

Project: Verizon at Kellogg Open Space
APN: 069-350-031 (Portion)
Folio: 003824
Agent: JJS

LEASE AGREEMENT
VERIZON WIRELESS AT KELLOGG OPEN SPACE

THIS LEASE AGREEMENT is made by and between the

COUNTY OF SANTA BARBARA,
a political subdivision of the State of California,
hereinafter referred to as "COUNTY,"

and

AIRTOUCH CELLULAR INC., a California corporation
dba Verizon Wireless, hereinafter referred to as "LESSEE,"

with reference to the following:

WHEREAS, COUNTY is the owner of that certain real property located in the County of Santa Barbara commonly known as Kellogg Open Space (hereinafter "Kellogg Open Space"), which property is located in the 600 block of North Kellogg Avenue in Goleta, California, and is more particularly described as Assessor's Parcel Number 069-350-031 which property is used for the purposes of open public space (hereinafter "Property") and is shown as the diagonally slashed area of Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, LESSEE currently operates and maintains a wireless communication network inside and outside the boundaries of Santa Barbara County; and

WHEREAS, LESSEE desires to enter into a lease agreement (hereinafter "Agreement"), with the COUNTY to occupy and use a portion of said Property for a wireless communication facility subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the provisions, covenants, and conditions, contained herein, the parties agree as follows:

1. **ADMINISTRATION AND ENFORCEMENT:** The provisions of this Agreement shall be administered and enforced for the COUNTY by the Director of the COUNTY's General Services Department.

2. **LEASED AREA:** COUNTY hereby leases to LESSEE and LESSEE hereby takes from COUNTY the specific portion of the Property (hereinafter "Site") as shown on Exhibit "B", attached hereto and incorporated herein by reference, for the construction and operation of LESSEE'S wireless communication facility together with new pole-mounted antennas to be installed.

3. **ACCESS TO THE SITE:** LESSEE shall be allowed to access the Site twenty-four (24) hours per day, seven (7) days per week unless an applicable law or an authority having jurisdiction prohibits COUNTY from permitting LESSEE access to the Site. During the initial construction of its Facility only, LESSEE shall be allowed to access the Site by vehicle along the access path marked on the architectural plans attached hereto as Exhibit "C". Thereafter, LESSEE shall not have access to the Site by vehicle unless approved in writing by COUNTY'S Community Services Department, Parks Division, at its sole discretion. Neither COUNTY nor LESSEE shall be responsible for maintaining access to the Site; provided, however, that LESSEE shall be responsible for any repairs required to the access path to the Site to the extent the same are caused by LESSEE's or its contractors' vehicles or equipment, and after receipt of written notice and documentation verifying that LESSEE has caused such damage.

COUNTY shall not be liable to LESSEE for lack of access to the Site as a result of natural causes. However, in the event that the Site becomes inaccessible as a result of natural causes, COUNTY shall to the extent necessary cooperate with LESSEE to restore access in a timely fashion.

LESSEE shall comply with all applicable COUNTY security programs and policies that are part of the COUNTY'S governing ordinance or otherwise provided in writing to LESSEE.

4. **PURPOSE AND USE:** LESSEE shall use the Site to construct, maintain, repair, alter, replace and/or remove or have constructed, maintained, repaired, altered, replaced, and/or removed all or any portion of LESSEE'S wireless communication facility, including but not limited to, the equipment shelter, radio equipment, antenna support structures, antennas, utility conduits, poles, wires, anchors, guys, and all other appurtenant equipment and operations approved by COUNTY which are incidental thereto and necessary to operate and maintain LESSEE'S wireless communication facility (hereinafter "Facility"), and to transmit and receive communication signals in any and all frequencies which do not interfere with other wireless communications existing as of the date of this Agreement, and for all purposes incidental thereto. LESSEE shall ensure that both the use and construction of the Site is in accordance with the Conditions of Approval (or any subsequent changes or modifications thereof) set out in Attachment B of the COUNTY'S Planning Commission Staff Memorandum dated December 5, 2018, Case No. 17CUP-00000-00045. The Conditions for Approval can be found on the COUNTY'S Planning Commission website at <http://sbcountyplanning.org>. LESSEE shall be responsible for supplying, installing and maintaining all power and utilities for the Site.

LESSEE'S use of the Site shall conform to the equipment and antenna specifications described in Exhibit "D", attached hereto and by reference made a part hereof. LESSEE shall comply with land use and building permit requirements of the Santa Barbara County Planning Department. LESSEE shall neither expand its use of the Site beyond the scope of said specifications nor use the Site for any other purposes without the express written approval of the

COUNTY's Real Property Manager, at the address of 1105 Santa Barbara Street, Santa Barbara, CA 93101. Approval from COUNTY's Real Property Manager neither excuses LESSEE from securing any permits or other approvals required to implement changes LESSEE proposes to the Site or its Facility nor obligates other COUNTY departments to issue permits for or approve any changes LESSEE proposes to the Site or its Facility. LESSEE shall comply with all requirements of any and all permits. It is understood and agreed to by each party that LESSEE shall have the right to make changes to and replacements of equipment which are of a substantially similar or "like-kind" nature without having to obtain the approval of COUNTY's Real Property Manager provided such changes do not alter the square footage of the lease area of the Site nor change the visual impact or change the level of antenna transmission of LESSEE's Site and Facility. LESSEE shall notify COUNTY's Real Property Manager in writing of any such changes made to LESSEE's Facility without COUNTY's consent.

5. **TERM:** The term of this Agreement is for a period of five (5) years, more or less, commencing on August 1, 2019, or the start of LESSEE's construction of its Site and Facility, whichever occurs first (hereinafter "Commencement Date") and shall terminate on July 31, 2024, unless sooner terminated as hereinafter provided.

6. **EXTENSION AND RENEWAL OF LEASE:** In the event this Agreement has not otherwise been terminated and LESSEE is not in Default (after having received written notice of such Default and past the expiration of all applicable cure periods) at the end of the above-referenced term and each subsequent 5-year renewal term described below, then such term shall automatically be extended for an additional term of five (5) years.

This Agreement may be automatically extended pursuant to this Section 6, **EXTENSION AND RENEWAL OF LEASE** for no more than three (3) additional terms of five years, which additional terms each shall be for the following periods:

First 5-year renewal: August 1, 2024 through July 31, 2029

Second 5-year renewal: August 1, 2029 through July 31, 2034

Third 5-year renewal: August 1, 2034 through July 31, 2039

In the event of any such extensions the Rent shall be calculated according to Section 8, **RENT**, and Section 9, **COST OF LIVING ADJUSTMENT**, or on such other basis as the parties may then agree to in writing.

7. **SECURITY DEPOSIT:** A deposit in the amount of FIVE THOUSAND DOLLARS (\$5,000.00) shall be due to COUNTY within sixty (60) days of the Commencement Date (hereinafter "Security Deposit"). COUNTY shall have the right to use monies from this Security Deposit to make any repairs or equipment removal not made by LESSEE for which LESSEE is otherwise obligated to make and to restore the Site in the event LESSEE does not properly do so according to its obligations as set forth in Section 13, **ABANDONMENT OF SITE/DISPOSITION OF PERSONAL PROPERTY**, Section 17, **MAINTENANCE AND REPAIR**, or Section 35, **SURRENDER OF PREMISES**, herein. In the event that, during the course of this Agreement, COUNTY is required to use a portion of the Security Deposit to make repairs, then LESSEE shall, within thirty (30) days of such repair and LESSEE's receipt of COUNTY's written notice to reimburse COUNTY, thereafter reimburse the Security Deposit

monies used by COUNTY in connection with the repairs. At the expiration or earlier termination of this Agreement, COUNTY shall release the Security Deposit, less any costs related to repair or equipment removal, if any, within thirty (30) days of receipt of LESSEE's written notice in accordance with the terms of Section 35, SURRENDER OF PREMISES, herein.

8. **RENT**: The base annual rent (hereinafter "Rent") payable by LESSEE to COUNTY during the first year of this Agreement shall be THIRTY THOUSAND and 00/100 DOLLARS (\$30,000.00) lawful money of the United States of America. In the event the date of LESSEE's start of construction commences prior to August 1, 2019, and such date falls between the 1st and 15th of the month, the Rent shall commence on the 1st of that month and if such date falls between the 16th and 31st of the month, then the Rent shall commence on the 1st day of the following month. LESSOR and LESSEE agree that they shall acknowledge in writing the Rent commencement date in the event the Rent commencement date is based upon the date of LESSEE's start of construction. In the event the Rent commencement date is fixed upon August 1, 2019, there shall be no written acknowledgement required. The initial Rent payment is due within sixty (60) days of the Commencement Date of this Agreement if the Agreement commences on August 1, 2019, or sixty (60) days after a written acknowledgement confirming the Rent commencement date, if such an acknowledgement is required.

Thereafter, Rent payments shall be made annually, in advance, on or before August 1st of each and every calendar year beginning in the year 2020. Rent due for any period which is for less than one (1) calendar year shall be prorated based upon a three hundred sixty-five (365) day year. The annual Rent shall be subject to adjustment as set out in Section 9, COST OF LIVING ADJUSTMENT, below. If Rent is not paid ten (10) days after the date due (the Commencement Date or any anniversary thereof), LESSEE shall pay the interest accrued on the unpaid balance at ten percent (10%) per annum from the date it became due until it is paid.

Rental payments shall be made payable to "County of Santa Barbara" and sent to COUNTY at the address as stated in Section 26, NOTICES, herein below.

9. **COST OF LIVING ADJUSTMENT**: Beginning on August 1, 2020, and annually on each and every anniversary of this date thereafter, the base annual Rent provided in Section 8, RENT, above shall be subject to a Cost of Living Adjustment (hereinafter defined) and shall be increased from the annual rent payable during the immediately preceding year of the lease term by three percent (3%) (the "Cost of Living Adjustment").

10. **SITE SUITABILITY**: LESSEE has investigated the Property and the Site and has determined that they are suitable for LESSEE's intended operations, and therefore, LESSEE hereby accepts, by way of executing this Agreement, the Site in its existing condition as of the date of full execution of this Agreement.

LESSEE ACKNOWLEDGES THAT, EXCEPT AS STATED HEREIN, INCLUDING BUT NOT LIMITED TO LESSEE'S UTILITY INSTALLATION REFERENCED IN SECTION 15 HEREOF, COUNTY HAS MADE NO REPRESENTATIONS OR WARRANTIES ABOUT THE CONDITION OF THE PROPERTY OR SITE, OR THE SUITABILITY OF SAME FOR THE INTENDED USE BY LESSEE.

11. **CONSTRUCTION OF THE FACILITY AND FUTURE ALTERATIONS:**

Prior to the commencement of LESSEE'S construction of its Facility, a pre-construction meeting will be scheduled with COUNTY, through the Real Property Manager, or their designated agent, at the Site to review project procedures, designation of project and/or construction managers, and project scheduling. LESSEE shall submit to the Real Property Manager, or their designated agent, periodic status reports indicating description of finished work and milestones.

Upon compliance with all required permitting, construction of the Facility, at LESSEE's sole expense, shall begin promptly after the Commencement Date and shall be pursued expediently to completion. Copies of all required land use permit(s) and building permit(s), as applicable, are attached hereto and by reference made a part hereof as Exhibits "E" and "F", respectively.

LESSEE shall install and construct the Facility in accordance with Exhibits "C", "E" and "F", and LESSEE acknowledges that compliance of the construction of its Facility may be administered by COUNTY's Planning and Development Department and/or Building and Safety Division. LESSEE shall give COUNTY no less than ten (10) days written notice prior to the commencement of any installation or construction work in, on, or about the Site, with the exception of regular maintenance, minor repair visits and emergency work, and shall keep the Property and Site free and clear of liens for labor and materials by or on behalf of LESSEE.

Any work done by LESSEE or its agents on or around the Site during the construction of LESSEE's Facility shall conform to the construction schedule described in Exhibit "G", attached hereto and by reference made a part hereof. LESSEE or its Contractor shall, during all phases of construction, have a designated representative present on the Site to monitor construction and ensure compliance with the aforementioned work plan. In addition, COUNTY may, at its option, have a designated representative on Site who, during all phases of construction, shall have the right to suspend and/or terminate any and all phases of such construction that do not substantially comply with Exhibit "C," "D," "E," or "F". The construction and installation to be done hereunder shall be scheduled and executed at such time and in such a way as to cause, to the extent reasonably feasible, the least inconvenience to the COUNTY, its officers, agents, and employees and with proper consideration for the rights of the public and other COUNTY tenants, vendors, and contractors.

Upon completion of the installation and construction of the Facility, a post-construction meeting for final inspection will be scheduled with COUNTY, through the Real Property Manager, or its designated agent, at the Site for final inspection of completed work.

In the event that LESSEE wishes during the installation and construction or in the future to alter or improve the Site in additional ways not anticipated by this section or by Section 14.D herein, LESSEE shall obtain the advance written approval from the COUNTY's Real Property Manager, which approval shall not be unreasonably withheld, and comply with all requirements of any permits. COUNTY, in its role as proprietor of the Property, shall use its best efforts to respond in a timely manner to LESSEE's request to alter or improve the Site. Approval from COUNTY's Real Property Manager neither excuses LESSEE from securing any permits or other approvals required to implement changes LESSEE proposes to the Site or its Facility nor obligates other COUNTY departments to issue a permit for or approve any changes LESSEE proposes to the Site or its Facility.

The requirements relating to construction set forth herein are those of COUNTY as

landowner and not as a governmental entity. Nothing in this Agreement shall be construed to entitle LESSEE to undertake construction of the Facility or additional future improvements without complying with all permitting required by COUNTY in its governmental capacity.

COUNTY warrants that it has the right and the ability to enter into this Agreement on the subject Property.

12. **TITLE TO FACILITY:** During the term of this Agreement, title to the Facility shall vest with LESSEE. Upon expiration of the term of this Agreement (or any extension thereof), or earlier termination as provided herein, at COUNTY's option, title to the Facility and utility conduits, except as stated below, shall pass to COUNTY and LESSEE shall execute whatever documents are reasonably requested by COUNTY to evidence such passing of title. COUNTY further acknowledges and agrees that in the event COUNTY is permitted and does exercise such election, COUNTY shall take possession of the Facility and utility conduits in their then "as-is" condition, without any representation or warranty by LESSEE as to their fitness for a particular purpose, and LESSEE shall thereafter have no further liability for same. For purposes of this Section 12, TITLE TO FACILITY, radios, radio cabinet equipment, antennas, and other similar electronic equipment and any antenna structures (hereinafter "LESSEE'S Owned Facilities") shall not be a part of the Facility, and LESSEE shall retain title to such.

13. **ABANDONMENT OF SITE/DISPOSITION OF PERSONAL PROPERTY:** LESSEE shall not abandon, vacate, or surrender the Site at any time during the term of this Agreement. If LESSEE does abandon, vacate, or surrender said Site, any personal property belonging to LESSEE and left on the Site more than sixty (60) days after such abandonment, vacation or surrender shall be deemed abandoned at the option of the COUNTY, and title to such shall pass to COUNTY. This provision shall also apply to personal property left after the termination or other expiration of this Agreement and any applicable removal periods as described in Section 35, SURRENDER OF PREMISES. Notwithstanding the foregoing, COUNTY acknowledges that the Facility will be operated as an unmanned facility.

14. **NONINTERFERENCE:**

A. Property. LESSEE agrees not to use, nor permit those under its control, including, but not limited to, its employees, tenants, LESSEE's invitees, agents and/or contractors, to use any portion of the Property, Site, or the Facility in any way which interferes with the non-telecommunications use of the Property by COUNTY. Such interference shall be deemed a material breach, and in the event of such interference caused by LESSEE, LESSEE shall terminate said interference promptly upon receipt of written notice from COUNTY. In the event LESSEE fails to stop such interference within forty-eight (48) hours after receipt of such notice, LESSEE shall cease operation of the Facility or remove the interfering equipment until such interference is eliminated.

B. Telecommunications. LESSEE shall meet and comply with all non-interference rules of the Federal Communications Commission (hereinafter "FCC"). Subject to LESSEE's rights hereunder, LESSEE shall not use, nor shall LESSEE permit its employees, invitees, agents or any others under its control to use the Property or Site in any way which materially interferes with the operations of other telecommunications users existing on the Property as of the date of execution of

this Agreement, nor shall LESSEE at any time after the Commencement Date of this Agreement change the operations of its Facility or alter its Facility in such a manner which causes material interference to COUNTY or any other then-existing users or tenants on the Property as of the date of the change or alteration to the Facility. In the event any after-installed LESSEE's equipment causes such interference, LESSEE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited, at LESSEE's option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will COUNTY be entitled to terminate this Agreement or relocate the equipment as long as LESSEE is making a good faith effort to remedy the interference issue. COUNTY agrees that any other tenants of the Property who currently have or in the future take possession of the Property will not be permitted to install new or additional equipment that causes interference to the operation of LESSEE's facility as of the date of such installation, provided LESSEE is in compliance with this Section.

C. Equipment Modification. LESSEE shall obtain the written consent of COUNTY, which shall not be unreasonably withheld, conditioned, or delayed, prior to any proposed change in LESSEE's use of the Site beyond the scope of said specifications in Exhibit "D"; including but not limited to antenna transmission, location or size of the Facility; COUNTY shall be deemed to have consented to LESSEE's change in use of the Site if COUNTY fails to respond in writing within sixty (60) days of COUNTY's receipt of LESSEE's request for the same with either COUNTY's consent or detailed reasons for refusal. Notwithstanding the preceding sentence, LESSEE, upon notice to COUNTY, may modify or upgrade its equipment and antennas, so long as such alterations do not increase their level of transmission, or change exterior location or size, or otherwise exceed the limits set forth in Section 4, PURPOSE AND USE, or in Exhibit "D" of this Agreement; without the written consent of COUNTY. LESSEE may remove its radio equipment, antennas, cabling, back up batteries and related equipment at any time.

D. Relocation. COUNTY reserves the one-time right, at any time after the expiration of the first 5-year renewal term, to reasonably designate a new location for LESSEE's Facility and to require LESSEE to move said Facility elsewhere on the Property, provided that COUNTY shall give LESSEE written notice of its request to relocate LESSEE's Facility. The relocation of LESSEE's Facility shall be done in accordance with the following terms:

- (i) LESSEE shall bear the sole cost and expense of relocating LESSEE's Facility.
- (ii) The work and labor to relocate LESSEE's Facility shall be done exclusively by LESSEE or its designated agents. The relocation of LESSEE's Facility shall not result in any interruption of the communications service provided by LESSEE from the Property. The relocation of LESSEE's Facility shall not impair, or in any manner alter, the quality of communications service provided by LESSEE from the Property. The relocation shall include new access and utility routes as reasonably required by LESSEE's use of the new location of LESSEE'S Facility. The relocation of LESSEE's Facility shall be done in accordance with the terms and conditions contained in paragraphs (iii), (iv) and (v) below.

- (iii) COUNTY will exercise its right to relocate LESSEE'S Facility by delivering written notice to LESSEE. In the notice, COUNTY will propose an alternate site on the Property to which LESSEE may relocate its Facility. LESSEE will have sixty (60) days from the date it receives the notice to evaluate the alternate site. If LESSEE fails to approve of the alternate site within the 60-day period or fails to request an extension of the review period in writing, then LESSEE will be deemed to have approved such proposed relocation. If LESSEE disapproves of the alternate site, then COUNTY, if practicable, may thereafter propose a new alternate site or a choice of alternate sites by notice to LESSEE in the same manner described above. LESSEE will then have the option to choose one of the new alternate sites within 60 days from the date LESSEE receives notice of the new alternate site. Any relocation site which COUNTY and LESSEE agree upon in writing is hereinafter referred to as the "Relocation Site". Within thirty (30) days after LESSEE has accepted the Relocation Site, LESSEE shall submit its application for any applicable permits for the Relocation Site and pursue permits expediently until obtained. LESSEE will have a period of ninety (90) days after obtaining its permits for the Relocation Site to relocate LESSEE'S Facility to the Relocation Site and cease operations at the previous Site.
- (iv) During the relocation of LESSEE'S Facility to the Relocation Site, LESSEE shall be allowed to install a temporary facility on COUNTY'S Property in a location approved by COUNTY, which approval shall not be unreasonably withheld or unreasonably conditioned. Upon completion of the Relocation Site, LESSEE shall promptly remove its temporary facility.
- (v) Upon relocation of LESSEE'S Facility, or any part thereof, to the Relocation Site, this Agreement shall be amended to show the new location. Each party hereby agrees that the Relocation Site (including the access and utility right of way) may be surveyed by a licensed surveyor at the sole cost of LESSEE and such survey shall be included in the lease amendment and become a part thereof and control in describing the Site. Except as expressly provided in this subsection, both parties hereby agree that in no event will the relocation of LESSEE'S Facility under the provisions of Section 14.E, or any part thereof, affect, alter, modify or otherwise change any of the terms and conditions of this Agreement.
- (vi) Notwithstanding the above, LESSEE may terminate this Agreement upon 90-days written notice to COUNTY in the event LESSEE does not wish to relocate its Facility upon COUNTY'S written request.

15. **UTILITY CHARGES:** LESSEE, upon obtaining the required permits and

approvals, shall have the right to install and maintain the necessary mains and ancillary equipment required to bring utility service to the Site and Facility, as described and depicted in Exhibit "C", at its sole cost and expense. All accounts for such utilities shall name LESSEE as the responsible party.

LESSEE shall be responsible for supplying and maintaining all power and utilities for the Site and Facility. LESSEE shall pay when due all charges for utilities used by LESSEE.

16. **TAXES AND ASSESSMENTS:** This Agreement may confer a possessory interest on LESSEE and LESSEE shall pay and discharge any and all property taxes and/or assessments, including special assessments and possessory interest taxes, if any, which, due to LESSEE's Facility may be levied upon said Property, Facility and/or Site during the term of this Agreement.

17. **MAINTENANCE AND REPAIR/GRAFFITI REMOVAL:** LESSEE agrees at its sole expense to keep in good maintenance and repair, reasonable wear and tear excepted, the Site and Facility. If LESSEE delays in making any repairs so that it becomes necessary for COUNTY, for sake of the operation of the Property, to make such repairs, then COUNTY shall, after providing the notice required, have the right to do so and use monies from the Security Deposit to pay the cost of such repairs. COUNTY shall not have any responsibility to maintain the Site or Facility.

LESSEE shall, within twenty (20) days after receipt of notice from COUNTY, perform maintenance and repair and remove or have removed graffiti from the Facility and Site at its sole expense.

18. **ASSIGNMENT/SUBLEASE/HYPOTHECATION:** LESSEE shall not assign, license, or sublease the Site or any part thereof or any right or privilege appurtenant thereto without COUNTY's written consent which consent shall not be unreasonably withheld.

LESSEE shall not mortgage, pledge, hypothecate, or encumber the Property, the Site, or any interest therein, including without limitation its leasehold; nor shall LESSEE mortgage, pledge, hypothecate, or encumber any improvements placed upon the Property or Site whether such improvement is placed thereon before or after the date of execution of this Agreement.

Any attempt to assign, license, sublease, mortgage, pledge, hypothecate or in any other way encumber LESSEE'S rights under this Agreement or LESSEE's interest in the Site without COUNTY's consent shall be void and without legal effect.

Notwithstanding the above, upon written notification to COUNTY, LESSEE may assign this Agreement to its parents, partners, or affiliates, or to an entity that purchases all or substantially all of LESSEE's assets in the FCC market in which the Property is located provided, however, that LESSEE remains surety for the performance of its assignee.

19. **SUCCESSORS IN INTEREST:** This Agreement and the covenants contained herein shall be binding upon and inure to the benefit of the respective parties, their heirs, personal representatives, successors and assigns and to any organization into which LESSEE may be merged.

20. **INDEMNIFICATION:** LESSEE shall defend, indemnify, and save harmless COUNTY, its officers, agents, and employees, from any and all claims, demands, damages, costs,

expenses (including reasonable attorney's fees), judgments, or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof by LESSEE; including, but not limited to, any act or omission to act on the part of LESSEE or its agents or employees or other independent contractors directly responsible to LESSEE; except those claims, demands, damages, costs, expenses (including reasonable attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the COUNTY.

LESSEE shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

21. **INSURANCE:** Without limiting the LESSEE'S indemnification of the COUNTY, LESSEE shall procure the following required insurance coverages at its sole cost and expense. All insurance coverages are to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place LESSEE in Default.

A. **Workers' Compensation Insurance.** Workers' Compensation in compliance with the statutory requirements of the state of operation and Employers Liability Insurance with a limit of \$1,000,000 each accident/disease/policy limit covering all LESSEE'S staff while performing any work incidental to the performance of this Agreement.

B. **Commercial General Liability Insurance.** The general liability insurance shall provide a limit of \$1,000,000 per occurrence for bodily injury and \$2,000,000 general aggregate, including premises, operations, contractual liability, personal and advertising injury and products and completed operations of LESSEE and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the LESSEE under this Agreement.

C. **Commercial Auto Liability Insurance.** The automobile liability insurance shall provide a limit of \$2,000,000 combined single limit each accident for bodily injury and property damage covering all owned, non-owned, and hired motor vehicles. LESSEE shall require all subcontractors to obtain and maintain substantially the same insurance with substantially the same limits as required of LESSEE and furnish separate certificates of insurance evidencing the coverage in effect. COUNTY, its officers, and employees shall be included as Additional Insured as their interest may appear under this Agreement on the commercial general liability and commercial automobile liability policies. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each shall be included in the policies. A blanket additional insured endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance.

Said policy or policies shall include severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision to the effect of:

“Such insurance shall be primary as relates to LESSEE's operations and if the COUNTY has other valid and collectible insurance, that other insurance shall be excess and noncontributory

in this respect.”

LESSEE shall submit to the office of the designated COUNTY representative certificate(s) of insurance documenting the required insurance as specified above upon execution of this Agreement. COUNTY shall maintain current certificate(s) of insurance at all times in the office of the designated COUNTY representative as a condition precedent to any payment under this Agreement. Approval of insurance by COUNTY or acceptance of the certificate of insurance by COUNTY shall not relieve or decrease the extent to which the LESSEE may be held responsible for payment of damages resulting from LESSEE's services of operation pursuant to the contract, nor shall it be deemed a waiver of COUNTY's rights to insurance coverage hereunder.

Except for indemnification pursuant to Section 20, INDEMNIFICATION, and Section 23, ENVIRONMENTAL IMPAIRMENT, neither party shall be liable to the other, or any of their respective agents, representatives, and employees, for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

The above insurance requirements are subject to periodic review by COUNTY. The COUNTY's Risk Manager is authorized to change the above insurance requirements, with the concurrence of COUNTY COUNSEL, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. This option may also be exercised during any amendment of the Agreement that results in an increase in the nature of COUNTY's risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits shall be made by written amendment to this Agreement. LESSEE agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification.

22. **NONDISCRIMINATION:** LESSEE shall comply with COUNTY laws, rules and regulations regarding nondiscrimination as such are found in the Santa Barbara County Code and as such may from time to time be amended. These provisions are incorporated herein as if they were fully set forth.

Noncompliance with provisions of this section shall constitute a material breach of this Agreement and in addition to any other remedies provided by law, COUNTY shall have the right to terminate this Agreement and the interest hereby created without liability therefore.

23. **ENVIRONMENTAL IMPAIRMENT:** LESSEE shall comply with all applicable laws, regulations, rules, and orders regardless of when they become or became effective, including without limitation those relating to construction, grading, signing, health, safety, noise, environmental protection, waste disposal, water and air quality, and shall furnish satisfactory evidence of compliance upon request of COUNTY.

Should any discharge, leakage, spillage, emission, or pollution of any type occur upon or

from the Property, Facility or Site due to LESSEE's use and occupancy, LESSEE shall clean all property affected to the satisfaction of COUNTY and any governmental body having jurisdiction therefore. LESSEE shall indemnify, hold harmless, and defend COUNTY from and against all liability, claim, cost, and expense (including without limitation any fines, penalties, judgments, litigation costs, reasonable attorney's fees, and consulting engineering and construction costs) incurred by COUNTY as a result of LESSEE's breach of this section, or as a result of any such discharge, leakage, spillage, emission or pollution due to LESSEE'S use and occupancy, regardless of whether such liability, cost or expense arises during or after the term of this Agreement, except to the extent caused by the negligence or willful misconduct of COUNTY.

24. **TOXICS:** LESSEE shall not manufacture or generate hazardous wastes on or in the Facility, Site, Property, or surrounding property unless specifically authorized by this Agreement. LESSEE shall be fully responsible for any hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported by LESSEE, its agents, employees, or designees on or in the Facility, the Site, Property, or surrounding property during the term of this Agreement and shall comply with and be bound by all applicable provisions of such federal, state, or local law, regulation, or ordinance dealing with such wastes, substances, or materials. LESSEE shall notify COUNTY and the appropriate governmental emergency response agency (ies) immediately in the event of any release or threatened release of any such wastes, substances or materials.

25. **COMPLIANCE WITH THE LAW:** LESSEE shall comply with all local, County, State, and Federal laws, rules, and regulations affecting the Site, Facility, or Property now or hereafter in effect.

26. **NOTICES:** Any notice to be given to the parties shall be in writing and shall be served, either personally or by mail, to the following:

COUNTY: County of Santa Barbara
 General Services Department
 1105 Santa Barbara Street
 Santa Barbara, CA 93101
 Attn: Real Property Manager
 (805) 568-3070
 realproperty@countyofsb.org

LESSEE: AirTouch Cellular, Inc.
 d/b/a Verizon Wireless
 180 Washington Valley Road
 Bedminster, New Jersey 07921
 Attn: Network Real Estate
 (866) 862-4404

or to the parties at such other place as may be designated in writing. Such notices shall be served by depositing them addressed as set out above, postage prepaid, in the U.S. mail, reliable overnight courier, or by personal delivery. The date of mailing, or in the event of personal delivery, the date of delivery or refusal of delivery shall constitute the date of service. The telephone numbers included in this Section are for reference only and a phone call does not constitute official notice when such notice is required by this Agreement.

27. **DEFAULT:** Default is defined as the failure of either party to comply with the terms and conditions of this Agreement. Except as otherwise required herein, should either party at any time be in Default, the nondefaulting party shall give written notice to the defaulting party specifying the particulars of the Default and such defaulting party shall promptly commence remedial action to cure the Default. Should such Default continue uncured for a period of thirty (30) calendar days from such notice, this Agreement shall terminate at the option of the nondefaulting party; unless the cure of a non-monetary Default shall reasonably take more than thirty (30) calendar days in which case the defaulting party shall proceed with all due speed to cure the Default and shall have a reasonable time to effectuate its cure.

28. **REMEDIES:** In the event of a Default, either party may exercise any right or remedy at law or in equity which such party may have by reason of such Default including but not limited to the following:

- A. The nondefaulting party may waive the Default in accordance with Section 29, WAIVER, herein below.
- B. The nondefaulting party may maintain this Agreement in full force and effect and recover whatever monetary loss (es) may have resulted from such Default.
- C. The nondefaulting party may terminate the Agreement.

29. **WAIVER:** It is understood and agreed that any waiver, express or implied, of any Default shall neither waive, nor be construed to waive either subsequent enforcement of that or any other term of this Agreement or any subsequent Default.

30. **AMENDMENTS:** This Agreement may only be amended by written consent of the parties and such changes shall be binding upon the heirs or successors of the parties.

31. **TERMINATION:** This Agreement shall terminate and all rights of LESSEE shall cease and LESSEE shall quietly and peacefully deliver to COUNTY, possession and interest in the Site:

- A. Upon expiration or earlier termination of the Agreement as provided in Section 5, TERM or Section 28, REMEDIES; or
- B. As provided in Section 32, DESTRUCTION; or
- C. In the event LESSEE is found to be in material non-compliance with Exhibits "C", "D", "E", "F" or "G" of this Agreement, except as otherwise provided pursuant to the terms of this Agreement or by the mutual agreement of the parties in writing, and such non-compliance is not resolved pursuant to Section 27, DEFAULT; or

- D. As provided in Section 14, NONINTERFERENCE; or
- E. After making all reasonable and good faith efforts to obtain applicable certificates, permits and approvals, if any of LESSEE's applications for applicable certificates, permits and other approvals issued to LESSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority so that LESSEE will no longer be able to use the Site for its intended purposes or the LESSEE reasonably and in good faith determines that the Site is no longer technologically feasible for its intended use. Such termination shall be effective upon written notice to COUNTY in writing by certified mail, return receipt requested, and shall be effective upon receipt of such notice by COUNTY; provided, however, that LESSEE must provide COUNTY with 12 months written notice of its intention to terminate this Agreement for technological reasons.

32. **DESTRUCTION:** If the Facility or the Site is partially or totally destroyed by fire or other casualty, this Agreement, at the option of COUNTY, shall terminate.

33. **HOLDING OVER:** Should LESSEE occupy the Site after the expiration date of this Agreement or any extension thereof, with the consent of the COUNTY, expressed or implied, such possession shall be construed to be a tenancy from month to month and LESSEE shall pay COUNTY monthly for such tenancy in accordance with Section 8, RENT, and Section 9, COST OF LIVING ADJUSTMENT.

34. **AGENCY DISCLOSURE:** LESSEE acknowledges that the General Services Department of the COUNTY is the agent for the COUNTY exclusively, and is neither the agent for LESSEE nor a dual agent in this transaction.

35. **SURRENDER OF PREMISES:** Upon expiration or termination of this Agreement, LESSEE shall vacate and surrender possession of, and any claim to the Site, leaving it in good condition, except for ordinary wear and tear.

Subject to Section 12, TITLE TO FACILITY, LESSEE shall remove LESSEE's Owned Facilities within sixty (60) days prior to the date of such expiration or termination and LESSEE shall retain title to LESSEE's Owned Facilities. Alternatively, upon such expiration or termination, COUNTY may request in writing at least ninety (90) days prior to such expiration or termination the removal of the Facility, in whole or in part, and if COUNTY so requests, LESSEE shall remove or have said Facility (including LESSEE's Owned Facilities) or such lesser portions as COUNTY may request removed as soon as is practicable, at LESSEE'S sole cost. Such request for the removal of the Facility shall be made in writing at least ninety (90) days prior to such expiration or termination.

Upon completion of LESSEE's removal of its Facility, LESSEE shall obtain COUNTY's good-faith approval that said Facility has been removed and the Site restored to good condition. In order to ensure LESSEE's timely and adequate removal of its Facility under the terms of this Section 35, SURRENDER OF PREMISES, COUNTY may require through the Land Use Permit(s) attached hereto as Exhibit "E" that LESSEE post a performance bond which COUNTY may utilize to undertake the removal of LESSEE's Facility in the event LESSEE does not timely and

adequately comply with the provisions of this Section.

36. **CAPTIONS:** The title or headings to the sections of this Agreement are not a part of this Agreement, and shall have no effect upon the construction or interpretation of any part hereof.

37. **SEVERABILITY:** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

38. **CERTIFICATION OF SIGNATORY:** The signatories of this Agreement and each of them represent and warrant that they are authorized to execute this Agreement and that no additional signatures are required to bind COUNTY and LESSEE to its terms and conditions or to carry out duties contemplated herein.

39. **PERMITTED PERSONNEL:** LESSEE shall be solely liable for all actions of its agents, employees, contractors, subcontractors, and any others it permits on the Property or Site and shall be responsible for any and all damages resulting from their actions.

40. **FIRE DAMAGE:** LESSEE agrees to hold COUNTY harmless and indemnify COUNTY from any damage or injury to COUNTY, other persons or to property resulting from any fire caused by LESSEE, its agents, employees, or permittees, except to the extent such fire is caused by the acts or omissions of COUNTY.

41. **CONDEMNATION:** In the event the Property or any part thereof is taken by condemnation, eminent domain, or any such proceeding that precludes access to or use of the Site, COUNTY shall have the exclusive right to control the defense of any such action in condemnation or eminent domain and to defend any such action and settle the same in COUNTY's absolute discretion. LESSEE agrees that COUNTY shall have the right, but not the obligation, to defend or settle any such action in condemnation or eminent domain affecting any of LESSEE's installations at the Site.

LESSEE shall receive from COUNTY such proportionate amount of the judgment, award, or settlement as shall be attributable to LESSEE's interests.

In the event possession of the Site or partial possession of the Site is obtained by a public agency other agency empowered to take by eminent domain, in a manner which precludes LESSEE'S intended use, this Agreement shall terminate as of the effective date of possession and upon such termination, any obligation of LESSEE to pay rent shall cease with the payment of the prorated portion of rental obligations up to said termination date. Any prepaid rent shall be returned to LESSEE from the effective date of possession.

In the event of a partial taking, this Agreement may continue at COUNTY's option, however, rent hereunder may be reduced proportionately.

42. **BANKRUPTCY:** If LESSEE is adjudged bankrupt, this Agreement shall immediately terminate and the same shall not be treated as an asset of LESSEE after such adjudication, nor shall it pass to the control of any trustee or assignee of LESSEE by virtue of any process in bankruptcy or insolvency by execution or attachment.

43. **CONSTRUCTION:** The parties to this Agreement agree that each party and its respective counsel have reviewed and approved this Agreement to the extent that each party in its sole discretion has desired, and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement. The terms and conditions of this Agreement embody the parties' mutual intent, and this Agreement shall not be construed more liberally in favor of, nor more strictly against any party hereto.

44. **FACSIMILE SIGNATURES:** In the event that the parties hereto utilize facsimile transmitted documents which include signatures, such documents shall be accepted as if they bore original signatures provided that documents bearing ORIGINAL SIGNATURES are provided within seventy-two (72) hours of transmission of the facsimile, except that funds shall not be released upon a facsimile signature nor shall facsimile signed documents be accepted for recordation by the Clerk Recorder of the County.

45. **EXECUTION IN COUNTERPARTS:** This Agreement may be executed in any number of counterparts and each such counterpart shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

46. **ENTIRE AGREEMENT:** The parties to this Agreement intend that their negotiations, conversations and statements made prior to execution of this Agreement are fully integrated and expressed herein, and no such negotiations, conversations, and statements shall be deemed to create rights or obligations other than those stated herein.

[SIGNATURE PAGE TO FOLLOW]

Project: Verizon at Juvenile Hall
APN: 069-350-031 (Portion)
Folio: 003824
Agent: JJS

IN WITNESS WHEREOF, COUNTY and LESSEE have executed this Agreement by the respective authorized officers as set forth below to be effective as of the date executed by COUNTY.

"COUNTY"
COUNTY OF SANTA BARBARA

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD


By: _____
Steve Lavagnino, Chair
Board of Supervisors

By: _____
Deputy

Date: _____

APPROVED AS TO ACCOUNTING:
BETSY M. SCHAFFER, CPA, CPFO
AUDITOR-CONTROLLER

"LESSEE"
AirTouch Cellular Inc., a California corporation,
dba Verizon Wireless

By:  _____
Deputy

By: _____

Name: _____

Title: _____


APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

Date: _____

By:  _____
Deputy

APPROVED:

Don Grady
Real Property Manager

APPROVED AS TO INSURANCE FORM:

Ray Aromatorio, ARM, AIC
Risk Program Administrator

“PROPERTY”

Exhibit “A”

“SITE”

Exhibit “B”

“ARCHITECTURAL PLANS”

Exhibit “C”

“EQUIPMENT AND ANTENNA SPECIFICATIONS”

Exhibit “D”

“LAND USE PERMITS”

Exhibit “E”

“BUILDING PERMITS”

Exhibit “F”

(This Page to be replaced once Building Permits are issued)

“CONSTRUCTION SCHEDULE”

Exhibit “G”

(This Page to be replaced once Construction Schedule is ready)