

**CLIFTON PARK WATER AUTHORITY  
BOARD MEETING**

**Wednesday, November 9, 2022  
7:00 PM**

**AGENDA**

- Approve Minutes of October 5, 2022 Meeting

**Privilege of the Floor**

**Old Business**

- Project to Increase Capacity from SCWA
- DISH Network Lease Request
- Mountain View Meadows Subdivision
- 2023 CPWA Operating and Capital Budgets

**New Business**

- Amend CPWA General Terms and Conditions
- Bond Covenant Resolution

**Other Business**

- Union Negotiations

**Clifton Park Water Authority**

**Resolution # \_\_\_\_, 2022**

**Enter into Proposed Lease Agreement with DISH Wireless LLC for Location on Knolltop Water Storage Tank**

**WHEREAS**, DISH Wireless LLC, a Colorado Limited Liability Company, has submitted a proposed lease agreement for the installation of wireless communication service systems or receiver equipment on the Knolltop Water Tank, and

**WHEREAS**, the proposed lease has been reviewed and approved by the Clifton Park Water Authority's Attorney,

**NOW THEREFORE BE IT**

**RESOLVED**, that the Lease Agreement submitted by DISH Wireless LLC shall be and hereby is approved, and it is further

**RESOLVED**, that the Clifton Park Water Authority Chairman is hereby authorized to execute the lease, the memorandum of the lease, and any other documents necessary to facilitate this agreement.

Motion By: \_\_\_\_\_

Seconded By: \_\_\_\_\_

Roll Call Vote:

	<u>Ayes</u>	<u>Noes</u>
Mr. Gerstenberger	_____	_____
Mr. Ryan	_____	_____
Mr. Taubkin	_____	_____
Mr. Butler	_____	_____
Ms. Brondi	_____	_____

## SITE LEASE AGREEMENT

This Site Lease Agreement (the “**Agreement**”) is made and effective as of \_\_\_\_\_, 2022 (the “**Effective Date**”), by and between The Clifton Park Water Authority, a \_\_\_\_\_ having a place of business at 661 Clifton Park Center Rd, Clifton Park NY 12065 (“**CPWA**” or “**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**,” or “**DISH**” 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.

“**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 adding, replacing, or modifying Tenant’s Equipment within the Premises.

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

“**Structure**” means that certain structure 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 51 Castle Pines, Clifton Park, NY 12065, as more particularly described in Exhibit A. Landlord leases to Tenant approximately 35 square feet of land space and 3 antenna arrays of 48 SF each on the pedestal of Landlord’s water tower for a total tower lease area of 144 SF, for the use and operation of its facilities as such are specifically described in detail in Exhibit B, collectively referred to as the “**Premises**”. With Landlord’s prior written consent, which shall not be unreasonably withheld, conditioned or delayed, Tenant shall have: (a) the right to use any available electrical systems and/or fiber installed at the Property to support Tenant’s Installation; and (b) necessary easements on, over, under, and across the Property for utilities, fiber and access to the Premises. Landlord, with its prior written consent, which shall not be unreasonably withheld, conditioned or delayed, agrees that providers of utility or fiber services may use such easement(s) and/or available conduit(s) for the installation of 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, Landlord, with its prior written consent, which shall not be unreasonably withheld, conditioned or delayed, agrees to grant Tenant and/or the applicable third party utility or fiber provider the right, at Tenant's sole cost and expense, to 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).

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 (1<sup>st</sup>) day of 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. So long as Tenant has not been in Default, 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 one hundred eighty (180) days prior to the end of the then-current Term in order to allow Landlord sufficient time to find a replacement tenant. 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 One Thousand Five Hundred and 00/100 Dollars (\$1,500.00) per month. The first Rent payment shall be made within thirty (30) business days of the Commencement Date, with subsequent rent payable by the first day of each month. On each annual 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 needs a validly completed IRS approved W-9 form (or its equivalent) in order to pay Rent or any other amount(s) due under this Agreement. LESSEE agrees to provide three (3) months' rent as a security deposit for the faithful performance of its obligations under this Agreement and to increase the deposit by 15% at the inception of each 5 year renewal term.

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 are required by any Governmental Authority in accordance with Applicable Law (collectively, the "**Governmental Approvals**"). Tenant will endeavor to obtain all such Governmental Approvals promptly, time being of the essence. 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 and appropriate 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) after said ninety (90) has expired. If this Agreement is terminated, this Agreement shall be of no further force or effect (except as set forth to the contrary

herein).2.5 REMOVAL AT END OF TERM. Within 60 days of expiration or within 60 days of earlier termination, LESSEE shall remove LESSEE's communications equipment) and restore the Premises to its original condition, reasonable wear and tear excepted. So long as LESSEE is not in Default, LESSOR agrees and acknowledges that the communications equipment shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable laws. If such time for removal causes LESSEE to remain on the Premises after termination of the Agreement, LESSEE shall pay rent in accordance with Paragraph 2.3 hereof. LESSEE shall obtain and provide an Equipment/Structural Removal Bond in favor of and naming CPWA as Obligee guaranteeing the removal of said communications equipment within said 60-day period which has been installed and/or placed upon the leased premises by LESSEE in the sum of Seventy-Five Thousand (\$75,000.00) Dollars. Prior to the commencement of any additional lease renewals or extensions referenced in Paragraph 2.3 above, the Parties will review the removal bond amount and increase it to provide for adequate and reasonable security for the removal of the communication equipment. **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, , equipment designed to transmit and receive radio frequency signals) (collectively, "**Tenant's Equipment**"), which shall include the right to replace, repair, , or modify any or all of Tenant's Equipment and the frequencies over which Tenant's Equipment operates upon prior written notice to Landlord ("**Tenant's Permitted Use**"), which shall not be unreasonable withheld, conditioned or delayed, 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 with prior written notice to Landlord, which shall not be unreasonable withheld, conditioned or delayed.

3.2 Access. Commencing on the Effective Date and continuing throughout the Term, Tenant, its employees, agents and contractors shall have 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. Landlord's contact numbers are (518) 383-1122 during normal business hours (8am – 4pm) and (518) 386-0777 after hours.

3.3 Modifications to Tenant's Equipment. After Tenant's initial Installation, Tenant may make Permitted Modifications, provided that the new equipment does not increase the loading of Lessor's water tank and the new equipment can be installed without violating any of the provisions of this Agreement, including those which allow Tenant to: (i) modify or add additional technologies; and (ii) modify or add equipment within the Premises in its original location and within its current lease area boundaries hereby described in Exhibits A and B attached hereto, and so long as the total size of Tenant's land lease area does not exceed thirty-five (35) square feet and so long as Tenant's tower lease area does not exceed 3 antenna arrays of 48 SF each for a total of 144 SF; 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 except that Tenant shall pay Landlord's engineering review fees or increased costs for utilities and insurance as a result of the Permitted Modifications. For any modification or addition that is not a Permitted Modification, Tenant shall obtain Landlord's approval of Tenant's installation plans and specifications prior to commencing any such addition or modification, and such approval consent shall not be unreasonably withheld, conditioned or delayed.

#### **4. Utilities, Liens and Taxes.**

4.1 Utilities. Tenant shall pay for and make its own utility arrangements directly with the relevant providers at its own expense. Tenant is required to have its own metered electrical connection in its own name and to provide all necessary power to their equipment through that meter.

4.2 Liens. Tenant shall 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 sixty (60) days of service of Notice of the same; 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 sixty (60) day period, and thereafter diligently contests such lien. In the event Tenant fails to deposit the aforementioned security with Landlord within such sixty (60) day period or fails to pay any lien or claim within sixty (60) days 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 or claim, including actual legal fees and expenses incurred, to charge the same to Tenant and to terminate this Lease if said charges have not been fully paid within sixty (60) days of Notice to Tenant.

4.3

4.3 TAXES and UTILITIES.

(a). LESSOR shall invoice and LESSEE shall pay any applicable transaction tax (including sales, use, gross receipts, or excise tax) imposed on LESSEE and required to be collected by LESSOR based on any service, rental space, or equipment provided by LESSOR to LESSEE. LESSEE shall pay all personal and real property taxes, fees, assessments, or other taxes and charges imposed by any Government Entity and utilities that are imposed on LESSEE and required to be paid by LESSEE or that are directly attributable to LESSEE's equipment or LESSEE's use and occupancy of the Premises. Payment shall be made by LESSEE within 30 days after presentation of a receipted bill and/or assessment notice which is the basis for such taxes or charges. LESSOR shall pay all ad valorem, personal property, real estate, sales and use taxes, fees, assessments or other taxes or charges that are attributable to LESSOR's Property or any portion thereof imposed by any Government Entity.

(b). LESSEE shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which LESSEE is wholly or partly responsible for payment. LESSOR shall reasonably cooperate with LESSEE at LESSEE's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by LESSEE, there is a reduction, credit or repayment received by LESSOR for any taxes previously paid by LESSEE, LESSOR agrees to promptly reimburse to LESSEE the amount of said reduction, credit or repayment. In the event that LESSEE does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this paragraph, LESSOR will pursue such dispute at LESSEE's sole cost and expense upon written request of LESSEE.

**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 at the Structure which blocks or interferes 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 at the Structure 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.

Normal maintenance of water towers/tanks requires that they be painted on a regular basis. At such times as Lessor is required to paint the Knoll Top Water Tank, Lessor shall provide 60 days' notice to Lessee of its intention to do so. Lessor will notify any painting contractor of Lessee's equipment and will require the contractor to use its best efforts not to get paint on Lessee's equipment and not to interfere with or cause technical interference

with Lessee's equipment. In the event that Lessor requires Lessee to move its equipment, in whole or in part in order to accomplish such painting, then Lessor shall provide ground space in the vicinity of the Knoll Top Water Tank for Lessee to erect a temporary structure necessary to provide uninterrupted wireless communication service until such time as the painting is complete and Lessee is able to re-install its equipment thereon and thereupon remove its temporary structure. At such time as Lessee is required to paint its equipment on the Knoll Top Water Tank, Lessee shall provide Lessor with 60 days of notice of its intention to do so. Lessee shall exercise due care in the painting of its equipment so as not to create a spill or overspray that might adversely affect the environment or personal or real property owned by Lessor, Lessor's personnel, adjoining Lessees' equipment, other property owners or their guests. Lessee shall promptly clean up any overspray or spill or dispose of same as required by law.

## 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 increase the size of the Premises.

## 7. Surrender and Hold Over.

7.1 Surrender. Except as set forth to the contrary herein, within sixty (60) 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, alteration and improvements to the Premises, in either case, normal wear and tear excepted. The Parties acknowledge and agree that Rent will accrue and be paid 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**"), Landlord shall have the option, in its sole discretion, to have Tenant's equipment removed at Tenant's expense or 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 one hundred fifty percent (150%) of 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. In the event there is a default by the LESSEE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, the LESSOR shall give LESSEE written notice of such default. After receipt of such written notice, the LESSEE shall have fifteen (15) days in which to cure any monetary default, and thirty (30) days in which to cure any non-monetary default, provided the LESSEE shall have such extended period as may be required beyond the thirty (30) days and the LESSEE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. The LESSOR may not maintain any action or effect any remedies for default against the LESSEE unless and until the LESSEE has failed to cure the same within the time periods provided in this paragraph, unless shorter time periods are delineated elsewhere in this Agreement. This provision shall be inapplicable in all cases of emergency or where waiting for the afore-mentioned time frames will create a risk to public's health, safety or welfare. LESSEE shall be permitted a maximum of three (3) events of Default cumulatively over the initial term and any renewals thereof, after which LESSOR shall be permitted to terminate this Lease upon fifteen (15) days written notice to LESSEE.

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 upon ninety (90) days prior written Notice to Landlord due to any one or more of the following: (i) changes in Applicable Law which legally prohibit or makes it impossible for Tenant to operate Tenant's Equipment at the Premises; (ii) Tenant determines that it is unable to use the site due to technological reasons;; (iii) Landlord or a third party installs any structure, equipment, or other item which blocks, or prevents Tenant from being able to use the Tenant Equipment for Tenant's Permitted Use and Landlord is unable to remove the blockage within said 90 day period. Notwithstanding anything to the contrary contained herein, Lessor reserves the right to terminate this Lease if it shall reasonably determine, in a manner consistent with applicable law, that the leased premises are required for water authority purposes.

## 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.

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.; 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.

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. Before the Commencement Date, Lessee, , shall furnish to Lessor a certificate or certificates showing that the required insurances are in effect, that the insurances cannot be cancelled or changed until 30 days after written notice thereof has been provided to Lessor, and that Lessor is named as an additional insured.

## **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; (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**"); and (f) Tenant's use and quiet enjoyment of the Premises shall not be disturbed.

## **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; (

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.

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 reasonable 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 such termination becomes effective or the date Tenant's equipment is removed, whichever is later, 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 adjusted. 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. If requested by Tenant, Landlord and Tenant agree to execute a Memorandum of Lease that Tenant may record at Tenant's sole cost and expense. The date set forth in the Memorandum of Lease is for recording purposes only, and bears no reference to commencement of the Term or rent payments of any kind.

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, , acts of God, calamitous accidents, governmental prohibitions, insurrections, riots, enemy act, war, civil commotion, fire, explosion, flood, windstorm, earthquake, natural disaster or other significant 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. 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, Jurisdiction, Venue 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. Each of the Parties consents to the exclusive jurisdiction and venue of all actions in the New York State Supreme Court in and for Saratoga County.

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.

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, overnight or priority US mail (postage pre-paid) with return receipt requested or by courier service (charges prepaid), , 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 12.12) to the other Party (“**Notice**”). The receipt of such Notice by 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:**

Clifton Park Water Authority  
Attn: \_Don Austin, Administrator, 661 Clifton  
Park Center Road, Clifton Park, New York  
12065 \_\_\_\_\_

**If to be given to Tenant:**

DISH Wireless L.L.C.  
Attn: Lease Administration  
5701 South Santa Fe Blvd.  
Littleton, Colorado 80120

*If by courier service:*

\_\_\_\_\_  
\_\_\_\_\_  
*If by first-class certified mail:*

\_\_\_\_\_  
\_\_\_\_\_  
*If by email:*  
Email address: \_\_\_\_\_

12.13 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.

12.14 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.

12.15 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.

12.16

12.17 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:**

**CLIFTON PARK WATER AUTHORITY**

**DISH WIRELESS L.L.C.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Helmut Gerstenberger

Name: \_\_\_\_\_

Its: Chairman

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT A

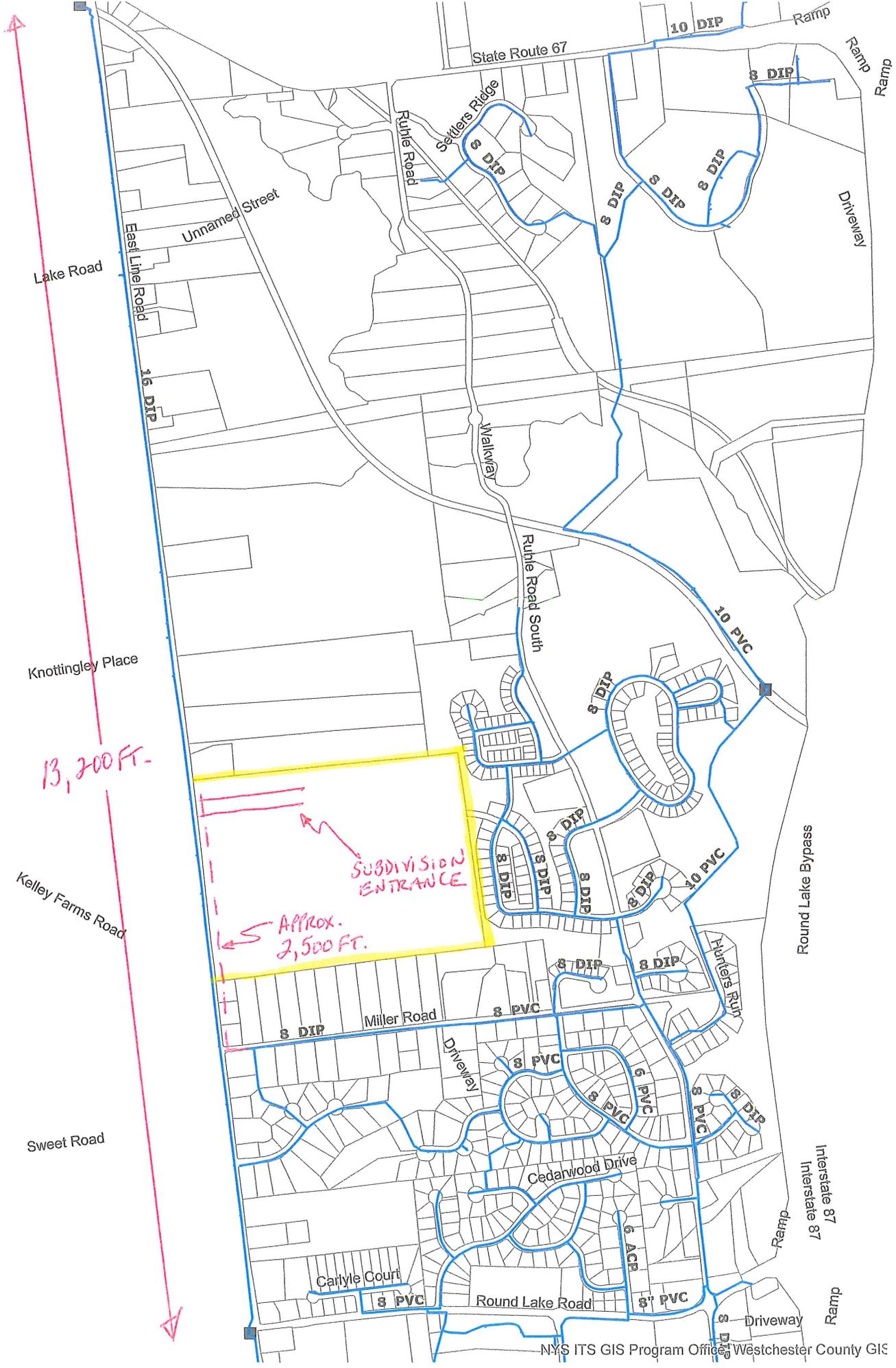
LEGAL DESCRIPTION OF PROPERTY

[To be inserted prior to execution]

EXHIBIT B

SITE PLAN

[To be inserted prior to execution]



**Clifton Park Water Authority**

**Resolution # \_\_\_\_\_, 2022**

**Adopting 2023 Operating and Capital Budgets**

**NOW, THEREFORE BE IT**

**RESOLVED**, that the Clifton Park Water Authority Board of Directors hereby adopts the 2023 Operating Budget and Capital Budget as attached, effective January 1, 2023.

Motion to Accept: \_\_\_\_\_

Seconded: \_\_\_\_\_

Roll Call Vote

	<u>Ayes</u>	<u>Noes</u>
Mr. Gerstenberger	_____	_____
Mr. Ryan	_____	_____
Mr. Taubkin	_____	_____
Mr. Butler	_____	_____
Ms. Brondi	_____	_____

**CLIFTON PARK  
WATER AUTHORITY**



**PRELIMINARY BUDGET**

**FISCAL YEAR 2023**

## OPERATION AND MAINTENANCE EXPENSES

<u>CODE</u>	<u>DESCRIPTION</u>	<u>2023</u> <u>PROPOSED</u>	<u>2022</u> <u>ADOPTED</u>	<u>2021</u> <u>ACTUAL</u>	<u>CHANGE (%)</u>
5000	WAGES	\$ 777,536	\$ 722,049	\$ 702,051	7.68
5001	OVERTIME	\$ 60,000	\$ 55,500	\$ 64,029	8.11
5002	SEASONAL EMPLOYEES	\$ 23,000	\$ 14,500	\$ 7,138	58.62
5010	FICA + MEDICARE	\$ 65,051	\$ 60,592	\$ 56,599	7.36
5020	RETIREMENT	\$ 116,056	\$ 98,894	\$ 127,511	17.35
5125	HEALTH INSURANCE	\$ 292,002	\$ 252,393	\$ 239,727	15.69
	SUBTOTAL	<u>\$ 1,333,644</u>	<u>\$ 1,203,928</u>	<u>\$ 1,197,055</u>	10.77
5310	CONSULTANT FEES	\$ 1,000	\$ 1,000	\$ 1,100	0.00
5320	LAB FEES	\$ 40,000	\$ 40,000	\$ 34,803	0.00
5330	EDUCATION	\$ 3,000	\$ 3,000	\$ 985	0.00
5400	ELECTRICITY	\$ 285,000	\$ 275,000	\$ 264,469	3.64
5405	GAS & OIL	\$ 40,000	\$ 30,000	\$ 20,169	33.33
5500	TREATMENT CHEMICALS	\$ 265,000	\$ 190,000	\$ 193,745	39.47
5610	SUPPLIES	\$ 8,000	\$ 7,500	\$ 5,750	6.67
5700	REPAIRS & MAINTENANCE	\$ 300,000	\$ 220,000	\$ 230,435	36.36
5710	SMALL TOOLS	\$ 5,200	\$ 5,200	\$ 4,090	0.00
5715	CONTRACTED REPAIRS	\$ 60,000	\$ 60,000	\$ 46,217	0.00
5730	UNIFORMS	\$ 6,000	\$ 6,000	\$ 6,306	0.00
5805	VEHICLE MAINTENANCE	\$ 16,000	\$ 16,000	\$ 14,578	0.00
5810	MILEAGE	\$ 500	\$ 1,100	\$ -	(54.55)
5901	PRESERVE RENTAL	\$ 62,000	\$ 61,000	\$ 61,518	1.64
5902	NPDES PERMIT	\$ 2,500	\$ 2,500	\$ 2,500	0.00
5903	PURCHASED WATER	\$ 1,000,000	\$ 900,000	\$ 872,079	11.11
5910	EQUIPMENT RENTAL	\$ 1,500	\$ 1,500	\$ 2,153	0.00
5950	PROPERTY TAXES - MALTA	\$ 70,000	\$ 80,000	\$ 63,490	(12.50)
6000	MISCELLANEOUS	\$ 9,000	\$ 9,000	\$ 9,630	0.00
	SUBTOTAL	<u>\$ 2,174,700</u>	<u>\$ 1,908,800</u>	<u>\$ 1,834,017</u>	13.93
<b>TOTAL O &amp; M</b>		<u><b>\$ 3,508,344</b></u>	<u><b>\$ 3,112,728</b></u>	<u><b>\$ 3,031,072</b></u>	12.71

## GENERAL AND ADMINISTRATIVE EXPENSES

<u>CODE</u>	<u>DESCRIPTION</u>	<u>2023</u> <u>PROPOSED</u>	<u>2022</u> <u>ADOPTED</u>	<u>2021</u> <u>ACTUAL</u>	<u>CHANGE (%)</u>
7000	WAGES	\$ 381,944	\$ 356,917	\$ 358,875	7.01
7010	FICA + MEDICARE	\$ 28,980	\$ 27,075	\$ 25,503	7.04
7020	RETIREMENT	\$ 54,274	\$ 46,009	\$ 62,744	17.96
7125	HEALTH INSURANCE	\$ 120,313	\$ 114,114	\$ 107,954	5.43
	SUBTOTAL	<u>\$ 585,511</u>	<u>\$ 544,115</u>	<u>\$ 555,076</u>	7.61
7100	INSURANCE, GENERAL	\$ 41,000	\$ 38,000	\$ 34,837	7.89
7105	WORKERS COMPENSATION	\$ 38,873	\$ 44,370	\$ 37,322	(12.39)
7310	CONSULTANT FEES	\$ 7,000	\$ 6,000	\$ 6,706	16.67
7320	DUES	\$ 600	\$ 600	\$ 424	0.00
7330	EDUCATION	\$ 1,000	\$ 1,000	\$ -	0.00
7400	OFFICE SUPPLIES	\$ 30,000	\$ 26,000	\$ 28,533	15.38
7410	POSTAGE	\$ 32,000	\$ 31,000	\$ 28,922	3.23
7420	AUDIT & ACCOUNTING	\$ 37,000	\$ 36,000	\$ 36,594	2.78
7425	LEGAL FEES	\$ 25,000	\$ 23,000	\$ 16,840	8.70
7430	ENGINEERING FEES	\$ 16,000	\$ 11,000	\$ 19,277	45.45
7600	SERVICE CONTRACTS	\$ 27,000	\$ 27,000	\$ 24,113	0.00
7700	TELEPHONE EXPENSES	\$ 18,000	\$ 16,500	\$ 17,419	9.09
7705	TECHNICAL SUPPLIES	\$ 2,500	\$ 2,500	\$ 1,244	0.00
7710	UTILITIES OFFICE	\$ 8,200	\$ 7,000	\$ 7,950	17.14
7810	MILEAGE	\$ 200	\$ 200	\$ -	0.00
7815	TRAVEL	\$ 500	\$ 500	\$ 104	0.00
7820	BAD DEBT EXPENSE	\$ 2,000	\$ 4,000	\$ 228	(50.00)
7822	COLLECTION AGENCY FEE	\$ 300	\$ 300	\$ 90	0.00
7824	BANK SERVICE CHARGE	\$ 7,000	\$ 6,360	\$ 6,815	10.06
7990	MISCELLANEOUS	\$ 3,000	\$ 4,000	\$ 2,241	(25.00)
	SUBTOTAL	<u>\$ 297,173</u>	<u>\$ 285,330</u>	<u>\$ 269,659</u>	4.15
<b><u>TOTAL GENERAL &amp; ADMINISTRATIVE</u></b>		<b><u>\$ 882,684</u></b>	<b><u>\$ 829,445</u></b>	<b><u>\$ 824,735</u></b>	6.42

## BUDGET SUMMARY

	<u>2023</u> <u>PROPOSED</u>	<u>2022</u> <u>ADOPTED</u>	<u>2021</u> <u>ACTUAL</u>	<u>CHANGE (%)</u>
<b><u>EXPENSES</u></b>				
WAGES AND BENEFITS	\$ 1,919,154	\$ 1,748,043	\$ 1,752,131	9.79
ADMINISTRATION EXPENSES	\$ 297,173	\$ 285,330	\$ 269,659	4.15
O & M EXPENSES	\$ 2,174,700	\$ 1,908,800	\$ 1,834,017	13.93
TOTAL OPERATIONAL COSTS	\$ 4,391,027	\$ 3,942,173	\$ 3,855,807	11.39
DEBT SERVICE COSTS	\$ 1,989,513	\$ 1,987,013	\$ 1,991,413	0.13
TOTAL EXPENDITURES	<u>\$ 6,380,540</u>	<u>\$ 5,929,186</u>	<u>\$ 5,847,220</u>	7.61
<b><u>REVENUES</u></b>				
METERED WATER SALES	\$ 4,850,000	\$ 4,450,000	\$ 4,542,324	8.99
BULK SALES	\$ 61,500	\$ 50,000	\$ 62,994	23.00
HYDRANT CHARGES	\$ 542,226	\$ 528,643	\$ 508,177	2.57
PRIVATE FIRE	\$ 35,000	\$ 35,000	\$ 34,841	0.00
HOOK UP FEE	\$ 70,000	\$ 70,000	\$ 71,650	0.00
BASIC SERVICE CHARGE	\$ 1,066,300	\$ 1,066,300	\$ 1,054,644	0.00
LEASE INCOME	\$ 140,652	\$ 140,652	\$ 137,849	0.00
INTEREST ON CAPITAL	\$ 5,000	\$ 5,000	\$ 3,039	0.00
MISCELLANEOUS*	\$ 30,000	\$ 30,000	\$ 57,721	0.00
TOTAL REVENUE	<u>\$ 6,800,678</u>	<u>\$ 6,375,595</u>	<u>\$ 6,473,239</u>	6.67
RESERVED, CAPITAL	\$ 420,138	\$ 446,409	\$ 626,019	
DEBT SERVICE RATIO	1.21	1.22	1.31	

Miscellaneous Revenues include charges and fees such as: Inspection Fees, Interest Charges, Plan Review Fees, Hydrant Permit Fees and others.

**Clifton Park Water Authority  
2023 Capital Budget**

<u>Item</u>	<u>Estimated Cost</u>
Brass Goods	\$ 34,000
Water Meters (Includes Routine Meter Replacements and Scheduled Replacements)	\$ 160,000
SCADA Work and Computer Upgrade	\$ 10,000
Hydrant Flags	\$ 5,200
Tank Inspections - Blue Spruce, Boyack, Miller, Barney	\$ 10,000
Turbidimeters (3) - Boyack WTP	\$ 11,000
Well Redevelopment	\$ <u>32,000</u>
<b>Total</b>	<b>\$ <u>262,200</u></b>
<b>CPWA Fund Balance (as of 10/3/22)</b>	<b>\$ 2,331,335</b>

**Clifton Park Water Authority**

**Resolution # \_\_\_\_, 2022**

**Amend CPWA General Terms and Conditions of Service**

**WHEREAS**, the CPWA Board of Directors previously adopted General Terms and Conditions of Service, which apply to all customers of the CPWA, and

**WHEREAS**, CPWA wishes to amend those General Terms and Conditions of Service to include rules and responsibilities regarding backflow prevention devices, now therefore be it

**RESOLVED**, that the Clifton Park Water Authority hereby amends its General Terms and Conditions of Service to include the following:

3. Backflow Prevention

- a. All newly constructed residential and commercial buildings shall include backflow prevention devices as deemed necessary by NYS Building Code and the Clifton Park Water Authority.
- b. Backflow prevention devices in commercial buildings shall be tested annually, with reports submitted to the CPWA through its designated online reporting system.
- c. All required testing, repair and/or replacement of commercial backflow prevention devices shall be the responsibility of the property owner. Failure to comply with any requirements to test, repair or replace a commercial backflow prevention device may result in fines and/or termination of water service. If the water account for the property is not in the name of the property owner, failure on the part of the property owner to complete any required testing, repair or replacement of a commercial backflow prevention device may result in revocation of the courtesy granted in Section (6)(a) of these General Terms and Conditions of Service, with responsibility for the water account then being transferred permanently into the name of the property owner.

Motion By: \_\_\_\_\_ Seconded By: \_\_\_\_\_

Roll Call Vote:

	<u>Ayes</u>	<u>Noes</u>
Mr. Gerstenberger	_____	_____
Mr. Ryan	_____	_____
Mr. Taubkin	_____	_____
Mr. Butler	_____	_____
Ms. Brondi	_____	_____

## Clifton Park Water Authority

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### General Terms and Conditions of Service

#### 1. Metering

All customers of the Clifton Park Water Authority (“CPWA”) system shall have their usage metered, with the exception of commercial fire protection systems. Meters shall be of a type specified by the CPWA prior to installation.

##### a. Location of Meters

Meters shall be located in the basement or mechanical/utility room if one is available. The water meter shall be placed where the water service line comes through the basement wall of basement floor. Where no basement is provided, the meter shall be placed where the service line comes through the wall or floor of the mechanical/utility room. All water meters installed within buildings shall be in a horizontal position, a minimum of 18 inches, but no more than 42 inches from where the water service first penetrates the floor or wall of the structure. The base of a single water meter shall be set at a height of not less than 12 inches, and not more than 42 inches above the floor surface. Meters shall be indoors and protected from freezing and other damage. No meters shall be installed in a crawl space under a residence. A meter pit may be installed outside the residence if the meter cannot be installed in the basement or mechanical/utility room. All meters shall be accessible to the Authority for inspection and reading.

##### b. Type of Meter

Meter size shall be determined by the property owner, but shall not be less than 5/8” x 3/4”. Meter type shall be determined by the CPWA prior to installation and shall be dependent on the type of usage expected in the building. All meters shall be radio-read and of a brand and type specified by the CPWA.

##### 1. Opt-Out of Radio-Read Requirement

Should a customer express concerns over the installation of a radio-read meter in their home or business, they can opt to have a non-radio-read meter installed. To cover the additional effort on the part of the CPWA to read this style of meter, the customer will be billed additionally on each quarterly bill. This fee can be found in the CPWA’s Current Rates and Charges.

c. Metering of Irrigation

Commercial customers who have underground irrigation systems must separately meter their irrigation usage. The meter shall be installed as a sub-meter of the building's master meter. The charges for commercial irrigation are found in the CPWA's Current Rates and Charges.

2. Cross-Connections

At no point shall the domestic water system in a building that is connected to the CPWA system have an interconnection with another water supply. A physical separation must be present. It is acceptable for customers to use another water supply to service outside hose bibs, irrigation systems, etc., but the domestic water for the building must be connected to the CPWA supply, and the two supplies must be completely separated.

3. Backflow Prevention

- a. All newly constructed residential and commercial buildings shall include backflow prevention devices as deemed necessary by NYS Building Code and the Clifton Park Water Authority.
- b. Backflow prevention devices in commercial buildings shall be tested annually, with reports submitted to the CPWA through its designated online reporting system.
- c. All required testing, repair and/or replacement of commercial backflow prevention devices shall be the responsibility of the property owner. Failure to comply with any requirements to test, repair or replace a commercial backflow prevention device may result in fines and/or termination of water service. If the water account for the property is not in the name of the property owner, failure on the part of the property owner to complete any required testing, repair or replacement of a commercial backflow prevention device may result in revocation of the courtesy granted in Section (6)(a) of these General Terms and Conditions of Service, with responsibility for the water account then being transferred permanently into the name of the property owner.

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3.4. Water Rates and Charges

All current rates and charges of the CPWA can be found in the CPWA's Current Rates and Charges, which can be found on the CPWA website. Customers may also obtain a copy at the CPWA's main office. These rates and charges are subject to change at any time by resolution of the CPWA's Board of Directors.

4.5. Billing, Late Fees and Termination

- a. The CPWA shall meter and bill each direct connection to the water system and water services shall not be shared by separately metered customers.

- b. CPWA customers are billed quarterly. Bills are due 20 days after the date of the bill. A monthly finance charge at the annual rate of 18% will be assessed on any overdue balances. Customers who fail to pay their bill will be subject to termination of service prior to the next billing period.
- c. The Clifton Park Water Authority is not responsible for any damage that may occur as a result of termination of service due to non-payment.

#### 5.6. Tenant/Landlord Billing and Service

- a. The CPWA will bill the property owner for each metered account, but will, as a courtesy, bill a tenant that is directly connected to the water main and metered, however, the property owner will be responsible for any unpaid water charges of the tenant.

#### 6.7. Ownership of Water Services and Meters

- a. The Clifton Park Water Authority will own and maintain residential water services from the water main to the property line or curb stop, whichever is closer to the water main. The customer is responsible for repair/replacement of the remainder of the water service and all plumbing inside the home, with the exception of the water meter and water meter tail pieces. The CPWA owns, and will maintain, the water meter within the home.

#### 7.8. Access to Water Meter

- a. The CPWA will be allowed access to the water meter within the home for reading, repair and replacement. Access will be coordinated with the homeowner, but failure to allow access to the meter within a reasonable amount of time will result in suspension of service until such time as access is granted.

#### 8.9. Automatic Lawn Irrigation Systems

- a. All lawn irrigation systems shall be installed and maintained in accordance with the CPWA's Lawn Irrigation System Rules and Regulations.

**Clifton Park Water Authority**

**Resolution # \_\_\_\_\_, 2022**

**Resolution on the Adequacy of the Rates to Sufficiently  
Comply with the Rate Covenant**

**WHEREAS**, the Clifton Park Water Authority has completed a review, taking into consideration the completion of any uncompleted water projects and issuance of future series of bonds if necessary to finance the completion of such water projects, of its financial condition for the purpose of estimating whether the net revenues for fiscal years 2022 and 2023 will be sufficient to comply with the rate covenant contained in subsection (b) of section 7.12 of the water system revenue bond resolution adopted November 16, 1993. Now, therefore be it

**RESOLVED**, that the Clifton Park Water Authority has estimated that its net revenues for fiscal years 2022 and 2023 will be sufficient to comply with the rate covenant contained in the subsection (b) of section 7.12 of the water system revenue bond resolution adopted November 16, 1993, and it is further

**RESOLVED**, that the Clifton Park Water Authority Board of Directors hereby authorizes a copy of this resolution, certified by its chairman, an authorized officer, setting forth a reasonably detailed statement of the actual and estimated revenues, operating expenses, aggregate debt service, and any other estimates or assumptions upon which such determination was based, to be filed with the bond trustee.

Motion to Accept \_\_\_\_\_ Seconded \_\_\_\_\_

Roll Call Vote:

	Ayes	Noes
Mr. Gerstenberger	_____	_____
Mr. Ryan	_____	_____
Mr. Taubkin	_____	_____
Mr. Butler	_____	_____
Ms. Brondi	_____	_____