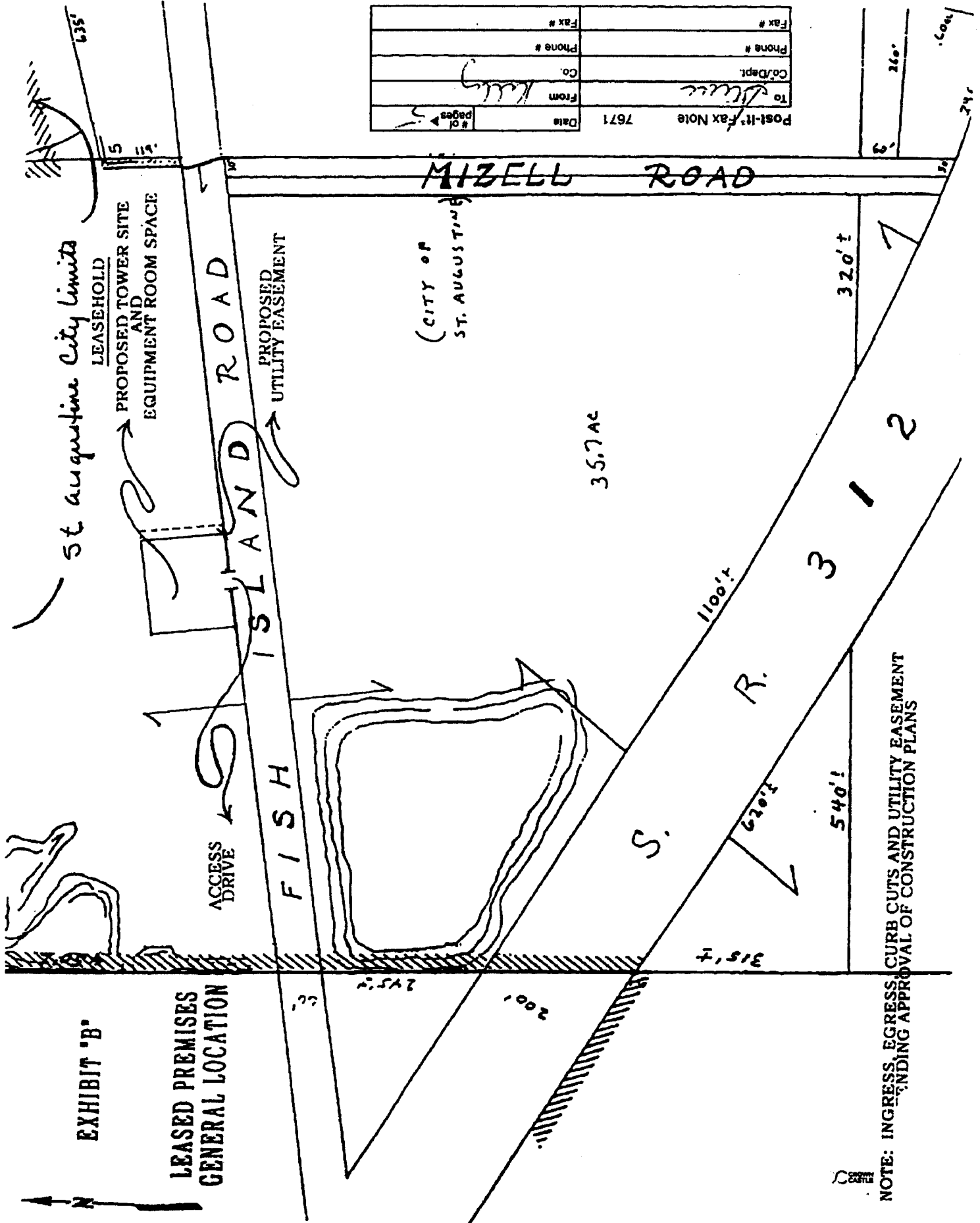
Fish Island Tower, St. Augustine, FL  
 Mag 16.00  
 Fri Jul 19 11:07:38 1996

EXHIBIT "C"



EXHIBIT 'B'

LEASED PREMISES  
GENERAL LOCATION



NOTE: INGRESS, EGRESS, CURB CUTS AND UTILITY EASEMENT  
REQUIRING APPROVAL OF CONSTRUCTION PLANS

Date	7671	Post-It Fax Note	7671
# of pages	5	To	Mizell
		Co./Dept.	
		Phone #	
		Fax #	

**EXHIBIT "D"**

**DESCRIPTION OF ANTENNAS, EQUIPMENT AND HEIGHTS OF  
THIRD PARTY USERS**

**Fish Island Tower**

Tower structure is 300' Rohn 80 with 5' tapered base. Antenna heights are to mounting point unless otherwise noted, and are approximate (+/- 5 feet). There are antennae on the tower abandoned from old systems that will not have to be relocated.

300' DB 224; SO Tac; 1 TX 125.770/RX 155.4910; 100 W  
DB 224; SO Ham; TX 145.210/RX 144.610; 100 W

285' DB 224; SO Tac 3; TX 154.650/RX 155.190; 100 W

280' DB 264; USNPS; TX 168.995/RX 170.050; 100 W  
National Park Service personnel had minimal  
knowledge about this. This is a guess based on my  
visual inspection from ground level.

275' TD-340-TP-4 Cellwave;  
USCG; TX/RX 156.600, 156.800, 157.050, 157.100  
157.150, 157.175; 60 W

Multi Freq. Base

155' DB 224; AMCD; TX 158.745/RX 153.875; 100 W

150' SO Low band; TX/RX 39.50; 60 W Old antenna

Please Note: Many of these radios and antennae predate my being here and the people I talked to from some other agencies were vague so these are best guesses pending an on the tower inspection.

**EXHIBIT "D"**

**DESCRIPTION OF ANTENNAS, EQUIPMENT AND HEIGHTS OF  
INTERCEL JACKSONVILLE MTA, INC.**

**SITE INFORMATION**

St. Augustine

INTERCEL SITE ID: J-FL-055-106 A1

**SITE EQUIPMENT**

2	RBS Cabinet
1	Protection Cabinet
15	Coax Cable (1 5/8")
9	Antenna PCSA 0656-19-0
9	Low Noise Amplifier (LNA)
1	Wave Guide Bridge
1	200A Electrical Service
1	20 KW Generator
1	Propane fuel tank

# EXHIBIT 'E'

## BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that InterCel Jacksonville MTA, Inc., a Delaware corporation, with an address of 1239 O.G. Skinner Drive, West Point, Georgia 31833, party of the first part, for and in consideration of the sum of \_\_\_\_\_ and other good and valuable considerations, lawful money of the United States, to them paid by CITY OF ST. AUGUSTINE, with an address of 75 King Street, St. Augustine, Florida 32085-0210, party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, transferred and delivered, and by these presents does grant, bargain, sell, transfer and deliver unto the said party of the second part, and its executors, administrators and assigns, the following goods and chattels:

All of the personal property located at:

TO HAVE AND TO HOLD the same unto the said parties of the second part, and her executors, administrators and assigns forever.

AND we do, for ourselves and our heirs, executors and administrators, covenant to and with the said parties of the second part, and their executors, administrators and assigns, that we are the lawful owners of the said good and chattels; that they are free from all encumbrances; that they have good right to sell the same aforesaid, and that we will warrant and defend the sale of the said property, goods and chattels hereby made, unto the said parties of the second part, and their executors, administrators and assigns against the lawful claims and demands of all persons whomsoever.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 199\_\_.

Signed, sealed and delivered  
in the presence of:

InterCel Jacksonville MTA, Inc.,  
a Delaware Corporation

By: \_\_\_\_\_