



# CITY ADMINISTRATION COMMITTEE

Date: Wednesday, June 22, 2022  
Time: 6:00 P.M.  
Location: [YouTube Channel](#)

## AGENDA ITEMS

Item	Voting Item?	Presenter(s)	Time Allotted
1. Call to Order	No	Chair, Robert Cantelmo	
1.1 Agenda Review			5 Min
1.2 Review and Approval of Minutes Approval of May 25, 2022, minutes	Yes		5 Min
2. Petitions and Hearings of Persons Before Council			
2.1 Statements from the Public The public will be able to provide short statements during the first hour of the meeting. *Written comments will be compiled and entered into the record.	No	Sign up for public comment here: <a href="https://bit.ly/3pDc1LD">https://bit.ly/3pDc1LD</a>  *Submit written comments here: <a href="https://j.mp/2XUYUdW">https://j.mp/2XUYUdW</a>	15 Min
2.2 Council's Response	No		15 Min
3. Special Order of Business			
3.1 Presentations & Discussion: Coalition for Snow-Free Crosswalks and Sidewalks	No	All	15 Min
4. Government Administration, Human Resources & Policy			
4.1 PBZ&ED - Amendment to Personnel Roster	Yes	L Nicholas, Director of PBZ&ED	5 Min
4.2 CC - Amendment of City Code Chapter 215 "Human Rights Protection" addition of Article VII	Yes	R Contelmo, Council Member	15 Min
4.3 CC - Adopt Report of the Reimagining Public Safety Working Group	Yes	D Nguyen, Council Member	15 Min
4.4 Establish Deputy Chief of Staff for Public Safety	Yes	R Contelmo, Council Member	20 Min
4.5 Call on Starbucks to Re-Open College Ave Store	Yes	J DeFendini, Council Member	5 Min
4.6 PD – Amendment to Personnel Roster	Yes	J Joly, Acting Chief	5 Min
4.7 PD – Amendment to Personnel Roster	Yes	J Joly, Acting Chief	5 Min
4.8 Local Law – Adoption of New Ward Boundary Lines	Yes	A Lavine, Attorney	10 Min
4.9 Proof-of-Work (PoW) Cryptocurrency Mining Moratorium & GEIS legislation (A.7389-C/S.6486-D)	Yes	R Cantelmo, Council Member	5 Min
4.10 Attorney - Agreement for AT&T Wireless Facilities	Yes	A Lavine, Attorney	5 Min
5. Finance, Budget & Appropriations			
5.1 WWTP – Boiler Replacement	Yes	CJ Kilgore, Chief Operator	5 Min
5.2 YB – Request to Amend 2022 Budget	Yes	L Vance, Director of YB	5 Min
5.3 YB – Request to Amend 2022 Budget	Yes	L Vance, Director of YB	5 Min
5.4 YB – Request to Amend 2022 Budget	Yes	L Vance, Director of YB	5 Min
5.5 DPW – Amendment to CP #868	Yes	E Cuddihy, Transportation Engineer	5 Min
5.6 Finance – Approval of 2020 Single Audit - Presented at July Council Meeting	Yes	S Thayer, Controller	5 Min
5.7 Attorney – Approval of Hiring Outside Counsel	Yes	A Lavine, Attorney	5 Min
5.8 HR – Standard Workday for Elected and Appointed Officials	Yes	S Michell-Nunn, Director of HR	5 Min
6. Discussion			
6.1 Gifting and Solicitation Policy	No	All	15 Min
7. Meeting Wrap-Up	No	All	5 Min
7.1 Announcements			
7.2 Next Meeting Date: July 27, 2022			
7.3 Review Agenda Items for Next Meeting			
7.4 Adjourn			

#### **4. Government Administration, Human Resources & Policy**

##### **.1 PBZ&ED - Amendment to Personnel Roster**

WHEREAS, the Department of Planning and Development wishes to increase the potential applicant pool for Planner positions, and

WHEREAS, in consultation with Human Resources, the Department created the position of Assistant Planner, an entry-level position below Planner, and

WHEREAS, the Assistant Planner is a training position in which one holding the position would be eligible for promotion to Planner after a year of satisfactory work performance, and

WHEREAS, the position requires less experience and/or education than the Planner position and could therefore attract candidates with undergraduate degrees in Planning and related fields; now, therefore, be it

**RESOLVED**, That the Personnel Roster of the Planning and Development Department be amended as follows:

Add: One (1) Assistant Planner (40 hours/week)

and be it further

**RESOLVED**, That, based on recruitment results, the Assistant Planner position may be filled in lieu of a funded Planner position, or vice versa, but in no event shall both positions be filled at the same time without prior Council approval, and be it further

**RESOLVED**, That the position of Assistant Planner shall be assigned to the CSEA Administrative Unit Compensation Plan at salary grade 11, and be it further

**RESOLVED**, That for the sole purpose of determining days worked reportable to the New York State and Local Employees Retirement System the standard workday for this position shall be established at eight (8) hours per day (forty (40) hours per week), and be it further

**RESOLVED**, That funding for this position shall be derived from the approved 2022 departmental budget.

#### **4. Government Administration, Human Resources, and Policy**

##### **.2 An Ordinance Amending Chapter 215 of the City of Ithaca Municipal Code Entitled “Human Rights Protection” to Add Article VII “Protection of Reproductive Rights”**

WHEREAS, the City of Ithaca hereby affirms and expresses support that the core values of our community include creating a climate of welcome and inclusiveness, protecting and preserving democracy, freedom, human rights, and the dignity of all people; and

WHEREAS, the 2019 Reproductive Health Act affirmed New York State’s commitment to comprehensive reproductive healthcare as a fundamental component of health, privacy, and equality; and

WHEREAS, in anticipation of an expected Supreme Court ruling, some state legislatures have moved to criminalize out-of-state abortions; and

WHEREAS, the New York State Legislature is actively considering the A10148 the Reproductive Freedom and Equity Program Act; now therefore

#### **ORDINANCE 2022-**

**BE IT ORDAINED AND ENACTED** by the Common Council of the City of Ithaca as follows:

##### **Section 1. Legislative findings, intent, and purpose.**

The Common Council makes the following findings:

1. That the protection of reproductive rights is essential to healthcare and the wellbeing of individuals.
2. That New York State legalized abortion in 1970 prior to the landmark Roe v. Wade case enshrined these protections in the U.S. Constitution.

Based on the above findings of fact, and consistent with the Tenth Amendment to the United States Constitution, the enactment of this Article is intended to achieve the following objectives,

##### **Section 2.**

§215 of the City Code is hereby amended to add at the end thereof a new Article VII to read as follows:

##### **Article VII Protection of Reproductive Rights**

§215-47 The purpose and intent of this Article is to recognize the importance of reproductive healthcare as a matter of health, privacy, and equality and to ensure, to the

greatest extent permitted by law, that those rights are upheld for all residing within the City of Ithaca.

#### §215-48 Persons not to be detained.

A. No city resources, including, but not limited to, time spent by employees, officers, contractors, or subcontractors while on duty, or the use of city property, shall be utilized for:

- 1) Detaining persons for performing or aiding in the performance of an abortion within this state, or in procuring an abortion in this state, if the abortion is performed in accordance with the provisions of Article 25A of the Public Health Law or any other applicable New York State law, or
- 2) Cooperating with or providing information to any individual or out-of-state agency or department regarding the provision of a lawful abortion performed in the state.

B. Nothing in this section shall prohibit the investigation of any criminal activity in this state, provided that no information relating to any medical procedure performed on a specific individual may be shared with an out-of-state agency or any other individual.

C. Any person detained in violation of this section may bring an action in any court of competent jurisdiction for a claim of unlawful detention in violation of this section, for any damages, including punitive damages, and for declaratory and injunctive relief and such other remedies as may be appropriate. The court, in issuing any final order in any section brought pursuant to this section, may award costs of litigation, to the prevailing party whenever the court determines such an award is appropriate. This section does not limit or abrogate any claim or cause of action such person has under common law or by other law or rule.

#### **Section 3. Severability Clause**

Severability is intended throughout and within the provisions of this Ordinance. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

#### **Section 4. Effective Date**

This ordinance shall take effect immediately and in accordance with law upon publication of notices as provided in the Ithaca City Charter.

**4. Government Administration, Human Resources, and Policy**  
**.3 Adopt Report of the Reimagining Public Safety Working Group**

WHEREAS, following the murder of George Floyd by Minneapolis police officer Derek Chauvin and citing “a long and painful history in New York State of discrimination and mistreatment of Black and African-American citizens,” then-New York Governor Andrew Cuomo issued Executive Order 203 calling upon local governments that operate police agencies to study their current operations and develop a plan to address “the particular needs of the communities served by such police agency and promote community engagement to foster trust, fairness, and legitimacy, and to address any racial bias and disproportionate policing of communities of color”; and

WHEREAS, in response to Executive Order 203 Common Council adopted recommendations from the joint City of Ithaca and Tompkins County report “Public Safety Reimagined” on March 31, 2021, including the creation of a task force consisting of “IPD staff, other City staff, Alderpersons, interested City residents, and outside experts or consultants” to design a new department to “manage various public safety functions in the City” consisting of “a unit of unarmed first responders to respond to certain non-violent call types” and “a unit of armed, uniformed first responders who shall qualify in all respects under New York State law as police officers, with said unit therefore led by someone who shall qualify in all respects under New York State law as a Chief of Police”; and

WHEREAS, in June 2021 that task force convened as the Reimagining Public Safety (RPS) Working Group and its over 35 members, technical advisors, and subcommittee contributors held biweekly meetings for 8 months to discuss RPS implementation with community input gathered via a website and in-person and virtual public forums; and

WHEREAS, Working Group Co-Leads Eric Rosario and Karen Yearwood presented “Implementing the City of Ithaca’s New Public Safety Agency: Suggestions From the City of Ithaca’s Reimagining Public Safety Working Group” to Common Council and the public on March 2, 2022; now therefore be it

**RESOLVED**, That Common Council ADOPTS the report of the Reimagining Public Safety Working Group and a portion of its recommendations to:

- enact civilian leadership of the City’s public safety responses
- create a unit of unarmed first responders to respond to certain non-violent call types
- require community-centered training for both armed and unarmed first responders
- supply improved technology for community safety efforts
- implement improved data collection and public reporting of such data
- create a public safety committee to further investigate call delineation and other details;

and be it further

**RESOLVED**, That Common Council commits to implementing those portions of the report with continued public input and further discussion by Common Council; and be it further

**RESOLVED**, That Common Council thanks the Reimagining Public Safety Working Group co-leads Eric Rosario and Karen Yearwood, participating members, and consultants and technical advisors for their work and contributions.

**4. Government Administration, Human Resources, and Policy**  
**.4 Establish Deputy Chief of Staff for Public Safety**

WHEREAS, on June 12, 2020, Governor Cuomo issued Executive Order 203, which charged local governments to “perform a comprehensive review of current police force deployments, strategies, policies, procedures, and practices, and develop a plan to improve such deployments, strategies, policies, procedures, and practices, for the purposes of addressing the particular needs of the communities served by such police agency and promote community engagement to foster trust, fairness, and legitimacy, and to address any racial bias and disproportionate policing of communities of color;” and

WHEREAS, on March 31, 2021, the Common Council resolved to create a department with civilian leadership to oversee the various public safety functions in the City; and

WHEREAS, Common Council also resolved that implementation of organizational restructuring related to public safety reform would be done “in such a manner that the employment of each of the current police officers of the Ithaca Police Department shall continue uninterrupted by such a restructuring, retaining their positions and rank in the Ithaca Police Department, without being required to apply or reapply in order to maintain their current positions and rank, and retaining their civil service status, authority, and benefits of the title including all terms and conditions of employment and benefits as exist by law and under their applicable collective bargaining agreement, memoranda of agreement, and interest arbitration awards as applicable, and remaining subject to all duties and obligations required of them under each of the foregoing and under the rules and regulations of the Ithaca Police Department;” and

WHEREAS, on March 2, 2022, the Reimagining Public Safety Working Group affirmed that civilian leadership of public safety is necessary to cultivate a culture of service and transparency and to provide extensive project management and interdisciplinary leadership skills; and

WHEREAS, on June 6, 2022, the Common Council discussed establishing a deputy chief of staff for public safety that would ensure civilian oversight of relevant departments and comply with the aforementioned parameters for organizational restructuring; now, therefore be it

**RESOLVED**, That Common Council reaffirms its support for civilian leadership in the City’s public safety departments; and be it further

**RESOLVED**, That Common Council directs the Acting Mayor to establish a job description, no later than December 31, 2022, for a Deputy Chief of Staff for Public Safety to aid in the discharge of their civilian oversight, disciplinary, and budgetary duties; and be it further

**RESOLVED**, That Common Council directs the Acting Mayor to include in the FY2023 budget all necessary monies for to hire and support a Deputy Chief of Staff for Public Safety; and be it further

**RESOLVED**, That Common Council directs the Mayor to provide a written evaluation of the impact of civilian oversight, including feedback from the community and Council, no later than December 31, 2023, and be it further

**RESOLVED**, That Council commits to implement any additional necessary reforms to ensure adequate and effective civilian oversight of the City's public safety responsibilities.



#### **4. Government Administration, Human Resources, and Policy**

##### **.5 Call on Starbucks to Re-Open the College Avenue Store and Stop Union-Busting**

WHEREAS, Starbucks employees at all three of the stores in Ithaca voted to unionize in order to have a voice in their working conditions and have become the first fully Starbucks-unionized city in the country; and

WHEREAS, the workers in Ithaca are part of a movement of Starbucks workers all over the country that started in Buffalo and has now spread to almost 200 stores; and

WHEREAS, Starbucks has engaged in a massive anti-union campaign that has led to the National Labor Relations Board issuing complaints for more than 200 separate violations including retaliatory firings, closing a store, and making threats; and

WHEREAS, the Starbucks workers working in the 402 College Ave Starbucks went on strike on April 16, 2022, to protest unsafe working conditions as a grease trap overflowed, creating a foul stench and a slipping hazard that was neglected by management, who originally told workers that repairs would be delayed for later in the week instead of later that day following the initiated strike; and

WHEREAS, Starbucks workers at 402 College Ave have identified a pattern of union-busting by Starbucks management, including a consistent reduction of staff hours, write ups for minor infractions, and the perpetuating of unsafe working conditions, including allowing a grease trap to overflow and the removal of a fan that acted as the only source of cooling during summer days; and

WHEREAS, the corporation's June 4th decision to close the Ithaca Starbucks located on 402 College Ave, despite its location in a high traffic, profitable area, and giving workers only one week's notice is clearly another example of union-busting; and

WHEREAS, the values of the City of Ithaca include respect for the right to organize unions and for workers to collectively bargain; now, therefore be it

**RESOLVED**, That the Ithaca Common Council condemns in the sharpest terms Starbucks' virulent and brutal anti-union attacks on its own workers; and be it further

**RESOLVED**, That the Ithaca Common Council demands that Starbucks sign the Fair Elections Principles; and be it further

**RESOLVED**, That the Ithaca Common Council calls upon Starbucks to immediately re-open the College Avenue store, allowing all its workers to return to work, and stop its anti-union practices.

#### **4. Government Administration, Human Resources, and Policy**

##### **.6 Police Department - Amendment to Personnel Roster – Police Records Supervisor**

WHEREAS, the Ithaca Police Department has recently restructured the duties of several first line supervisors to allow the department to better focus on building stronger relationships with the community, and to increase accountability and transparency. In continuing to restructure for better efficiency and to also allow career growth for civilian staff, the department is requesting the addition of a civilian Police Records Supervisor to the roster; and

WHEREAS, the Ithaca Police Department requested the assistance of the Human Resources Department in establishing the appropriate job duties and classification for a Police Records Supervisor. The Human Resources Department assisted and presented the new job description to Ithaca City Civil Service Commission; and

WHEREAS, the Ithaca Civil Service Commission reviewed and approved the job classification of Police Records Supervisor during its regular meeting on June 1, 2022; now, therefore, be it

**RESOLVED**, That the Personnel Roster of the Ithaca Police Department be amended as follows:

Add: One (1) Police Records Supervisor (40 hours/week)

and be it further

**RESOLVED**, That the position of Police Records Supervisor shall be assigned to the CSEA Administrative Unit Compensation Plan at salary grade 8, and be it further

**RESOLVED**, That for the sole purpose of determining days worked reportable to the New York State and Local Employees Retirement System the standard workday for this position shall be established at eight (8) hours per day (forty (40) hours per week), and be it further

**RESOLVED**, That funding for this position shall be derived from the approved 2022 departmental budget.

Jurisdiction: City of Ithaca  
Jurisdictional Class: Competitive  
Adopted: 06/01/22

## **POLICE RECORDS SUPERVISOR**

**DISTINGUISHING FEATURES OF THE CLASS:** The work involves responsibility for supervising and participating in the input, management, and dissemination of sensitive and confidential police records, including police reports, medical records, use of force reports, and mental health forms. The incumbent provides working supervision and training to Data Entry Specialists engaged in these functions. The Police Records Supervisor is also responsible for preparing and maintaining a variety of records and data related to departmental activity. The Police Records Supervisor may also be assigned responsibility for related activities and functions of the Records Division that can be appropriately handled by civilian personnel. The work is performed under the general supervision of a Police Sergeant or other supervisory law enforcement officer in accordance with well-established office procedures, with leeway allowed to exercise independent judgment in carrying out the details of the work. Supervision as a lead worker is exercised over Data Entry Specialists; full supervision is exercised in the absence of superiors. Does related work as required.

### **TYPICAL WORK ACTIVITIES:**

Supervises and participates in the input, management and dissemination of sensitive and confidential police records, including police reports, medical records, use of force reports, and mental health forms as collected and submitted by sworn officers;

Prioritizes and assigns tasks to data entry specialists; maintains and manages schedules of Data Entry Specialists;

Supervises and participates in the preparation and maintenance of department activity records and data, including incident-based reporting, collecting and compiling data for departmental reports, monthly officer arrest data, Narcan usage, use of force data, and others as directed;

Handles day-to-day procedural questions and personnel issues that arise;

Develops and implements goals and work objectives;

Facilitates data transfer and system functioning through Spillman, Tracs, Laserfiche, live scan, and E-Justice;

Ensures that all required documentation is provided to the City Attorney's Office, the local courts, and the District Attorney's Office in accordance with state law and department policies and procedures;

Oversees and regularly evaluates the data entry specialist training program;

Participates in the selection, motivation, training, and performance evaluation of the records team members;

Supervises and participates in the quality control process of officer reports and paperwork;

Supervises and participates in the preparation and management of Taxi License issuing and Local Background Check procedures;

Maintains communication with City-contracted tow companies and coordinates bi-annual tow auctions;

Establishes, maintains, and reviews workflow processes between the Ithaca Police Department and New York State Courts;

Answers telephone calls, greets visitors, and responds to emails, providing excellent customer service when doing so.

**FULL PERFORMANCE KNOWLEDGES, SKILLS, ABILITIES, PERSONAL CHARACTERISTICS:**

Good knowledge of the procedures and systems used by the Ithaca Police Department Records Division to record, maintain, manage and disseminate confidential law enforcement records; good knowledge of database and records management software used by the Ithaca Police Department; good knowledge of the laws, rules, regulations and procedures governing the storage of, and access to, law enforcement records; good knowledge of the principles and practices of office management; good knowledge of office equipment used to input, maintain and produce law enforcement records and reports, and ability to effectively use such equipment; working knowledge of the organization and functions of City of Ithaca government and the Tompkins County criminal justice community; working knowledge of office terminology, procedures, equipment and business English; good organizational skills; good data entry skills; ability to oversee the work of others; ability to train subordinate staff; ability to operate a personal computer and utilize common office software programs including word processing, spreadsheet and databases at an acceptable rate of accuracy and speed; ability to extract data from records management systems and prepare statistical reports; ability to communicate effectively both orally and in writing; ability to understand and follow oral and written instructions; ability to establish and maintain effective working relationships with others; ability to interact effectively with the public; ability to effectively work with and serve a diverse local community; physical condition commensurate with the demands of the position.

**MINIMUM QUALIFICATIONS:** Graduation from high school or possession of a high school equivalency diploma AND two (2) years of full-time paid experience, or its part-time paid equivalent, working in a records management program, which must have included the use of an automated database.

**4. Government Administration, Human Resources, and Policy**

**.7 Police Department - Amendment to Personnel Roster – Police Support Specialist**

WHEREAS, the Ithaca Police Department requested a review of the Data Entry Specialists assigned to the Records Unit to determine whether the position is appropriately classified; and

WHEREAS, the Human Resources Department has reviewed the duties and responsibilities of the Data Entry Specialist position and has determined that there has been a permanent and material growth in job responsibilities that merits a new classification of the position to Police Support Specialist; now, therefore, be it

**RESOLVED**, Subject to the approval of the Ithaca Civil Service Commission, the Personnel Roster of the Ithaca Police Department be amended as follows:

Add:	Four (4) Police Support Specialists (40 hours/week)
Delete:	Two (2) Data Entry Specialists (40 hours/week)
Unfund:	Two (2) Data Entry Specialists (40 hours/week)

and be it further

**RESOLVED**, That the position of Police Support Specialist shall be assigned to the CSEA Administrative Unit Compensation Plan at salary grade 4, and be it further

**RESOLVED**, That two Data Entry Specialist positions shall remain on the Ithaca Police Department personnel roster in an unfunded capacity until such time as the employees successfully complete the civil service examination process for Police Support Specialist, at which time the positions shall be abolished, and be it further

**RESOLVED**, That for the sole purpose of determining days worked reportable to the New York State and Local Employees Retirement System the standard workday for this position shall be established at eight (8) hours per day (forty (40) hours per week), and be it further

**RESOLVED**, That funding for this position shall be derived from the approved 2022 departmental budget.

Jurisdiction: City of Ithaca  
Jurisdictional Class: Competitive  
Adopted: 07/06/22

## **POLICE SUPPORT SPECIALIST**

**DISTINGUISHING FEATURES OF THE CLASS:** The work involves responsibility for the input, updating, and retrieval of sensitive and confidential police records, including police reports, medical records, use of force reports, and mental health forms, using computer software. Police Support Specialists also serve as the first point of contact with the Ithaca Police Department, including staffing the front desk, and thus have extensive face-to-face and telephone contact with the public. Police Support Specialists perform clerical duties such as filing, copying, and faxing, and may be assigned related clerical functions and activities that can be appropriately handled by civilian personnel. The work is performed under general supervision in accordance with well-established procedures. Does related work as required.

### **TYPICAL WORK ACTIVITIES:**

- Enters sensitive and confidential police records, including police reports, medical records, use of force reports, and mental health forms into electronic records software; updates, edits and retrieves records in accordance with established procedures and guidelines;
- Facilitates data transfer through interagency software systems, such as Spillman, TraCS, Laserfiche, Live Scan and eJusticeNY;
- Acts as the first point of contact for the agency, including staffing the front desk; answers telephone calls, greets visitors, and responds to emails, providing excellent customer service when doing so;
- Retrieves, compiles and provides requested records and supporting documentation to the City Attorney's Office, the local courts, and the District Attorney's Office in accordance with state law and department policies and procedures;
- Prepares and maintains department activity records and data, including incident-based reporting, collecting and compiling data for departmental reports, monthly officer arrest data, Narcan usage, use of force data, and others as directed;
- Enters and updates warrant, subpoena, and order of protection data files and logs;
- Maintains and updates databases and spreadsheets for various departmental records;
- Reviews reports and entries to ensure they are properly coded and complete; corrects typographical and clerical errors; returns incomplete reports to supervisors for completion;
- Collects fees for services rendered, such as taxi licensing fees and background investigation fees;
- Assists with found property management, including intake, location management, and the release of property to its owner; accepts and prepares walk-in reports for found or lost property, vehicle repossession, etc.;
- Purges electronic and physical records and materials in accordance with New York State records retention standards and established procedures and guidelines;
- Assists with vehicle auctions by running data searches and compiling and verifying VIN numbers, registration information, and other data to ensure accuracy;
- Performs various clerical duties, such as typing, filing, copying, and faxing;
- May perform radio communications with officers and the dispatch center as needed or requested;

## **Police Support Specialist**

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#### **FULL PERFORMANCE KNOWLEDGES, SKILLS, ABILITIES, PERSONAL CHARACTERISTICS:**

Working knowledge of the procedures and systems used by the Ithaca Police Department Records Division to record, maintain, manage and disseminate confidential law enforcement records; working knowledge of database and records management software used by the Ithaca Police Department; working knowledge of modern office equipment used to input, maintain and produce law enforcement records and reports, and ability to effectively use such equipment; working knowledge of modern office terminology, procedures, equipment and business English; good data entry skills; good organizational skills; ability to operate a personal computer and utilize common office software programs including word processing, spreadsheet and databases at an acceptable rate of accuracy and speed; ability to learn agency software programs; ability to extract data from records management systems and prepare statistical reports; ability to understand and follow oral and written instructions; ability to communicate both orally and in writing; ability to interact effectively with the public; ability to successfully work with and serve a diverse local community; accuracy; physical condition commensurate with the demands of the position.

**MINIMUM QUALIFICATIONS:** Graduation from high school or possession of a high school equivalency diploma.

**4. Government Administration, Human Resources, and Policy**  
**.8 Local Law – Adoption of New Ward Boundary Lines**

WHEREAS a census was held in 2030 which indicated changes in population within the City that prompted the City to re-examine its ward boundaries, and which made it necessary for the City to embark on a redistricting plan; and

WHEREAS, in view of the foregoing, a City Redistricting Working Group was established to make recommendations to the City of Ithaca Common Council regarding ward boundaries for the City; and

WHEREAS, the Redistricting Working Group studied various options and has presented its report and recommendations to the Common Council; and

WHEREAS, the Common Council has received public comment and deliberated upon the matter at length, now therefore,

**City of Ithaca**  
**Local Law # \_\_\_ of the year 2022**

**BE IT NOW ENACTED BY** the Common Council of the City of Ithaca as follows:

**Section 1.** Legislative Intent and Purpose.

The Common Council of the City of Ithaca determines that it is in the interest of the public welfare to adopt the Ward Map commonly known as the Working Group's Final 2022 Proposed Redistricting Plan, Scenario ALT 4C V3, dividing the City into five separate wards from each of which two Alderpersons shall be elected. The Common Council recognizes that, based on the 2020 census, this will result in a population deviation spread of approximately three-point-sixty-six percent (3.66%) between the least and most populous of these wards.

**Section 2.** The text of Section C-3 "Ward Boundaries", as currently contained in the Ithaca City Charter and last ratified by Local Law # 2 of 2012 is hereby repealed and replaced with the following text:

The City shall be divided into five wards respectfully bounded and described as follows:

- A. Ward I: Beginning at a point of intersection of the centerlines of Cascadilla Creek and Monroe Street; thence running southwesterly along the centerline of Monroe Street a distance of 29 feet to the intersection with the centerline of Lake Avenue; thence southeasterly along the centerline of Lake Avenue a distance of 580 feet to the intersection of the centerline of Cascadilla Street;



thence westerly along the centerline of Cascadilla Street a distance of 2,484 feet to the intersection of the centerline of North Meadow Street; thence southerly along the centerline of North Meadow Street a distance of 2,177 feet to the intersection with the centerline of West Green Street; thence easterly along the centerline of West Green Street a distance of approximately 2,519 feet to the intersection of centerline of South Cayuga Street; thence southwestly across Tax Parcel 500700-106.-1-8.2 (Tax Roll Status 2021) a distance of approximately 1,900 feet to a point of intersection with the City of Ithaca corporate limits, which is the northwesterly corner of said Tax Parcel 503089-40.-3-3 (Tax Roll Status 2021); thence southwestly along the southerly boundary of the City of Ithaca a distance of 17,544 feet, as it twists and turns, to the southwestly corner of tax parcel 500700-99.-1-8.2; thence northerly a distance of approximately 9,800 feet along the westerly boundary of the City of Ithaca; thence easterly along the boundary of the City of Ithaca a distance of 288 feet; thence southeasterly and easterly along the boundary of the City of Ithaca a distance of approximately 2,150 feet to the intersection of the centerline of New York State Route 89, also known as Taughannock Boulevard; thence northerly along the boundary of the City of Ithaca a distance of approximately 4,310 feet; thence easterly along the boundary of the City of Ithaca a distance of 3,443 feet to a point approximately the center of the width of Cayuga Lake; thence southerly along the approximate centerline of Cayuga Lake a distance of 2,198 feet to the eastern shoreline of Cayuga Inlet; thence southerly along the easterly shoreline of Cayuga Inlet a distance of approximately 3,100 feet to the intersection with the centerline of Cascadilla Creek; thence easterly and southeasterly along the center line of Cascadilla Creek a distance of 3,650 feet, more or less, to the point of beginning.

- B. Ward II: Beginning at the intersection of the centerlines of Linn Street and East Lincoln Street; thence easterly along the centerline of East Lincoln Street a distance of 136 feet, more or less, to the intersection with the centerline of Lake Street; thence northerly along the centerline of Lake Street a distance of approximately 392 feet to the intersection with the centerline of Fall Creek; thence northwesterly along the centerline of Fall Creek a distance of 1.0 mile to where Fall Creek flows into Cayuga Lake; thence southerly as Cayuga Lake flows into Cayuga Inlet and continuing along the easterly shoreline of Cayuga Inlet a distance of approximately 3,380 feet to the intersection with the centerline of Cascadilla Creek; thence easterly and southeasterly along the center line of Cascadilla Creek a distance of 3,650 feet, more or less, to the intersection of the centerline of Monroe Street; thence running southwestly along the centerline of Monroe Street a distance of 29 feet to the intersection with the centerline of Lake Avenue; thence southeasterly along the centerline of Lake Avenue a distance of 580 feet to the intersection of the centerline of Cascadilla Street; thence westerly along the centerline of Cascadilla Street a distance of 2,484 feet to the intersection of the centerline of North Meadow Street; thence southerly along the centerline of North Meadow Street a distance

of 2,177 feet to the intersection of the centerline of West Green Street; thence easterly along the centerline of West Green Street a distance of approximately 2,519 feet to the intersection of centerline of South Cayuga Street; thence southerly along the centerline of South Cayuga Street a distance of approximately 1,216 feet more or less, to the intersection with the centerline of Six Mile Creek; thence northeasterly along the centerline of Six Mile Creek a distance of approximately 1,700 feet, more or less, to the intersection with the centerline of South Aurora Street; thence northerly along the centerline of South Aurora Street a distance of approximately 47 feet to the intersection with the centerline of East Green Street; thence northeasterly along the centerline of East Green Street a distance of approximately 429 feet to the intersection with the centerline of East State Street; thence easterly along the centerline of East State Street a distance of 1,525 feet more or less, to the intersection with the centerline of North Quarry Street; thence northerly along the centerline of North Quarry Street a distance of 1,067 feet, more or less, to the intersection with the centerline of East Buffalo Street; thence westerly along the centerline of East Buffalo Street a distance of 314 feet, more or less, to the intersection with the centerline of Stewart Avenue; thence northerly along the centerline of Stewart Avenue a distance of 652 feet to the intersection with the centerline of Cascadilla Creek; thence easterly along the centerline of Cascadilla Creek a distance of 1,574 feet to the intersection with the centerline of Linn Street; thence northerly along the centerline of Linn Street a distance of 3,284 feet to the point of beginning.

- C. Ward III: Beginning at a point in the south corporate limits of the City of Ithaca at its intersection with the center line of East State Street (New York State Route 79); thence easterly along the south corporate limit of the City of Ithaca a distance of 260 feet, more or less, to a monument marking the southeasterly corner in the corporate limits of the City of Ithaca; thence northerly along the east line of the City of Ithaca a distance of 6,511 feet more or less, to the intersection with the centerline of Dryden Road; thence westerly along the centerline of Dryden Road a distance of approximately 418 feet to the intersection with the centerline of Hoy Road; thence westerly along the centerline of Hoy Road a distance of 96 feet to the intersection with the centerline of Fall Creek; thence westerly along the centerline of Fall Creek a distance of approximately 2,640 feet to the intersection with the centerline of College Avenue; thence southerly along the centerline of College Avenue a distance of 176 feet more or less to the intersection with the centerline of Oak Avenue; thence easterly along the centerline of Oak Avenue a distance of 606 feet to the intersection with the centerline of Summit Avenue; thence southerly along the centerline of Summit Avenue a distance of 409 feet to the intersection with the centerline of Dryden Road; thence westerly along the centerline of Dryden Road a distance of 325 feet to the intersection with the centerline of Linden Avenue; thence southerly along the center line of Linden Avenue a

distance of 838 feet, more or less, to a point of intersection with the center line of Bool Street; thence westerly along the center line of Bool Street a distance of 267 feet, more or less, to a point of intersection with the center line of College Avenue; thence southerly along the center line of College Avenue a distance of 614 feet, more or less, to a point of intersection with the center line of Mitchell Street (New York State Route 336); thence southwesterly along the center line of Mitchell Street (New York State Route 336) a distance of 306 feet, more or less, to a point of intersection with the center line of East State Street; thence northwesterly along the center line of East State Street a distance of 2,365 feet, more or less, to a point of intersection with the center line of East Green Street (New York State Route 79E); thence southwesterly along the centerline of East Green Street (New York State Route 79E) a distance of 430 feet, more or less to the intersection with the centerline of South Aurora Street; thence southwesterly a distance of 60 feet, more or less, to the intersection with the centerline of Six Mile Creek; thence southeasterly along the centerline of Six Mile Creek a distance of approximately 1,700 feet, more or less, to the intersection with the center line of South Cayuga Street; thence southerly along South Cayuga Street a distance of 1,200 feet, more or less, to the southern end of the centerline of South Cayuga Street; thence southwesterly across Tax Parcel 500700-106.-1-8.2 (Tax Roll Status 2021) a distance of approximately 615 feet to a point of intersection with the City of Ithaca corporate limits, which is the northwesterly corner of said Tax Parcel 503089-40.-3-3 (Tax Roll Status 2021); thence easterly along the southerly boundary of the City of Ithaca corporate limits, as it twists and turns, a distance of 9,000 feet, more or less, to the point and place of beginning.

- D. Ward IV: Beginning at a point on the center line of Cascadilla Creek at the point of intersection with the center line of Stewart Avenue; thence running northeasterly along the center line of Stewart Avenue a distance of 2,219 feet, more or less, to the intersection with University Avenue; thence running more or less in an easterly direction along the centerline of University Avenue a distance of approximately 2,359 feet to the intersection of the centerlines of Forest Home Drive, Thurston Avenue and Feeney Way, formerly known as East Avenue; thence continuing easterly along centerline of Forest Home Drive a distance of approximately 2,185 feet to the intersection of the easterly boundary of the City of Ithaca; thence continuing southerly along the easterly boundary of the City of Ithaca a distance of approximately 2,130 feet to the intersection with Dryden Road; thence continuing westerly along the centerline of Dryden Road a distance of approximately 417 feet to the intersection of Hoy Road; thence continuing westerly along the centerline of Hoy Road a distance of 96 feet to the intersection of the centerline of Cascadilla Creek; thence continuing westerly along the centerline of Cascadilla Creek a distance of approximately 2,640 feet to the intersection of College Avenue; thence running southerly along the centerline of College Avenue a distance of 176 feet, more or less, to a point of intersection with the center line of Oak Avenue; thence

easterly along the center line of Oak Avenue a distance of 606 feet more or less, to a point of intersection with the center line of Summit Avenue; thence southerly along the center line of Summit Avenue extended a distance of 409 feet, more or less, to a point of intersection with the center line of Dryden Road; thence westerly along the center line of Dryden Road a distance of 325 feet, more or less, to a point of intersection with the center line of Linden Avenue; thence southerly along the center line of Linden Avenue a distance of 838 feet, more or less, to a point of intersection with the center line of Bool Street; thence westerly along the center line of Bool Street a distance of 267 feet, more or less, to a point of intersection with the center line of College Avenue; thence southerly along the center line of College Avenue a distance of 614 feet, more or less, to a point of intersection with the center line of Mitchell Street; thence southwesterly along the center line of Mitchell Street a distance of 306 feet, more or less, to a point of intersection with the center line of East State Street; thence northwesterly along the center line of East State Street a distance of 840 feet, more or less, to a point of intersection with the center line of North Quarry Street; thence running northerly along the centerline of North Quarry Street a distance of 1,066 feet to a point of intersection with the centerline of East Buffalo Street; thence running westerly along the centerline of East Buffalo Street a distance of 314 feet to a point of intersection with the centerline of Stewart Avenue; thence running northerly along the centerline of Stewart Avenue a distance of 648 feet, more or less, to the point of beginning.

E. Ward V: Beginning at the intersection of the centerlines of Linn Street and East Lincoln Street; thence easterly along the centerline of East Lincoln Street a distance of 136 feet, more or less, to the intersection with the centerline of Lake Street; thence northerly along the centerline of Lake Street a distance of approximately 392 feet to the intersection with the centerline of Fall Creek; thence northwesterly along the centerline of Fall Creek a distance of 1.0 mile to where Fall Creek flows into Cayuga Lake; thence northerly a distance approximately 2,198 feet to the northernly boundary of the City of Ithaca; thence easterly along the northernly boundary of the City of Ithaca a distance of approximately 2,990 feet; thence southerly along the westerly boundary of the Town of Ithaca, as it twists and turns, approximately 4,250 feet; thence easterly along the boundary of the City of Ithaca a distance of approximately 1.27 miles to a point of intersection with the easterly boundary of the City of Ithaca; thence southerly along the easterly boundary of the City of Ithaca a distance of 2,610 feet to the intersection with the centerline of Forest Home Drive; thence westerly along the centerline of Forest Home Drive a distance of approximately 2,185 feet to the intersection with the centerlines of Feeney Way, formerly known as East Avenue, Thurston Avenue and University Avenue; thence westerly along the centerline of University Avenue a distance of 2,359 feet to the intersection with the centerline of Stewart Avenue; thence southerly along the centerline of Stewart Avenue a distance of 2,175 feet to the intersection of the centerline of Cascadilla Creek; thence westerly along the centerline of

Cascadilla Creek a distance of 1,574 feet to the intersection with the centerline of Linn Street; thence northerly along the centerline of Linn Street a distance of 3,284 feet to the point of beginning.

**Section 3.** Severability. If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section 4.** Effective Date.

This Local Law shall take effect on January 1, 2023, after filing in the office of the Secretary of State, provided however that all current Alderpersons shall continue to hold office and represent the heretofore existing wards through December 31, 2023 absent cause for vacancy otherwise represented by law, and further provided that the ward boundaries heretofore existing shall continue to be the ward boundaries for the purpose of filling vacancies in office until the general election in November 2023.

#### **4. Government Administration, Human Resources, and Policy**

##### **.9 Proof-of-Work (PoW) Cryptocurrency Mining Moratorium & GEIS legislation (A.7389-C/S.6486-D)**

WHEREAS, both houses of the New York State Legislature recently voted in support of a critical bill establishing a Proof-of-Work (PoW) Cryptocurrency Mining Moratorium & GEIS legislation (A.7389-C/S.6486-D); and

WHEREAS, this legislation will prevent the purchase and use of mothballed fossil-fuel power plants for cryptocurrency mining for the next two years; and

WHEREAS, upstate New York has a strong agricultural and tourism economy, creating over 60,000 jobs, which would be needlessly impacted by the re-powering of fossil-fuel power plants and the associated pollution; and

WHEREAS, there exist more than 30 off-line power plants that could be converted into mining centers across the state; and

WHEREAS, our climate goals in the Climate Leadership and Community Protection Act (CLCPA) are threatened if New York State allows the reopening of many powerplants; and

WHEREAS, the Department of Environmental Conservation's review of the impacts of the cryptocurrency industry on our environment will provide crucial information on digital currency mining and its effects on the CLCPA climate goals; and

WHEREAS, this bill now awaits Governor Hochul's signature to become law; now, therefore be it

**RESOLVED**, That the City of Ithaca hereby expresses its support for A.7389-C/S.6486-D and requests Governor Kathy Hochul immediately sign the legislation into law, and be it further

**RESOLVED**, That a copy of this resolution be sent to the following officials:

Governor Kathy Hochul  
NYS Senator Thomas O'Mara  
NYS Assemblymember Anna Kelles

#### **4. Government Administration, Human Resources, and Policy**

##### **.10 Authorization to Approve Master License Agreement for AT&T Wireless Facilities**

WHEREAS, New Cingular Wireless PCS, LLC (“AT&T”) has expressed interest in installing new wireless small cell facilities on utility poles situated within the City’s right of way; and

WHEREAS, on May 6, 2020, the Common Council approved, and in October 2021 amended, a Master License Agreement containing substantially similar terms, and authorized a fee structure for wireless facilities using poles within the City’s right of way; and

WHEREAS, AT&T and City staff have negotiated various changes to the template Master License Agreement previously approved by Common Council for the purposes of clarifying the rights of the parties thereto and addressing certain matters not addressed in the previously approved draft Master License Agreement, as reflected in the redline included with this resolution; and

WHEREAS, through the Master License Agreement and various provisions of the City Code as amended by an ordinance adopted by Common Council on October 6, 2021, (“Telecoms Provisions”), the City will retain authority over installations within the City’s right of way, including the small cell facilities contemplated by AT&T; and

WHEREAS, the contemplated Master License Agreement does not in and of itself authorize or otherwise constitute approval of the installation of any particular wireless facility, which will be subject to review and approval by the City pursuant to the Telecoms Provisions and the terms of the Master License Agreement, once executed; now, therefore be it

**RESOLVED**, That the Acting Mayor, subject to the advice of the City Attorney, is authorized to enter into an agreement with AT&T in a form substantially similar to the draft Master License Agreement included herewith.

**SMALL WIRELESS COMMUNICATIONS FACILITIES  
MASTER LICENSE AGREEMENT**

THIS SMALL WIRELESS COMMUNICATIONS FACILITIES MASTER LICENSE AGREEMENT ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date"), by and between the City of **ITHACA** ("City"), and NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company ("Licensee"). City and Licensee are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

**RECITALS**

A. City owns, operates, maintains, or otherwise controls the public rights-of-way situated within its jurisdictional boundaries and owns as its personal property a certain number of poles located in the public rights-of-way.

B. Licensee owns and/or controls, maintains, and operates a wireless communications network, for which Licensee desires to install, attach, operate, and maintain Small Wireless Facilities (as defined below) in the public rights-of-way as provided herein.

C. City recognizes that Small Wireless Facilities, including facilities commonly referred to as "small cells" and "distributed antenna systems," are critical for the City's population to access advanced technologies wirelessly and are often deployed most effectively in the public rights-of-way.

D. The Parties acknowledge and agree that the purpose of this Agreement is to permit the deployment of Small Wireless Facilities within the public rights-of-way, subject to all the applicable Laws (as defined below), including but not limited to the rules, regulations, and orders of the Federal Communications Commission, as further described herein.

ACCORDINGLY, in consideration of the covenants of this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties agree as follows:

1. Grant. Subject to Laws (defined in Section 15) and this Agreement, City grants Licensee a nonexclusive license to (i) access, use and occupy the City's ROW (as defined below) 7 days a week, 24 hours a day, for the installation, construction, use, maintenance, operation, repair, modification, location, relocation, replacement and upgrade of equipment, technologies, frequencies and related fiber and materials reasonably necessary to access, connect, operate and provide power to its equipment ("Equipment") that enables Licensee's wireless communications ("Licensee Use"); (ii) use and/or replace City owned or controlled poles for Licensee's Use ("City Owned Poles"); (iii) use privately owned or controlled poles, including replacement poles, for Licensee's Use in the ROW pursuant to an agreement with the entity owning the poles ("Privately Owned Poles") in which Licensee shall be solely responsible for any costs or fees assessed by the private owner or otherwise associated with Licensee's



use of the Privately Owned Poles; (iv) install, replace or remove Licensee, Licensee affiliate or, for Licensee benefit, third-party owned poles in the ROW for Licensee's Use ("Licensee Owned Poles") (collectively the poles identified in subclauses (ii), (iii) and (iv) are referred to as "Poles"). For purposes of this Agreement, the "ROW" means the public rights-of-way owned, managed or controlled by the City. Licensee's Use of Poles shall, in accordance with Section 4, require the City's approval of a Pole License (as defined below). Licensee's Use for attachments to support structures in the ROW owned by Licensee or by a third party shall not require a Pole License; however, upon request, Licensee shall provide the City a certification of authorization to attach to such third party structure. The City expressly reserves for itself the rights and uses of the ROW for its public purposes and for the public's health, safety, and general welfare. To the extent the City has or may provide access rights to the Poles to Licensee, the City hereby grants Licensee such access rights for the use and benefit of Licensee in accordance with the terms of this Agreement.

2. Term of Agreement. The term of this Agreement shall be for five (5) years beginning on the Effective 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 Term (either with or without cause), the Term will automatically renew for each of 5 consecutive additional 5-year periods, each subject to the same notice of non-renewal. After the expiration or earlier termination of this Agreement, it shall apply to all Pole Licenses entered into hereunder. Notwithstanding the foregoing, any Pole License approved within the last two years of the initial term or any renewal term shall remain in effect for no less than 3 years.

3. Fees.

(a) Licensee shall pay to the City the Fees set forth in the "Fee Schedule" attached hereto and made a part hereof as Exhibit A. Licensee shall pay the one-time application fee with submission of the Pole Application (defined in Section 4(a)). Licensee shall pay the initial recurring fee within ninety (90) days of the Commencement Date (defined in Section 4(e)) and pay subsequent recurring fees on or before each anniversary of the Commencement Date. Before any recurring fees are paid, City 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 City of Ithaca and sent to the following address or through electronic transfer subject to the City's approval and necessary bank routing instructions.

City of Ithaca  
Attn: Chamberlain's Office  
108 E. Green Street  
Ithaca, NY 14850

(b) All bills and other requests for payment to the City under this Agreement (other than the payment of the Fees) shall be presented in writing to Licensee and accompanied with reasonable substantiation of the costs incurred by the City. Properly presented invoices shall be paid by Licensee within sixty (60) days of receipt of invoice accompanied by such substantiation. All charges payable under this Agreement shall be billed by the City within one

(1) year from the end of the calendar year in which the charges were incurred. Any charges beyond such period shall not be billed by the City and shall not be payable by Licensee.

4. Pole License.

(a). Prior to installing any Equipment, new Licensee Owned Poles or replacement City Poles or Privately Owned Poles, Licensee shall file a pole license application with the City in a form specified by the City for one or more poles ("Pole Application"), or on such other form as may be specified by the City for Equipment installations. Within 60 days of receipt of a Pole Application for Equipment or replacement of City Poles or Privately Owned Poles or 90 days for new Licensee Owned Poles, the City shall, in writing, approve or reject the Pole Application, otherwise the Pole Application shall be deemed approved. If the City timely rejects the Pole Application, the review period will be suspended until Licensee cures the non-compliance. Upon approval, a Pole Application shall be deemed to be a separate pole license ("Pole License") for each pole included in the Pole Application. With each Pole Application, Licensee agrees to the following:

i. Licensee shall submit a list and drawings, with all information required by City's ordinances or Laws, subject to waiver requests, of all preferred locations for installation of its Equipment, new Poles, and of Poles to be replaced by Licensee, to the City Office of Engineering ("City Engineer") for approval prior to commencement of any work. Approval of work in the ROW shall be reasonably based on considerations of the impact to any City Owned Poles, including prior third party users of the City Owned Pole, the impact (including disruption and damage) of the Equipment or Poles on the ROW or on other City property or operations.

ii. If the installation of a Small Wireless Facility results in the creation of a double pole, Licensee agrees that it will cooperate in good faith with the City in efforts to get the utilities and other companies having attachments on the original pole to relocate the attachments to the new pole so that a double pole can be eliminated as soon as practicable.

iii. The City may in its sole discretion, with advance written notice to Licensee, retain a consultant with expertise in telecommunications technology and related issues to assist the City in its review of any application submitted under this License. Consultant review must be limited in scope to only Pole application information which requires radio frequency engineering or other such specialized telecommunications expertise to interpret the information provided therein. Any consultant retained by the City must have the requisite education, experience and/or certifications, as determined by the City in its sole discretion, to perform the scope of review requested. The consultant's scope of review and hourly rate, which must be reasonable under current industry market standards, must be detailed in writing and, if the City seeks reimbursement, provided to Licensee prior to any review being completed and/or fees being incurred. Any consultant invoices reimbursable by the Licensee shall be submitted to Licensee for review within one hundred eighty (180) days of the review being completed, and Licensee shall have the right to contest any fees which are unreasonable, or which are outside of the specified scope of review.

iv. Based on the complete Pole applications, the City will verify that the Equipment proposed in the design complies with the configurations and the Equipment specifications set forth in Exhibit A, and if so, authorize the Licensee to submit any and all siting applications to City agencies pursuant to the provisions of the City Code and the City's Aesthetic Standards, as may be amended from time to time, and review of the State and City Environmental Quality Review Act/Ordinance ("SEQRA/CEQRO").("Siting Application").

vi. If the City approves the Pole Application, the City will issue a Pole License, if required, conditioned upon obtaining City approval of the Siting Application and payment of required fees, if any. If the Pole Application is denied, the City will provide its basis for such denial in writing.

vii. Except as set forth in Section 7(a), all License approvals shall be only for the specific Equipment and Poles approved by the City and any additional or new Equipment shall be subject to the same approval process as the original application. Approval of the use of available City-owned fiber strands and/or conduit or other City-owned property or facilities, including but not limited to lighting fixtures, electroliers, handholes, manholes, fiber optic strands, and other City-owned property, structures, or equipment, shall be subject to written agreement between the parties concerning the terms for the use thereof, including but not limited to compensation in an amendment to this Agreement or in a separate agreement.

(b). City may reject a Pole Application only for one or more of the following reasons, which must be specified with reasonable detail in the rejection: (i) concerns about structural capacity, safety, reliability, or generally applicable engineering practices, which may include, but shall not be limited to the City's responsibility for providing fire and other emergency access, protecting safe movement and control of vehicular, bicycle and pedestrian traffic (ii) the Pole Application is incomplete; (iii) the proposed Equipment exceeds the height, dimension or other parameters for small wireless facilities as defined in this Agreement ("Small Wireless Facilities"); (iv) the design documents attached to the Pole Application do not comply with this Agreement or with the City's pole attachment requirements for traffic light poles, show interference with or pose a safety risk in servicing the City's public safety radio system, traffic signal light system, or other communications components, or do not comply with the Design Criteria or not otherwise accompanied by a request to seek waivers of the Design Criteria as part of a Pole Application; (v) if the Pole Application also concerns installation of a new Pole, and the property or ROW on which it will be sited is needed by the City for a public purpose that has already been identified at the time the application is submitted; or (vi) the Pole Application does not include a load bearing study.

(c). Any aesthetic or other design criteria for Small Wireless Facilities and Poles upon which Small Wireless Facilities are attached (collectively, the "Design Criteria") which are adopted by the City shall only apply if the criteria are (i) reasonable, (ii) applied equally and in a non-discriminatory manner to other types of infrastructure deployments within the ROW, (iii) objective and published in advance of a Small Wireless Facility request/application submitted herein, and (iv) comply with applicable federal and state Laws. If pole reinforcement or replacement is necessary, Licensee shall provide engineering design and specification drawings demonstrating the proposed alteration to the pole. Changes made to the City's Design Criteria shall not be imposed or otherwise applied retroactively unless required by Laws. Equipment

types and installation configurations substantially consistent with the drawings and plans attached hereto as Exhibit B are deemed to comply with the Design Criteria for purposes of the Pole Application review process.

(d). The construction, installation, operation, maintenance, relocation and removal of Equipment and Poles shall be accomplished by the Licensee without cost or expense to the City and shall be subject to the requirements of this Agreement and in accordance with Laws and shall be accomplished in such manner as not to endanger persons or property or unreasonably obstruct access to, travel upon or other use of the specified ROW.

- i. Licensee shall pay for any electricity service for Small Wireless Facilities. As permitted by the electric provider, Licensee may install an electric meter on the City pole or the ground adjacent to the City pole; in the event installation of an electric meter is not permitted, Licensee shall be responsible for its estimated pro-rata share of electrical service used. Licensee shall be solely responsible for compliance with and all costs or fees associated with studies, designs, plans, relocation of City equipment and any additional requirements of any owner of Privately Owned Poles on which Licensee intends to install equipment. Licensee shall provide the City with safe distance specifications for the Equipment, access codes and procedures to shut off power to the Equipment
- ii. Licensee shall be responsible for any make-ready work required by the City or any private owner of a pole or other facility to accommodate the attachment of Licensee's Equipment to any Poles, including but not limited to field inspections, surveys, structural analysis, construction, materials, cost of relocation or removal (less salvage value), cost of clearing or expanding existing conduit, cost of substitution of light poles, tree trimming and construction and conduit system cleaning. Licensee or its agent is authorized to commence and continue work so long as it is done in compliance with the insurance, construction, maintenance, and other requirements described in the License.
- iii. To the extent caused by Licensee and as to the parties in this Agreement only, Licensee shall be responsible for any damage to City streets, existing utilities, poles, curbs, and sidewalks due to its installation, maintenance, repair or removal of its Equipment or Poles in ROW, in accordance with the relevant law, and shall repair, replace, and restore, according to current standards and specifications, any such damage at its expense. Except for damage to the City's stormwater system for which the City reserves the right to treat as an Emergency Event discussed in 7(c) below, if Licensee does not repair the site to its original condition, then the City shall have the option, upon fifteen (15) days' prior written notice served by return receipt mail to Licensee or without notice if an emergency exists, as determined by the City Engineer, in the exercise of her/his reasonable discretion, to perform or cause to be performed such reasonable and necessary work and to charge Licensee for the actual

costs incurred by the City at City's standard rates plus 15% for administrative costs. Within sixty (60) days of Licensee's receipt of a demand for payment by the City, Licensee shall promptly reimburse the City for such costs.

- iv. If required, Licensee shall deposit with the City a security instrument, in such amount and type as required of other occupiers of the ROW providing telecommunication services. Such amount shall act as security for the faithful performance by the Licensee of the requirements of this Agreement and the Laws.
- v. Licensee shall maintain accurate maps and other appropriate records of its Equipment and Poles as they are actually constructed in the ROW. Such maps and records shall be promptly updated in the event of relocation or removal of any Equipment or Poles. All maps, drawings and other records shall show in detail the exact nature and location of all Equipment and Poles installed within the ROW, including to the extent available to the Licensee, plans showing wire, fiber optic strands, innerduct or other items supporting Licensee's Equipment.

(e). The term of each Pole License shall be no less than 3 years beginning on the first day of the month following the date that is 90 days from the date of the fully approved or fully executed (as applicable) Pole License ("Commencement Date"), but otherwise run with the Term of this Agreement unless terminated as provided below.

(f). A Pole License may be terminated prior to the expiration of its term: (i) by City upon written notice to Licensee, if Licensee fails to pay any amount when due and such failure continues for 30 days after Licensee's receipt of notice (which may include any amounts assessed to the City for make-ready work or other costs resulting from Licensee's installation on a Privately Owned Pole); (ii) by either Party upon written notice to the other Party, if such other Party fails to comply with this Agreement and the party has failed to initiate a cure within 60 days after receipt of written notice; (iii) by Licensee at any time for any reason or no reason; (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; (v) by City, upon such notice as practicable, and to the extent the Pole License presents a hazard to the public that requires exigent or immediate termination and is not otherwise remedied by the authorized work specified in subparagraph 7(c) below; or (vi) by City upon at least three (3) months written notice to Licensee that the Superintendent has reasonably determined that the premises which the Pole License occupies is needed for a public purpose and no viable alternative location can be identified as provided in paragraph 8 below.

(g). Within sixty (60) days of the expiration or earlier termination of any Pole License, Licensee shall remove all Equipment from the City owned or controlled poles and, other than reasonable wear and tear, repair and restore the City owned or controlled poles and the ROW to its prior condition, unless the City authorized otherwise. In the event that Licensee removes any City poles pursuant to this Agreement, the City shall retain ownership of any poles Licensee or its contractor removes, and shall provide directions to Licensee for their reuse or disposal.

5. Permits/Municipal Code. While the requirements of the City's Code ("Code") are in addition to the requirements of this Agreement, Licensee shall be required to apply for and obtain permits that are required of other occupants of the ROW and/or performing similar work, including but not limited to applying for (including pay any applicable permit fee) and obtaining a street permit, tree permits, electrical permit, and ensuring that any work zone and installation is compliant with the provisions of the Manual on Uniform Traffic Control Devices ("MUTCD").

6. Interference.

(a). Licensee will not materially cause interference to City traffic, public safety, public improvement projects, public works operations or other communications signal equipment in the ROW. Except as set forth in Section 6(c) with respect to third parties, Licensee in the performance and exercise of its rights and obligations under this Agreement, shall not materially interfere in any manner with the existence and operation of any and all public and private rights of way, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electrical and telephone wires, electroliers, cable television, and other telecommunications, utility or municipal property, without the written approval of the City or the owner or owners of the affected property, except as expressly permitted by applicable laws or this Agreement. The City agrees that City will not cause interference to Licensee's Equipment or Licensee's Use. Each party to this Agreement and all others on the Poles shall endeavor to correct any interference to other networks created by its RF emissions promptly and shall coordinate and cooperate with each other relating to the same. The City agrees to require the inclusion of this or a similar prohibition against interference in all agreements the City may enter into, after the date of this Agreement, with other information or communications providers or carriers.

(b). If interference occurs, the non-interfering Party shall notify the interfering Party via telephone to Licensee's Network Operations Center at (800) 638-2822 or to City at 607-274-6527 and 607-274-6570, and the parties shall work together to cure the interference as soon as commercially possible.

(c). Licensee understands that the rights granted under this Agreement are nonexclusive and that the City shall have the right to permit other providers of telecommunications, information, or other services to install equipment or facilities in the ROW, including on City-owned property and facilities also used by Licensee. Senior priority rights are bestowed on Licensee as of the date of execution of this Agreement with respect to third parties that subsequently enter into Master License Agreements or install Equipment or Poles in the ROW under a valid license or permit. A party without senior priority rights shall have the burden to correct any interference caused by their installation of equipment or facilities with respect to those with senior priority rights, provided the equipment and facilities of the holder of senior priority rights are in compliance with the requirements of any license or permits for such equipment or facilities.

(d). This Agreement and any Licenses are subordinate to any prior and continuing vested right of the City and other persons legally authorized to use the specified ROW for each License location, for the purpose of constructing, installing, maintaining, locating, upgrading,

repairing, operating, protecting, reconstructing, relocating, replacing and removing all other Equipment in, under, over, across and along the ROW, including ingress and egress. Each License and this Agreement are also subordinate to all recorded easements, restrictions, conditions, covenants, encumbrances and claims of title which may affect the specified ROW. Licensee shall, at its own expense, obtain such permissions as may be required because of existing or future rights granted to or held by other parties.

7. Maintenance, Repairs and Modifications.

(a). Equipment Maintenance, Repairs and Modifications. Licensee shall keep and maintain all Equipment in commercially reasonable condition and in accordance with any applicable and non-discriminatory maintenance requirements of City. Licensee may conduct testing and maintenance activities, and repair and replace damaged or malfunctioning Equipment at any time. Subject to the requirements of any owner of Privately Owned Poles for which Licensee shall be solely responsible for compliance and associated costs, Licensee may maintain, repair, replace and make like-kind modifications to any Small Wireless Facility that do not materially change the size, height and weight of the Small Wireless Facility or exceed the structural capacity of the supporting structure without requiring additional applications, permits or other City approval. Certain modifications shall be subject to permit review by the City consistent with 47 C.F.R. § 1.6100, which review shall be conducted by such City body or staff designated by the City. Licensee shall obtain all required permits and prior approvals from the City for all other work subject to the terms of this Agreement.

(b). Pole Repairs and Replacements. If a City pole for which Licensee has a Pole License is in need of repair or replacement, as determined by the City in its reasoned discretion, the City shall repair or replace such pole at soon as reasonably practicable and required under the circumstances, unless otherwise agreed by the Parties in a Pole License. If City becomes aware of damage to a City pole that supports the Equipment, City shall notify Licensee's Emergency Contact as soon as practicable. The Parties will use reasonable efforts to coordinate any necessary responses. In the event of any damage to a pole that impacts Licensee's Use, Licensee may repair or replace the pole with a like-kind pole at its own expense. Licensee may reinstall its Equipment after a damaged pole has been repaired or replaced. Licensee may temporarily use an alternative pole or structure reasonably acceptable to the Parties during repair or restoration of a pole.

If Licensee intends to replace or relocate any existing Pole with any third-party telecommunications facilities or other equipment or facilities attached to it, Licensee shall be responsible for notifying the owner(s) of the attached third-party equipment or facilities that the Pole is going to be replaced or relocated and proof of such notification shall be provided to the City Engineer. It shall be Licensee's sole responsibility to coordinate the protection and relocation of any such third-party equipment or facilities with the third party and Licensee shall be solely responsible for all costs associated with such protection and relocation of the third-party equipment and facilities. In addition to the indemnification requirements of this agreement, Licensee shall indemnify and hold harmless the City from any claims to the extent made by such third-party owners or lessees of the equipment or facilities which are relocated from existing Poles to replaced Poles by Licensee, including any claims directly related to the

relocation concerning loss of income or business. This indemnification shall not apply to the negligence or willful misconduct of the City.

(c). Emergency Events. City reserves the right to take all reasonable actions in the case of an emergency to protect the public health and safety of its citizens, and to ensure the safe operation of its rights of way and public facilities, and assess the costs of such work to Licensee if such work was necessitated by Licensee's negligence or willful misconduct. The Parties will use reasonable efforts to coordinate any emergency responses. In case of an emergency affecting the Equipment or Licensee's Use, Licensee may access the ROW and perform necessary repairs to its Equipment and to the pole, including the right to install a replacement pole, without first obtaining any otherwise necessary permit(s) or authorization(s). All emergency work in the ROW shall be conducted in a safe and good workmanlike manner and in accordance with Laws, including but not limited to the MUTCD.

(d). Emergency Contacts. Licensee's network operations center may be reached 24/7 at (800) 638-2822. City's 24/7 emergency contact information is (607) 273-4680. Each Party will maintain the emergency contact information current at all times with the other Party.

(e). If Licensee intends to abandon any portion of its Equipment and/or Pole, it shall notify the City Engineer, in writing at least thirty (30) days in advance thereof and Licensee shall remove the Equipment and/or Pole at its own expense or, at the City's sole option, may abandon some or all of the Equipment and/or Pole in place. Except for Equipment or Poles authorized by the City Engineer to remain in place, Licensee shall remove all such Equipment and/or Poles from the ROW within 45 days from the discontinuance of service over such Equipment or Pole, unless the City Engineer authorizes a different removal timetable. In the event Licensee fails to remove its Equipment or Pole within such period, the City may cause the same to be done, without further notice to Licensee and to charge Licensee for all costs incurred in such removal and storage, including all costs to restore the ROW and administrative costs of 15% plus any penalties as authorized by the City Charter and Code. Upon the receipt of a demand for payment by the City, Licensee shall promptly reimburse the City for such costs.

If the City has not received a notice of intent to abandon from Licensee but otherwise determines that Licensee has abandoned its Equipment or Poles, the City shall notify Licensee of its determination that the Equipment or Pole has been abandoned and demand a plan for removal of the abandoned Equipment or Pole. If Licensee fails to respond or to provide an acceptable plan, within 90 days from the date of the notice, the City may remove or cause to be removed some or all of the abandoned without further notice and may charge Licensee for all costs incurred for such removal and storage, including all costs to restore the ROW. Upon the receipt of a demand for payment by the City, Licensee shall promptly reimburse the City for such costs including administrative costs of 15%.

8. Removal and Relocation. No later than 90 days after receipt of written notice from City, Licensee shall remove, repair and return the ROW to a safe and satisfactory condition, and may relocate the Equipment or Pole to an alternative location made available by City due to: (i) construction, expansion, repair, relocation, operation, or maintenance of a street or other public works or improvement project; or (ii) maintenance, upgrade, expansion,



replacement, operation, or relocation of City or third party owned light poles, City traffic light poles and/or traffic signal light system; (iii) permanent closure of a street or sale of City property; or (iv) to the City's public safety responsibilities, which may include but are not be limited to proper fire and other emergency access, protecting safe movement and control of vehicular, bicycle and pedestrian traffic. The City shall require removal or relocation only if necessary, which shall be in the City's reasonable discretion. If Licensee fails to remove or relocate any Equipment or Pole within 90 days, City shall be entitled to remove the Equipment or Pole at Licensee's expense. The Parties shall cooperate to the extent possible to assure continuity of service during any relocation and identify a reasonably equivalent location that affords Licensee substantially similar engineering objectives. If removal or relocation is at the request of or the convenience of a third party, Licensee shall not be responsible for any costs or expenses for such removal or relocation, however all costs and expenses shall be prepaid by such third party at any time before construction commences. The City for its own and on behalf of any third party, will cooperate and issue, on an expedited basis, all Licenses or permits necessary to enable Licensee to relocate its Equipment or Pole without disruption to its services.

9. Indemnity/Damages/Waiver and Limitation of Liability. Licensee shall indemnify, defend, and hold the City, 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 to the extent resulting from Licensee's Use or Licensee's breach of this Agreement. Licensee's indemnity shall not apply to any liability to the extent resulting from the negligence or willful misconduct of the City or other Indemnified Party. The City shall give prompt written notice to Licensee of any claim for which the City seeks indemnification. Licensee shall have the right to investigate these claims. Licensee shall not settle any claim without reasonable consent of the City, 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 Agreement for consequential, special, punitive or indirect damages, whether under theory of contract, tort (including negligence), strict liability, or otherwise.

Licensee waives the following: 1) any and all claims, demands, causes of action, and rights it may assert against the City on account of any loss, damage, or injury to any Equipment or Pole or any loss or degradation of the services as a result of any event or occurrence which is beyond the reasonable control of the City; and 2) any and all claims of liability for the cost of repair to damaged Equipment or Pole from any cause whatsoever, except to the extent caused directly by the grossly negligent, willful, intentional, or malicious acts of the City, its employees, agents, or contractors, and in no event shall the City be liable for indirect or consequential damages.

10. Insurance.

(a). Licensee and its subcontractors shall carry the following insurance: (i) commercial general liability insurance per ISO form CG 00 01 or equivalent 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 and

Employer's Liability 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 and employer's insurance, shall include the City as an additional insured by endorsement as its interests may appear under this Agreement; (ii) will be primary and non-contributory with respect to any self-insurance or other insurance maintained by the City; (iii) contain a waiver of subrogation to the extent permitted by law as respects the City; and (iv) will be obtained from insurance carriers having an A.M. Best rating of at least A-VII.

(c). If requested, Licensee shall provide the City with a Certificate of Insurance to provide evidence of insurance. Licensee will endeavor to provide the City with thirty (30) days prior written notice of cancellation or non-renewal of any required coverage that is not replaced upon receipt of notice thereof from its insurer(s).

11. Assignment. Licensee may assign this Agreement, any City Pole License, and/or related permits 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 City notice of any such assignment. Otherwise, Licensee shall not assign or transfer this Agreement or the rights granted hereunder without the City's consent.

12. Notices. Notices required by this Agreement 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 City:

City of Ithaca  
Attn: City Attorney's Office  
108 E. Green Street  
Ithaca, NY 14850

With a copy to:

City of Ithaca  
Attn: City Clerk's Office  
108 E. Green Street  
Ithaca, NY 14850

If to Licensee:

New Cingular Wireless PCS, LLC  
Attn: TAG-LA  
Re: Wireless Installation on Structures City of Ithaca (NY)  
FA No.: 15476635  
1025 Lenox Park Blvd NE, 3rd Floor  
Atlanta, GA 30319

With a copy to the AT&T Legal Department:  
New Cingular Wireless PCS, LLC  
Attn: AT&T Legal Dept. - Network Operations

Re: Wireless Installation on Structures City of Ithaca (NY)  
FA No.: 15476635  
208 S. Akard Street  
Dallas, TX 75202-4206

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

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

14. Taxes. If City is required by Law to collect any federal, state, or local tax, fee, or other governmental imposition, including but not limited to Tompkins County or New York State reclassification of the use or premises underlying the Pole License as taxable (each, a "Tax") from Licensee with respect to the transactions contemplated by this Agreement, then City shall bill such Tax to Licensee in the manner and for the amount required by Law. Licensee shall pay such billed amount of Tax to City, and City shall remit such Tax to the appropriate tax authorities as required by Law. Licensee shall have no obligation to pay any Tax for which Licensee is exempt. Otherwise, Licensee shall be responsible for paying all Taxes that are the legal responsibility of Licensee under Laws.

15. Laws; Non-discrimination; Definition of Small Cell Facility.

(a) The parties shall comply with applicable laws including, without limitation, ordinances, local laws or any other orders, notices, directives or code provisions from the City or New York State, the MUTCD, and judicial decisions ("Law" or "Laws"). Specifically, Laws shall include, but not be limited to the City Municipal Code Sections 152, 170, and 325 to the extent applicable, the City's uniform directives and specifications for work in the ROW, and the City's Small Wireless Facilities Design Guidelines ("City Requirements").

Notwithstanding any other provision of this Agreement, to the extent that any element(s) of the City Municipal Code, as it may be amended from time to time, conflict with, depart from, or in any manner suggest a differing meaning, interpretation, definition, or outcome for any issues related to this Agreement (including any element of this Agreement, of the license(s) granted hereunder, or of the installations permitted hereunder), the applicable element(s) of the City Municipal Code shall take complete precedence and shall control the same.

(b) Notwithstanding anything else in this Agreement, City shall treat Licensee in a manner that is competitively neutral, nondiscriminatory, consistent with all applicable Laws, and is no more burdensome than other users of the ROW or City poles. Notwithstanding anything else in this Agreement or in the City Municipal Code, Licensee expressly reserves all rights to object to, seek waivers or variances from, and/or bring action(s) pursuant to 47 U.S.C. §§ 253, 332 and other provisions of federal or state law in the United States District Court for the Northern District of New York or in any court of competent jurisdiction located in Tompkins

County challenging any or all of the City Requirements facially and/or as applied, whether procedural or substantive, and as made applicable by the City to Small Wireless Facilities. Such reservation of rights shall not extend to Licensee's obligations arising under this Agreement.

- (c) "Small Wireless Facilities" are defined as those meeting the following conditions:
- i. The facilities are mounted on structures 50 feet or less in height including their antennas, or are mounted on structures no more than 10 percent taller than adjacent structures, or do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
  - ii. each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume, and
  - iii. all other wireless equipment associated with the structure including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.

16. Miscellaneous. This Agreement shall be governed by the laws of the State of New York and all other applicable Laws. The provisions of this Agreement may be waived or modified only by written agreement signed by both parties. This Agreement 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 Agreement 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 Agreement, if needed to effect the original intent of the Parties. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors. Nothing in this Agreement shall be construed to grant Licensee an interest in the City's ROW or City 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 Agreement is the complete agreement of the Parties. The Parties represent and warrant that the individuals executing this Agreement are duly authorized. Time periods for performance under this Agreement shall be deemed extended day for day for time lost attributable to any delay resulting from any event of force majeure.

*[Remainder of page intentionally left blank; signature page to follow.]*

IN WITNESS WHEREOF, the Parties have executed, or caused their respective duly authorized representatives to execute, this Agreement as of the day and year listed below.

CITY OF ITHACA

NEW CINGULAR WIRELESS PCS, LLC,  
A Delaware limited liability company  
By: AT&T Mobility Corporation  
Its: Manager

\_\_\_\_\_  
(Signature)

Name:  
Title:  
Date:

\_\_\_\_\_  
(Signature)

Name:  
Title:  
Date:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**EXHIBIT A**  
**FEE SCHEDULE**

One-Time Pole License Application or Siting Application Fees: \$500.00 for an application for attaching to up to 5 facilities, and \$100.00 for each additional attachment beyond 5, and \$1,000.00 for an application for a new pole.

City-owned Poles Recurring Fee: \$270.00 - per pole per year

Privately Owned Poles or Licensee-Owned Poles Previously Permitted for Installation

Recurring Fee: \$135.00 – per pole per year

Except as provided in this Fee Schedule, the City shall not require any other or additional recurring fees, costs, or charges of any kind as part of the City Requirements.

**EXHIBIT B**

**Equipment Types and Installation Configurations**



**SMALL WIRELESS COMMUNICATIONS FACILITIES  
MASTER LICENSE AGREEMENT**

THIS SMALL WIRELESS COMMUNICATIONS FACILITIES MASTER LICENSE AGREEMENT ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date"), by and between the City of ITHACA ("City"), and ~~BELL ATLANTIC MOBILE SYSTEMS LLC~~ NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company ("Licensee"). City and Licensee are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

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**RECITALS**

A. City owns, operates, maintains, or otherwise controls the public rights-of-way situated within its jurisdictional boundaries and owns as its personal property a certain number of poles located in the public rights-of-way.

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B. Licensee owns and/or controls, maintains, and operates a wireless communications network, for which Licensee desires to install, attach, operate, and maintain Small Wireless Facilities (as defined below) in the public rights-of-way as provided herein.

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C. City recognizes that Small Wireless Facilities, including facilities commonly referred to as "small cells" and "distributed antenna systems," are critical for the City's population to access advanced technologies wirelessly and are often deployed most effectively in the public rights-of-way.

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D. The Parties acknowledge and agree that the purpose of this Agreement is to permit the deployment of Small Wireless Facilities within the public rights-of-way, subject to ~~all the~~ applicable Laws (as defined below), including but not limited to the rules, regulations, and orders of the Federal Communications Commission, as further described herein.

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ACCORDINGLY, in consideration of the covenants of this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties agree as follows:

1. Grant. Subject to Laws (defined in Section 15) and this Agreement, City grants Licensee a nonexclusive license to (i) access, use and occupy the City's ROW (as defined below) 7 days a week, 24 hours a day, for the installation, construction, use, maintenance, operation, repair, modification, location, relocation, replacement and upgrade of equipment, technologies, frequencies and related fiber and materials reasonably necessary to access, connect, operate and provide power to its equipment ("Equipment") that enables Licensee's wireless communications ("Licensee Use"); (ii) use and/or replace City owned or controlled poles for Licensee's Use ("City Owned Poles"); (iii) use privately owned or controlled poles, including replacement poles, for Licensee's Use in the ROW pursuant to an agreement with the entity owning the poles ("Privately Owned Poles") in which Licensee shall be solely responsible

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for any costs or fees assessed by the private owner or otherwise associated with Licensee's use of the Privately Owned Poles; (iv) install, replace or remove Licensee, Licensee affiliate or, for Licensee benefit, third-party owned poles in the ROW for Licensee's Use ("Licensee Owned Poles") (collectively the poles identified in subclauses (ii), (iii) and (iv) are referred to as "Poles"). For purposes of this Agreement, the "ROW" means the public rights-of-way owned, managed or controlled by the City. Licensee's Use of Poles shall, in accordance with Section 4, require the City's approval of a Pole License (as defined below). Licensee's Use for attachments to support structures in the ROW owned by Licensee or by a third party shall not require a Pole License; however, upon request, Licensee shall provide the City a certification of authorization to attach to such third party structure. The City expressly reserves for itself the rights and uses of the ROW for its public purposes and for the public's health, safety ~~and general welfare.~~, and general welfare. To the extent the City has or may provide access rights to the Poles to Licensee, the City hereby grants Licensee such access rights for the use and benefit of Licensee in accordance with the terms of this Agreement.

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2. Term of Agreement. The term of this Agreement shall be for five (5) years beginning on the Effective 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 Term (either with or without cause), the Term will automatically renew for each of 5 consecutive additional 5-year periods, each subject to the same notice of non-renewal. After the expiration or earlier termination of this Agreement, it shall apply to all Pole Licenses entered into hereunder. Notwithstanding the foregoing, any Pole License approved within the last two years of the initial term or any renewal term shall remain in effect for no less than 3 years. ~~---~~

3. Fees.

(a) Licensee shall pay to the City the Fees set forth in the "Fee Schedule" attached hereto and made a part hereof as Exhibit A. Licensee shall pay the one-time application fee with submission of the Pole Application (defined in Section 4(a)). Licensee shall pay the initial recurring fee within ninety (90) days of the Commencement Date (defined in Section 4(e)) and pay subsequent recurring fees on or before each anniversary of the Commencement Date. Before any recurring fees are paid, City 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 City of {CITY}Ithaca and sent to the following address or through electronic transfer subject to the City's approval and necessary bank routing instructions.

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City of {CITY}Ithaca  
~~---~~ {DEPARTMENT}  
~~---~~ {Attn: {NAME/TITLE}Chamberlain's Office  
108 E. Green Street  
Ithaca, NY 14850 {ADDRESS}

(b) All bills and other requests for payment to the City under this Agreement (other than the payment of the Fees) shall be presented in writing to Licensee and accompanied with

reasonable substantiation of the costs incurred by the City. Properly presented invoices shall be paid by Licensee within sixty (60) days of receipt of invoice accompanied by such substantiation. All charges payable under this Agreement shall be billed by the City within one (1) year from the end of the calendar year in which the charges were incurred. Any charges beyond such period shall not be billed by the City and shall not be payable by Licensee.

4. Pole License. Licensee agrees to not submit any application under this agreement before July 2, 2020.

(a) Prior to installing any Equipment, new Licensee Owned Poles or replacement City Poles or Privately Owned Poles, Licensee shall file ana pole license application with the City in a form -specified by the City for one or more poles ("Pole Application-"), or on such other form as may be specified by the City for Equipment installations. Within 60 days of receipt of a Pole Application for Equipment or replacement of City Poles or Privately Owned Poles or 90 days for new Licensee Owned Poles, the City shall, in writing, approve or reject the Pole Application, otherwise the Pole Application shall be deemed approved. If the City timely rejects the Pole Application, the review period will be suspended until Licensee cures the non-compliance. Upon approval, a Pole Application shall be deemed to be a separate pole license ("Pole License") for each pole included in the Pole Application. With each Pole Application, Licensee agrees to the following:

i. Licensee shall submit a list and drawings, with all information required by City's ordinances or Laws, subject to waiver requests, of all preferred locations for installation of its Equipment, new Poles, and of Poles to be replaced by Licensee, to the City Office of Engineering ("City Engineer") for approval prior to commencement of any work. Approval of work in the ROW shall be reasonably based on considerations of the impact to any City Owned Poles, including prior third party users of the City Owned Pole, the impact (including disruption and damage) of the Equipment or Poles on the ROW or on other City property or operations.

ii. If the installation of a Small Wireless Facility results in the creation of a double pole, Licensee agrees that it will cooperate in good faith with the City in efforts to get the utilities and other companies having attachments on the original pole to relocate the attachments to the new pole so that a double pole can be eliminated as soon as practicable.

iii. The City may in its sole discretion, with advance written notice to Licensee, retain a consultant with expertise in telecommunications technology and related issues to assist the City in its review of any application submitted under this License. Consultant review must be limited in scope to only Pole application information which requires radio frequency engineering or other such specialized telecommunications expertise to interpret the information provided therein. Any consultant retained by the City must have the requisite education, experience and/or certifications, as determined by the City in its sole discretion, to perform the scope of review requested. The consultant's scope of review and hourly rate, which must be reasonable under current industry market standards, must be detailed in writing and, if the City seeks reimbursement, provided to Licensee prior to any review being completed and/or fees being incurred. Any consultant invoices reimbursable by the Licensee shall be submitted to Licensee

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for review within one hundred eighty (180) days of the review being completed, and Licensee shall have the right to contest any fees which are unreasonable, or which are outside of the specified scope of review.

iv. Based on the complete Pole applications, the City will verify that the Equipment proposed in the design complies with the configurations and the Equipment specifications set forth in Exhibit A, and evaluate compliance with if so, authorize the Licensee to submit any and all siting applications to City agencies pursuant to the provisions of the City Code and the City's Aesthetic Standards, as may be amended from time to time, and completion review of the State and City Environmental Quality Review Act/Ordinance ("SEQRA/CEQRO").("Siting Application").

vi. If the City determines compliance has been achieved approves the Pole Application, the City will approve the application, provided that it issue a Pole License, if required, conditioned upon obtaining City approval of the Siting Application and payment of required fees are paid and the application is complete and in compliance with all Laws, if any. If the application Pole Application is denied, the City will provide its basis for such denial in writing.

vii. Except as set forth in Section 7(a), all License approvals shall be only for the specific Equipment and Poles approved by the City and any additional or new Equipment shall be subject to the same approval process as the original application. Approval of the use of available City-owned fiber strands and/or conduit or other City-owned property or facilities, including but not limited to lighting fixtures, electroliers, handholes, manholes, fiber optic strands, and other City-owned property, structures, or equipment, shall be subject to written agreement between the parties concerning the terms for the use thereof, including but not limited to compensation in an amendment to this Agreement or in a separate agreement.

(b). City may reject a Pole Application only for one or more of the following reasons, which must be specified with reasonable detail in the rejection: (i) concerns about structural capacity, safety, reliability, or generally applicable engineering practices, which may include, but shall not be limited to the City's responsibility for providing fire and other emergency access, protecting safe movement and control of vehicular, bicycle and pedestrian traffic (ii) the Pole Application is incomplete; (iii) the proposed Equipment exceeds the height, dimension or other parameters for small wireless facilities under applicable Laws defined in this Agreement ("Small Wireless Facilities"); (iv) the design documents attached to the Pole Application do not comply with this Agreement or with the City's pole attachment laws requirements for traffic light poles, show interference with or pose a safety risk in servicing the City's public safety radio system, traffic signal light system, or other communications components, or do not comply with the Design Criteria or not otherwise accompanied by a request to seek waivers of the Design Criteria as part of a Pole Application; (v) if the Pole Application also concerns installation of a new pole Pole, and the property or ROW on which it will be sited is needed by the City for a public purpose that has already been identified at the time the application is submitted; or (vi) the Pole Application does not include a load bearing study.

(c). Any aesthetic or other design criteria for Small Wireless Facilities and poles Poles

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upon which Small Wireless Facilities are attached (collectively, the "Design Criteria") which are adopted by the City shall only apply if the criteria are (i) reasonable, (ii) applied equally and in a non-discriminatory manner to other types of infrastructure deployments within the ROW, (iii) objective and published in advance of a Small Wireless Facility request/application submitted herein, and (iv) comply with applicable federal and state Laws. If pole reinforcement or replacement is necessary, Licensee shall provide engineering design and specification drawings demonstrating the proposed alteration to the pole. Changes made to the City's Design Criteria shall not be imposed or otherwise applied retroactively unless required by Laws. Equipment types and installation configurations substantially consistent with the drawings and plans attached hereto as Exhibit B are deemed to comply with the Design Criteria—  
for purposes of the Pole Application review process.

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(d). The construction, installation, operation, maintenance, relocation and removal of Equipment and Poles shall be accomplished by the Licensee without cost or expense to the City and shall be subject to the requirements of this Agreement and in accordance with Laws and shall be accomplished in such manner as not to endanger persons or property or unreasonably obstruct access to, travel upon or other use of the specified ROW.

- i. Licensee shall pay for any electricity service for Small Wireless Facilities. As permitted by the electric provider, Licensee may install an electric meter on the City pole or the ground adjacent to the City pole; in the event installation of an electric meter is not permitted, Licensee shall be responsible for its estimated pro-rata share of electrical service used. Licensee shall be solely responsible for compliance with and all costs or fees associated with studies, designs, plans, relocation of City equipment and any additional requirements of any owner of Privately Owned Poles on which Licensee intends to install equipment. Licensee shall provide the City with safe distance specifications for the Equipment, access codes and procedures to shut off power to the Equipment

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- ii. Licensee shall be responsible for any make-ready work required by the City or any private owner of a pole or other facility to accommodate the attachment of Licensee's Equipment to any Poles, including but not limited to field inspections, surveys, structural analysis, construction, materials, cost of relocation or removal (less salvage value), cost of clearing or expanding existing conduit, cost of substitution of light poles, tree trimming and construction and conduit system cleaning. Licensee or its agent is authorized to commence and continue work so long as it is done in compliance with the insurance, construction, maintenance, and other requirements described in the License.
- iii. To the extent caused by Licensee and as to the parties in this Agreement only, Licensee shall be responsible for any damage to City streets, existing utilities, poles, curbs, and sidewalks due to its installation, maintenance, repair or removal of its Equipment or Poles in ROW, in accordance with the relevant law, and shall repair, replace, and restore, according to current standards and specifications, any such damage at its

expense. Except for damage to the City's stormwater system for which the City reserves the right to treat as an Emergency Event discussed in 7(c) below, if Licensee does not repair the site to its original condition, then the City shall have the option, upon fifteen (15) days' prior written notice served by return receipt mail to Licensee or without notice if an emergency exists, as determined by the City Engineer, in the exercise of her/his reasonable discretion, to perform or cause to be performed such reasonable and necessary work and to charge Licensee for the actual costs incurred by the City at City's standard rates plus 15% for administrative costs. ~~Upon the~~ Within sixty (60) days of Licensee's receipt of a demand for payment by the City, Licensee shall promptly reimburse the City for such costs.

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- iv. ~~If required,~~ Licensee shall deposit with the City a security instrument, in such amount and type as required of other occupiers of the ROW providing telecommunication services. Such amount shall act as security for the faithful performance by the Licensee of the requirements of this Agreement and the Laws.
- v. Licensee shall maintain accurate maps and other appropriate records of its Equipment and Poles as they are actually constructed in the ROW. Such maps and records shall be promptly updated in the event of relocation or removal of any Equipment or Poles. All maps, drawings and other records shall show in detail the exact nature and location of all Equipment and Poles installed within the ROW, including to the extent available to the Licensee, plans showing -wire, fiber optic strands, innerduct or other items supporting Licensee's Equipment.

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(e). The term of each Pole License shall be no less than 3 years beginning on the first day of the month following the date that is 90 days from the date of the fully approved or fully executed (as applicable) Pole License ("Commencement Date"), but otherwise run with the Term of this Agreement unless terminated as provided below.

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(f). A Pole License may be terminated prior to the expiration of its term: (i) by City upon written notice to Licensee, if Licensee fails to pay any amount when due and such failure continues for 30 days after Licensee's receipt of notice (which may include any amounts assessed to the City for make-ready work or other costs resulting from Licensee's installation on a Privately Owned Pole); (ii) by either Party upon written notice to the other Party, if such other Party fails to comply with this Agreement and the party has failed to initiate a cure within 60 days after receipt of written notice; (iii) by Licensee at any time for any reason or no reason; (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; (v) by City, upon such notice as practicable, and to the extent the Pole License presents a hazard to the public that requires exigent or immediate termination and is not otherwise remedied by the authorized work specified in subparagraph 7(c) below; or (vi) by City upon at least three (3) months written notice to Licensee that the Superintendent has reasonably determined that the premises which the Pole License occupies is needed for a public purpose and no viable alternative location can be

identified as provided in paragraph 8 below.

(g). ~~Following~~Within sixty (60) days of the expiration or earlier termination of any Pole License, Licensee shall remove all Equipment from the City owned or controlled poles and, other than reasonable wear and tear, repair and restore the City owned or controlled poles and the ROW to its prior condition, unless the City authorized otherwise. In the event that Licensee removes any City poles pursuant to this Agreement, the City shall retain ownership of any poles Licensee or its contractor removes, and shall provide directions to Licensee for their reuse or disposal.

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5. Permits/Municipal Code. While the requirements of the City's Code ("Code") are in addition to the requirements of this Agreement, Licensee shall be required to apply for and obtain permits that are required of other occupants of the ROW and/or performing similar work, including but not limited to applying for (including pay any applicable permit fee) and obtaining a street permit, tree permits, electrical permit, and ensuring that any work zone and installation is compliant with the provisions of the Manual on Uniform Traffic Control Devices ("MUTCD").

6. Interference.

(a). Licensee will not materially cause interference to City traffic, public safety, public improvement projects, public works operations or other communications signal equipment in the ROW. Except as set forth in Section 6(c) with respect to third parties, Licensee in the performance and exercise of its rights and obligations under this Agreement, shall not materially interfere in any manner with the existence and operation of any and all public and private rights of way, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electrical and telephone wires, electroliers, cable television, and other telecommunications, utility or municipal property, without the written approval of the City or the owner or owners of the affected property, except as expressly permitted by applicable laws or this Agreement. The City agrees that City will not cause interference to Licensee's Equipment or Licensee's Use. Each party to this Agreement and all others on the Poles shall endeavor to correct any interference to other networks created by its RF emissions promptly and shall coordinate and cooperate with each other relating to the same. The City agrees to require the inclusion of this or a similar prohibition against interference in all agreements the City may enter into, after the date of this Agreement, with other information or communications providers or carriers. ~~The City agrees that City will not cause interference to Licensee's Equipment or Licensee's Use.~~

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(b). If interference occurs, the non-interfering Party shall notify the interfering Party via telephone to Licensee's Network Operations Center at (800) ~~621-2622~~638-2822 or to City at ~~{607-274-6527 and 607-274-6570}~~}, and the parties shall work together to cure the interference as soon as commercially possible.

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(c). Licensee understands that the rights granted under this Agreement are nonexclusive and that the City shall have the right to permit other providers of telecommunications, information, or other services to install equipment or facilities in the ROW, including on City-owned property and facilities also used by Licensee. Senior priority rights are bestowed on Licensee as of the date of execution of this Agreement with respect to third parties

that subsequently enter into Master License Agreements or install Equipment or Poles in the ROW under a valid license or permit. A party without senior priority rights shall have the burden to correct any interference caused by their installation of equipment or facilities with respect to those with senior priority rights, provided the equipment and facilities of the holder of senior priority rights are in compliance with the requirements of any license or permits for such equipment or facilities.

(d). This Agreement and any Licenses are subordinate to any prior and continuing vested right of the City and other persons legally authorized to use the specified ROW for each License location, for the purpose of constructing, installing, maintaining, locating, upgrading, repairing, operating, protecting, reconstructing, relocating, replacing and removing all other Equipment in, under, over, across and along the ROW, including ingress and egress. Each License and this Agreement are also subordinate to all recorded easements, restrictions, conditions, covenants, encumbrances and claims of title which may affect the specified ROW. Licensee shall, at its own expense, obtain such permissions as may be required because of existing or future rights granted to or held by other parties.

7. Maintenance, Repairs and Modifications.

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(a). Equipment Maintenance, Repairs and Modifications. Licensee shall keep and maintain all Equipment in commercially reasonable condition and in accordance with any applicable and non-discriminatory maintenance requirements of City. Licensee may conduct testing and maintenance activities, and repair and replace damaged or malfunctioning Equipment at any time. Subject to the requirements of any owner of Privately Owned Poles for which Licensee shall be solely responsible for compliance and associated costs, Licensee may maintain, repair, replace and make like-kind modifications to any Small Wireless Facility that do not materially change the size, height and weight of the Small Wireless Facility or exceed the structural capacity of the supporting structure without requiring additional applications, permits or other City approval. Certain modifications shall be subject to permit review by the City consistent with 47 C.F.R. § 1.6100, which review shall be conducted by such City body or staff designated by the City. Licensee shall obtain all required permits and prior approvals from the City for all other work subject to the terms of this Agreement.

(b). Pole Repairs and Replacements. If- a City pole for which Licensee has a Pole License is in need of repair or replacement-, as determined by the City in its reasoned discretion, the City shall repair or replace such pole at soon as reasonably practicable and required under the circumstances, unless otherwise agreed by the Parties in a Pole License. If City becomes aware of damage to a City pole that supports the Equipment, City shall notify Licensee's Emergency Contact as soon as practicable. The Parties will use reasonable efforts to coordinate any necessary responses. In the event of any damage to a pole that impacts Licensee's Use, Licensee may repair or replace the pole with a like-kind pole at its own expense. Licensee may reinstall its Equipment after a damaged pole has been repaired or replaced. Licensee may temporarily use an alternative pole or structure reasonably acceptable to the Parties during repair or restoration of a pole.



If Licensee intends to replace or relocate any existing Pole with any third-party telecommunications facilities or other equipment or facilities attached to it, Licensee shall be responsible for notifying the owner(s) of the attached third-party equipment or facilities that the Pole is going to be replaced or relocated and proof of such notification shall be provided to the City Engineer. It shall be Licensee's sole responsibility to coordinate the protection and relocation of any such third-party equipment or facilities with the third party and Licensee shall be solely responsible for all costs associated with such protection and relocation of the third-party equipment and facilities. In addition to the indemnification requirements of this agreement, Licensee shall indemnify and hold harmless the City from any claims to the extent made by such third-party owners or lessees of the equipment or facilities which are relocated from existing Poles to replaced Poles by Licensee, including any claims directly related to the relocation concerning loss of income or business. This indemnification shall not apply to the negligence or willful misconduct of the City.

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(c). Emergency Events. City reserves the right to take all reasonable actions in the case of an emergency to protect the public health and safety of its citizens, and to ensure the safe operation of its rights of way and public facilities, and assess the costs of such work to Licensee if such work was necessitated by Licensee's negligence or willful misconduct. The Parties will use reasonable efforts to coordinate any emergency responses. In case of an emergency affecting the Equipment or Licensee's Use, Licensee may access the ROW and perform necessary repairs to its Equipment and to the pole, including the right to install a replacement pole, without first obtaining any otherwise necessary permit(s) or authorization(s). All emergency work in the ROW shall be conducted in a safe and good workmanlike manner and in accordance with Laws, including but not limited to the MUTCD.

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(d). Emergency Contacts. Licensee's network operations center may be reached 24/7 at (800) 621-2622638-2822. City's 24/7 emergency contact information is (607-) 273-4680. Each Party will maintain the emergency contact information current at all times with the other Party.

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(e). If Licensee intends to abandon any portion of its Equipment and/or Pole, it shall notify the City Engineer, in writing at least thirty (30) days in advance thereof and Licensee shall remove the Equipment and/or Pole at its own expense or, at the City's sole option, may abandon some or all of the Equipment and/or Pole in place. Except for Equipment or Poles authorized by the City Engineer to remain in place, Licensee shall remove all such Equipment and/or Poles from the ROW within 45 days from the discontinuance of service over such Equipment or Pole, unless the City Engineer authorizes a different removal timetable. In the event Licensee fails to remove its Equipment or Pole within such period, the City may cause the same to be done, without further notice to Licensee and to charge Licensee for all costs incurred in such removal and storage, including all costs to restore the ROW and administrative costs of 15% plus any penalties as authorized by the City Charter and Code. Upon the receipt of a demand for payment by the City, Licensee shall promptly reimburse the City for such costs.

If the City has not received a notice of intent to abandon from Licensee but otherwise determines that Licensee has abandoned its Equipment or Poles, the City shall notify Licensee of its determination that the Equipment or Pole has been abandoned and demand a plan for removal of the abandoned Equipment or Pole. If Licensee fails to respond or to provide an acceptable plan, within 90 days from the date of the notice, the City may remove or cause to be removed some or all of the abandoned without further notice and may charge Licensee for all costs incurred for such removal and storage, including all costs to restore the ROW. Upon the receipt of a demand for payment by the City, Licensee shall promptly reimburse the City for such costs including administrative costs of 15%.--

8. Removal and Relocation. No later than 90 days after receipt of written notice from City, Licensee shall remove, repair and return the ROW to a safe and satisfactory condition, and may relocate the Equipment or Pole to an alternative location made available by City due to: (i) construction, expansion, repair, relocation, operation, or maintenance of a street or other public works or improvement project; or (ii) maintenance, upgrade, expansion, replacement, operation, or relocation of City or third party owned light poles, City traffic light poles and/or traffic signal light system; (iii) permanent closure of a street or sale of City property; or (iv) to the City's public safety responsibilities, which may include but are not be limited to proper fire and other emergency access, protecting safe movement and control of vehicular, bicycle and pedestrian traffic. The City shall require removal or relocation only if necessary, which shall be in the City's reasonable discretion. If Licensee fails to remove or relocate any Equipment or Pole within 90 days, City shall be entitled to remove the Equipment or Pole at Licensee's expense. The Parties shall cooperate to the extent possible to assure continuity of service during any relocation and identify a reasonably equivalent location that affords Licensee substantially similar engineering objectives. If removal or relocation is at the request of or the convenience of a third party, Licensee shall not be responsible for any costs or expenses for such removal or relocation, however all costs and expenses shall be prepaid by such third party at any time before construction commences. The City for its own and on behalf of any third party, will cooperate and issue, on an expedited basis, all Licenses or permits necessary to enable Licensee to relocate its Equipment or Pole without disruption to its services.

9. Indemnity/Damages/Waiver and Limitation of Liability. Licensee shall indemnify, defend, and hold the City, 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 to the extent resulting from Licensee's Use or Licensee's breach of this Agreement. Licensee's indemnity shall not apply to any liability to the extent resulting from the negligence or willful misconduct of the City or other Indemnified Party. The City shall give prompt written notice to Licensee of any claim for which the City seeks indemnification. Licensee shall have the right to investigate these claims. Licensee shall not settle any claim without reasonable consent of the City, 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 Agreement for consequential, special, punitive or indirect damages, whether under theory of contract, tort (including negligence), strict liability, or otherwise.

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Licensee waives the following: 1) any and all claims, demands, causes of action, and rights it may assert against the City on account of any loss, damage, or injury to any Equipment or Pole or any loss or degradation of the services as a result of any event or occurrence which is beyond the reasonable control of the City; and 2) any and all claims of liability for the cost of repair to damaged Equipment or Pole from any cause whatsoever, ~~unless~~except to the extent caused directly by the grossly negligent, willful, intentional, or malicious acts of the City, its employees, agents, or contractors, and in no event shall the City be liable for indirect or consequential damages.

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10. Insurance.

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(a). Licensee and its subcontractors shall carry the following insurance: (i) commercial general liability insurance per ISO form CG 00 01 or equivalent 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 and Employer's Liability 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.

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(b). The insurance coverages identified in this Section: (i) except the workers' compensation and employer's insurance, shall include the City as an additional insured by endorsement as its interests may appear under this Agreement; (ii) will be primary and non-contributory with respect to any self-insurance or other insurance maintained by the City; (iii) contain a waiver of subrogation for to the City's benefit text permitted by law as respects the City; and (iv) will be obtained from insurance carriers having an A.M. Best rating of at least A-VII.

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(c). If requested, Licensee shall provide the City with a Certificate of Insurance to provide evidence of insurance. Licensee will endeavor to provide the City with thirty (30) days prior written notice of cancellation or non-renewal of any required coverage that is not replaced upon receipt of notice thereof from its insurer(s).

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11. Assignment. Licensee may assign this Agreement, any City Pole License, and/or related permits 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 City notice of any such assignment. Otherwise, Licensee shall not assign or transfer this Agreement or the rights granted hereunder without the City's consent.

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12. Notices. Notices required by this Agreement 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 City:

With a copy to:

City of Ithaca	City of Ithaca
<del>108 E. Green Street</del>	<del>108 E. Green Street</del>
<del>Ithaca, NY 14850</del>	<del>Ithaca, NY 14850</del>
Attn: City Attorney's Office	Attn: City Clerk's Office
<u>108 E.</u>	
<u>Green Street</u>	<u>108 E. Green Street</u>
<u>Ithaca, NY 14850</u>	<u>Ithaca, NY 14850</u>

If to Licensee:

~~Bell Atlantic Mobile Systems LLC~~  
~~180 Washington Valley Road~~  
~~Bedminster, New Jersey 07021~~  
~~Attention: New Cingular Wireless PCS, LLC~~  
Attn: TAG-LA  
Re: Wireless Installation on Structures City of Ithaca (NY)  
FA No.: 15476635  
1025 Lenox Park Blvd NE, 3rd Floor  
Atlanta, GA 30319

With a copy to the AT&T Legal Department:  
New Cingular Wireless PCS, LLC  
Attn: AT&T Legal Dept. - Network Real Estate Operations  
Re: Wireless Installation on Structures City of Ithaca (NY)  
FA No.: 15476635  
208 S. Akard Street  
Dallas, TX 75202-4206

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

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

14. Taxes. If City is required by Law to collect any federal, state, or local tax, fee, or other governmental imposition, including but not limited to Tompkins County or New York State reclassification of the use or premises underlying the Pole License as taxable (each, a "Tax") from Licensee with respect to the transactions contemplated by this Agreement, then City shall bill such Tax to Licensee in the manner and for the amount required by Law. Licensee shall pay such billed amount of Tax to City, and City shall remit such Tax to the appropriate tax authorities as required by Law. Licensee shall have no obligation to pay any Tax for which Licensee is exempt. Otherwise, Licensee shall be responsible for paying all Taxes that are the legal responsibility of Licensee under Laws.

15. Laws: Non-discrimination; Definition of Small Cell Facility.

(a) The parties shall comply with applicable laws including, without limitation, ordinances, local laws or any other orders, notices, directives or code provisions from the City or New York State, the MUTCD, and judicial decisions ("Law" or "Laws"). Specifically, Laws shall include, but not be limited to the City Municipal Code ~~Section~~Sections 152, 170, and 325 to the extent applicable, the City's uniform directives and specifications for work in the ROW, and the City's Small Wireless Facilities Design Guidelines- ("City Requirements").

Notwithstanding any other provision of this Agreement, to the extent that any element(s) of the City Municipal Code, as it may be amended from time to time, conflict with, depart from, or in any manner suggest a differing meaning, interpretation, definition, or outcome for any issues related to this Agreement (including any element of this Agreement, of the license(s) granted hereunder, or of the installations permitted hereunder), the applicable element(s) of the City Municipal Code shall take complete precedence and shall control the same.

(b) Notwithstanding anything else in this Agreement, City shall treat Licensee in a manner that is competitively neutral, nondiscriminatory, consistent with all applicable Laws, and is no more burdensome than other users of the ROW or City poles. -Notwithstanding anything else in this Agreement or in the City Municipal Code, Licensee expressly reserves all rights to object to, seek waivers or variances from, and/or bring action(s) pursuant to 47 U.S.C. §§ 253, 332 and other provisions of federal or state law in the United States District Court for the Northern District of New York or in any court of competent jurisdiction located in Tompkins County challenging any or all of the City Requirements facially and/or as applied, whether procedural or substantive, and as made applicable by the City to Small Wireless Facilities. Such reservation of rights shall not extend to Licensee's obligations arising under this Agreement.

(c) "Small Wireless Facilities" are defined ~~as~~ those meeting the following conditions:

- i. The facilities are mounted on structures 50 feet or less in height including their antennas, or are mounted on structures no more than 10 percent taller than adjacent structures, or do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- ii. each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume, and
- iii. all other wireless equipment associated with the structure including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.

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16. Miscellaneous. This Agreement shall be governed by the laws of the State of New York and all other applicable Laws. The provisions of this Agreement may be waived or modified only by written agreement signed by both parties. This Agreement 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 Agreement 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 Agreement, if needed to effect the original intent of the Parties. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors. Nothing in this Agreement shall be construed to grant Licensee an interest in the City's ROW or City 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 Agreement is the complete agreement of the Parties. The Parties represent and warrant that the individuals executing this Agreement are duly authorized. Time periods for performance under this Agreement shall be deemed extended day for day for time lost attributable to any delay resulting from any event of force majeure.

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IN WITNESS WHEREOF, the Parties have executed, or caused their respective duly authorized representatives to execute, this Agreement as of the day and year listed below.

CITY OF ITHACA ~~-BELL ATLANTIC MOBILE SYSTEMSNEW~~  
CINGULAR WIRELESS PCS, LLC.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ A Delaware limited liability company  
\_\_\_\_\_ By: AT&T Mobility Corporation  
\_\_\_\_\_ Its: Manager

\_\_\_\_\_  
\_\_\_\_\_ (Signature) \_\_\_\_\_ (Signature)

~~Printed Name: Deborah Mohlenhoff~~ Printed \_\_\_\_\_  
~~Name: George Riggins~~  
Title: Acting Mayor \_\_\_\_\_ Title: ~~VP Northeast Engineering~~  
Date: \_\_\_\_\_ Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**EXHIBIT A**  
**FEE SCHEDULE**

One-Time Pole License Application or Siting Application Fees: \$500.00 for an application for attaching to up to 5 facilities, and \$100.00 for each additional attachment beyond 5, and \$1,000.00 for an application for a new pole.

City-owned Poles Recurring Fee: \$270.00 - per pole per year

Privately Owned Poles ~~or Verizon-Licensee~~-Owned Poles Previously Permitted for Installation  
Recurring Fee: \$135.00 – per pole per year

Except as provided in this Fee Schedule, the City shall not require any other or additional recurring fees, costs, or charges of any kind as part of the City Requirements.

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**EXHIBIT B**  
**Equipment Types and Installation Configurations**

## **5. Finance, Budget and Appropriations**

### **.1 Ithaca Area Wastewater Treatment Facility (IAWWTF) – Boiler Replacement**

WHEREAS, the IAWWTF contains four (4) existing hot water boilers that are used for hydronic building space heating as well as process heating of the aerobic digesters; and

WHEREAS, the existing dual fuel boiler which may run on natural gas or biogas is a cast iron boiler that was installed in 1987 during the inception of the IAWWTF, and has an anticipated service life of 35 years; and

WHEREAS, in daily operational status inspections by staff, it has been apparent that each of the 4 boilers have developed issues with leaks, maintenance problems, and failures, resulting in a loss of adequate redundancy and reliability needed for the essential heating of the IAWWTF and for essential process heating; and

WHEREAS, a professional conditional survey of the four boilers by MRB Consultants in 2020, described:

- Cast Iron Boilers – Cracks and leaks within the heat exchanger piping and within the boiler firebox. Problems are consistent with age so boilers are beyond their useful service life. Recommend replacement.

WHEREAS, the dual fuel cast iron boiler is no longer functional; and

WHEREAS, the replacement of the IAWWTF cast iron dual fuel boiler with two (2) high efficiency *non-condensing* packaged boilers is a recommendation within the MRB report; and

WHEREAS, due to the essential heating role of the boilers in the proper functioning of the IAWWTF, the time required for the purchase, demolition, and installation of replacement boilers and all appurtenances, as well as the imminent heating season, staff deems this as an “emergency situation” which requires immediate action on the part of the IAWWTF, and recommends the immediate replacement of the existing dual fuel boiler with two high efficiency non-condensing packaged boilers; and

WHEREAS, the IAWWTF received a cost proposal from J.W. Danforth for the replacement of the dual fuel boiler, in the amount of \$601,580.56; now, therefore be it

**RESOLVED**, Common Council hereby the approves of emergency funding for replacement of the non-functional cast iron boiler, for a cost, with contingencies, not to exceed Six Hundred and Fifty Thousand Dollars (\$650,000), and be it further

**RESOLVED**, That Capital Project CP 423J, Boiler Room Evaluation, be hereby amended by an amount not to exceed \$650,000 for the purposes of funding said Boiler replacement, for a total project authorization of \$668,500, and be it further

**RESOLVED**, That funds necessary for said replacement of the non-functional cast iron boiler be derived from the following sources as determined by the City Controller: , operating funds, Fund balance, serial bonds, capital reserves, grants and Federal stimulus funds.

**5. Finance, Budget and Appropriations**  
**.2 Youth Bureau - Request to Amend 2022 Budget**

WHEREAS, the Ithaca City School District has agreed to give the Youth Bureau \$8,150 in new funding for the 2022 Students Of Color United Summit; and

WHEREAS, the goal of this event is to bring middle and high school students together in a way that allows them to connect and build community; and

WHEREAS, the Youth Bureau staff will work closely with the IRISE students at the Ithaca High School to plan, and implement the event; now, therefore, be it

**RESOLVED**, That Common Council hereby amends the 2022 Youth Bureau budget as follows:

Increase Revenues:		
A7310-2705-1200	Youth Development Administration	\$8,150.00
Increase Expenses:		
A7310-5120-1200	Part time/Seasonal	\$1,000.00
A7310-5425-1202	Office Supplies	\$341.50
A7310-5460-1200	Program Supplies	\$6,650.00
A7310-9030	FICA/Medicare	\$76.50
A7310-9040	Workers Compensation	<u>\$82.00</u>
		\$8,150.00



**Ithaca Youth Bureau**

**1 James L. Gibbs Drive  
Ithaca, New York 14850**

Phone: (607) 273-8364

Fax: (607) 273-2817

"Building a foundation for a lifetime."



To: City Administration Committee  
From: Suki Tabor, IYB Deputy Director  
Liz Vance, IYB Director  
Re: Youth Bureau Budget Amendment  
Date: June 22, 2022

We have been advised, by the Ithaca City School District that we will receive \$8,150 in funding for the Students of Color United 2022 Summit being held this month. We are pleased that we are able to support a student lead and run event for middle and high school students of color allowing them to come together and build community.

We are requesting an amendment to the 2022 Youth Bureau budget as follows:

Increase Revenues:

Account	# A7310-4820-1200	Youth Development Administration	\$8,150.00
			<b>TOTAL: \$8,150</b>

Increase Expenses:

Account	# A 7310-5120-1200	Part time/Seasonal	\$1,000.00
Account	# A 7310-5425-1202	Office Supplies	\$341.50
Account	# A 7310-5460-1200	Program Supplies	\$6,650.00
Fringe Benefits	PTS (Staff) \$1,000 x 15.85%		\$158.50

**TOTAL: \$8,150**

**5. Finance, Budget and Appropriations**

**.3 Youth Bureau – Request to Amend 2022 Youth Bureau Budget – Youth Employment Services**

WHEREAS, the Joint Youth Commission and the Town of Ithaca have advised the Ithaca Youth Bureau that Youth Employment Service will be receiving \$78,800 in funding for the Joint Youth Commission First-Time Work Program; and

WHEREAS, the goal of this program is to provide short-term subsidized internships for eligible teens needing assistance in securing employment; now, therefore, be it

**RESOLVED**, That Common Council hereby amends the 2022 Youth Bureau budget as follows:

Increase revenue:		
A7310-2350-1202	Youth Employment Service	\$77,800.00
A7310-2350-1400	Administration	<u>\$1,000.00</u>
		\$78,800.00

Increase expenses:		
A7310-5120-1202	Part time/Seasonal	\$67,681.00
A7310-5425-1202	Office Supplies	\$495.00
A7310-5445-1202	Travel & Mileage	\$200.00
A7310-5460-1202	Program Supplies	\$500.00
A7310-5425-1400	Office Expense	\$1,000.00
A7310-9030	FICA/Medicare	\$5178.00
A7310-9040	Workers Compensation	<u>\$3746.00</u>
		\$78,800.00



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Fax: (607) 273-2817

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To: City Administration Committee  
From: Ever Stokes, Youth Employment Service Program Coordinator  
Liz Vance, Director  
Re: Youth Bureau Budget Amendment  
Date: June 13, 2022

We have been advised, by the Joint Youth Commission and the Town of Ithaca that we will receive \$78,800 in funding for the Joint Youth Commission First-Time Work Program. We are pleased that we may be able to offer summer employment to additional teens this summer.

We would like to amend the 2022 Youth Bureau budget, contingent upon confirmation of funding, as follows:

Increase anticipated revenue from the Town of Ithaca

Account	# A7310-2350-1202	Youth Employment Service	\$77,800.00
Account	# A7310-2350-1400	Administration	\$1,000.00
		Total	\$78,800.00

Increase expenses:

Account	# A 7310-5120-1202	Part time/Seasonal	\$67,681.00
Account	# A 7310-5425-1202	Office Supplies	\$495.00
Account	# A 7310-5445-1202	Travel & Mileage	\$200.00
Account	# A 7310-5460-1202	Program Supplies	\$500.00
Account	# A 7310-5425-1400	Office Expense	\$1,000.00

YES Fringe Benefits	Participants \$56,341 x 12.65%	\$7,127.00
	Other PTS (Staff) \$11,340 x 15.85%	\$1,797.00

Total		\$78,800.00
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Thank you.

**5. Finance, Budget and Appropriations**

**.4 Youth Bureau – Request to Amend 2022 Youth Bureau Budget – Youth Employment Services**

WHEREAS, the Ithaca Youth Bureau has applied for funding through the Tompkins County Workforce Investment Board and will be receiving \$179,133 in new funding for the Tompkins Summer Youth Employment Program; and

WHEREAS, the goal of this program is to provide short-term subsidized internships for low-income eligible teens needing assistance in securing employment; now, therefore, be it

**RESOLVED**, That Common Council hereby amends the 2022 Youth Bureau budget as follows:

Increase revenue:			
A7310-4820-1202	Youth Employment Service		\$174,484.00
A7310-4820-1400	Administration		<u>\$4,649.00</u>
			\$179,133.00

Increase expenses:			
A7310-5120-1202	Part time/Seasonal		\$146,282.00
A7310-5425-1202	Office Supplies		\$2,500.00
A7310-5440-1202	Staff Development		\$1,500.00
A7310-5445-1202	Travel & Mileage		\$1,500.00
A7310-5460-1202	Program Supplies		\$2,500.00
A7310-5437-01400	Merchant Services		\$1,000.00
A7310-5440-01400	Staff Development		\$1,000.00
A7310-5425-01400	Office Expense		\$1,000.00
A7310-5460-01400	Program Supplies		\$1,000.00
A7310-5476-01401	Equipment Maintenance		\$649.00
A7310-9030	FICA/Medicare		\$12,010.00
A7310-9040	Workers Compensation		<u>\$8192.00</u>
			\$179,133.00





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Fax: (607) 273-2817

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To: City Administration Committee  
 From: Ever Stokes, Youth Employment Service Program Coordinator  
 Liz Vance, IYB Director  
 Re: Youth Bureau Budget Amendment  
 Date: June 13, 2022

We have been advised, by the Tompkins County Workforce Development Board that we will receive \$179,133 in funding for Tompkins Summer Youth Employment Program. We are pleased that we may be able to offer summer employment to additional teens this summer.

We would like to amend the 2022 Youth Bureau budget, contingent upon confirmation of funding, as follows:

Increase revenue:

Account	# A7310-4820-1202	Youth Employment Service	\$174,484.00
Account	# A7310-4820-1400	Administration	\$4,649.00
	<b>Total</b>		<b>\$179,133.00</b>

Increase expenses:

Account	# A 7310-5120-1202	Part time/Seasonal	\$146,282.00
Account	# A 7310-5425-1202	Office Supplies	\$2,500.00
Account	# A 7310-5440-1202	Staff Development	\$1,500.00
Account	# A 7310-5445-1202	Travel & Mileage	\$1,500.00
Account	# A 7310-5460-1202	Program Supplies	\$2,500.00
Account	# A 7310-5437-01400	Merchant Services	\$1,000.00
Account	# A 7310-5440-01400	Staff Development	\$1,000.00
Account	# A 7310-5425-01400	Office Expense	\$1,000.00
Account	# A 7310-5460-01400	Program Supplies	\$1,000.00
Account	# A 7310-5476-01401	Equipment Maint.	\$ 649.00

YES Fringe Benefits	Participants \$146,282 x 12.65%	\$18,505.00
	Other PTS (Staff) \$10,710 x 15.85%	\$1,697.00

**Total** **\$179,133.00**

Thank you.

## **5. Finance, Budget and Appropriations**

### **.5 Engineering - Use of Capital Project #868 “Downtown Ithaca Transportation Management Association” to Facilitate Acceptance of the NYSDEC 2022 Climate Smart Communities Grant in Collaboration with Downtown Ithaca Alliance for Expanded Operations and Transportation Management Association**

WHEREAS, the City of Ithaca Department of Public Works intends to submit an application for the 2022 New York State Department of Environmental Conservation “Climate Smart Communities” grant program (DEC-CSC) to continue facilitating the Downtown Ithaca Alliance (DIA), and/or a future Transportation Management Association (developed by the DIA) in receiving grant funding through this NYS program;

WHEREAS, in 2018, the City of Ithaca created capital project number 868 “Downtown Ithaca Transportation Management Association” in the amount of \$460,397 to successfully apply for the Climate Smart Communities grant in partnership with the Downtown Ithaca Alliance (DIA), to facilitate the DIA in creating a Transportation Management Association (TMA) and providing an ongoing downtown area Transportation Demand Management (TDM) program; and

WHEREAS, a MOU dated September 18, 2019, between the City of Ithaca and DIA laid out the agreement between the two parties to apply for the original (2018) grant; and

WHEREAS, the consequence of receiving the 2022 Climate Smart Communities Grant would be to continue the work of the Downtown Ithaca Alliance through their GO ITHACA transportation demand management program to shift a portion of trips to modes other than single occupancy vehicles (SOVs) with their associated downtown parking demand; and

WHEREAS, the project team at GO ITHACA will implement the following tasks:

- Gathering and analyzing travel patterns of employees and residents of the urbanized area
- Producing specific, customized commuter/travel plans for both businesses and individuals
- Creating and implementing an effective marketing strategy to support downtown employees and residents in a measurable shift away from SOVs
- Measuring and evaluating the effectiveness of these plans and any associated marketing in achieving transportation mode change (and thus reductions in greenhouse gas emissions and parking demand)
- Providing for ongoing two way communications with the downtown community (including employees and residents) to evaluate program effectiveness, identify potential gaps in transportation services, and gather other relevant feedback
- Demonstrating the program’s value and effectiveness to both public and private sector stakeholders and securing ongoing community, political and financial resources to sustain ongoing activities; and

WHEREAS, the DIA through its GO ITHACA program currently, with the funding from the 2018 grant referenced above, provides a number of valuable transportation-related benefits to its members who live and/or work in the Downtown Ithaca area, such as free and discounted TCAT bus passes, Ithaca Carshare membership discounts, access to carpooling and park and rides, vouchers to active transportation-related businesses such as bike shops and running stores, etc.; and

WHEREAS, if awarded the 2022 Climate Smart Communities grant, the GO ITHACA program or a future TMA would be able to expand its offering beyond downtown Ithaca into the adjacent urbanized areas; and

WHEREAS, this project aligns with a number of overarching goals for transportation in Plan Ithaca, Ithaca's comprehensive plan, and will directly implement the following Plan Ithaca recommendation: "Promote participation in public and private transportation demand management (TDM) programs. The City should work in partnership with the private sector to find mutually beneficial solutions to accommodate employee commuting and other transportation needs, including bicycles"; and

WHEREAS, the City adopted a Green New Deal policy on June 5, 2019, which included adoption of a goal to achieve a carbon neutral city by 2030, and this project is designed to reduce carbon emissions in Ithaca related to transportation; and

WHEREAS, the downtown parking garages are near capacity, and the business and economic development communities have expressed concerns about the potential of parking capacity issues to dampen continued business and investment growth in the downtown; and

WHEREAS, the downtown parking garages are already subsidized by City taxpayers, and without reducing the number of single occupancy vehicles parked in the downtown area, the City will either run out of parking or will need to build additional structured parking, increasing the subsidy even further; and

WHEREAS, all of the match requirements for the grant will be met by GO ITHACA and its affiliated TDM partners, and no City funding is required as a match for this grant; now, therefore be it

**RESOLVED**, That Common Council hereby amends Capital Project #868 "Downtown Ithaca Transportation Management Association" by an amount not to exceed \$1,200,000 for implementation of a DEC-CSC contract, if awarded; and be it further

**RESOLVED**, That funds needed for said Capital Project shall be derived entirely from DEC-CSC grant funding and DIA or future TMA funds; and be it further

**RESOLVED**, That the Mayor or his/her designee is authorized to enter into the DEC-CSC grant contract if the 2022 Climate Smart Communities Grant is awarded to the City of Ithaca; and be it further

**RESOLVED**, That the Mayor or his/her designee is authorized to enter into an MOU, as was done before in the MOU dated September 18, 2019, with the Downtown Ithaca Alliance or the future TMA for implementation of this grant-funded project; and be it further

**RESOLVED**, That any payment to the DIA or the future TMA through this grant-funded project will be subsequent to the approval and payment of vouchers from the DEC to the City of Ithaca.

## **5. Finance, Budget and Appropriations**

### **.7 Attorney's Office – Approval of Hiring Outside Legal Counsel**

WHEREAS, the Common Council has raised ethical concerns regarding potential outside financial influence in the Reimagining Public Safety Process; and

WHEREAS, Council has in particular focused those concerns on apparent outside payments to non-staff volunteer or consultant participants in the process; and

WHEREAS, the Mayor has called for an investigation intended to directly address these concerns; and

WHEREAS, the Common Council, the Mayor, the City Attorney, and the Chief of Staff agree that such an investigation will best be conducted by outside legal counsel in order to maximize public trust in the investigative outcome; now, therefore, be it

**RESOLVED**, That Council hereby appropriates \$16,000 from account A1420-5700 Attorney Encumbrances and transfers an amount not to exceed \$34,000 from account A1990 Unrestricted Contingency to account A1420-5435 Attorney contracts, for a total not to exceed \$50,000 to fund the above-described investigation and such related expenses as the Mayor deems necessary; and be it further

**RESOLVED**, That said investigation shall result in a final written report to be made publicly available.

**5. Finance, Budget and Appropriations**

**.8 HR - Standard Workday (SWD) and Reporting Resolution for Elected and Appointed Officials**

WHEREAS, the New York State Retirement System requires that time worked by elected and appointed officials be reviewed to establish a standard workday for the purposes of retirement credit; and

WHEREAS the state recognizes that elected officials do not work preset schedules, but requires that retirement credit be based on time actually worked; and

WHEREAS, Common Council members enrolled in the New York State Retirement System were asked to keep a record of activities of daily details of any time spent returning phone calls, drafting correspondence, attending meetings, or other duties spent fulfilling their role as elected officials for three months to establish the standard workday; now, therefore be it

**RESOLVED**, That the City of Ithaca hereby establishes the following standard workdays for Common Council members enrolled in the New York State retirement system and will report these officials to the New York State and Local Retirement System based on their record of activities:

<u>Name</u>	<u>SWD</u>	<u>Term</u>	<u>Record of Activity</u>
Cynthia Brock	6	1/1/22-12/31/23	22.8
Phoebe Brown	6	1/1/22-12/31/23	
Robert Cantelmo	6	1/1/22-12/31/23	14.4

## **2.10 Gifting and Solicitation Policy**

### **Issues governed by this policy**

- Can the City of Ithaca accept donations/gifts of goods, services, or funds?
- Can City employees or officers solicit donations/gifts on behalf of the City?
- Can the City of Ithaca donate/gift goods, services, or funds?

### **The City is able to accept donations/gifts of goods, services, or funds.**

Under New York State Law, the City of Ithaca is able to accept any type of donation/gift that it *chooses* to (i.e. art, equipment, professional services, funds, etc.). General City Law § 20(3). If goods, services, or funds are donated for a purpose that is limited to the purview of a single City department, then the donation may be accepted by the Mayor upon the advice of the City Attorney's Office. If the goods, services, or funds are donated for a purpose that would fall under the purview of multiple City departments, then the donation must be accepted through a resolution of Common Council that specifies how the donation will be allocated between departments. Acceptance by the Mayor or Common Council is not required when a private entity makes an unrestricted donation of funds to the City, a City department, or a City department's pre-existing program ("unrestricted funds").

When making a donation reasonably valued in excess of \$1,000, the donor should sign a simple statement prepared by the City Attorney's Office stating that they are irrevocably and unconditionally donating the goods, services, or funds to the City of Ithaca.

Properly accepted donations of: funds (whether unrestricted or not) must be transmitted to the City Chamberlain or a department's Fiscal Manager, and thereafter dispersed for expenditure only after above-required acceptance by the Mayor or the Common Council has been completed, if required; goods should be delivered to the City department that will be using or storing the goods; services should be coordinated with the appropriate City department head(s) or their designee(s).

### **City departments, employees, and officers are prohibited from soliciting donations/gifts on behalf of the City.**

City departments, employees, and officers have no authority, and it is against public policy, to solicit donations/gifts on behalf of the City. However, a local civic organization/not-for-profit (often a "Friends" organization) is permitted to sponsor a fundraising campaign and the City may subsequently accept the proceeds from the fundraising activity as donations in accordance with the procedures on accepting donations outlined in Section 1 of this memorandum. Similarly, city departments that traditionally conduct fee-for-service events—predominantly if not exclusively youth services departments—may provide those events to the public and charge a reasonable fee for participation in the event. Additionally, the City's receipt from a non-City entity (e.g., a store) of a gift of goods or services for which the City applied pursuant to that non-

City entity's publicly-advertised or long-standing program inviting proposals/applications for donations offered by the non-City entity shall not constitute solicitation of donations/gifts by the City, and shall be permitted in accordance with the procedures on accepting donations outlined in Section 1 of this memorandum.

The Mayor, City officers, and senior staff are prohibited from serving on the board of or soliciting donations for any civic organization/not-for-profit formed for the primary purpose of collecting and donating goods, services, or funds to a City department, program, or fund (i.e. Friends of the Ithaca Youth Bureau, Friends of Stewart Park). All other city employees may serve on the board of local civic organizations/not-for-profits formed to support a City department, program, or fund and solicit donations for such entities as long as they do so in their private capacities, not during work hours or in a manner in which it may be reasonably perceived that they are acting in their official capacity as a City employee.

**The City is prohibited from donating/gifting goods, services, or funds, unless doing so primarily serves a municipal purpose.**

The City is prohibited by the New York State Constitution from giving or loaning money or property "to or in aid of any individual, or private corporation or association, or private undertaking." N.Y. Const. art. VIII, § 1. This prohibition includes the use of the City's or its departments names or logos, the loaning/borrowing of city vehicles, no matter how briefly, the disposition of surplus or unneeded City property, aiding, by way of funds, equipment, or staffing, of a not-for-profit's activities, and any other utilization of City services, equipment, or staff without fair and adequate compensation.

The City may provide goods, services, or funds to a private entity if doing so primarily serves a municipal purpose. An incidental private benefit will not invalidate an otherwise proper primary municipal purpose. In determining whether or not the disposition of City funds or property serves a public purpose, State courts defer to the judgment of a municipality's legislature. Therefore, any provision of goods, services, or funds to a private individual or organization which, absent a municipal purpose would constitute unlawful gifting, must be authorized for a valid municipal purpose by Common Council. Notwithstanding the preceding sentence, the provision to the public of *de minimis* items that a department head reasonably believes will promote a specific program of the City shall not constitute unlawful gifting (e.g., Human Resources giving out pens that encourage the public to apply for City jobs).

To ensure that the City does not violate New York State's prohibition on municipal gifting, the City Attorney's office should be consulted any time a department plans to dispose of surplus or unneeded City property. This prohibition does not include the disposal of City property through the trash, where no private party obtains a benefit beyond the cost of disposal. Furthermore, the disposition of surplus or unneeded City property by transferring it to another City department does not need to be reviewed by the City Attorney's Office. Before transferring City property from one department to another, the



transferring department should confirm that the property will remain City property and is not being claimed for personal use.

The prohibition on municipal gifting extends to the use of the City's and its department's names and logos for anything other than a municipal purpose. City and department names and logos should only be used by City departments for City sponsored programs.

**Note:** Other applicable laws, regulations, and policies may additionally apply (e.g., the requirement that Council approve adjustments to revenue accounts after the City receives gifts).

Adopted: September 28, 2016.