

SITE LEASE AGREEMENT

THIS LEASE is entered into this ____ day of _____, 2023, (“Effective Date”), by and between the City of Tumwater, Washington, a Municipal Corporation (hereinafter “CITY”) and Dish Wireless, L.L.C., a Foreign Limited Liability Company, whose address is 9601 S. Meridian Boulevard, Englewood, Colorado, 80112-5905 (hereinafter “TENANT”).

CITY, as holder of the grant of a perpetual easement together with the conveyance of the 200,000 gallon steel water tank and all appurtenances thereof from the Port of Olympia by Water Facilities Agreement dated August 20, 1986, has authority to execute this Site Lease Agreement with Tenant for certain real property including building(s) as more particularly described in attached Exhibit A (the “Premises”). TENANT desires to lease space on and air space above the Premises as described below for the installation, maintenance, and operation of certain equipment which includes, but is not limited to, requisite antennas, and connecting cables and appurtenances (collectively, “Equipment”) for use in connection with its wireless telephone communications service (“Service”).

In consideration of their mutual covenants, the parties agree as follows:

1. Leased Premises. CITY leases to TENANT and TENANT leases from CITY, on a non-exclusive basis, a portion of the Premises as legally described in attached Exhibit A, including but not limited to certain portions located on the water tower located on the Premises (“Tower”), together with that certain portions of ground space (“Ground Space”) on the Premises, together with necessary space and rights for access and utilities, described and depicted in attached Exhibit B (“Cabling Space”). The Tower, Ground Space, and Cabling Space are collectively referenced as the “Lease Space”. The Ground Space shall be reserved for TENANT’S exclusive installation and use of TENANT’S equipment. TENANT may locate its Equipment on the Premises in the manner as described specifically in the attached Exhibit C. TENANT may not add Equipment to the Tower in addition to that shown on Exhibit C unless approved in writing by the CITY.

2. Term. This Lease shall be effective upon the Effective Date. The initial term of the lease shall be for five (5) years and shall commence on the first day of the month following the date of execution by the CITY (the “Commencement Date”) and shall end at 12:00 a.m. (midnight) on the fifth (5th) anniversary of the Commencement Date. This Lease may be renewed for three (3) additional five (5) year terms upon giving written notice to the City no more than six (6) months before and no less than four (4) months before the end of the current five (5) year term. Provided that Tenant is not in breach of the Lease, this Lease may be renewed for three (3) additional five (5) year terms. TENANT shall file a renewal application to CITY not more than one hundred eighty days nor less than one hundred twenty days before expiration of the current facilities lease before the end of the current five (5) year term. The CITY may refuse to renew (i) in the event of breach of the Lease during the preceding term, or (ii) any other reason determined by the CITY in its reasonable

discretion. Any such refusal shall be in writing and shall be sent to TENANT at least ninety (90) days prior to expiration of the then current five (5) year term.

3. Rent.

a. Within thirty (30) days after the Commencement Date and on the first day of each month thereafter, TENANT shall pay to CITY as rent One Thousand Six-Hundred and Fifteen and no/100 Dollars (\$1,615.00) ("Rent") per month. Rent for any fractional month at the beginning or at the end of the Term or Renewal Term, if any, shall be prorated. Rent shall be payable to the CITY at:

City of Tumwater
Attention: Finance Director
555 Israel Road SW
Tumwater, WA 98501

TENANT shall pay the CITY a late payment charge equal to five percent (5%) of the amount due for any payment not paid when due. Any amounts not paid when due shall also bear interest until paid at the lesser of the rate of two percent (2%) per month or the highest rate permitted by law.

b. On each anniversary of the Commencement Date, the Rent shall automatically be increased by four percent (4%) per year of the then-current rent.

c. TENANT shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Lease; including, but not limited to, Washington State Leasehold Excise Tax, currently at a rate of twelve and 84/100 percent (12.84).

d. Within thirty (30) days of the Effective Date, TENANT shall submit to the CITY a Security Deposit in an amount of Twenty Thousand and no/100 Dollars (\$20,000.00), which shall be refunded at the termination of this Lease if TENANT is not in default of the Lease. In the event TENANT fails to pay Rent or other charges when due, cure periods considered, the CITY shall deduct such amount from the Security Deposit, and TENANT agrees to immediately refund to the CITY any such deduction from the Security Deposit. The Security Deposit shall be held by the CITY without liability for interest.

e. Additional Consideration. As additional consideration for this Agreement, Tenant shall pay City a one-time, non-refundable, lump-sum signing bonus of Five Thousand and 00/100 Dollars (\$5,000.00), which shall be considered as "additional rent", which shall be paid within forty-five (45) days from the date of full execution of this Agreement by the Parties.

4. Permitted Use of Premises.

a. TENANT shall use that portion of the Premises leased herein for the installation, operation, and maintenance of its Equipment to provide Service, which shall include the right to replace, repair, or otherwise modify any or all Equipment and the frequencies over which Tenant's Equipment operates. City acknowledges and agrees that if radio frequency signage and/or barricades are required by applicable law, Tenant shall have the right to install the same on the

Premises. The Equipment and Premises may not be used for cable television services.

b. TENANT shall, at its expense, comply with all applicable present and future federal, state, and local laws, ordinances, rules and regulations (including laws and ordinances relating to zoning, aesthetics, landscaping, fencing, permits, removal and abandonment, screening, health, radio frequency emissions, other radiation and safety) in connection with the provision of Service and the use, operation, maintenance, construction and/or installation of Equipment on the Premises, including but not limited to, Tumwater Municipal Code (TMC) Title 11.

c. The Parties acknowledge and agree that TENANT's ability to lawfully use the Lease Space is contingent upon TENANT obtaining all certificates, permits, approvals and other authorizations that may be required by any Governmental Authority in accordance with Applicable Law (collectively, the "**Governmental Approvals**"). TENANT will endeavor to obtain all such Governmental Approvals promptly. CITY hereby authorizes TENANT, at TENANT'S sole cost and expense, to file and submit for Governmental Approvals. CITY shall: (a) cooperate with TENANT in TENANT'S efforts to obtain such Governmental Approvals; (b) execute and deliver all documents necessary to obtain and maintain the Government Approvals; and (c) not take any action that would adversely affect TENANT's ability to obtain and/or maintain the Governmental Approvals. If: (i) any application for Governmental Approvals is rejected, conditioned, materially delayed or otherwise not approved for any or no reason; or (ii) TENANT determines, in TENANT's sole and absolute discretion, that such Governmental Approvals cannot be obtained in a timely and commercially reasonable manner (clauses (i) and (ii) collectively, the "**Contingencies**"), then, TENANT shall have the right in its sole and absolute discretion to terminate this Agreement immediately upon Notice to CITY, without penalty or further obligation to CITY (or CITY's affiliates, employees, officers, agents or lenders). If, following the Commencement Date, any Governmental Approval issued to TENANT is canceled, expires, lapses or is otherwise withdrawn or terminated by the applicable Governmental Authority, then TENANT shall have the right in its sole and absolute discretion to terminate this Agreement upon ninety (90) days' Notice to CITY without penalty or further obligation to CITY (or CITY's affiliates, employees, officers, agents or lenders). If this Agreement is terminated, this Agreement shall be of no further force or effect (except as set forth to the contrary herein).

d. TENANT shall remove the Equipment from the Premises upon termination of the Lease. Upon removal of the Equipment, TENANT shall restore the Premises to its original condition, reasonable wear and tear excepted. All costs and expenses for the removal and restoration to be performed by TENANT shall be borne by TENANT.

e. The CITY reserves the right to use the property for such purposes as it shall desire including, but not limited to, constructing or installing structures and facilities on the property, or developing, improving, repairing or altering the property. In furtherance of such rights, the TENANT will, upon the CITY's demand and at the TENANT's sole cost and expense, remove, repair, relocate, change, or reconstruct the

Equipment pursuant to the CITY's instructions and within the reasonable time period prescribed by the CITY.

5. Relocation. In the event CITY desires to redevelop, modify, remodel or in any way alter the Premises and/or any improvements located thereon ("Redevelopment"), CITY shall in good faith use its best efforts to fully accommodate TENANT's continuing use of the Premises. Should any proposed Redevelopment necessitate the relocation of the TENANT's Equipment, TENANT and CITY shall use best efforts to find a mutually acceptable alternate location for the TENANT's Equipment. TENANT shall relocate or make the necessary alterations, at TENANT's sole cost, expense and risk; provided, however, that CITY has provided TENANT with no less than six (6) months prior written notice of CITY's proposed Redevelopment. In the event that TENANT and CITY cannot agree on an alternate location for TENANT's Equipment on the Property using best efforts, either party may terminate this Lease, by providing ninety (90) days written notice of its intent to terminate. If the parties agree on an acceptable alternate location for TENANT's Equipment, TENANT and CITY agree to use their best efforts to amend this Lease to document the new, alternate Equipment location, and from and after the date TENANT begins installation of its Equipment at such new location, such new location shall be deemed the Premises (or part thereof, as applicable) herein. In the event the CITY requires TENANT relocate its Equipment more than twice in any single 5-year lease term, for reasons within control of the CITY, the City shall relocate TENANTS Equipment at the CITY'S expense.

6. Restoration. In the event that TENANT causes damage of any kind during the course of installing, operating or maintaining the Equipment, including damage to the premises caused by cutting, boring, jack hammering, excavation or other work, and including latent damage not immediately apparent at the time of the work, TENANT shall repair the damage and/or restore the premises at its sole cost and expense, within the reasonable time period agreed upon by the parties. Restoration of the premises shall be to a condition of the premises prior to commencing the installation, operation or maintenance of the Equipment, reasonable wear and tear excepted. Restoration of improvements within the right-of-way shall be completed as required by the Public Works Construction Standards.

7. Improvements. TENANT may update or replace the Equipment on the Tower from time to time provided that the replacement facilities are not greater in number or size or different in type, color or shape or height than the existing facilities, with written approval from the City. Any change in location of the Ground Space must be approved in writing by CITY. Subject to the foregoing, TENANT may change the Equipment identified in the Ground Space with written approval of CITY. For any change in equipment that requires CITY approval, TENANT shall submit to CITY a written request for any such change and any supplemental materials as may be requested, for CITY's evaluation and approval. CITY shall have thirty (30) days after receipt of all requested materials in which to respond to such request and unless CITY so notifies TENANT to the contrary such approval shall be deemed granted. Except as may be required by FAA or FCC requirements, no lights or signs may be installed on the Premises or as part of the Equipment. TENANT further agrees to monitor the Equipment for fire, smoke, intrusion, and A/C power failure by TENANT's 24-hour

electronic surveillance system. In connection therewith, TENANT has the right to do all work necessary to prepare and maintain the Premises for TENANT's business operations and to install transmission lines connecting the antennas to the transmitters and receivers, after reasonable notice to the CITY. All of TENANT's construction and installation work shall be performed at TENANT's sole cost and expense and in a good and workmanlike manner. TENANT shall also submit a construction schedule to the CITY for the CITY's approval, which approval shall not be unreasonably delayed or withheld.

8. Premises Access. TENANT shall have reasonable access to the Premises and its Lease Space, 24-hours-a-day, 7-days-a-week. In the event of an emergency, TENANT shall have immediate access. CITY retains and reserves the right to access the Premises at all times.

9. Utilities. TENANT shall, at its expense, separately meter charges for the consumption of electricity and other utilities associated with its use of the Premises and shall timely pay all costs associated therewith.

10. Maintenance. TENANT shall, at its own expense, maintain the Ground Space and Equipment on or attached to the Premises in a safe condition and in good repair and in a manner suitable to CITY. Additionally, TENANT shall keep the Premises free of debris, graffiti and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or any interference with CITY services. TENANT shall have sole responsibility for the maintenance, repair, and security of its Equipment and leasehold improvements, and shall keep the same in good repair and condition during the Lease term.

11. Compliance with Laws. TENANT's use of the Premises is subject to its obtaining all certificates, permits, zoning, and other approvals that may be required by any federal, state or local authority. TENANT shall erect, maintain and operate its Equipment in accordance with applicable site standards, statutes, ordinances, rules and regulations now or hereinafter in effect as may be issued by the Federal Communications Commission, the CITY, or any other federal, state or other governing bodies.

12. Lease Subject to Future Ordinances. TENANT acknowledges that the CITY may develop rules, regulations, ordinances and specifications for the use of the right-of-way and CITY property which shall govern TENANT's Equipment and activities hereunder as if they were in effect at the time this Lease was executed by the CITY and TENANT covenants and agrees to be bound by same.

13. Interference with Other Users. The CITY has previously entered into leases with other TENANTS for their equipment and antennae facilities. TENANT acknowledges that the CITY is also leasing the CITY property for the purposes of transmitting and receiving telecommunication signals from the CITY property. The CITY, however, is not in any way responsible or liable for any interference with TENANT's use of the CITY property, which may be caused by the use and operation of any other TENANT's equipment, existing as of the Effective Date. Following the Effective Date, CITY agrees inform any TENANT on CITY property that is deemed to

have installed any structure or equipment which is blocking or otherwise interfering with any transmission or reception by another TENANT's Equipment, provided the impacted TENANT notifies the City and requests assistance to assist with TENANT negotiations. In the event that any other TENANT's activities occurring after the Effective Date, interfere with the TENANT's use of the CITY property, and the TENANT cannot work out this interference with the other TENANTS, the TENANT may, upon 30 days notice to the CITY, terminate this lease and restore the CITY property to its original condition, reasonable wear and tear excepted. The TENANT shall cooperate with all other TENANTS to identify the causes of and work towards the resolution of any electronic interference problem. In addition, the TENANT agrees to eliminate any radio or television interference caused to CITY- owned facilities at TENANT's own expense and without installation of extra filters on CITY-owned equipment. TENANT further agrees to accept such interference as may be received from CITY operated telecommunications or other City facilities located upon the CITY property subject to this lease.

14. Termination.

It is the intent of the CITY to not terminate this agreement within the first ten (10) years of the lease period except as otherwise provided herein. This Lease may be terminated without penalty to CITY or further liability of CITY, as follows:

i. Upon thirty (30) days written notice by either party for failure to cure a default or breach, including non-payment of amounts due under this Lease, within that thirty (30) day period; or such longer period as may be required to diligently complete a cure commenced within the thirty (30) day period;

ii. Upon ninety (90) days written notice by TENANT that the Premises are or become unnecessary or unusable under TENANT's design or engineering specifications for its Equipment or the communications system to which the Equipment belongs;

iii. Upon thirty (30) days written notice by CITY if TENANT abandons, vacates or ceases using the Premises or Equipment; or if TENANT becomes the subject of a bankruptcy proceeding and the bankruptcy proceeding is not vacated within 120 days;

iv. Upon thirty (30) days written notice by CITY, for any reason as determined by the CITY in its reasonable discretion, including reasons involving public health, safety or welfare; Immediately, upon written notice by CITY, in the event of an emergency, as determined by the CITY in its reasonable discretion;

v. Upon thirty (30) days written notice for the following:

- 1) Construction or operation in the CITY or in the right-of- way of the CITY or upon CITY property without a grant of authority; Construction or operation by TENANT at an unauthorized location;

- 2) Misrepresentation by or on behalf of a TENANT in any application or written or oral statement upon which the CITY relies in making the decision to grant, review or amend any authorization;
- 3) Abandonment of Facilities in the right-of-way or upon CITY property;
- 4) Failure to relocate or remove Facilities as required;
- 5) Failure to pay taxes, fees or costs when and as due the CITY;
- 6) Insolvency or bankruptcy of the TENANT;
- 7) Violation of any material provision of TMC Title 11; and
- 8) Violation of the material terms of this lease agreement.

vi. Upon thirty (30) days written notice by CITY if TENANT fails to comply, after written notice, with all applicable federal, state, and local laws, including, without limitation, all governmental codes, ordinances, resolutions, standards and polices as now existing or hereafter adopted or amended, including, without limitation, all requirements of the FCC and the Federal Aviation Administration (FAA);

vii. For any other reason set forth in this Agreement.

b. In the event of any termination under this Section, TENANT shall pay CITY all rent due up to the termination date. In addition TENANT shall, at its sole expense, return the Premises to the same condition as prior to this Lease (normal wear and tear excepted), and shall remove all Equipment.

c. No re-entry and taking of possession of the Premises by CITY shall be construed as an election on CITY's part to terminate this Lease, regardless of the extent of renovations and alterations by CITY, unless a written notice of such intention is given to TENANT by CITY. Notwithstanding any reletting without termination, CITY may at any time thereafter elect to terminate this Lease for such previous breach.

15. Indemnity.

a. Disclaimer of Liability: CITY shall not, at any time, be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of TENANT's construction, installation, maintenance, repair, use, operation, condition or dismantling of the Premises or TENANT's Equipment, except to the extent such injury or damage is due to the negligent act or willful misconduct of the CITY.

b. Indemnification and Hold Harmless:

i. The TENANT hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the CITY, its elected and appointed officials, officers, employees, agents, representatives, engineers, and consultants from any and all claims, costs, judgments, awards, or liability to any person, arising from injury or death of any person or damage to property of which the negligent acts or omissions of the TENANT, its agents, servants, officers, or employees in performing under this lease are the proximate cause.

TENANT further releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the CITY, its elected and appointed officials, officers, employees, agents, representatives, engineers, and consultants from any and all claims, costs, judgments, awards, or liability to any person including claims by the TENANT's own employees, including those claims to which the TENANT might otherwise have immunity under Title 51 RCW, arising against the CITY solely by virtue of the CITY's ownership or control of the rights-of-way or other public properties, by virtue of the TENANT's exercise of the rights granted herein, or by virtue of the CITY's permitting the TENANT's use of the CITY's rights-of-way or other public property, based upon the CITY's inspection or lack of inspection of work performed by the TENANT, its agents and servants, officers or employees in connection with work authorized on the CITY's property or property over which the CITY has control, pursuant to this lease, or pursuant to any other permit or approval issued in connection with this lease. This covenant of indemnification shall include, but not be limited by this reference, claims against the CITY arising as a result of the negligent acts or omissions of the TENANT, its agents, servants, officers, or employees in barricading, instituting trench safety systems or providing other adequate warnings of any excavation, construction, or work in any public right-of-way or other public place in performance of work or services permitted under this lease.

ii. Inspection or acceptance by the CITY of any work performed by the TENANT at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

iii. In the event that the TENANT refuses the tender of defense in any suit or any claim, said tender having been made pursuant to the indemnification clauses contained herein, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of the TENANT, then the TENANT shall pay all of the CITY's costs for defense of the action, including all reasonable expert witness fees and reasonable attorneys' fees and the reasonable costs of the CITY, including reasonable attorneys' fees of recovering under this indemnification clause.

iv. In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the TENANT, and the CITY, its officers, employees and agents, the TENANT's liability hereunder shall be only to the extent of the TENANT's negligence.

v. The provisions of this Section shall survive the expiration or

termination of this lease agreement.

vi. Notwithstanding any other provisions of this Section, the TENANT assumes the risk of damage to its facilities located in the CITY's rights-of-way, easements, and property from activities conducted by the CITY, its officers, agents, employees, and contractors. The TENANT releases and waives any and all claims against the CITY, its officers, agents, employees, or contractors for damage to or destruction of the TENANT's Facilities caused by or arising out of activities conducted by the CITY, its officers, agents, employees, and contractors, in the rights-of-way, easements, or property subject to this lease, except to the extent any such damage or destruction is caused by or arises from the sole negligence or any willful or malicious action on the part of the CITY, its officers, agents, employees, or contractors. The TENANT further agrees to indemnify, hold harmless and defend the CITY against any claims for damages, including, but not limited to, business interruption damages and lost profits, brought by or under users of the TENANT's Facilities as the result of any interruption of service due to damage or destruction of the user's Facilities caused by or arising out of activities conducted by the CITY, its officers, agents, employees, or contractors, except to the extent any such damage or destruction is caused by or arises from the sole negligence or any willful or malicious actions on the part of the CITY, its officers, agents, employees, or contractors.

16. Insurance.

a. During the term of this Lease, TENANT shall maintain in full force and effect and at its sole cost and expense, and naming CITY, its officers, boards, commissions, employees and agents as additional insureds, the following types and limits of insurance:

i. Comprehensive commercial general liability insurance with minimum limits of Three Million Dollars (\$3,000,000) per occurrence and Six Million Dollars (\$6,000,000) in the annual aggregate.

ii. Comprehensive automobile liability insurance with combined single minimum limits of Three Million Dollars (\$3,000,000) per person and per occurrence.

b. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000).

i. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than Three Million Dollars (\$3,000,000).

c. Evidence of Insurance. Certificates of insurance for each insurance policy required by this Lease, along with written evidence of payment of required premiums, shall be filed and maintained with CITY prior to commencement of the term of this Lease and thereafter.

d. Cancellation of Policies of Insurance. All insurance policies

maintained pursuant to this Lease shall contain the following or substantially similar endorsement:

“It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until sixty (60) days after receipt by the CITY, by registered mail, of a written notice addressed to the Director of Water Resources & Sustainability of such intent to cancel or not to renew.”

e. Deductibles. All insurance policies may be written with commercially reasonable deductibles.

f. License. All insurance policies shall be with insurers licensed to do business in the State of Washington and with a rating of A- or better by Best's Key Rating Guide.

g. Defense of CITY. In the event any action or proceeding shall be brought against the CITY resulting from TENANT's operations hereunder, TENANT shall, at TENANT's sole cost and expense, resist and defend the same as provided herein.

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

Nothing herein shall be deemed to prevent CITY from cooperating with TENANT and participating in the defense of any litigation with CITY's own counsel. TENANT shall pay all reasonable expenses incurred by CITY in response to any such actions, suits or proceedings provided in Section 15. These expenses shall include all reasonable out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by the CITY's attorney, and the actual expenses of CITY's agents, employees, consultants and expert witnesses, and disbursements and liabilities assumed by CITY in connection with such suits, actions or proceedings.

17. Holding Over. Any holding over after the expiration of the term hereof,

with the consent of the CITY, shall be construed to be a tenancy from month to month and shall otherwise be on the terms, covenants and conditions herein specified.

18. Acceptance of Premises. Tenant represents that it has inspected and examined the Property and Premises as of December 12, 2022 and shall accept the Property and Premises in "as is" condition as such condition existed on such date. City shall deliver the Premises to Tenant on the Commencement Date, as hereinafter defined, in the same condition as on the day of inspection and the Lease Area where Tenant's equipment will be installed shall be in a condition ready for Tenant's construction of its improvements and clean and free of debris.

19. Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if mailed, certified mail, return receipt requested; to the following addresses:

If to CITY, to: Dan Smith, Director - WRS
555 Israel Road SW
Tumwater, WA 98501

With a copy to: City Attorney
555 Israel Road SW
Tumwater, WA 98501

If to TENANT, to: DISH Wireless L.L.C.
Attn: Lease Administration
5701 Santa Fe Drive
Littleton, Colorado, 80120

Contact for Emergencies. Emergency twenty-four (24) hour contact number(s) must be provided and/or displayed on TENANTs building or equipment.

TENANT Contact for Emergencies: 1-866-624-6874

CITY Contact for Emergencies: (360) 754-4150_____

20. Subleasing or Assignment. TENANT may not assign this Lease or sublet the Premises or Equipment, in whole or in part, without the prior written consent of CITY, which may not be unreasonably withheld. CITY may inquire into the qualifications and financial stability of a potential assignee or sublessee and reasonably request any information related to such inquiry and may also condition such approval upon the financial, legal and technical expertise of a proposed assignee or sublessee and upon the resolution of any compliance obligation under the Lease. If the CITY has not responded to a request to assign or sublet with a decision within forty five (45) days, CITY approval shall be deemed given. TENANT may, however, upon notice to CITY and without CITY approval, mortgage or grant a security interest in this Lease and the Equipment. Notwithstanding the foregoing, TENANT may assign

or transfer some or all of its rights and/or obligations under the Agreement to: (i) an affiliate; (ii) a successor entity to its business, whether by merger, consolidation, reorganization, or by sale of all or substantially all of its assets or stock; (iii) any entity in which a Party or its affiliates have any direct or indirect equity investment; and/or (iv) any other entity directly or indirectly controlling, controlled by or under common control with any of the foregoing, and in each case, such assignment, transfer or other such transaction shall not be considered an assignment under this Section 20.

21. Successors and Assigns. Subject to Section 20, this Lease shall be binding upon and inure to the benefit of the parties, and their respective permitted successors and assigns.

22. Non-Waiver. Failure of either Party to insist on strict performance of any of the conditions, covenants, terms or provisions of this Lease or to exercise any of its rights hereunder shall not waive such rights, but the enforcing party shall have the right to specifically enforce such rights at any time and take such action as might be lawful or authorized, either in law or equity. Damages are not an adequate remedy for breach. The receipt of any sum paid by either Party after a breach of this Lease shall not be deemed a waiver of such breach unless expressly set forth in writing.

23. Taxes. TENANT shall pay all personal property taxes (or payments in lieu of taxes) and assessments for the Premises, if any, which become due and payable during the term of this Lease attributable to the Equipment or TENANT's use of the Premises.

24. Quiet Enjoyment, Title and Authority. CITY represents to TENANT that:

- a. CITY has authority to execute this Lease;
- b. CITY has title to the Premises free and clear of any encumbrances, liens or mortgages, except those encumbrances, liens and mortgages and matters of record, and these and any other matters disclosed and/or otherwise apparent to TENANT;
- c. There is legal ingress and egress to the Lease Space from a right-of-way;
- d. Execution and performance of this Lease will not violate any law or agreements binding on CITY; and
- e. CITY covenants and agrees with TENANT that upon TENANT paying the Rent and observing and performing all the terms, covenants and conditions on TENANT's part to be observed and performed, TENANT may peacefully and quietly enjoy the Premises.

25. Condemnation. In the event the Premises are taken in whole or in part by any entity by eminent domain ("Taking"), this Lease shall terminate as of the date title to the Premises vests in the condemning authority. If either Party elects to terminate this Agreement, the Rent set forth herein shall be abated, and TENANT's liability therefor will cease as of the date of such Taking, this Agreement shall terminate as of such date, and any prepaid rent shall be returned to Tenant. TENANT shall not be entitled to any portion of the award paid and the CITY shall receive the full amount of such award. TENANT hereby expressly waives any right or claim to any portion thereof. However, TENANT shall have the right to claim and recover from the condemning authority, other than the CITY, such other compensation as may be separately awarded or recoverable by TENANT. If this lease terminates due to condemnation, TENANT shall promptly remove all of its Equipment from the Premises.

26. Alteration, Damage or Destruction. If the Premises or any portion thereof is altered, destroyed or damaged due to causes beyond City's reasonable control, so as to materially hinder effective use of the Equipment through no fault or negligence of TENANT, TENANT may elect to terminate this Lease upon thirty (30) days written notice to CITY. In such event, TENANT shall promptly remove the Equipment from the Premises and shall restore the Premises to the same condition as existed prior to this Lease, normal wear and tear excepted. This Lease (and TENANT's obligation to pay rent) shall terminate upon TENANT's fulfillment of the obligations set forth in the preceding sentence and its other obligations hereunder, at which termination TENANT shall be entitled to the reimbursement of any Rent prepaid by TENANT. CITY shall have no obligation to repair any damage to any portion of the Premises. In the event TENANT does not terminate this Lease, TENANT may propose amendments to this AGREEMENT to address TENANT needs. The CITY is under no obligation to accept any such proposal.

27. Miscellaneous.

- a. CITY and TENANT respectively represent that their signatory is duly authorized and has full right, power, and authority to execute this Lease.
- b. With the exception of applicable and future laws, ordinances, rules, and regulations, this Lease constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, and other agreements of any kind. Except as previously set forth, there are no representations or understandings of any kind not set forth herein. Any modification of or amendment to this Lease must be in writing and executed by both parties.
- c. This Lease shall be construed in accordance with the laws of the State of Washington.
- d. Section captions and headings are intended solely to facilitate the reading thereof. Such captions and headings shall not affect the meaning or interpretation of the text herein.
- e. If the methods of taxation in effect at the Commencement Date of the Lease are altered so that in lieu of or as a substitute for or in addition to any portion of the property taxes and special assessments, if any, now imposed on Equipment, there is imposed a tax upon or against the rentals payable by TENANT to CITY, TENANT shall also pay those amounts.
- f. TENANT shall be responsible for obtaining all necessary approvals, authorizations and agreements from any party or entity and it is acknowledged and agreed that the CITY is making no representation, warranty or covenant whether any of the foregoing approvals, authorizations or agreements are required or have been obtained by TENANT from any person or entity.
- g. If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect. In the event that a court of competent jurisdiction determines void or invalid any term of any other Lease, where such term is substantially equivalent to a term

of this Lease, the CITY may, at its sole option and within 30 days of notice thereof by TENANT: (i) determine that such judicial determination shall not affect the terms of this Lease, which shall continue in full force and effect; (ii) determine that a term of this Lease is invalid, but severable, and that such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect; or (iii) terminate this Lease pursuant to Section 14. vii above.

- h. This Agreement may be enforced at both law and equity. Damages are not an adequate remedy for breach.

28. Legislative Changes. In the event that any federal, state or local governmental entity adopts a law, ordinance, or regulation, or amends existing laws, ordinances, or regulations, and the new or amended law, ordinance, or regulation would limit, impair, or affect any of the parties' rights or obligations under this Agreement, TENANT and CITY agree that (except for changes authorized under Section 12 (above) the provisions of this Lease contract shall remain lawful and binding and enforceable on the parties, and the Parties waive any rights to claim otherwise.

[REMAINDER OF PAGE LEFT BLANK; SIGNATURE PAGE TO FOLLOW]

(typed/printed name of notary)
Notary Public in and for the State of Washington.
My commission expires_____.

EXHIBIT A

LEGAL DESCRIPTION

Property situated in the County of Thurston, State of Washington commonly described as

follows: Legal Description:

THAT PART OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 17 NORTH, RANGE 2 WEST, W.M., BOUNDED ON THE WEST BY THE EASTERLY RIGHT-OF-WAY LINE OF CENTER STREET S.W., ON THE NORTH BY THE SOUTHERLY RIGHT-OF-WAY LINE OF AIRDUSTRIAL WAY, ON THE EAST BY THE WESTERLY RIGHT-OF-WAY LINE OF NEW MARKET ST. S.W., AND ON THE SOUTH BY THE NORTHERLY RIGHT-OF-WAY LINE OF 76TH AVE. S.W.;

EXCEPT THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 965.00 FEET SOUTH 88° 03' 02" EAST OF A POINT ON THE WEST LINE OF SAID NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 17 NORTH, RANGE 2 WEST, W.M., 795.04 FEET SOUTH 1° 56' 58" WEST OF THE NORTHWEST CORNER THEREOF;
THENCE SOUTH 1° 56' 58" WEST 450.00 FEET;
THENCE NORTH 88° 03' 02" WEST 500.00 FEET;
THENCE NORTH 1° 56' 58" EAST 450.00 FEET;
THENCE SOUTH 88° 03' 02" EAST 500.00 TO THE POINT OF

BEGINNING; AND EXCEPT THAT PORTION THEREOF DESCRIBED AS

FOLLOWS:

BEGINNING AT A POINT 965.00 FEET SOUTH 88° 03' 02" EAST OF A POINT ON THE WEST LINE OF SAID NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 17 NORTH, RANGE 2 WEST, W.M., 795.04 FEET SOUTH 1° 56' 58" WEST OF THE NORTHWEST CORNER THEREOF;
THENCE SOUTH 88° 03' 02" EAST 225.00 FEET;
THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET, A DISTANCE OF 78.54 FEET; THENCE SOUTH 1° 56' 58" WEST 450.00 FEET;
THENCE NORTH 88° 03' 02" WEST 275.00;
THENCE NORTH 1° 56' 58" EAST 500.00 FEET TO THE POINT OF

BEGINNING; AND EXCEPT THAT PORTION THEREOF DESCRIBED AS

FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 10, TOWNSHIP 17 NORTH, RANGE 2 WEST, W.M.;
THENCE SOUTH 1° 54' 43" WEST ALONG THE EAST LINE OF SAID SECTION, 1731.24 FEET; THENCE NORTH 88° 05' 18" WEST 749.94 FEET;
THENCE NORTH 88° 03' 02" WEST 598.72 FEET TO THE CENTERLINE INTERSECTION OF BELL STREET (76TH AVE. S.W.) AND ARMSTRONG AVENUE (NEW MARKET ST. S.W.);
THENCE NORTH 1° 56' 58" EAST ALONG THE CENTERLINE OF ARMSTRONG AVENUE, 92.00 FEET; THENCE NORTH 88° 03' 02" WEST, 50.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF SAID ARMSTRONG AVENUE AND THE POINT OF BEGINNING;
THENCE NORTH 1° 56' 58" EAST ALONG SAID RIGHT-OF-WAY 335.00 FEET;
THENCE NORTH 88° 03' 02" WEST, 275.00 FEET;
THENCE SOUTH 1° 56' 58" WEST, 385.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF BELL STREET; THENCE SOUTH 88° 03' 02" EAST ALONG SAID RIGHT-OF-WAY LINE 225.00 FEET;
THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 50.00 FEET, A DISTANCE OF 78.54 FEET TO THE WEST RIGHT-OF-WAY LINE OF ARMSTRONG AVENUE AND THE POINT OF BEGINNING;

EXHIBIT B

SITE LOCATION WITHIN THE PREMISES

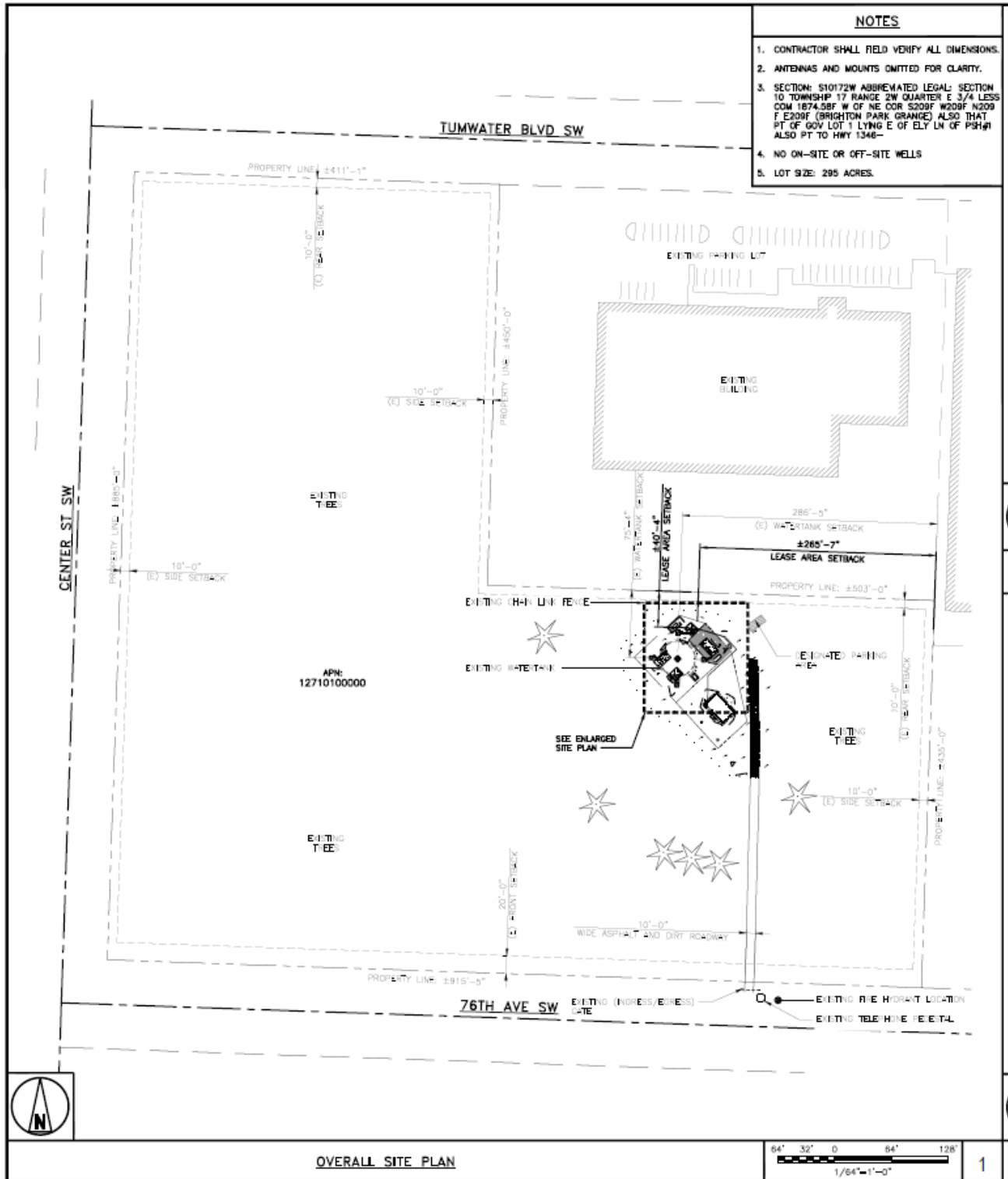


EXHIBIT C

SITE PLAN

[Including Location of Equipment Box/Shed]

