

**VILLAGE OF HIGHLAND FALLS
COUNTY OF ORANGE
STATE OF NEW YORK**

**RESOLUTION NO. _____,
_____, 2022**

**RESOLUTION COMMENCING THE NEW YORK STATE ENVIRONMENTAL
QUALITY REVIEW ACT (SEQRA) PROCESS REGARDING PROPOSAL TO
INSTALL AND OPERATE A NEW COMMUNICATIONS FACILITY IN THE
VILLAGE OF HIGHLAND FALLS ON PROPERTY OWNED BY THE
TOWN OF HIGHLANDS AT 1530 ROUTE 9W**

WHEREAS, Verizon Wireless seeks to construct a 65-foot-tall monopole telecommunications facility and related antennas and utilities within a 16’ by 22.5’ compound (the “Facility”) on a portion of property owned by the Town of Highlands at 1530 Route 9W within the municipal boundaries of the Village of Highland Falls (the “Property”); and

WHEREAS, the Town of Highlands Town Board (“Highlands Town Board”), by Resolution dated August 8, 2022, expressed its desire to lease a portion of the Property to Verizon Wireless for its Communications Facility upon completion of certain conditions; and

WHEREAS, prior to the execution of the lease with Verizon Wireless, the Town of Highlands Town Board requires the Village Board of Trustees (“Board of Trustees”) to issue a determination of significance pursuant to the New York State Environmental Quality Review Act (“SEQRA”) in connection with its review of the proposed project pursuant to § 240-29(V)(2) of the Village of Highland Falls Zoning Law; and

WHEREAS, Verizon Wireless and the Highlands Town Board have requested the Village Board of Trustees to review its proposal pursuant to § 240-29(V)(3)(d) of the Zoning Law to determine whether such project qualifies for governmental immunity under the balancing of interests test established in the *Matter of Monroe v. City of Rochester*, 72 NY2d 338 [1988]; and

WHEREAS, Verizon Wireless has submitted certain documentation in support of its proposal, including detailed site plans, a Visual Resource Evaluation, a Full Environmental Assessment Form, a Radio Frequency Site Compliance Report and confirmation that the New York State Historic Preservation Office (“SHPO”) has approved the proposal; and

WHEREAS, the Board of Trustees, its engineer and attorney have reviewed the completed Full Environmental Assessment Form (“EAF”) for the project and the relevant SEQRA regulations; and

WHEREAS, the SEQRA regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund, or approve an action until it has complied with the requirements of SEQRA; and

WHEREAS, 6 NYCRR 617.6(a) requires that when an agency receives and application for approval of action it must: (1) determine whether the action is subject to SEQRA, (2) determine whether the action involves a federal agency, (3) determine whether other agencies are involved, (4) make a preliminary classification of the action, (5) determine whether a short or full EAF will be used to determine the significance of the action, and (6) determine whether the action is located in an Agricultural District; and

WHEREAS, the SEQRA regulations at 6 NYCRR §617.2(b) define “action” generally as projects or physical activities that: (i) are directly undertaken by an agency; or (ii) involve funding by an agency; or (iii) require one or more new or modified approvals from an agency; and

WHEREAS, the Board of Trustees has considered whether the review of the proposed Facility under the Village Zoning Law § 240-29(V)(2.1)(C) (i.e., whether to grant the Facility governmental immunity) constitutes an action under SEQRA; and

WHEREAS, while it is not clear whether the consideration of a wavier from the Zoning Law constitutes an action under SEQRA, the Board of Trustees has decided to treat such review as an “action” under SEQRA; and

WHEREAS, while the action involves a federal agency (FCC licensing – previously granted), the inclusion of the federal agency does not obviate the Board of Trustees’ need to complete SEQRA (6 NYCRR 617.6(a)(ii) and 617.15); and

WHEREAS, as the action is not on the Type II (exempt) List (6 NYCRR 617.5) and is not on the Type I list (6 NYCRR 617.4), the action is by default deemed “Unlisted.”

WHEREAS, the FEAF is appropriate for the evaluation of this matter; and

WHEREAS, based upon a review of available mapping, the action is not in an Agricultural District certified under the Agriculture and Markets Law; and

WHEREAS, in the event the Board of Trustees elects not to grant the Facility governmental immunity, the Facility will be subject to zoning review by the Village Planning Board and/or Village Zoning Board of Appeals, which will conduct a separate SEQRA review at such time.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees hereby determines that:

1. the approval of the proposed project constitutes an Unlisted action which is subject to SEQRA;
2. the action does require issuance of a radio station license by the FCC for the location, which have been previously granted by the FCC;

3. the action does involve other agencies that have the ability to issue discretionary determinations (approvals) for the project, including the Town of Highlands Town Board;
4. a Full Environmental Assessment Form has been prepared and will be used to determine the significance of the action in the future;
5. the proposed action is not located in an Agricultural District or within 500 feet of lands within an Agricultural District.

BE IT FURTHER RESOLVED, that the Board of Trustees, as provided at 6 NYCRR Part 617.6(b)(1) hereby determines to conduct a coordinated review of the proposed action; and

BE IT FURTHER RESOLVED, that the Board of Trustees intends to act as lead agency with respect to the SEQRA review of the proposed action; and

BE IT FURTHER RESOLVED, that the Village Clerk and Village Attorney are hereby authorized and directed to forward the attached Notice of Intent to Act as Lead Agency to all involved and interested agencies as required by the SEQRA regulations; and

LASTLY, BE IT FURTHER RESOLVED, the Village Clerk and Village Attorney are authorized to file this Resolution as is required by law and do all that is necessary in order to fully effectuate the determinations contained herein, including preparing, posting and publishing a notice of the public hearing.

MOTION BY: _____	Voting: Trustee Gary Phillips _____ Trustee Melanie Guerrero _____ Trustee James DiSalvo _____ Trustee Brian Aylward _____
SECONDED BY: _____	Mayor Joseph D’Onofrio _____

The resolution was duly adopted on _____, 2022.

I, **Regina M. Taylor**, Village Clerk of the Village of Highland Falls, do hereby certify that the attached Resolution is a true and accurate copy of the original on file at the office of the Village Clerk of the Village of Highland Falls, 303 Main St., Highland Falls, NY 10928.

_____; Dated _____
Regina M. Taylor, Village Clerk
Village of Highland Falls