

Date:	Reference No.:	Agenda Item No.:
4/9/2012		

**Subject:** Approval of Letter Agreement with Crown Castle for the Cell Tower Located in Arbuckle Acres Park

**Summary of Request:**

This item was presented to the Town Council in late January and two concerns were mentioned by the Council, 1.) Extending the lease an additional 20 years and 2.) the rental income percentage increase. With this in mind, staff has approached Crown Castle to discuss these issues. Crown Castle has explained that their tenant, AT & T is trying to secure financing for various upgrades to their system (although those improvements may or may not be installed on this leased tower) and that their financier is looking for an extended term on existing leases to secure sufficient income to cover the debt. Crown Castle stated that they are asking only for the term requested by their proposed financier but that they would agree to a reduction in that term of 10 years (only asking for two additional 5 year terms) which would then expire in October 2032 rather than 2042. Crown Castle has also agreed to increase the annual income escalator to 15%, or 5% higher than the proposed 10%. In addition to this increase, they have agreed to increase the escalator on the two remaining terms. This change will result in an additional \$28,540 in income to the Town over the life of the lease.

**Financial Summary:**

Budget Funds Available	If Yes, Amount
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	

Budget Fund Information:	Line Item Name	Line Item Number

**Recommend Bid/Contract Amount:** N/A

<b>Estimated Project Costs: (whole numbers)</b>	Architecture/Engineering	N/A
	Construction/Procurement	N/A
	Contingency	N/A
	Miscellaneous Costs	N/A
	<b>TOTAL ESTIMATE</b>	N/A
	Future Expenses (if any)	N/A
	Revenue Generated (if any)	N/A

**Department Head Approval:**

**Date:**

**Assistant Town Manager Approval:** *Shant A. Williams*

**Date:** 4/9/2012

**ATM Comments:**  
After reviewing the lease agreement, everything appears to be in order and is acceptable to the Town. I recommend approval of the Amended Letter Agreement with Crown Castle.

**Supporting Documentation:**  
Amended Letter Agreement Dated 4/4/2012  
Financial Analysis of Lease Rate Changes

**Action Requested:**  
Unanimous Consent by the Town Council and Approval of the Amended Letter Agreement with Crown Castle for the extension of a lease for a cell tower located in Arbuckle Acres Park through the year 2032.

[Redacted section]

**Town Manager Approval:**

**Date:**

**TM Comments:**



301 North Cattleman Road  
Suite 200  
Sarasota, FL 34232

Tel: (941) 308-5262  
Fax: (724) 416-6447  
www.crowncastle.com

April 4, 2012

Town of Brownsburg  
Attn: Grant Kleinhenz, Assistant Town Manager  
61 N. Green Street  
Brownsburg, IN 46112  
(317)858-6031  
[gkleinhenz@brownsburg.org](mailto:gkleinhenz@brownsburg.org)

**RE: Business Unit #811677**  
**Site Name: BROWNSBURG IND105**  
**Address: Arbuckle Acres Park (near 208 N Green St), Brownsburg, IN 46112**

Dear Mr. Kleinhenz:

This letter agreement ("**Letter Agreement**") sets forth the agreement that is to be memorialized between Crown Castle South LLC, a Delaware limited liability company ("**Crown**"), on behalf of New Cingular Wireless PCS LLC, a Delaware limited liability company ("**Lessee**"), and Town of Brownsburg, an Indiana municipal corporation ("**Lessor**"), to modify, among other things, the length of the term in the lease agreement between the Lessor and Lessee dated October 9, 1997, as may be amended (the "**Lease**") for property located in Brownsburg, Hendricks County, Indiana, identified as a portion of Tax Map Parcel No. **32-07-11-100-001.000-016** (the "**Leased Premises**").

For and in consideration of Fifty Dollars (\$50.00) to be paid to Lessor by Crown on behalf of Lessee within 30 days after full execution of this Letter Agreement, the parties agree as follows:

1. Lessor and Lessee will enter into an amendment to the Lease ("**Lease Amendment**") wherein the term of the Lease will be modified. The Lease currently provides in section 2 that two (2) five-year "**Renewal Terms**" remain. That Lease section will be amended to provide two (2) additional five-year Renewal Terms, or a total of four (4) remaining Renewal Terms with a final expiration date of October 8, 2032.

2. In addition to the modification described above, the Lease Amendment will further modify the Lease to provide:

a. Commencing on October 9, 2012, and every five (5) years thereafter (each an "**Adjustment Date**"), the annual rent shall increase by an amount equal to fifteen percent (15%) of the annual rent in effect for the year immediately preceding the Adjustment Date. Such rent escalations shall replace any rent escalations currently in the Lease.

3. Upon receipt of this Letter Agreement evidencing Lessor's acceptance of the terms herein, Lessee shall submit this Letter Agreement to its property committee. If the Letter Agreement is approved by the property committee, Lessee shall prepare a Lease Amendment that incorporates the terms and conditions described in this Letter Agreement. In connection therewith, the parties acknowledge and agree that this Letter

Agreement is intended to summarize the terms and conditions to be included in the Lease Amendment. Upon receipt of the Lease Amendment, Lessor hereby agrees to execute the Lease Amendment without any unreasonable delay.

4. Irrespective of whether the transaction contemplated by this Letter Agreement is consummated, Lessor and Lessee each will pay its own out-of-pocket expenses.

5. Notwithstanding anything to the contrary contained herein, Lessee has the complete right to terminate this Letter Agreement for any or no reason at any time prior to full execution of the Lease Amendment, without damages.

6. Lessor represents and warrants that Lessor is duly authorized and has the full power, right and authority to enter into this Letter Agreement and to perform all of its obligations under this Letter Agreement and to execute and deliver all documents, including but not limited to the Lease Amendment, required by this Letter Agreement. From the date of this Letter Agreement through the date that Lessor executes the Lease Amendment, Lessor shall use its best efforts to ensure that the foregoing representations and warranties shall remain true and correct and Lessor shall promptly notify Lessee if any representation or warranty is or possibly may not be true or correct. Lessor's representations, warranties and covenants shall survive following the full execution of the Lease Amendment.

If this Letter Agreement accurately sets forth our understanding regarding the foregoing, please so indicate by signing and returning to the undersigned the enclosed copy of this letter.

**LESSOR:**  
**Town of Brownsburg,**  
**an Indiana municipal corporation**

**LESSOR:**  
**Town of Brownsburg,**  
**an Indiana municipal corporation**

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**CROWN:**  
**Crown Castle South LLC,**  
**a Delaware limited liability company**

Signature: \_\_\_\_\_  
Name: Scott Tonnesen  
Title: Land Acquisition Manager  
Date: \_\_\_\_\_

**AT&T Cell Site 131 (Arbuckle Park)**

Contract commencement date: 10/9/1997

Initial term of contract is 5 years with the ability to extend an additional 4 periods of 5 years each expiring in October 2022 - Amount of Yearly lease must be paid at beginning of year.

The proposed amendment will add two additional 5 year periods, extending lease to Oct. 2032

	<b>End of Lease Agreement</b>	<b>Yearly Lease Amt.</b>	<b>Monthly Lease Amt.</b>	<b>Total 5 Year Lease Payable to TOB</b>	<b>Amended Yearly Lease Amount</b>	<b><sup>1</sup>Amended Monthly Lease Amt.</b>	<b>Amended 5 Year Lease Payable</b>
Initial 5 year term	10/8/2002	\$5,000	\$416.67	\$25,000	\$5,000	\$416.67	\$25,000
1st Extension	10/7/2007	\$5,500	\$458.33	\$27,500	\$5,500	\$458.33	\$27,500
2nd Extension	10/5/2012	\$6,050	\$504.17	\$30,250	\$6,325	\$527.08	\$31,625
3rd Extension	10/4/2017	\$6,655	\$554.58	\$33,275	\$7,274	\$606.15	\$36,369
4th Extension	10/3/2022	\$7,321	\$610.08	\$36,605	\$8,365	\$697.07	\$41,824
5th Extension	10/8/2027	\$8,053	\$671.09	\$40,266	\$9,620	\$801.63	\$48,098
6th Extension	10/6/2032	\$8,858	\$738.20	\$44,292	\$11,062	\$921.87	\$55,312
			Grand Total	<b>\$237,188</b>			<b>\$265,728</b>
			Total Difference After Changes				<b>\$28,540</b>

<sup>1</sup>Crown Castle has agreed to give an additional 5% in lease rental starting with the 2nd extension period