

RESOLUTION NO. 22-14

A RESOLUTION TO APPROVE THE CONTRACT FOR INTERNET AND SERVICES FOR THE VILLAGE OF NEW MADISON

WHEREAS, the Village of New Madison, Ohio needs to enter into a contract for internet services for the year 2022; and

WHEREAS, the Village of New Madison, Ohio desires to contract with Skymesh for internet services;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of New Madison, Darke County, Ohio:

The Mayor is hereby authorized to enter into the attached contract, marked Exhibit A, with the Skymesh for internet services for the year 2022.

Passed this 15 day of August, 2022.

Boie A. Yarnes
President of Council

ATTEST:

Robert Hocker
Fiscal Officer

APPROVED by the Mayor this
15th day of August, 2022.

Monica R. Seltzer
Mayor



**TOWER GROUND AND STRUCTURE LEASE AGREEMENT
FOR TOWER LOCATION**

This Tower and Ground Lease agreement (this "Lease") is made and entered into as of the 1st day of September, 2022, by and between Village of New Madison ("Lessor") and Skymesh, Inc. ("Lessee").

1. **Premises:** The Village of New Madison (Lessor) hereby leases to Skymesh (Lessee), a portion of certain space(s) on the water tower and no more than a 10' x 10' area of surrounding ground (for utility cabinets) (Leased Premises), located at 215 N Main St, New Madison, OH 45346.

2. **Use:** Lessee, (or its agents or contractors), has the right to use the Leased Premises and area for the purpose of operating, erecting, building a Communication Facility with its associated equipment and shelters for providing telecommunication services (e.g. internet) to the surrounding area. The Communications Facilities shall remain the exclusive property of the Lessee throughout the term and upon termination of this Lease. Additionally, large outdoor junction boxes and/or equipment shelters will be located near the base of the structure. The Lessor understands that the nature of the communication business may need flexibility in installation/maintenance of new equipment.

It is understood and agreed that Lessee's ability to use the Leased Premise is contingent upon its obtaining after the execution date of this Agreement: all of the certificates, permits, and other approvals that may be required by any authorities having jurisdiction and utility company right of ways. Lessor shall cooperate with Lessee in its effort to obtain such approvals and shall take no action that would adversely affect the status of the Property with respect to the proposed use thereof by Lessee. In the event that any such approvals would be rejected, Lessee, in its sole discretion, determines that the use of the Premises is obsolete or unnecessary, Lessee shall have the right to terminate this agreement.

3. **Term:** The term shall consist of (1) (Primary Term) and (1) additional (Extended Term) as follows:

(Primary Term): The Primary Term of this Lease shall be for five (5) years, and shall commence on August 1st, 2022 and shall terminate on the same date, five (5) years later, August 1st, 2027.

(Extended Term): Lessee is granted one (1) option to extend the Primary term of this Lease automatically for an additional three (3) years, so long as it is done in writing within thirty (30) days of this Lease's expiration date.

4. **Rent**: In consideration of this Lease agreement, Lessee agrees to provide the Lessor a monthly rent payment of 5% of gross revenue earned directly from the aforementioned Communications Facilities at 215 N Main St, New Madison, OH 45346 plus a 20 mb service at 2115 Rush Rd, New Madison, OH 45346. (An \$85/mo. exchange of value plus 5% royalty payment). Monthly reports will be prepared for customers served, and provided with appropriate payment.

5. **Access**: Lessee and its employees are hereby given and granted a non-exclusive right for ingress, egress, and regress to and from the Leased Structure and access over, under, upon, and across the Lease Premise and adjoining lands and rights-of-way owned by Lessor. This access shall be granted to Lessee twenty-four (24) hour by seven (7) day basis for the purpose of erection, installation, operation, inspection, repair, maintenance, and removal of the Communications facility and other necessary appurtenances. In any event, only authorized engineers, employees or properly authorized contractors of LESSEE or persons under their direct supervision will be permitted to enter the Premises.

6. **Utilities (Power)**: Lessor shall be responsible for providing & maintaining electrical service and circuit(s) to the equipment and/or shelter.

7. **Utilities (Data)**: Lessor will provide the necessary approvals and right of way to the extent it has authority for the local data (fiber) communication utility company the right to install service & the necessary cable to be used in conjunction with the Communications Facility during the term of this Lease.

8. **Liability and Indemnity**: Lessee agrees to indemnify and save the Lessor and its employees and agents harmless from all claims (including costs and expenses of defending against such claims) arising or alleged to arise from any negligent act, negligent omission, or intentional tort of Lessee or Lessee's agents, employees, or contractors occurring during the term of this Lease in or about the Leased Premises. Lessee agrees to use and occupy the Leased Premises at Lessee's own risk and hereby releases Lessor and its agents and employees.

9. **Lessor's Termination**: In the event Lessor determines it is necessary to take the Leased Premise out of service following the expiration of the eighth year of the Term of this Agreement, such that it would no longer be available to support Lessee's Communications Facilities or if for any reason the current structure needs to be removed prior to the expiration of the Lease, Lessor shall give the Lessee as much notice as possible and shall attempt to provide twelve (12) months' prior written notice and work with Lessee to determine if an alternative location for Lessee's Facilities is available. If no alternative location is available, Lessor shall have the option to terminate the Agreement at its sole discretion upon the expiration of the aforementioned notice period.

10. **Interference**: Lessor shall not, nor allow its employees and/or agents to construct, operate, maintain, upgrade or remove any antenna or any other equipment so as to cause

or contribute to any adverse effect on Lessee's equipment and or radio frequencies ranges that are being broadcast by Lessee.

11. **Removal at End of Term:** Lessee shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its shelter(s), antenna(s), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. Lessor agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of Lessee shall remain the personal property of Lessee and Lessee shall have the right to remove it at any time.

11. **Insurance:** Lessee, at its expense, shall maintain in force during the term of this lease a combined single limit policy of bodily injury and property damage insurance, with a limit of not less than \$2,000,000.00 insuring Lessor and Lessee against all liability arising out of the Lessee's use, occupancy, or maintenance of the Leased Premises, which policy shall be endorsed as a primary insurance to Lessor. The policy shall include LESSOR together with its officers, agents and employees as additional insureds as their interest may appear under this Agreement. LESSEE shall require any contractor or other person or entity engaged by the LESSEE who enters upon the Property to obtain and maintain substantially the same coverage as required of LESSEE.

IN WITNESS WHEREOF, Lessor and Lessee have signed and sealed this Lease as of the date and year written herein.

SIGNED AND DELIVERED:

By: Morgan L. Schlectky
Lessor

Date: 09-23-2022

By: Trent Boone
Lessee (Trent Boone, Owner)
M: 937-216-8225

Date: 9/23/2022