

ORDINANCE NO. 2019-43

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MONROE AND CELLCO PARTNERSHIP DBA VERIZON WIRELESS FOR THE CONTINUED USE OF A TOWER LOCATED AT 6250-6262 HAMILTON-MIDDLETOWN ROAD.

WHEREAS, a current lease between the City of Monroe and Verizon Wireless is now managed by American Tower; and

WHEREAS, the City of Monroe hereby authorizes the assignment of said lease pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: The City Manager is hereby authorized to enter into a lease agreement by and between the City of Monroe and Cellco Partnership dba Verizon Wireless for the continued use of a tower located at 6250-6262 Hamilton-Middletown Road pursuant to the terms and conditions set forth on Exhibit "1" attached hereto and made a part hereof.

SECTION 2: This measure shall take effect and be in full force from and after the earliest period allowed by law.

PASSED:

January 14, 2020

ATTEST:



Clerk of Council

APPROVED:



Mayor

First Reading, December 10, 2019

THE FIRST AMENDMENT TO OPTION TO LEASE AND LEASE AGREEMENT

This First Amendment to Option to Lease and Lease Agreement (this "**Amendment**") is made effective as of the latter signature date hereof (the "**Effective Date**") by and between City of Monroe, an Ohio municipal corporation ("**Landlord**") and Cellco Partnership d/b/a Verizon Wireless ("**Tenant**") (Landlord and Tenant being collectively referred to herein as the "**Parties**").

RECITALS

WHEREAS, Landlord owns the real property described on Exhibit A attached hereto and by this reference made a part hereof (the "**Parent Parcel**"); and

WHEREAS, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Option to Lease and Lease Agreement dated October 12, 1998 (as the same may have been amended, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises are also described on Exhibit A; and

WHEREAS, Tenant and/or its parent, affiliates, subsidiaries and other parties identified therein, entered into a sublease agreement with **American Tower Delaware Corporation**, a Delaware corporation and/or its parents, affiliates and subsidiaries ("**American Tower**"), pursuant to which American Tower subleases, manages, operates and maintains, as applicable, the Leased Premises and/or a wireless communications tower (such tower the "**Tower**") on the Leased Premises, all as more particularly described therein; and

WHEREAS, Tenant has granted American Tower a limited power of attorney (the "**POA**") to, among other things, prepare, negotiate, execute, deliver, record and/or file certain documents on behalf of Tenant, all as more particularly set forth in the POA; and

WHEREAS, Landlord through legislative action of its City Council has approved the terms and conditions of this Amendment pursuant to Ordinance No. ____ passed on _____, 2019, and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to extend the term thereof and to otherwise modify the Lease as expressly provided herein.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **One-Time Payment.** American Tower, on behalf of Tenant, shall pay to Landlord a one-time payment in the amount of **Fifty Thousand and No/100 Dollars (US\$50,000.00)** (the "**One-Time Payment**"), payable within thirty (30) days of the Effective Date and subject to the following conditions precedent: (a) Tenant's receipt of this Amendment executed by Landlord, on or before _____, 2019; (b) Tenant's confirmation that Landlord's statements as further set forth in this Amendment are true, accurate, and complete, including verification of Landlord's ownership; (c) Tenant's receipt of any documents and other items reasonably requested by Tenant in order to effectuate the transaction and payment contemplated herein; and (d) receipt by Tenant of an original Memorandum (as defined herein) executed by Landlord.
2. **Lease Term Extended.** Notwithstanding anything to the contrary contained in the Lease or this Amendment, the Parties agree the Lease originally commenced on July 1, 1999 and, without giving effect to the terms of this Amendment but assuming the exercise by Tenant of all remaining renewal options contained in the Lease (each an "**Existing Renewal Term**" and, collectively, the "**Existing Renewal Terms**"), the Lease is otherwise scheduled to expire on June 30, 2029. In addition to any Existing

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Renewal Term(s), the Lease is hereby amended to provide Tenant with the option to extend the Lease for each of five (5) additional five (5) year renewal terms (each a "**New Renewal Term**" and, collectively, the "**New Renewal Terms**"). Notwithstanding anything to the contrary contained in the Lease, (a) all Existing Renewal Terms and New Renewal Terms shall automatically renew unless Tenant notifies Landlord that Tenant elects not to renew the Lease at least sixty (60) days prior to the commencement of the next Renewal Term (as defined below) and (b) Landlord shall be able to terminate this Lease only in the event of a material default or breach by Tenant, which default is not cured within ninety (90) days of Tenant's receipt of written notice thereof, provided, however, in the event that Tenant has diligently commenced to cure a material default within ninety (90) days of Tenant's actual receipt of notice thereof and reasonably requires additional time beyond the day cure period described herein to effect such cure, Tenant shall have additional time as is necessary (beyond the ninety (90) day cure period) to effect the cure, but in no event shall such cure period exceed one hundred and eighty (180) days. References in this Amendment to "**Renewal Term**" shall refer, collectively, to the Existing Renewal Term(s) and the New Renewal Term(s). The Landlord hereby agrees to execute and return to Tenant an original Memorandum of Lease in the form and of the substance attached hereto as **Exhibit B** and by this reference made a part hereof (the "**Memorandum**") executed by Landlord, together with any applicable forms needed to record the Memorandum, which forms shall be supplied by Tenant to Landlord.

3. **Rent and Escalation.** As of the Effective Date, the Parties hereby acknowledge and agree that the rent payable from Tenant to Landlord under the Lease is equal to **Twenty Four Thousand Eight Hundred Eighty-Three and No/100 Dollars (\$24,883.00)** per year (the "**Rent**"). Commencing on July 1, 2020 and on each successive annual anniversary thereof, Rent due under the Lease shall increase by an amount equal to **three and one-half percent (3.5%)** of the then current Rent. Notwithstanding anything to the contrary in the Lease, as amended, in the event the Lease terminates prior to ten (10) years after the Effective Date hereof (the "**Rent Guarantee Date**"), Tenant shall pay to Landlord in one lump-sum the total remaining Rent payments that would have otherwise been due to the Landlord through the Rent Guarantee Date (the "**Rent Guarantee Amount**") within thirty (30) days after termination of the Lease, provided however, the Rent Guarantee Amount shall not be paid to Landlord in the event that: (i) the Lease is terminated by Tenant due to an uncured breach of the Lease by Landlord; or (ii) the Lease is terminated by either party or any applicable third party having a legal or statutory right to terminate the Lease due to a condemnation or taking of the Leased Premises and/or Parent Parcel by the applicable local, state or federal jurisdiction or agency. Notwithstanding anything to the contrary contained in the Lease, all Rent and any other payments expressly required to be paid by Tenant to Landlord under the Lease and this Amendment shall be paid to **City of Monroe**. The Landlord hereby agrees the Rent, the One-Time Payment and the Collocation Fee (as defined below) described in this Amendment is the only consideration owed to Landlord from Tenant and/or American Tower pursuant to the Lease, as amended, or any other agreements between Landlord and Tenant, or Landlord and American Tower, as the case may be. In the event of any overpayment of Rent or Collocation Fee (as defined below) prior to or after the Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount.

4. **Revenue Share.**

- a. Subject to the other applicable terms, provisions, and conditions of this Section, Tenant shall pay Landlord twenty-five percent (25%) of any rents actually received by Tenant or American Tower under any new sublease, license or other collocation agreement for the use of any portion of the Leased Premises or Tower entered into by and between Tenant (or American Tower) and a third party (any such third party, the "**Additional Collocator**"), subsequent to the Effective Date (any such amounts, the "**Collocation Fee**"). Notwithstanding the foregoing, Landlord shall not be entitled to

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receive any portion of any sums paid by a licensee or sublessee to reimburse Tenant (or American Tower), in whole or in part, for any improvements to the Leased Premises or any structural enhancements to the tower located on the Leased Premises, or for costs, expenses, fees, or other charges incurred or associated with the development, operation, repair, or maintenance of the Leased Premises or the Tower. The Collocation Fee shall not be subject to the escalations to Rent, if any, as delineated in this Amendment and/or the Lease. To the extent the amount of rents actually received by Tenant (or American Tower) from an Additional Collocator escalate or otherwise increase pursuant to those agreements, the Collocation Fee shall be based on such increased amount.

- b. The initial payment of the Collocation Fee shall be due within thirty (30) days of actual receipt by Tenant (or American Tower) of the first collocation payment paid by an Additional Collocator. In the event a sublease or license with an Additional Collocator expires or terminates, Tenant's obligation to pay the Collocation Fee for such sublease or license shall automatically terminate upon the date of such expiration or termination. Notwithstanding anything contained herein to the contrary, Tenant shall have no obligation to pay to Landlord and Landlord hereby agrees not to demand or request that Tenant pay to Landlord any Collocation Fee in connection with the sublease to or transfer of Tenant's obligations and/or rights under the Lease, as modified by this Amendment, to any subsidiary, parent or affiliate of Tenant or American Tower.
 - c. Landlord hereby acknowledges and agrees that Tenant and American Tower have the sole and absolute right to enter into, renew, extend, terminate, amend, restate, or otherwise modify (including, without limitation, reducing rent or allowing the early termination of) any future or existing subleases, licenses or collocation agreements for occupancy on the Tower, all on such terms as Tenant and/or American Tower deem advisable, in Tenant's and/or American Tower's sole and absolute discretion, notwithstanding that the same may affect the amounts payable to the Landlord pursuant to this Section.
 - d. Notwithstanding anything to the contrary contained herein, Landlord hereby acknowledges and agrees that Tenant shall have no obligation to pay and shall not pay to Landlord any Collocation Fee in connection with: (i) any subleases, licenses, or other collocation agreements between Tenant (or American Tower), or Tenant's (or American Tower's) predecessors-in-interest, as applicable, and American Tower or any third parties, or such third parties' predecessors or successors-in-interest, as applicable, entered into prior to the Effective Date (any such agreements, the "**Existing Agreements**"); (ii) any amendments, modifications, extensions, renewals, and/or restatements to and/or of the Existing Agreements entered into prior to the Effective Date or which may be entered into on or after the Effective Date; and (iii) any subleases, licenses, or other collocation agreements entered into by and between Tenant (or American Tower) and any Additional Collocators for public emergency and/or safety system purposes that are required or ordered by any governmental authority having jurisdiction at or over the Leased Premises.
 - e. Within thirty (30) days after Tenant's receipt of Landlord's written request, Tenant shall provide Landlord with a statement showing the number of Additional Collocators installed on the Tower, the rents collected by Tenant from the Additional Collocators, and the Collocation Fee due from Tenant to Landlord.
5. **Landlord and Tenant Acknowledgments.** Except as modified herein, the Lease and all provisions contained therein remain in full force and effect and are hereby ratified and affirmed. The Parties hereby agree that no defaults exist under the Lease. Landlord acknowledges and agrees that Tenant uses

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the Leased Premises for the purposes of installing, constructing, maintaining, operating, modifying, repairing and/or replacing improvements, equipment, structures, fixtures, antennae and other personal property as Tenant may deem necessary or appropriate, which may be located on or in the Leased Premises from time to time, for the facilitation of wireless communications and other related uses (the "**Permitted Uses**"). To the extent Tenant needed consent and/or approval from Landlord for any of Tenant's activities at and uses of the site prior to the Effective Date, including subleasing to American Tower, Landlord's execution of this Amendment is and shall be considered consent to and approval of all such activities and uses in accordance with the Permitted Uses, and confirmation that no additional consideration is owed to Landlord for such activities and uses. Landlord hereby acknowledges and agrees that Tenant shall not need consent or approval from, or to provide notice to, Landlord for any future activities in accordance with the Permitted Uses of the Leased Premises, including, without limitation, subleasing and licensing to additional customers, installing, modifying, repairing, or replacing improvements within the Leased Premises. Tenant and Tenant's sublessees and customers shall have vehicular (specifically including truck) and pedestrian access to the Leased Premises from a public right of way on a 24 hours per day, 7 days per week basis, together with utilities services to the Leased Premises from a public right of way. Upon request by Tenant and at Tenant's sole cost and expense but without additional consideration owed to Landlord, Landlord hereby agrees to promptly execute and return to Tenant building permits, zoning applications and other forms and documents, including a memorandum of lease, as required for the use of the Leased Premises by Tenant and/or Tenant's customers, licensees, and sublessees. Landlord hereby appoints Tenant as Landlord's attorney-in-fact coupled with an interest to prepare, execute and deliver land use and zoning and building permit applications that concern the Leased Premises, on behalf of Landlord with federal, state and local governmental authorities, provided that such applications shall be limited strictly to the use of the Leased Premises as a wireless telecommunications facility and that such attorney-in-fact shall not allow Tenant to re-zone or otherwise reclassify the Leased Premises or the Parent Parcel. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.

6. **Assignment.** Tenant may assign the Lease, in whole or in part, without the approval or consent of Landlord, to the Tenant's parent, principal, affiliates, subsidiaries, subsidiaries of its parent, or to any entity which acquires all or substantially all of the Tenant's assets in the market defined by the Federal Communications Commission in which the assets are located by reason of a merger, acquisition, or other business reorganization. All other assignments by Tenant will require Landlord's consent, which shall not be unreasonably withheld, delayed, or conditioned upon additional consideration. Upon assignment, the assigning party will be released from any liability occurring after the date of such assignment, and the assignee will be responsible for all future obligations of such assignor under the Lease. Tenant may only assign the Lease to a party with the financial, professional, and technical capability of performing all of Tenant's obligations under the Lease.
7. **Limited Right of First Refusal.** Notwithstanding anything to the contrary contained herein, this paragraph shall not apply to any fee simple sale of the Parent Parcel from Landlord to any prospective purchaser that is not a person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure (any such person or entity, a "**Third Party Competitor**") or to American Tower. If Landlord receives an offer or desires to offer to: (i) sell or convey any interest (including, but not limited to, leaseholds or easements) in any real property of which the Leased Premises is a part to a Third Party Competitor or (ii) assign all or any portion of Landlord's interest in the Lease to a Third Party Competitor (any such offer, the "**Offer**"), Tenant shall, unless otherwise prohibited by law, have the right of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and

conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant must provide Landlord with notice of its election not later than forty-five (45) days after Tenant receives written notice from Landlord of the Offer. If Tenant elects not to exercise Tenant's right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated terms and price but with the express condition that such sale is made subject to the terms of the Lease, as modified by this Amendment. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment. This paragraph shall not apply to any local, state or federal public safety agency (specifically including Landlord) that own or operate public safety equipment ("**Public Safety Agencies**"), and such Public Safety Agencies shall not be considered a Third Party Competitor. For the avoidance of doubt, American Tower, its affiliates and subsidiaries, shall not be considered a Third Party Competitor and this provision shall not apply to future transactions with American Tower, its affiliates and subsidiaries.

8. **Landlord Statements.** Landlord hereby represents and warrants to Tenant that: (i) to the extent applicable, Landlord is duly organized, validly existing, and in good standing in the jurisdiction in which Landlord was organized, formed, or incorporated, as applicable, and is otherwise in good standing and authorized to transact business in each other jurisdiction in which such qualifications are required; (ii) Landlord has the full power and authority to enter into and perform its obligations under this Amendment, and, to the extent applicable, the person(s) executing this Amendment on behalf of Landlord, have the authority to enter into and deliver this Amendment on behalf of Landlord; (iii) no consent, authorization, order, or approval of, or filing or registration with, any governmental authority or other person or entity is required for the execution and delivery by Landlord of this Amendment; (iv) Landlord is the sole owner of the Leased Premises and all other portions of the Parent Parcel; (v) to the best of Landlord's knowledge, there are no agreements, liens, encumbrances, claims, claims of lien, proceedings, or other matters (whether filed or recorded in the applicable public records or not) related to, encumbering, asserted against, threatened against, and/or pending with respect to the Leased Premises or any other portion of the Parent Parcel which do or could (now or any time in the future) adversely impact, limit, and/or impair Tenant's rights under the Lease, as amended and modified by this Amendment; and (vi) the square footage of the Leased Premises is the land area conveyed to Tenant under the Lease.
9. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: City Manager, City of Monroe, Ohio, 233 S. Main Street, Monroe, OH 45050; with copy to: Christopher L. Miller, Ice Miller, LLP, 250 West Street, Columbus, Ohio 43215; and to Tenant at: Verizon Wireless, Attn.: Network Real Estate, 180 Washington Valley Road, Bedminster, NJ 07921; with copy to: American Tower, Attn.: Land Management, 10 Presidential Way, Woburn, MA 01801; and also with copy to: Attn.: Legal Dept. 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
10. **Counterparts.** This Amendment may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Amendment by electronic

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means such as .pdf or similar format. Each of the Parties agrees that the delivery of the Amendment by electronic means will have the same force and effect as delivery of original signatures and that each of the Parties may use such electronic signatures as evidence of the execution and delivery of the Amendment by all Parties to the same extent as an original signature.

11. **Governing Law.** Notwithstanding anything to the contrary contained in the Lease and in this Amendment, the Lease and this Amendment shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.
12. **Waiver.** Notwithstanding anything to the contrary contained herein, in no event shall Landlord or Tenant be liable to the other for, and Landlord and Tenant hereby waive, to the fullest extent permitted under applicable law, the right to recover incidental, consequential (including, without limitation, lost profits, loss of use or loss of business opportunity), punitive, exemplary and similar damages.
13. **Tenant's Securitization Rights; Estoppel.** Landlord hereby consents to the granting by Tenant and/or American Tower of one or more leasehold mortgages, collateral assignments, liens, and/or other security interests (collectively, a "***Security Interest***") in Tenant's (or American Tower's) interest in this Lease, as amended, and all of Tenant's (or American Tower's) property and fixtures attached to and lying within the Leased Premises and further consents to the exercise by Tenant's (or American Tower's) mortgagee ("***Tenant's Mortgagee***") of its rights to exercise its remedies, including without limitation foreclosure, with respect to any such Security Interest. Landlord shall recognize the holder of any such Security Interest of which Landlord is given prior written notice (any such holder, a "***Holder***") as "Tenant" hereunder in the event a Holder succeeds to the interest of Tenant and/or American Tower hereunder by the exercise of such remedies. Landlord further agrees to execute a written estoppel certificate within thirty (30) days of written request of the same by Tenant, American Tower or Holder.
14. **Insurance.** The Parties hereby agree that Section 5(a) of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the obligations of the Parties with respect to insurance shall be controlled by this Section of this Amendment. Tenant shall at all times during the term(s) hereof and at Tenant's sole cost and expense maintain in effect Worker's Compensation insurance with statutory limits and General Liability insurance to cover bodily injury and property damage, adequate to protect Landlord and its elected official, officers, employees, agents, and volunteers against liability for property damage and bodily injury or death of any person in connection with the use, operation and condition of the Leased Premises and Tower, in an amount not less than Three Million and No/100 Dollars (\$3,000,000.00) of combined single limit bodily injury and property damage coverage with not less than Six Million and No/100 Dollars (\$6,000,000.00) in the aggregate. These limits can be met using the general liability policy limits and umbrella/excess limits. Such policy shall cover the Leased Premises and include Landlord as an additional insured. Tenant shall provide at least thirty (30) days prior written notice to Landlord of any notice of cancellation. In the event of a material change in economic conditions, Landlord or Tenant may make a request to the other party for a re-evaluation of the insurance coverage amounts stated herein and, if it is mutually agreed upon by the Parties, said insurance coverage amounts may be adjusted to a commercially reasonable amount agreed upon by the Parties. Any such request shall be limited to once per New Renewal Term.
15. **Taxes.** The Parties hereby agree that Section 5(c) of the Lease are hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the obligations of the Parties with respect to taxes shall be controlled by this Section of this Amendment. During the term of the Lease, Landlord shall pay when due all real property, personal property, and other taxes, fees and assessments

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attributable to the Parent Parcel, including the Leased Premises. Tenant hereby agrees to reimburse Landlord for any personal property taxes in addition to any increase in real property taxes levied against the Parent Parcel, to the extent both are directly attributable to Tenant's improvements on the Leased Premises, provided, however, that Landlord must furnish written documentation (the substance and form of which shall be reasonably satisfactory to Tenant) of such personal property taxes or real property tax increase to Tenant along with proof of payment of same by Landlord. Landlord shall submit requests for reimbursement in writing to: *American Tower Corporation, Attn: Landlord Relations, 10 Presidential Way, Woburn, MA 01801* unless otherwise directed by Tenant from time to time. Subject to the requirements set forth in this Section, Tenant shall make such reimbursement payment within forty-five (45) days of receipt of a written reimbursement request from Landlord. Tenant shall pay applicable personal property taxes directly to the local taxing authority to the extent such taxes are billed and sent directly by the taxing authority to Tenant. If Landlord fails to pay when due any taxes affecting the Parent Parcel as required herein, Tenant shall have the right, but not the obligation, to pay such taxes on Landlord's behalf and: (i) deduct the full amount of any such taxes paid by Tenant on Landlord's behalf from any future payments required to be made by Tenant to Landlord hereunder; (ii) and demand reimbursement from Landlord, which reimbursement payment Landlord shall make within thirty (30) days of such demand by Tenant; and/or (iii) collect from Landlord any such tax payments made by Tenant on Landlord's behalf by any lawful means.

16. **Termination and Removal.** The Parties hereby agree that Section 12 of the Lease is hereby deleted in its entirety and of no further force and effect. Tenant shall, upon expiration of the final Renewal Term, as now or hereinafter extended, or within one hundred twenty (120) days after any earlier termination of the Lease, remove its Tower, building(s), antenna structure(s) (including foundation to a depth of three (3) feet below grade), equipment, fixtures and all personal property ("***Removal***"), and restore the Leased Premises to its original condition, reasonable wear and tear and casualty damage excepted. Landlord agrees and acknowledges that all of the Tower, equipment, conduits, fixtures and personal property of Tenant shall remain the personal property of Tenant and unless otherwise required hereunder, Tenant shall have the right to remove the same at any time during the term, whether or not said items are considered fixtures and attachments to real property under applicable laws. Notwithstanding the above, in the event Tenant terminates the Lease, if Landlord has public emergency and/or safety equipment located on the Tower (as permitted by the Lease) at the time of termination of the Lease, Tenant shall, at Landlord's option, leave the Tower in place, removing all of Tenant's other equipment including building(s), antenna structures, fixtures, and all personal property not otherwise considered to be part of the Tower or its foundation, excluding Landlord's public safety equipment which shall remain beyond Tenant's removal of Tenant's equipment and improvements.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

LANDLORD:

City of Monroe, Ohio
an Ohio municipal corporation

Signature: _____

Print Name: _____

Title: _____

Date: _____

Approved as to Form:

City of Monroe Director of Law

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT:

Cellco Partnership d/b/a Verizon Wireless

By: American Tower Delaware Corporation, a Delaware corporation

Title: Attorney-in-Fact

Signature: _____

Print Name: _____

Title: _____

Date: _____

Joinder and Acknowledgement

The undersigned, by its signature below, does hereby acknowledge and agree to pay to Landlord the "One-Time Payment" described in Section 1 above, as well as the Collocation Fee, provided all requirements in this Amendment have been satisfied. The undersigned additionally acknowledges and agrees that adequate consideration has been received for such payment(s).

American Tower Delaware Corporation,

a Delaware corporation

Signature: _____

Print Name: _____

Title: _____

Date: _____

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EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below:

Beginning at a point in the center of the Middletown and Hamilton Turnpike, witness a notch in the brick paving, said beginning point being at the intersection of the line between the lands of E. and S.K. Hughes, and lands conveyed by Minnie Smith to W.D. Oglesby; thence South 85° 5' East 1959.8 feet to a stone; thence North 4° 51' East 297.56 feet; thence North 85° 5' West 1960.49 feet to the center of the Middletown and Hamilton Turnpike; thence South 4° 51' West along the center of said turnpike, 297.56 feet to the place of beginning, containing 11.385 acres of land.

Reserving and excepting therefrom a certain tract of land heretofore conveyed by John H. Lummis, et al., to the State of Ohio, by deed dated July 10, 1930 and recorded in Volume 296, page 253 of the Deed Records of Butler County, Ohio, containing .321 acres of land more or less to which reference is hereby made and .416 acres conveyed to the State of Ohio as recorded in Deed Book 618, page 207 of the Deed Records of Butler County, Ohio, for widening of highway.

Being now known as lot 2186 on the list of lots for the City of Monroe, Butler County, Ohio.

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EXHIBIT A (Continued)

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

This is a description for Airtouch Cellular of an area to be Leased from the lands of the Municipality of Monroe (the Grantor), said lands being of record in Official Record Volume 5085, Page 520 (all references to records being on file in the Office of the Recorder, Butler County, Ohio)

Situate in Section 36, Town 3, Range 3, Between the Miami Rivers, in Lemon Township, Butler County, Ohio and being a 0.181 acre tract of land all out of a 12.648 acre tract of land owned by the Municipality of Monroe, of record in Official Record Volume 5085, Page 520, said 0.181 acre tract of land to be leased being further described as follows;

Beginning for reference at an iron pin found at the southwesterly corner of grantors 12.648 acre tract, being in the easterly Right-of-Way of Hamilton-Middletown Road, said iron pin found being referenced by a 6" iron post filled with concrete at the southeasterly corner of Grantors said 12.648 acre tract, at a distance of 1849.60 feet; Thence South $84^{\circ}51'22''$ East, along the southerly line of Grantors said 12.648 acre tract, a distance of 563.14 feet to an iron pin set, said iron pin set being the southwesterly corner of the Lease Area and the True Place of Beginning for the herein describe 0.181 acre tract of land;

Thence North $5^{\circ}08'38''$ East, a distance of 105.00 feet to an iron pin set at the northwesterly corner of the Lease Area;

Thence South $84^{\circ}51'22''$ East, a distance of 75.00 feet to an iron pin set at the northeasterly corner of the Lease Area;

Thence South $5^{\circ}08'38''$ West, a distance of 105.00 feet to an iron pin set at the southeasterly corner of the Lease Area, being in the southerly line of Grantors said 12.648 acre tract;

Thence North $84^{\circ}51'22''$ West, along the southerly line of Grantors said 12.648 acre tract, a distance of 75.00 feet to the iron pin at the True Place of Beginning and containing 0.181 acre of land (7,875 square feet).

For the purpose of this description a bearing of South $84^{\circ}51'22''$ East was used on the southerly line of grantors 12.648 acre tract of land, as described in Official Record Volume 5085, Page 520, Said bearing being determined by GPS observations, and based on the North American Datum of 1983, from monumentation and data provided by the National Geodetic Survey.

EXHIBIT A (Continued)

ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way including but not limited to:

ATC Site No: 83135

PV Code G31 / VzW Contract No: 22119

Site Name: Lemon Twp OH

This is a description for Airtouch Cellular of an ingress and egress, and wire utility easement from the lands of the Municipality of Monroe (the Grantor), said lands being of record in Official Record Volume 5085, Page 520 (all references to records being on file in the Office of the Recorder, Butler County, Ohio)

Situate in Section 36, Town 3, Range 3, Between the Miami Rivers, in Lemon Township, Butler County, Ohio and being a 0.470 acre tract of land all out of a 12.648 acre tract of land owned by the Municipality of Monroe, of record in Official Record Volume 5085, Page 520, said 0.470 acre tract of land to be used for ingress/egress and wire utility easement purposes being further described as follows;

Beginning at an iron pin found at the southwesterly corner of grantors 12.648 acre tract, being in the easterly Right-of-Way of Hamilton-Middletown Road, said iron pin found being referenced by a 6" iron post filled with concrete at the southeasterly corner of Grantors said 12.648 acre tract, at a distance of 1849.60 feet, said iron pin found also being the True Place of Beginning for the herein described 0.470 acre tract;

Thence North $04^{\circ}15'15''$ East, along Grantors westerly line, being the easterly Right-of-Way of said Hamilton-Middletown Road, a distance of 49.01 feet to a P.K. nail set;

Thence South $84^{\circ}51'22''$ East, being parallel with, and 49.00 feet northerly of as measured perpendicular to the southerly line of Grantors 12.648 acre tract, a distance of 317.90 feet to a point;

Thence South $05^{\circ}08'38''$ West, being perpendicular with the southerly line of Grantors 12.648 acre tract, a distance of 29.00 feet to a point;

Thence South $84^{\circ}51'22''$ East, being parallel with, and 20.00 feet northerly of as measured perpendicular to the southerly line of Grantors 12.648 acre tract, a distance of 246.00 feet to a point in the westerly line of the Lease Area;

Thence South $05^{\circ}08'38''$ West, along the westerly line of the Lease Area, a distance of 20.00 feet to an iron pin at the southwesterly corner of said Lease Area;

Thence North $84^{\circ}51'22''$ West, along the southerly line of Grantors 12.648 acre tract, a distance of 563.14 feet to the True Place of Beginning and containing 0.470 acre of land (20,479 square feet).

For the purpose of this description a bearing of North $84^{\circ}51'22''$ West used on the southerly line of grantors 12.648 acre tract of land, as described in Official Record Volume 5085, Page 520, Said bearing being determined by GPS observations, and based on the North American Datum of 1983, from monumentation and data provided by the National Geodetic Survey.

ATC Site No: 83135
PV Code G31 / VzW Contract No: 22119
Site Name: Lemon Twp OH

EXHIBIT B

FORM OF MEMORANDUM OF LEASE

Prepared by and Return to:

American Tower

10 Presidential Way

Woburn, MA 01801

Attn: Land Management/Amanda R. Bossman, Esq.

ATC Site No: 83135

ATC Site Name: Lemon Twp OH

Assessor's Parcel No(s): C1800-012-000-012

Prior Recorded Lease Reference:

Book 6285, Page 1903

State of Ohio

County of Butler

MEMORANDUM OF LEASE

This Memorandum of Lease (the "**Memorandum**") is entered into on the _____ day of _____, 201____ by and between **City of Monroe**, an Ohio municipal corporation ("**Landlord**") and **Cellco Partnership d/b/a Verizon Wireless** ("**Tenant**").

NOTICE is hereby given of the Lease (as defined and described below) for the purpose of recording and giving notice of the existence of said Lease. To the extent that notice of such Lease has previously been recorded, then this Memorandum shall constitute an amendment of any such prior recorded notice(s).

1. **Parent Parcel and Lease.** Landlord is the owner of certain real property being described in **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"). Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Option to Lease and Lease Agreement dated October 12, 1998 (as the same may have been amended from time to time, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises is also described on **Exhibit A**.
2. **American Tower.** Tenant and/or its parent, affiliates, subsidiaries and other parties identified therein, entered into a sublease agreement with **American Tower Delaware Corporation**, a Delaware corporation and/or its parents, affiliates and subsidiaries ("**American Tower**"), pursuant to which American Tower subleases, manages, operates and maintains, as applicable, the Leased Premises, all as more particularly described therein. In connection with these responsibilities, Tenant has also granted American Tower a limited power of attorney (the "**POA**") to, among other things, prepare, negotiate, execute, deliver, record and/or file certain documents on behalf of Tenant, all as more particularly set forth in the POA.
3. **Expiration Date.** Subject to the terms, provisions, and conditions of the Lease, and assuming the exercise by Tenant of all renewal options contained in the Lease, the final expiration date of the Lease would be June 30, 2054. Notwithstanding the foregoing, in no event shall Tenant be required to exercise any option to renew the term of the Lease.

ATC Site No: 83135

PV Code G31 / VzW Contract No: 22119

Site Name: Lemon Twp OH

4. **Leased Premises Description.** Tenant shall have the right, exercisable by Tenant at any time during the original or renewal terms of the Lease, to cause an as-built survey of the Leased Premises to be prepared and, thereafter, to replace, in whole or in part, the description(s) of the Leased Premises set forth on **Exhibit A** with a legal description or legal descriptions based upon such as-built survey. Upon Tenant's request, Landlord shall execute and deliver any documents reasonably necessary to effectuate such replacement, including, without limitation, amendments to this Memorandum and to the Lease.
5. **Right of First Refusal.** There is a right of first refusal in the Lease.
6. **Effect/Miscellaneous.** This Memorandum is not a complete summary of the terms, provisions and conditions contained in the Lease. In the event of a conflict between this Memorandum and the Lease, the Lease shall control. Landlord hereby grants the right to Tenant to complete and execute on behalf of Landlord any government or transfer tax forms necessary for the recording of this Memorandum. This right shall terminate upon recording of this Memorandum.
7. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: City of Monroe, Ohio, City Manager, 233 S. Main Street, Monroe, OH 45050; with copy to Christopher L. Miller, Ice Miller, LLP, 250 West Street Columbus, Ohio 43215; and to Tenant at: Verizon Wireless, Attn.: Network Real Estate, 180 Washington Valley Road, Bedminster, NJ 07921; with copy to: American Tower, Attn.: Land Management, 10 Presidential Way, Woburn, MA 01801, and also with copy to: Attn.: Legal Dept. 116 Huntington Avenue, Boston, MA 02116. Any of the parties hereto, by thirty (30) days prior written notice to the other in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
8. **Counterparts.** This Memorandum may be executed in multiple counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.
9. **Governing Law.** This Memorandum shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Landlord and Tenant have each executed this Memorandum as of the day and year set forth below.

LANDLORD

2 WITNESSES

City of Monroe, Ohio
an Ohio municipal corporation

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

[SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT

WITNESS

Cellco Partnership d/b/a Verizon Wireless

By: **American Tower Delaware Corporation,**
a Delaware corporation
Title: Attorney-in-Fact

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

Commonwealth of Massachusetts

County of Middlesex

On this ____ day of _____, 201____, before me, _____
the undersigned Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed
to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity
upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

[SEAL]

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below:

Beginning at a point in the center of the Middletown and Hamilton Turnpike, witness a notch in the brick paving, said beginning point being at the intersection of the line between the lands of E. and S.K. Hughes, and lands conveyed by Minnie Smith to W.D. Oglesby; thence South 85° 5' East 1959.8 feet to a stone; thence North 4° 51' East 297.56 feet; thence North 85° 5' West 1960.49 feet to the center of the Middletown and Hamilton Turnpike; thence South 4° 51' West along the center of said turnpike, 297.56 feet to the place of beginning, containing 11.385 acres of land.

Reserving and excepting therefrom a certain tract of land heretofore conveyed by John H. Lummis, et al., to the State of Ohio, by deed dated July 10, 1930 and recorded in Volume 296, page 253 of the Deed Records of Butler County, Ohio, containing .321 acres of land more or less to which reference is hereby made and .416 acres conveyed to the State of Ohio as recorded in Deed Book 618, page 207 of the Deed Records of Butler County, Ohio, for widening of highway.

Being now known as lot 2186 on the list of lots for the City of Monroe, Butler County, Ohio.

EXHIBIT A (Continued)

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

This is a description for Airtouch Cellular of an area to be Leased from the lands of the Municipality of Monroe (the Grantor), said lands being of record in Official Record Volume 5085, Page 520 (all references to records being on file in the Office of the Recorder, Butler County, Ohio)

Situate in Section 36, Town 3, Range 3, Between the Miami Rivers, in Lemon Township, Butler County, Ohio and being a 0.181 acre tract of land all out of a 12.648 acre tract of land owned by the Municipality of Monroe, of record in Official Record Volume 5085, Page 520, said 0.181 acre tract of land to be leased being further described as follows;

Beginning for reference at an iron pin found at the southwesterly corner of grantors 12.648 acre tract, being in the easterly Right-of-Way of Hamilton-Middletown Road, said iron pin found being referenced by a 6" iron post filled with concrete at the southeasterly corner of Grantors said 12.648 acre tract, at a distance of 1849.60 feet; Thence South 84°51'22" East, along the southerly line of Grantors said 12.648 acre tract, a distance of 563.14 feet to an iron pin set, said iron pin set being the southwesterly corner of the Lease Area and the True Place of Beginning for the herein describe 0.181 acre tract of land;

Thence North 5°08'38" East, a distance of 105.00 feet to an iron pin set at the northwesterly corner of the Lease Area;

Thence South 84°51'22" East, a distance of 75.00 feet to an iron pin set at the northeasterly corner of the Lease Area;

Thence South 5°08'38" West, a distance of 105.00 feet to an iron pin set at the southeasterly corner of the Lease Area, being in the southerly line of Grantors said 12.648 acre tract;

Thence North 84°51'22" West, along the southerly line of Grantors said 12.648 acre tract, a distance of 75.00 feet to the iron pin at the True Place of Beginning and containing 0.181 acre of land (7,875 square feet).

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EXHIBIT A (Continued)

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This is a description for Airtouch Cellular of an ingress and egress, and wire utility easement from the lands of the Municipality of Monroe (the Grantor), said lands being of record in Official Record Volume 5085, Page 520 (all references to records being on file in the Office of the Recorder, Butler County, Ohio)

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Thence North $04^{\circ}15'15''$ East, along Grantors westerly line, being the easterly Right-of-Way of said Hamilton-Middletown Road, a distance of 49.01 feet to a P.K. nail set;

Thence South $84^{\circ}51'22''$ East, being parallel with, and 49.00 feet northerly of as measured perpendicular to the southerly line of Grantors 12.648 acre tract, a distance of 317.90 feet to a point;

Thence South $05^{\circ}08'38''$ West, being perpendicular with the southerly line of Grantors 12.648 acre tract, a distance of 29.00 feet to a point;

Thence South $84^{\circ}51'22''$ East, being parallel with, and 20.00 feet northerly of as measured perpendicular to the southerly line of Grantors 12.648 acre tract, a distance of 246.00 feet to a point in the westerly line of the Lease Area;

Thence South $05^{\circ}08'38''$ West, along the westerly line of the Lease Area, a distance of 20.00 feet to an iron pin at the southwesterly corner of said Lease Area;

Thence North $84^{\circ}51'22''$ West, along the southerly line of Grantors 12.648 acre tract, a distance of 563.14 feet to the True Place of Beginning and containing 0.470 acre of land (20,479 square feet).

For the purpose of this description a bearing of North $84^{\circ}51'22''$ West used on the southerly line of grantors 12.648 acre tract of land, as described in Official Record Volume 5085, Page 520, Said bearing being determined by GPS observations, and based on the North American Datum of 1983, from monumentation and data provided by the National Geodetic Survey.