

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 10/26/2020

Contract/Lease Control #: L03-0207-WS

Procurement#: NA

Contract/Lease Type: LEASE

Award To/Lessee: FORESITE, LLC

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 02/11/2003

Expiration Date: 12/01/2022 W/ 5 YR RENEWAL

Description of: COMMUNICATIONS TOWER SPACE LEASE

Department: WS

Department Monitor: LITTRELL

Monitor's Telephone #: 850-651-7172

Monitor's FAX # or E-mail: JLITTRELL@MYOKALOOSA.COM

Closed:

Cc: BCC RECORDS

EXHIBIT B

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 2/14/2003

Contract/Lease Control #: L03-0207-WS¹⁰5-11 *di* LG 3-0207 - WS

Bid #: N/A Contract/Lease Type: EXPENDITURE

Award To/Lessee: OKALOOSA COUNTY WATER & SEWER

Lessor: FORESITE LLC

Effective Date: 2/11/2003 \$0

Term: EXPIRES 12/1/2007 *2017* *di* *8/10* *w/2 additional five yr renewal*

Description of Contract/Lease: COMMUNICATIONS TOWER SPACE LEASE

Department Manager: WATER & SEWER

Department Monitor: J. CREWS

Monitor's Telephone #: 651-7172

Monitor's FAX #: 651-7193

Date Closed: _____

*Access Fee Auto Renewal Fee 5
ADDITIONAL YEARS. *di**

OFFICIAL RECORDS **

BK 2418 PG 1668

FILE # 1994889 RCD: Mar 03 2003 @ 01:4

Newman C. Brackin, Clerk Okaloosa Cnty Fl

SITE #: AL- _____
SITE NAME: _____

COMMUNICATIONS SITE LEASE AGREEMENT (TOWER)

This Communications Site Lease Agreement (Tower) ("Agreement") is entered into this 11 day of FEBRUARY, ^{2003 du} 2002, between Okaloosa County ("Lessee"), and ForeSite, LLC, an Alabama limited liability company ("Lessor").

For good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Premises.** Lessor is the owner of a parcel of land (the "Land") and a telecommunications tower (the "Tower") located in the County of Okaloosa, State of Florida, more commonly known as Ocean City, (the Tower and Land are collectively, the "Property"). The Land is more particularly described in Exhibit A annexed hereto. Lessor hereby leases to Lessee and Lessee leases from Lessor, space on the Tower and all access and utility easements, if any, (collectively, the "Premises") as described in Exhibit B annexed hereto.

2. **Use.** The Premises may be used by Lessee for any activity in connection with the provision of communications services. Lessor agrees to cooperate with Lessee, at Lessee's expense, in making application for and obtaining all licenses, permits and any and all other necessary approvals that may be required for Lessee's intended use of the Premises. Lessee shall have access to the Property at all times, twenty-four (24) hours a day, seven (7) days a week.

3. **Tests and Pre-Construction.** Lessee shall provide to Lessor forty-eight (48) hours' prior written notice of the commencement of testing or pre-construction of Lessee Facilities (as defined in Paragraph 6(a) below). Upon Lessee's request, Lessor agrees to provide promptly to Lessee copies of all plans, specifications, surveys and tower maps for the Land and Tower. The tower map shall include the elevation of all antennas on the Tower and the frequencies upon which each operates.

4. **Term.** The term of this Agreement shall be five (5) years commencing on the date Lessee begins construction or December 1, 2002, whichever first occurs ("Commencement Date") and terminating on the fifth (5th) anniversary of the Commencement Date (the "Term") unless otherwise terminated as provided in Paragraph 10. Lessee shall have the right to extend the Term for Four (4) successive five (5) year periods (the "Renewal Terms") on the same terms and conditions as set forth herein. **This Agreement shall automatically be extended for each successive Renewal Term unless Lessee notifies Lessor of its intention not to renew prior to commencement of the succeeding Renewal Term.**

5. **Rent.**
Deleted

6. **Facilities; Utilities; Access.**

(a) Lessee has the right to erect, maintain and operate on the Premises radio communications facilities, including without limitation utility lines, transmission lines, air conditioned equipment shelter(s), electronic equipment, radio transmitting and receiving antennas and supporting equipment and structures thereto ("Lessee Facilities"). Notwithstanding the foregoing, Lessee shall not erect Lessee Facilities unless (i) it has submitted to Lessor, at least twenty-one (21) days prior to the proposed erection date of any Lessee Facilities, written plans for the Lessee Facilities, and a list of contractors and subcontractors performing the work on the Tower, and (ii) it has obtained Lessor's prior written consent to such plans, contractors and subcontractors. Such consent shall not be unreasonably withheld, conditioned or delayed, and (iii) it has provided to Lessor forty-eight (48) hours' prior written notice of the commencement of construction of Lessee Facilities. In connection therewith, Lessee has the right to do all work necessary to prepare, maintain and alter the Premises for Lessee's business operations and to install transmission lines connecting the antennas to the transmitters and receivers. All of Lessee's construction and installation work shall be performed at Lessee's sole cost and expense and in a good and workmanlike manner. Title to the Lessee Facilities shall be held by Lessee. All of Lessee Facilities shall remain Lessee's personal property and are not fixtures. Lessee has the right to remove all Lessee Facilities at its sole expense on or before the expiration or earlier termination of the Agreement; provided, Lessee repairs any damage to the Premises caused by such removal.

(b) Lessee shall pay for the electricity it consumes in its operations at the rate charged by the servicing utility company. Lessee shall have the right to draw electricity and other utilities from the existing utilities on the Property or obtain separate utility service from any utility company that will provide service to the Property (including a standby power generator for Lessee's exclusive use). Lessor agrees to sign such documents or easements as may be required by said utility companies to provide such service to the Premises, including the grant to Lessee or to the servicing utility company at no cost to the Lessee, of an easement in, over across or through the Land as required by such servicing utility company to provide utility services as provided herein.

(c) Lessee, Lessee's employees, agents, subcontractors, lenders and invitees shall have access to the Premises without notice to Lessor twenty-four (24) hours a day, seven (7) days a week, at no charge. Lessor grants to Lessee, and its agents, employees, contractors, guests and invitees, a non-exclusive right and easement for pedestrian and vehicular ingress and egress across that portion of the Land described in Exhibit B.

(d) Lessor shall maintain all access roadways from the nearest public roadway to the Premises in a manner sufficient to allow pedestrian and vehicular access at all times under normal weather conditions. Lessor shall be responsible for maintaining and repairing such roadway, at its sole expense, except for any damage caused by Lessee's use of such roadways.

7. **Interference.**

(a) Lessee shall operate the Lessee Facilities in a manner that will not cause interference to Lessor and other lessees or licensees of the Property, provided that their installations predate that of the Lessee Facilities. All operations by Lessee shall be in compliance with all Federal Communications Commission ("FCC") requirements.

(b) Subsequent to the installation of the Lessee Facilities, Lessor shall not permit itself, its lessees or licensees to install new equipment on the Property or property contiguous thereto owned or controlled by Lessor, if such equipment is likely to cause interference with Lessee's operations. Such interference shall be deemed a material breach by Lessor. In the event interference occurs, Lessor agrees to take all action necessary to eliminate such interference, in a reasonable time period. In the event Lessor fails to comply with this paragraph, Lessee may terminate this Agreement, and/or pursue any other remedies available under this Agreement, at law, and/or at equity.

SITE #: AL- _____
SITE NAME: _____

8. **Taxes.** If personal property taxes are assessed, Lessee shall pay any portion of such taxes directly attributable to the Lessee Facilities. Lessor shall pay all real property taxes, assessments and deferred taxes on the Property.

9. **Waiver of Lessor's Lien.**

(a) Lessor waives any lien rights it may have concerning the Lessee Facilities which are deemed Lessee's personal property and not fixtures, and Lessee has the right to remove the same at any time without Lessor's consent.

(b) Lessor acknowledges that Lessee has entered into a financing arrangement including promissory notes and financial and security agreements for the financing of the Lessee Facilities (the "Collateral") with a third party financing entity (and may in the future enter into additional financing arrangements with other financing entities). In connection therewith, Lessor (i) consents to the installation of the Collateral; (ii) disclaims any interest in the Collateral, as fixtures or otherwise; and (iii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any Rent due or to become due and that such Collateral may be removed at any time without recourse to legal proceedings.

10. **Termination.** This Agreement may be terminated without further liability on thirty (30) days prior written notice as follows: (i) by either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default; or (ii) by Lessee if it does not obtain or maintain any license, permit or other approval necessary for the construction and operation of Lessee Facilities; or (iii) by Lessee if Lessee is unable to occupy and utilize the Premises due to an action of the FCC, including without limitation, a take back of channels or change in frequencies.

11. **Destruction or Condemnation.** If the Premises or Lessee Facilities are damaged, destroyed, condemned or transferred in lieu of condemnation, Lessee may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to Lessor no more than forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation.

12. **Insurance.** Lessee, at Lessee's sole cost and expense, shall procure and maintain on the Premises and on the Lessee Facilities, bodily injury and property damage insurance with a combined single limit of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. Such insurance shall insure, on an occurrence basis, against liability of Lessee, its employees and agents arising out of or in connection with Lessee's use of the Premises, all as provided for herein. Lessor, at Lessor's sole cost and expense, shall procure and maintain on the Property, bodily injury and property damage insurance with a combined single limit of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall insure, on an occurrence basis, against liability of Lessor, its employees and agents arising out of or in connection with Lessor's use, occupancy and maintenance of the Property. Each party shall be named as an additional insured on the other's policy. Each party shall provide to the other a certificate of insurance evidencing the coverage required by this paragraph within thirty (30) days of the Commencement Date.

13. **Waiver of Subrogation.** Lessor and Lessee release each other and their respective principals, employees, representatives and agents, from any claims for damage to any person or to the Premises or to the Lessee Facilities thereon caused by, or that result from, risks insured against under any insurance policies carried by the parties and in force at the time of any such damage. Lessor and Lessee shall cause each insurance policy obtained by them to provide that the insurance company waives all right of recovery by way of subrogation against the other in connection with any damage covered by any policy. Neither Lessor nor Lessee shall be liable to the other for any damage caused by fire or any of the risks insured against under any insurance policy required by Paragraph 12.

14. **Assignment and Subletting.** Lessee may not assign, or otherwise transfer all or any part of its interest in this Agreement or in the Premises without the prior written consent of Lessor; provided, however, that Lessee may assign its interest to its parent company, any subsidiary or affiliate of it or its parent company or to any successor-in-interest or entity acquiring fifty-one percent (51%) or more of its stock or assets, subject to any financing entity's interest, if any, in this Agreement as set forth in Paragraph 9 above. Lessor may assign this Agreement upon written notice to Lessee, subject to the assignee assuming all of Lessor's obligations herein, including but not limited to, those set forth in Paragraph 9 above. Notwithstanding anything to the contrary contained in this Agreement, Lessee may assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Agreement to any financing entity, or agent on behalf of any financing entity to whom Lessee (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

15. **Warranty of Title and Quiet Enjoyment.** Lessor warrants that: (i) Lessor owns the Property in fee simple or has an effective leasehold interest in the Property with rights of access thereto and the Property is free and clear of all liens, encumbrances and restrictions; (ii) Lessor has full right to make and perform this Agreement; and (iii) Lessor covenants and agrees with Lessee that upon Lessee observing and performing all the terms, covenants and conditions on Lessee's part to be observed and performed, Lessee may peacefully and quietly enjoy the Premises. Lessor agrees to indemnify and hold harmless Lessee from any and all claims on Lessee's leasehold interest.

16. **Repairs.** Lessee shall not be required to make any repairs to the Premises or Property unless such repairs shall be necessitated by reason of the default or neglect of Lessee. Except as set forth in Paragraph 6(a) above, upon expiration or termination hereof, Lessee shall restore the Premises to the condition in which it existed upon execution hereof, reasonable wear and tear and loss by casualty or other causes beyond Lessee's control excepted.

17. **Hazardous Substances.** Lessee agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Land in violation of any law or regulation. Lessor represents, warrants and agrees (1) that neither Lessor nor, to Lessor's knowledge, any third party has used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any Hazardous Material on, under, about or within the Land in violation of any law or regulation, and (2) that Lessor will not, and will not permit any third party to use, generate, store or dispose of any Hazardous Material on, under, about or within the Land in violation of any law or regulation. Lessor and Lessee each agree to defend, indemnify and hold harmless the other and the other's partners, affiliates, agents and employees against any and all losses, liabilities, claims and/or costs (including reasonable attorneys' fees and costs) arising from any breach of any representation, warranty or agreement contained in this paragraph. As used in this paragraph, "Hazardous Material" shall mean petroleum or any petroleum product, asbestos, any substance known by the state in which

SITE #: AL- _____ - _____
SITE NAME: _____

the Land is located to cause cancer and/or reproductive toxicity, and/or any substance, chemical or waste that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. This paragraph shall survive the termination of this Agreement.

18. Liability and Indemnity. Lessee shall indemnify and hold Lessor harmless from all claims (including attorneys' fees, costs and expenses of defending against such claims) arising from the negligence or willful misconduct of Lessee or Lessee's agents or employees in or about the Property. Lessor shall indemnify and hold Lessee harmless from all claims (including attorneys' fees, costs and expenses of defending against such claims) arising or alleged to arise from the acts or omissions of Lessor or Lessor's agents, employees, licensees, invitees, contractors or other tenants occurring in or about the Property. The duties described in Paragraph 18 survive termination of this Agreement.

19. Miscellaneous.

(a) This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein. Any amendments to this Agreement must be in writing and executed by both parties.

(b) If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(c) This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.

(d) Any notice or demand required to be given herein shall be made by certified or registered mail, return receipt requested, or reliable overnight courier to the address of the respective parties set forth below:

Lessor: ForeSite, LLC, an Alabama limited liability company
22 Inverness Center Parkway
Suite 500
Birmingham, Alabama 35242
Attn: Contracts Manager

Lessee: Okaloosa County
1804 Lewis Turner blvd
Suite 300
Fort Walton Beach, FL 32547
Attn.: Mr. Joey Crews

Lessor or Lessee may from time to time designate any other address for this purpose by written notice to the other party. All notices hereunder shall be deemed received upon actual receipt.

(e) This Agreement shall be governed by the laws of the State of Florida.

(f) Lessor acknowledges that a Memorandum of Agreement in the form annexed hereto as Exhibit C will be recorded by Lessee in the official records of the County where the Property is located. In the event the Property is encumbered by a mortgage or deed of trust, Lessor agrees to obtain and furnish to Lessee a non-disturbance and attornment instrument for each such mortgage or deed of trust.

(g) Lessee may obtain title insurance on its interest in the Premises. Lessor shall cooperate by executing documentation required by the title insurance company.

(h) In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Agreement, such party shall not unreasonably delay or withhold its approval or consent.

(i) All Riders and Exhibits annexed hereto form material parts of this Agreement.

(j) This Agreement may be executed in duplicate counterparts, each of which shall be deemed an original.

20. Tower Marking and Lighting Requirements. Lessor acknowledges that it, and not Lessee, shall be responsible for compliance with all Tower marking and lighting requirements of the Federal Aviation Administration ("FAA") and the FCC. Lessor shall indemnify and hold Lessee harmless from any fines or other liabilities caused by Lessor's failure to comply with such requirements. Should Lessee be cited by either the FCC or FAA because the Tower is not in compliance and, should Lessor fail to cure the conditions of noncompliance within the time frame allowed by the citing agency, Lessee may either terminate this Agreement immediately on notice to Lessor or proceed to cure the conditions of noncompliance at Lessor's expense, which amounts may be deducted from the Rent.

SITE #: AL-_____
SITE NAME: _____

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LESSEE:

OKALOOSA COUNTY

BY: Paula L Riggs

PAULA RIGGS
CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

Date: _____

(CORPORATE SEAL)



LESSOR:

FORESITE, LLC, an Alabama limited liability company

BY: Andrew L. Kizer

Name: Andrew L. Kizer
Title: Its Manager

Date: 2/11/03

(CORPORATE SEAL)

ATTEST



Gary J. Stanford
GARY STANFORD
DEPUTY CLERK OF COURTS

ATTEST

Sheri G. Reynolds
Sheri G. Reynolds

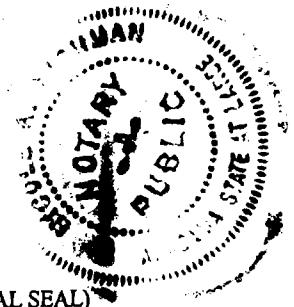
** OFFICIAL RECORDS **
BK 2418 PG 1671

SITE #: AL- _____
SITE NAME: _____
STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Andrew L. Kizer whose name as Manager of ForeSite, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such Manager and with full authority, executed the same voluntarily for and as the act of said LLC on the day the same bears date.

Given under my hand and official seal this the 11 day of FEBRUARY, 2002

David A. Vighman
Notary Public
My commission expires: 9-22-06



(NOTARIAL SEAL)

STATE OF FLORIDA)
 :
COUNTY OF OKALOOSA)

**** OFFICIAL RECORDS ****
BK 2418 PG 1672

I, the undersigned, a notary public in and for said county in said state, hereby certify that _____ whose name as _____ of Okaloosa County, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal this the _____ day of _____, 2002.

Notary Public
My commission expires:

(NOTARIAL SEAL)

SITE #: AL- _____
SITE NAME: _____

EXHIBIT A

DESCRIPTION OF LAND

to the Agreement dated FEBRUARY 11, ^{2003 *du*} 2002, by and between ForeSite, LLC, as Lessor, and Okaloosa County, as Lessee.

"The tenants ground space is part of ForeSite's larger leasing parcel, as is roughly defined on the attached sketch, which is incorporated herein by reference. Tenants ground space shall not extend beyond the defined boundaries without prior written consent of ForeSite".

The Land is described and/or depicted as follows (metes and bound description):

** OFFICIAL RECORDS **
BK 2418 PG 1673

SITE #: AL-_____
SITE NAME: _____

EXHIBIT B

DESCRIPTION OF PREMISES

to the Agreement dated FEBRUARY 11, ²⁰⁰³~~2002~~, by and between ForeSite, LLC, as Lessor, and Okaloosa County, as Lessee.

The Premises are described and/or depicted as follows:

- 178' - (with Southern LINC)
- One (1) Decibel DB638 NS-C 14.6' Whip Antenna (Up)
- 170' - One (1) 6' Solid Dish, Cablewave SPF6-57W, 5 GHZ
- 100' - One (1) 2' Solid Dish, Gabriel SSP-52B, 5 GHZ

Equipment will be in Southern LINC's building, no ground space will be required.

**** OFFICIAL RECORDS ****
BK 2418 PG 1674

Notes:

1. This Exhibit may be replaced by a land survey of the Premises once it is received by Lessee.
2. Setback of the Premises from the Land's boundaries shall be the distance required by the applicable governmental authorities.
3. Width of access road shall be the width required by the applicable governmental authorities, including police and fire departments.
4. The type, number and mounting positions and locations of antennas and transmission lines are illustrative only. Actual types, numbers, mounting positions may vary from what is shown above.

SITE #: AL- _____
SITE NAME: _____

EXHIBIT C
MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is entered into on this 11 day of FEBRUARY, ~~2002~~^{2003 Chi} by and between ForeSite, LLC, an Alabama limited liability company, with an office at 22 Inverness Center Parkway, Suite 500, Birmingham, Alabama 35242, (hereinafter referred to as "Lessor") and Okaloosa County with an office at 1804 Lewis Turner Blvd., Suite 300, Fort Walton Beach, Florida 32547 (hereinafter referred to as "Lessee").

1. Lessor and Lessee entered into a Communications Site Lease Agreement ("Agreement") on the 11 day of FEBRUARY, ~~2002~~^{2003 Chi}, for the purpose of installing, operating and maintaining a radio communications facility and other improvements. All of the foregoing are set forth in the Agreement.
2. The term of the Agreement is for five (5) years commencing on FEBRUARY 11, ~~2002~~^{2003 Chi} ("Commencement Date"), and terminating on the fifth (5th) anniversary of the Commencement Date with Four (4) successive Five (5) year options to renew.
3. The Land which is the subject of the Agreement is described in Exhibit A annexed hereto. The portion of the Land being leased to Lessee (the "Premises") is described in Exhibit B annexed hereto.

** OFFICIAL RECORDS **
BK 2418 PG 1675

SITE #: AL- _____
SITE NAME: _____

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LESSEE:

OKALOOSA COUNTY

BY: Paula L. Riggs

PAULA RIGGS
CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

Date: _____

(CORPORATE SEAL)



LESSOR:

FORESITE, LLC, an Alabama limited liability company

BY: Andrew L. Kizer

Name: Andrew L. Kizer
Title: Its Manager

Date: 07/11/03

(CORPORATE SEAL)

ATTEST

Gary J. Stanford
GARY STANFORD
DEPUTY CLERK OF COURTS



ATTEST

Sheri G. Reynolds
Sheri G. Reynolds

** OFFICIAL RECORDS **
BK 2418 PG 1676

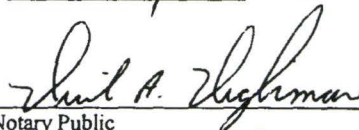
SITE #: AL- _____
SITE NAME: _____

STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

**** OFFICIAL RECORDS ****
BK 2418 PG 1677

I, the undersigned, a notary public in and for said county in said state, hereby certify that Andrew L. Kizer whose name as Manager of ForeSite, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such Manager and with full authority, executed the same voluntarily for and as the act of said LLC on the day the same bears date.

Given under my hand and official seal this the 11 day of FEBRUARY, 2002³


Notary Public
My commission expires: 9-22-04



(NOTARIAL SEAL)

STATE OF FLORIDA)
 :
COUNTY OF OKALOOSA)

I, the undersigned, a notary public in and for said county in said state, hereby certify that _____ whose name as _____ of Okaloosa County, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal this the _____ day of _____, 2002

Notary Public
My commission expires:

(NOTARIAL SEAL)

This instrument prepared by:
D. Taylor Robinson, Esq.
ForeSite, LLC
1000 Urban Center Drive
Suite 200
Birmingham, AL 35242

EXHIBIT B

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 2/14/2003

Contract/Lease Control #:

L03-0207-WS¹⁰5-11 *di*

Bid #: N/A

Contract/Lease Type: EXPENDITURE

Award To/Lessee: OKALOOSA COUNTY WATER & SEWER

Lessor: FORESITE LLC

Effective Date: 2/11/2003 \$0

Term: EXPIRES 12/11/2007 ²⁰¹² *di*

Description of Contract/Lease: COMMUNICATIONS TOWER SPACE LEASE

Department Manager: WATER & SEWER

Department Monitor: J. CREWS

Monitor's Telephone #: 651-7172

Monitor's FAX #: 651-7193

Date Closed: _____

*ALLOWED FOR AUTO RENEWAL FOR 5
ADDITIONAL YEARS. di*

L03-0207-WS5-11
LESSOR: FORESITE LLC
COMMUNICATION TOWER SPACE
EXPIRES: 12/1/2007

L03-0207-WS10-11
LESSOR: FORESITE LLC
COMMUNICATION TOWER SPACE
EXPIRES: 12/1/2012

SITE #: AL-_____
SITE NAME: _____

COMMUNICATIONS SITE LEASE AGREEMENT (TOWER)

This Communications Site Lease Agreement (Tower) ("Agreement") is entered into this 11 day of FEBRUARY, ^{2003 du} ~~2002~~, between Okaloosa County ("Lessee"), and ForeSite, LLC, an Alabama limited liability company ("Lessor").

For good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Premises.** Lessor is the owner of a parcel of land (the "Land") and a telecommunications tower (the "Tower") located in the County of Okaloosa, State of Florida, more commonly known as Ocean City, (the Tower and Land are collectively, the "Property"). The Land is more particularly described in Exhibit A annexed hereto. Lessor hereby leases to Lessee and Lessee leases from Lessor, space on the Tower and all access and utility easements, if any, (collectively, the "Premises") as described in Exhibit B annexed hereto.

2. **Use.** The Premises may be used by Lessee for any activity in connection with the provision of communications services. Lessor agrees to cooperate with Lessee, at Lessee's expense, in making application for and obtaining all licenses, permits and any and all other necessary approvals that may be required for Lessee's intended use of the Premises. Lessee shall have access to the Property at all times, twenty-four (24) hours a day, seven (7) days a week.

3. **Tests and Pre-Construction.** Lessee shall provide to Lessor forty-eight (48) hours' prior written notice of the commencement of testing or pre-construction of Lessee Facilities (as defined in Paragraph 6(a) below). Upon Lessee's request, Lessor agrees to provide promptly to Lessee copies of all plans, specifications, surveys and tower maps for the Land and Tower. The tower map shall include the elevation of all antennas on the Tower and the frequencies upon which each operates.

4. **Term.** The term of this Agreement shall be five (5) years commencing on the date Lessee begins construction or December 1, 2002, whichever first occurs ("Commencement Date") and terminating on the fifth (5th) anniversary of the Commencement Date (the "Term") unless otherwise terminated as provided in Paragraph 10. Lessee shall have the right to extend the Term for Four (4) successive five (5) year periods (the "Renewal Terms") on the same terms and conditions as set forth herein. This Agreement shall automatically be extended for each successive Renewal Term unless Lessee notifies Lessor of its intention not to renew prior to commencement of the succeeding Renewal Term.

5. **Rent.**
Deleted

6. **Facilities; Utilities; Access.**

(a) Lessee has the right to erect, maintain and operate on the Premises radio communications facilities, including without limitation utility lines, transmission lines, air conditioned equipment shelter(s), electronic equipment, radio transmitting and receiving antennas and supporting equipment and structures thereto ("Lessee Facilities"). Notwithstanding the foregoing, Lessee shall not erect Lessee Facilities unless (i) it has submitted to Lessor, at least twenty-one (21) days prior to the proposed erection date of any Lessee Facilities, written plans for the Lessee Facilities, and a list of contractors and subcontractors performing the work on the Tower, and (ii) it has obtained Lessor's prior written consent to such plans, contractors and subcontractors. Such consent shall not be unreasonably withheld, conditioned or delayed, and (iii) it has provided to Lessor forty-eight (48) hours' prior written notice of the commencement of construction of Lessee Facilities. In connection therewith, Lessee has the right to do all work necessary to prepare, maintain and alter the Premises for Lessee's business operations and to install transmission lines connecting the antennas to the transmitters and receivers. All of Lessee's construction and installation work shall be performed at Lessee's sole cost and expense and in a good and workmanlike manner. Title to the Lessee Facilities shall be held by Lessee. All of Lessee Facilities shall remain Lessee's personal property and are not fixtures. Lessee has the right to remove all Lessee Facilities at its sole expense on or before the expiration or earlier termination of the Agreement; provided, Lessee repairs any damage to the Premises caused by such removal.

(b) Lessee shall pay for the electricity it consumes in its operations at the rate charged by the servicing utility company. Lessee shall have the right to draw electricity and other utilities from the existing utilities on the Property or obtain separate utility service from any utility company that will provide service to the Property (including a standby power generator for Lessee's exclusive use). Lessor agrees to sign such documents or easements as may be required by said utility companies to provide such service to the Premises, including the grant to Lessee or to the servicing utility company at no cost to the Lessee, of an easement in, over across or through the Land as required by such servicing utility company to provide utility services as provided herein.

(c) Lessee, Lessee's employees, agents, subcontractors, lenders and invitees shall have access to the Premises without notice to Lessor twenty-four (24) hours a day, seven (7) days a week, at no charge. Lessor grants to Lessee, and its agents, employees, contractors, guests and invitees, a non-exclusive right and easement for pedestrian and vehicular ingress and egress across that portion of the Land described in Exhibit B.

(d) Lessor shall maintain all access roadways from the nearest public roadway to the Premises in a manner sufficient to allow pedestrian and vehicular access at all times under normal weather conditions. Lessor shall be responsible for maintaining and repairing such roadway, at its sole expense, except for any damage caused by Lessee's use of such roadways.

7. **Interference.**

(a) Lessee shall operate the Lessee Facilities in a manner that will not cause interference to Lessor and other lessees or licensees of the Property, provided that their installations predate that of the Lessee Facilities. All operations by Lessee shall be in compliance with all Federal Communications Commission ("FCC") requirements.

(b) Subsequent to the installation of the Lessee Facilities, Lessor shall not permit itself, its lessees or licensees to install new equipment on the Property or property contiguous thereto owned or controlled by Lessor, if such equipment is likely to cause interference with Lessee's operations. Such interference shall be deemed a material breach by Lessor. In the event interference occurs, Lessor agrees to take all action necessary to eliminate such interference, in a reasonable time period. In the event Lessor fails to comply with this paragraph, Lessee may terminate this Agreement, and/or pursue any other remedies available under this Agreement, at law, and/or at equity.

SITE #: AL-____-____
SITE NAME: _____

8. **Taxes.** If personal property taxes are assessed, Lessee shall pay any portion of such taxes directly attributable to the Lessee Facilities. Lessor shall pay all real property taxes, assessments and deferred taxes on the Property.

9. **Waiver of Lessor's Lien.**

(a) Lessor waives any lien rights it may have concerning the Lessee Facilities which are deemed Lessee's personal property and not fixtures, and Lessee has the right to remove the same at any time without Lessor's consent.

(b) Lessor acknowledges that Lessee has entered into a financing arrangement including promissory notes and financial and security agreements for the financing of the Lessee Facilities (the "Collateral") with a third party financing entity (and may in the future enter into additional financing arrangements with other financing entities). In connection therewith, Lessor (i) consents to the installation of the Collateral; (ii) disclaims any interest in the Collateral, as fixtures or otherwise; and (iii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any Rent due or to become due and that such Collateral may be removed at any time without recourse to legal proceedings.

10. **Termination.** This Agreement may be terminated without further liability on thirty (30) days prior written notice as follows: (i) by either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default; or (ii) by Lessee if it does not obtain or maintain any license, permit or other approval necessary for the construction and operation of Lessee Facilities; or (iii) by Lessee if Lessee is unable to occupy and utilize the Premises due to an action of the FCC, including without limitation, a take back of channels or change in frequencies.

11. **Destruction or Condemnation.** If the Premises or Lessee Facilities are damaged, destroyed, condemned or transferred in lieu of condemnation, Lessee may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to Lessor no more than forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation.

12. **Insurance.** Lessee, at Lessee's sole cost and expense, shall procure and maintain on the Premises and on the Lessee Facilities, bodily injury and property damage insurance with a combined single limit of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. Such insurance shall insure, on an occurrence basis, against liability of Lessee, its employees and agents arising out of or in connection with Lessee's use of the Premises, all as provided for herein. Lessor, at Lessor's sole cost and expense, shall procure and maintain on the Property, bodily injury and property damage insurance with a combined single limit of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall insure, on an occurrence basis, against liability of Lessor, its employees and agents arising out of or in connection with Lessor's use, occupancy and maintenance of the Property. Each party shall be named as an additional-insured on the other's policy. Each party shall provide to the other a certificate of insurance evidencing the coverage required by this paragraph within thirty (30) days of the Commencement Date.

13. **Waiver of Subrogation.** Lessor and Lessee release each other and their respective principals, employees, representatives and agents, from any claims for damage to any person or to the Premises or to the Lessee Facilities thereon caused by, or that result from, risks insured against under any insurance policies carried by the parties and in force at the time of any such damage. Lessor and Lessee shall cause each insurance policy obtained by them to provide that the insurance company waives all right of recovery by way of subrogation against the other in connection with any damage covered by any policy. Neither Lessor nor Lessee shall be liable to the other for any damage caused by fire or any of the risks insured against under any insurance policy required by Paragraph 12.

14. **Assignment and Subletting.** Lessee may not assign, or otherwise transfer all or any part of its interest in this Agreement or in the Premises without the prior written consent of Lessor; provided, however, that Lessee may assign its interest to its parent company, any subsidiary or affiliate of it or its parent company or to any successor-in-interest or entity acquiring fifty-one percent (51%) or more of its stock or assets, subject to any financing entity's interest, if any, in this Agreement as set forth in Paragraph 9 above. Lessor may assign this Agreement upon written notice to Lessee, subject to the assignee assuming all of Lessor's obligations herein, including but not limited to, those set forth in Paragraph 9 above. Notwithstanding anything to the contrary contained in this Agreement, Lessee may assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Agreement to any financing entity, or agent on behalf of any financing entity to whom Lessee (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

15. **Warranty of Title and Quiet Enjoyment.** Lessor warrants that: (i) Lessor owns the Property in fee simple or has an effective leasehold interest in the Property with rights of access thereto and the Property is free and clear of all liens, encumbrances and restrictions; (ii) Lessor has full right to make and perform this Agreement; and (iii) Lessor covenants and agrees with Lessee that upon Lessee observing and performing all the terms, covenants and conditions on Lessee's part to be observed and performed, Lessee may peacefully and quietly enjoy the Premises. Lessor agrees to indemnify and hold harmless Lessee from any and all claims on Lessee's leasehold interest.

16. **Repairs.** Lessee shall not be required to make any repairs to the Premises or Property unless such repairs shall be necessitated by reason of the default or neglect of Lessee. Except as set forth in Paragraph 6(a) above, upon expiration or termination hereof, Lessee shall restore the Premises to the condition in which it existed upon execution hereof, reasonable wear and tear and loss by casualty or other causes beyond Lessee's control excepted.

17. **Hazardous Substances.** Lessee agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Land in violation of any law or regulation. Lessor represents, warrants and agrees (1) that neither Lessor nor, to Lessor's knowledge, any third party has used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any Hazardous Material on, under, about or within the Land in violation of any law or regulation, and (2) that Lessor will not, and will not permit any third party to use, generate, store or dispose of any Hazardous Material on, under, about or within the Land in violation of any law or regulation. Lessor and Lessee each agree to defend, indemnify and hold harmless the other and the other's partners, affiliates, agents and employees against any and all losses, liabilities, claims and/or costs (including reasonable attorneys' fees and costs) arising from any breach of any representation, warranty or agreement contained in this paragraph. As used in this paragraph, "Hazardous Material" shall mean petroleum or any petroleum product, asbestos, any substance known by the state in which

SITE #:AL-____-____

SITE NAME:_____

the Land is located to cause cancer and/or reproductive toxicity, and/or any substance, chemical or waste that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. This paragraph shall survive the termination of this Agreement.

18. Liability and Indemnity. Lessee shall indemnify and hold Lessor harmless from all claims (including attorneys' fees, costs and expenses of defending against such claims) arising from the negligence or willful misconduct of Lessee or Lessee's agents or employees in or about the Property. Lessor shall indemnify and hold Lessee harmless from all claims (including attorneys' fees, costs and expenses of defending against such claims) arising or alleged to arise from the acts or omissions of Lessor or Lessor's agents, employees, licensees, invitees, contractors or other tenants occurring in or about the Property. The duties described in Paragraph 18 survive termination of this Agreement.

19. Miscellaneous.

(a) This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein. Any amendments to this Agreement must be in writing and executed by both parties.

(b) If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(c) This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.

(d) Any notice or demand required to be given herein shall be made by certified or registered mail, return receipt requested, or reliable overnight courier to the address of the respective parties set forth below:

Lessor: ForeSite, LLC, an Alabama limited liability company
22 Inverness Center Parkway
Suite 500
Birmingham, Alabama 35242
Attn: Contracts Manager

Lessee: Okaloosa County
1804 Lewis Turner blvd
Suite 300
Fort Walton Beach, FL 32547
Attn.: Mr. Joey Crews

Lessor or Lessee may from time to time designate any other address for this purpose by written notice to the other party. All notices hereunder shall be deemed received upon actual receipt.

(e) This Agreement shall be governed by the laws of the State of Florida.

(f) Lessor acknowledges that a Memorandum of Agreement in the form annexed hereto as Exhibit C will be recorded by Lessee in the official records of the County where the Property is located. In the event the Property is encumbered by a mortgage or deed of trust, Lessor agrees to obtain and furnish to Lessee a non-disturbance and attornment instrument for each such mortgage or deed of trust.

(g) Lessee may obtain title insurance on its interest in the Premises. Lessor shall cooperate by executing documentation required by the title insurance company.

(h) In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Agreement, such party shall not unreasonably delay or withhold its approval or consent.

(i) All Riders and Exhibits annexed hereto form material parts of this Agreement.

(j) This Agreement may be executed in duplicate counterparts, each of which shall be deemed an original.

20. Tower Marking and Lighting Requirements. Lessor acknowledges that it, and not Lessee, shall be responsible for compliance with all Tower marking and lighting requirements of the Federal Aviation Administration ("FAA") and the FCC. Lessor shall indemnify and hold Lessee harmless from any fines or other liabilities caused by Lessor's failure to comply with such requirements. Should Lessee be cited by either the FCC or FAA because the Tower is not in compliance and, should Lessor fail to cure the conditions of noncompliance within the time frame allowed by the citing agency, Lessee may either terminate this Agreement immediately on notice to Lessor or proceed to cure the conditions of noncompliance at Lessor's expense, which amounts may be deducted from the Rent.

SITE #: AL- _____
SITE NAME: _____

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LESSEE:

OKALOOSA COUNTY

BY: Paula L. Riggs

PAULA RIGGS
CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

Date: _____

(CORPORATE SEAL)



LESSOR:

FORESITE, LLC, an Alabama limited liability company

BY: _____

Name: Andrew L. Kizer
Title: Its Manager

Date: _____

(CORPORATE SEAL)

ATTEST

Gary J. Stanford
GARY STANFORD
DEPUTY CLERK OF COURTS



SITE #: AL-____-____
SITE NAME: _____
STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Andrew L. Kizer whose name as Manager of ForeSite, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such Manager and with full authority, executed the same voluntarily for and as the act of said LLC on the day the same bears date.

Given under my hand and official seal this the _____ day of _____, 2002.

Notary Public
My commission expires:

(NOTARIAL SEAL)

STATE OF FLORIDA)
 :
COUNTY OF OKALOOSA)

I, the undersigned, a notary public in and for said county in said state, hereby certify that _____ whose name as _____ of Okaloosa County, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal this the _____ day of _____, 2002.

Notary Public
My commission expires:

(NOTARIAL SEAL)

SITE #: AL-_____
SITE NAME: _____

EXHIBIT A

DESCRIPTION OF LAND

to the Agreement dated _____, ^{2003 di}2002, by and between ForeSite, LLC, as Lessor, and Okaloosa County, as Lessee.

"The tenants ground space is part of ForeSite's larger leasing parcel, as is roughly defined on the attached sketch, which is incorporated herein by reference. Tenants ground space shall not extend beyond the defined boundaries without prior written consent of ForeSite".

The Land is described and/or depicted as follows (metes and bound description):

SITE #: AL-____-____
SITE NAME: _____

EXHIBIT B

DESCRIPTION OF PREMISES

to the Agreement dated 2003, 2002, by and between ForeSite, LLC, as Lessor, and Okaloosa County, as Lessee.

The Premises are described and/or depicted as follows:

- 178' - (with Southern LINC)
- One (1) Decibel DB638 NS-C 14.6' Whip Antenna (Up)
- 170' - One (1) 6' Solid Dish, Cablewave SPF6-57W, 5 GHZ
- 100' - One (1) 2' Solid Dish, Gabriel SSP-52B, 5 GHZ

Equipment will be in Southern LINC's building, no ground space will be required.

Notes:

1. This Exhibit may be replaced by a land survey of the Premises once it is received by Lessee.
2. Setback of the Premises from the Land's boundaries shall be the distance required by the applicable governmental authorities.
3. Width of access road shall be the width required by the applicable governmental authorities, including police and fire departments.
4. The type, number and mounting positions and locations of antennas and transmission lines are illustrative only. Actual types, numbers, mounting positions may vary from what is shown above.

SITE #: AL- _____
SITE NAME: _____

EXHIBIT C
MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is entered into on this ____ day of _____, ^{2003 di}2002, by and between ForeSite, LLC, an Alabama limited liability company, with an office at 22 Inverness Center Parkway, Suite 500, Birmingham, Alabama 35242, (hereinafter referred to as "Lessor") and Okaloosa County with an office at 1804 Lewis Turner Blvd., Suite 300, Fort Walton Beach, Florida 32547 (hereinafter referred to as "Lessee").

1. Lessor and Lessee entered into a Communications Site Lease Agreement ("Agreement") on the ____ day of _____, ^{2003 di}2002, for the purpose of installing, operating and maintaining a radio communications facility and other improvements. All of the foregoing are set forth in the Agreement.
2. The term of the Agreement is for five (5) years commencing on _____, ^{2003 di}2002 ("Commencement Date"), and terminating on the fifth (5th) anniversary of the Commencement Date with Four (4) successive Five (5) year options to renew.
3. The Land which is the subject of the Agreement is described in Exhibit A annexed hereto. The portion of the Land being leased to Lessee (the "Premises") is described in Exhibit B annexed hereto.

SITE #: AL-____-____
SITE NAME: _____

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LESSEE:

OKALOOSA COUNTY

BY: Paula L. Riggs

PAULA RIGGS
CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

Date: _____

(CORPORATE SEAL)



LESSOR:

FORESITE, LLC, an Alabama limited liability company

BY: _____

Name: Andrew L. Kizer
Title: Its Manager

Date: _____

(CORPORATE SEAL)

ATTEST

Gary J. Stanford

GARY STANFORD
DEPUTY CLERK OF COURTS



SITE #:AL-____-____
SITE NAME:_____

STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Andrew L. Kizer whose name as Manager of ForeSite, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such Manager and with full authority, executed the same voluntarily for and as the act of said LLC on the day the same bears date.

Given under my hand and official seal this the _____ day of _____, 2002

Notary Public
My commission expires:

(NOTARIAL SEAL)

STATE OF FLORIDA)
 :
COUNTY OF OKALOOSA)

I, the undersigned, a notary public in and for said county in said state, hereby certify that _____ whose name as _____ of Okaloosa County, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal this the _____ day of _____, 2002

Notary Public
My commission expires:

(NOTARIAL SEAL)

This instrument prepared by:
D. Taylor Robinson, Esq.
ForeSite, LLC
1000 Urban Center Drive
Suite 200
Birmingham, AL 35242