

CLIFTON PARK WATER AUTHORITY

BOARD MEETING NOTICE

WEDNESDAY, JUNE 7, 2023

7:00PM

661 CLIFTON PARK CENTER ROAD

CLIFTON PARK, NY 12065

**CLIFTON PARK WATER AUTHORITY
BOARD MEETING**

**Wednesday, June 7, 2023
7:00 PM**

AGENDA

- Approve Minutes of May 10, 2023 Meeting

Privilege of the Floor

Old Business

- AT&T Request for Equipment Modification
- Glenville Water Purchase Agreement

New Business

- DISH Lease Amendment
- Water Storage Tank Inspections

Other Business

CLIFTON PARK WATER AUTHORITY

BOARD MEETING MINUTES

JUNE 7, 2023

Those present were: Mr. Helmut Gerstenberger, Chairman; Mr. John Ryan, Vice Chairman; Mr. Peter Taubkin, Board Member; Mr. William Butler, Treasurer; Ms. Heather Brondi, Secretary; Mr. Donald Austin Jr., Administrator; Mr. Ronald Marshall, Superintendent; Mr. James Trainor, Attorney; and Mr. Brock Juusola, Engineer.

Mr. Gerstenberger called the meeting to order at 7:04pm.

APPROVE MINUTES OF MAY 10, 2023 MEETING

Mr. Ryan made a **motion** to approve the May 10, 2023 board meeting minutes; seconded by Mr. Gerstenberger. The **motion** carried 5-0.

PRIVILEGE OF THE FLOOR

No members of the public present.

OLD BUSINESS

AT&T REQUEST FOR EQUIPMENT MODIFICATION

Mr. Trainor has received a response from AT&T. They initially wanted to have the ability to modify their equipment and location without the CPWA's consent. Mr. Trainor responded stating those terms were not agreeable to the CPWA. They are requesting a change to the permitted use section of the agreement as follows: "Tenant maintains the right to perform routine maintenance, repairs and replacements without CPWA approval when no changes to the exterior appearance of tenant's communication facility are made." The contract states modifications are subject to CPWA approval. Mr. Austin stated that when cell carriers submit modification requests, he asks them to provide loading data and structural analysis in addition to the construction plans. Mr. Trainor will email the Board the updated contract for their review.

GLENVILLE WATER PURCHASE AGREEMENT

Mr. Gerstenberger stated the Town of Glenville and the CPWA have agreed to a water purchase agreement. Under the agreement, the town will begin selling a minimum of 165,000 gallons of water per day to the CPWA beginning in 2024 at a cost of \$3.05 per 1,000 gallons. Mr. Trainor wrote up a contract and has sent it over to Mr. Austin for review.

NEW BUSINESS

DISH LEASE AMENDMENT

Mr. Trainor read the following amendment to Section 2.3 regarding the rent: “Section 2.3 of the site lease agreement shall be amended to replace the last sentence thereof with the following language. Within 30 business days from the commencement date, tenant agrees to provide a security deposit in the amount of \$7,870.53 for the faithful performance of its obligations under this agreement provided that tenant is not in default and has fulfilled all of its obligations as specifically set forth in the agreement. The security deposit or any balance thereof shall be returned to the tenant within 30 days following the expiration of the equipment removal as defined herein.” Mr. Trainor stated that except this amendment everything else remains the same from the original agreement.

A **motion** was made by Mr. Ryan to amend the lease agreement with regard to the provision of a security deposit by DISH; seconded by Ms. Brondi.

RESOLUTION # 19, 2023 – AMENDING DISH LEASE AGREEMENT

WHEREAS, the Clifton Park Water Authority has entered into a lease agreement with DISH Wireless LLC, and

WHEREAS, there is a mutual desire between the two parties to amend the lease agreement with regard to the provision of a security deposit by DISH, now therefore be it

RESOLVED, that the Clifton Park Water Authority Board of Directors hereby agrees to amend the lease agreement with DISH Wireless LLC, as attached.

Roll Call Vote:

Mr. Gerstenberger	- Aye
Mr. Ryan	- Aye
Mr. Butler	- Aye
Mr. Taubkin	- Aye
Ms. Brondi	- Aye

WATER STORAGE TANK INSPECTIONS

This is a capital budget item. Pittsburgh Tank and Tower came in as the low bidder. They will inspect four water storage tanks.

OTHER BUSINESS

- Mr. Trainor has had several conversations with Paul Goldman the attorney representing DCG Development regarding the extension of the secondary water line for their project. Right around the same time, the Town of Clifton Park said they will be moving forward with the formation of a water district for the installation of this water main on Route 9. Mr. Trainor drafted an agreement that states DCG can move forward with the construction of their project on Wood Road at their own risk. They will not be able to connect to the CPWA system unless/until the secondary line is constructed.

- Mr. Gerstenberger made a **motion** to move into executive session at 7:18pm to discuss potential litigation; seconded by Mr. Ryan. The **motion** carried 5-0.
Mr. Gerstenberger made a **motion** to move out of executive session at 7:25pm; seconded by Mr. Butler. The **motion** carried 5-0.
- This past Memorial Day weekend the CPWA peaked at 8.2 million gallons per day. CPWA personnel are driving through neighborhoods to enforce the odd/even lawn watering restrictions. They will be handing out notices of violation and sprinkler fines to repeat offenders.

The CPWA's next board meeting is scheduled for Wednesday, August 9, 2023 at 7pm.

A **motion** was made by Mr. Taubkin to adjourn the meeting at 7:44pm; seconded by Ms. Brondi. The **motion** carried 5-0.

Respectfully submitted,
Sheri Collins
Recording Secretary

cc: CPWA Board of Directors
Trainor Law PLLC

FIRST AMENDMENT TO SITE LEASE AGREEMENT

This **FIRST AMENDMENT TO SITE LEASE AGREEMENT** (“**First Amendment**”) is made and effective as of 7/20/2023, ____, 20__ (“**Effective Date**”), by and between The Clifton Park Water Authority, 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**”). Landlord and Tenant are referred to individually in this First Amendment as the “**Party**” and collectively as the “**Parties.**”

RECITALS

A. **WHEREAS**, the Parties have entered into that certain Site Lease Agreement dated April 17, 2023, (collectively, the “**Agreement**”).

B. **WHEREAS**, pursuant to the Agreement, Landlord leases to Tenant that certain Premises, located at 51 Castle Pines, Clifton Park, NY 12065, as more particularly described in the Agreement, for the installation, operation, maintenance and management of Tenant’s Equipment.

C. **WHEREAS**, Landlord and Tenant now desire to amend the Agreement, as set forth below.

NOW THEREFORE, intending to be legally bound by this First Amendment, the Parties agree as follows:

1. **Section 2.3 Rent.** Section 2.3 of the Site Lease Agreement shall be amended to replace the last sentence thereof with the following language: “Within thirty (30) business days from the Commencement Date, Tenant agrees to provide a security deposit in the amount of seven thousand eight hundred seventy and 53/100 dollars (\$7,870.53) for the faithful performance of its obligations under this Agreement. Provided that Tenant is not in default and has fulfilled all of its obligations as specifically set forth in the Agreement, the Security Deposit or any balance thereof shall be returned to Tenant within thirty (30) days following the expiration of the Equipment Removal Period as defined herein.”

2. **Effect of Amendment.** Except as hereby amended, the above-referenced Site Lease Agreement dated April 17, 2023 shall remain in full force and effect in accordance with the terms and conditions set forth therein.

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

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

LANDLORD:

CLIFTON PARK WATER AUTHORITY

By: DocuSigned by:
Helmut Gerstenberger
9849F8CDD7BB495...

Name: Helmut Gerstenberger

Its: Chairman

Date: 6/21/2023

TENANT:

DISH Wireless L.L.C.

By: DocuSigned by:
Dave Mayo
2C91432DEAF74BD...

Name: Dave Mayo

Its: EVP

Date: 7/20/2023

DS
TS DS
CW DS
SB DS
LA