

# ORIGINAL

## FACILITY USE AGREEMENT AMENDMENT II

This FACILITY USE AGREEMENT AMENDMENT II ("Amendment") is made this 12<sup>th</sup> day of December, 2006 by and between the County of El Dorado, a political subdivision of the State of California ("County"), and Celco Partnership d/b/a Verizon Wireless ("Verizon Wireless"), as successor in interest to El Dorado Cellular, a California corporation, d/b/a Mountain Cellular, with reference to the facts set forth in the Recitals below:

### RECITALS

A. County and Verizon Wireless, or their predecessors in interest, are parties to that certain Facility Use Agreement, dated November 2, 1999 ("Lease"), as amended by that certain Facility Use Agreement Amendment I, dated August 13, 2004 (together, the "Facility Use Agreement"), whereby County granted Verizon Wireless authorization to use a portion of the County's property to mount antennas on an existing antenna tower ("Tower") and place communications equipment in an equipment vault ("Vault"). Pursuant to the Facility Use Agreement, Verizon Wireless currently has two (2) antennas mounted on the Tower and has communications equipment in the Vault. Hereinafter, the entirety of that certain real property located in El Dorado County, California, commonly known as the South Lake Tahoe Government Center, located at 1352 and 1360 Johnson Boulevard, South Lake Tahoe, California, including without limitation the Tower, the Vault and the Shelter (defined below), shall be referred to as the "Property".

B. County and Verizon Wireless desire to (i) provide that Verizon Wireless shall have exclusive use of a parcel of ground space within the Property, so that Verizon Wireless can install an equipment shelter on said ground space ("Shelter") and install, operate, maintain, repair and replace communications equipment in the Shelter; (ii) authorize Verizon Wireless to install a new monopole, the ownership of which will be conveyed to the County upon completion of its construction (the "New Monopole"); (iii) authorize Verizon Wireless to install, operate, maintain, repair and replace five (5) antennas on the New Monopole; (iv) terminate Verizon Wireless's authorization to keep communications equipment in the Vault; and (v) authorize Verizon Wireless to install, operate, maintain, repair, and replace its equipment on the New Monopole rent free for a period of ten (10) consecutive years commencing on January 1, 2007, and upon the expiration of such ten (10) year period, Verizon Wireless shall pay rental to the County in the amount of \$450.00 per month for the remainder of the term of the Facility Use Agreement.

C. The Facility Use Agreement and this Amendment shall hereinafter be referred to collectively as the "Agreement".

## AGREEMENT

NOW, THEREFORE, in consideration of the facts contained in the Recitals above, the mutual covenants and conditions below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. GROUND SPACE AND SHELTER. The County grants to Verizon Wireless exclusive use of an eleven foot (11') by twenty-seven foot (27') parcel of ground space containing two hundred ninety-seven (297) square feet ("Parcel"), located within the Property. Verizon Wireless is further authorized to install a seven foot (7') by twenty-two foot (22') Shelter on the Parcel, and to install, operate, maintain, repair and replace communications equipment in the Shelter, together with sufficient space to install, maintain, replace and repair wires, cables, conduits and pipes (a) from the Shelter to the nearest appropriate utilities provider if LESSOR is not providing adequate power and telephone access in the Premises for utilities, and (b) from the Shelter to the New Monopole.

2. VAULT. After Verizon Wireless has installed its equipment in the Shelter and such equipment is operational, Verizon Wireless's use of the Vault shall be terminated. Said Parcel, Shelter, and space for wires, cables, conduits and pipes are depicted in Exhibit "A", attached to this Amendment and incorporated herein. The parties hereby delete in its entirety Exhibit A currently attached to the Facility Use Agreement.

3. ANTENNAS. County grants to Verizon Wireless use of a portion of the New Monopole to place five (5) antennas on the New Monopole, together with accompanying radio communications equipment and appurtenances, together with sufficient space for the installation and maintenance of wires, cables, conduits and pipes running from the space on the New Monopole to the Shelter as described in Exhibit "B" attached to this Amendment and incorporated herein.

4. COMPENSATION. Paragraph 3.B. of the Facility Use Agreement is hereby deleted, and replaced by the following paragraph:

"In consideration of the purchase and installation of the New Monopole by Verizon Wireless, County authorizes Verizon Wireless to install, operate, maintain, repair, and replace its equipment on the New Monopole rent free for a period of ten (10) consecutive years commencing on January 1, 2007, and upon the expiration of such ten (10) year period, as long as this Agreement and said License Agreement # 069-L0011 are in full force and effect, Verizon Wireless shall be obligated to make rental payments at a monthly rental of Four Hundred Fifty Dollars (\$450.00) to be paid on the first day of the month, in advance, to County or to such other person, firm or place as the County may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date."

5. TERMINATION. In the first line of Paragraph 4 of the Facility Use Agreement, delete "Either party," and replace with "Verizon Wireless." Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless") is the successor in interest to El Dorado Cellular, a California corporation, dba Mountain Cellular.

6. TERM. The second and third sentences of Item 5 of the Facility Use Agreement Amendent I shall be deleted in their entirety and replaced with the following: "This Agreement shall automatically be extended for two (2) additional five (5) year terms unless Verizon Wireless terminates it at the end of the then-current term by giving the County written notice of the intent to terminate at least six (6) months prior to the end of the then-current term."

7. ASSIGNMENT. Paragraph 6 of the Facility Use Agreement is hereby deleted, and replaced with the following language:

"Notwithstanding anything to the contrary contained in this Agreement, this Agreement may be sold, assigned or transferred by Verizon Wireless without any approval or consent of the County to Verizon Wireless's principal, affiliates, subsidiaries of its principal; to any entity which acquires all or substantially all of Verizon Wireless's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization; or to any entity which acquires or receives an interest in the majority of communication towers of Verizon Wireless in the market defined by the Federal Communications Commission in which the Property is located."

8. NOTICE. Verizon Wireless's notice address in Paragraph 4 of the Agreement is hereby replaced with the following:

Verizon Wireless:            Cellco Partnership  
  d/b/a Verizon Wireless  
  180 Washington Valley Road  
  Bedminster, New Jersey 07921  
  Attention: Network Real Estate

9. CONTINUED EFFECT. Except as specifically modified by this Amendment, all of the terms and conditions of the Facility Use Agreement, including without limitation the provision entitled "COMPENSATION", shall remain in full force and effect. In the event of a conflict between any term and provision of the Facility Use Agreement and this Amendment, the terms and provisions of this Amendment shall control. In addition, except as otherwise stated in this Amendment, all initially capitalized terms will have the same respective defined meaning

stated in the Facility Use Agreement. All captions are for reference purposes only and shall not be used in the construction or interpretation of this Amendment. It is agreed and understood that this Agreement contains all agreements, promises and understandings between the County and Verizon Wireless and that no verbal or oral agreements, promises or understandings shall be binding upon either the County or Verizon Wireless in any dispute, controversy or proceeding at law. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, County and Verizon Wireless have caused this FACILITY USE AGREEMENT AMENDMENT II to be executed by each party's duly authorized representative effective as of the date first above written.

COUNTY:

County Of El Dorado  
a body corporate and politic of the State of California

By: *James R. Sweeney*

Name: **JAMES R. SWEENEY**

Title: CHAIRMAN

Date: 12-13-06

VERIZON WIRELESS:

Cellco Partnership  
d/b/a Verizon Wireless

By: *Keith A. Surratt*

Name: Keith A. Surratt

Title: West Area Vice President – Network

Date: 9/28/07

ATTEST: CINDY KECK, Clerk  
of the Board of Supervisors

By: *Cynthia Johnson*  
DEPUTY



