

THIRD AMENDMENT TO STRUCTURE LEASE AND ENCROACHMENT AGREEMENT
(BU 840608)

THIS THIRD AMENDMENT TO STRUCTURE LEASE AND ENCROACHMENT AGREEMENT (“Third Amendment”) is made effective this ____ day of _____, 2020, by and between the TOWN OF CHAPEL HILL, a North Carolina municipal corporation (“Landlord”), and NCWPCS MPL 31 – YEAR SITES TOWER HOLDINGS LLC, a Delaware limited liability company (“Tenant”), by and through CCATT LLC, a Delaware limited liability company, its Attorney in Fact.

WHEREAS, Landlord and New Cingular Wireless PCS, LLC, a Delaware limited liability company (“New Cingular”), entered into a Structure Lease and Encroachment Agreement dated June 30, 2006 (as amended and assigned, the “Agreement”), whereby Landlord leased to New Cingular a portion of land being originally described as a 1,546 square foot portion of that property (said leased portion, as amended, together with those certain access, utility and/or maintenance easements and/or rights of way granted in the Agreement, being the “Premises”), located at 100-A Cleland Drive, Chapel Hill, Orange County, State of North Carolina; and

WHEREAS, Landlord and New Cingular entered into that First Amendment to Structure Lease and Encroachment Agreement dated July 12, 2013 (“First Amendment”), whereby the Agreement was amended to extend the term of the Agreement through June 30, 2026, as provided in the First Amendment, among other changes; and

WHEREAS, Landlord and New Cingular entered into that Second Amendment to Structure and Encroachment Agreement dated October 16, 2013, whereby the parties increased the size of the Premises to 1,747.6 square feet, among other changes; and

WHEREAS, Tenant is the successor-in-interest in the Agreement to New Cingular; and

WHEREAS, the term of the Agreement commenced on July 1, 2006, and has an original term, including all Extension Terms (as defined in the Agreement), that will expire on June 30, 2026 (“Original Term”), and Landlord and Tenant now desire to amend the terms of the Agreement as provided herein.

NOW THEREFORE, in exchange for the mutual promises contained herein, Landlord and Tenant agree to amend the Agreement as follows:

1. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement. The recitals in this Third Amendment are incorporated herein by this reference.
2. Section 1 of the First Amendment is amended by replacing “1” with “three (3)”, thereby adding two (2) additional five (5) year Extension Terms to the Agreement beyond the

Original Term, and extending its total term to June 30, 2036, unless sooner terminated as provided in the Agreement.

3. As further consideration for Tenant entering into this Third Amendment, during the term of the Agreement, Tenant shall have the irrevocable option (“Option”) to lease up to a maximum of 432 square feet of real property adjacent to the existing Premises at a location shown as the “PROPOSED LESSEE 12’ X 36’ LEASE AREA (432 +/- SQ. FT.)” on **Exhibit A** attached hereto and incorporated herein by reference (“Additional Lease Area”) on the same terms and conditions set forth in the Agreement. Tenant may conduct any reasonable due diligence activities on the Additional Lease Area at any time after full execution of this Third Amendment. If Tenant elects to exercise the Option, after full execution of the Additional Lease Area Documents (as defined below) and the commencement of construction into the Additional Lease Area, Tenant shall pay the same rent per square foot for the Additional Lease Area as the rent paid per square foot by Tenant for the existing Premises at the time of full execution of the Additional Lease Area Documents. The rent for the Additional Lease Area shall commence on the first day of the second full month following commencement of construction into the Additional Lease Area. The rent for the Additional Lease Area shall increase in the same manner as the rent increases for the existing Premises. Tenant may exercise the Option by providing written notice to Landlord at any time; provided, however, that following Tenant’s delivery of notice to Landlord, Tenant may at any time prior to full execution of the Additional Lease Area Documents withdraw its election to exercise the Option if Tenant discovers or obtains any information of any nature regarding the Additional Lease Area which Tenant determines to be unfavorable in its sole discretion. Within thirty (30) days after Tenant’s exercise of the Option, Landlord agrees to execute and deliver an amendment to the Agreement, a memorandum of lease and/or amendment, and any other documents necessary to grant and record Tenant’s interest in the Additional Lease Area (“Additional Lease Area Documents”). In addition, within thirty (30) days after Tenant’s exercise of the Option, Landlord shall obtain and deliver any documentation necessary to remove, subordinate or satisfy any mortgages, deeds of trust, liens or encumbrances affecting the Additional Lease Area to Tenant’s satisfaction. The rights granted to Tenant under this Section are in addition to the rights granted to Tenant pursuant to Section 7 of the First Amendment, and shall not affect the additional rights granted to Tenant pursuant to Section 7 of the First Amendment.

4. Notwithstanding anything in the Agreement to the contrary, the annual Rent due under the Agreement shall be payable in equal monthly installments during the term of the Agreement.

5. Pursuant to Section 16 of the Agreement, Landlord hereby consents to Tenant’s sublease or license of all or any portion of the Additional Lease Area. Prior to commencing construction into the Additional Lease Area, Tenant agrees to comply with all applicable permitting requirements.

6. Section 17 of the Agreement is amended by deleting Tenant’s notice addresses and inserting the following:

Tenant: NCWPCS MPL 31 – Year Sites Tower Holdings LLC
Legal Department
Attention: Network Legal
208 S. Akard Street
Dallas, Texas 75202-4206

With a copy to: CCATT LLC
Attention: Legal Dept.
2000 Corporate Drive
Canonsburg, Pennsylvania 15317

7. Maintenance of Premises. Tenant agrees to refresh all paint on the fencing installed at the Premises by Tenant and to install hedges or other plants, as determined by Tenant, as a screening barrier along the public right of way in the area abutting the Premises. Tenant agrees to complete the work required under this Section 7 by December 31, 2021.

8. Representations, Warranties and Covenants of Landlord. Landlord represents, warrants and covenants to Tenant as follows:

(a) Landlord is duly authorized to and has the full power and authority to enter into this Third Amendment and to perform all of Landlord's obligations under the Agreement as amended hereby. Landlord has complied with all applicable laws in entering into this Third Amendment, including, without limitation, any laws requiring prior public notice or opportunity for bidding on same, and Tenant is relying on such compliance in entering into this Third Amendment.

(b) Tenant is not currently in default under the Agreement, and to Landlord's knowledge, no event or condition has occurred or presently exists which, with notice or the passage of time or both, would constitute a default by Tenant under the Agreement.

(c) Landlord agrees to provide such further assurances as may be requested to carry out and evidence the full intent of the parties under the Agreement as amended hereby, and ensure Tenant's continuous and uninterrupted use, possession and quiet enjoyment of the Premises under the Agreement as amended hereby.

(d) Landlord acknowledges that the Premises, as defined, shall include any portion of Landlord's property on which communications facilities or other Tenant improvements exist on the date of this Third Amendment.

9. Tenant reserves the right, at its discretion and at its sole cost, to obtain a survey ("Survey") specifically describing the Premises and any access and utility easements associated therewith. Tenant shall be permitted to attach the Survey as an exhibit to this Third Amendment and any related memorandum for recording, which shall update and replace the existing description, at any time prior to or after closing of this Third Amendment.

10. IRS Form W-9. Landlord agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this Third Amendment and at such other times as may be reasonably requested by Tenant. In the event the Premises is transferred, the succeeding Landlord shall have a duty at the time of such transfer to provide Tenant with a completed IRS Form W-9, or its equivalent, and other related paper work to effect a transfer in rent to the new Landlord. Landlord's failure to provide the IRS Form W-9 within thirty (30) days after Tenant's request shall be considered a default and Tenant may take any reasonable action necessary to comply with IRS regulations including, but not limited to, withholding applicable taxes from rent payments.

11. In all other respects, the remainder of the Agreement shall remain in full force and effect. Any portion of the Agreement that is inconsistent with this Third Amendment is hereby amended to be consistent with this Third Amendment. All of the provisions hereof shall inure to the benefit of and be binding upon Landlord and Tenant, and their personal representatives, heirs, successors and assigns. This Third Amendment may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, it being understood that all parties need not sign the same counterparts.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have signed this instrument under seal, and have caused this Third Amendment to be duly executed on the day and year first written above.

LANDLORD:

Town of Chapel Hill,
a North Carolina municipal corporation

By: _____(SEAL)
Print Name: _____
Title: _____

IN WITNESS WHEREOF, Landlord and Tenant have signed this instrument under seal, and have caused this Third Amendment to be duly executed on the day and year first written above.

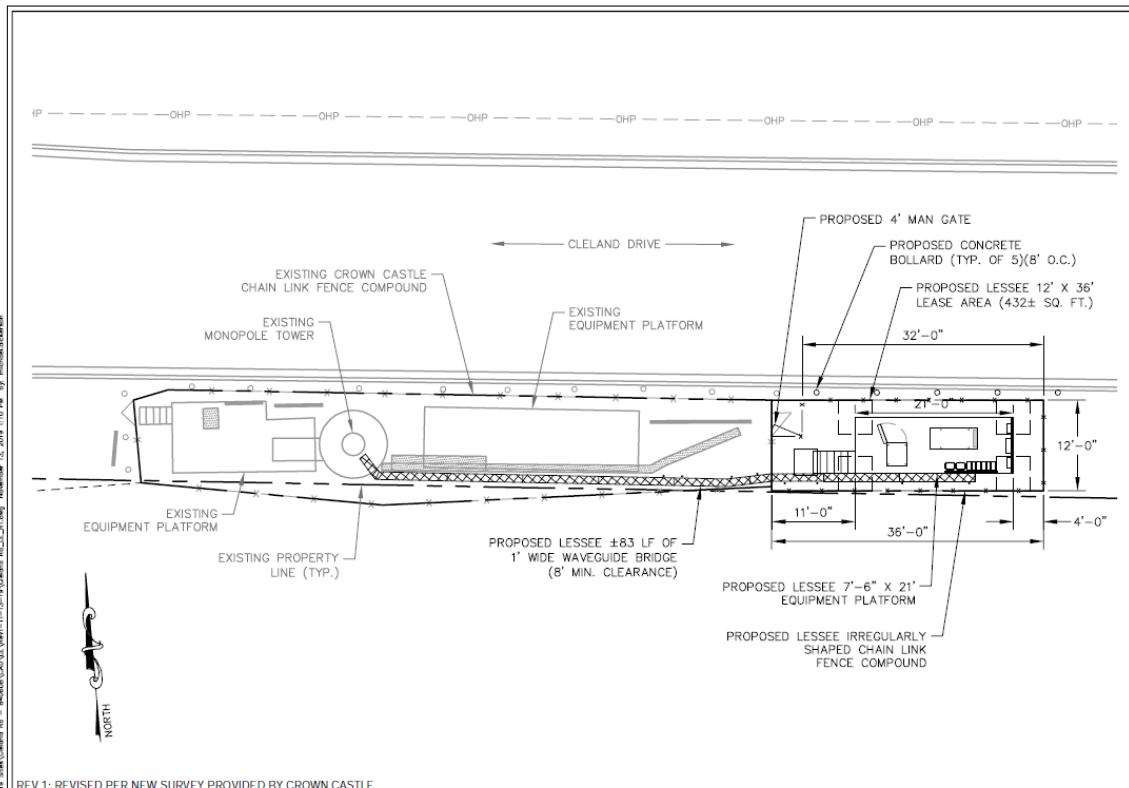
TENANT:

NCWPCS MPL 31 – Year Sites Tower Holdings
LLC, a Delaware limited liability company

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

By: _____(SEAL)
Print Name: _____
Title: _____

Exhibit A



P:\VLS\Wireless\Drawn - Crown Castle\019558038 - Cleland Rd - 11-13-19\Cleland Rd - 11-13-19.dwg, November 13, 2019 1:10 PM, by: amical@kimley-horn.com

REV 1: REVISED PER NEW SURVEY PROVIDED BY CROWN CASTLE

JOB No.:	019558038
DATE:	11/13/19
REV.:	1
DRAWN:	MWD
CHECKED:	CDS

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600, ALPHARETTA, GA 30009
 PHONE: 770-439-4200 WWW.KIMLEY-HORN.COM
 NC License P-0102

Site Visit Attendees:

VERIZON WIRELESS SITE NAME: CLELAND RD 100-A CLELAND DR CHAPEL HILL, NC 27514 ORANGE COUNTY APPROVAL: _____
--

CROWN CASTLE SITE NAME: CLELAND RD SITE #: 840608 APPROVAL: _____
--

SITE LAYOUT APPROVAL SHEET SCALE: 1" = 15' NOT FOR CONSTRUCTION
--

Site Name: Cleland Rd
 BU: 840608
 Fixed Asset # 10017465
 PPAB 5598302v5

Prepared by:

Parker Poe Adams & Bernstein LLP
P.O. Box 389
Raleigh, NC 27602

Return to:

Crown Castle
1220 Augusta, Suite 500
Houston, Texas 77057

MEMORANDUM OF THIRD AMENDMENT TO
STRUCTURE LEASE AND ENCROACHMENT AGREEMENT

THIS MEMORANDUM OF THIRD AMENDMENT TO STRUCTURE LEASE AND ENCROACHMENT AGREEMENT (“Amended Memorandum”) is made effective this ____ day of _____, 2020, by and between the TOWN OF CHAPEL HILL, a North Carolina municipal corporation (“Landlord”), with a mailing address of 405 Martin Luther King Jr. Boulevard, Chapel Hill NC, 27514, and NCWPCS MPL 31 – YEAR SITES TOWER HOLDINGS LLC, a Delaware limited liability company (“Tenant”), with a mailing address of Legal Department, Attn: Network Legal, 208 S. Akard Street, Dallas, TX 75202-4206, by and through CCATT LLC, a Delaware limited liability company, its Attorney in Fact, with a mailing address of c/o Crown Castle USA Inc., 2000 Corporate Drive, Canonsburg, Pennsylvania 15317-8564.

WHEREAS, Landlord and New Cingular Wireless PCS, LLC, a Delaware limited liability company (“New Cingular”), entered into a Structure Lease and Encroachment Agreement dated June 30, 2006 (as amended and assigned, the “Agreement”), whereby Landlord leased to New Cingular a portion of land being originally described as a 1,546 square feet portion of that property (said leased portion, as amended, together with those certain access,

Site Name: Cleland Rd
BU: 840608
Fixed Asset # 10017465
PPAB 5598302v5

utility and/or maintenance easements and/or rights of way granted in the Agreement, being the “Premises”), located at 100-A Cleland Drive, Chapel Hill, Orange County, State of North Carolina; and

WHEREAS, Landlord and New Cingular entered into that First Amendment to Structure Lease and Encroachment Agreement dated July 12, 2013 (“First Amendment”), whereby the Agreement was amended to extend the term of the Agreement through June 30, 2026, as provided in the First Amendment, among other changes; and

WHEREAS, Landlord and New Cingular entered into that Second Amendment to Structure and Encroachment Agreement dated October 16, 2013, whereby the parties increased the size of the Premises to 1,747.6 square feet, among other changes; and

WHEREAS, Tenant is the successor-in-interest in the Agreement to New Cingular; and

WHEREAS, the term of the Agreement commenced on July 1, 2006, and has an original term, including all Extension Terms (as defined in the Agreement), that will expire on June 30, 2026 (“Original Term”), and Landlord and Tenant now desire to amend the terms of the Agreement as provided herein; and

WHEREAS, Landlord and Tenant made and entered into a Third Amendment to Structure Lease and Encroachment Agreement of even date herewith (“Third Amendment”) and pursuant to the terms of, and for that consideration recited in, the Third Amendment, the parties wish to hereby amend certain provisions of the Agreement, and provide this Amended Memorandum as notice thereof, as follows:

1. Landlord does hereby lease and grant unto Tenant, its successors and assigns, the Premises for two (2) additional five (5) year Extension Terms beyond the Original Term, such that the Original Term and all Extension Terms of the Agreement may last for a term of thirty (30) years, expiring on June 30, 2036, unless sooner terminated as provided in the Agreement.

2. Landlord has granted Tenant an Option (as defined in the Third Amendment) that may be exercised during the term of the Agreement to lease an additional 432 square feet of land on that parent parcel on which the Premises is located at a location generally shown as the “PROPOSED LESSEE 12’ X 36’ LEASE AREA (432 +/- SQ. FT.)” on Exhibit A attached to the Third Amendment and attached hereto and incorporated herein by reference, which Option is more particularly defined in the Third Amendment. The consideration for the additional land shall be calculated as provided in the Third Amendment. The Option shall expire upon the expiration of the Agreement. Landlord may not market, lease, license, grant easement rights over or otherwise encumber any property which would prevent or interfere with Tenant exercising the Option.

3. This Amended Memorandum contains only selected provisions of the Third Amendment, and reference is made to the full text of the Agreement and the Third Amendment for their full terms and conditions, which are incorporated herein by this reference. Except as

otherwise provided in the Third Amendment and this Amended Memorandum, the terms and conditions of the Agreement remain in full force and effect. This Amended Memorandum may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, it being understood that all parties need not sign the same counterparts. A copy of the Agreement and its amendments are located at the office of the Tenant.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have signed this instrument under seal, and have caused this Amended Memorandum to be duly executed on the day and year first written above.

LANDLORD:

TOWN OF CHAPEL HILL,
a North Carolina municipal corporation

By: _____(SEAL)
Print Name: _____
Title: _____

STATE OF _____

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing Memorandum of Third Amendment to Structure Lease and Encroachment Agreement under seal: Town of Chapel Hill, a North Carolina municipal corporation, by _____, its _____.

Date: _____

By: _____
Print Name: _____
Notary Public
My Commission Expires:

[SEAL OR STAMP]

IN WITNESS WHEREOF, Landlord and Tenant have signed this instrument under seal, and have caused this Amended Memorandum to be duly executed on the day and year first written above.

TENANT:

NCWPCS MPL 31 – Year Sites Tower Holdings
LLC, a Delaware limited liability company

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

By: _____(SEAL)

Print Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing Memorandum of Third Amendment to Structure Lease and Encroachment Agreement under seal: NCWPCS MPL 31 – Year Sites Tower Holdings LLC, a Delaware limited liability company, by and through CCATT LLC, a Delaware limited liability company, its Attorney-in-Fact, by _____, its _____.

Date: _____

By: _____

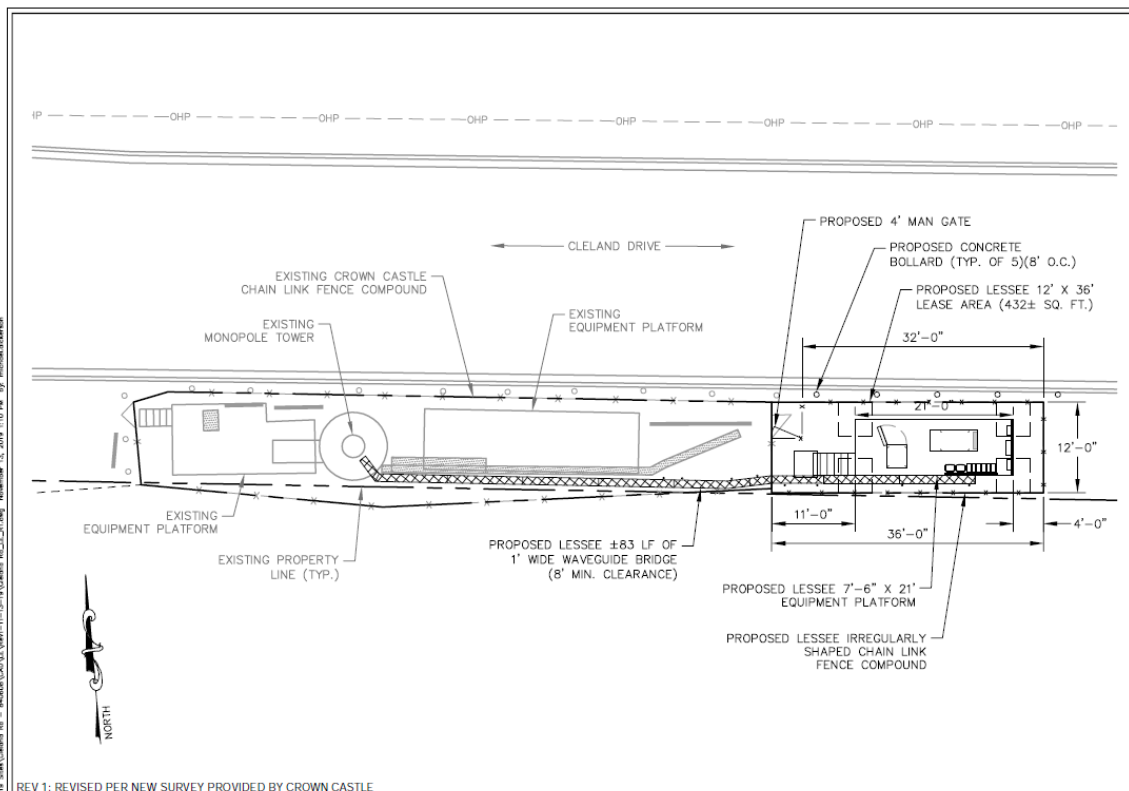
Print Name: _____

Notary Public

My Commission Expires: _____

[SEAL OR STAMP]

Exhibit A



S:\V\1_Infrastructure\Drawings\Cleland\2019 - Data\Cleland - 840608\2019\11-13-19\Cleland Final.dwg, November 13, 2019 1:10 PM, by mitchell.standish

REV 1: REVISED PER NEW SURVEY PROVIDED BY CROWN CASTLE

JOB No.:	019558038
DATE:	11/13/19
REV.:	1
DRAWN:	MWD
CHECKED:	CDS

Kimley»Horn
 11720 AMBER PARK DRIVE, SUITE 600, ALPHARETTA, GA 30009
 PHONE: 770-619-4200 WWW.KIMLEY-HORN.COM
 NC License 7-0102

Site Visit Attendees:

VERIZON WIRELESS
SITE NAME: CLELAND RD
100 A CLELAND DR
CHAPEL HILL, NC 27514
ORANGE COUNTY
APPROVAL: _____

CROWN CASTLE
SITE NAME: CLELAND RD
SITE #: 840608
APPROVAL: _____

SITE LAYOUT
APPROVAL SHEET
SCALE: 1" = 15'
NOT FOR CONSTRUCTION

Site Name: Cleland Rd
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