

AGENDA

NOTICE OF REGULAR MEETING

TIME: 6 p.m.

DATE: Tuesday, November 1, 2022

PLACE: Regular Meeting Place
7051 Dublin Boulevard, Dublin, CA

The Boardroom is open to the public during open session. Due to the COVID-19 pandemic, meeting attendees are required to conduct a self-screening before entering District facilities. Face coverings are optional.

Our mission is to protect public health and the environment by providing reliable and sustainable water, recycled water, and wastewater services in a safe, efficient, and fiscally responsible manner.

1. CALL TO ORDER
2. PLEDGE TO THE FLAG
3. ROLL CALL – Members: Goel, Halket, Johnson, Rubio, Vonheeder-Leopold
4. SPECIAL ANNOUNCEMENTS/ACTIVITIES
 - 4.A. New Employee Introductions
5. PUBLIC COMMENT (MEETING OPEN TO THE PUBLIC)

At this time those in the audience are encouraged to address the Board on any item of interest that is within the subject matter jurisdiction of the Board and not already included on tonight’s agenda. Comments should not exceed five minutes. Speaker cards are available from the District Secretary and should be completed and returned to the Secretary prior to addressing the Board. The President of the Board will recognize each speaker, at which time the speaker should proceed to the lectern, introduce him/herself, and then proceed with his/her comment. Written comments received by 3 p.m. on the day of the meeting will be provided to the Board.
6. AGENDA MANAGEMENT (CONSIDER ORDER OF ITEMS)
7. CONSENT CALENDAR

Matters listed under this item are considered routine and will be enacted by one Motion, in the form listed below. There will be no separate discussion of these items unless requested by a Member of the Board or the public prior to the time the Board votes on the Motion to adopt.

 - 7.A. Approve Regular Meeting Minutes of October 18, 2022
Recommended Action: Approve by Motion
 - 7.B. Approve the Telecommunications Site Lease Agreement with DISH Wireless LLC for a Telecommunications Tower at Reservoir R20
Recommended Action: Approve by Motion
 - 7.C. Authorize the General Manager to Execute a Work Order with G.S.E. Construction Co., Inc. for Construction Services for the EALS Rehabilitation Project (CIP 21-P009)
Recommended Action: Authorize by Motion

8. BOARD BUSINESS

- 8.A. Receive Presentation on Drinking Water Quality
Recommended Action: Receive Presentation
- 8.B. Discuss Director Travel and Expenses Policy and Provide Direction
Recommended Action: Discuss and Provide Direction

9. REPORTS

9.A. Boardmember Items

- 9.A.1. Joint Powers Authority and Committee Reports
- 9.A.2. Submittal of Written Reports for Day of Service Events Attended by Directors
- 9.A.3. Request New Agenda Item(s) Be Placed on a Future Board or Committee Agenda

9.B. Staff Reports

- 9.B.1. Event Calendar
- 9.B.2. Correspondence from the Board

10. CLOSED SESSION

- 10.A. Public Employee Performance Evaluation Pursuant to Government Code Section 54957
Title: General Manager
- 10.B. Conference with Labor Negotiators Pursuant to Government Code Section 54957.6
Agency Designated Representative: Douglas E. Coty, General Counsel
Unrepresented Employee: General Manager

11. REPORT FROM CLOSED SESSION

12. ADJOURNMENT

All materials made available or distributed in open session at Board or Board Committee meetings are public information and are available for inspection during business hours by calling the District Secretary at (925) 828-0515. A fee may be charged for copies. District facilities and meetings comply with the Americans with Disabilities Act. If special accommodations are needed, please contact the District Secretary as soon as possible, but at least two days prior to the meeting.

**DUBLIN SAN RAMON SERVICES DISTRICT
MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS**

October 18, 2022

1. CALL TO ORDER

A regular meeting of the Board of Directors was called to order at 6:05 p.m. by Vice President Rubio.

2. PLEDGE TO THE FLAG

3. ROLL CALL

Boardmembers present at start of meeting:

Vice President Marisol Rubio, Director Arun Goel, and Director Ann Marie Johnson.

President Richard M. Halket and Director Georgean Vonheeder-Leopold were absent.

District staff present: Dan McIntyre, General Manager; Jan Lee, Assistant General Manager; Carol Atwood, Administrative Services Director/Treasurer; Steve Delight, Engineering Services Director/District Engineer; Jeff Carson, Operations Director; Douglas E. Coty, General Counsel; and Nicole Genzale, Executive Services Supervisor/District Secretary.

4. SPECIAL ANNOUNCEMENTS/ACTIVITIES – None

5. PUBLIC COMMENT (MEETING OPEN TO THE PUBLIC) – 6:07 p.m. No public comment was received.

6. AGENDA MANAGEMENT (CONSIDER ORDER OF ITEMS) – No changes were made.

7. CONSENT CALENDAR

Director Johnson MOVED for approval of the items on the Consent Calendar. Director Goel SECONDED the MOTION, which CARRIED with THREE AYES and TWO ABSENT (Halket and Vonheeder-Leopold).

7.A. Approve Regular Meeting Minutes of September 20, 2022 – Approved

7.B. Approve Special Meeting Minutes of September 27, 2022 – Approved

7.C. Accept Regular and Recurring Report: Quarterly Treasurer's Report – Approved

7.D. Approve Amendment to the Capital Improvement Program Ten-Year Plan and Two-Year Budget to Increase the Pump Station 3A MCC Improvements Project (CIP 18-W004) Budget, and Award Construction Agreement to Bockmon & Woody Electric Co., Inc. for the Pump Station 3A MCC Improvements Project (CIP 18-W004) – Approved – Resolution No. 54-22

7.E. Affirm No Changes to the Surplus Personal Property Policy – Approved

7.F. Affirm No Changes to the Risk Management for District Agreements with Contractors and Consultants Policy – Approved

- 7.G. Oppose California Ballot Initiative 21-0042A1 Aimed for November 2024 Statewide General Election – Approved – Resolution No. 55-22

8. BOARD BUSINESS

- 8.A. Receive Presentation on District's Water Conservation Status

Senior Engineer Irene Suroso reviewed the item and provided the Board a presentation which was added to the website as supplemental materials. The Board and staff discussed increasing customer responsiveness to outreach efforts, and conservation results and collaboration amongst the Tri-Valley agencies.

- 8.B. Receive Presentation on Long-Term Water Conservation Framework

Senior Engineer Suroso reviewed the item and provided the Board a presentation which was added to the website as supplemental materials. The Board and staff discussed new legislation (Senate Bill 1157), which mandates reduction of indoor water use from 50 to 42 gallons per person, per day, by 2030, and the associated penalties if the targets are not met. The Board stated its concerns regarding the feasibility and the potential impacts to resources and ratepayers of meeting these future indoor water use efficiency standards. Staff reported the legislation was approved despite opposition from several California professional water organizations. The District's ability to respond will be better understood after some additional evaluation, along with identification of necessary budget resources per the District's upcoming Water Efficiency Master Plan study. Current projects, strategies, and potential technologies to mitigate water loss for aging and new infrastructure were also discussed.

- 8.C. Receive Report and Rescind the Water Expansion Fund Management Policy and Resolution No. 13-14

Administrative Services Director Atwood reviewed the item for the Board.

Director Johnson MOVED to approve Resolution No. 56-22, Rescinding the Water Expansion Fund Management Policy and Rescinding Resolution No. 13-14. Director Goel SECONDED the MOTION, which CARRIED with THREE AYES and TWO ABSENT (Halket and Vonheeder-Leopold)

- 8.D. Receive Presentation on Proposed Emergency Intertie Maintenance Test with East Bay Municipal Utility District and Zone 7 Water Agency

Assistant General Manager Lee reviewed the item and provided the Board a presentation which was added to the website as supplemental materials. The Board was impressed by the multi-agency coordination achieved to develop the project and assemble the intertie connections, despite not having the opportunity to test it this year as planned. Ms. Lee explained the Intertie Test Agreement with the partner agencies can be revived at a future time but the ability to complete the test will depend on water supply conditions. The Board and staff also briefly discussed status of the Bay Area Regional Desalination Project and related issues being studied such as water rights, storage, and conveyance.

9. REPORTS

9.A. Boardmember Items

9.A.1. Joint Powers Authority and Committee Reports
DSRSD/Zone 7 Water Agency Liaison – October 5, 2022

Vice President Rubio invited comments on recent Committee activities. Directors felt the available staff reports adequately covered the many matters considered at the Committee meeting, and Vice President Rubio made a few comments about some of the Committee activities.

9.A.2. Submittal of Written Reports for Day of Service Events Attended by Directors
– None9.A.3. Request New Agenda Item(s) Be Placed on a Future Board or Committee Agenda
– None

Vice President Rubio stated her interest in seeing the District support leadership opportunities for young girls.

9.B. Staff Reports

9.B.1. Event Calendar – Staff had nothing to report.

9.B.2. Correspondence from the Board – None

10. CLOSED SESSION

At 7:21 p.m. the Board went into Closed Session.

10.A. Conference with Legal Counsel – Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2): (one case)
Receipt of Government Claim from California Utility Company Pursuant to the Government Claims Act

10.B. NOT HELD – Conference with Labor Negotiators Pursuant to Government Code Section 54957.6

Agency Negotiators:	Dan McIntyre, General Manager Carol Atwood, Administrative Services Director
Employee Organizations:	1. Stationary Engineers, Local 39 2. Mid-Management Employees Bargaining Unit 3. IFPTE Local 21/Professional Employees 4. Unrepresented Employees
Additional Attendees:	Douglas E. Coty, General Counsel Dania Torres Wong, Sloan Sakai Yeung & Wong LLP

11. REPORT FROM CLOSED SESSION

At 7:35 p.m. the Board came out of Closed Session. Vice President Rubio announced that there was reportable action. General Counsel Coty announced that the Board of Directors authorized rejection of the claim.

12. ADJOURNMENT

Vice President Rubio adjourned the meeting at 7:36 p.m.

Submitted by,

Nicole Genzale, CMC
Executive Services Supervisor/District Secretary



TITLE: Approve the Telecommunications Site Lease Agreement with DISH Wireless LLC for a Telecommunications Tower at Reservoir R20

RECOMMENDATION:

Staff recommends the Board of Directors approve, by Motion, the Telecommunications Site Lease Agreement with DISH Wireless LLC for a Telecommunications Tower at Reservoir R20.

DISCUSSION:

In September 2021, a third-party permitting company contacted the District on behalf of DISH Wireless LLC regarding the possibility of installing a telecommunications tower site at Reservoir R20 located at 5520 Fallon Road in east Dublin. Patterned after other existing telecommunications tower site leases, staff worked with District General Counsel to negotiate terms and conditions for a lease agreement. The proposed 25-year lease specifies payments starting at \$26,400 per year with annual 3-percent adjustments. All terms in the agreement are generally consistent with other current District telecommunications tower agreements and industry practice. However, the Board has also specified that any such agreements should balance the District revenue generating activity with the effect the activity will have on the environment and on local residents and businesses.

Staff worked closely with the City of Dublin and the Center for Natural Lands Management as the reservoir site borders a conservation area where a nesting pair of golden eagles successfully raise chicks each year. The proposed installation satisfies the requests and requirements of both agencies and minimizes impacts on the environment and local residents.

Parallel to the lease negotiation, DISH Wireless LLC filed a planning application with the City of Dublin (PLPA-2022-00008) to allow installation of the facility. The planning application was approved by the City on October 28, 2022. At that time, the City determined the application was exempt from the California Environmental Quality Act (Section 15303). DISH Wireless LLC also applied for a building permit with the City of Dublin to allow installation of the facility.

Funds collected from this type of lease agreement are considered “non-rate revenue” and are accrued in the Water Rate Stabilization (Fund 605). Non-rate revenue funds the District’s Low Income Assistance Program (LIA), which credits the bimonthly fixed water service charge for qualifying customers. Customers who qualify for the PG&E Consumers Affordable Resource for Energy (CARE) Program and whose accounts are in good standing are eligible for the District’s LIA program.

Originating Department: Engineering and Technical Services	Contact: S. Delight	Legal Review: Yes
Financial Review: Not Required	Cost and Funding Source: \$26,400 Annual Revenue	
Attachments: <input type="checkbox"/> None <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input checked="" type="checkbox"/> Other (see list on right)	Attachment 1 – Agreement	

TELECOMMUNICATIONS SITE LEASE AGREEMENT

THIS TELECOMMUNICATIONS SITE LEASE AGREEMENT (“**Lease**”) dated as of _____, 2022, is between DISH Wireless, L.L.C., a Colorado limited liability company (“**Lessee**”), having a mailing address of 9604 S. Meridian Blvd., Englewood, CO 80112, and Dublin San Ramon Services District, a local governmental agency in the State of California (“**Lessor**”), whose address is 7051 Dublin Boulevard, Dublin, California 94568.

For good and valuable consideration, the sufficiency of which is hereby acknowledged, including but not limited to the rental payments and other terms, conditions, covenants, and agreements set forth in this Lease, the parties hereto agree as follows:

1. Premises

a. Description

i. Lessor’s Property

Lessor owns a parcel of land, improved with a structure, located at 5520 Fallon Road in the City of Dublin, County of Alameda, State of California, identified as Assessor’s Parcel Number (APN) 985-0071-003 and depicted on **Exhibit A**, attached hereto, and incorporated herein by this reference (“**Land**”).

ii. Lease of the Premises

Subject to the following terms and conditions, Lessor leases to Lessee and Lessee leases from Lessor: (a) approximately two hundred seventy-six (276) square feet of the Land, including the improvements to support Lessee’s equipment and the air space above such ground space (the “**Equipment Space**”), as described in or depicted on **Exhibit B**, attached hereto and incorporated herein by this reference, for the placement of **Lessee Facilities** (as “Lessee Facilities” is defined in Paragraph 5a below); and (b) those certain areas where Lessee’s conduits, wires, cables, cable trays and other necessary connections are located between the Equipment Space and the electric power, telephone, and/or fiber-optic broadband sources for the Land (collectively referred to as the “**Connection Space**”). Lessor agrees that Lessee, its employees, agents, and independent third-party providers of utility services, including, but not limited to, fiber, shall have the right to install connections between Lessee’s equipment in the Equipment Space and the electric power, telephone, and/or fiber-optic broadband sources for the Land. Notwithstanding the foregoing, Lessee, to the extent feasible, shall locate all lines, wires, conduits, and cables on existing poles, or on one or more other location(s) mutually agreeable to Lessor and Lessee. The Equipment Space and Connection Space, and all access and utility easements reasonably necessary for the uses granted and/or conferred by Lessor to Lessee herein, are hereinafter collectively referred to as the “**Premises**”. The Premises are more particularly described in or depicted on **Exhibit B**, attached hereto and incorporated herein by this reference. Lessee shall have the right, but not the obligation, to prepare a survey of the Land, Equipment Space, and Connection Space, and said survey may, pending Lessor’s approval, replace **Exhibit B**. The “easements” described in the preceding sentence and elsewhere in this Lease shall only be for the duration of this Lease and may not be separately revoked or terminated but shall expire immediately following the timely completion of Lessee’s removal and repair obligations as required under this Lease.

b. Warranties and Representations

i. Title and Quiet Enjoyment

Lessor represents, warrants and agrees that it owns the Land in fee simple, and has rights of access thereto, and the Land is, and during the Term (defined in Paragraph 2, below), will be free and clear of all liens, encumbrances, covenants, conditions, and restrictions, easements, leases, or any other agreements except those of record as of the Effective Date; Lessor further warrants that Lessee shall have quiet enjoyment of the Premises during the Term of this Lease, provided that Lessee is not in default hereunder after notice and expiration of all cure periods. If the Land becomes encumbered by a deed to secure a debt, mortgage or other security interest, by or for the express benefit of Lessor, Lessor will provide promptly to Lessee a mutually agreeable subordination, non-disturbance and attornment agreement executed by Lessor and the holder of such security interest.

ii. Compliance with Law

Each party represents and warrants that their respective use of the Land, the Premises, and their respective property located on either, is and shall remain in compliance with all applicable, valid and enforceable statutes, laws, ordinances and regulations of any applicable competent governmental entity with authority thereover (“**Applicable Law**”). Each party further represents and warrants that its execution and performance of this Lease will not violate any Applicable Law, covenants, or the provisions of any deed of trust, lease, or other agreement binding on that party.

iii. No Other Warranties or Representations

Lessee acknowledges that the Rent reflects the fact that, except for Lessor’s warranties and representations explicitly set forth in Paragraphs 1.b.i through 1.b.iii of this Lease, Lessor has made no representations as to the suitability of the Premises for any particular purpose, and Lessee is therefore relying exclusively upon its own examination of the character of the Premises, access to the Premises, access to utilities, and all other data and matters requisite to developing, operating, and maintaining a telecommunications site on the Premises. Accordingly, except for Lessor’s warranties and representations explicitly set forth in Paragraphs 1.b.i through 1.b.iii of this Lease, this Lease is “AS IS.”

c. Condemnation/Taking of Premises

In the event the Premises or any portion of the Land is condemned or transferred in lieu of condemnation, Lessor shall provide Lessee written notice of such condemnation or transfer within forty-eight (48) hours after Lessor initially receives notice of the pendency or possibility of such condemnation or transfer. If the Premises or the Land are condemned or transferred in lieu of condemnation so as, in Lessee’s reasonable judgment, to hinder its effective use of the Premises, Lessee may elect to terminate this Lease as of the date of the condemnation or transfer in lieu of condemnation by giving notice to Lessor no more than forty-five (45) days following the date of Lessee’s receipt of written notice from Lessor detailing such condemnation or transfer in lieu of condemnation. If allowed under Applicable Law, and provided that Lessor’s award is not thereby reduced, Lessee may apply for and keep as its property a separate award for (i) the value of Lessee’s leasehold interest; (ii) the value of Lessee Facilities or other personal property of Lessee; (iii) Lessee’s relocation expenses; and (iv) damages to Lessee’s business incurred as a result of such condemnation or transfer.

In the event of any such termination, all rights and obligations of the parties, which do not survive the termination of this Lease, shall cease as of the date of the condemnation.

If Lessee chooses not to terminate this Lease pursuant to this Paragraph 1.c, Rent shall be reduced or abated in proportion to the actual reduction or abatement of use of the Premises by Lessee, as determined in Lessee's sole discretion.

d. Destruction of Premises

Lessor will use reasonable efforts to provide notice to Lessee of any casualty or other harm affecting the Land within forty-eight (48) hours of the casualty or other harm; provided, however, in the event that Lessor is unable to provide notice to Lessee, then Lessor shall have a reasonable period of time under the entirety of the circumstances to provide such notice. If the Premises or the Land is destroyed or damaged so as, in Lessee's judgment, to hinder its effective use of the Premises, Lessee may elect to terminate this Lease as of the date of the damage or destruction by so notifying Lessor no more than ninety (90) days following receipt of written notice of such damage or destruction. In such event, all rights and obligations of the parties, which do not survive the termination of this Lease, shall cease as of the date this Lease is terminated. Upon such termination, Lessee will be entitled to collect all insurance proceeds, if any, payable to Lessee for the damage to or destruction of Lessee Facilities and to be reimbursed for any prepaid Rent on a pro rata basis.

e. Repairs to Premises

Within thirty (30) days following Lessee's receipt of written notice from Lessor, Lessee shall commence to repair any damage to the Premises or Land caused by the negligence or willful misconduct of Lessee, its employees, agents, contractors, subcontractors, or any other person or organization for whom Lessee is legally liable. Lessee shall diligently prosecute such repairs to completion and shall restore substantially the conditions which existed upon start of construction, reasonable wear and tear and loss by casualty or other causes beyond Lessee's control excepted.

Notwithstanding the preceding paragraph, within thirty (30) days following receipt of written notice from Lessor, Lessee shall also repair any damage caused by (1) use of the access roadway by Lessee, its employees, agents, contractors, subcontractors, or any other person or organization for whom Lessee is legally liable in excess of normal wear and tear where normal "wear and tear" includes that expected of and due to use of Lessee's vehicles suitable for use on public roadways, or (2) removal of Lessee Facilities. Such repairs shall restore substantially the conditions which existed upon start of installation of Lessee Facilities, reasonable wear and tear excepted; provided, however, that in removing Lessee Facilities, Lessee is not required to remove any underground facilities, including footings, foundation, concrete, or underground utilities.

Lessee shall not be required to make any repairs to the Premises except as described in this Paragraph 1.e or as may be required by Paragraphs 3.a, 5.a, 5.b, or 7.c.

2. Term

a. Initial Term

This Lease shall be effective on the date of full execution hereof ("**Effective Date**"). The initial term of this Lease (the "**Initial Term**") shall be sixty (60) months, beginning on the first day of the month following the commencement of installation of Lessee Facilities on the Premises (the "**Commencement Date**"), and shall terminate on the last day of the month that is sixty (60) months after the Commencement Date unless earlier terminated or renewed as provided herein.

b. Renewal Terms

Lessee shall, subject to Lessor's rights under Paragraph 8.b, have the right to extend the Term for four (4) successive five (5) year periods (each a "**Renewal Term**") on the same terms and conditions as set forth herein, provided Lessee is not then in default of any covenant or obligation under this Lease beyond all applicable cure periods. This Lease shall automatically be extended for each successive Renewal Term unless Lessee elects to terminate this Lease under Paragraph 8.b or notifies Lessor in writing of its intention not to renew prior to commencement of the succeeding Renewal Term. Except for Rent, which is governed by Paragraph 4.b, each Renewal Term shall be on the same terms and conditions as set forth herein.

The Initial Term and any applicable Renewal Term(s) may be referred to collectively as the "**Term**".

3. Use

a. Initial and Renewal Terms

Lessee shall obtain all permits necessary for its operation as contemplated herein prior to installation of Lessee Facilities, and Lessor agrees to cooperate, at Lessee's expense, with Lessee's application for and obtaining of all licenses, permits and any and all other necessary approvals that may be required under Applicable Law for Lessee's intended use of the Premises ("**Governmental Approvals**").

Lessee shall submit a copy of Lessee's construction drawings for the initial installation of Lessee Facilities to Lessor for prior approval, which approval will not be unreasonably withheld, conditioned or delayed. Lessor shall give such approval or provide Lessee with its requests for changes within fifteen (15) business days of Lessor's receipt of Lessee's plans. If Lessor does not provide such approval or request for changes within such fifteen (15) business day period, Lessor shall be deemed to have approved the plans.

Upon compliance with the preceding provisions of this Paragraph 3.a, Lessee may use the Premises for the provision of wireless communications services, including without limitation, the transmission, and reception of wireless communication signals on various frequencies (in compliance with Paragraph 6) and the installation, construction, operation, maintenance, repair, upgrade and replacement of such Lessee Facilities (as "**Lessee Facilities**" is defined in Paragraph 5a below), all at Lessee's sole cost. In connection therewith, Lessee has the right to do all work necessary to prepare and maintain the Premises for Lessee Facilities and to install utility lines and transmission lines connecting antennas to transmitters and receivers and to utility connections.

Lessee shall be solely responsible for compliance at its sole expense with any and all conditions required by the jurisdiction granting to Lessee a grading or building permit, including the installation and maintenance of any landscaping. Lessee shall also be solely responsible for the watering, pruning, replacement, or other maintenance of such landscaping installed on the Premises by Lessee. No irrigation system may be installed on the Premises without the express written consent of Lessor, any such consent not to be unreasonably withheld, conditioned, or delayed. The installation, maintenance, and replacement of such landscape plantings by Lessee, if any, shall not interfere with Lessor's use of the Land.

Lessee may replace, repair, substitute, upgrade and expand Lessee Facilities without Lessor's prior written consent only if the modifications do not result in (1) an increase in the footprint of the Premises leased to Lessee hereunder, as described in Paragraph 1.a above, or (2) materially and adversely

affect the aesthetic appearance of Lessee Facilities initially approved by Lessor hereunder, when viewed by the general public with the naked-eye from areas which are readily accessible to the general public at street level and in the immediate vicinity of the Premises. Notwithstanding the foregoing, Lessee shall have the right, without first obtaining Lessor's approval, to conduct any repair or replacement of its equipment with equipment that is of a "like-kind" or substantially similar in nature provided that, any such change shall not increase the footprint of the Premises leased to Lessee hereunder.

In the event that Lessee's activities would result in (1) an increase in the footprint of the Premises, or (2) a material and adverse effect on the aesthetic appearance of the Lessee Facilities initially approved by Lessor hereunder, when viewed by residents in the area or by the general public with the naked-eye from areas which are readily accessible to the general public at street level and in the immediate vicinity of the Premises, then Lessee shall first obtain Lessor's consent, any such consent not to be unreasonably withheld, conditioned, or delayed. Lessor reserves the right to withhold its consent to any increase described in the preceding sentence if Lessor conclusively determines based on reasonable evidence that any such activities will interfere with Lessor's operation of the Land as an integral part of its water system. For those alterations or improvements requiring Lessor's reasonable approval, in no event shall Lessor condition any such approval on any direct or indirect costs or fees to Lessee under this Lease; provided, however, that if, in its sole discretion, Lessor determines to consent to any increase in the footprint of the Premises, Lessor may condition its consent on an increase in Rent in proportion to the increase in the footprint, or an increase in the vertical height of the antennas or other Lessee Facilities.

c. Hazardous Materials

Lessee shall not bring any Hazardous Materials (as "**Hazardous Materials**" is defined in Paragraph 13.g below) onto the Premises except for those contained in its back-up power batteries (lead acid batteries) and common materials used in telecommunications operations (e.g., cleaning solvents). Lessee hereby represents and warrants that it shall not use, generate, handle, store, or dispose of any Hazardous Material in, on, under, upon, or affecting the Land in violation of any Environmental Law (as Environmental Law is defined in Paragraph 13.g below).

d. Compliance with Applicable Law

Lessee agrees to comply with all applicable federal, state and local laws as they apply to use of the Premises, including but not limited to the State and Federal Endangered Species Act, the California Environmental Quality Act, and any local county, city, or district ordinances and environmental commitments, any of which may change during the Term of this Lease.

4. Rent and other Payments

a. Initial Term

i. Initial Rent

Commencing on the first (1st) day of the month following the Commencement Date Lessee shall pay Lessor, as rent, the sum of Two Thousand Two Hundred and 00/100 Dollars (\$2,200.00) per month ("**Rent**"). Lessee and Lessor agree that the first Rent payment shall be made within ninety (90) business days following the Commencement Date, with subsequent Rent payable by the fifth (5th) day of each month, in advance. Rent payments shall be delivered to Lessor at the address specified in Paragraph 13.e, Notice, or by electronic payment to the extent that Lessor provides required documentation for electronic payment. Rent during any partial month shall be pro-rated.

ii. Annual Adjustment

Rent shall be increased on each anniversary of the Commencement Date by an amount equal to three percent (3%) of the Rent in effect for the previous year.

c. [INTENTIONALLY OMITTED]

d. Rent Payable After Expiration or Termination

If, following the expiration or termination of this Lease, Lessee remains in possession of the Premises without executing a new lease, Lessee shall, at Lessor's election, become a tenant on a month-to-month basis on the same terms and conditions of this Lease except for (1) the month-to-month duration of the tenancy, and (2) that Lessee shall pay monthly Rent in the amount of 150% the amount that was payable during the immediately preceding month.

5. Lessee Facilities; Utilities; Access

a. Lessee Facilities

i. Description of authorized activities and facilities

Lessee has the right, subject to the procedures described herein, to construct, erect, maintain, replace, remove, operate and upgrade on the Premises wireless communications facilities, including without limitation an antenna tower or pole and foundation, utility lines, transmission lines, air-conditioned equipment shelter(s), electronic equipment, transmitting and receiving antennas, supporting equipment and structures therefor (collectively referred to as "**Lessee Facilities**").

ii. Title and Right to Remove

Lessee shall hold title to the Lessee Facilities and the Lessee Facilities shall remain Lessee's personal property and are not fixtures. Lessee has the right to remove the Lessee Facilities at its sole expense during or after the Term or any Renewal Term of this Lease, and Lessee shall repair or promptly pay for the repair of any damage to the Premises caused by such removal in accordance with Paragraph 1.e.

iii. Requirements concerning Lessee Facilities and Restoration of Premises

All of Lessee's construction and installation work shall be performed at Lessee's sole cost and expense and in a good and workmanlike manner. Lessee shall coordinate its construction activities with Lessor prior to commencement of same. Lessee shall be responsible for repairing and maintaining the Lessee Facilities in a proper operating and reasonably safe condition; provided, however, to the extent such repair or maintenance is required due to the negligent acts or omissions of Lessor, its agents or employees, Lessee shall have the right to restore any such damaged portion of the Premises to the condition which existed immediately prior thereto and Lessor shall reimburse Lessee for all reasonable costs incurred by Lessee to restore said damaged portion of the Premises, within thirty (30) days of receipt of an invoice accompanied by reasonable substantiation of any such cost or expense incurred by Lessee.

iv. Obligation to Remove

Within sixty (60) days of the expiration or earlier termination of this Lease, Lessee shall remove the Lessee Facilities from the Land in accordance with Paragraph 1.e.

b. Access

Lessee, Lessee's employees, agents, and contractors shall have access to the Premises twenty-four (24) hours a day, seven (7) days a week, at no charge on the conditions set forth in this Paragraph 5.b. In furtherance thereof, Lessor grants to Lessee, and Lessee's agents, employees, contractors, guests and invitees, a license for a non-exclusive right of way for pedestrian and vehicular ingress and egress across such paved roadways located on the Land, as may be described in or depicted on **Exhibit B**, which license may not be separately revoked or terminated but shall expire following Lessee's completion of its removal and repair obligations in accordance with the terms and conditions set forth in Paragraph 1.e above.

i. Notice to Lessor

Except in the event of an emergency, Lessee shall provide Lessor with at least twenty-four (24) hours' notice, by telephone, prior to accessing the Premises. In the event of an emergency (which shall be conclusively deemed to include any failure of the Lessee Facilities), Lessee, Lessee's employees, agents or contractors shall call Lessor's designated contact number set forth in Paragraph 13.e below, before accessing the Premises. If Lessee is unsuccessful in speaking with Lessor's contact before arriving at the Premises, Lessee shall attempt to leave a message and Lessee shall contact Lessor by calling Lessor's designated contact number as soon as reasonably practicable following said emergency access.

ii. Maintenance of Access Roadways

Lessor shall maintain in its usual and customary manner all access roadways described or depicted in **Exhibit B** from the nearest public roadway to the Premises in a manner reasonably sufficient to allow pedestrian and vehicular access under normal weather conditions. Lessor shall be responsible for maintaining and repairing such roadways, at its sole expense, except to the extent that any damage is caused directly by Lessee's use of such roadways, reasonable wear and tear and other damage beyond Lessee's reasonable control excepted.

c. Utilities

Lessee shall have the right to install utilities, including without limitation fiber, at Lessee's expense, and to improve the present utilities on or near the Premises, the location(s) of which shall be subject to Lessor's approval, which such approval shall not be unreasonably withheld, conditioned, or delayed.

Lessee's utilities shall be initially located as described in or depicted on **Exhibit B**, and Lessee shall have the right to place utilities on (or to bring utilities across) the Land to service the Premises and Lessee Facilities.

Lessor agrees to sign such documents or easements as may be required by any independent third-party utility companies to provide such service to the Premises, including a grant to Lessee or to the servicing utility company at no cost to the Lessee, of an easement in, over, across or through the Land as required by such servicing utility company to provide utility services as provided herein.

Any easement necessary for such utilities will be at a location acceptable to Lessor and the servicing utility company and shall only be for the duration of the Term of this Lease and may not be separately revoked or terminated but shall expire upon the expiration or earlier termination of this Lease.

In the event any utility provider is unable to construct Lessee's required utilities in the location(s) reasonably approved by Lessor, Lessor hereby agrees to cooperate with Lessee and such utility provider to find alternate locations on the Land, subject to Lessor's reasonable approval, for Lessee's utilities. Lessor acknowledges that it shall not be entitled to additional compensation in granting its approval of such alternate locations.

Such utilities shall not interfere with Lessor's primary use of the Land as a water storage and transmission facility.

Lessee shall pay for the utility services it uses in its operations at the rate charged by the servicing utility company. Lessee shall obtain separate utility service, including but not limited to fiber, from any utility service company that will provide separate service to the Premises. Lessee's utilities will have separate meters.

Lessee shall be solely responsible for providing any uninterrupted power supply, surge protection, or other equipment needed to serve and protect Lessee Facilities. Lessor acknowledges that Lessee provides a communication service which requires electrical power to operate and must operate twenty-four (24) hours per day, seven (7) days per week. Lessor shall not be responsible for interference with, interruption of or failure of such electrical service, nor shall Lessor be responsible for any physical damages to Lessee's utility equipment, except to the extent attributable to the negligent or intentional act or omission of Lessor, its employees, agents or independent contractors, or any special or consequential damages associated with a power outage, including without limitation lost revenue or other costs associated with any power outage. If an interruption in electrical service occurs for an extended period of time, in Lessee's reasonable determination, Lessor agrees to allow Lessee the right to bring in a temporary source of power for the duration of the interruption.

6. Interference with Communications

a. Lessor's Use Paramount

Lessee acknowledges that the primary use of the Land is as a water storage and transmission facility and that Lessor uses communications equipment, including but not limited to, a Supervisory Control and Data Acquisition (SCADA) system to operate and obtain information about the facility. It is the intent of the parties that Lessor's use of the Land, including without limitation, the communications and configurations, equipment, and frequency lawfully used by Lessor, shall not be interfered with by Lessee's proposed operations or other activities conducted thereon. Lessee Facilities shall comply with and will be operated in compliance with all applicable Federal Communications Commission ("FCC") requirements, including without limitation all non-interference rules. In the event that Lessor reasonably and objectively determines that Lessee Facilities are interfering with Lessor's paramount operations of providing water service (including without limitation, the communications and configurations, equipment and frequency used by Lessor in accordance with Applicable Law, or Lessor's operations as the same exist on the Land on or after the Commencement Date of the Initial Term and continuing throughout the Term of this Lease), Lessor shall provide Lessee written notification, which notification shall include a description of the interference which Lessor has objectively determined is being caused by Lessee's Facilities and shall contain the following text in bold: **"LESSEE SHALL CEASE OPERATION OF THE PORTION OF LESSEE'S EQUIPMENT WHICH IS SUSPECTED OF CAUSING INTERFERENCE WITHIN SEVENTY-TWO (72) HOURS AFTER RECEIPT OF THIS**

WRITTEN NOTICE. FAILURE TO DO SO WILL RESULT IN THE LEASE BEING TERMINATED WITHOUT FURTHER NOTICE 15 DAYS LATER. NO ADDITIONAL TIME TO CURE WILL BE ALLOWED.” Lessee shall endeavor to cause such interference to cease within seventy-two (72) hours after receipt of the written notice of interference from Lessor. If Lessee is unable or unwilling to remedy the interference within such seventy-two (72) hour period, Lessee shall cease the operations suspected of causing such interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected to reasonable satisfaction of Lessor. In the event that Lessee either fails to remedy the interference or fails to cease any such operations suspected of causing such interference within seventy-two (72) hours following Lessee’s receipt of proper written notice from Lessor, then Lessor shall have the right to terminate this Lease fifteen (15) days later pursuant to the terms and conditions of Paragraph 8.a.i below. This Paragraph 6.a shall not in any way affect Lessee’s obligations under Paragraphs 1.e, 3.c, 5.a, 5.b, 9.b, 10, and 11.

b. Other Telecommunication Providers

Lessee shall operate the Lessee Facilities in a manner that will not cause interference with the communications equipment of other lessees or licensees whose installations predate that of the Lessee Facilities and subject to the provisions of this Paragraph 6.b.

Lessee acknowledges that Lessor may lease other portions of the Land to other commercial telecommunications providers in the future and that the lease rights granted hereunder are not meant to exclude other such installations. Lessee shall cooperate in good faith to resolve interference issues arising between Lessee and Lessor’s future tenants on the Land. Lessee shall not be required to modify Lessee Facilities to prevent interference with any new equipment of any commercial telecommunications provider so long as Lessee operates the Lessee Facilities within authorized frequencies and in compliance with all applicable FCC rules and regulations.

Subsequent to the installation of the Lessee Facilities, Lessor will not permit its lessees or licensees to install new equipment on, or make any alterations to, the Land or property contiguous thereto owned or controlled by Lessor, if such modifications interfere with Lessee’s operations. In the event interference occurs, and such activity creating the interference occurs, Lessor agrees to require its lessees or licensees to use their best efforts to eliminate such interference in a reasonable time period. In the event that Lessor is unable to remedy such interference with reasonable efforts within seventy-two (72) hours after receipt of written notice from Lessee setting forth a description of the interference, then Lessor shall cause the uses which are suspected of causing interference to cease (except for intermittent testing to determine the cause of such interference) until the interference has been corrected. If such interference has not ceased within the time period set forth in the preceding sentence, then thereafter, Lessee may pursue any and all remedies available to Lessee at law and/or in equity. Lessor’s failure to comply with this paragraph shall be a material breach of this Lease.

Lessor shall include in any future lease, license or other right to use the Land, having been executed or acquired after the full execution and delivery of this Lease, a provision requiring such future tenant to comply with all FCC rules and regulations and prohibiting such future tenant from interfering with the Lessee Facilities. Such provision shall set forth that in the event a future tenant interferes with Lessee’s operations, such interference shall be deemed a material breach and the future tenant shall promptly terminate said interference or impediment to Lessee’s operations, and that if the interference or impediment is not promptly eliminated, future tenant’s lease or license may be terminated.

c. Other Radio Frequency Users

Prior to or concurrent with the execution of this Lease, Lessor has provided or will provide Lessee with a list of radio frequency user(s) and frequencies used on the Land as of the date of the full execution and delivery of this Lease. Lessee warrants that its use of the Premises will not interfere with those existing radio frequency uses on the Land, as long as those existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all Applicable Law.

Lessor will not grant, after the date of this Lease, a lease, license or any other right to any third party, if the exercise of such grant would adversely affect or interfere with the Lessee Facilities, the operations of Lessee or the rights of Lessee under this Lease. Lessor will notify Lessee in writing prior to granting any third party the right to install and operate communications equipment on the Land.

For the purposes of this Lease, "interference" may include, but is not limited to, any use on the Land that causes electronic or physical obstruction with, or degradation of, the communications signals from the Lessee Facilities. Lessor's communications equipment, including but not limited to, a Supervisory Control and Data Acquisition (SCADA) system to operate and obtain information about the facility, and pre-existing facilities are expressly excluded from the scope of the two sentences that follow. In general, the parties agree that the physical location within one hundred thirty feet (130') of the Lessee Facilities of another communications facility operating in the 700 MHz to 2500 MHz frequency range will most likely cause interference and, accordingly, Lessor will not allow such future uses within this distance from Lessee's location without the prior written consent of Lessee. Lessee acknowledges that its grant does not exclude other communication facilities on the Land (other than the Premises and a one hundred thirty foot (130') radius from the Premises) and Lessee agrees to reasonably cooperate with Lessor and other potential communication facility operators as to their proposed operations not inconsistent with this Lease.

7. Assignment, Subletting, and Financing Arrangements

a. Assignment

Lessee may sell, assign, or transfer its interest under this Lease, in whole or part, without any approval or consent of Lessor only to: (i) any Affiliate of Lessee; or (ii) to any entity which acquires all or substantially all of Lessee's assets in the market defined by the FCC in which the Land is located. Upon written notification to Lessor of such assignment, transfer or sale, and a written assumption of the portion of the Lease being sold, assigned, or transferred duly executed by the buyer, assignee and/or transferee, are both provided to Lessor no later than thirty (30) business days after the execution of the written assumption, Lessee will be relieved of all future performance, liabilities and obligations under this Lease. Lessee may not otherwise assign this Lease without Lessor's written consent, which Lessor's consent shall not be unreasonably withheld, conditioned or delayed. "**Affiliate**" means with respect to a party to this Lease, any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. "**Control**" of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or as demonstrated by written materials.

Lessor may sell, assign or transfer this Lease, which assignment may be evidenced by written notice to Lessee within a reasonable period of time thereafter, provided that the assignee assumes all of Lessor's obligations herein, including but not limited to, those set forth in Paragraph 7.c, "Financing Arrangements", below; provided, however, that except in furtherance of a Financing Arrangement made by Lessor, Lessor shall not separately assign, sell or otherwise transfer its rights to receive Rent or other

income under this Lease independent of the assignment, sale or other transfer of its rights under this Lease.

b. Subletting

Lessee shall have the right to sublease the Premises and its rights herein to any Affiliate of Lessee, in whole or in part, only for incidental use. No other subleasing is allowed without compensation and written approval of Lessor which approval will not unreasonably be withheld, conditioned or delayed. Any subleasing, whether to any Affiliate of Lessee as defined in Paragraph 7.a above, or pursuant to a sublease reasonably approved by Lessor, shall be subject and subordinate to this Lease. Any such sublessees shall be responsible for obtaining and maintaining any permits applicable and necessary for their respective use of the Premises.

c. Financing Arrangements

Lessor acknowledges that Lessee may enter into financing arrangements including promissory notes and financial and security agreements for the financing of Lessee Facilities (the “**Collateral**”) with a third-party financing entity and may in the future enter into additional financing arrangements with other financing entities.

In connection therewith, Lessor (i) consents to the installation of the Collateral; (ii) disclaims any interest in the Collateral, as fixtures or otherwise; and, (iii) agrees that Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any Rent due or to become due and that such Collateral may be removed at any time without Lessor’s consent and without recourse or legal proceedings on condition that Lessee promptly repair all damage resulting from such removal in accordance with Paragraph 1.e.

Lessor waives any lien rights it may have in the Lessee Facilities.

8. Termination

a. For Cause During Initial and Renewal Terms

i. Default

This Lease may be terminated without further liability (other than for failing to carry out its obligations as set forth in Paragraphs 1.e, 3.c, 5.a, 5.b, 9.b, 10, and 11) on thirty (30) days prior written notice by either party upon a default of any covenant or term hereof by the other party, which default is not cured within forty-five (45) days of receipt of written notice of default, except that this Lease shall not be terminated if the default cannot reasonably be cured within such forty-five (45) day period and the defaulting party has commenced to cure the default within such forty-five (45) day period and diligently pursues the cure to completion. Notwithstanding the preceding sentence, the cure period for (i) any monetary default is thirty (30) days from receipt of written notice, or (ii) any failure or refusal by Lessee to either remedy the interference or to cease operations suspected of causing interference until such interference is cured (except for intermittent testing to determine the cause of such interference) within seventy-two (72) hours after receipt of written notice of such disturbance or interference from Lessor in accordance with Paragraph 6(a) above, is fifteen (15) days following the expiration of the seventy-two (72) hour period. Delay in curing a default will be excused for the duration of the delay, but only if the delay is due to causes beyond the reasonable control of a party, and which causes the non-performing party could not have, with the exercise of reasonable diligence, removed or remedied with reasonable dispatch.

ii. Non-renewal of license, permit or other approval

This Lease may be terminated by Lessee without further liability on thirty (30) days prior written notice if Lessee is unable to obtain, or maintain, any Governmental Approval (s) necessary for the construction or operation of Lessee Facilities as now or hereafter intended by Lessee; or if Lessee determines, in its sole discretion, that the cost of or delay in obtaining or retaining the same is commercially unreasonable.

This Lease may be terminated by Lessee without further liability on thirty (30) days prior written notice if Lessee is unable to use the Premises due to an action of the FCC, including without limitation, a take back of channels or change in frequencies. This Paragraph 8.a.ii shall not in any way affect Lessee's obligations under Paragraphs 1.e, 3.c, 5.a, 5.b, 9.b, 10, and 11.

iii. Presence of Hazardous Materials

Either party may be declared in default of this Lease upon thirty (30) days' written notice by the other party if any environmental report for the Land reveals the presence of any Hazardous Material caused or permitted by the other party. This Paragraph 8.a.iii shall not in any way affect Lessee's obligations under Paragraphs 1.e, 5.a, 5.b, 9.b, 10, and 11.

iv. Premises become technologically inappropriate

This Lease may be terminated by Lessee without further liability on thirty (30) days prior written notice by Lessee if (1) Lessee reasonably determines that the Premises are no longer appropriate for its operations for environmental or technological reasons, including without limitation, signal strength or interference, or (2) the use of wireless, cellular, radio equipment or radio frequencies by Lessor's employees or by any other commercial telecommunications providers located thereon renders the Premises unsuitable for Lessee's operations in the reasonable opinion of Lessee ("**Impediment**"), and Lessor is unable to remedy the Impediment with reasonable efforts after written notice from Lessee setting forth a description of the Impediment. This Paragraph 8.a.iv shall not in any way affect Lessee's obligations under Paragraphs 1.e, 3.c, 5.a, 5.b, 9.b, 10, and 11.

b. Termination for Convenience

At any time after commencement of the third (3rd) year of the third (3rd) Renewal Term, Lessor may elect to terminate this Lease for any reason or for no reason provided that Lessor must provide at least three (3) years' advance written notice delivered by Lessor to Lessee after the commencement of the third (3rd) year of the third (3rd) Renewal Term.

This Lease may be terminated by Lessee without further liability on thirty (30) days prior written notice by Lessee if for any reason or no reason, so long as Lessee pays Lessor a termination fee equal to six (6) months' Rent, at the then-current rate, provided, however, that no such termination fee will be payable on account of a termination of this Lease by Lessee under any termination provision contained in any other Section of this Lease.

c. Survival of Certain Provisions after Termination

The duties described in Paragraphs 1.e, 3.c, 5.a, 5.b, 9.b, 10, and 11 shall apply as of the Effective Date of this Lease and survive the termination of this Lease. Other terms and conditions of this Lease which by their sense and context survive the termination, cancellation or expiration of this Lease, including without limitation this Paragraph 8.c, will so survive.

9. Insurance and Indemnification

a. Insurance

Lessee, at its sole cost and expense, shall procure and maintain in full force and effect, at all times during the Initial Term, any Renewal Term, and when holding over, the following policies of insurance:

i. Commercial General Liability insurance which shall be written on an ISO approved occurrence form (or an equivalent thereof) and shall include coverage for blanket contractual liability, products and completed operations, independent contractors, explosion, collapse, underground hazards, bodily injury, personal injury, and broad form property damage, with a combined single limit of One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate and excess liability coverage in the form of an umbrella policy of Two Million and 00/100 Dollars (\$ 2,000,000.00) per occurrence and Five Million and 00/100 Dollars (\$ 5,000,000.00) in the aggregate. Lessee may use any combination of primary and excess to meet required total limits. Such insurance shall insure, on an occurrence basis, against liability of Lessee, its employees and agents arising out of or in connection with Lessee's use of the Premises, all as provided for herein.

ii. Commercial Automobile Liability insurance shall be written on ISO approved occurrence form (or an equivalent thereof) provide coverage for "any auto" (owned, not owned, or hired, licensed or unlicensed for road use) with combined single limits of liability of One Million Dollars (\$1,000,000.00) per accident.

iii. Workers' Compensation insurance in the amounts and with the coverage as required under the California Labor Code. Such coverage shall include a waiver of subrogation by insurers against Lessor to the fullest extent allowed by law.

iv. Employer's Liability insurance shall provide coverage for bodily injury or disease, including death, to any of its employees with limits of liability of One Million Dollars (\$1,000,000.00) per accident or occurrence.

All insurance policies required to be maintained by Lessee hereunder shall be with responsible insurance companies, eligible to do business in the State of California with a rating of not less than A minus, FSC VII from AM Best and Company, and except for worker's compensation, shall include Lessor, its officers, directors, agents, as additional insureds, as their interest may appear. Lessor's additional insured status shall not extend to claims for which coverage is prohibited by law or otherwise expand coverage beyond that specified above.

Lessee shall assume all risk of, and be solely liable for, loss or damage to Lessee's Facilities, and to equipment to be used under the terms of this Lease.

Lessee shall provide thirty (30) days prior written notice to Lessor of any cancellation or non-renewal of any required coverage that is not replaced.

Lessee shall furnish Lessor with the Certificates for all required insurance within thirty (30) days following the Effective Date.

Notwithstanding the forgoing, Lessee may, in its sole discretion, self-insure any of the required insurance under the same terms as required by this Lease provided that (a) Lessee maintains sufficient capital reserves approved annually by Ernst & Young or any successor auditing company, and (b) Lessee uses an independent third-party administrator to manage all claims. In the event Lessee elects to self-

insure its obligation under this Lease to include Lessor as an additional insured, the following conditions apply:

- i. Lessor shall promptly and no later than thirty (30) days after notice thereof provide Lessee with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Lessee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; and
- ii. Lessor shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Lessee; and
- iii. Lessor shall fully cooperate with Lessee in the defense of the claim, demand, lawsuit, or the like.

Lessee shall be responsible for requiring insurance coverage from its contractors and consultants while working on the Premises pursuant to this Lease. Lessee and Lessor shall determine the reasonable amount and adequacy of such coverage. Within thirty (30) days after the Effective Date, Lessee shall submit to Lessor for its information either a Certificate of Insurance or a list of the insurance coverage provided by each contractor and consultant working on the Premises pursuant to this Lease, including the amount of such coverages and the insurers. Lessee shall require and endeavor to verify that all contractors and consultants while working hereunder maintain insurance coverage with reasonable and prudent limits commensurate with the risk involved in their respective work, and Lessee shall ensure that Lessor its officers, directors, agents, employees, and volunteers are additional insureds on insurance thus required of its contractors and consultants.

Neither party nor any of its affiliates shall be liable for the payment of any premium or assessment due under the other party's insurance policies. In the event of insurance cancellation, Lessor reserves the right at its sole election to purchase insurance or insure (or self-insure) for the above required coverage, at Lessee's full expense.

The procuring of the above-mentioned policies of insurance shall not be construed as limitation in any respect on Lessee's obligations of indemnification herein.

b. Indemnification

Lessor and Lessee shall each indemnify, defend and hold the other party (including Lessor's governing Board of Directors, other boards, commissions, committees, officers, employees, and agents) harmless from and against all claims, demands, losses, judgments, liabilities, damages, costs, and expenses (including reasonable attorneys' and consultants' fees, expert witness fees, costs and expenses) (collectively "**Losses**") to the extent arising from the indemnifying party's breach of any term or condition of this Lease or from the negligence or willful misconduct of the indemnifying party's agents, employees or contractors in or about the Land.

In addition to and without limitation by the preceding provisions of Paragraph 9.b, Lessor and Lessee shall each indemnify, defend and hold the other harmless from and against all Losses arising from (i) any breach of any representation or warranty made in Paragraph 1.b, whichever is applicable, by such party; and/or (ii) environmental conditions or noncompliance with any **Environmental Law** (as "Environmental Law" is defined in Paragraph 13.g below) that are caused by, in the case of Lessee, operations in or about the Land by Lessee or Lessee's agents, employees or contractors, or in the case of Lessor, from the ownership or control of, or operations in or about, the Land by Lessor or Lessor's

predecessors in interest, and their respective agents, employees, contractors, lessees, guests or other parties.

10. Taxes or Assessments on Possessory Interest

Lessor is currently exempt from real property taxation. Lessee acknowledges that its interest created under this Lease may create a possessory interest subject to taxation and that Lessee may be subject to payment of possessory taxes levied on the interest created herein.

Lessee shall be liable for, and shall pay before delinquency, all taxes and assessments (real and personal) levied against (a) any personal property or trade fixtures placed by Lessee in or about the Premises (including any increase in the assessed value of the Premises based upon the value of any such personal property or trade fixtures); (b) any Lessee Facilities or alterations in the Premises (whether installed and/or paid for by Lessor or Lessee); and (c) taxes or assessments levied against the Land solely attributable to the presence of Lessee's improvements on the Land.

Lessor shall timely notify Lessee of any such taxes and/or assessments, thereby ensuring Lessee's ability to contest any improper tax or assessment with the applicable appeal period. If any such taxes or assessments are levied against Lessor or Lessor's property, Lessor may, after timely written notice to Lessee (and under proper protest if requested by Lessee) pay such taxes and assessments, and Lessee shall reimburse Lessor therefor within thirty (30) business days after demand by Lessor together with supporting documentation; provided, however, Lessee, at its sole cost and expense, shall have the right, with Lessor's cooperation, to bring suit in any court of competent jurisdiction to recover from the agency levying the taxes or assessments the amount of any such taxes and assessments so paid under this Paragraph 10.

11. Mechanic's Liens

Lessee will not subject the Land to any mechanic's lien or any other lien whatsoever. If any mechanic's lien or other lien, charge or order for payment of money is filed as a result of the act or omission of Lessee, Lessee will cause such lien, charge or order to be discharged or appropriately bonded or otherwise reasonably secured ("**Secured**") within ninety (90) days after notice from Lessor thereof. If Lessee fails to cause the lien or encumbrance to be Secured within the ninety (90) day period, then Lessor will be entitled at Lessee's expense to have such lien bonded around, and Lessee shall reimburse Lessor for the cost of such bond plus an additional administrative fee of Ten Percent (10%) of Lessor's actual cost of the bond.

Lessee shall have the right to contest the validity, nature or amount of any such lien; provided that, upon the final determination of said questions, Lessee shall immediately pay any adverse judgment rendered, including all proper costs and charges, and shall release said lien at its expense. If Lessee desires to contest any such lien, then Lessee shall furnish Lessor with a bond, if requested, to secure the payment of such obligation prior to commencing such contest.

Lessor shall notify Lessee in writing, in the event that Lessor is notified of any materials supplied or work, labor or services performed (collectively "**Work**") related to the installation, modification or repair of the Lessee Facilities, which Work could subject the Land to any of the above-mentioned lien attachments.

12. Underground Service Alert

Lessee must contact the Underground Service Alert (Telephone: 811 or (800) 642-2444) at least two (2) working days prior to any excavation work at the Land to identify any buried utilities within the proposed excavation area. Lessee shall respond to all Underground Service Alert requests for information with respect to the Land in connection with installing its facilities and register the utilities with Underground Service Alert.

13. Miscellaneous

a. Interpretation of this Lease

This Lease shall be governed by the laws of the State of California.

There shall be no presumption against any party on the ground that such party was responsible for preparing this Lease or any part hereof because all of the parties have participated in preparing this Lease.

The captions and headings in this Lease are for convenience only and in no way expand or contract the scope or intent of any provision of this Lease.

If any provision of this Lease is invalid or unenforceable with respect to any party, the remainder of this Lease or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Notwithstanding the foregoing, each provision of this Lease shall be interpreted by the parties and any court of jurisdiction, to the extent possible, in such a manner that such provision shall be deemed to be valid and enforceable, and such court shall have the right to make such modifications to any provision of this Lease as do not materially affect the rights or obligations of the parties hereto under this Lease as may be necessary in order for such provision to be valid and enforceable.

b. Integration and Authority

This Lease, including all Exhibits attached hereto, constitutes the entire agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein. There are no representations or understandings of any kind not set forth herein. This Lease is the result of good faith negotiations entered into by the parties willingly, with due diligence, and with full advice of legal counsel.

Any amendments to this Lease must be in writing and executed by both parties.

Notwithstanding the foregoing, this Lease and any amendment thereto may be executed in duplicate counterparts, each of which shall be deemed an original. Lessor and Lessee each warrant that it is duly organized, validly existing and in good standing and it has full right, power, and authority to enter into this Lease, and that its signatory, as set forth below, has been duly authorized to bind it to this Lease.

c. Relationship of the Parties

Nothing in this Lease shall create a joint venture, partnership or principal-agent relationship between or among any of the parties.

This Lease shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.

In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Lease, such party shall not unreasonably delay, condition, or withhold its approval or consent.

The waiver of any breach of this Lease shall not constitute a continuing waiver or waiver of any subsequent breach of any provision of this Lease, unless otherwise provided for herein.

d. Further Documentation

Each of the parties agrees to execute, and deliver to the other parties, such documents and instruments, and take such actions, as may reasonably be required to effectuate the terms and conditions of this Lease; provided, however, such covenant shall not have the effect of increasing the obligations of any party pursuant to this Lease or require any representations and warranties by any party in addition to those of such party set forth herein.

Either party may require that a Memorandum of Lease be recorded in the form of **Exhibit C**, attached hereto and incorporated herein by this reference. Each party agrees to execute and acknowledge a Memorandum of Lease in said form, and that such Memorandum of Lease be recorded in the official records of the County in which the Land is located.

Lessor agrees to obtain and deliver to Lessee an executed and acknowledged non-disturbance and attornment instrument, in a recordable form reasonably acceptable to both parties, for each mortgage or deed of trust encumbering the Land.

Lessor agrees to fully cooperate with Lessee to obtain information and documentation clearing any outstanding title issues that could adversely affect Lessee's interest in the Premises created by this Lease.

e. Notice

i. Formal Notice

Any notice or demand required to be given herein shall be made by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered, to the address of the respective parties set forth below:

Lessor
Dublin San Ramon Services District
Attn: Administrative Services Director
7051 Dublin Boulevard
Dublin, CA 94568

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

Search Ring Name:
Cell Site N: SFSFO00905B
Phone: 866-624-6874

ii. Routine Telephone Notification

Lessor

Attn: Water Wastewater Systems Superintendent

Phone: (925) 828-0515

iii. Emergency Telephone Notification

Lessor

Attn: Water Wastewater Systems Superintendent

Cell Phone: (925) 872-5890

f. Dispute Avoidance and Resolution

All aspects of performance of this Lease will be undertaken in good faith and each party agrees to refrain from doing anything (1) to injure the right of each other Party to receive the benefits of this Lease, or (2) to frustrate the purpose for which this Lease was executed. Each Party further agrees that in the event any unanticipated issue, situation or problem arises, they will meet and confer in furtherance of the implied covenant of good faith and fair dealing in order to find a mutually acceptable solution.

The parties shall make good faith efforts to resolve all claims and disputes related to this Lease at the lowest possible cost. Unless the parties agree upon an alternative forum of dispute resolution, any litigation concerning claims and disputes related to this Lease shall be filed in and timely prosecuted to conclusion in Court of competent jurisdiction for the County in which the Land is located, and each party hereby waives its right to move to change venue.

Each Party shall at all times bear its own costs and attorneys' fees.

g. Definitions

“Hazardous Materials” means any solid, gaseous or liquid wastes (including hazardous wastes), regulated substances, pollutants or contaminants or terms of similar import, as such terms are defined in any Environmental Law, and shall include, without limitation, any petroleum or petroleum products or by-products, flammable explosives, radioactive materials, asbestos in any form, polychlorinated biphenyls and any other substance or material which constitutes a threat to health, safety, property or the environment or which has been or is in the future determined by any governmental entity to be prohibited, limited or regulated by any Environmental Law.

“Environmental Law” means any and all federal, state or local laws, rules, regulations, codes, ordinances, or by-laws, and any judicial or administrative interpretations thereof, including orders, decrees, judgments, rulings, directives or notices of violation, that create duties, obligations or liabilities with respect to: (i) human health; or (ii) environmental pollution, impairment or disruption, including, without limitation, laws governing the existence, use, storage, treatment, discharge, release, containment, transportation, generation, manufacture, refinement, handling, production, disposal, or management of any Hazardous Material, or otherwise regulating or providing for the protection of the environment.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Lease as of the date of the last signature below.

LESSOR:

LESSEE:

Dublin San Ramon Services District,
a local governmental agency in the State of California

DISH Wireless L.L.C.,
a Colorado limited liability company

By: _____

By: _____

Name _____

Name _____

Title: _____

Title: _____

Date: _____

Date: _____

Tax ID: _____

Attest:

Nicole Genzale, District Secretary

EXHIBIT A

DESCRIPTION OF LAND

Page 1 of 1

to the Lease dated _____, 2022, by and between DUBLIN SAN RAMON SERVICES DISTRICT, as Lessor, and DISH Wireless L.L.C., as Lessee.

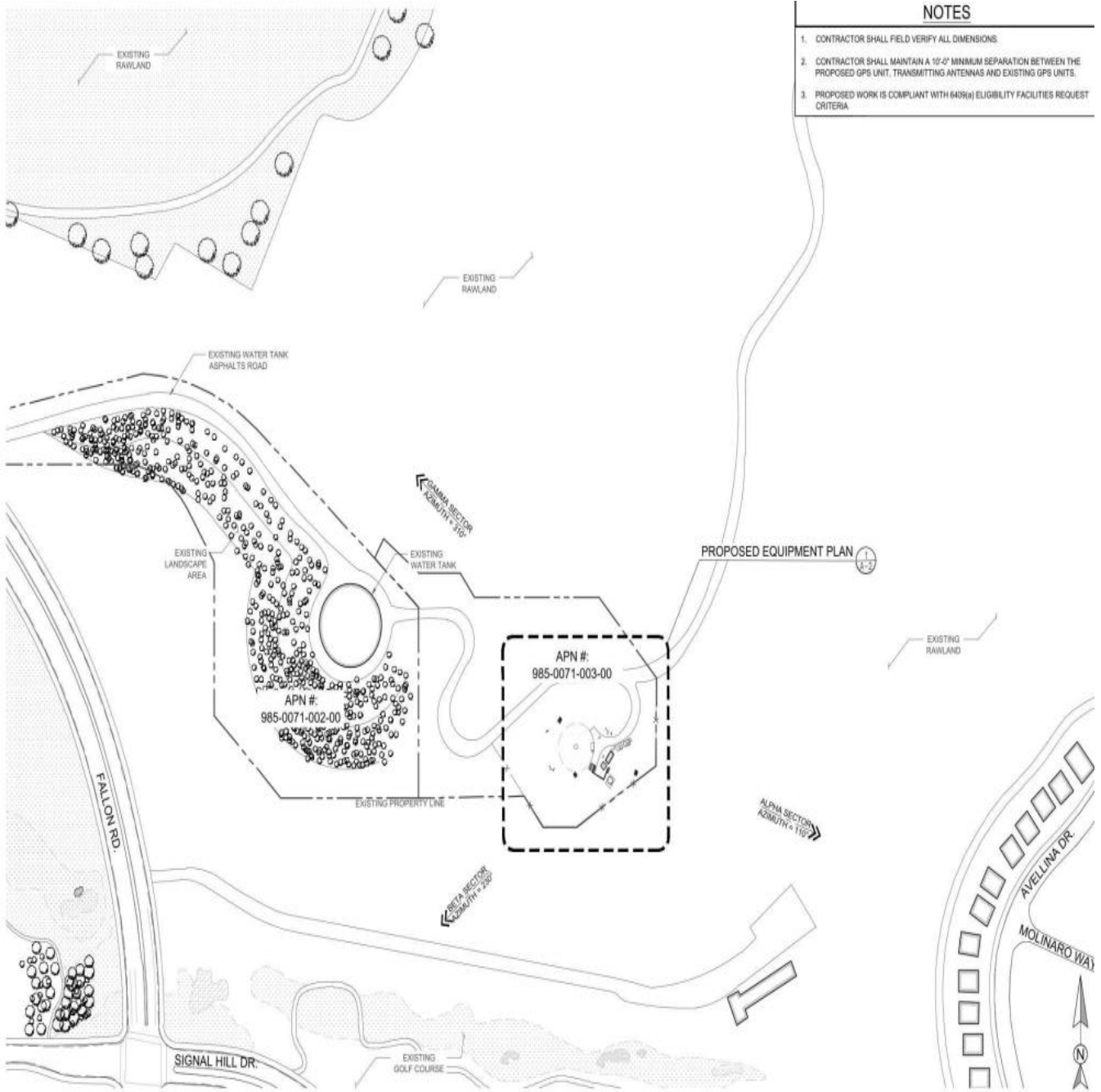
BEING A PORTION OF THAT CERTAIN PARCEL OF LAND DESIGNATED AS: "PARCEL TWO-A" AS CONVEYED IN THE DEED TO: "DR ACQUISITION I, LLC"; AS RECORDED ON THE 17TH DAY OF AUGUST, 2000, IN SERIES NO. 2000247985, OFFICIAL RECORDS OF ALAMEDA COUNTY, CALIFORNIA, FOR PURPOSES OF A FEE CONVEYANCE TO DUBLIN - SAN RAMON SERVICES DISTRICT, LYING AND BEING IN THE CITY OF DUBLIN ALAMEDA COUNTY, CALIFORNIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST PROPERTY CORNER THAT CERTAIN PARCEL OF LAND AS CONVEYED IN THE DEED TO: "DUBLIN-SAN RAMON SERVICES DISTRICT" [HEREINAFTER CALLED: "DSRSD"], AS RECORDED ON THE 29TH DAY OF JANUARY, 1999; IN SERIES NO. 99-037503, OFFICIAL RECORDS OF ALAMEDA COUNTY, CALIFORNIA; THENCE ALONG THE EASTERLY PROPERTY LINE OF SAID "DSRSD" "PARCEL THE FOLLOWING TWO (2) COURSES; (1) NORTH 0°00'00" EAST 320.71 FEET; THENCE (2) NORTH 52°30'34" WEST 85.06 FEET; THENCE DEPARTING FROM SAID EASTERLY PROPERTY LINE AND ENTERING SAID "PARCEL TWO-A" THE FOLLOWING ELEVEN (11) COURSES: (3) NORTH 45°00'00" EAST 28.46 FEET; THENCE (4) PERPENDICULARLY IN A SOUTHEASTERLY DIRECTION SOUTH 45°00'00" EAST 47.00 FEET; THENCE (5) NORTH 90°00'00" EAST 120.00 FEET; THENCE (6) SOUTH 45°00'00" EAST 124.00 FEET; THENCE (7) NORTH 90°00'00" EAST 310.00 FEET; THENCE (8) SOUTH 45°00'00" EAST 161.50 FEET; THENCE (9) SOUTH 0°00'00" EAST 157.50 FEET; THENCE (10) SOUTH 62°50'00" WEST 232.31 FEET; THENCE (11) NORTH 90°00'00" WEST 70.00 FEET; THENCE (12) NORTH 45°00'00" WEST 150.00 FEET; THENCE (13) NORTH 90°00'00" WEST 235.00 FEET TO SAID PONT OF BEGINNING.

CONTAINING 200,339 SQUARE FEET, 4.599 ACRES, MORE OR LESS.

PARCEL ID: 985-0071-003-00

EXHIBIT B



- NOTES**
1. CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS.
 2. CONTRACTOR SHALL MAINTAIN A 10'-0" MINIMUM SEPARATION BETWEEN THE PROPOSED GPS UNIT, TRANSMITTING ANTENNAS AND EXISTING GPS UNITS.
 3. PROPOSED WORK IS COMPLIANT WITH 6409(a) ELIGIBILITY FACILITIES REQUEST CRITERIA.

EXHIBIT C

Upon Recording, Return to:

DISH Wireless L.L.C.
 Attention: Lease Administration
 5701 S. Santa Fe Dr.
 Littleton, CO 80120
Re: SFSFO00905B

(Space above for Recorder's Office)

MEMORANDUM OF TELECOMMUNICATIONS SITE LEASE AGREEMENT

This Memorandum of Telecommunications Site Lease Agreement made this _____ day of _____, 20____, by and between Dublin San Ramon Services District, a local governmental agency in the State of California ("**Lessor**"), having a place of business at 7051 Dublin Boulevard, Dublin, California 94568, and DISH Wireless L.L.C., a Colorado limited liability company ("**Lessee**"), having a place of business at 9601 South Meridian Boulevard, Englewood, Colorado 80112. Lessee and Lessor are at times collectively referred to hereinafter as the "**Parties**" or individually as the "**Party**". This Memorandum is summarized as follows:

1. Lessee and Lessor entered into a Telecommunications Site Lease Agreement ("**Agreement**") with an effective date of _____, 20____, for the purpose of installation, operation, maintenance, and management of a wireless communications facility. All of the foregoing, in addition to the provisions set forth in the Agreement between the Parties, are incorporated by reference and made a part herein.
2. Lessor, or one of its affiliates, is the owner of a certain portion of real property located at 5520 Fallon Road, Dublin, California 94568 being more particularly described in **Exhibit A** attached hereto and made a part herein (the "**Property**").
3. Lessor has leased to Lessee and Lessee has leased from Lessor, space for Lessee's equipment installation on the Property, as described or depicted in **Exhibit B**, attached hereto and made a part herein (the "**Premises**"), that includes certain right of way grants of easements for access and utilities as provided in the Agreement (which may or may not be described or depicted in Exhibit B) which easements are in effect, or may be acquired, or granted, throughout the term of the Agreement as renewed or extended subject to the terms and conditions as set forth in the Agreement.
4. The Agreement has an initial term of five (5) years commencing on the first (1st) day of the month following the commencement of installation of Lessee Facilities on the Premises (the "**Commencement Date**"), Lessee shall have the right, at its election, to extend the term of the Agreement, by four (4) additional terms of five (5) years each or in any other such manner as prescribed in the Agreement. If all options to renew are exercised, the Agreement will have a term of twenty-five (25) years from the Commencement Date.
5. Duplicate copies of the originals of the Agreement are in the possession of the Lessor and Lessee at the addresses set forth above and reference should be made thereto for a more detailed description thereof and for resolution of any questions pertaining thereto.
6. It is expressly understood and agreed by all Parties that the sole purpose of this Memorandum of Telecommunications Site Lease Agreement is to give record notice of the Agreement; it being distinctly understood and agreed that said Agreement constitutes the entire agreement between Lessor and Lessee with respect to the Premises and is hereby incorporated by reference. The Agreement contains and sets forth additional rights, terms, conditions, and obligations not enumerated within this Memorandum which govern the Agreement. This Memorandum is for information purposes only and nothing contained herein

may be deemed in any way to modify or vary any of the terms or conditions of the Agreement. In the event of any inconsistency between the terms of the Agreement and this Memorandum, the terms of the Agreement shall control. The rights and obligations set forth in the Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, representatives, successors, and assigns.

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

IN WITNESS WHEREOFF, the Parties have executed this Memorandum of Telecommunications Site Lease Agreement as of the day and year first written above.

LESSOR:

**Dublin San Ramon Services District,
a local governmental agency in the
State of California**

By: _____

Name: _____

Title: _____

LESSEE:

**DISH Wireless L.L.C.,
a Colorado limited liability company**

By: _____

Name: _____

Title: _____

LESSOR'S ACKNOWLEDGMENT

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned a Notary Public in and for the county and state aforesaid, personally appeared _____(person/company) to me known to be the identical person who executed the within and foregoing instrument as its _____(title), and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of said _____(company), for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

Notary Public

My Commission Expires: _____
Commission No: _____

LESSEE'S ACKNOWLEDGMENT

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned a Notary Public in and for the county and state aforesaid, personally appeared _____ of DISH Wireless L.L.C. to me known to be the identical person who executed the within and foregoing instrument as its _____(title), and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of said DISH Wireless L.L.C., for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

Notary Public

My Commission Expires: _____
Commission No: _____

EXHIBIT A**Legal Description of the Property**

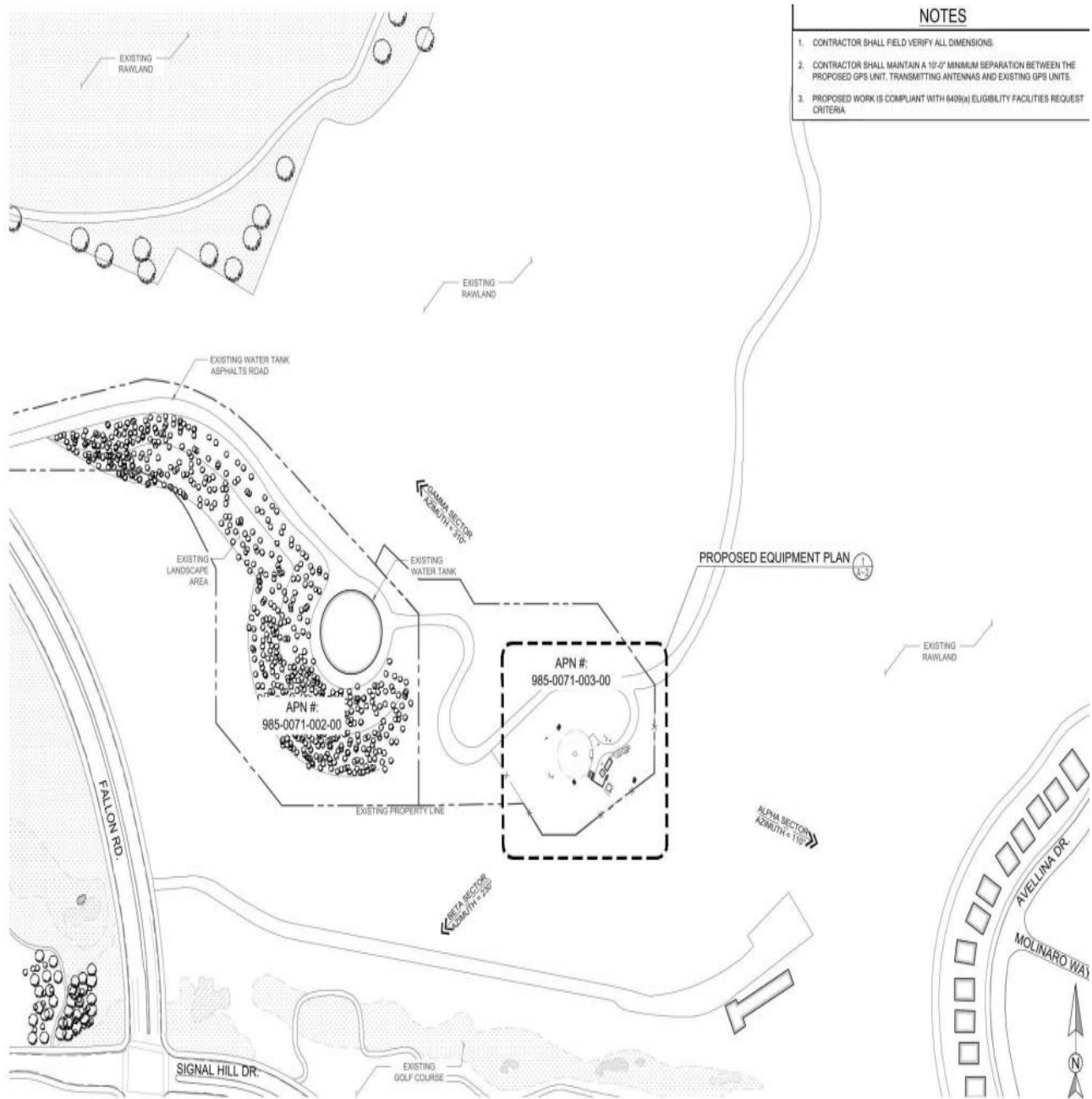
BEING A PORTION OF THAT CERTAIN PARCEL OF LAND DESIGNATED AS: "PARCEL TWO-A" AS CONVEYED IN THE DEED TO: "DR ACQUISITION I, LLC"; AS RECORDED ON THE 17TH DAY OF AUGUST, 2000, IN SERIES NO. 2000247985, OFFICIAL RECORDS OF ALAMEDA COUNTY, CALIFORNIA, FOR PURPOSES OF A FEE CONVEYANCE TO DUBLIN - SAN RAMON SERVICES DISTRICT, LYING AND BEING IN THE CITY OF DUBLIN ALAMEDA COUNTY, CALIFORNIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST PROPERTY CORNER THAT CERTAIN PARCEL OF LAND AS CONVEYED IN THE DEED TO: "DUBLIN-SAN RAMON SERVICES DISTRICT" [HEREINAFTER CALLED: "DSRSD"], AS RECORDED ON THE 29TH DAY OF JANUARY, 1999; IN SERIES NO. 99-037503, OFFICIAL RECORDS OF ALAMEDA COUNTY, CALIFORNIA; THENCE ALONG THE EASTERLY PROPERTY LINE OF SAID "DSRSD" "PARCEL THE FOLLOWING TWO (2) COURSES; (1) NORTH 0°00'00" EAST 320.71 FEET; THENCE (2) NORTH 52°30'34" WEST 85.06 FEET; THENCE DEPARTING FROM SAID EASTERLY PROPERTY LINE AND ENTERING SAID "PARCEL TWO-A" THE FOLLOWING ELEVEN (11) COURSES: (3) NORTH 45°00'00" EAST 28.46 FEET; THENCE (4) PERPENDICULARLY IN A SOUTHEASTERLY DIRECTION SOUTH 45°00'00" EAST 47.00 FEET; THENCE (5) NORTH 90°00'00" EAST 120.00 FEET; THENCE (6) SOUTH 45°00'00" EAST 124.00 FEET; THENCE (7) NORTH 90°00'00" EAST 310.00 FEET; THENCE (8) SOUTH 45°00'00" EAST 161.50 FEET; THENCE (9) SOUTH 0°00'00" EAST 157.50 FEET; THENCE (10) SOUTH 62°50'00" WEST 232.31 FEET; THENCE (11) NORTH 90°00'00" WEST 70.00 FEET; THENCE (12) NORTH 45°00'00" WEST 150.00 FEET; THENCE (13) NORTH 90°00'00" WEST 235.00 FEET TO SAID PONT OF BEGINNING.

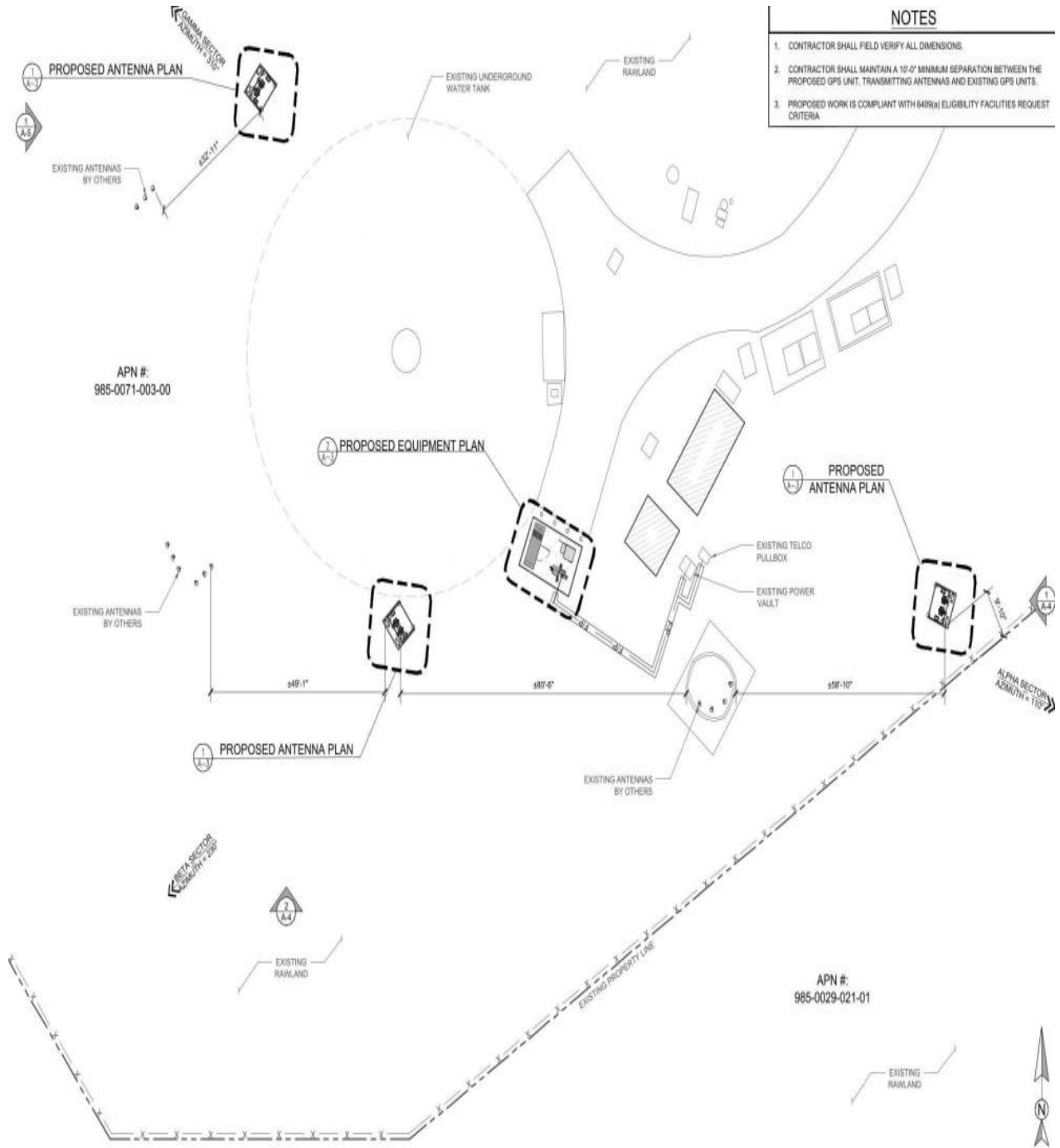
CONTAINING 200,339 SQUARE FEET, 4.599 ACRES, MORE OR LESS.

PARCEL ID: 985-0071-003-00

EXHIBIT B
The Premises



NOTES	
1.	CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS.
2.	CONTRACTOR SHALL MAINTAIN A 10'-0" MINIMUM SEPARATION BETWEEN THE PROPOSED GPS UNIT, TRANSMITTING ANTENNAS AND EXISTING GPS UNITS.
3.	PROPOSED WORK IS COMPLIANT WITH 6499(a) ELIGIBILITY FACILITIES REQUEST CRITERIA.



NOTES	
1.	CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS.
2.	CONTRACTOR SHALL MAINTAIN A 10'-2" MINIMUM SEPARATION BETWEEN THE PROPOSED GPS UNIT, TRANSMITTING ANTENNAS AND EXISTING GPS UNITS.
3.	PROPOSED WORK IS COMPLIANT WITH (6499) ELIGIBILITY FACILITIES REQUEST CRITERIA.



TITLE: Authorize the General Manager to Execute a Work Order with G.S.E. Construction Co., Inc. for Construction Services for the EALS Rehabilitation Project (CIP 21-P009)

RECOMMENDATION:

Staff recommends the Board of Directors authorize, by Motion, the General Manager to execute a Work Order under the Technical Services Agreement for On-Call Mechanical Services with G.S.E. Construction Co., Inc. in an amount not to exceed \$186,600 for construction services for the EALS Rehabilitation Project (CIP 21-P009).

DISCUSSION:

The East Amador Lift Station ("EALS") pumps wastewater from the City of Pleasanton's ("City") East Amador trunk sewer into the District's trunk sewer and is located at the Regional Wastewater Treatment Plant ("WWTP"). By contract, the District owns, operates, and maintains the lift station, and the City reimburses the District for all related costs. Because the EALS conveys a large portion of the City's wastewater into the WWTP for treatment, it is considered a critical facility. Originally constructed in 1967, and later rehabilitated in 1990, the existing electrical and mechanical infrastructure within the EALS is nearing the end of its useful life. The EALS Rehabilitation Project (CIP 21-P009) ("Project") includes the removal of the existing mechanical and electrical equipment and the installation of new owner-furnished equipment including three pumps and motors, three variable frequency drives, three flow meters, and one level transmitter. All expenses incurred as a result of the Project, including labor, will be fully reimbursed by the City.

Mechanical construction services, like those included in the scope of the Project, are often required by the District to maintain equipment and ensure optimal performance of the District's assets. In 2019, the District established a list of contractors qualified to perform on-call mechanical work at the WWTP through a request for proposals process. The goal was to have contracts in place with prequalified contractors to streamline the procurement process. On March 3, 2020, the Board approved the award of Technical Services Agreement for On-Call Mechanical Services to D.W. Nicholson Corporation (DWN) and G.S.E. Construction Company, Inc. (GSE).

The District's purchasing requirements (outlined in District Code Chapter 7.40) allow for projects estimated between \$60,000 and \$200,000 to utilize an informal bidding process. In accordance with the informal bidding process, the District may provide notice inviting informal bids to a list of qualified contractors for the category of work being bid. Staff provided a notice inviting informal bids to both qualified on-call mechanical services contractors, DWN and GSE, for the Project. In August 2022, DWN and GSE submitted quotes to perform the work associated with the Project in the amount of \$217,459 and \$186,600, respectively. Based on the quotes received, staff recommends the Board authorize the General Manager to execute a Work Order under the Technical Services Agreement for On-Call Mechanical Services with G.S.E. Construction Co., Inc. in an amount not to exceed \$186,600 for construction services for the Project.

A Notice of Exemption for the Project per the California Environmental Quality Act ("CEQA") was filed on April 7, 2022. The Project is exempt from the CEQA pursuant to CEQA Guidelines Sections 15301, 15302, and 15303. The Project is expected to be completed by end of January 2023.

Originating Department: Engineering and Technical Services	Contact: S. Mann/S. Delight	Legal Review: Not Required
Financial Review: Not Required	Cost and Funding Source: \$186,600 from Regional Wastewater Replacement (Fund 310), of which 100% of the cost will be reimbursed by the City of Pleasanton	
Attachments: <input type="checkbox"/> None <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input checked="" type="checkbox"/> Other (see list on right)	Attachment 1 – Work Order	


**Dublin San Ramon
Services District**
Water, wastewater, recycled water
Dublin San Ramon Services District
 7051 Dublin Boulevard
 Dublin, CA 94568

 District Office: 925/828-0515
 Fax: 925/829-1180
 Customer Service: 925/828-2057
 WWTP: 925/846-4565

WORK ORDER

 PURCHASE ORDER NO.: TBD
 DATE: 11/1/2022

- District's Purchase Order No. must appear on all packages, packing lists, shipping documents, invoices, and correspondence.
- Item No., quantity, units, description, and District Purchase Order No. must appear on invoices and packing lists.

TO: JJ Macarandan

 G.S.E. Construction Co., Inc.
 7633 Southfront Rd. STE #160
 Livermore, CA 94551

 MAIL ORIGINAL COPY OF INVOICE:
 TO: Dublin San Ramon Services District
Accounting Department
 7051 Dublin Boulevard
 Dublin, CA 94568

 OR EMAIL: Accountspayable@dsrcsd.com
CONTRACTOR

LICENSE NO.: License No. TAXPAYER I.D. NO.: 94-2667247

 CORPORATION PARTNERSHIP INDIVIDUAL

PLACE OF WORK	SCHEDULE	DISTRICT'S PROJECT NO.
East Amador Lift Station (EALS) - Building E at WWTP located at 7399 Johnson Drive Pleasanton, CA 94588	<i>BEGIN:</i> 12/15/2022	21-P009
	<i>COMPLETE:</i> 1/31/2023	ACCOUNTING CHARGE NO.: 21-P009.constr.cip

TERMS AND CONDITIONS ATTACHED ARE ESSENTIAL TERMS OF THIS ORDER.

ITEM NO.	WORK DESCRIPTION
1	Remove existing mechanical and electrical equipment and install new owner-furnished equipment including three pumps and motors, three variable frequency drives, three flow meters, and one level transmitter at EALS - Building E per G.S.E. Construction Co., Inc. proposal dated September 13, 2022 attached herein. The work shall follow all terms and conditions of the Technical Services Agreement (A20-11) with G.S.E. Construction Co., Inc. dated April 6, 2020.

CALL UNDERGROUND SERVICE ALERT (USA) AT 811 AT LEAST 48 HOURS PRIOR TO COMMENCING ANY EXCAVATIONS.

AGREED UPON COST		The following total amount shall not be exceeded without further authorization:
Payment Basis	Work Item Nos.	<u>\$186,600.00 NTE</u>
<input checked="" type="checkbox"/> Lump Sum	Item 1	
<input type="checkbox"/> Time and Expense	Item #	
<input type="checkbox"/> Unit Prices Qty. _____ Unit _____ \$/Unit _____	Item #	
Qty. _____ Unit _____ \$/Unit _____	Item #	
<input type="checkbox"/> Other		

CONTRACTOR	DUBLIN SAN RAMON SERVICES DISTRICT
BY	BY

DISTRIBUTION OF WORK DIRECTIVE COPIES:

- 1. ORIGINAL (Contractor to sign both originals and retain one)
- 2. ACCOUNTING
- 3. DISTRICT PROJECT MANAGER: Sukhpreet Mann
- 4. FILE: 21-P009 GSE Construction Co. Inc 03 Contracts

ATTACHMENTS:

G.S.E. Construction Co., Inc. proposal dated September 13, 2022



TITLE: Receive Presentation on Drinking Water Quality

RECOMMENDATION:

Staff recommends the Board of Directors receive a presentation on the District’s drinking water quality.

DISCUSSION:

As requested by the Board on August 16, 2022, staff is providing information on the District’s drinking water quality. The aesthetic quality of the District’s drinking water has long been an issue. Originally, the Valley Community Services District (now DSRSD) supplied drinking water from local fringe groundwater basin wells. The quality of the water was poor, and as the District expanded, the yield of the wells was not adequate to meet the growing demand. Similar long-term supply concerns from both the agricultural community and the expanding municipal entities led to the creation of the Zone 7 Water Agency (Zone 7) and in the 1960’s the importation of surface water from the California State Water Project. With the introduction of surface water, the District’s drinking water quality improved. The District now purchases 100% of its drinking water supplies from Zone 7.

Zone 7 delivers a blend of surface water and groundwater from the Livermore Valley Groundwater Basin (Main Basin) to the four treated water retailers across the Tri-Valley. The delivered water quality meets or exceeds all state and federal drinking water standards that protect human health and safety. However, certain aesthetic (non-health related) aspects of the delivered drinking water, including hardness, taste, and odor, vary depending on the source of water. Because of the configuration of the Zone 7 water transmission system to retail agencies, there is a significant difference in the source water delivered to customers on the east side versus the west side of the valley. The east side primarily receives surface water, and the west side primarily receives groundwater from Main Basin wells, although the blend changes from year to year and throughout each year based on Zone 7’s operations and water supply conditions. These differences in delivered water quality received by the retail agencies led to a clause in the 1967 water supply contract between the District and Zone 7 that was carried forward into the 1996 water supply contract stating: *“Zone 7 will endeavor to provide treated water that is aesthetically acceptable to the Contractor’s (District) customers. Zone 7 will blend its different sources of water within its operational capabilities to provide water of approximately equal quality to each customer (Retailers)”*.

Over the years, Zone 7 has worked to improve hardness, taste, and odor issues. In 2004, Zone 7 prepared a Salt Management Plan to protect the Main Basin’s long-term use, facilitate the use of recycled water for irrigation within the Tri-Valley, and soften groundwater supplies primarily being delivered to retailers on the west side of Zone 7’s service area. This plan led to the construction of the Mocho Groundwater Demineralization Plant at the Mocho Wellfield in 2009 that removes salts and minerals in the groundwater through a treatment process called reverse osmosis. The treated groundwater is then blended with groundwater from other wells to reduce overall hardness. Since its construction, the Mocho Groundwater Demineralization Plant has removed over 18,600 tons of salt from pumped groundwater, and according to Zone 7’s 2021 Alternative Groundwater Sustainability Plan, Zone 7 may consider a second groundwater demineralization plant in the future.

Most recently, Zone 7 upgraded its two surface water treatment plants, Del Valle Water Treatment Plant and Patterson Pass Water Treatment Plants, to include ozone treatment. Ozonation is effective at destroying organic matter such as geosim and methylisoborneol that are responsible for earthy and musty odors. The addition of ozone should address the taste and odor issues caused by algal blooms in the Sacramento-San Joaquin Delta that most commonly occur from late spring through early fall.

Originating Department: Engineering and Technical Services	Contact: S. Delight	Legal Review: Not Required
Financial Review: Not Required	Cost and Funding Source: N/A	
Attachments: <input checked="" type="checkbox"/> None <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input type="checkbox"/> Other (see list on right)		



TITLE: Discuss Director Travel and Expenses Policy and Provide Direction

RECOMMENDATION:

Staff recommends the Board of Directors discuss the Director Travel and Expenses policy and provide direction.

DISCUSSION:

At the August 16 Board meeting, the Board requested an item be agendized to discuss the Director Travel and Expenses policy regarding meal allowances. The current policy was last reviewed and approved on August 2, 2022, and is provided as Attachment 1 for the Board’s reference.

DSRSD’s actual and reasonable costs of meals while traveling for Boardmembers and staff are set to the average California city per diem rates established by the U.S. General Services Administration (“GSA”). Each year in December, staff evaluates the daily maximum meal rates. The average rate for California cities has increased to \$72.64, and the median increased to \$74.00. Staff approved an increase to the 2021 allowance of \$69 to \$74, effective January 1, 2022, as reflected by the following:

- Breakfast: \$16 (increased from \$14)
- Lunch: \$19 (increased from \$18)
- Dinner: \$39 (increased from \$37)

Staff recommends the Board of Directors review and discuss the Director Travel and Expenses policy as it pertains to meal allowances, or any other travel and expense policy matters the Board is interested in reviewing, and provide direction to staff. Options regarding meal allowances include:

1. Continue to utilize the average California city per diem rates established by the GSA with no receipts required. This is the most common approach in local government.
2. Continue to utilize the average California city per diem rates established by the GSA with no receipts required. If meals are more expensive, however, provide for reimbursement at the higher amount only if actual receipts are attached. This method is used by some agencies and does not result in taxation issues.
3. Set a higher per diem rate of reimbursement for the District over what is established by the GSA. *This is not a staff recommendation due to potential tax implications.*

Originating Department: Board of Directors	Contact: N. Genzale/C. Atwood	Legal Review: Not Required
Financial Review: Not Required	Cost and Funding Source: N/A	
Attachments: <input type="checkbox"/> None <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input checked="" type="checkbox"/> Other (see list on right)	Attachment 1 – Director Travel and Expenses Policy	
		40 of 44



Policy

Policy No.: P100-22-2	Type of Policy: Board Business
Policy Title: Director Travel and Expenses	
Policy Description: Reimbursement of travel and related expenses incurred by Directors in the performance of official duties	
Approval Date: 8/2/2022	Last Review Date: 2022
Approval Resolution No.: 41-22	Next Review Date: 2026
Rescinded Resolution No.: 1-20	Rescinded Resolution Date: 1/7/2020

The purpose of this policy of the Board of Directors of Dublin San Ramon Services District is to establish guidelines for reimbursement of travel and related expenses incurred by Directors in the performance of official duties in accordance with Government Code Sections 53232.2 and 53232.3 as specified in Government Code Section 61047, part of the Community Services District Law, and declare that each Director shall exhibit good judgment in the matter of travel and incidental expenses and shall have proper regard for the propriety and economy of conducting District business.

1. General

Directors may receive reimbursement for reasonable and actual travel and/or incidental expenditures of Directors incurred in the performance of official duties and upon timely submittal of a Director Expense Sheet and supporting documentation in conformance with this policy.

At the request of a Director, the General Manager or designee may directly arrange for registration fees and lodging reservations, and pay those directly. All other arrangements and expenses are the responsibility of the Director, and will be reimbursed after the event in accordance with provisions of this policy.

2. Services Allowed for Reimbursement

Reimbursement of travel and related expenses shall meet the following criteria:

- a. Travel to and from and attendance at conferences and meetings by Directors shall be consistent with the approved budget of the District.
- b. Travel on District business within the States of California and Nevada, as well as travel to Association of California Water Agencies and California Association of Sanitation Agencies conferences in Washington D.C., is pre-approved by adoption of this policy; travel on District business in locations other than California, Nevada, and Washington D.C. require specific Board approval.

Policy No.: P100-22-2	Policy Title: Director Travel and Expenses
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- c. Expenses incurred in connection with monthly Chamber of Commerce lunch meetings are pre-approved by adoption of this policy. Such meetings provide opportunities to develop positive relationships with the local business community, when participation is determined by the Board to be in the best interest of the District.
- d. Expenses incurred in connection with activities and/or events that are not eligible for compensation under the Director Compensable Activities policy may, with prior Board approval, qualify for reimbursement under this policy. Such events include activities of civic and charitable organizations when participation is determined by the Board to be in the best interest of the District.

3. Expenses Allowed for Reimbursement

Expenditures of Directors for travel shall be allowed in general accordance with the following criteria:

- a. Registration Fees: A registration or similar fee charged by the organizers of any conference, convention, or meeting.
- b. Lodging: Amounts equivalent to the cost of a standard single occupancy room at the facility at which the conference or meeting is held, or comparable nearby lodging. In instances where conference hotels are filled, the Director should attempt to secure comparable rates at a nearby hotel. Directors must make reasonable and prudent determinations regarding pre- and post-lodging arrangements for each approved event. Directors must take into consideration the event program schedule, location and travel mode, and other activities related to the Director’s duties or purpose at the event
- c. Transportation:
 - Air Travel: Amounts equivalent to the cost of coach class round-trip airfare from Oakland, San Jose, Sacramento, or San Francisco to an airport reasonably near the destination.
 - Rental Cars: The cost of a midsize rental car to and from, or at the destination. In the event a rental car must be utilized, the collision waiver must be added to the rental contract to cover any damage that may occur to the rental car.
 - Private Automobiles: Travel to and from the destination using a private automobile at the IRS mileage rate (travel to and from the District for the purpose of attending Board meetings is not eligible for reimbursement), limited to the cost of a pre-purchased round-trip coach class airfare plus ground transportation that would be incurred for the same trip. When more than one District official travels in the same private automobile, allowance will be made to only the owner or lessor of the vehicle used. No credit for airfare or the avoided cost of a second automobile shall be paid to the second person. If the General Manager determines that air transportation is not feasible due to work schedules, time involved, or other practical reasons, an allowance for the use of a private automobile shall be determined on the basis of the IRS mileage rate and shall not be subject to the limitation specified herein.

Policy No.: P100-22-2	Policy Title: Director Travel and Expenses
------------------------------	---

- Tolls and Parking: Tolls, parking, and other similar charges. Parking shall be at “non-valet” and “long-term” rates when available.
 - Public Transportation / Taxis: Expenses for public transportation or private “for hire” ground transportation at the destination, to and from the destination, and to and from the departure airport.
- d. Meals: Actual and reasonable costs of meals while traveling, up to the average California city per diem rate. Notification of this rate, along with a breakdown by meal, will be forwarded to the Board each December for the upcoming calendar year. Directors shall exercise discretion in the selection of restaurants and when incurring costs for meals. No costs for any alcoholic beverages shall be eligible for reimbursement. The maximum daily reimbursement shall also be reduced by the amount associated with the meals that a Director would normally have taken on his/her personal behalf before departure or after his/her return.
- e. Incidental Expenses: Reasonable incidental expenditures related to travel or the conduct of District business in amounts less than \$10 per item without receipt. These include items such as parking at meters, baggage handling, phone charges, and other similar expenses.

If a receipt is lost, the Director shall so note that on his/her Director Expense Sheet along with a brief explanation and estimate of the expense. In such cases, copies of credit card statements and/or checking account charges that show the date and amount of the charge and the payee are acceptable substitutes. The General Manager, or designee, shall apply reasonable discretion, as supported by the evidence of the situation, and determine the actual amount to be reimbursed.

4. Expenses Not Allowed for Reimbursement

- a. Direct or incremental expenses of family members or guests traveling with a Director, such as the added cost of upgrading a room or a rental car to accommodate a non-District traveling companion.
- b. Expenses unrelated to approved travel or event attendance. Allowable expenses as specified herein are reimbursable only for the time while the conference, business meeting, or other District business activity is occurring, with reasonable allowance for the need to arrive in advance of or depart after a conference or business meeting.
- c. Expenses incurred in connection with partisan or nonpartisan political activities or events.
- d. Expenses not submitted for reimbursement within 45-days of being incurred.

5. Review and Approval

The principal responsibility for compliance with this policy rests with each Director. The General Manager, or designee, shall review all expenses submitted for reimbursement to determine conformance with this policy prior to approving payment. When necessary, reasonable discretion in approving reimbursements

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related to unusual circumstances may be exercised that are not in strict accordance with this policy but that were necessary and prudent and were incurred in performance of official duties while furthering the interests of the District. If a Director disagrees with the determination, the Director submitting the expenses for reimbursement shall make a request at a Board meeting, not later than 60 days after the day for which reimbursement is requested, to schedule an agenda item to review the determination at a future regular Board meeting. The submittal of a Director Expense Sheet by a Director shall be deemed a representation by that Director that the request, in the exercise of his or her judgment, complies with the terms of this policy, that any required approval of the Board was obtained at a Board meeting in advance of the activity or event, that any required written report has been submitted at the next Board meeting following the activity or event, and that the Director has considered any issues that the General Manager has identified. If the matter is referred to the Board of Directors, the Board shall approve the Director Expense Sheet unless the Board believes it substantially deviates from this policy.

6. Administration

The General Manager, or designee, shall administer this policy and shall institute appropriate accounting and control procedures to ensure the policy is being followed.