

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

NEW YORK SMSA LIMITED PARTNERSHIP d/b/a
VERIZON WIRELESS,

Plaintiff,

v.

THE BOROUGH OF SPRING LAKE, THE BOROUGH
COUNCIL OF THE BOROUGH OF SPRING LAKE,
JENNIFER NAUGHTON, in her official capacity as
Mayor for the Borough of Spring Lake, and MATTHEW
ZAHORSKY, in his official capacity as the Zoning Officer
for the Borough of Spring Lake,

Defendants, and

SPRING LAKE AGAINST 5G TOWERS, KELLEY
BADISHKANIAN, PATRICK AND SUSAN
DONNELLY, STEVE ALESIO, HASSAM AND
BRIDGET CHATER, KATIE SCHRADER, NANCY
LEONE, and 2021 OCEAN AVENUE, LLC,

Intervenor-Defendants.

NEW YORK SMSA LIMITED PARTNERSHIP D/B/A
VERIZON WIRELESS,

Plaintiff,

v.

THE COUNTY OF MONMOUTH, NEW JERSEY, THE
MONMOUTH COUNTY BOARD OF
COMMISSIONERS, SALVATORE ZOCCO, in his
official capacity as the Monmouth County Supervising
Road Inspector, and JOSEPH ETTORE, in his official
capacity as the Monmouth County Engineer,

Defendants.

3:24-cv-10378-RK-JTQ

**STIPULATION OF
SETTLEMENT AND
CONSENT ORDER**

WHEREAS, plaintiff New York SMSA Limited Partnership d/b/a Verizon Wireless
("Verizon") commenced this action (the "Action") against defendants The Borough of Spring Lake

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(the “Borough”), The Borough Council of The Brough of Spring Lake (the “Council”), Jennifer Naughton, in her official capacity as Mayor for the Borough of Spring Lake (the “Mayor”), and Matthew Zahorsky, in his official capacity as the Zoning Officer for the Borough of Spring Lake (the “Zoning Officer”) (collectively, the “Borough Defendants”), by filing a complaint, as later amended (the “Amended Complaint”) (D.E. 12), seeking, *inter alia*, a Judgment and Order: (1) finding that (a) the Borough Defendants’ unreasonable delay and denial and/or effective denial (the “Borough Denial”) of Plaintiff’s application for the Borough’s consent (the “Borough Application”) to install a total of six (6) small wireless facilities (“SWFs”) within the Borough’s and/or County of Monmouth’s public rights-of-way located in the Borough (the “ROW”) was in violation of §§ 253(a) and 332(c) of the Telecommunications Act of 1996 (“TCA”), as codified at 47 U.S.C. §§ 253(a) and 332(c), and was arbitrary, capricious, and unreasonable in violation of New Jersey State law, and (b) the Borough Defendants’ imposition of unreasonable and prohibitive application and code requirements, including the Borough Defendants’ imposition of unreasonable, excessive, and prohibitory fees, including escrow charges and recurring annual fees, in excess of the FCC presumptively reasonable limit, materially inhibited and effectively prohibited Verizon’s ability to provide personal wireless services and telecommunications services to the public in violation of §§ 253(a) and 332(c)(7)(B)(II) of the TCA; (2) directing the Borough Defendants to immediately issue to Verizon all permits and approvals required to construct and operate the SWFs without the imposition of any further fees related to the installation of the SWFs, and to limit the recurring annual fee for each of the SWFs to \$270.00; (3) granting permanent injunctive relief prohibiting the Borough Defendants, and any officer, employee, or agent of the Borough Defendants, from taking any further action that would prohibit or have the effect of

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prohibiting Verizon from providing Personal Wireless Services and Telecommunications Services to the Borough and surrounding areas; (4) requiring the disgorgement and return of the fees paid by Verizon in excess of the FCC presumptively reasonable limit, plus interest, from the date that Verizon submitted payment for such fees; and (5) awarding Verizon any and all additional damages and interest to which Verizon is lawfully entitled, together with such other and further relief as the Court deems just and proper;

WHEREAS, the Court granted intervenor-defendants Spring Lake Against 5G Towers, Kelley Badishkanian, Patrick and Susan Donnelly, Steve Alesio, Hassam and Bridget Chater, Katie Schrader, Nancy Leone, and 2021 Ocean Avenue, LLC's ("Intervenors") motion to intervene in this Action;

WHEREAS, Verizon commenced a separate action against The County of Monmouth, New Jersey (the "County"), the Monmouth County Board of Commissioners (the "Commissioners"), Salvatore Zocco, in his official capacity as the Monmouth County Supervising Road Inspector (the "Road Inspector"), and Joseph Ettore, in his official capacity as the Monmouth County Engineer (the "County Engineer") (collectively, the "County Defendants"),¹ that was subsequently consolidated into this Action, seeking a Judgment and Order: (1) finding, *inter alia*, that (a) the County Defendants' denial and/or effective denial (the "County Denial") of Verizon's application for the County's consent to install five (5) of the SWFs within the County's ROW was in violation of §§ 253(a) and 332(c) of the TCA, was arbitrary, capricious, and unreasonable in violation of New Jersey State law, and was in breach of a certain County Utility Agreement for

¹ Verizon and the Borough Defendants are referred to herein collectively as the "Parties" or each individually as a "Party".

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Occupancy Within County Right-of-Way between the County and Verizon, dated December 12, 2016 (the “2016 ROW Agreement”) and (b) the County Defendants’ imposition of unreasonable, prohibitive, and federally-preempted application and code (the “SWF Ordinance”) requirements, including the County Defendants’ imposition of unreasonable, excessive, and prohibitory escrow charges and application fees in excess of the FCC presumptively reasonable limit, materially inhibited and effectively prohibited Verizon’s ability to provide personal wireless services and telecommunications services to the public in violation of §§ 253(a) and 332(c)(7)(B)(II) of the TCA; (2) directing the County Defendants to immediately issue to Verizon all permits and approvals required to construct and operate the SWFs without the imposition of any further fees related to the installation of the SWFs; (3) granting permanent injunctive relief prohibiting the County Defendants, and any officer, employee, or agent of the County Defendants, from taking any further action that would prohibit or have the effect of prohibiting Verizon from providing Personal Wireless Services and Telecommunications Services to the Borough and surrounding areas; (4) requiring the disgorgement and return of the fees paid by Verizon in excess of the FCC presumptively reasonable limit, plus interest, from the date that Verizon submitted payment for such fees; and (5) awarding Verizon any and all additional damages and interest to which Verizon is lawfully entitled, together with such other and further relief as the Court deems just and proper;

WHEREAS, on June 11, 2025, Intervenors filed an Answer to First Amended Complaint, Affirmative Defenses, and Counter and Cross Claim Complaint seeking declaratory judgment pursuant to New Jersey State law:

- (1) Finding and declaring that the [Council’s] decision that the MLUL [Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*] and Borough Code §225-33 do not apply to the SWFs proposed by Plaintiff is legally erroneous, arbitrary,

capricious, *ultra vires*, and not supported by substantial evidence;

- (2) Finding and declaring that the requirements of Borough Code § 225-33, including but not limited to site plan approval and any conditions of use, apply to the SWFs proposed by Plaintiff;
- (3) Ordering that, for Plaintiff's Application to proceed, Plaintiff is required to comply with and fulfill all applicable requirements of Borough Code § 225-33, including obtaining site plan review and approval and, if required by the Planning Board, conditional use approval; [and]
- (4) Ordering that the Borough require compliance with the MLUL and Borough Code Ch. 225 in general and §225-33 in particular for all personal wireless service facilities, including those to be located in the right-of-way[.]

WHEREAS, by consent order dated June 16, 2025, Verizon's complaint against the County Defendants was consolidated with its complaint against the Borough Defendants;

WHEREAS, on July 2, 2025, Verizon filed an Answer and Affirmative Defenses to Intervenor's Counter and Cross Claim Complaint;

WHEREAS, on July 9, 2025, the County Defendants filed an Answer With Affirmative Defenses to the Amended Complaint and New Jersey State law Counterclaims (the "County Defendants' Counterclaims") seeking (1) a Declaratory Judgment declaring that (a) Verizon's submission to the County Engineer is not an application for purposes of the TCA; (b) the Existing ROW Agreement does not cover SWFs that are to be installed on newly constructed poles; (c) the purported "2024 SWF ROW Agreement" was obtained by Verizon in bad faith and is not a valid binding agreement; and (d) Verizon materially breached the Existing ROW Agreement; and (2) an Order permanently enjoining the Borough of Spring Lake from granting permission for use of the County's public rights-of-way without the County's express consent;

WHEREAS, the County Defendants, through their counsel, have represented to the Court

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and the Parties that, upon the dismissal of the Verizon claims against the County pursuant to this Consent Order, the County Defendants' Counterclaims shall be reciprocally dismissed;

WHEREAS, on July 14, 2025, the Borough Defendants filed: (1) an Answer and Affirmative Defenses to the Amended Complaint, in which the Borough Defendants asserted in its affirmative defenses, *inter alia*, that, "Defendants did not violate 47 U.S.C. § 332(c)(7)(B)(ii) . . . (B)(iii) . . . B(i)(II) . . . [or] 47 U.S.C. § 253(a);]" (2) and an Answer and Affirmative Defenses to Intervenor's Counter and Cross Claim Complaint.

WHEREAS, on July 30, 2025, Verizon filed an Answer and Affirmative Defenses to the County Defendants' Counterclaims and explicitly indicated in such Answer that the overwhelming majority of the allegations asserted in the County Defendants' Counterclaims do not pertain to the events underlying this Action but to the events underlying "a separate action that Plaintiff brought against the County Defendants pertaining to the installations of small wireless facilities in the Borough of Belmar, New Jersey[:]"

WHEREAS, each of the Parties expressly denies any and all liability and this Stipulation of Settlement and Consent Order (the "Consent Order") does not constitute an admission of any wrongdoing, nor is any Party considered a prevailing party;

WHEREAS, Verizon alleges the SWFs are needed by Verizon to fill a significant gap in service, densify its network, and otherwise improve service capabilities in the Borough including along Ocean Avenue and the beach to the east of Ocean Avenue (the "Service Gap");

WHEREAS, prior to and during the Borough Application/hearing process, Verizon and the Borough explored the possibility of installing Verizon's wireless facilities on two (2) pavilions (the "Pavilion Facilities") located along the Borough's oceanfront on Block 1, Lot 1 of the Borough

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tax map (the “Pavilion Property”), and commonly referred to as the North Pavilion and the South Pavilion (the “Pavilions”), as an alternative to the SWFs;

WHEREAS, the Pavilion Property is restricted by Green Acres regulations (“Current Regulations”) that prohibit the permanent use of such property for commercial purposes, including the installation and operation of wireless communications facilities, and thus, approval (“Diversion”) from the New Jersey Department of Environmental Protection (“NJDEP”) and the New Jersey State House Commission (“State House Commission”), pursuant to N.J.A.C. §§ 7:36-26.1 *et seq.*, would be needed in order for the Pavilion Facilities to be a feasible permanent alternative to the SWFs;

WHEREAS, under the Current Regulations, such Diversion can take in excess of one year and requires, *inter alia*, a finding that there is no feasible alternative to the use of the Green Acres encumbered property;

WHEREAS, the Current Regulations also permit the temporary use of Green Acres land “for a beneficial public purpose other than recreation and conservation purposes” pursuant to a “lease or use agreement” with “a term of no more than two years” subject to approval by the NJDEP and certain other limitations (N.J.A.C. §§ 7:36-25.2(d)(9), 7:36-25.14);

WHEREAS, the NJDEP is in the process of considering changes to its regulations, including changes that would allow for the permanent installation of wireless communications facilities on land designated as Green Acres (“Revised Green Acres Regulations”);

WHEREAS, the Revised Green Acres Regulations may be adopted by the NJDEP as early as 2026 and may require a protracted adoption process of one year or more, or may not be adopted at all;

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WHEREAS, at a duly noticed public meeting on September 15, 2026, the Council: (1) approved this Consent Order; (2) introduced and passed a first reading of a proposed Ordinance (the “Proposed Ordinance”) proposing to amend §225-33 of the Borough Code (a copy of which is attached hereto and made a part hereof as **Exhibit 1**) and referred the Proposed Ordinance to the Planning Board for consistency review and a Planning Board report within 35 days of referral pursuant to N.J.S.A 40:55D-26 (being no later than October 14, 2026); and (2) authorized the lease of public lands at the Pavilions and issued a bid for the lease of the Pavilions (the “Public Bid”);

WHEREAS the Borough has agreed to seek and will endorse a proposed Diversion of the Pavilion Property;

WHEREAS, under the proposed amended §225-33, wireless communications facilities on any Borough-owned properties, including the Pavilion Property, pursuant to a lease between the operator of the facility and the Borough are a permitted use and do not require any variances, or any Zoning Board, Planning Board or other Borough approvals or permits except a construction permit;

WHEREAS, to avoid the delay, expense, inconvenience, and uncertainty of protracted litigation, the Parties have agreed to settle this action pursuant to the terms and conditions set forth in this Consent Order;

WHEREAS, the Parties, intending to be legally bound, have consulted with their respective counsel and the undersigned counsel herein have the requisite authority and approval to enter into this Consent Order.

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE COURT AND STIPULATED AND AGREED BY THE PARTIES THAT:

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1. The Borough Defendants have the authority to settle this action and to enter into the Consent Order pursuant to New Jersey state law. *See Powers v. Twp. of Mahwah*, No. A-2302-19, 2022 WL 791433, at *9 (N.J. Super. Ct. App. Div. Mar. 16, 2022) (“municipalities not only have the authority to settle cases but such settlements are encouraged as a matter of public policy”) (citation omitted).

2. The installation of the Pavilion Facilities, based on the design of the Pavilion Facilities attached hereto and made a part hereof as **Exhibit 2** (the “Pavilion Facilities Plans”), will accomplish Verizon’s coverage and capacity needs in a manner that is generally equivalent to the coverage and capacity Verizon would have obtained from the six (6) SWFs had Verizon’s original applications to the Borough and the County been granted under current circumstances.

3. The Council shall give the Proposed Ordinance a second reading and vote on whether to adopt the Proposed Ordinance during its duly noticed public meeting at the earliest possible time but no later than October 27, 2026. The parties agree that the adoption of the Proposed Ordinance is a material term of this Consent Order.

4. The Borough will issue the Public Bid, in accordance with New Jersey’s Local Lands and Buildings Law, codified at N.J.S.A. 40A:12-1 et seq., on November 3, 2026 for lease rights to:

- (a) construct and operate temporary wireless communications facilities on the Pavilion Property (the “Temporary Facilities”) for a term of up to two (2) years, with a possible six (6) month extension, based on the terms of the form lease agreement attached hereto and made a part hereof as **Exhibit 3** (the “Temporary Facilities Leases”).

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- (b) construct and operate permanent wireless communications facilities on the Pavilion Property (the “Permanent Facilities”) for a term of five (5) years with five (5) renewal terms of five (5) years each, based on the terms of the form lease agreement attached hereto and made a part hereof as **Exhibit 4** (the “Permanent Facilities Leases”); and

5. Within seven (7) days of the issuance of the Public Bid, the Borough shall submit to the NJDEP for approval pursuant to the Current Regulations, the Temporary Facilities Leases for the installation and operation of the Temporary Facilities in accordance with the Pavilion Facilities Plans.

6. Within ten (10) business days of the issuance of the Public Bid, the Borough shall, pursuant to N.J.A.C. § 7:36-26.3, initiate the process for a Diversion of the Pavilion Property by contacting the NJDEP “to discuss the proposed Diversion of the Pavilion Property and related procedural requirements and to request a pre-application conference under N.J.A.C. § 7:36-26.4(a) through (c).” The Borough shall pursue the Diversion with best efforts and without any delay.

7. The Borough shall open the Public Bid by November 24, 2026, and award the Public Bid by December 1, 2026.

8. Provided that Verizon wins the Public Bid:

- (a) and the NJDEP approves the Temporary Facilities Leases the Borough shall execute the Temporary Facilities Leases within seven days of the NJDEP’s approval of the Temporary Facilities Leases, or seven days after award of the Public Bid, whichever comes later;
- (b) The Borough shall execute the Permanent Facilities Leases for each of the Permanent Facilities in accordance with the Pavilion Facilities Plan within seven days of the

NJDEP's adoption of the Revised Green Acres Regulations and/or the granting of a Diversion of the Pavilion Property.

9. The Parties agree and recognize that the Pavilion Facilities Plans, Temporary Facilities Leases and Permanent Facilities Leases may be subject to further modifications—as necessary to account for any obstructions and/or requirements for any non-Borough outside agency approvals—and in such event the Borough agrees to cooperate in good faith to effectuate the contemplated installation of the Pavilion Facilities, *provided, however*, the Borough is not hereby obligated to accept or approve any modifications that may hereafter be required by outside agencies; rather Verizon's remedy in that event is to exercise its rights under Paragraph 13 of this Consent Order. In the event the Pavilion Facilities Plans, Temporary Facilities Leases or Permanent Facilities Leases require revision, Verizon shall file same with the Council. The Council shall have fourteen (14) days from receipt to reject the revisions or same shall be deemed approved. In the event the Council rejects such revisions, Verizon's remedy in that event is to exercise its rights under Paragraph 13 of this Consent Order.

10. Provided that Verizon and the Borough enter into the Temporary Facilities Leases and/or the Permanent Facilities Leases, Verizon shall submit a construction permit application (this includes any necessary construction or subcode permit permits) for the Temporary Facilities and/or Permanent Facilities to the Borough (the "Building Permit Application"). Within fourteen (14) days of Verizon's submission of a complete Building Permit Application, the Borough shall issue all Borough permits necessary for the construction and operation of the Temporary Facilities and/or Permanent Facilities subject to Verizon obtaining any and all other necessary non-Borough outside agency approvals from any agencies exercising jurisdiction over Verizon's proposed use

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of the Temporary Facilities and Permanent Facilities or work to be undertaken therein. Nothing herein shall constitute a waiver of any rights Verizon may have to challenge any non-Borough outside agency requirements, processes, or determinations.

11. No other Borough permits, approvals, or variances are required for the installation and operation of the Temporary Facilities or the Permanent Facilities.

12. The main intent of this Consent Order is that Verizon be permitted to install and operate the Permanent Facilities. Accordingly, this Action, including all claims, counterclaims, and crossclaims asserted in this Action, shall be stayed until the issuance of all permits and approvals required for the construction and operation of the Permanent Facilities and expiration of all applicable appeal periods during which a challenge may be brought against any such permits and approvals, subject to Verizon's right to reinstitute this Action in accordance with Paragraph 13 below. Upon the issuance of all permits and approvals required for the construction and operation of the Permanent Facilities and expiration of all applicable appeal periods during which a challenge may be brought against any such permits and approvals, this Action shall be dismissed with prejudice and without any costs, attorneys' fees, disbursements, damages, or interest due to any Party to this Action, subject to Verizon's right to reinstitute this Action in accordance with Paragraph 13 below. This Action shall not be administratively terminated at any time prior to the issuance of all permits and approvals required for the construction and operation of the Permanent Facilities and expiration of all applicable appeal periods during which a challenge may be brought against any such permits and approvals. However, in the event this Action is administratively terminated prior to such time, inadvertently or otherwise, the dismissal of this Action, including the dismissal of Verizon's claims asserted in this Action, shall be without prejudice, subject to

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Verizon's right to reinstitute this Action in accordance with Paragraph 13 below, and any applicable statute of limitations shall be tolled until the issuance of all permits and approvals required for the construction and operation of the Permanent Facilities and expiration of all applicable appeal periods during which a challenge may be brought against any such permits and approvals.

13. In the event that: (1) the Council does not adopt the Proposed Ordinance by October 27, 2026; (2) Verizon does not win the Public Bid; (3) the Borough does not execute the Permanent Facilities Leases within seven days of the NJDEP's adoption of the Revised Green Acres Regulations and/or the granting of a Diversion of the Pavilion Property; (4) the NJDEP does not approve the Temporary Facilities Leases, or if it does approve the Temporary Facilities Leases, the Borough does not execute the Temporary Facilities Leases within seven days of the NJDEP's approval of the Temporary Facilities Leases; (5) the Borough Defendants fail to timely comply with any of their obligations set forth herein this Consent Order; (6) the NJDEP does not adopt the Revised Green Acres Regulations and/or the NJDEP and/or the State House Commission do not grant a Diversion permitting the installation and operation of the Permanent Facilities on the Pavilion Property by January 1, 2028 and/or the Permanent Facilities are not fully permitted due to NJDEP and/or State House Commission issues by January 1, 2028; (7) after good faith efforts, Verizon is unable to secure any necessary non-Borough outside agency approval(s) or permits, including without limitation, Coastal Area Facility Review Act permit(s) from the NJDEP if required; (8) any third party timely challenges the Council's adoption of the Proposed Ordinance, this Consent Order, the Public Bid, the Temporary Facilities Lease, the Permanent Facilities Lease, any permits and/or approvals issued by the Borough for the Temporary Facilities or the Permanent

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Facilities, or any necessary non-Borough outside permits and/or approvals issued for the Temporary Facilities and/or Permanent Facilities including without limitation any NJDEP approvals, and such challenges are not fully resolved in Verizon's favor within four (4) months from the date the challenge is first brought; (9) the Public Bid, Temporary Facilities Lease, Permanent Facilities Lease, and/or any permits and/or approvals necessary for the installation and operation of the Temporary Facilities and/or Permanent Facilities are rescinded and/or invalidated for any reason; and/or (10) any unforeseen factors render the installation and/or operation of the Temporary Facilities and/or Permanent Facilities impracticable in Verizon's sole discretion within one (1) year of the Court's so-ordering of this Consent Order -- then Verizon shall have the right, but not the obligation, to terminate and void this Consent Order and continue to prosecute this this Action by notifying the Court by letter of its decision, at which time the Court will provide a new Scheduling Order picking up where the parties left off in the Action. Verizon may also file an amended and/or supplemental complaint to add and/or modify any allegations and/or causes of action pertaining to the SWFs and/or the Temporary Facilities and/or the Permanent Facilities. Any information related to this Consent Order, negotiations leading to this Consent Order, and any record of or arising out of the Council's hearings pertaining to this Consent Order and/or the Temporary Facilities and/or the Permanent Facilities, and/or the Borough's review of the Building Permit Applications: (1) may not be used by any Party against any other Party, except: (a) any denial or challenge to any Bid, Lease, Ordinance, regulation, permit or approval may be admissible in the Action with respect to the issue of feasibility of the Pavilion Property as a feasible alternative; and (b) for a Party to enforce this Consent Order; (2) may be used by any Party against any non-party to the fullest extent permissible by law; and (3) may not be used by any non-party

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against any Party for any reason. All time frames herein may be extended by the mutual written consent of the Parties but without obligation.

14. This settlement and/or Consent Order shall not constitute an admission of liability or a determination on the merits as to any claims, counterclaims, or crossclaims brought in this Action, and shall have no preclusive effect, including under the res judicata and/or collateral estoppel doctrines, in any pending or subsequent proceeding, including challenges to the Borough Code, challenges to the County SWF Ordinance, and/or breaches of the 2016 ROW Agreement.

15. This Consent Order shall not be construed to create rights in, or grant any cause of action to, any third party not a Party to this Consent Order.

16. The Parties acknowledge that this Consent Order was the product of their negotiations through their counsel, including negotiation as to the language set forth herein, and as such, to the extent there is any issue with respect to any alleged, perceived, or actual ambiguity in this Consent Order, the ambiguity shall not be resolved based on who drafted the Consent Order. The obligations of this Consent Order apply to and are binding upon the Parties hereto, and any successors, assigns, or other entities or persons otherwise bound by law.

17. The Court shall retain jurisdiction over this matter, including the enforcement of this Consent Order, and any Party may, upon notice, move this Court to enforce this Consent Order against any other Party or any non-party.

18. Upon satisfaction of all terms set forth in this Consent Order governing the installation and operation of the Permanent Facilities, the Court finds that no live controversy shall remain with respect to the County Defendants' Counterclaims and that the County Defendants' Counterclaims shall therefore be dismissed: (1) with prejudice as moot and may be reinstituted

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only in the event that the Action is reinstituted pursuant to the terms above; and (2) without any costs, attorneys' fees, disbursements, damages, or interest due to any party to this Action. Alternatively, to the extent that any of the County Defendants' Counterclaims remain justiciable, upon the dismissal, pursuant to Paragraph 12 above, of all claims over which this Court has original jurisdiction (*i.e.*, Verizon's TCA claims), and there being no independent basis for federal subject-matter jurisdiction over the County Defendants' Counterclaims, the Court declines to exercise supplemental jurisdiction over the County Defendants' Counterclaims pursuant to 28 U.S.C. § 1367(c)(3), and the County Defendants Counterclaims shall be dismissed: (1) with prejudice and may be reinstituted only in the event that the Action is reinstituted pursuant to the terms above; and (2) without any costs, attorneys' fees, disbursements, damages, or interest due to any party to this Action.

19. Upon satisfaction of all terms set forth in this Consent Order governing the installation and operation of the Permanent Facilities, the Court finds that no live controversy shall remain with respect to the Intervenor's counterclaims and crossclaims and that such counterclaims and crossclaims shall therefore be dismissed: (1) with prejudice as moot and may be reinstituted only in the event that the Action is reinstituted pursuant to the terms above; and (2) without any costs, attorneys' fees, disbursements, damages, or interest due to any party to this Action. Alternatively, to the extent that any of Intervenor's counterclaims or crossclaims remain justiciable, upon the dismissal, pursuant to Paragraph 12 above, of all claims over which this Court has original jurisdiction (*i.e.*, Verizon's TCA claims), and there being no independent basis for federal subject-matter jurisdiction over Intervenor's counterclaims and crossclaims, the Court declines to exercise supplemental jurisdiction over those counterclaims and crossclaims pursuant

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to 28 U.S.C. § 1367(c)(3), and the counterclaims and crossclaims shall be dismissed: (1) with prejudice and may be reinstituted only in the event that the Action is reinstituted pursuant to the terms above; and (2) without any costs, attorneys' fees, disbursements, damages, or interest due to any party to this Action.

PLAINTIFF:

Dated: September ____, 2026

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DEFENDANTS:

Dated: September __, 2026

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Attorneys for the Borough Defendants

SO ORDERED:

The Honorable Robert Kirsch
United States District Judge

Dated: ____, 2026