

**Business of the Village Board  
Village of Saranac Lake**

SUBJECT: Authorize Wireless Communications Agreement      DATE: 3-16-2022

DEPT OF ORIGIN: Village Manager

BILL # 36 -2022

DATE SUBMITTED: \_\_\_\_\_

EXHIBITS: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Village Attorney

\_\_\_\_\_  
Village Administration

EXPENDITURE  
REQUIRED

AMOUNT  
BUDGETED

APPROPRIATION  
REQUIRED:

Authorize Small Wireless Communications Facilities License

MOVED BY: Catillaz      SECONDED BY: Shapiro

VOTE ON ROLL CALL:

MAYOR RABIDEAU

\_\_\_\_\_

TRUSTEE BRUNETTE

YES

TRUSTEE CATILLAZ

YES

TRUSTEE LITTLE

YES

TRUSTEE SHAPIRO

YES

**SMALL WIRELESS COMMUNICATIONS FACILITIES  
LICENSE FOR A REPLACEMENT UTILITY POLE ON PETROVA AVENUE NEAR  
SOUTH FAIRVIEW STREET  
SARANAC LAKE, NEW YORK**

**THIS SMALL WIRELESS COMMUNICATIONS FACILITIES LICENSE** ("License") is granted on this 28th day of March, 2022, by the Village of Saranac Lake ("Village") to NY RSA2 Cellco Partnership d/b/a Verizon Wireless ("Licensee"). The Village and Licensee shall be collectively referred to as the "Parties."

**WHEREAS**, in order to remedy service inadequacies in and around an existing microcell wireless facility within the Village right-of-way ("ROW") on Petrova Avenue near South Fairview Street, the Licensee has proposed to install a 3' antenna on the top of a replacement 38'- 6" utility pole (the "Project"); and

**WHEREAS**, the Project was approved by the Village's Development Board; and

**WHEREAS**, Village Development Code § 106-88(C)(3)(a) requires the Licensee to obtain a license agreement from the Board of Trustees and to pay a license fee for the Project.

**NOW, THEREFORE**, the Village hereby grants a license for the Project as provided herein (the "License"):

1. This License will be effective upon the date of issuance of a Building Permit for the Project (the "Commencement Date"). The term of this License for the Project shall be for 15 years beginning on the Commencement Date (the "Term"). Unless either party provides written notice to the other party at least ninety 90 days prior to expiration of the Term that such party will not renew the License, the Term will automatically renew for one (1) additional 15-year period. This License shall be limited to the Project and shall not be deemed to set a precedent for any license or future agreements between the parties with respect to small wireless communications facilities.

2. In exchange for this License to use the Village's ROW for the Project, Licensee shall pay to the Village the fees set forth in the "Fee Schedule" attached hereto and made a part hereof as Exhibit A. Licensee shall pay the One-Time License Fee within thirty days (30) of the Commencement Date. Licensee shall pay the initial Pole Recurring Fee within ninety thirty (90) days of the Commencement Date and pay subsequent recurring fees on or before each anniversary of the Commencement Date. Before any recurring fees are paid, Village shall provide Licensee a completed, current Internal Revenue Service Form W-9 and state and local withholding forms if required. Licensee may make payments by check made out to the order of the Village of Saranac Lake and sent to the following address or through electronic transfer subject to the Village's approval and necessary bank routing instructions:

Village of Saranac Lake  
Attn: Treasurer  
39 Main Street, Suite 9  
Saranac Lake, NY 12983

3. Licensee shall pay for any electricity service for the Project. As permitted by the electric provider, Licensee may install an electric meter on the Village pole or the ground adjacent to the Village pole.

4. The License may be terminated prior to the expiration of its term: (i) by the Village upon written notice to Licensee, if Licensee fails to pay any amount when due and such failure continues for thirty (30) days after Licensee's receipt of notice; (ii) by either Party upon written notice to the other Party, if such other Party fails to comply with this License and the party has failed to initiate a cure within sixty (60) days after receipt of written notice; (iii) by Licensee at any time for any reason or no reason; or (iv) by Licensee in the event that Licensee fails to timely obtain or maintain, or is not satisfied with any governmental approval applicable to Licensee.

5. Following expiration or earlier termination of the License, Licensee shall, other than reasonable wear and tear, repair and restore the ROW to its prior condition, unless the Village authorizes otherwise.

6. Interference.

(a) Licensee will not cause interference to Village traffic, public safety or other communications signal equipment in the ROW. Village agrees that Village will not cause interference to the Project or Licensee's Use; and

(b) If interference occurs, the non-interfering party under this license shall notify the interfering party via telephone to Licensee's Network Operations Center at (800) 621-2622 or to Village at (518) 891-4150 and the parties shall work together to cure the interference as soon as commercially possible.

7. Maintenance, Repairs and Modifications.

(a) Equipment Maintenance, Repairs and Modifications. Licensee shall keep and maintain the Project in commercially reasonable condition and in accordance with any applicable and non-discriminatory maintenance requirements of Village. Licensee may conduct testing and maintenance activities, and repair and replace damaged or malfunctioning equipment at any time. Licensee, subject to any other required approvals, may maintain, repair, replace and make like-kind modifications to the Project that do not materially change the size, height and weight of the Project or exceed the structural capacity of the supporting structure. No new or modified license will be required for the Project with respect to maintenance, repairs or non-material modifications;

(b) In the event of any damage to the pole approved for the Project that impacts Licensee's Use, Licensee may reinstall its equipment after a damaged pole has been repaired or replaced by its owner. Licensee may request Village permission to temporarily use an alternative pole or structure reasonably acceptable to the Parties during repair or restoration of a pole; and

(c) Emergency Contacts. Licensee's network operations center may be reached 24/ 7 at (800) 621-2622. Licensor's 24/7 emergency contact number is 911. Each Party will maintain the emergency contact information current at all times with the other Party.

8. In the event of any Village work in the ROW that requires the removal and/or relocation of the Project, the Village shall provide adequate notice to the Licensee prior to undertaking such work and the Parties shall cooperate to the extent possible to assure continuity of service during any relocation.

9. Indemnity/Damages. Licensee shall indemnify, defend and hold the Village, its employees, officers, elected officials, agents and contractors (the "Indemnified Parties") harmless from and against all injury, loss, damage, liability, costs or expenses arising from any third-party claims resulting from Licensee's Use or Licensee's breach of this Agreement. Licensee's indemnity shall not apply to any liability resulting from the negligence or willful misconduct of the Village or other Indemnified Party. The Village shall give prompt written notice to Licensee of any claim for which the Village seeks indemnification. Licensee shall have the right to investigate these claims. Licensee shall not settle any claim without reasonable consent of the Village, unless the settlement (i) will be fully funded by Licensee, and (ii) does not contain an admission of liability or wrongdoing by any Indemnified Party. Neither party will be liable under this License for consequential, special, punitive or indirect damages, whether under theory of contract, tort (including negligence), strict liability, or otherwise; and

10. Insurance.

(a) Licensee and its subcontractors shall carry the following insurance: (i) commercial general liability insurance in an amount of \$3,000,000 per occurrence and \$4,000,000 general aggregate and which provides coverage for bodily injury, death, damage to or destruction of property of others, including loss of use thereof, and including products and completed operations; (ii) Workers' Compensation Insurance as required by law; and (iii) employers' liability insurance in an amount of \$500,000 bodily injury each accident, \$500,000 disease each employee, and \$500,000 disease policy limit;

(b) The insurance coverages identified in this Section: (i) except the workers' compensation insurance, shall include the Village as an additional insured for work undertaken in the Village's ROW; (ii) will be primary and non-contributory with respect to any self-insurance or other insurance maintained by the Village; (iii) contain a waiver of subrogation for the Village's benefit; and (iv) will be obtained from insurance carriers having an A.M Best rating of at least A-VII; and

(c) If requested, Licensee shall provide the Village with a Certificate of Insurance to provide evidence of insurance. Licensee will endeavor to provide the Village with thirty (30) days prior written notice of cancellation upon receipt of notice thereof from its insurer(s).

11. Assignment. Licensee may assign this License to any entity which (i) is an affiliate, subsidiary or successor of Licensee; or (ii) that acquires all or substantially all of the Licensee's assets in the market. Licensee shall provide the Village notice of any such



assignment. Otherwise, Licensee shall not assign or transfer this License or the rights granted hereunder without the Village's consent.

12. Notices. Notices required by this License may be given by registered or certified mail by depositing the same in the United States mail or with a commercial courier. Unless either party notifies the other of a change of address, notices shall be delivered as follows:

If to Village:

Village of Saranac Lake  
39 Main Street, Suite 39  
Saranac Lake, NY 12983  
Attn: Village Manager

If to Licensee:

NY RSA2 Cellco Partnership  
d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Network Real Estate

Notices shall be deemed effective upon delivery or refusal of delivery.

13. If any applicable state or federal Law sets forth a term or provision that is inconsistent with or different than this License, then the Parties agree to promptly amend the License to effect the term or provision set forth under such Law.

14. As applicable to this License, the Parties shall comply with applicable laws including, without limitation, regulations and judicial decisions, Federal Communications regulations and orders.

15. Miscellaneous. This License shall be governed by the laws of the State of New York and all other applicable Laws. The provisions of this License may be waived or modified only by written agreement signed by both parties. This License may be executed in counterparts. A scanned or electronic copy shall have the same legal effect as an original signed version. If one or more provisions in this License is found to be invalid, illegal or otherwise unenforceable, all other provisions will remain unaffected and shall be deemed to be in full force and effect and the Parties shall amend this License, if needed to effect the original intent of the Parties. This License shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors. Nothing in this License shall be construed to grant Licensee an interest in the Village's ROW or Village assets located in the ROW. Neither party shall be responsible for delays in the performance of its obligations caused by events beyond the party's reasonable control. As to the subject matter hereof, this License as granted by the Village is the complete agreement of the parties with respect to the Project. The Parties represent and warrant that the individuals executing this License are duly authorized.

16. This License may be amended or superseded upon written agreement of the Parties.

**This License is granted with the Approval of the Village of Saranac Lake Board of Trustees:**

\_\_\_\_\_  
John Sweeny, Village Manager

\_\_\_\_\_  
Date

**Licensee agrees to comply with the terms of this License:**

\_\_\_\_\_  
NY RSA2 CELLCO PARTNERSHIP  
D/B/A VERIZON WIRELESS

\_\_\_\_\_  
Date

**EXHIBIT A**

**FEE SCHEDULE**

One-Time License Fee	\$ 100.00
Pole Recurring Fee	\$ 100.00

For purposes of determining the total annual fee applicable for a partial calendar year in which the Commencement Date occurs in a month other than January, the total fee will be a pro-rated amount equal to the product obtained by multiplying 1/12th of the annual fee by the number of months remaining in such year.

Except as provided in this Fee Schedule, the Village shall not require any other or additional recurring fees, costs, or charges of any kind for this License.