INCORPORATED VILLAGE OF BAYVILLE

REGULAR MEETING
JUNE 27, 2022

- Pledge of Allegiance
- Warrants and Claims
- Prior Meeting Minutes
- New Hires – Lifeguards
- Annual Homecoming Parade
- Change Order – Paving
- ZBA Resignation
- Municipal Agreement – LVCSD
- Dish Wireless
- New Hire – DPW
- Dredging
- New Hire – Summer Help Highway

PUBLIC HEARING
6:45PM
PROPOSED LOCAL LAW 2022-B

EXECUTIVE SESSION

TO:	MAYOR ROBERT DE NATALE AND THE BOARD OF TRUSTEES		
FROM:	VILLAGE CLERK TREASURER		
DATE:	JUNE 27, 2022		
SUBJECT:	WARRANTS AND CLAIMS		

BE IT RESOLVED that the following warrants and claims are hereby offered for approval by the Board of Trustees and BE IT FURTHER RESOLVED that the Village Clerk is hereby authorized to make said payment.

FUND	CLAIM NO.	WARRANT	AMOUNT
GENERAL			
PAYROLL	5/25/2022	12I	$ 37,169.50
	893	12J	$ 2,833.84
	894/921	12K	$ 54,507.66
PAYROLL	6/1/2022	1A	$ 33,762.09
	1	1B	$ 2,574.02
PAYROLL	6/8/2022	1C	$ 40,647.39
	2	1D	$ 3,089.99
PAYROLL	6/15/2022	1E	$ 33,007.21
	3	1F	$ 2,516.46
	6/22/2022	1G	$ 33,765.16
	4	1H	$ 2,574.31
	5/19	1I	$ 72,079.44
	20/80	1J	$ 445,675.35
	81/95	1K	$ 182,629.86
TOTAL GENERAL			**$ 946,832.28**
WATER			
PAYROLL	5/25/2022	12I	$ 6,462.65
	237	12J	$ 492.71
	238/246	12K	$ 5,220.62
PAYROLL	6/1/2022	1A	$ 6,710.39
	1	1B	$ 551.61
PAYROLL	6/8/2022	1C	$ 7,346.12
	2	1D	$ 560.08
PAYROLL	6/15/2022	1E	$ 6,534.45
	3	1F	$ 498.19
	6/22/2022	1G	$ 7,281.51
	4	1H	$ 555.15
	5/9	1I	$ 21,878.11
	10/18	1J	$ 13,126.70
	19	1K	$ 85,000.00
TOTAL WATER			**$ 162,218.29**
TRUST & AGENCY			
	287/291	12E	$ 17,607.40
	1/4	1A	$ 12,161.28
	5/9	1B	$ 18,150.86
	10/15	1C	$ 90,411.79
	16/19	1D	$ 12,508.48
	20/28	1E	$ 3,910.18
TOTAL T & A			**$ 154,749.99**
REVENUE ENTERPRISE			
	40/42	12C	$ 1,615.00
	1/3	1A	$ 1,786.05
	4/5	1B	$ 10,150.00
TOTAL REVENUE ENTERPRISE			**$ 13,551.05**
CAPITAL			
	22	1A	$ 540.00
TOTAL CAPITAL			**$ 540.00**
COMMUNITY DEVELOPMENT			
TOTAL COMMTY DEVELOP			
GRAND TOTAL			**$ 1,277,891.61**

REGULAR MEETING
MAY 23, 2022

2022-78 Board approves warrants and claims

2022-79 Board accepts prior meeting minutes

2022-80 Board approves increases to Bayville Cemetery fees

2022-81 Proposed Local Law 2022-B to establish no parking on Cemetery Lane between the Hours of 6:00PM to 6:00AM is introduced.

2022-82 Board hires Benett Ardi, Megan Murray, and Nicholas Amendolara as Seasonal Laborers

2022-83 Board accepts the proposal from Sapienza and Frank to provide professional services Related to the Length of Service Award Programs (LOSAP)

2022-84 Resolution of the Board of Trustees of the Inc. Village of Bayville, in the Town of Oyster Bay, County of Nassau, State of New York, calling for a proposition to be Placed on the ballot for the 2022 General Village Election; directing publication of Notices of election and determining other matters in connection therewith to amend An existing length of service award program.

PUBLIC HEARING
6:45PM
PROPOSED LOCAL LAW 2022-A

2022-85 Board closes Public Hearing at 7:35PM

2022-86 Board adopts Proposed Local Law 2022-A as Local Law No. 1 of the year 2022

2022-87 Board adjourns the Regular Meeting and enters into Executive Session

2022-88 Board closes Executive Session and reopens the Regular Meeting.

2022-89 Board approves the contract between the Village of Bayville and Connecticut Watch LLC d/b/a Wall's Wharf.

2022-90 Board closes Regular Meeting at 9:14PM

RECEIVED
INCORPORATED VILLAGE
OF BAYVILLE

2022 JUN -6 A 10: 20

VILLAGE CLERK-TREASURER

June 2, 2022

Maria Alfano-Hardy
Village Administrator
Incorporated Village of Bayville
34 School Street
Bayville, New York 11709

Dear Maria Alfano-Hardy,

The Locust Valley High School Athletic Council would once again like to request permission from the Village of Bayville to utilize the roads in Bayville for our Annual Homecoming Parade on Saturday September 17, 2022 from 12:00 NOON - 1:00PM The parade will begin at Center Island Beach in Bayville and end at Locust Valley High School in Locust Valley. We have enclosed the Parade Route. We have been very thankful for your cooperation in the past and hope we can obtain permission from Bayville to use the roads for the parade. We will also be getting approval from Nassau County 2nd Precinct to help escort the Parade.

Thank you for your help and consideration .

Sincerely,

Paula Dragone Nadine Pacifico

Paula Dragone and Nadine Pacifico
Locust Valley High School Athletic Council Advisors

Locust Valley High School Homecoming Parade 2022

Saturday September 17, 2022
12:00 pm

Parade starts at Centre Island Beach Parking Lot

Left on Bayville Avenue (thru Bayville into Locust Valley)
Left on Bayville Road
Right on Buckram Road
Right on Weir Lane
Right on Horse Hollow Road
Left into Locust Valley High School Parking Lot

Parade ends at Locust Valley High School Parking Lot

TOWN OF OYSTER BAY
Department of Public Works
Highway Division
150 Miller Place
Syosset NY, 11790
Telephone: (516) 677-5839
Fax: (516) 677-5835

APPLICATION FOR Homecoming Parade 2022 **APPROVAL**

REQUIREMENTS:

- Please state the reason for this event.
- If your proposed event/route falls under the jurisdiction of the State and/or any incorporated villages within the Town of Oyster Bay, it is your responsibility to contact said municipality(s) for approval.
- If your proposed event requires approval regarding the use of any Town of Oyster Bay Public Works parking lot, please call (516) 677-5766.
- If your proposed event requires approval regarding the use of any Town of Oyster Bay Parks Department facility or showmobile, please call (516) 797-4120.
- Notification to the surrounding community(s) of the proposed event concerning any road closures/traffic rerouting is your responsibility.
- RETURN THIS COMPLETED APPLICATION TO THE HIGHWAY DIVISION IN ORDER THAT WE MAY CLEAR YOUR REQUEST THROUGH THE NASSAU COUNTY POLICE DEPARTMENT. YOU MUST FORWARD A COPIES OF THE ABOVE REQUESTED APPROVAL(S) AND NOTIFICATION TO SURROUNDING COMMUNITY PRIOR TO YOUR EVENT TO THE TOWN OF OYSTER BAY'S HIGHWAY DIVISION PRIOR TO THE ISSUANCE OF THIS PERMIT.

Please print clearly and answer all questions. Application must be filed at least 30 days before date of event.

1. Name of Applicant: Locust Valley H.S. 99 Horse Hollow Rd
Address: Locust Valley, NY 11560
Email Address: npacifico@lvcsd.k12.ny.us
Telephone Number: 516 277-5175

2. Name of Organization: Athletic Council
Address: 99 Horse Hollow Rd. Locust Valley NY 11560
Telephone Number: 516 277-5175

3. Name of person in charge: Paula Dragone / Nadine Pacifico
Address: same as above
Telephone Number: 516 277-5175

4. Date of Event: Saturday Sept. 17, 2022
5. Starting Time: 12:00pm
6. Approximate Termination Time: 1:00pm

7. No. of Persons: 200
8. No. of Vehicles (if any): Approx. 40
9. Type of Vehicles: cars, trucks, floats

10. No. and type of Animal(s) (if any):
11. Max. Intervals between Units:
12. Max. Length:

13. Minimum Speed:
14. Maximum Speed:
15. Time of Assembly:

16. Assembly Area: Center Island Beach Parking Lot
16a. Street: Bayville Ave.
16b. Hamlet: Bayville, NY 11709

17. Route of Street(s) to be travelled:

Center Island Beach Parking Lot, left on Bayville Ave (thru Bayville into Locust Valley) Left on Bayville Road Right on Buckram Road, Right on Weir Lane, Right on Horse Hollow Road Left into Locust Valley High School Parking Lot Parade ends at Locust Valley High School Parking Lot

SIGNATURE OF APPLICANT: Paula Dragone Nadine Pacifico

FOR OFFICE USE

Having filed an application which has been referred to and cleared by the Nassau County Police Department and being that there is no objection by the Town Board, the foregoing organization is granted permission to conduct an event under conditions stated above.

Copies to:
N.C.P.D. _____
Fire Dept(s) _____

Town of Oyster Bay:
Town Board _____
Public Information _____
Highway Dept. _____
Public Safety _____

JOHN BISHOP, Deputy Commissioner DPW/Highway Division _____

Proposal

Date: 5/25/2022

From: United Paving Corp
6316 Northern Blvd.
East Norwich, NY 11732

Phone: (516) 922 – 3940
Fax: (516) 922 – 4158

Owner: Inc. Village of Bayville
Project: School St Paving Project

**** Mountain Ave ****

- Mill Existing Asphalt as Mark Out
- Apply Tack Coat
- Install 2" Type 6F Asphalt & Compact

  - $9,500.00

**** School St. Granite Block ****

- Rip Out & Reset Granite Block Curb W/8" Conc. Footing (4,000 PSI)

  - $7,950.00

**** School St. Asphalt Curb ****

- Install Asphalt Curb 215 LF

  - $3,500.00

- Total Additional Work **$20,950.00**

Signature: _____

Job Comments

Owner:

Project:

Exclusion:

Testing / Stake Out Survey / Engineering / Bank Run / Dewatering / Buried Demo Debris / Crushed Stone trench / Bacteria Samples / Pressure Testing 6" Main / Shoring / Water Fees / Permits / Chain-link Construction Fence / Irrigation / American Casting / Buried Debris / Rock Breaking & Removal / Removal of Fill Offsite Existing Prior to Construction / Contaminated Material / Construction Fence / Landscaping / As Built Drawings / Engineering / Permits / Bonds / Unsuitable Material / Weekends / Off Shift Hours / Holidays / Prevailing Wages/ Private Mark Out/ Fixing of Irrigation System/Fill Removal/Shop Drawing/ Traffic Control/Pumps/Electric/Track Pad/Adjustment of Existing Retaining Wall/ Railings & Fence Work / Culture Stone / Precast Caps ECT./Relocate Drainage Chambers

NOTES:

1. Final Measurements Prevail.

2. This proposal is good until 6/12/2022

3. 1 Year Guarantee on All Work.

TERMS AND CONDITIONS

1. If during proof rolling of the subbase, soft areas are encountered, then excavating, backfill and compaction will be charged as an extra.
2. Cold Weather Paving/Concrete done under cold weather conditions can cause Asphalt/Concrete imperfections. Cold, frost, rain, winds, snow, and moisture can cause defects. Paving work done under these conditions is done at owner's responsibility with repair work done at the owner's expense.
3. The prices listed in the proposal shall be valid for thirty (30) days.
4. A reduction in quantities may result in an increase in prices.
5. This proposal becomes effective as a CONTRACT after its acceptance has been executed by the purchaser. Conditions, which are not incorporated in this contract, will not be recognized. No modifications or transfer of this contract after acceptance shall be binding upon seller, unless made in writing and signed by one of the seller's officers.
6. All prices are based on the current refinery price for liquid AC 20 and are subject to change without written notification, fuel and asphalt cement escalations prevail.
7. This proposal may be withdrawn pending the results of a credit investigation or it may be necessary to post a bond or establish an escrow account with sufficient funds and a guarantee of payment upon completion of work.
8. Invoices will be rendered monthly, or at completion of work, whichever comes first, and payments are expected on any portion of the work performed and/or materials furnished during that 30-day period. Payments not received within 30 days of invoice date, will be subject to a 1 ½ % monthly and 18% yearly interest charge.
9. Should United Paving Corp Have institute legal process to enforce its entitlement to be paid. The customer is to bear all legal fees and court cost involved with any proceedings.
10. FINAL PAYMENT- In full is required within 30 days. A service charge of 1 ½ % per month will be added to any unpaid portion of our invoice, which is an annual percentage rate of 18%.

Signature: _____

ALICE J. HOLLMULLER
90 Mountain Avenue
Bayville, New York 11709

June 9, 2022

Hon. Robert E. DeNatale
Bayville Village Hall
34 School Street
Bayville, New York 11709

Re: Zoning Board of Appeals Resignation

Dear Mayor DeNatale:

Due to the reclassification of my job title to Court Attorney Referee with the New York State Courts, the Advisory Committee on Judicial Ethics of the Office of Court Administration has advised me that I may no longer serve on the Zoning Board of Appeals.

I regret that I must therefore resign from my position as a member of the Zoning Board of Appeals, effective immediately. It has been my pleaseure to serve on the Board. Thank you for allowing me to be of service to the Village of Bayville.

Very truly yours,

Alice J. Hollmuller

ALICE J. HOLLMULLER

cc: Susan Cloninger

Peter B. Valsecchi

Peter Weiler

Ashley McAleer

RECEIVED
INCORPORATED VILLAGE
OF BAYVILLE
2022 JUN 13 P 11:21
VILLAGE CLERK-TREASURER

LOCUST VALLEY CENTRAL SCHOOL DISTRICT
22 HORSE HOLLOW ROAD • LOCUST VALLEY, NEW YORK 11560
(516) 277-5000 • FAX (516) 277-5098

RECEIVED
INCORPORATED VILLAGE
OF BAYVILLE
2022 JUN 21 A 10 44
VILLAGE CLERK-TREASURER

June 17, 2022

Village of Bayville
Robert E. De Natale
34 School Street
Bayville, NY 11709

Dear Mr. De Natale,

Enclosed is our signed copy of our contract between Locust Valley Schools and the Village of Bayville

Please return a copy of the contract between Locust Valley Schools and the Village of Bayville

Thank you.

Regards,

Erika Ello
Locust Valley Schools

INTERMUNICIPAL COOPERATION AGREEMENT BETWEEN
THE VILLAGE OF BAYVILLE, NEW YORK AND
LOCUST VALLEY CENTRAL SCHOOL DISTRICT, NEW YORK

THIS AGREEMENT ("Agreement") made and entered as of July 1, 2022, by and between the VILLAGE OF BAYVILLE, a municipal corporation having its principal offices at 34 School Street, Bayville, New York 11709 (the "Village") and LOCUST VALLEY CENTRAL SCHOOL DISTRICT located at 22 Horse Hollow Road, Locust Valley, New York 11560 (the "School District").

WITNESSETH:

WHEREAS, it is in the best interests of the Village and the School District to share resources in the provision of health, safety and emergency services, as authorized by Article 5-G of the General Municipal Law of the State of New York (the "GML"); and

WHEREAS, each party hereto has certain resources, including equipment, buildings, materials, services, personnel and financing which may be available from time to time to provide health, safety and emergency services and

WHEREAS, it is possible to make such resources available for mutual use when it is in the public interest; and

WHEREAS, it is desirable for the Village and the School District to provide certain services in cooperation with one another ("Services") as authorized by the GML through this Agreement; and

WHEREAS, the Village and the School District anticipate that it may be necessary and desirable to enter into one or more further agreements ("Implementation Agreements") to identify and implement specific health, safety and emergency Services authorized by this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties hereto do agree as follows:

Section 1. The Village and the School District each represent that they are respectively authorized, pursuant to both Article 9, §1 of the New York State Constitution and Article 5-G of the GML to enter into intergovernmental agreements to provide certain services.

Section 2. The Village and the School District, believing it to be in their respective best interests, do hereby authorize intermunicipal cooperation for certain Services consisting of, but not limited to: emergency sheltering, emergency response, heavy equipment loans and operation, snow and ice removal, emergency fuel supply, cooperative bidding, and other Services as deemed appropriate. The terms and conditions of these shared services are outlined in Appendix A, "Implementation Agreement."

Section 3. The Village and the School District agree that no Services may be provided pursuant to this Agreement prior to the parties hereto entering into one or more

Implementation Agreements identifying such Services in a form acceptable to each party. Services not included in Appendix A, "Implementation Agreement," will require signed Implementation Agreements prior to their implementation. All Implementation Agreements must be approved by the Village Board and the Board of Education, and must be executed by the Village Executive or his/her designee and the Board President or his/her designee.

Section 4. The Village or School District may provide the previously recited services as circumstance or situation require and both parties shall work cooperatively to provide such services in a timely manner as necessary for the particular situation.

Section 5. The Village and the School District hereby agree to work cooperatively in the provision of services, to accept full ownership, liability, and maintenance responsibilities as related to each service provided under this Agreement, and to grant Village and School District residents access to or use of such services for the duration of this Agreement, provided, however, that such use shall be subject to the District's policies and regulations governing the use of its facilities.

Section 6. Regardless of whether required by Law (as defined herein), the Village and the School District shall, and shall cause their agents to, conduct their activities in connection with this Agreement so as not to endanger or harm any person or property. The Village and the School District shall deliver services under this Agreement in a professional manner consistent with applicable best practices. The Village and the School District, as their respective roles in provision of such Services may require, shall ensure that all approvals, licenses, and certifications ("Approvals"), which are necessary or appropriate, are obtained.

Section 7. The Village and the School District shall comply with any and all federal, state and local Laws in connection with their performance under this Agreement. As used in this Agreement the word "Law" includes any and all Statutes, local laws, ordinances, rules, regulations, applicable orders, and/or decrees, as the same may be amended from time to time, enacted, or adopted.

Section 8. The Village and the School District shall each maintain and retain, for a period of six (6) years following the termination of this Agreement, complete and accurate records, documents, accounts and other evidence, whether maintained electronically or manually ("Records"), pertinent to their individual performance under this Agreement. Such Records shall at all times be available for audit and inspection by the Village Comptroller, the Board of Education or any other governmental authority with jurisdiction over the provision of services hereunder and/or the payment therefore, and any of their duly designated representatives. The provisions of this Section shall survive the termination of this Agreement.

Section 9. (a) The Village and the School District shall each be responsible for and shall indemnify and hold one another, their officers, employees and agents ("Indemnified Parties") harmless from and against any and all liabilities, losses, costs, expenses (including, without limitation, attorneys' fees and disbursements) and damages ("Losses"), arising out of or in connection with any acts or omissions of the Village or the School District or any agent of the Village or the School District in the distribution and provision of the services pursuant to this Agreement, regardless of whether due to negligence, fault, or default, including Losses in connection with any threatened

investigation, litigation or other proceeding or preparing a defense to or prosecuting the same, provided, however, that nothing hereunder shall obligate the Village or the School District or the Village or the School District's agents to indemnify or hold harmless the Indemnified Parties from and against any Losses arising from the negligence or willful misconduct of the Indemnified Parties.

(b) The Village and the School District shall, promptly and diligently defend, at the Village's and the School District's own risk and expense, any and all suits, actions, or proceeding which may be brought or instituted against one or more Indemnified Parties. The Village and the School District shall pay and satisfy any judgment, decree, loss or settlement in connection therewith, provided, however, that nothing hereunder shall obligate the Village or the School District or the Village's or the School District's agents to defend the Indemnified Parties from and against any and all suits, actions or proceedings arising from the negligence or willful misconduct of the Indemnified Parties.

(c) The Village and the School District shall, and shall cause its agents to cooperate with any investigation, audit, defense or prosecution of any action, suit or proceeding.

(d) The provisions of this Section shall survive the termination of this Agreement.

(e) The parties hereby agree that each party shall purchase its own general liability insurance to insure that the party is properly covered for the Intermunicipal Cooperative Agreement as described herein.

Section 10. Nothing contained herein shall be construed to create an employment or principal-agent relationship, or a partnership or joint venture, between the Village and the School District and any officer, employee, servant, agent or independent contractor of either party. Nor shall either party have the right, power or authority to obligate or bind the other party in any other manner whatsoever.

Section 11. Notwithstanding any other provision of this Agreement:

(a) Approval and Execution. Neither the Village nor the School District shall have any liability under this Agreement (including any extension or other amendments of this Agreement) to any person unless: (i) all Village and School District approvals have been obtained, including, if required, approval by the Village Legislature and/or the Board of Education, and (ii) this Agreement has been executed by the Village Executive or his/her designee and the Board President or his/her designee.

(b) Availability of Funds: Neither the Village nor the School District shall have any liability under this Agreement (including any extension or other modification of this Agreement) to any person beyond the funds appropriated or otherwise lawfully available for this Agreement, and, if any portion of the funds for this Agreement are from the state and/or federal governments, then beyond funds available to the Village or the School District from the state and/or federal governments.

Section 12. This Agreement represents the full and entire understanding and agreement between the Village and the School District with regard to the subject matter

hereof and supersedes all prior Agreements (whether written or oral) of the parties relating to the subject matter of this Agreement.

Section 13. This Agreement shall be effective for the period July 1, 2022 to June 30, 2023, unless earlier terminated by either party, and shall be renewable on an annual basis for up to four (4) additional years upon the written agreement of the School District and the Village. Either party may terminate this Agreement, without cause, upon thirty (30) days' prior written notice. Upon termination of this Agreement, each party shall be responsible to the other party for the payment of any outstanding costs incurred up through the date of termination.

Section 14. Pursuant to General Municipal Law Section 109, the parties to this Agreement may not assign any of their rights or delegate any of their obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld.

IN WITNESS WHEREOF,

VILLAGE OF BAYVILLE

By:_____ Date
Mayor of Bayville

LOCUST VALLEY CENTRAL SCHOOL DISTRICT

By:_____ Date
President, Board of Education

Appendix A
Implementation Agreement

The Village and the School District agree to the following terms and conditions for the shared municipal services listed, with the understanding that due to the emergency nature of these services the costs and duration will vary depending on situations that may arise. It is understood that The Village and the School District may decline to invoice for services provided with a value less than $100.

SERVICE	PROVIDED BY	RESPONSIBILITY	DURATION	COST
Emergency sheltering	School District	Sheltering, if necessary upon an emergency	As needed	As approved by School District Board of Education
Emergency response	School District and/or The Village	To make available any such resources as may be required upon an emergency, including personnel and equipment	As needed	As approved by the School District and/or The Village, for respective responsibilities
Heavy equipment loans and operation	The Village	Provide and operate heavy equipment if such resources are available, at such time as requested, and if The Village determines it may offer such services	As needed	At a price to be pre-approved by the School District with a signed Purchase Order
Snow and ice removal	The Village	To assist the School District at such times as requested, including provision of salt-sand	Periodically as required during snow and icy conditions	At The Village's bulk price, to be pre-approved by the School District with a signed Purchase Order
Emergency fuel supply	School District	Provide fuel to service vehicles operated by The Village when these vehicles are performing emergency services	Periodically as required during emergency situations, to be determined by the School District	At the School District's current bid price, with prior written approval from the District

SITE LEASE AGREEMENT

This Site Lease Agreement (the "**Agreement**") is made and effective as of the date the last Party executes this Agreement (the "**Effective Date**"), by and between Incorporated Village of Bayville, a municipal corporation, having a place of business at 34 School Street Bayville, NY 11709 ("**Landlord**"), and DISH Wireless L.L.C., a Colorado limited liability company having a place of business at 9601 S. Meridian Blvd., Englewood, Colorado 80112 ("**Tenant**," and together with Landlord, the "**Parties**," each a "**Party**").

WITNESSETH:

1. Definitions.

"**Affiliate(s)**" means, with respect to a Party, any person or entity, directly or indirectly, controlling, controlled by, or under common control with such Party, in each case for so long as such control continues. For purposes of this definition, "control" shall mean (i) the ownership, directly or indirectly, or at least fifty percent (50%) of either: (a) the voting rights attached to issued voting shares; or (b) the power to elect fifty percent (50%) of the directors of such entity, or (ii) the ability to direct the actions of the entity. Notwithstanding the preceding, for purposes of this Agreement, EchoStar Corporation and its direct and indirect subsidiaries shall not be deemed to be "Affiliates" of Tenant unless after the Effective Date any such entity qualifies as a direct or indirect subsidiary of DISH Network Corporation.

"**Applicable Law**" means any applicable federal, state or local act, law, statute, ordinance, building code, rule, regulation or permit, or any order, judgment, consent or approval of any Governmental Authority having jurisdiction over the Parties or this Agreement.

"**Governmental Authority**" means any: (i) federal, state, county, municipal, tribal or other local government and any political subdivision thereof having jurisdiction over the Parties or this Agreement; (ii) any court or administrative tribunal exercising proper jurisdiction; or (iii) any other governmental, quasi-governmental, self-regulatory, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity of competent jurisdiction.

"**Installation**" means the installation of Tenant's Equipment at the Premises.

"**Permitted Modifications**" means in-kind, or minor modifications to Tenant's Equipment within the Premises, including, without limitation, any changes to Tenant's Platform Area (as hereinafter defined).

"**Property**" means that certain parcel of real property upon which the Structure is located.

"**Structure**" means that certain structure (water tank) of which the Premises are a part.

2. Premises, Term, Rent and Contingencies.

2.1 Premises. Landlord is the owner of the Property located at 34 School Street, Bayville, NY 11709 as more particularly described in Exhibit A. Landlord leases to Tenant approximately one hundred (100) square feet of space for its communications equipment ("Platform Area"), together with additional space for antennas, cabling, and related improvements in connection with the use and operation of its facilities as more specifically set forth in Exhibit B, collectively referred to as the **"Premises"**. Landlord also grants to Tenant: (a) the non-

exclusive right to use such electrical systems and/or fiber installed at the Property as specifically approved in writing by Landlord, in Landlord's sole but reasonable discretion; (b) any non-exclusive easements on, over, under, and across the Property for utilities, fiber and access to the Premises; and (c) rights to utilize the existing abandoned cable conduits ("Abandoned Conduits") and rights to install additional cable conduits and electric and telco conduits underground as shown on Exhibit B. Landlord agrees that providers of utility or fiber services may use such easement(s) and/or Landlord-approved conduit(s) for the installation of any equipment necessary to provide utility or fiber service. If the existing utility or fiber sources located within the Premises or on the Property are insufficient for Tenant's Permitted Use, then Tenant and/or the applicable third party utility or fiber provider may, at Tenant's sole cost and expense and subject to Landlord's prior written consent, in Landlord's sole but reasonable discretion, install such utilities or fiber on, over and/or under the Property as is necessary for Tenant's Permitted Use; provided that Landlord and Tenant shall mutually agree on the location of such installation(s). Notwithstanding the foregoing, Landlord approves the location of the utilities and fiber as shown on Exhibit B. As of the date hereof, Landlord represents, warrants and covenants that Tenant is free to use or otherwise remove the Abandoned Conduits and Landlord shall indemnify, defend and hold harmless Tenant for any and all claims resulting from or arising from Tenant's actions with respect to such Abandoned Conduits.

2.2 Term. This Agreement shall be effective as of the Effective Date. The initial term of this Agreement (the "**Initial Term**") will commence on the first (1st) day of the month following the commencement of Tenant's Installation (the "**Commencement Date**") and will expire on the last day of the month that is sixty (60) months after the Commencement Date unless terminated sooner, renewed or extended in accordance with this Agreement. The Initial Term shall automatically renew for up to four (4) additional terms of sixty (60) months each (each, a "**Renewal Term**" and together with the Initial Term, the "**Term**"). However, Tenant may, in Tenant's sole and absolute discretion, elect not to renew the lease at the end of the then-current Term by giving Landlord written Notice at least ninety (90) days prior to the end of the then-current Term. The Parties agree that, subject to the Contingencies, this Agreement constitutes a binding and valid obligation on each Party and that each Party has vested rights in this Agreement as of the Effective Date.

2.3 Rent. Beginning on the Commencement Date and continuing through the term of this Agreement, Tenant shall pay Landlord rent for the Premises ("**Rent**") in the amount of six thousand five hundred and 00/100 Dollars ($6,500.00) per month. The first Rent payment shall be made within twenty (20) business days of the Commencement Date, with subsequent rent payable by the fifth day of each month. On each anniversary of the Commencement Date, the Rent shall be automatically increased by three percent (3%) of the then-current Rent. Payments shall be delivered to the address designated by Landlord in Section 12.11, or by electronic payment. All payments for any fractional month shall be prorated based upon the number of days during such month that the payment obligation was in force ("**Payment Terms**"). Tenant shall require receipt of a validly completed IRS approved W-9 form (or its equivalent) prior to paying any Rent or any other amount(s) due under this Agreement.

2.4 Contingencies. The Parties acknowledge and agree that Tenant's ability to lawfully use the Premises is contingent upon Tenant obtaining all certificates, permits, approvals and other authorizations that may be required by any Governmental Authority in accordance with Applicable Law (collectively, the "**Governmental Approvals**"). Tenant will endeavor to obtain all such Governmental Approvals promptly. Landlord hereby authorizes Tenant, at Tenant's sole cost and expense, to file and submit for Governmental Approvals. Landlord shall: (a) cooperate with Tenant in Tenant's efforts to obtain such Governmental Approvals; (b) promptly execute and deliver all documents necessary to obtain and maintain the Government Approvals; and (c) not take any action that would adversely affect Tenant's ability to obtain and/or maintain the Governmental Approvals. If: (i) any application for Governmental Approvals is rejected, conditioned, materially delayed or otherwise not approved for any or no reason; or (ii) Tenant determines, in Tenant's sole and absolute discretion, that such

Governmental Approvals cannot be obtained in a timely and commercially reasonable manner (clauses (i) and (ii) collectively, the "**Contingencies**"), then, Tenant shall have the right in its sole and absolute discretion to terminate this Agreement immediately upon Notice to Landlord, without penalty or further obligation to Landlord (or Landlord's affiliates, employees, officers, agents or lenders). If, following the Commencement Date, and through no fault of Tenant, any Governmental Approval issued to Tenant is canceled, expires, lapses or is otherwise withdrawn or terminated by the applicable Governmental Authority, then Tenant shall have the right in its sole and absolute discretion to terminate this Agreement upon ninety (90) days' Notice to Landlord without penalty or further obligation to Landlord (or Landlord's affiliates, employees, officers, agents or lenders). If this Agreement is terminated, this Agreement shall be of no further force or effect (except as set forth to the contrary herein).

3. Use, Access and Modifications to Tenant's Equipment.

3.1 Tenant's Permitted Use. Landlord agrees that Tenant may use the Premises for the purpose of the installation, operation, maintenance and management of a telecommunications facility (including, without limitation, equipment designed to transmit and receive radio frequency signals) (collectively, "**Tenant's Equipment**"), which shall include the right to replace, repair, add, or otherwise modify any or all of Tenant's Equipment and the frequencies over which Tenant's Equipment operates ("**Tenant's Permitted Use**") subject to Section 3.3. Landlord acknowledges and agrees that if radio frequency signage and/or barricades are required by Applicable Law, Tenant shall have the right to install the same on the Property.

3.2 Access. Commencing on the Effective Date and continuing throughout the Term, Tenant, its employees, agents and contractors shall have unrestricted access to the Premises 24 hours per day, 7 days per week and at no additional cost or expense to Tenant. Further, Landlord grants to Tenant the right of ingress and egress to the Structure and the Premises. 24/7 access will be granted via the main gate on the Property in which Tenant may place their own lock on the daisy chain. Any water tank access will require coordination with the water tank asset coordinator (H2M), and an inspector from H2M must be on site.

3.3 Modifications to Tenant's Equipment. After Tenant's initial Installation, Tenant may make Permitted Modifications without Landlord's consent, including those which allow Tenant to: (i) modify or add additional technologies; and (ii) modify or add equipment within the Premises; in either case, without incurring any increase in the then-current Rent, or other modification of the terms and conditions set forth in this Agreement. For any modification or addition that is not a Permitted Modification, Tenant shall seek Landlord's approval of Tenant's installation plans and specifications prior to commencing any such addition or modification. Landlord's approval shall not be unreasonably withheld, conditioned, or delayed and in no event will such approval exceed five (5) business days from receipt of Tenant's plans and specifications. Landlord's failure to respond with approval or a request for change(s) within such five (5) business days shall deem Tenant's proposed plans and specifications as approved and Tenant may proceed as if Landlord has expressly approved of said plans.

3.4 Landlord's Engineering Consultant. Notwithstanding any other provision of this Agreement, upon full execution of this Agreement, Tenant shall be obligated to (1) pay for a review of the Construction Drawings by an Engineering Consultant selected by Landlord, and (2) pay for an Engineering Consultant selected by Landlord to observe on-site construction, painting, and installation of Tenant's Equipment to ensure the satisfactory completion of the work and site clean-up. This obligation applies to future modifications to Tenant's Equipment which are not Permitted Modifications where a review of Construction Drawings and/or on-site observation by Landlord's Engineering Consultant is necessary. Tenant shall promptly pay invoices with supporting documentation submitted by Landlord or its agent(s) for the above referenced services/activities.

3.5 Initial Construction Period. Tenant shall have ninety (90) consecutive calendar days to complete the initial installation after construction start, Force Majeure excepted. Construction will be deemed started when physical work at the site begins by Tenant. Notwithstanding anything stated herein, the Parties acknowledge that Tenant's preparation of the Premises to accommodate electric, telephone and other utilities for Tenant's installation shall not constitute Tenant's start of physical work. Landlord shall not interfere, nor all its lessees, licensees, employees, invitees, or agents to interfere with any aspects of construction or scheduling, nor attempt to direct construction personnel as to the location, method or timing of installation of the equipment. Such interference shall be deemed a material breach of the Agreement. Upon the substantial completion of construction, Tenant shall submit to Landlord written notice indicating the substantial completion of construction to allow Landlord to schedule for an inspection by their Engineering Consultant. Landlord shall submit to Tenant a reasonable punch list of items to be completed and/or cleaned up within fourteen (14) days of the notice of substantial completion. Tenant shall use commercially reasonable efforts to complete all material punch list items within thirty (30) days of the receipt of the punch list. If the items on the punch list are not completed within said thirty (30) days, Landlord shall, upon ten (10) days' notice, have the option of completing such items at Tenant's expense, provided that Landlord delivers to Tenant itemized paid invoices for all reasonable out of pocket expenditures not later than fourteen (14) days after open punch list items are completed and billed. If Landlord does not submit a punch list within the 14-day timeframe specified above, the construction will be deemed acceptable to Landlord.

3.6 Painting of Antennas. Landlord acknowledges that Tenant's antennas will be located on the legs of the water tank as shown on Exhibit B. To the extent that the antennas are attached to the water tank (and not the legs as provided on Exhibit B), Landlord shall have the right to select the exterior paint finish and color of Tenant's antennas, to the extent that such paint finish and color are reasonably available and do not impact any warranty for Tenant's antennas. Tenant agrees to paint all of its antennas attached to the water tank, and any marred surfaces created during installation or removal of Tenant's antennas, the same color (to the extent reasonably available) as the section of the water tank to which such antennas are affixed, using the same painting system presently on the Landlord's property and approved by the Landlord's engineers which approval shall not be unreasonably withheld, conditioned or delayed.

4. Utilities, Liens and Taxes.

4.1 Utilities. Tenant at its sole expense, shall arrange for a separately metered electrical supply or other utilities and shall pay for all charges for electricity and other utilities consumed by Tenant.

4.2 Liens. Tenant will use commercially reasonable efforts to prevent any lien from attaching to the Structure or any part thereof. If any lien is filed purporting to be for labor or material furnished or to be furnished at the request of Tenant, then Tenant shall do all acts necessary to discharge such lien by payment, satisfaction or posting of bond within ninety (90) days of receipt of Notice of the same from Landlord; provided, that Tenant may contest any such lien if Tenant provides Landlord with cash or a letter of credit in the amount of said lien as security for its payment within such ninety (90) day period, and thereafter diligently contests such lien. In the event Tenant fails to deposit the aforementioned security with Landlord and fails to pay any lien claim after entry of final judgment in favor of the claimant, then Landlord shall have the right to expend all sums reasonably necessary to discharge the lien claim.

4.3 Taxes. Landlord acknowledges that the Property, of which the Premises forms a part, are at present exempt from real property taxation because Landlord is a municipality. Landlord shall pay all taxes that accrue against the Structure during the Term. If any such tax or excise is levied or assessed directly against Tenant,

then Tenant shall be responsible for and shall pay the taxing authority. Tenant shall be liable for all taxes against Tenant's personal property or Tenant's fixtures placed in the Premises, whether levied or assessed against Landlord or Tenant. Landlord shall reasonably cooperate with Tenant, at Tenant's expense, in any appeal or challenge to Taxes. If, as a result of any appeal or challenge by Tenant, there is a reduction, credit or repayment received by Landlord for any Taxes previously paid by Tenant, Landlord agrees to promptly reimburse to Tenant the amount of said reduction, credit or repayment. If Tenant does not have the standing rights to pursue a good faith and reasonable dispute of any Taxes under this section, Landlord will pursue such dispute at Tenant's sole cost and expense upon written request of Tenant. Notwithstanding anything stated in this Agreement, in no event shall Landlord (in its regulatory/governmental capacity) impose any real estate or other taxes on the Premises as a result of this Agreement or Tenant's use thereon.

5. Interference and Relocation of Tenant's Equipment.

5.1 Interference. Tenant agrees to use commercially reasonable efforts to ensure that Tenant's Equipment does not cause measurable Interference (as defined below) with any equipment installed at the Structure as of the Effective Date. Following the Effective Date, Landlord agrees not to install or to permit others to install any structure or equipment which could block or otherwise interfere with any transmission or reception by Tenant's Equipment ("**Interference**"). If Interference continues for a period more than forty-eight (48) hours following a Party's receipt of notification thereof, Landlord shall cause any interfering party to cease operating, and/or relocate, the source of Interference, or to reduce the power sufficiently to minimize the Interference until such Interference can be remedied.

5.2 Relocation of Tenant's Equipment for Purposes of Water tank maintenance and/or repainting. Tenant shall have the obligation to take all necessary steps to protect the Tenant's equipment during water tank maintenance activities of Landlord and Landlord shall coordinate such water tank maintenance activities with Tenant to minimize any inconvenience to Tenant's operations at the Property and Landlord shall diligently and continuously perform the water tank maintenance activities in as expeditious a manner as possible to minimize any disruption to Tenant's equipment. Tenant agrees to cooperate with the Landlord during water tank repainting by Landlord. Said cooperation shall include the repositioning of Tenant's equipment on Landlord's Property to accommodate the maintenance/repainting process; provided, however, Tenant shall not be required to reposition its equipment on Landlord's Property more than once (1) within any five (5) year period unless required to do so due to extraordinary circumstances or emergency. Landlord shall give to Tenant one hundred eighty (180) days written notice if Tenant's equipment requires repositioning. Tenant shall have the right to place a Cell on Wheels (COW) to a mutually agreed upon location on the Property (a "Temporary Location") reasonably acceptable to Tenant. If Tenant's use of the Temporary Location requires Tenant to undergo re-zoning or re-permitting, Landlord shall not require Tenant to relocate Tenant's equipment, absent an emergency, until Tenant's receipt of all governmental approvals applicable to Tenant's use of the Temporary Location. Upon completion of the maintenance or repainting process, the Tenant shall return to its previous position on the Landlord's Property. In no event shall the Tenant be required to relocate its Platform Area or any equipment thereon.

6. Maintenance and Repair Obligations.

6.1 Landlord Maintenance of the Structure. Landlord represents and warrants that, as of the Effective Date, the Structure, the Structure's systems and all structural elements of the Structure are in compliance with Applicable Law. Throughout the term of this Agreement, Landlord shall maintain, at its sole cost and expense, the Structure and the Property (but not Tenant's Equipment located thereon) in good operating condition. Landlord shall not have any obligation to maintain, repair or replace Tenant's Equipment except to

the extent required due to the acts and/or omissions of Landlord, Landlord's agents, contractors or other tenants of the Structure. Landlord agrees to safeguard Tenant's Equipment with the same standard of care it uses to protect its own property, but in no event less than reasonable care. In addition, Tenant may take all actions necessary, in Tenant's reasonable discretion, to secure and/or restrict access to Tenant's Equipment.

6.2 Tenant Maintenance of Tenant's Equipment. Tenant assumes sole responsibility for the maintenance, repair and/or replacement of Tenant's Equipment, except as set forth in Section 6.1. Tenant agrees to perform all maintenance, repair or replacement of Tenant's Equipment ("**Tenant Maintenance**") in accordance with Applicable Law, and in a good and workmanlike manner. Tenant shall not be permitted to conduct Tenant Maintenance in a manner that would materially increase the size of the Premises.

7. Surrender and Hold Over.

7.1 Surrender. Except as set forth to the contrary herein, within ninety (90) days following the expiration or termination of this Agreement (the "**Equipment Removal Period**"), in accordance with the terms of this Agreement, Tenant will surrender the Premises to Landlord in a condition similar to that which existed immediately prior to Tenant's Installation together with any additions, alterations and improvements to the Premises, in either case, normal wear and tear excepted. The Parties acknowledge and agree that Rent will not accrue during the Equipment Removal Period. However, if Tenant's Equipment is not removed during the Equipment Removal Period, Tenant will be deemed to be in Hold Over (as defined in Section 7.2 below) until Tenant's Equipment is removed from the Premises. Tenant shall have the right to access the Premises or remove any or all of Tenant's Equipment from the Premises at any time during the Term or the Equipment Removal Period.

7.2 Hold Over. If Tenant occupies the Premises beyond the Equipment Removal Period without Landlord's written consent ("**Hold Over**"), Tenant will be deemed to occupy the Premises on a month-to-month basis, terminable by either Party on thirty (30) days' written Notice to the other Party. All of the terms and provisions of this Agreement shall be applicable during that period, except that Tenant shall pay Landlord a rental fee equal to the then current monthly Rent applicable at the expiration or termination of the Agreement, prorated for the number of days of such hold over.

8. Default, Remedies and Termination.

8.1 Default. If any of the following events occur during the Term (each a "Default"), then the non-Defaulting Party may elect one or more of the remedies set forth below in this Section 8 or seek any other remedy available: (a) Tenant's failure to make any payment required by this Agreement within thirty (30) days after receipt of written Notice from the Landlord of such failure to pay; (b) failure by either Party to observe or perform any provision of this Agreement where such failure: (1) continues for a period of thirty (30) days after written Notice thereof from the non-Defaulting Party and the Defaulting Party has failed to cure or commenced the cure of such Default; and/or (2) based upon Tenant's reasonable determination, materially affects Tenant's ability to transmit or receive wireless communications signals to or from the Premises; (c) either Party files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws or under any insolvency act of any state, or admits the material allegations of any such petition by answer or otherwise, or is dissolved or makes an assignment for the benefit of creditors; and/or (d) involuntary proceedings under any such bankruptcy law or insolvency act or for the dissolution of either Party are instituted against either Party, or a receiver or trustee is appointed for all or substantially all of the property of either Party, and such proceeding is not dismissed, or such receivership or trusteeship vacated within sixty (60) days after such institution or appointment.

8.2 Remedies. Upon the occurrence of any uncured Default, the non-Defaulting Party may thereafter terminate this Agreement immediately upon written Notice to the other Party without prejudice to any other remedies the non-Defaulting Party may have at law or in equity.

8.3 Termination. Tenant shall have the right to terminate this Agreement without further liability upon thirty (30) days prior written Notice to Landlord due to any one or more of the following: (i) changes in Applicable Law which prohibit or adversely affect Tenant's ability to operate Tenant's Equipment at the Premises; (ii) Tenant, in its sole discretion, determines that Tenant's Permitted Use of the Premises is obsolete or unnecessary; (iii) Landlord or a third party installs any structure, equipment, or other item which blocks, hinders, limits, or prevents Tenant from being able to use the Tenant Equipment for Tenant's Permitted Use.

9. Limitation of Liability and Indemnification.

9.1 Limitation of Liability. EXCEPT FOR EACH PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH BELOW IN THIS SECTION 9, NEITHER PARTY NOR ANY OF ITS AGENTS, CONTRACTORS OR EMPLOYEES, SHALL BE LIABLE TO THE OTHER PARTY OR ANY PERSON CLAIMING THROUGH THAT PARTY FOR ANY EXEMPLARY, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR ANY CAUSE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, CLAIMS CAUSED BY OR RESULTING FROM THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THAT PARTY, ITS AGENTS, CONTRACTORS OR EMPLOYEES.

9.2 Tenant's Indemnity. Except to the extent caused by the breach of this Agreement by Landlord or the acts or omissions of Landlord, its officers, agents, employees, contractors, or any other person or entity for whom Landlord is legally responsible, Tenant shall defend, indemnify and hold Landlord and its officers, directors, shareholders, employees, agents and representatives ("**Landlord's Representatives**") harmless from and against any and all claims, demands, litigation, settlements, judgments, damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) (individually or collectively, a "**Claim**") arising directly or indirectly out of: (i) any act or omission of Tenant, its officers, agents, employees, contractors, or any other person or entity for whom Tenant is legally responsible ("**Tenant's Representatives**"); or (ii) a breach of any representation, warranty or covenant of Tenant contained or incorporated in this Agreement. Tenant's obligations under this Section 9.2 shall survive the expiration or earlier termination of this Agreement for two (2) years.

9.3 Landlord's Indemnity. Except to the extent caused by the breach of this Agreement by Tenant or the acts or omissions of Tenant or Tenant's Representatives, , Landlord shall defend, indemnify and hold Tenant, its officers, directors, shareholders, employees, agents and representatives harmless from and against any and all Claims arising directly or indirectly out of: (i) any act or omission of Landlord, its officers, agents, employees, contractors or any other person or entity for whom Landlord is legally responsible; (ii) a breach of any representation, warranty or covenant of Landlord contained or incorporated in this Agreement; and/or (iii) the generation, possession, use, storage, presence, release, spill, treatment, transportation, manufacture, refinement, handling, production and/or disposal of Hazardous Substances in, on, about, adjacent to, under or near the Premises, the Structure and/or the Property, and/or any contamination of the Premises, the Structure and/or the Property by any Hazardous Substance, but only to the extent not caused by Tenant or Tenant's Representatives. Landlord's obligations under this Section 9.3 shall survive the expiration or earlier termination of this Agreement for two (2) years.

9.4 Indemnification Procedure. The Party seeking indemnification (the "**Indemnified Party**") shall promptly send Notice to the Party from whom indemnification is being sought (the "**Indemnifying Party**") of the claim or suit for which indemnification is sought. The Indemnified Party shall not make any admission as to liability

or agree to any settlement of or compromise any claim without the prior written consent of the Indemnifying Party. The Indemnified Party shall, at the Indemnifying Party request and expense, give the Indemnifying Party all reasonable assistance in connection with those negotiations and litigation.

10. Insurance.

10.1 Landlord Obligations. Throughout the Term, Landlord shall maintain, at Landlord's sole cost and expense, the following insurance coverage Commercial General Liability of not less than $1,000,000 per occurrence and $2,000,000 aggregate. All such policies shall be endorsed to include Tenant as an additional insured. Subject to the policy minimums set forth above in this Section 10.1, the insurance required of Landlord hereunder may be maintained by a blanket or master policy that includes properties other than the Property.

10.2 Tenant Obligations. Throughout the Term, Tenant shall maintain, at Tenant's sole cost and expense, the following insurance coverage: (i) workers' compensation insurance with no less than the minimum limits required by Applicable Law; (ii) employer's liability insurance with such limits as required by Applicable Law; and (iii) Commercial General Liability with a minimum limit of $1,000,000 per occurrence and $2,000,000 aggregate. All such policies shall be endorsed to include Landlord as additional insured. Tenant must adhere to the insurance requirements listed in Exhibit C.

10.3 Contractor Requirements. Contractor must carry insurance requirements listed in Exhibit C and sign Indemnification and Hold harmless agreement in Exhibit C before any work can be performed.

10.3 Insurance Requirements. All policies required by this Section 10 shall be issued by insurers that are (1) licensed to do business in the state in which the Property and/or Structure are located, and (2) rated A- or better by Best's Key Rating Guide.

10.4 Waiver of Subrogation. To the fullest extent permitted by law, Landlord and Tenant for themselves and any and all parties claiming under or through them, including, without limitation, their respective insurers, hereby mutually release and discharge each other and the other's Affiliates, and their respective officers, directors, shareholders, agents, employees, contractors, and/or any other person or entity for whom a Party is legally responsible from any claims for damage to any person or to the Premises or any other real or personal property that are or are claimed to have been caused by or result from risks insured against under any insurance policies carried by the waiving party and in force at the time of such damage and hereby waive any right of subrogation that might otherwise exist in or accrue to any person on account thereof. All policies required to be carried by either Party herein shall contain an endorsement in favor of the other Party waiving the insurance company's right of subrogation against such other Party. THIS RELEASE SHALL APPLY EVEN IF THE LOSS OR DAMAGE IS CAUSED BY THE FAULT OR NEGLIGENCE OF A PARTY HERETO OR BY ANY PERSON FOR WHICH SUCH PARTY IS RESPONSIBLE. EACH PARTY AGREES TO NOTIFY ITS INSURANCE CARRIER(S) OF THIS PROVISION.

11. Representations and Warranties.

11.1 Representations and Warranties. Landlord represents, warrants and covenants that: (a) Landlord has the right and authority to execute and perform this Agreement and has taken all necessary action to approve this Agreement; (b) there are no liens, judgments or other title matters materially and adversely affecting Landlord's title to the Property; (c) there are no covenants, easements or restrictions that prevent the use of the Premises for Tenant's Permitted Use; (d) the Structure and the Premises are in good repair and suitable for Tenant's Permitted Use; (e) Landlord will comply with all federal, state, and local laws in connection with any

substances brought on to the Property and/or Structure that are identified as toxic or hazardous by any Applicable Law, ordinance or regulation ("**Hazardous Substance**"); (f) Tenant's use and quiet enjoyment of the Premises shall not be disturbed; and (g) the only local approval that Tenant requires is an administrative building permit from the building inspector of the Village of Bayville, and all local zoning approvals are not applicable due to the nature of the installation and Landlord's actions hereunder. Landlord is responsible for any loss or damage, including remediation, with respect to Hazardous Substances as per Applicable Law. Landlord understands and agrees that notwithstanding anything contained in this Agreement to the contrary, in no event shall Tenant have any liability whatsoever with respect to any Hazardous Substance that was on, about, adjacent to, under or near the Structure prior to the Effective Date, or that was generated, possessed, used, stored, released, spilled, treated, transported, manufactured, refined, handled, produced or disposed of on, about, adjacent to, under or near the Property and/or Structure by: (1) Landlord, its agents, employees, contractors or invitees; or (2) any third party who is not an employee, agent, contractor or invitee of Tenant.

11.2 Hazardous Materials. Tenant agrees that it will not use, generate, store or dispose of any hazardous materials or pesticides on, under, about or within the Premises in violation of any applicable law or regulation. Tenant shall be permitted to use sealed batteries for emergency backup, a fire suppression system, and a small quantity of cleaning materials ordinarily used for commercial cleaning purposes. Tenant agrees to defend and hold harmless Landlord, Landlords' agents and employees against any and all losses, liabilities, claims and/or costs (including reasonable attorney's fees and costs) to the extent arising from any breach of any representation warranty or agreement of tenant contained in the paragraph, except to the extent caused, and not merely discovered, by Landlord, it's agents, contractors, representatives, and/or employees.

Landlord represents that no hazardous materials are used, or stored at or on the Property, except such materials suitable for addition to drinking water, and further agrees that no such materials will be permitted on the Landlords' Property during the term of this Agreement. Landlord agrees to defend and hold harmless Tenant, and Tenant's partners, affiliates, agents, and employees against any and all losses, liabilities, claims and/or costs (including reasonable attorney's fees and costs) arising from any use, generation, storage or disposal of any hazardous material on, under, about or within the Property in violation of any law or regulation, except to the extent caused, and not merely discovered, by Tenant, Tenant's agents, contractors, representatives and/or employees.

As used in this paragraph, "Hazardous materials" shall mean petroleum or any petroleum product, asbestos, any substance, chemical or waste that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. This paragraph shall survive the termination of this Agreement.

In the event Tenant becomes aware of any hazardous material on the Premises, or any environmental, health or safety condition or matter relating to the Premises, that, in Tenant's sole determination, renders the condition of the Premises or Property unsuitable for Tenant's use, or is the Tenant's belief that the leasing or continued leasing of the Premises would expose Tenant to undue risks of liability to a government agency or third party, Tenant will have the right, in addition to any other rights it may have at law or in equity, to terminate this Agreement upon written notice to Landlord.

12. Miscellaneous.

12.1 Assignment. Neither Party may assign or otherwise transfer any of its rights or obligations under this Agreement to any third party without the prior written approval of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party may assign or transfer some or all of its rights and/or obligations under the Agreement to: (i) an Affiliate; (ii) a successor entity to its business, whether by merger, consolidation, reorganization, or by sale of all or substantially all of its assets or stock; (iii) any entity in which a Party or its Affiliates have any direct or indirect equity investment; and/or (iv) any other entity directly or indirectly controlling, controlled by or under common control with any of the foregoing, and in each case, such assignment, transfer or other such transaction shall not be considered an assignment under this Section 12.1 requiring consent and the non-assigning Party shall have no right to delay, alter or impede such assignment or transfer.

12.2 Rights Upon Sale of Property or Structure. Should Landlord, at any time during the Term, sell or transfer all or any part of the Property or the Structure to a purchaser other than Tenant, such transfer shall be subject to this Agreement and Landlord shall require any such purchaser or transferee to recognize Tenant's rights under the terms of this Agreement in a written instrument signed by Landlord and the third-party transferee. If Landlord completes any such transfer without executing such a written instrument, then Landlord shall not be released from its obligations to Tenant under this Agreement, and Tenant shall have the right to look to Landlord and the third party for the full performance of this Agreement. In addition to, and not in limitation of the preceding, in the event the Landlord sells or transfers either its rights in all or any portion of the Premises or Landlord's right to the receive the Rent (and other payments) derived from the Premises under this Agreement, in either case separate from the underlying Structure and/or Property, to any third party who is not an Affiliate of Landlord, then prior to any such sale or transfer Landlord shall first provide Tenant with a right of first refusal ("**ROFR**") to acquire such right(s). In order to evaluate the terms and conditions offered to Landlord by such third-party Landlord shall provide Tenant with a full, complete and unredacted copy thereof and Tenant shall have thirty (30) days from receipt thereof to elect to exercise its ROFR; provided that Tenant's exercise of the ROFR shall be on the same terms and conditions as offered to Landlord by such third party (except as may be mutually agreed upon to the contrary).

12.3 Subordination and Non-Disturbance. This Agreement shall be subordinate to any mortgage, deed of trust, or other security agreement (each a "**Mortgage**") by Landlord which, from time to time, may encumber all or part of the Property; provided, however, the lender under every such Mortgage shall, in the event of a foreclosure of Landlord's interest, recognize the validity of this Agreement and Tenant's right to remain in occupancy of and have access to the Premises, as long as no Default by Tenant exists under this Agreement. If the Property is encumbered by a Mortgage, then Landlord shall, promptly following Tenant's request, obtain and furnish to Tenant a non-disturbance agreement, in recordable form, for each such Mortgage.

12.4 Condemnation. If all or any portion of the Premises is condemned, taken by a Governmental Authority or otherwise appropriated by the exercise of the right of eminent domain or a deed or conveyance in lieu of eminent domain (each, a "**Taking**"), either Party hereto shall have the right to terminate this Agreement immediately upon Notice to the other Party. If either Party elects to terminate this Agreement, the Rent set forth herein shall be abated, and Tenant's liability therefor will cease as of the date of such Taking, this Agreement shall terminate as of such date, and any prepaid rent shall be returned to Tenant. If this Agreement is not terminated as herein provided, then it shall continue in full force and effect, and Landlord shall, within a reasonable time after possession is physically taken by the condemning authority restore the remaining portion of the Premises to render it reasonably suitable for the uses permitted by this Agreement and the Rent shall be proportionately and

equitably reduced. Notwithstanding the foregoing, Landlord shall not be obligated to expend an amount greater than the proceeds received from the condemning authority less all expenses reasonably incurred in connection therewith (including attorneys' fees) for the restoration. All compensation awarded in connection with a Taking shall be the property of Landlord, provided that if allowed under Applicable Law, Tenant may apply for and keep as its property a separate award for (i) the value of Tenant's leasehold interest; (ii) the value of Tenant's Equipment or other personal property of Tenant; (iii) Tenant's relocation expenses; and (iv) damages to Tenant's business incurred as a result of such Taking.

12.5 Recording. The parties agree that this Agreement shall not be recorded or filed in the County Clerk's Office or with any other governmental agency.

12.6 Force Majeure. Notwithstanding anything to the contrary in this Agreement, neither Party shall be liable to the other Party for nonperformance or delay in performance of any of its obligations under this Agreement due to causes beyond its reasonable control, including, without limitation, strikes, lockouts, pandemics, labor troubles, acts of God, accidents, technical failure governmental restrictions, insurrections, riots, enemy act, war, civil commotion, fire, explosion, flood, windstorm, earthquake, natural disaster or other casualty ("**Force Majeure**"). Upon the occurrence of a Force Majeure condition, the affected Party shall immediately notify the other Party with as much detail as possible and shall promptly inform the other Party of any further developments. Immediately after the Force Majeure event is removed or abates, the affected Party shall perform such obligations with all due speed. Neither Party shall be deemed in default of this Agreement to the extent that a delay or other breach is due to or related to a Force Majeure event. A proportion of the Rent herein reserved, according to the extent that such Force Majeure event shall interfere with the full enjoyment and use of the Premises, shall be suspended and abated from the date of commencement of such Force Majeure event until the date that such Force Majeure event subsides. If such Force Majeure event prevents the affected Party from performing its obligations under this Agreement, in whole or in part, for a period of forty-five (45) or more days, then the other Party may terminate this Agreement immediately upon Notice to the affected Party.

12.7 Successors and Assigns. The respective rights and obligations provided in this Agreement shall bind and shall continue to apply for the benefit of the Parties hereto, their legal representative, heirs, successors and permitted assigns. No rights, however, shall continue to apply for the benefit of any assignee, unless such assignment was made in accordance with Section 12.1 of this Agreement.

12.8 Governing Law and Construction. This Agreement shall be construed, governed and enforced in accordance with the laws of the state in which the Premises is located. The section and paragraph headings contained in this Agreement are solely for reference purposes and shall not affect in any way the meaning or interpretation of this Agreement.

12.9 Severability. Each provision of this Agreement shall be construed as separable and divisible from every other provision and the enforceability of any one provision shall not limit the enforceability, in whole or in part, of any other provision. If a court or administrative body of competent jurisdiction holds any provision of this Agreement to be invalid, illegal, void or less than fully enforceable as to time, scope or otherwise, such provision shall be construed by limiting and reducing it so that such provision is valid, legal and fully enforceable while preserving to the greatest extent permissible the original intent of the parties; the remaining terms and conditions of this Agreement shall not be affected by such alteration, and shall remain in full force and effect.

12.10 Waiver; Remedies. It is agreed that, except as expressly set forth in this Agreement, the rights and remedies herein provided in case of Default or breach by either Landlord or Tenant are cumulative and shall

not affect in any manner any other remedies that the non-breaching Party may have by reason of such default or breach. The exercise of any right or remedy herein provided shall be without prejudice to the right to exercise any other right or remedy provided herein, at law, in equity or otherwise. In addition to, and not in limitation of, the preceding, the Parties acknowledge and agree that there will not be an adequate remedy at law for noncompliance with the provisions of Section 5, and therefore either Party shall have the right to equitable remedies, including, without limitation, injunctive relief and specific performance.

12.11 Notice. All notices or requests that are required or permitted to be given pursuant to this Agreement must be given in writing by certified US mail (postage pre-paid) with return receipt requested or by courier service (charges prepaid), or solely in the case of notice to Landlord by email, to the party to be notified, addressed to such party at the address(es) or email address(es) set forth below, or such other address(es), email address(es) or fax number(s) as such Party may have substituted by written notice (given in accordance with this Section 12.11) to the other Party ("**Notice**"). The sending of such Notice to the proper email address (in the case of email transmission) or the receipt of such Notice (in the case of delivery by first-class certified mail or by courier service) will constitute the giving thereof.

If to be given to Landlord:
Incorporated Village of Bayville
Attn: Andrew Petti – Supervisor of Water Plant Operations

If by courier service:
34 School Street
Bayville, NY 11709

If by first-class certified mail:
34 School Street
Bayville, NY 11709

If by email:
Email address: apetti@bayvilleny.gov

If to be given to Tenant:
DISH Wireless L.L.C.
Attn: Lease Administration
5701 South Santa Fe Drive
Littleton, Colorado 80120

12.12 Entire Agreement. This Agreement sets forth the entire, final and complete understanding between the Parties hereto regarding the subject matter of this Agreement, and it supersedes and replaces all previous understandings or agreements, written, oral, or implied, regarding the subject matter of this Agreement made or existing before the date of this Agreement. Except as expressly provided by this Agreement, no waiver or modification of any of the terms or conditions of this Agreement shall be effective unless in writing and signed by both Parties. Any provision of this Agreement that logically would be expected to survive termination or expiration, shall survive for a reasonable time period under the circumstances, whether or not specifically provided in this Agreement.

12.13 Compliance with Law. Each Party shall, with respect to its actions and/or inactions pursuant to and in connection with this Agreement, comply with all applicable statutes, laws, rules, ordinances, codes and governmental or quasi-governmental orders or regulations (in each case, whether federal, state, local or otherwise) and all amendments thereto, now enacted or hereafter promulgated and in force during the term of this Agreement, a Renewal Term or any extension of either of the foregoing.

12.14 Counterparts. This Agreement may be executed in any number of identical counterparts and, if so executed, shall constitute one agreement, binding on all the Parties hereto, notwithstanding that all the Parties are not signatories to the original or the same counterpart. Execution of this Agreement by facsimile or electronic signature shall be effective to create a binding agreement and, if requested, Landlord and Tenant agree to exchange original signed counterparts in their possession.

12.15 Attorneys' Fees. If an action is brought by either Party for breach of any covenant and/or to enforce or interpret any provision of this Agreement, the prevailing Party shall be entitled to recover its costs, expenses and reasonable attorneys' fees, both at trial and on appeal, in addition to all other sums allowed by law.

12.16 Incorporation of Exhibits. All exhibits referenced herein and attached hereto are hereby incorporated herein in their entirety by this reference.

[*Remainder of page intentionally left blank. Signature page follows.*]

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Agreement as of the Effective Date.

LANDLORD:	**TENANT:**
Incorporated Village of Bayville	**DISH WIRELESS L.L.C.**
By: _____	By: _____
Name: _____	Name: Dave Mayo
Its: _____	Its: EVP
Date: _____	Date: 6/16/22

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

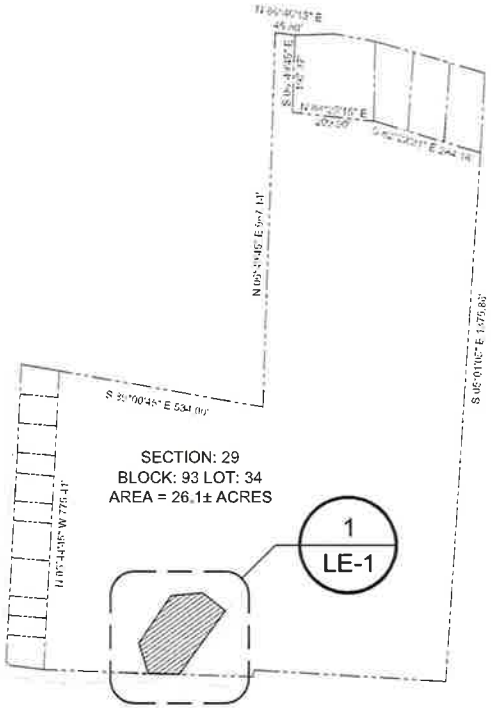
34 School Street, Bayville, NY 11709

Also known as Section 29, Block 93, Lot 34 on the Tax Map of the Village of Bayville, County of Nassau

cribed parcel: SITUATE IN THE INCORPORATED VILLAGE OF Bayville, COUNTY OF NASSAU

BEGINNING at a point on the southerly side of Bayville Avenue, which point is 393.33 feet westerly as measured along the southerly side of Bayville Avenue from a point which is the westerly point of tangency of a curve forming the southwest corner of Bayville Avenue and Mountain Avenue; running thence south 4 degrees 41 minutes 40 seconds west, 205.92 feet; running thence north 72 degrees 39 minutes 36 seconds west, 283.72 feet to the southwesterly corner of land now or formerly of Helme; running thence north 2 degrees 39 minutes east, 205.92 feet along the easterly side of land now or formerly of Helme to the southerly side of Bayville Avenue; running thence easterly south 73 degrees 07 minutes east along the southerly side of Bayville Avenue, 290.87 feet to the point or place of beginning.

EXHIBIT B (1 OF 4)



A KEY PLAN

SCALE: 1" = 500'-0"

EXISTING CHAIN-LINK FENCING

EXISTING AT&T EQUIPMENT SHELTER

EXISTING NEXTEL EQUIPMENT SHELTER

PROPOSED LESSEE EQUIPMENT PLATFORM (10'-0" x 8'-0") (80 SQ. FT.) w/ ACCESS STAIRS (26 SQ. FT.)

1 PARTIAL SITE PLAN

SCALE: 1/32" = 1'-0"

EXISTING SPRINT EQUIPMENT COMPOUND

EXISTING VERIZON EQUIPMENT SHELTER

EXISTING EQUIPMENT SHELTER

EXISTING BUILDING

EXISTING METER BANK AND TELCO SERVICE CABINET

EXISTING WATER TANK

SCHOOL STREET

SECTOR A 0°

SECTOR B 120°

SECTOR C 240°

#1 #2 #3 #4 #5 #6 #7

NASSAU COUNTY POLICE DEPARTMENT EQUIPMENT SHELTER

VERIZON EQUIPMENT SHELTER

AT&T EQUIPMENT SHELTER

ABANDONED NEXTEL EQUIPMENT SHELTER

GENERATOR

1 LE-2

1 LE-3

32' 16' 0' 32' 64'

SCALE: 1/32" = 1'-0"

NORTH

LEASE EXHIBITS ARE A CONCEPTUAL PRESENTATION FOR LEASING PURPOSES ONLY AND ARE NOT FOR CONSTRUCTION

Salient ARCHITECTS, LLC
325 N. 10th STREET
LEWISBURG, PA 17837
T: (201) 567-0032 F: (201) 567-9556
www.salientassociates.com

CLIENT: dish WIRELESS

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RECORD OF REVISIONS

NO.	DATE	DESCRIPTION	INIT.
A	2/28/22	PRELIMINARY	CWJ
B	4/27/22	REVISED PER COMMENTS	CWJ

NEW SITE BUILD

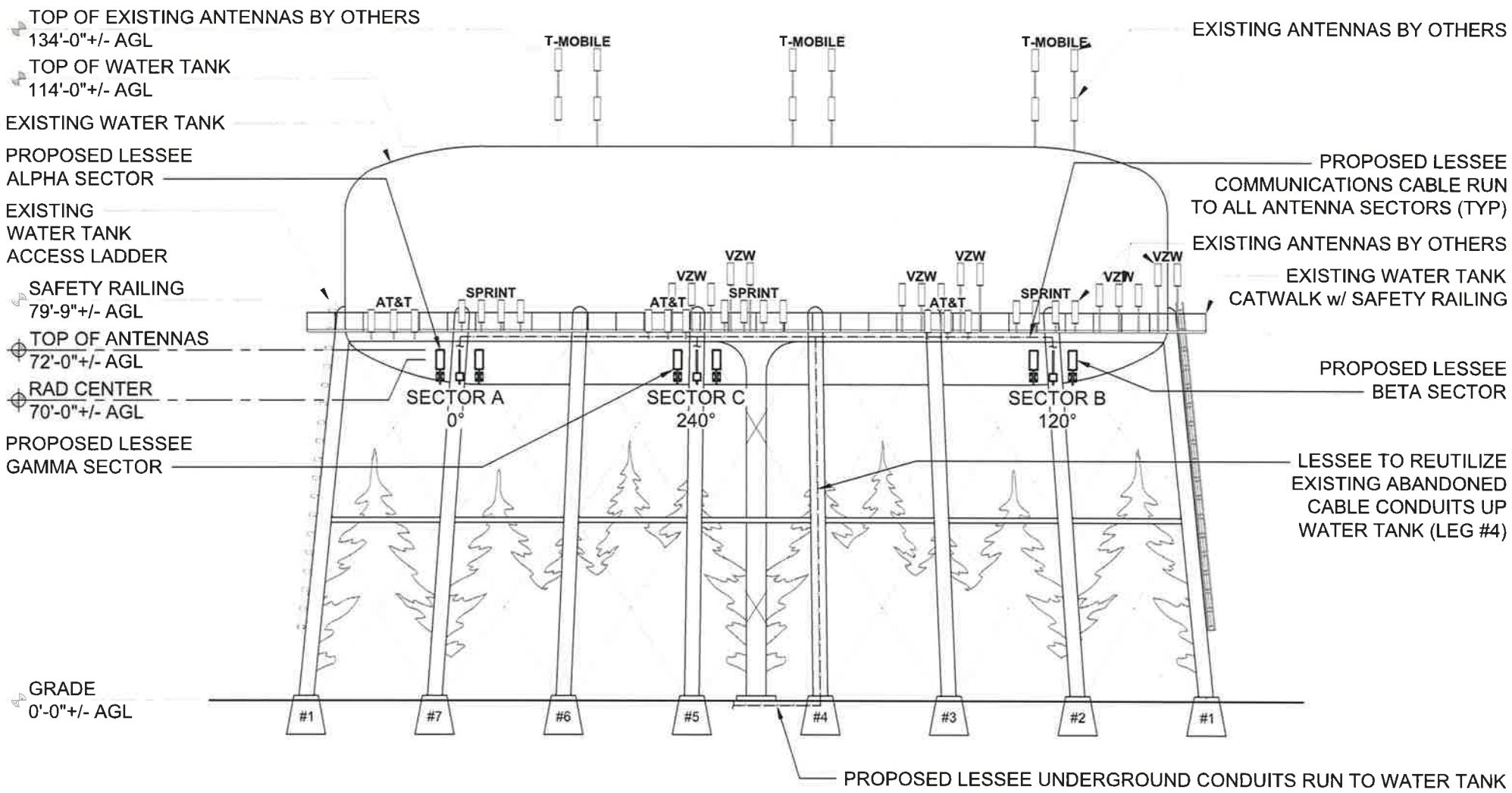
NYNYC02224C
34 SCHOOL STREET
BAYVILLE, NY 11709

SITE PLAN

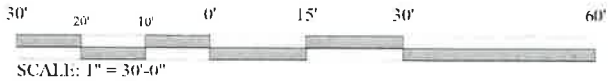
KEY MAP:

DWG. NO:

LE-1



1 PROPOSED
WATER TANK ELEVATION
SCALE: 1" = 30'-0"



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B	4/27/22	REVISED PER COMMENTS	CWJ

NEW SITE BUILD

NYNYC02224C
34 SCHOOL STREET
BAYVILLE, NY 11709

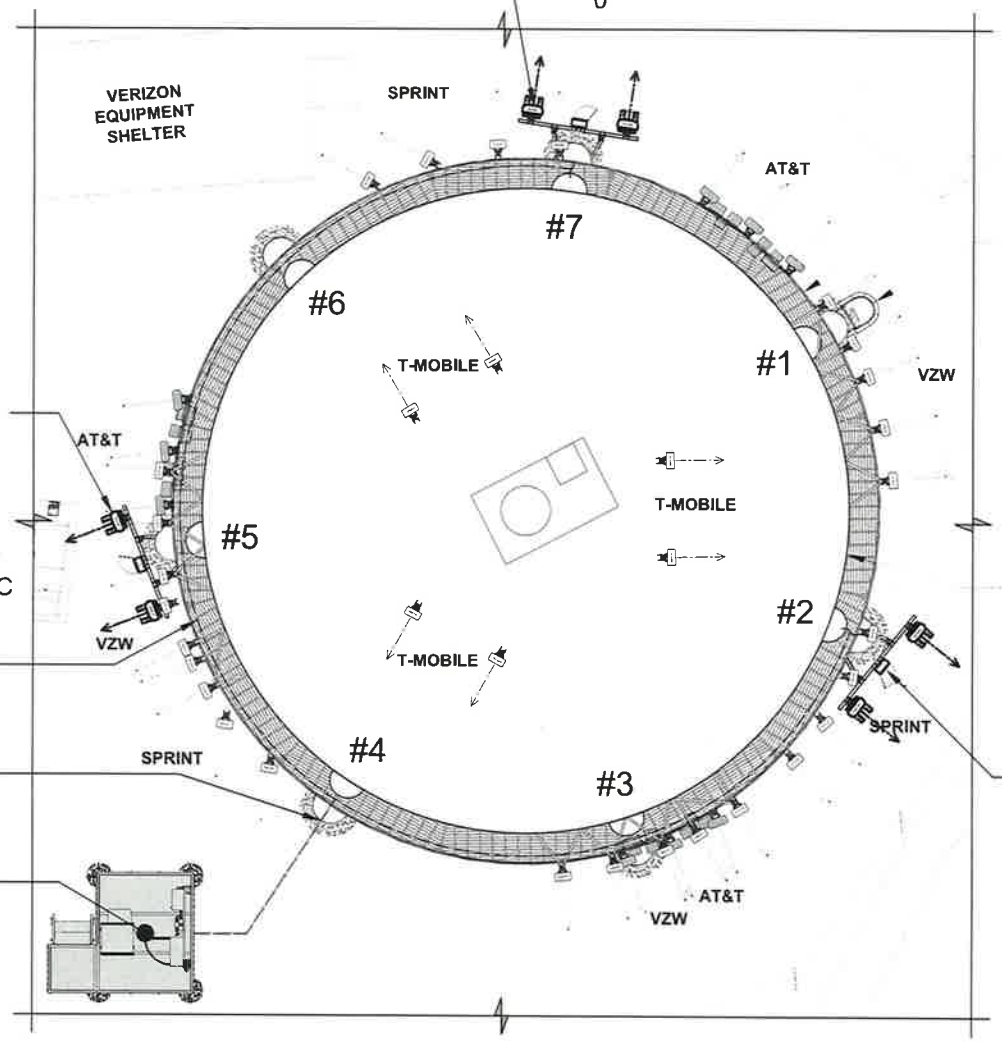
WATER TANK ELEVATION

KEY MAP:

DWG. NO:
LE-2

GENERAL NOTES:
1. ALL ANTENNA LOCATIONS ARE APPROXIMATE.
2. RRH UNITS, DIPLEXERS, DISTRIBUTION BOXES, AND OTHER SMALL ACCESSORY EQUIPMENT SHALL BE ADDED TO EACH ANTENNA SECTOR AT FUTURE LOCATIONS DETERMINED BY LESSEE.
3. CABLE TRAYS, CONDUITS, AND OTHER CONNECTIONS NOT SHOWN ON THESE LEASE EXHIBITS SHALL BE PLACED AT LOCATIONS TO BE DETERMINED BY LESSEE AND WILL BE SHOWN ON THE FINAL CONSTRUCTION DRAWINGS.
4. EXACT LOCATION, LAYOUT, AND DETAILS OF ALL PROPOSED FEATURES TO BE DETERMINED AFTER STRUCTURAL REVIEW, DURING FINAL DESIGN, AND WILL BE SHOWN ON THE FINAL CONSTRUCTION DRAWINGS.
5. ANY EQUIPMENT OR OTHER UTILITY IMPROVEMENTS REQUIRED BY LESSEE UTILITY PROVIDERS TO SERVICE LESSEE INSTALLATION SHALL BE PERMITTED AT THE PROPERTY.

STRUCTURAL NOTE:
STRUCTURAL ANALYSIS REQUIRED TO VERIFY THE INTEGRITY AND COMPOSITION OF EXISTING STRUCTURE FOR PROPOSED MOUNTING DESIGN.



1 PROPOSED
ANTENNA LAYOUT PLAN
SCALE: 1/16" = 1'-0"

16' 8' 0' 16' 32'
SCALE: 1/16" = 1'-0"

NORTH

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RECORD OF REVISIONS

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B	4/27/22	REVISED PER COMMENTS	CWJ

NEW SITE BUILD

NYNYC02224C
34 SCHOOL STREET
BAYVILLE, NY 11709

ANTENNA LAYOUT PLAN

KEY MAP:

DWG. NO:
LE-3

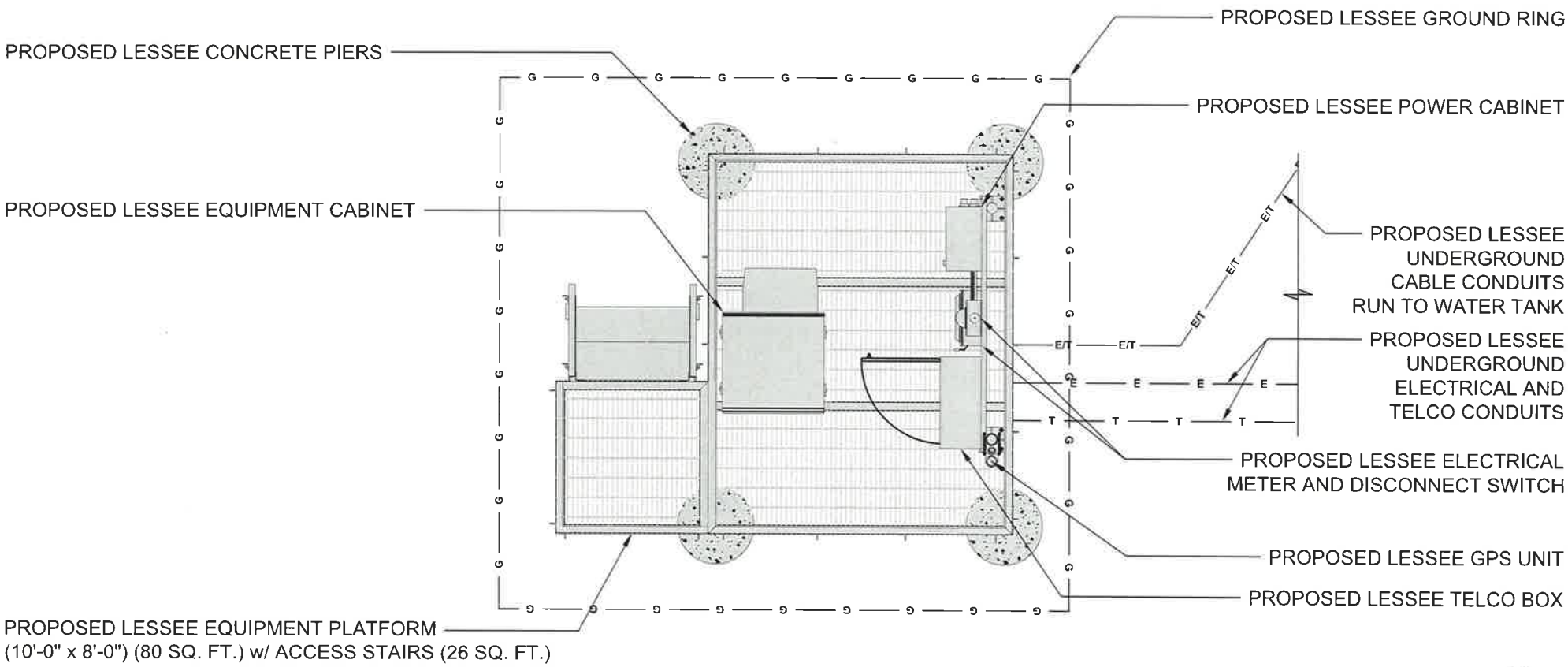
UTILITY SERVICE LEGEND*

*UTILITY WALKS REQUIRED TO VERIFY FINAL LOCATION OF SERVICES AND ROUTING TO PROPOSED EQUIPMENT LOCATION.

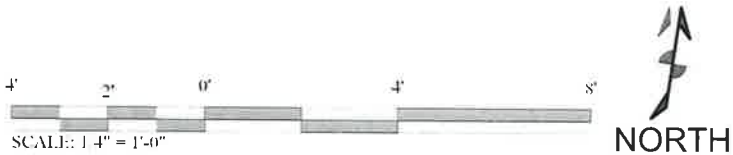
(T) TELCO: TAP FROM EXISTING SERVICE PROVIDER AND ROUTE TO LESSEE TELCO ENCLOSURE + EQUIPMENT: FINAL TAP LOCATION TO BE CONFIRMED BY UTILITY PROVIDER.

(E) ELECTRICAL: TAP ELECTRICAL METER BANK. ROUTE TO LESSEE ELECTRICAL PANEL + DISCONNECT SWITCH: 200A. 1-PHASE. 120/240V: FINAL LOCATION TO BE CONFIRMED BY UTILITY PROVIDER / ELECTRICAL ENGINEER.

(G) GROUNDING: INSTALL GROUNDING RODS W/ GROUND RING AND ROUTE TO LESSEE MASTER GROUND BAR: FINAL GROUND SERVICE LOCATION TO BE CONFIRMED BY ELECTRICAL ENGINEER.



1 PROPOSED
EQUIPMENT LAYOUT PLAN
SCALE: 1/4" = 1'-0"



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Salient ARCHITECTS, LLC
325 N. 10th STREET
LEWISBURG, PA 17837
T: (201) 567-0032 F: (201) 567-9556
www.salientassociates.com

CLIENT: dish WIRELESS

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RECORD OF REVISIONS

NO.	DATE	DESCRIPTION	INIT.
A	2/28/22	PRELIMINARY	CWJ
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NEW SITE BUILD

NYNYC02224C
34 SCHOOL STREET
BAYVILLE, NY 11709

EQUIPMENT LAYOUT PLAN

KEY MAP:

DWG. NO:

LE-4

EXHIBIT B (4 OF 4)

Exhibit C
Insurance Requirement and Hold Harmless Agreement
Incorporated Village of Bayville

Insurance and Indemnification Requirements for Independent Contractors/Sub-Contractors of Tenant
Page One of Four

The CONTRACTOR shall maintain at a minimum the following insurance giving evidence of same to the OWNER **on the Acord form of Certificates of Insurance, Acord Form 855 – New York Construction Certificate of Liability Insurance Addendum; copy of the Additional Insured Endorsements; provide 30 days' notice of cancellation, non-renewal. C105.1 form or State Insurance Fund Certificate or Self-Insured SI-12 for Workers Compensation and DB120.1 Certificate for NYS Disability or equivalent forms.** The insurance coverage limits set forth in Schedule below are minimum coverage requirements, not limitations of liability. New York State licensed admitted carrier is preferred; any non-licensed/non-admitted carriers will be accepted at Incorporated Village of Bayville's discretion. The insurance carrier must have an A.M. Best Rating of at least A- IX. All subcontractors must adhere to the same insurance and indemnification requirements.

Certificate Holder for all policies: **Incorporated Village of Bayville**
34 School Street
Bayville, NY 11709

Description Box to read:

Incorporated Village of Bayville, all elected and appointed officials, employees and volunteers of the Village are included as additional insureds per the General Liability including Contractual Liability and Products and Completed Operations, Automobile Liability and Excess Liability. Insurance Coverage is to be primary and non-contributory to any insurance carried by any additional insured. Waiver of Subrogation is included on the Workers Compensation and General Liability in favor of the Additional Insureds.

I. **Workers Compensation**

Coverage	Statutory
Extensions	Voluntary Compensation
	Employers Liability – Unlimited in the State of New York
	Waiver of Subrogation in favor of **Incorporated Village of Bayville**

II. **New York State Disability and Paid Family Leave**

Coverage	Statutory New York State Benefits

III. **Commercial General Liability**

Coverage and Limits	Occurrence – ISO Form CG2001 10-01 or Equivalent	
	General Aggregate	$2,000,000
	Products & Completed Operations	$2,000,000
	Personal & Advertising Injury	$1,000,000
	Per Occurrence Limit	$1,000,000
	Damage to Premises Rented To You	$ 100,000

III. **Commercial General Liability - continued**

Additional Insured	**Incorporated Village of Bayville, all elected and appointed officials, employees and volunteers, using** ISO Form CG2026 or equivalent including products and completed operations coverage ISO Form CG2037 or equivalent. Additional Insured coverage on a primary and non-contributory basis.

Extensions – Mandatory

- Aggregate Limits to apply per project.
- Full Contractual Liability extending to Hold Harmless Agreement.
- Contractual Liability Insurance is afforded per the definition of "insured contract" as defined in Form CG0001 with no endorsements that amend or restrict the definition of "insured contract".
- The general liability is to be primary and non-contributory to any insurance carried by any additional insured.
- The general liability must not include any exclusion, limitation or restriction pertaining to interior or exterior work height; "action over" type claims; or "injury to employee or subcontractor" exclusions, nor any exclusions for Claims that fall within the Purview of New York Labor Law Sections 200, 240 &241.
- Waiver of Subrogation in favor of all additional insureds.

IV. **Automobile Insurance**

Limit	$1,000,000. Combined Single Limit
Additional Insured	**Incorporated Village of Bayville, all elected and appointed officials, employees and volunteers, engineers, appointed professionals and consultants** on a primary and non-contributory basis.

The automobile liability is to be primary and non-contributory to any insurance carried by any additional insured.

Incorporated Village of Bayville

Insurance and Indemnification Requirements for Independent Contractors/Sub-Contractors of Tenant

Page Four of Four

INDEMNIFICATION/HOLD HARMLESS AGREEMENT

The INDEPENDENT CONTRACTOR/VENDOR shall indemnify, hold harmless and defend the **Incorporated Village of Bayville**, its officers, employees, and/or agents from any and all liability, damage, loss, claims, demands and actions of any nature whatsoever, for any reason whatsoever, foreseeable or unforeseeable, which arises out of or is connected with, or is claimed to arise out of to be connected with, any undertaking, product, goods, merchandise, products, services sold and/or work supplied, furnished or performed by the INDEPENDENT CONTACTOR/VENDOR or its subcontractors and/or agents, on account of personal injury, death or property loss to the **Incorporated Village of Bayville,** its officers, employees, agents or to any other persons, third parties, or property, but shall not include claims resulting from the gross negligence or willful misconduct of **Incorporated Village of Bayville** This indemnity and hold harmless is intended to be as broad as is permitted by law and to include claims of every kind and nature – for tort, under contract, for strict liability or other liability without fault, under statute, rule, regulation or order, and otherwise.

The indemnification provided by this Agreement shall be a continuing right to indemnification and shall survive the expiration or termination of this Agreement.

IN WITNESS WHEREOF, the undersigned has duly executed this Agreement the ___ day of _____, 20___.

_____	_____
Witness	INDEPENDENT CONTRACTOR/VENDOR
_____	_____
Signature	Address
_____	_____
Date	Signature
_____	_____
Print Name	(Please Print Name and Title)

Dru Associates, Inc.
Ecological Science for a Changing World

Review of Bids
Maintenance Dredging
Village of Bayville Marina
June 2022

Prepared by Dr. Ron Abrams and James Bajek

The review of the two bids by H&L Contracting and Coastline Consulting contain large discrepancies in the costs for each category. This makes the review complicated because it limits our ability to do apples-apples comparisons of the two bids or comparisons to our experience in other dredging project costs in this region.

Consider Mobilization: one bid is double the other. H&L are already working in the area, so their cost of $425,000 is difficult to understand, as they should know the area and already be prepared to move in and out of the work area, unless they must move equipment from a far distance, or unless they need to purchase new, or lease equipment for this particular job.

In the category of Reporting there is more than a 10-fold difference. Most of the reporting of dredged material disposal is done automatically by equipment fitted to the dump scow. The continual operation of such equipment does not require substantial labor once it has been properly calibrated. The cost of $70,000 is more than enough to purchase new monitoring equipment and is unrealistic for an operation such as this unless new equipment is needed by the firm. Even if a number of surveys are planned, our cost for a survey is under $4,000, so even if they want to survey every week for 4 weeks, the amount of $70,000 is way over reason.

In the most important category, Sediment dredging and disposal, the two bids show a discrepancy that is also unrealistic. A bid of $61 per yard is the highest by far of the information at our disposal for this region. The bid of $35 per yard is right in the middle of the range to be expected. From discussions with local persons and from our own experience we are aware of an informal estimate from one of the listed contractors at $21 per yard. In our experience, the rate of $30-40 per yard is common, so while the submitted disposal rates bracket the full range of possibility, we see no reason why the high bid should apply at Bayville because the project does not have unusual or problematic conditions that merit the high range.

Again we raise the thought that perhaps the Village has an alternative route for achieving their goal such as single source contracting. If single source contracting may be allowed perhaps we should look into the firm that provided the informal estimate since that appears to be in the range of what the Village could afford as well as within the range of what we would expect the dredging to cost for this type of project.

40 Hitching Post Lane, Glen Cove, New York, USA 11542 516 676-7107
Beach Rd., Empire Flats, Apt S002, Muizenberg, 7945, South Africa +27 21 788 4246
Mountain Ponds, 24 Eagle Drive, Wilmington, VT 05363

In terms of the provisions of the RFP concerning subcontracting, one of the bids, by Coastline Consulting appears to violate the limit of the percentage of subcontractors. According to Coastline's bid document they list Patriot Marine, LLC who would be their subcontractor to do the dredging. Furthermore, this extract from Coastline's website acknowledges, in our opinion, that they will manage but not execute the dredging.

Coastline Consulting, LLC has extensive experience with dredging projects throughout New England. Our scope of services are turn-key from the initial project development to the actual project dredging. Our experience and large network of dredgers will ensure a successful project. The range of dredging services we provide for our clients include the following:

- Pre-Dredge and Post-Dredge Hydrographic Surveys
- Dredge Volume Calculations
- Dredge Footprint Design & Layout
- Sediment Sampling Work Plans
- Sediment Coring, Sampling, & Analytical Testing
- Preparation of Federal & State Permit Applications
- Essential Fish Habitat (EFH) Evaluations
- Preparation of Dredge Cap Plans
- Preparations of Dredge Contract Specifications
- Dredge Contractor Management & Coordination

Conclusion: At this time we do not find that either bid submitted meets the needs or are to the benefit of the citizens of Bayville. Aside from the fact that the bid values far exceed the expressed resources of the Village for this project, the content of the bids does not lend itself to confidence that these are appropriate bids for the Village. Amongst the responses from some of the listed contractors that chose not to bid was a concern that their equipment might not be able to pass the bridge construction work, or perhaps they simply chose not to deal with that challenge. While it is not our preferred solution, re-issuing the RFP after the bridge work is complete might reduce the costs by increasing the competition for the project.

Recommendations:

1. The two bids received should be rejected.
2. Sole source contracting should be explored.
3. Delay of the project until after the bridge is completed should be considered.

Proposed Local Law 2022-B

Incorporated Village of Bayville, County of Nassau

A local law to establish no parking on Cemetery Lane between the hours of 6:00 PM and 6:00 AM.

BE IT ENACTED by the Board of Trustees of the Incorporated Village of Bayville as follows:

Section 1. Legislative Intent

It is the intent of this local law to establish no parking on Cemetery Lane between the hours of 6:00 PM and 6:00 AM by amending the Village Code § 75-45 Schedule XII: No Parking Certain Hours.

Section 2. Authority

This local law is enacted pursuant to the authority contained in the Village Law of the State of New York, the Vehicle and Traffic Law of the State of New York and in Article 2 of the Municipal Home Rule Law of the State of New York.

Section 3. § 75-45 Schedule XII: No Parking Certain Hours.

The following street, side, hours, and location are hereby added to Section 75-45 of the Village Code of the Incorporated Village of Bayville, Schedule XII: No Parking Certain Hours:

Name of Street	Side	Hours	Location
Cemetery Lane	Both	6:00 p.m. to 6:00 a.m.	Entire length

Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation, or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

EXECUTIVE SESSION RESOLUTION

Trustee_____ moved to adjourn the Regular Meeting and to convene into Executive Session at_____ PM to discuss the following matters:

Discussion with Village Attorney regarding the following:

Litigation

Seconded by: Trustee_____."