## COMMON COUNCIL

### AGENDA ITEMS

<table>
<thead>
<tr>
<th>Item</th>
<th>Voting Item</th>
<th>Presenter(s)</th>
<th>Time Allotted</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Call to Order</strong></td>
<td>No</td>
<td>Mayor Svante L. Myrick</td>
<td>30 Mins</td>
</tr>
<tr>
<td>1.1 Additions to or Deletions from the Agenda</td>
<td>No</td>
<td></td>
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</tr>
<tr>
<td>1.2 Proclamations/Awards</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Presentation of the Quarterly Employee Recognition Award</td>
<td></td>
<td></td>
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<tr>
<td>1.3 Special Order of Business</td>
<td></td>
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</tr>
<tr>
<td>• A Public Hearing Regarding the Proposed Increased Assessment Roll, Budget and Schedule of Work for Each Sidewalk Improvement District for Fiscal Year 2021</td>
<td></td>
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<tr>
<td>1.4 Special Presentations Before Council</td>
<td></td>
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<tr>
<td>• Reports of Municipal Officials</td>
<td></td>
<td></td>
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<tr>
<td>• Southside Community Center Board of Directors</td>
<td></td>
<td></td>
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<tr>
<td>2.1 Petitions and Hearings of Persons before Council</td>
<td>No</td>
<td>*Note: See instructions on how to participate on page 3 of the agenda.</td>
<td>45 Mins</td>
</tr>
<tr>
<td>2.2 Privilege of the Floor – Mayor and Council</td>
<td>No</td>
<td></td>
<td></td>
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<tr>
<td><strong>Consent Agenda Items</strong></td>
<td>Yes</td>
<td>Common Council</td>
<td>5 Mins</td>
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<tr>
<td>3.1 Cecil Malone Drive Bridge Replacement Project Resolution Authorizing the implementation, and funding in the first instance 100% of the Federal-aid and State-aid eligible costs, of a federal-aid and /or state-aid transportation project, and appropriating funds</td>
<td></td>
<td></td>
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<tr>
<td>3.2 IURA - Temporary City Use of Cayuga Street Parking Garage</td>
<td></td>
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</tr>
<tr>
<td>3.3 Proposed Inter-City Bus Permit Extension and Modification</td>
<td></td>
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<tr>
<td>3.4 Attorney - Authorization to Accept Various Easements in Relation to the Development of the Former Emerson Power Transmission Site in South Hill</td>
<td></td>
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<tr>
<td>Item</td>
<td>Voting</td>
<td>Presenter(s)</td>
<td>Time Allotted</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
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<tr>
<td><strong>City Administration Committee Items</strong></td>
<td></td>
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<tr>
<td>4.1 Declaration of Lead Agency for Environmental Review</td>
<td>Yes</td>
<td>Director of Planning &amp; Development Cornish</td>
<td>10 Mins</td>
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<tr>
<td>of Design Guidelines for the Installation of Small Cell</td>
<td></td>
<td></td>
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<tr>
<td>Facilities to Support Small Cell Wireless Technology</td>
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<tr>
<td>Governed by a Master License Agreement</td>
<td></td>
<td></td>
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<tr>
<td>4.2 A Local Law to Override the Tax Levy Limit</td>
<td>Yes</td>
<td>City Controller Thayer</td>
<td>10 Mins</td>
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<tr>
<td>Established in General Municipal Law</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>4.3 Removal of the First White Settlers Marker</td>
<td>Yes</td>
<td>Alderperson McGonigal</td>
<td>20 Mins</td>
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<tr>
<td>4.4 Report of the City Controller</td>
<td>No</td>
<td>City Controller Thayer</td>
<td>10 Mins</td>
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<tr>
<td><strong>Planning &amp; Economic Development Committee Items</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>5.1 2020 CIITAP Boundary – Revised Resolution</td>
<td>Yes</td>
<td>Senior Planner Kusznir</td>
<td>15 Mins</td>
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<tr>
<td>5.2 An Ordinance Amending the Municipal Code of The</td>
<td>Yes</td>
<td>City Planner Phillips</td>
<td>15 Mins</td>
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<tr>
<td>City of Ithaca, Chapter 160, Entitled “Design Review” To Amend the</td>
<td></td>
<td></td>
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<tr>
<td>language to Applicability and Exemptions</td>
<td></td>
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<tr>
<td><strong>New Business</strong></td>
<td></td>
<td></td>
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<td>6.1 Presentation of the 2021 Mayor’s Recommended Budget</td>
<td>Yes</td>
<td>Mayor Myrick</td>
<td>30 Mins</td>
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<tr>
<td>6.2 Approval of the 2020 and 2021 Amendments to the Municipal</td>
<td>Yes</td>
<td>City Controller Thayer</td>
<td>10 Mins</td>
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<tr>
<td>Cooperative Agreement for the Greater Tompkins County</td>
<td></td>
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<td>Municipal Health Insurance Consortium</td>
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<td><strong>Mayor’s Appointments</strong></td>
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<td>7.1 Reappointments to the Ithaca Housing Authority</td>
<td>Yes</td>
<td>Mayor Myrick</td>
<td>5 Mins</td>
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<td><strong>Reports from Council and Staff</strong></td>
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<td>Common Council</td>
<td>15 Mins</td>
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<tr>
<td>8.1 Reports of Special Committees</td>
<td>No</td>
<td>Staff</td>
<td></td>
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<tr>
<td>8.2 Reports of Common Council Liaisons</td>
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<td>8.3 Report of City Clerk</td>
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<tr>
<td>8.4 Report of City Attorney</td>
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<td><strong>Meeting Wrap-Up</strong></td>
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<td>9.1 Approval of Minutes</td>
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<td>5 Mins</td>
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<tr>
<td>9.2 Adjournment</td>
<td>No</td>
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</table>
How to Participate in Public Comment Virtually

You are welcome to participate in the public comment portion of the meeting in one of the following ways:

Email Common Council Through the Agenda Link

Written comments can be submitted to Common Council using this form: Common Council Public Comment Form. Comments should be submitted no later than 5:00 pm on the day of the meeting. These comments will not be read into the record but will be included as an attachment to the meeting minutes. Any comments received after 5:00 pm will be saved for the next meeting.

Register to Speak at a Meeting Via Zoom

At 9:00 am on the day of the Common Council meeting, a link will be opened on the Common Council webpage to register for speaking at the beginning of the Zoom meeting. Up to 40 people can register to speak and the first hour of the meeting will be dedicated to public speaking. Registration will close at 3:00 pm in order to allow time to calculate how long each person will be allowed to speak. If you register, you will be emailed the Zoom link later that day. Use that link to sign in and enter the Zoom waiting room. You will be moved into the meeting for your allotted time in the order that you were registered to speak. You must be present in the waiting room when it is your turn to speak or you will forfeit your time. You can use video or telephone to participate.

Get Creative: Send us a Social Media Link

Send us a social media video with your thoughts and ideas. You can send it in using the public comment link found on each agenda and then the URL to your video will also be included in the public record.

Questions about the meeting protocol can be forwarded to City Clerk Julie Conley Holcomb at (607) 274-6570 or jholcomb@cityofithaca.org in advance of the meeting.
WHEREAS, Section C-73 of the City Charter creates five Sidewalk Improvement Districts (each a “SID”) for the construction and repair of sidewalk, and provides for an assessment against each property located in each SID for the benefits received by the property from said construction and repair, and

WHEREAS, the Board of Public Works has recommended a budget, schedule of work, and schedule of assessments for Fiscal Year 2021, subject to review, amendment, and confirmation by the Common Council, and

WHEREAS, Section C-73 provides that Council shall amend as appropriate and confirm the SID assessments, budget, and schedule of work after a public hearing, and

WHEREAS, the appropriate public hearing has been held, and Council has given due consideration to the comments made, if any; now, therefore

Local Law No. ____-2020

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

Section 1. Legislative Findings, Intent, and Purpose.

Pursuant to Municipal Home Rule Law Section 10(1)(ii)(c)(3) the City of Ithaca is authorized to adopt a local law relating to the authorization, making, confirmation, and correction of benefit assessments for local improvements.

The Common Council has reviewed the assessments, budget, and schedule of work recommended by the Board of Public Works for Fiscal Year 2021, and makes the following findings of fact:

A. The public hearing prior to confirmation required by Section C-73 has been held, and all owners of property subject to a SID assessment appearing to speak before Council have had an opportunity to do so.

B. The attached schedule of work, as recommended by BPW and previously subject to review by Council, constitutes a set of local improvements, the cost of which should be assessed against the properties located in the SID in which the work is to be performed.

C. The attached budget and the related assessments reflected on the assessment roll kept on file with the City Clerk are necessary to defray the cost of construction and maintenance of sidewalk in the City, and Council has made a legislative judgment that each property in each SID is being assessed in proportion to the benefit received by that property from the sidewalk construction and repair contained in the schedule of work.
Section 2. Confirmation of the Assessments, Schedule of Work, and Budget.

The Common Council approves and confirms the assessment roll, a copy of which is maintained in the City Clerk’s office, and the budget and schedule of work attached hereto, and imposes a lien upon each property so assessed as set forth in the assessment roll.

In the event there are additional funds available following completion of the schedule of work, or changes to the work plan are required for financial, engineering, or other reasons, the Superintendent of Public Works or his or her designee may alter the schedule of work in his or her discretion, as instructed by the Board of Public Works from time to time; provided, however, that if such actions affect ten percent or more of any Sidewalk Improvement District’s annual levy, such actions must be approved by resolution of the Board of Public Works.

Section 3. Severability Clause.

Severability is intended throughout and within the provisions of this Local Law. If any section, subsection, sentence, clause, phrase, or portion of this Local Law 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 Local Law.

Section 4. Effective and Operative Date.

This Local Law shall be effective immediately after filing in the office of the Secretary of State.
## Proposed 2021 Sidewalk Improvement District (SID)—BASE BUDGET

<table>
<thead>
<tr>
<th>District</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>TOTAL</th>
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<tbody>
<tr>
<td>Estimated 2021 SID Levy</td>
<td>$158,858</td>
<td>$150,378</td>
<td>$270,080</td>
<td>$167,483</td>
<td>$120,695</td>
<td>$867,494</td>
</tr>
<tr>
<td>Percentages</td>
<td>18.3%</td>
<td>17.3%</td>
<td>31.1%</td>
<td>19.3%</td>
<td>13.9%</td>
<td>100%</td>
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<tr>
<td>Admin &amp; Supplies</td>
<td>$21,605</td>
<td>$20,451</td>
<td>$36,731</td>
<td>$22,778</td>
<td>$16,415</td>
<td>$117,979</td>
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<tr>
<td>Insurance</td>
<td>$4,248</td>
<td>$4,022</td>
<td>$7,223</td>
<td>$4,479</td>
<td>$3,228</td>
<td>$23,200</td>
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<tr>
<td>Subtotal - funding available</td>
<td>$133,005</td>
<td>$125,905</td>
<td>$226,126</td>
<td>$140,226</td>
<td>$101,053</td>
<td>$726,315</td>
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<tr>
<td>Capital Projects-Repayment</td>
<td>$13,000</td>
<td></td>
<td></td>
<td>$4,200</td>
<td>$24,000</td>
<td>$41,200</td>
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<tr>
<td>Balance for 2020 work plan</td>
<td>$133,005</td>
<td>$112,905</td>
<td>$226,126</td>
<td>$136,026</td>
<td>$77,053</td>
<td>$685,115</td>
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<td>Construction</td>
<td>$111,746</td>
<td>$92,781</td>
<td>$189,983</td>
<td>$113,613</td>
<td>$60,901</td>
<td>$569,023</td>
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<tr>
<td>Design</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction Inspection/</td>
<td>$14,609</td>
<td>$13,829</td>
<td>$24,837</td>
<td>$15,402</td>
<td>$11,099</td>
<td>$79,776</td>
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<td>Engineering Technician</td>
<td>$14,609</td>
<td>$13,829</td>
<td>$24,837</td>
<td>$15,402</td>
<td>$11,099</td>
<td>$79,776</td>
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<tr>
<td>Miscellaneous</td>
<td>$6,650</td>
<td>$6,295</td>
<td>$11,306</td>
<td>$7,011</td>
<td>$5,053</td>
<td>$36,316</td>
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Concrete Lifting/Concrete Cutting

updated 29 July 2020
### 2021 PROPOSED Sidewalk Work Plan and Budget

#### District One

<table>
<thead>
<tr>
<th>City Block</th>
<th>Side of Street</th>
<th>Appr. Length of sidewalk (linear feet)</th>
<th>Estimated SF cost</th>
<th>Cost (5' wide)</th>
<th>Available Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Construction</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Curb Ramps at the intersection of King St./ N. Tioga St.</td>
<td>East</td>
<td>80</td>
<td>$</td>
<td>$23</td>
<td>$9,200</td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Curb Ramps at the intersection of E. Jay St./ N. Tioga St.</td>
<td>South</td>
<td>100</td>
<td>$</td>
<td>$23</td>
<td>$11,500</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>300 Utica St</td>
<td>South</td>
<td>260</td>
<td>$</td>
<td>$23</td>
<td>$29,900</td>
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<tr>
<td></td>
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<tr>
<td>100 E. York St.</td>
<td>South</td>
<td>350</td>
<td>$</td>
<td>$23</td>
<td>$40,250</td>
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<td></td>
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<tr>
<td>100 E. York St.</td>
<td>South</td>
<td>120</td>
<td>$</td>
<td>$23</td>
<td>$13,800</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td>730</td>
<td></td>
<td><strong>$104,650</strong></td>
<td><strong>$111,746</strong></td>
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#### Contingency

<table>
<thead>
<tr>
<th>City Block</th>
<th>Side of Street</th>
<th>Appr. Length of sidewalk (linear feet)</th>
<th>Estimated SF cost</th>
<th>Cost (5' wide)</th>
<th>Available Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Construction</strong></td>
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<tr>
<td>500 N. Aurora St.</td>
<td>West</td>
<td>340</td>
<td>$</td>
<td>$23</td>
<td>$39,100</td>
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</tr>
<tr>
<td>100 E. Lewis St.</td>
<td>North</td>
<td>230</td>
<td>$</td>
<td>$23</td>
<td>$26,450</td>
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<td></td>
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<tr>
<td>100 E. Lewis St.</td>
<td>South</td>
<td>200</td>
<td>$</td>
<td>$23</td>
<td>$23,000</td>
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<td></td>
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<tr>
<td>100 E. Yates St.</td>
<td>North</td>
<td>230</td>
<td>$</td>
<td>$23</td>
<td>$26,450</td>
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<tr>
<td>100 E. Yates St.</td>
<td>South</td>
<td>170</td>
<td>$</td>
<td>$23</td>
<td>$19,550</td>
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<td></td>
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<tr>
<td><strong>Total Contingency</strong></td>
<td></td>
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<td></td>
<td><strong>$134,550</strong></td>
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</table>

#### Future Collaboration with City Streets' Crews/Grant Money/Captial Projects

<table>
<thead>
<tr>
<th>City Block</th>
<th>Side of Street</th>
<th>Appr. Length of sidewalk (linear feet)</th>
<th>Estimated SF cost</th>
<th>Cost (5' wide)</th>
<th>Available Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 Thurston Ave.</td>
<td>North</td>
<td></td>
<td></td>
<td>$</td>
<td>$60,000</td>
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<tr>
<td>900 Stewart Ave.</td>
<td>West</td>
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<td></td>
<td>$</td>
<td>$65,000</td>
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<td>300 Fall Creek Dr.</td>
<td>North</td>
<td>950</td>
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<td>$</td>
<td>$200,000</td>
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</table>
# 2021 PROPOSED Sidewalk Work Plan and Budget

## District Two

<table>
<thead>
<tr>
<th>City Block</th>
<th>Side of Street</th>
<th>Appr. Length of sidewalk (linear feet)</th>
<th>Estimated SF cost</th>
<th>Cost (5' wide)</th>
<th>Available Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 Ithaca Rd.</td>
<td>North</td>
<td>100</td>
<td>$ 23</td>
<td>$ 11,500</td>
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<tr>
<td>200 Cornell St.</td>
<td>East/West</td>
<td>180</td>
<td>$ 23</td>
<td>$ 20,700</td>
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<tr>
<td>100-300 College Ave.</td>
<td>East/West</td>
<td>500</td>
<td>$ 23</td>
<td>$ 57,500</td>
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</tbody>
</table>

| TOTAL             | 780            | TOTAL                                   | $ 89,700          | $ 92,781       |                  |

### SID Capital Projects

- 500-900 Giles St North 575 $ 250,000 15 Yr Debt Service = $20,000
- 100-300 College Ave. Streetscape East/West 2400 $ 264,000

### Contingency

<table>
<thead>
<tr>
<th>Construction</th>
<th>North</th>
<th>100</th>
<th>$ 23</th>
<th>$ 11,500</th>
</tr>
</thead>
<tbody>
<tr>
<td>500 Mitchell St.</td>
<td>North</td>
<td>100</td>
<td>$ 23</td>
<td>$ 11,500</td>
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<tr>
<td>100 Linden Ave.</td>
<td>West</td>
<td>550</td>
<td>$ 23</td>
<td>$ 63,250</td>
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<td>400 Dryden Rd.</td>
<td>North</td>
<td>290</td>
<td>$ 23</td>
<td>$ 33,350</td>
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<td>200 Delaware Ave.</td>
<td>West</td>
<td>400</td>
<td>$ 23</td>
<td>$ 46,000</td>
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<tr>
<td>100 Delaware Ave.</td>
<td>West</td>
<td>450</td>
<td>$ 23</td>
<td>$ 51,750</td>
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**Total Contingency $ 205,850**

### Future Collaboration with City Streets' Crews/Grant Money/Capital Projects

- 1100 E. State St South 450 $ 120,000
- 400 Oak Ave North 900 $ 244,000
- 100-400 College Ave. Streetscape East/West 2400 $ 264,000
## 2021 PROPOSED Sidewalk Work Plan and Budget

### District Three

<table>
<thead>
<tr>
<th>City Block</th>
<th>Side of Street</th>
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<th>Available Budget</th>
</tr>
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<tbody>
<tr>
<td>Construction</td>
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<td></td>
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<td>100 E. Seneca St</td>
<td>North</td>
<td>220</td>
<td>$ 23</td>
<td>$ 25,300</td>
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</tr>
<tr>
<td>100-300 W. Seneca St.</td>
<td>North/South</td>
<td>640</td>
<td>$ 23</td>
<td>$ 34,500</td>
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</tr>
<tr>
<td>600 W. Green St.</td>
<td>North/South</td>
<td>650</td>
<td>$ 23</td>
<td>$ 74,750</td>
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<tr>
<td>500 W. Green St.</td>
<td>North/South</td>
<td>480</td>
<td>$ 23</td>
<td>$ 55,200</td>
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<td></td>
<td></td>
<td>1,990</td>
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<td>TOTAL $ 189,750</td>
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<tr>
<td>Contingency</td>
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<td></td>
<td>$ 189,983</td>
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<tr>
<td>Construction</td>
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<tr>
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<tr>
<td>200 E. Buffalo St.</td>
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<td>$ 23</td>
<td>$ 34,500</td>
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</tr>
<tr>
<td>500 W. Seneca St.</td>
<td>North</td>
<td>300</td>
<td>$ 23</td>
<td>$ 34,500</td>
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<tr>
<td>300 W. Buffalo St.</td>
<td>South</td>
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<td>$ 23</td>
<td>$ 46,000</td>
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<tr>
<td>100 W. Buffalo St.</td>
<td>North</td>
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<td>$ 23</td>
<td>$ 17,250</td>
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<td>100 S. Plain St.</td>
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<td>100 E. Green St. (vault membrane repair)</td>
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<td>1,990</td>
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<td>Total Contingency $ 228,850</td>
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**Future Collaboration with City Streets' Crews/Grant Money/Captial Projects**
# 2021 PROPOSED Sidewalk Work Plan and Budget

## District Four

<table>
<thead>
<tr>
<th>City Block</th>
<th>Side of Street</th>
<th>Appr. Length of sidewalk (linear feet)</th>
<th>Estimated SF cost</th>
<th>Cost (5' wide)</th>
<th>Available Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Construction</strong></td>
<td></td>
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<td>200 Cecil A Malone Dr.</td>
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<td>300 Elmira Rd</td>
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<td>940 TOTAL $108,100 $113,613</td>
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<tr>
<td><strong>Construction</strong></td>
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<tr>
<td>500 S. Cayuga St.</td>
<td>East</td>
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<td>100 Hyers</td>
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<td>400 Turner Pl.</td>
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<td><strong>Total Contingency</strong></td>
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## Future Collaboration with City Streets’ Crews/Grant Money/Capital Projects

<table>
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<tr>
<th>City Block</th>
<th>Side of Street</th>
<th>Appr. Length of sidewalk (linear feet)</th>
<th>Estimated SF cost</th>
<th>Cost (5' wide)</th>
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</thead>
<tbody>
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<td>400 Hillview Pl</td>
<td>South</td>
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<td>600-900 S. Aurora St</td>
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<td>300 Spencer Rd</td>
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<td>$400,000</td>
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<td>100 Giles St</td>
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<tr>
<td>200-300 Giles St</td>
<td>East</td>
<td>1600</td>
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<td>$300,000</td>
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Note: both sides of R.R. crossing
2021 PROPOSED Sidewalk Work Plan and Budget

District Five

<table>
<thead>
<tr>
<th>City Block</th>
<th>Side of Street</th>
<th>Appr. Length of sidewalk (linear feet)</th>
<th>Estimated SF cost</th>
<th>Cost (5' wide)</th>
<th>Available Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction</td>
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<td>60,901</td>
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<tr>
<td>Construction</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>400 Chestnut St. West</td>
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<tr>
<td>500 Esty St. North</td>
<td>80</td>
<td>$23</td>
<td>$9,200</td>
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<td></td>
</tr>
<tr>
<td>600 W. Buffalo St. North</td>
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<td>$9,200</td>
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<tr>
<td>Total Contingency</td>
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<td>$57,500</td>
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</tbody>
</table>

Future Collaboration with City Streets' Crews/Grant Money/Capital Projects

- 100-1100 Hector St North/East | 7150 | $2,500,000 Approved in 2019 Construction completed 2020

Elm/Chestnut Intersection | $530,000
TO: City Administration  
FROM: Johnathan Licitra, Sidewalk Program Manager  
DATE: 8/31/2020  
RE: 2021 Sidewalk Improvement District Work Plan and Budget

Attached for your review are the 2021 Sidewalk Improvement District (SID) work plans, assessment roles, and budget. A link to the 2021 assessment role is also provided here, as the document is too large to attach (https://www.cityofithaca.org/219/Sidewalk-Policy).

At your September 16th meeting, I will request your approval to file a schedule of work, assessment roles, and budget with Common Council. These materials have been approved by the Board of Public works at their Aug 18th, 2020 meeting. A public hearing on the budget, assessment roles, schedule of work, and local law can occur on the October 7, 2020 Common Council meeting.

The 2021 Work Plan budget was created based on the aforementioned assessment role and reflects all credits for past work that were received before the May 1, 2020 application deadline. The costs for each sidewalk project are estimates based on anticipated quantities of work, as well as unit prices from past sidewalk contracts. Final quantities of work performed will be dictated by bid prices received and field conditions, which could increase or decrease the amount of work completed in the 2020 work plan.

It is possible that issues unknown at this time might arise that will prevent some of these construction projects from moving forward during the 2021 construction season. Conflicts with other construction projects might necessitate cancelation or postponement of planned sidewalk work. Ongoing design efforts might identify construction barriers that will impact costs or make some projects technically infeasible.

To proactively address any of the above potential construction issues and cost uncertainty—a contingency list of construction and design projects are included at the bottom of each sidewalk district. These projects could replace locations in the work plan, if needed, or add to the project list if additional budget is available based on bid prices.

For many of the district work plans, a Future Collaboration list exists. This secondary contingency list is intended to combine sidewalk design plans with City Street and/or Water/Sewer repair work. Additionally, this list can be used to pursue future grant applications for new sidewalk construction.
Some specific project details:

District 1: At least 3 curb ramps will be constructed around the 2 block radius of Fall Creek Elementary School (King & N. Tioga St./ and E. Jay St./N. Tioga. St.).

District 2: College Ave is pursuing a major infrastructure upgrade of water, sewer, and electric. Partial funding of sidewalk repairs will be used to collaborate with a full streetscape plan (in development). The SID program applied for the DEC Climate Smart Grant and was awarded a 50/50 grant. Residents have requested sidewalk along this section of Giles St that currently does not have any sidewalk along a steep and curvy road.

District 3: The high traffic areas near W. and E. Seneca St and the residential sections of 500-600 W. Green St are scheduled for replacement. This approach intends to capitalize on limited, efficient mobilization costs by focusing all the construction along these few corridors within District 3.

District 4: The work plan has been updated to include Cecil A Malone Dr. sidewalk to correspond with the planned pedestrian bridge over the inlet.

District 5: The 200 block of Cliff St becomes a priority based upon the SID prioritization algorithm. However, considering the disruption along Hector St. all summer, the City and residents may prefer a different work location.
CONSENT AGENDA:
CITY ADMINISTRATION COMMITTEE:
3.1  Cecil Malone Drive Bridge Replacement Project Resolution
Authorizing the implementation, and funding in the first instance 100% of the Federal-aid and State-aid eligible costs, of a federal-aid and /or state-aid transportation project, and appropriating funds

WHEREAS, Sponsor will design, let and construct the “project”; and

WHEREAS, a Project for the Cecil Malone Drive Bridge over Flood Relief Channel, P.I.N. 375589 ("the Project") is eligible for funding under Title 23 U.S. Code , as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 95% Federal funds and 5% non-Federal funds; and

WHEREAS, the City of Ithaca desires to advance the Project by making a commitment of 100% of the non-Federal share of Design, Right-of-Way Incidental, Right-of-Way Acquisition, Construction and Inspection; and

WHEREAS, in November 2018, $2,172,000 (95% Federal and 5% Local Share) of BRIDGE NY funding was made available by New York State Department of Transportation for Project; now, therefore be it

RESOLVED, That the City of Ithaca Common Council hereby approves the above project, and, be it further

RESOLVED, That the City of Ithaca Common Council hereby authorizes the City of Ithaca to pay in the first instance 100% of the federal and non-federal share of the cost of all work for the Project or portions thereof, and, be it further

RESOLVED, That the City of Ithaca Common Council hereby agrees that the City of Ithaca shall be responsible for all costs of the Project which exceed the amount of the BRIDGE NY funding awarded to the City of Ithaca, and, be it further

RESOLVED, That the City of Ithaca Common Council hereby establishes Capital Project #863 in an amount not to exceed $2,172,000, and be it further

RESOLVED, That this project be undertaken with the understanding that the final cost of the Project to the City of Ithaca will be 5% of project costs up to a total project cost of $2,172,000 and 100% of additional costs thereafter, and, be it further

RESOLVED, That funds needed for said amendment shall be derived from serial bonds, with understanding that these funds are available to the Project and that the final cost to the City will be $108,600, and, be it further

RESOLVED, That in the event of full federal and non-federal share cost of the project exceeds the amount appropriated above, the City of Ithaca shall convene as soon as
possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and, be it further

RESOLVED, That City of Ithaca hereby agrees that construction of the Project shall begin no later than twenty four (24) months after award and that the project shall be completed within thirty (30) months of commencing construction, and, be it further

RESOLVED, That the Mayor of the City of Ithaca be and is hereby authorized to execute all necessary Agreements and the Superintendent of Public Works is hereby authorized to execute all the necessary Certifications or reimbursement requests for Federal Aid and /or State-Aid on behalf of the City of Ithaca with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality’s first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and, be it further

RESOLVED, That a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and, be it further

RESOLVED, This Resolution shall take effect immediately.
MEMORANDUM

TO: City Administration Committee  
FROM: Addisu Gebre, Bridge Systems Engineer  
DATE: September 10, 2020  
RE: Cecil Malone Drive Bridge Replacement Project, CP#863

Please find attached a resolution seeking Common Council authorization to add Right-of-Way Incidental and Right-of-Way Acquisition phases to the subject project.

When Common Council authorized the project on March 6, 2019, the project only included design, construction, and construction inspection phases. However, during the preliminary design phase, it was determined that property acquisitions are needed for construction and for future access to maintain the bridge.

These two phases don’t require additional funding authorization from Common Council. In coordination with Ithaca Tompkins County Transportation Council (ITCTC), I have already managed to fund the two phases from allocated design fund.

The project will include replacing the existing bridge to eliminate the bridge structural deficiencies and provide a wider bridge deck to accommodate heavy industrial traffic, pedestrians, and bicyclists. The project will include restoring the crossing to a condition which provides a minimum 75-year design life.

If you have any questions, please call me @ 607-274-6530 or email me agebre@cityofithaca.org

cc: Tim Logue, Director of Engineering Services

“An Equal Opportunity Employer with a commitment to workforce diversification.”
WHEREAS, renovation and expansion of the Green Street parking garage (Green Garage) is scheduled for 2021 that will require temporary closure of the garage, and

WHEREAS, the City of Ithaca executed a parking agreement to provide parking at the Green Garage for hotel guests of the downtown Ithaca Marriot hotel, and

WHEREAS, the City Director of Transportation and Parking seeks to relocate a variety of parkers from the Green Garage to alternative public parking facilities during construction activity at the Green Garage site, and

WHEREAS, the 685-space Cayuga Street parking garage (Cayuga Garage) has over 250 parking spaces available at normal peak demand times, and

WHEREAS, the Cayuga Garage is owned by Community Development Properties, Ithaca, Inc. (CDP), whose governing board includes the Mayor and City Controller, and

WHEREAS, CDP has developed a draft agreement to provide the City with use of 55 parking spaces at no charge to help the City fulfill its obligations under the Marriott hotel parking agreement during construction of the Green Garage; now, therefore, be it

RESOLVED, That the Mayor, subject to review by the City Attorney, is authorized to execute an agreement substantially similar to the attached “Agreement for Temporary City Use of Cayuga Street Parking Garage” for temporary use of parking at no charge to the City.
Agreement for Temporary City Use of Cayuga Street Parking Garage

Community Development Properties, Ithaca, Inc. (“CDP”) and the City of Ithaca, New York (the “City”) agree to the following use by the City of CDP’s Cayuga Street Parking Garage (the “Garage”) for a period of not more than six months, beginning as of the commencement date of renovation and expansion of the Green Street parking garage, projected to begin March 1, 2021.

RECITALS

1. CDP is a not-for-profit Delaware Corporation, described in Sec. 501(c)(3) of the Internal Revenue Code. CDP is the owner of the Garage at 235 South Cayuga Street in the City of Ithaca which it built in 2004 in air rights above the ground level, leased to CDP by the Ithaca Urban Renewal Agency.

2. The City requested that CDP build the Garage to lessen the City’s governmental burden of providing public parking in downtown Ithaca as part of its development and renewal efforts to improve the attractiveness of downtown Ithaca as a destination for visitors, shoppers and residents.

3. The Garage has seven levels providing approximately 700 parking spaces, which was more than was initially expected to be needed, in anticipation of the growth of future requirements as a result of the success of the City’s development and renewal efforts. While public usage has increased, the Garage still at this time has a large amount of unused parking capacity.

4. The City has informed CDP that, as another part of the City’s development and renewal efforts, the City had induced Hotel Ithaca, LLC (“Marriott”) to build a 155-key Marriott hotel in the City by providing parking spaces for hotel guests. It has satisfied its obligation to Marriott with spaces at the City’s Green Street parking garage.

5. The City has also informed CDP that it must undertake renovation and expansion, which are expected to take six months, to the Green Street parking garage. It has requested CDP to provide the City with 55 spaces in the Garage for that six months period to enable the City to satisfy its obligation to Marriott. CDP is not privy in any way to the arrangements between the City and Marriott.

AGREEMENT

A. Beginning as of March 1, 2021 or such later date that the Green Street garage renovation and expansion work commences ("Commencement Date"), CDP will provide to the City 55 unassigned parking spaces in the Garage to enable the City to fulfill its obligations to
Marriott. It will make no charge to the City for the use of these unassigned parking spaces, nor will it receive any compensation from the parkers or from Marriott for such use.

B. CDP’s Garage is managed by Allpro Parking LLC (“Allpro”). CDP will direct Allpro to deliver to the City prior to the Commencement Date a validation machine to be installed at the direction of the City at the Marriott hotel.

C. The City will inform Marriott that each guest wishing to park at the Garage can take a parking ticket upon entering the Garage, and have it validated by the validation machine at the Marriott hotel. Upon exiting the Garage, the guest can use that validated ticket at the walk up pay station to exit. Parker Technology, offering 24/7 two-way audio and video service, is available at the exit to cope with lost tickets and Allpro will monitor the use of the Garage under this arrangement.

D. If, as is not now expected, the repairs to the Green Street garage take longer than six months, CDP and the City agree that this arrangement may be extended to cover any extra time the City requires.

COMMUNITY DEVELOPMENT PROPERTIES, ITHACA, INC.

BY: _____________________________________
    Daniel Marsh III, President

DATE: ____________________________________

CITY OF ITHACA, NEW YORK

BY: _____________________________________
    Svante Myrick, Mayor

DATE: ____________________________________
### 3.3 Proposed Inter-City Bus Permit Extension and Modification

WHEREAS, Section 346-31 of the City Code states that no bus shall operate, stop on or stand on any City street, nor shall such bus pick up or discharge passengers on any such City street or curb, or any other public property, or within 200 feet of any City bus stop in the corporate limits of the City of Ithaca, unless a permit is obtained from the Common Council or its designee, and

WHEREAS, in September 2018, Common Council passed a resolution to allow the use of East Green Street as an intercity bus stop, and

WHEREAS, staff prepared and executed agreements with the intercity operators for a 6-month trial period ending on March 31, 2019, and

WHEREAS, on April 3, 2019, staff recommended that the Common Council conditionally renew the agreement until August 31, 2019, to allow for a full year of consideration of this site, and

WHEREAS, in September 2019, Common Council passed a resolution to continue the use of East Green as an intercity bus stop increasing the rate from $5 to $15 per bus arrival or departure (but if the arrival or departure occurs within 30 minutes of the other, only one $15 per bus fee will be imposed), but asked staff to provide a report in 6 months detailing efforts to collaborate with other regional municipal officials, and

WHEREAS, the coronavirus pandemic effectively discontinued bus service through the summer and shifted priorities away from the inter-city bus permits, and

WHEREAS, current intercity bus companies permit agreements are in effect until termination, which must be upon no less than 30 days’ notice, but it is unclear as New York State continues to reopen which buses will be returning to regular operating service in Ithaca, and

WHEREAS, it does not seem prudent to end the use of Green Street as the intercity bus stop at this time, but future conditions on Green Street are projected to limit the capacity to one bus during reconstruction of the Green Street Parking Garage, and

WHEREAS, staff is exploring a potential drop-off only location on West Green Street and wishes to install a concrete pad at the location, if selected, and

WHEREAS, staff continues to look for other suitable interim locations for intercity bus operations while planning for a long-term permanent location for an intercity transportation depot; now, therefore be it

RESOLVED, That Common Council approves the continued use of the Green Street stop on a first paid - first served basis to operators for which Common Council has authorized operation from the Green Street location (namely, Trailways, Shortline/CoachUSA, Greyhound, and FlixBus approved in February 2020) to
accommodate the availability of one-space for bus operations and potentially one drop off space, until an alternate location or permanent solution can be found, and, be it further

RESOLVED, That Common Council continues to authorize the Board of Public Works to modify the above-established Intercity Bus Permit fee from time to time, but retains the sole legislative discretion as to issuance of bus permits, and, be it further

RESOLVED, That Common Council authorizes establishing a drop-off only location at or near 115 West Green Street, and authorizes Public Works to expend up to $5,000 in permit fees for installation of a concrete pad, and, be it further

RESOLVED, That Common Council instructs city staff to continue to work on the conditions specified in earlier resolutions of Council to minimize disruption to riders and the community while continuing to provide this valuable service to the community, and, be it further

RESOLVED, That the Mayor and Senior Staff shall report to Common Council within six months regarding efforts to collaborate with other regional municipal officials to develop a long-term plan for inter-city services.
WHEREAS, Emersub 15, LLC (“Emerson”) is the owner of the South Hill parcel of land previously occupied by Emerson Power Transmission, identified as 620-640 S. Aurora Street, City tax map parcel 106.-1-8 and 810 Danby Road, Town tax map parcel 40.-3-3 (collectively the “Parcel”); and

WHEREAS, Unchained Properties, LLC intends to develop the Parcel into a mixed-used district referred to as the Chainworks District Redevelopment Project (“Project”); and Whereas, the Project has undergone joint environmental review by the City and Town, and on March 26, 2019, the City Planning Board approved Phase 1 of the Project consisting of rehabilitation of existing buildings and hardscape and landscape improvements; and

WHEREAS, Emerson and Unchained Properties, LLC have agreed to convey various public easements to mitigate potential environmental impacts to vegetation and fauna, public health and environment, transportation and circulation, open space and recreation and increases in impervious areas; and

WHEREAS, the easements to be granted include three permanent easements (collectively “Easements”) that, together, will enable the City (potentially in conjunction with the Town of Ithaca) to construct and maintain, for public use, a multi-use trail called the Gateway Trail, intended to run from South Aurora Street to Stone Quarry Rd and beyond, connecting the South Hill Recreation Way and Black Diamond Trails; and

WHEREAS, the Trail Easements are more specifically described as follows:

1. A permanent easement to the City for the portion of the trail, within City limits, upon the “OU-1” subdivided parcel, which parcel will be retained by Emersub 15, LLC for ongoing environmental remediation.

2. A permanent easement to the City for the portion of the trail, within City limits, upon the “OU-2” subdivided parcel, which parcel is intended to be extensively developed by Unchained Properties, LLC, including both primary and secondary trail easements, with said secondary easements included for purposes of providing alternative trail routing in the event that environmental remediation or construction activities require the temporary closure of the primary trail.

3. A permanent easement jointly to the Town and City for the portion of the trail, straddling the Town/City line, upon the “OU-2” subdivided parcel, but in the forested portion of that parcel closer to Stone Quarry Rd., which portion is not currently intended for development (other than the trail).
WHEREAS, General City Law Section 20 empowers the City to accept, hold and administer real property within and without the limits of the city, and the Easements serve the public interest; now therefore be it

RESOLVED, Common Council is supportive of accepting the Easements; and further be it

RESOLVED, That the Mayor, upon the advice of the City Attorney, is authorized to execute documents required to memorialize and accept the Easements, which may include the terms of future maintenance and/or use, with said documents to be substantially similar to the attached Easements, provided, however, that the joint Town-City easement may be executed with such later, more substantial edits as agreed between the Town and Emersub 15, LLC, so long as such edits are acceptable to the Mayor, upon the advice of the City Attorney.
THIS TRAIL EASEMENT AGREEMENT (the “Agreement”) is made and entered into this ______ day of __________, 2020 (the “Effective Date”), by and among EMERSUB 15 LLC, a Delaware limited liability company (“Grantor”), the CITY OF ITHACA, NEW YORK (the “City”), and the TOWN OF ITHACA, NEW YORK (the “Town,” and together with the City, collectively the “Grantee”). Grantor and the Grantee, and their respective successors and assigns, are also referred to herein individually as a “Party” and collectively as the “Parties”.

WITNESSETH:

WHEREAS, Grantor owns real property described in Exhibit A attached hereto and incorporated herein by reference (the “Property”);

WHEREAS, the City and/or the Town (such party, or both, as applicable, performing construction, the “Developing Party”) desire to construct and maintain, for the public use, a multi-use trail (the “Trail”) on and over a portion of the Property; and

WHEREAS, in furtherance of the development of the Trail, Grantor desires to grant, and the Grantee desires to accept, a non-exclusive, perpetual easement (the “Easement”) over those certain portions of the Property legally described and depicted as the highlighted portion of the “Proposed Primary Trail Easement Area” (the “Easement Area”) on Exhibit B attached hereto and incorporated herein by reference for the construction, public use, and maintenance of the Trail (the “Easement Purpose”).

NOW THEREFORE, for and in consideration of Ten and No/100 Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and the Grantee hereby covenant and agree as follows:

1. Grant of Easement. Subject to the terms of this Agreement and subject to all matters of fact or record, Grantor does hereby grant and declare to the Grantee the Easement over the Easement Area to be used exclusively for the Easement Purpose and for no other purpose.

   (a) Pre-Construction Easement Area. The Parties hereby agree that the Easement Area before and during the Developing Party’s construction of the Trail will be as follows: From the point where the City and Town intersect on the Property (the “City/Town Intersection”) to Stone Quarry Road: The Easement Area will be 60 feet wide, as shown on Exhibit B attached hereto and incorporated herein by reference. Notwithstanding the foregoing, should Grantor determine in its sole discretion, acting in good faith, that it needs the Grantee to narrow the Easement Area, Grantor may send a notice of such request to the Grantee. The Grantee shall then have six (6) months to survey and set a course for the Trail at its sole cost and expense, at which point the easement shall narrow to 25 feet, centered on the centerline of the proposed Trail.

   (b) Post-Construction Easement Area. The Parties hereby agree that the Easement Area shall be as follows: City/Town Intersection to Stone Quarry Road: Upon
the Developing Party’s completion of the Trail from City/Town Intersection to Stone Quarry Road, the Easement Area will be 20 feet wide, centered on the centerline of the Trail as-built.

2. Reservation of Rights. The Grantee acknowledges and agrees that Grantor retains for itself all rights with respect to the Easement Area other than the rights expressly granted to the Grantee in Section 1 herein. Without limiting the generality of the preceding sentence, subject to the terms of this Agreement, the Easement shall be expressly subject and subordinate to the following rights hereby reserved by Grantor with respect to the Easement Area:

(a) The right to use the surface areas of the Easement Area for access, ingress and egress over, upon and across the Trail to access and use the Property, provided, however, that Grantor shall not obstruct the Trail except pursuant to Section 3 herein.

(b) The right to enter and cross the Trail (whether above, below or upon the surface of the Easement Area) to install, maintain, repair and replace utility lines and pipes (including, without limitation, water, gas, electric, steam, telecommunications, and other similar services), storm and sanitary sewers, and similar services and improvements, provided, however, that no such improvements or installations may materially restrict or interfere with any access to or use of the Trail by the public or the Grantee between grade level and sixteen (16) feet above grade level.

(c) The right to grant additional access, utility or other easements over, upon and under, and the right to grant others the right to use, the Easement Area, so long as the exercise by Grantor of such rights: (i) does not materially and adversely interfere with the Grantee’s use of the Easement Area for the purposes herein granted; and (ii) is not otherwise prohibited by the terms of this Agreement.

3. Omitted.


(a) Except as otherwise expressly provided herein, the Developing Party shall be responsible for the initial design, construction and ongoing maintenance of the Trail at its own cost and expense, and in accordance with all applicable laws, including, without limitation, any required compliance with the Americans with Disabilities Act, provided, however, that this agreement does not provide Grantor with any authority or standing to enforce any such applicable laws against the Developing Party in the design, construction, and ongoing maintenance of the Trail. The Developing Party hereby agrees that it shall (i) provide the proposed plans, specifications, and schedule for the construction and design of the Trail to Grantor for review prior to performing any construction activities on the Easement Area (which construction activities shall be performed in accordance with the plans, specifications, and—on a reasonable-efforts basis—schedule as finalized pursuant to this Section 4(a)) and (ii) reasonably consider incorporating any input from Grantor relating to such plans, specifications, and schedule. The Developing Party may open the Trail within the Easement Area in phases and/or sections upon completion of said phase and/or section.
(b) In the event that any activities conducted by Grantor within the Easement Area pursuant to Section 2(a), 2(b) or 2(c) damage the Trail within the Easement Area, Grantor shall, at Grantor’s cost, either (i) restore that portion of the Trail to substantially the condition in which it existed immediately prior to such damage or (ii) if Grantor has not performed such restoration within a commercially reasonable period of time, pay the reasonable, out-of-pocket costs incurred by the Developing Party in completing or contracting for the completion of such restoration.

(c) Grantor may construct, at its option, in a manner satisfactory to Grantor and approved by the Grantee, such approval not to be unreasonably withheld, conditioned or delayed, a fence or other device to segregate and restrict access from the Trail to the remainder of the Property, either temporarily or permanently. The initial construction and ongoing maintenance of such fence or other device shall be at Grantor’s sole cost and expense, provided, that, Grantor shall have no obligation to construct such fence or other device, or to leave in place the same, provided, however, the Grantor shall have an obligation to maintain such fence or other device so long as the Grantor chooses to leave the same in place.

(d) Omitted.

(e) Omitted.

(f) Omitted.

(g) Omitted.

5. Defaults; Remedies. In the event of any default with respect to any of the covenants, conditions or restrictions to be observed or performed by Grantor or the Grantee hereunder, the aggrieved Party shall be permitted to cure such default at the defaulting Party’s expense, provided that the defaulting Party shall be afforded a reasonable cure period prior to the aggrieved Party’s exercise of such cure right, such cure period not to exceed: (i) three (3) business days when the default causes the Trail to be closed; and (ii) thirty (30) days for all other defaults, running from the date of the defaulting Party’s receipt of written notice of such default (unless the defaulting Party has commenced cure within such cure period and is diligently pursuing the same to completion, in which event such cure period shall be extended for so long as the defaulting Party shall continue diligently to pursue such cure), and further provided that, in the event of emergency, the aggrieved Party shall have the right to immediately cure such default at the defaulting Party’s expense. The defaulting Party shall reimburse the aggrieved Party for all reasonable, out-of-pocket costs incurred in curing any such default promptly upon written notice of such costs by the aggrieved Party. In addition, immediately from and after any default in respect of any of the covenants, conditions or restrictions to be observed or performed by Grantor or the Grantee hereunder, the aggrieved Party shall be entitled to exercise any and all other rights and remedies permitted by law or equity, including the remedies of injunction and/or specific performance.

6. Insurance. Each Grantee shall maintain Commercial General Liability with minimum limits for Bodily Injury and Property Damage Each Occurrence $5,000,000; Personal Injury & Advertising Injury Limit $5,000,000; Products/Completed Operations Aggregate
Such policies shall cover occurrences arising out of the use, occupancy, misuse or condition of the Easement Area and improvements thereon and shall name Grantor as an additional insured. Upon request by Grantor, each Grantee shall deliver to Grantor a certificate of insurance evidencing the foregoing coverage.

7. **Liability.** Each Grantee, severally and not jointly, hereby assumes all liability with respect to personal injury or property damage that may occur on the Property, the Easement Area and/or the Trail from any cause proximately and primarily relating to or arising from the construction, use, and/or maintenance of the Trail and shall, to the maximum extent enforceable under applicable law, fully and unconditionally indemnify, defend and hold Grantor and the Property free and harmless from and against any cost, expense, charge, lien or judgment arising as a result of any such personal injury or property damage, unless such personal injury or property damage was in whole or in part the result of the negligence or willful misconduct of Grantor or Grantor’s agents, employees, contractors, or predecessors-in-interest, in which case liability shall be allocated between the involved parties in proportion to their respective degrees of fault, negligence or willful misconduct contributing to such liability. Notwithstanding the preceding sentence, the Grantee shall in no event be liable for any environmental liability or cleanup costs under this Agreement, including but not limited to any liability arising under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and Article 12 of the New York State Navigation Law, unless such liability arises from a release, discharge, spill, or disposal of a Hazardous Substance (as that term is defined under CERCLA) or Petroleum (as that term is defined under Article 12 of the Navigation Law) by Grantee employees, agents, or contractors, that occurs subsequent to the commencement of construction activities for the Trail.

8. **Tax Benefits.** The Grantee hereby agrees to reasonably cooperate with any reasonable requests of Grantor which are designed to permit Grantor to obtain the benefits of any tax credits and/or tax deductions available under state and/or federal law as a result of Grantor’s granting of the Easement.

9. **Option to Convey Fee Interest.** Grantor shall be permitted, with the Grantee’s approval, not to be unreasonably withheld, conditioned or delayed, to convey the fee interest in all or a portion of the Easement Area to the City or Town, as applicable, in which event, (i) Grantor will bear the cost of subdividing the Property to permit such conveyance; (ii) the Grantee will cooperate with Grantor’s request to convey such fee interest; and (iii) such conveyance will be subject to the express reservation by the Grantor of such easement and other rights to permit the Grantor to retain the benefits of all rights held by it pursuant to this Agreement.

10. **Omitted.**

11. **No Third-Party Beneficiary; No Dedication.** Nothing contained in this Agreement shall be deemed a gift or dedication of any portion of the Easement Area or Property to the general public or for the general public or for any public purpose whatsoever nor shall anything contained in this Agreement confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary or otherwise. Without limiting the generality of the preceding sentence, in no event shall any third parties, including any invitees of the Grantee or the general public be entitled to enforce any provision of this Agreement.
12. **Severability.** The unenforceability of any provision of this Agreement shall not render the remaining provisions hereof unenforceable or void.

13. **Notices.** All notices, demands, requests, consents, approvals and other communications required or permitted to be given hereunder, or which are to be given with respect to this Agreement, shall be in writing and shall be sent by (i) registered or certified mail, return receipt requested, or (ii) delivered personally, including by air courier or expedited mail service, provided such notices shall be addressed or delivered to the Parties at their respective addresses set forth below:

If to Grantor:  
EMERSUB 15 LLC  
c/o Emerson Electric Co.  
8000 West Florissant Avenue  
St. Louis, MO 63136  
Attn: Steve Clarke  
Environmental Affairs and Real Estate

With a copy to:

James G. Buell, Esq.  
Bryan Cave Leighton Paisner LLP  
One Metropolitan Square  
Suite 3600  
St. Louis, MO 63102

If to the City:  
Superintendent of Public Works  
City of Ithaca  
108 E. Green St.  
Ithaca, NY 14850

With a copy to:

City Attorney  
City of Ithaca  
108 E. Green St.  
Ithaca, NY 14850

If to the Town:  

or to such other address as may be specified from time to time in writing. Notice may be given by a Party’s attorney or other representative. All such notices hereunder shall be deemed to have been given on the date of delivery or the date marked on the return receipt unless delivery is refused or cannot be made because of any incorrect address provided by the addressee, in which case the date of postmark shall be deemed the date notice has been given. All costs and expenses of the delivery of notices hereunder shall be borne and paid for by the delivering Party, and no notice shall be deemed to have been validly delivered hereunder unless delivery charges shall have been prepaid.
14. **Covenants Running With the Land.** All provisions of this Agreement, including the benefits and burdens, shall run with the land and are binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in or to any portion of, or interest or estate in the Property for so long as, and to the extent, any such party shall have an interest in the land. Any reference herein to either of the Parties shall include the plural if there should be more than one or as the context may require. If at any time there should be more than one individual and/or entity comprising either of the Parties, each such individual and/or entity shall be jointly and severally liable for the performance of all obligations of such Party hereunder. If Grantor shall sell, transfer or assign the Property or its interest therein, it shall be released from any and all obligations hereunder from and after the date of such sale, transfer or assignment. Notwithstanding the foregoing, the Grantee shall not be permitted to transfer or otherwise assign its rights, title, and interest in this Agreement or any portion of the Trail except to another municipal corporation or not-for-profit corporation.

15. **Non-Recourse.** Notwithstanding any provision hereof to the contrary, the obligations created by this Agreement shall be without recourse whatsoever to any of the Parties respective partners, members, shareholders, officers, directors or employees.

16. **Amendment.** This Agreement may not be modified, amended or terminated without the written consent of Grantor and the Grantee.

17. **No Joint Venture.** This Agreement shall not be deemed or construed to make the parties hereto partners or joint venturers in any undertaking.

18. **Entire Agreement.** This Agreement, including all exhibits attached hereto, contains the entire agreement between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are superseded in total by this Agreement and exhibits hereto.

19. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of New York, without regard to conflicts laws or choice of law rules thereof and any litigation arising from this Agreement shall be venued in Tompkins County.

20. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

21. **Superior Rights.** Notwithstanding anything contained herein to the contrary, the Grantee acknowledges that (i) the Property and the Easement Area is burdened by various easements and other third-party rights which may be superior to the Easement and other rights granted to the Grantee hereunder, including, without limitation, rights held by the New York State Electric and Gas Corporation, preferential rights held by the New York State Department of Transportation, and others (any such holders of superior rights or interests, collectively, the “Superior Rights Holders”) and (ii) the Easement and the other rights granted to the Grantee hereunder may require the consent and approval of any such Superior Rights Holders.
22. **Authority.** The undersigned persons executing this instrument represent and certify on behalf of the Party for which he/she is signing, that he/she has full power and authority to execute and deliver this instrument; that (as to Grantor) Grantor has full capacity to convey the real estate interest described; that (as to the City) the City has full authority to enter into this Agreement; and that all necessary action for the making of this Agreement and conveyance has been duly taken; that (as to the Town) the Town has full authority to enter into this Agreement; and that all necessary action for the making of this Agreement and conveyance has been duly taken.

[**Signatures Begin on the Next Page**]
IN WITNESS WHEREOF, Grantor and the Grantee have caused this Agreement to be executed as of the day and year first above written.

GRANTOR:

EMERSUB 15 LLC

By: ______________________________________
Name: ______________________________________
Title: ______________________________________

STATE OF ____________
COUNTY OF ____________

On the ___ day of ____________, 2020, before me, the undersigned, personally appeared ____________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

___________________________  
Notary Public (SEAL)

[Signatures continue on the next page.]
CITY:

THE CITY OF ITHACA, NEW YORK

By: ________________________________
Name: __________________________________
Title: _________________________________

STATE OF NEW YORK )
COUNTY OF __________ ) ss.

On the ___ day of __________, 2020, before me, the undersigned, personally appeared __________________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

________________________________________
Notary Public (SEAL)
TOWN:

THE TOWN OF ITHACA, NEW YORK

By: ________________________________
Name: ______________________________
Title: ______________________________

STATE OF NEW YORK  )
COUNTY OF _____________ ) ss.

On the ___ day of __________, 2020, before me, the undersigned, personally appeared ______________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_________________________
Notary Public (SEAL)
**Exhibit A to Trail Easement Agreement**

**Legal Description of Property**

**ALL THAT TRACT OR PARCEL OF LAND** situate in the City and Town of Ithaca, County of Tompkins and State of New York and being more particularly described as follows:

**BEGINNING** at an existing railroad monument in the northerly line of the former Lehigh Valley Railroad with the westerly road boundary of South Aurora Street (A.K.A New York State Route 96B);

**thence** S.02°51’33”E., along said westerly road boundary of South Aurora Street, a distance of 72.42 feet to an angle point;

**thence** S.02°02’26”E., continuing along said westerly road boundary of South Aurora Street, a distance of 204.12 feet to a point of curvature;

**thence** southwesterly, along a curve to the right, having a radius of 370.00 feet an arc distance of 177.34 feet and a chord bearing and distance of S.11°41’26”W., 175.65 feet;

**thence** S.25°25’18”W., continuing along said westerly road boundary of South Aurora Street, a distance of 295.74 feet to an existing iron pipe;

**thence** N.63°50’28”W., a distance of 100.00 feet to a point;

**thence** S.26°09’32”W., a distance of 413.00 feet to a point;

**thence** S.74°58’28”E., a distance of 101.00 feet to its intersection said westerly road boundary of South Aurora Street;

**thence** S.26°09’32”W., along said westerly road boundary of South Aurora Street, a distance of 28.00 feet to a point;

**thence** N.63°54’22”W., a distance of 32.40 feet to an existing iron pipe,

**thence** N.85°05’42”W., a distance of 72.17 feet to an existing iron pipe;

**thence** S.26°54’14”W., a distance of 161.60 feet to an existing iron pipe;

**thence** S.03°30’29”E., a distance of 35.30 feet to an existing iron pipe;

**thence** S.84°53’19”E., a distance of 89.00 feet to its intersection with said westerly road boundary of South Aurora Street;
thence S.26º42’55”W., along said westerly road boundary of South Aurora Street, a
distance of 48.00 feet to an angle point;

thence S.31º44’06”W., continuing along said westerly road boundary of South Aurora
Street, a distance of 122.19 feet to the northeasterly corner of New York State Appropriation of
State Highway 5043, Map No. 6, Parcel No. 6;

thence westerly and southwesterly along said New York State Appropriation of State
Highway 5043, Map No. 6, Parcel No. 6 the following courses and distances;

  N.63º58’34”W., a distance of 17.00 feet to a point;
  S.31º44’04”W., a distance of 100.50 to an angle point;
  S.26º01’26”W., a distance of 600.13 feet to an angle point;
  S.25º46’26”W., a distance of 483.13 feet to an existing granite monument;

thence N.64º11’56”W., a distance of 173.40 feet to a point;

thence S.25º44’04”W., a distance of 200.00 feet to a point;

thence S.63º58’56”E., a distance of 9.86 feet
to a point;

thence S.26º03’05”W., a distance of 100.00 feet to a point;

thence S.63º52’14”E., a distance of 173.92 feet to its intersection the northwesterly corner
of New York State Appropriation of State Highway 5043, Map No. 6, Parcel No. 7;

thence S.25º46’46”W., along the northwesterly line of said New York State Appropriation of State
Highway 5043, Map No. 6, Parcel No. 7, a distance of 299.66 feet to a point;

thence N.68º13’50”W., a distance of 183.31 feet to an existing iron pipe;

thence S.21º46’10”W., a distance of 115.00 feet to a point;

thence S.72º34’50”E., a distance of 191.73 feet to an existing granite monument at the
northwesterly corner of New York State Appropriation of State Highway 5043, Map No. 6, Parcel
No. 8;

thence S.20º27’45”W., along the northwesterly line of said New York State Appropriation
of State Highway 5043, Map No. 6, Parcel No. 8, a distance of 202.82 feet to a point, said point
being 1.10 feet north of an existing granite monument;

thence N.73º42’24”W., a distance of 388.05 feet to an existing iron pipe;

thence S.16º17’36”W., a distance of 100.00 feet to and existing iron pipe;
thence S.73º42’24”E., a distance of 358.54 feet to the northwesterly corner of New York State Appropriation of State Highway 5043, Map No. 6, Parcel No. 9;

thence S.13º00’26”W., along the northwesterly line of said New York State Appropriation of State Highway 5043, Map No. 6, Parcel No. 8 and through an existing granite monument, a distance of 50.20 feet to a point;

thence N.73º41’49”W., a distance of 361.59 feet to an existing iron pipe;

thence S.16º16’07”W., a distance of 478.70 feet to an existing iron pipe;

thence S.87º30’52”W., a distance of 968.14 feet to an existing iron pipe;

thence N.01º40’24”W., a distance of 759.61 feet to an existing iron pipe at the intersection of the southeasterly line of the former Lehigh Valley Railroad;

thence S.51º30’23”W., along southeasterly line of the former Lehigh Valley Railroad, a distance of 306.88 feet to an existing railroad monument at a point of curvature;

thence southwesterly, along a curve to the right, having a radius of 2064.25 feet an arc distance of 300.22 feet and a chord bearing and distance of S.55º40’44”W., 299.96 feet to an existing railroad monument;

thence S.59º15’37”W., along said southeasterly line of the former Lehigh Valley Railroad, a distance of 173.94 feet to its intersection of the centerline of Stone Quarry Road (49.5 feet wide) (formerly Teers Road);

thence northeasterly along said centerline of Stone Quarry Road the following courses and distances:

N.47º12’29”E., a distance of 60.51 feet to a point;
N.29º26’06”E., a distance of 52.69 feet to a point;
N.24º48’25”E., a distance of 43.66 feet to its intersection with the northwesterly line of the former Lehigh Valley Railroad;

thence N.59º15’37”E., along said northwesterly line of said former Lehigh Valley Railroad, a distance of 56.57 feet to an existing iron pipe at a point of curvature;

thence northeasterly, along a curve to the left, having a radius of 1766.95 feet an arc distance of 267.50 feet and a chord bearing and distance of N.54º55’24”E., 267.24 feet to an existing railroad monument;
thence N.51°30'47"E., along said northwesterly line of said former Lehigh Valley Railroad, a distance of 743.49 feet to an existing railroad monument at a point of curvature;

thence northeasterly, along a curve to the left having a radius of 3261.76 feet an arc distance of 462.53 feet and a chord bearing and distance of N.47°26’38”E., 462.14 feet to an existing iron pipe and point of compound curvature;

thence northeasterly, along a curve to the left having a radius of 5637.73 feet an arc distance of 615.64 feet and a chord bearing and distance of N.40°17’19”E., 615.33 feet to an existing railroad monument;

thence N.37°06’36”E., along said northwesterly line of said former Lehigh Valley Railroad, a distance of 641.31 feet to an existing railroad monument;

thence N.19°17’24”W., a distance of 427.60 feet to its intersection with the southeasterly road boundary of West Spencer Street;

thence N.28°25’19”E., along said southeasterly road boundary of West Spencer Street, a distance of 542.73 feet to a point;

thence S.60°31’42”W., a distance of 123.00 feet to an existing iron pipe;

thence N.29°28’18”E., a distance of 50.00 feet to an existing iron pipe;

thence N.60°31’42”W., a distance of 1.30 feet to a point;

thence N.29°28’18”E., a distance of 60.00 feet to an existing iron pipe;

thence N.20°16’18”E., a distance of 22.00 feet to a point;

thence S.58°01’42”E., a distance of 136.72 feet to its intersection with the westerly road boundary of South Cayuga Street;

thence S.01°44’18”E., along said westerly road boundary of South Cayuga Street, a distance of 118.54 feet to an existing iron pipe;

thence S.37°19’45”W., a distance of 318.10 feet to an existing iron pipe;

thence S.52°40’15”E., a distance of 131.48 feet to its intersection of said northeasterly line of said former Lehigh Valley Railroad;

thence N.37°10’20”E., along said northeasterly line of said former Lehigh Valley Railroad, a distance of 42.66 feet to an existing iron pipe at a point of curvature;
thence northeasterly, along a curve to the right, having a radius of 2187.09 feet an arc distance of 157.02 feet to a point;

thence S.01°12′09″E., a distance of 28.39 feet to a point;

thence S.47°59′07″E., a distance of 113.00 feet to a point;

thence N.42°00′53″E., a distance of 127.56 feet to a point;

thence N.48°02′39″W., a distance of 81.00 feet to a point;

thence N.36°58′29″E., a distance of 102.64 feet to a point;

thence N.43°11′21″W., a distance of 198.89 feet to a point;

thence S. 59°22′08″ W., a distance of 27.54 feet to its intersection with the easterly road boundary of South Cayuga Street;

thence N. 01°12′09″ W., along said easterly road boundary of South Cayuga Street, a distance of 40.18 feet to a point;

thence N.59°22′08″E., a distance of 142.00 feet to an existing iron pipe;

thence N.40°16′41″W., a distance of 47.38 feet to a point of curvature along the southeasterly road boundary of South Hill Terrace;

thence northeasterly, along a curve to the left, having a radius of 257.27 feet an arc distance of 84.00 feet and a chord bearing and distance of N35°37′08″E., 83.63 feet to a point;

thence S.68°10′44″E., a distance of 89.62 feet to a point;

thence N.36°10′17″E., a distance of 50.00 feet to a point;

thence N.67°17′10″W., a distance of 100.00 feet to its intersection with said southeasterly line of South Hill Terrace;

thence N.22°53′08″E., along said southeasterly road boundary of South Hill Terrace, a distance of 50.00 feet to an iron pipe;

thence S.67°06′52″E., a distance of 128.38 feet to a point;

thence N.01°05′38″E., a distance of 106.32 feet to a point;

thence N.88°14′20″E., a distance of 23.66 feet to a point;
thence N.22°35'04"E., a distance of 64.09 feet to a point;

thence N.87°40'07"E., a distance of 160.94 feet to its intersection with the westerly road boundary of Turner Place;

thence S.02°19'41"E., along said easterly road boundary of Turner Place, a distance of 214.20 feet to its intersection with said northeasterly line of said former Lehigh Valley Railroad;

thence N.50°10'21"E., along said northeasterly line of said former Lehigh Valley Railroad, a distance of 305.02 feet to an existing iron pipe;

thence N.82°08'58"E., a distance of 7.60 feet to an existing iron pipe;

thence N.00°00'04"W., a distance of 7.00 feet to an existing iron pipe;

thence N.53°53'26"E., continuing along said northeasterly line of said former Lehigh Valley Railroad, a distance of 13.44 feet to a point of curvature;

thence northeasterly, along a curve to the right, having a radius of 1825.61 feet an arc distance of 167.10 and a chord bearing and distance of N52°48'05"E., 167.04 feet to an existing railroad monument;

thence northeasterly, along a curve to the right, having a radius of 14500.77 feet an arc distance of 139.18 feet and a chord bearing and distance of N.58°10'53"E., 139.18 feet to a point of compound curvature;

thence northeasterly, along a curve to the right, having a radius of 411.32 feet an arc distance of 46.08’ and a chord bearing and distance of N.61°39’27”E., 46.06 feet to the point of beginning.

Containing 95.0403 Acres of Land more or less and intending to describe “OU-2” as shown on the subdivision map of [TITLE] made by [SURVEYOR] dated [DATE] and filed in [LIBER/PAGE] in the Tompkins County Clerk’s Office.
Exhibit B to Trail Easement Agreement

Legal Description and Depiction of Easement Area

(see attached)
PLEASE NOTE: CONSTRUCTION OF THE PRIMARY TRAIL TO BE PERFORMED WITHIN THE CONSTRUCTION EASEMENT AS DEPICTED. THE TWENTY (20) FOOT PERMANENT EASEMENT WILL BE PROVIDED AFTER THE CONSTRUCTION OF THE TRAIL. THE PERMANENT EASEMENT SHALL BE CENTERED ON THE AS-CONSTRUCTED TRAIL.
It is a violation of the New York Education Law, Article 145 Section 7209, for any person, unless he is acting under the direction of a licensed professional engineer or land surveyor, to alter an item in any way. If an item bearing the seal of an engineer or land surveyor is altered, the altering engineer or land surveyor shall affix to the item his seal and the notation "Altered By" followed by his signature and the date of such alteration, and a specific description of the alteration.
PLEASE NOTE: CONSTRUCTION OF THE PRIMARY TRAIL TO BE PERFORMED WITHIN THE CONSTRUCTION EASEMENT AS DEPICTED. THE TWENTY (20) FOOT PERMANENT EASEMENT WILL BE PROVIDED AFTER THE CONSTRUCTION OF THE TRAIL. THE PERMANENT EASEMENT SHALL BE CENTERED ON THE AS-CONSTRUCTED TRAIL.
It is a violation of the New York Education Law, Article 145 Section 7209, for any person, unless he is acting under the direction of a licensed professional engineer or land surveyor to alter an item in any way. If an item bearing the seal of an engineer or land surveyor is altered, the altering engineer or land surveyor shall affix to the item his seal and the notation "altered by" followed by his signature and the date of such alteration, and a specific description of the alteration.

Please note: Construction of the primary trail to be performed within the construction easement as directed. The twenty (20) foot permanent easement will be provided after the construction of the trail. The permanent easement shall be centered on the as-constructed trail.
CITY ADMINISTRATION COMMITTEE:
4.1 Declaration of Lead Agency for Environmental Review of Design Guidelines for the Installation of Small Cell Facilities to Support Small Cell Wireless Technology Governed by a Master License Agreement

WHEREAS, 6 NYCRR, Part 617, of the State Environmental Quality Review Law and Chapter 176.6 of the City Code, Environmental Quality Review require a Lead Agency be established for conducting Environmental Review of projects in accordance with local and state environmental law, and

WHEREAS, the City of Ithaca Common Council has one pending action for approval of the installation of small cell facilities, infrastructure, and/or equipment to support small cell wireless technology governed by the terms of the City’s Small Wireless Communications Facilities Master License Agreement, adopted by the Common Council on May 6, 2020, and

WHEREAS, applicants must ensure adherence to the adopted design guidelines and all other applicable standards, regulations, and laws, consistent with the Common Council’s regulatory roles over the right-of-way as indicated by Article II, Chapter 152 of the City Code, and over the aesthetic and design concerns of the City as indicated by Article VA, Chapter 325 of the City Code, and

WHEREAS, applicants must have an executed and valid license agreement prior to submission of an application to the Office of City Engineering for the required street permit to, and

WHEREAS, this is a Type I Action under the City of Ithaca Environmental Quality Review Ordinance (“CEQRO”) and the State Environmental Quality Review Act (“SEQRA”), and is subject to Environmental Review, and

WHEREAS, State Law specifies that, for actions governed by local Environmental Review, the Lead Agency shall be that local agency which has primary responsibility for approving and funding or carrying out the action; now, therefore, be it

RESOLVED, That the City of Ithaca Common Council does hereby declare itself Lead Agency for the Environmental Review of design guidelines and all other applicable standards, regulations, and laws, consistent with the Common Council’s regulatory roles over the right-of-way as indicated by Article II, Chapter 152 of the City Code, and over the aesthetic and design concerns of the City as indicated by Article VA, Chapter 325 of the City Code.
4.2 A Local Law to Override the Tax Levy Limit Established in General Municipal Law

Local Law No. 2020 -

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

Section 1. Legislative Intent
It is the intent of this local law to allow the City of Ithaca to adopt a budget for the fiscal year commencing January 1, 2021, that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

Section 2. Authority
This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government’s governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

Section 3. Tax Levy Limit Override
The Common Council of the City of Ithaca, County of Tompkins, New York, is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2021, that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

Section 4. Severability
If a court of competent jurisdiction determines that any clause, sentence, paragraph, subdivision, or part of this local law or application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective Date
This local law shall take effect immediately upon filing with the Secretary of State.
4.3 Removal of the First White Settlers Marker from DeWitt Park

WHEREAS, Dewitt Park is within the Dewitt Park Historic District, and

WHEREAS, an historical marker in Dewitt Park, dedicated in 1933 by the Daughters of the American Revolution (DAR), purports to recognize the first White settlers in this area, though there is dispute over the historical accuracy of this claim, and

WHEREAS, regardless of who were actually the first non-Indigenous settlers of this area, this area was already settled by the Haudenosaunee, who were ejected from this land through use of explicit violence, forced to sign unfair treaties, and who never received fair compensation for their loss, and

WHEREAS, the marker reflects the DAR’s focus on White Americans and the promotion of an intentionally limited version of American history, a history that often marginalized the contributions of women, Black and Indigenous people and other people of color, and

WHEREAS, as our community has become more socially and culturally aware in the decades after its installation, the marker has become a local symbol of exclusion, oppression, and injustice, and

WHEREAS, this historical marker has generated numerous complaints and has been a magnet for vandalism, and

WHEREAS, The History Center in Tompkins County will accept the plaque from the historic marker into their collection in the condition provided by the City, and

WHEREAS, the Ithaca Landmarks Preservation Commission, at its meeting on September 15, 2020, granted a Certificate of Appropriateness for the removal of the historic marker, noting that it was installed after the period of significance (1820 – 1930) of the Dewitt Park Historic District, and

WHEREAS, the choice of who is recognized in the stories we tell from history is a statement about who is valued and who is not, and

WHEREAS, the City of Ithaca wishes to tell a more inclusive story of our region’s history; now, therefore, be it

RESOLVED, That the City of Ithaca Common Council authorizes the removal of the First White Settlers historical marker from Dewitt Park; and be it further

RESOLVED, That the plaque from the historical marker shall be donated to The History Center to be accessioned into their collection and used for future educational opportunities as they deem appropriate.
4.3 Removal of the First White Settlers Marker from DeWitt Park – Proposed Amendments by Alderperson McGonigal

WHEREAS, Dewitt Park is within the Dewitt Park Historic District, and

WHEREAS, an historical marker in Dewitt Park, dedicated in 1933 by the Daughters of the American Revolution (DAR), purports to recognize the first White settlers in this area, though there is dispute over the historical accuracy of this claim, and

WHEREAS, regardless of who were actually the first non-Indigenous settlers of this area, this area was already settled by the Haudenosaunee, who were ejected from this land through use of explicit violence, forced to sign unfair treaties, and who never received fair compensation for their loss; and

WHEREAS, the marker reflects the DAR’s focus on White Americans and the promotion of an intentionally limited version of American history, a history that often marginalized the contributions of women, Black and Indigenous people and other people of color; and

WHEREAS, as our community has become more socially and culturally aware in the decades after its installation, the marker has become a local symbol of exclusion, oppression, and injustice; and

WHEREAS, this historical marker has generated numerous complaints and has been a magnet for vandalism; and

WHEREAS, the land here was once home to the Cayuga Indians, one of the Six Nations of the Haudenosaunee Confederacy, and of the Cayuga's refugee tenants, the Tutelos and Suponis. The Cayugas fought and then fled before General Sullivan's invading American army in September of 1779. By 1789, the land was largely unoccupied and American settlers had begun to arrive, albeit before legal land claims could be made, and

WHEREAS, this marker and others created by the Daughters of the American Revolution (DAR) reflected encouragement by the State of New York to highlight local places, and honored actions of DAR members’ ancestors, and of social norms of the times where women's roles, and the roles of indigenous peoples and people of color were rarely acknowledged, and

WHEREAS our community today seeks to promote accurate and inclusive memorials to the past in a wide variety of means and methods, and

WHEREAS, The History Center in Tompkins County will accept the plaque from the historic marker into their collection in the condition provided by the City, and

WHEREAS, the Ithaca Landmarks Preservation Commission, at its meeting on September 15, 2020, granted a Certificate of Appropriateness for the removal of the
historic marker, noting that it was installed after the period of significance (1820 – 1930) of the Dewitt Park Historic District, and

WHEREAS, the choice of who is recognized in the stories we tell from history is a statement about who is valued and who is not; now, therefore, be it

WHEREAS, the City of Ithaca wishes to tell a more inclusive story of our region’s history; now, therefore, be it

RESOLVED, That the City of Ithaca Common Council authorizes the removal of the First White Settlers historical marker from Dewitt Park, and, be it further

RESOLVED, That the plaque from the historical marker shall be donated to The History Center to be accessioned into their collection and used for future educational opportunities as they deem appropriate, and, be it further

RESOLVED, That City staff will develop a plan to raise funds and create a design for an informative historical marker to be placed on or near the place of this marker to give more information about the significance of the site for the Haudenosaunee people, post Revolutionary War colonists, and 20th and 21st century Ithacans.
**MEMORANDUM**

From: Bryan McCracken, Secretary, Ithaca Landmarks Preservation Commission  
To: Members, City Administration Committee  
Date: September 17, 2020  
Subject: DeWitt Park, DeWitt Park Historic District – Proposal to Remove a Stone and Bronze Monument in DeWitt Park Known as the “First White Settlers” Marker

At their regularly scheduled monthly meeting on September 15, 2020, the Ithaca Landmarks Preservation Commission (ILPC) reviewed an application for a Certificate of Appropriateness, submitted by the City of Ithaca, to remove the “First White Settlers” marker located in the northwest corner of DeWitt Park in the DeWitt Park Historic District. As noted in the attached adopted resolution, the bronze marker was installed by the Cayuga Chapter of the Daughters of the American Revolution in 1933 to commemorate the arrival and settlement of Johnathan Woodworth and Robert McDowell in the area that would become the City of Ithaca. This marker is a City-owned improvement within a locally designated historic district, and as such, a Certificate of Appropriateness is required for its removal pursuant to Section 228-12 of the Municipal Code.

In their review of the application, the ILPC noted that the marker was installed outside of the DeWitt Park Historic District’s period of significance. In general terms, a period of significance is defined as the period during which the resources within a district gained their historic value. Resources constructed or installed during this period are considered to have historic materials or features that make them contributing elements of the district, and they are protected by the principles enumerated in the Landmarks Ordinance. Those constructed or installed outside of this period are considered non-historic or non-contributing and are not protected in the same way. As identified in the district nomination materials, the period of significance for the DeWitt Park Historic District is 1820 to 1930. As the “First White Settler” marker was installed outside of this period, the ILPC determined it did not possess historic materials or features subject to the protections of the Landmarks Ordinance, which narrowed the ILPC’s review to the assessment of the impact of the proposal on adjacent historic resources and the district as a whole. It was determined that the removal would not have a significant impact on the historic value of the area and the ILPC approved the application after a properly noticed public hearing. The written public comments from this public hearing are attached for your review.
RESOLUTION: Moved by D. Kramer, seconded by K. Olson.

WHEREAS, DeWitt Park is located in the DeWitt Park Historic District, as designated under Section 228-3 of the City of Ithaca Municipal Code in 1971, and as listed on the New York State and National Registers of Historic Places in 1971, and

WHEREAS, as set forth in Section 228-4 of the Municipal Code, an Application for a Certificate of Appropriateness dated August 28, 2020 was submitted for review to the Ithaca Landmarks Preservation Commission (ILPC) by the City of Ithaca, including the following: (1) two narratives respectively titled Description of Proposed Change(s) and Reasons for Change(s); (2) two photographs documenting existing conditions, and

WHEREAS, the ILPC has also reviewed the DeWitt Park Historic District National Register Nomination Form, and the City of Ithaca’s DeWitt Park Historic District Summary Statement, and

WHEREAS, the proposed project involves the removal of a bronze and stone monument in the northwest corner of DeWitt Park known as the “First White Settlers” marker, and the donation of the bronze plaque to the History Center in Tompkins County for accession into their collection, and

WHEREAS, the issuance of a Certificate of Appropriateness is a Type II Action under the New York State Environmental Quality Review Act and the City Environmental Quality Review Ordinance for which no further environmental review is required, and

WHEREAS, the applicant has provided sufficient documentation and information to evaluate impacts of the proposal on the subject property and surrounding properties, and

WHEREAS, a Public Hearing for the purpose of considering approval of the Application for Certificate of Appropriateness was conducted at the regularly scheduled ILPC meeting on September 15, 2020, now therefore be it

RESOLVED, that the ILPC has made the following findings of fact concerning the property and the proposal:

As identified in the City of Ithaca’s DeWitt Park Historic District Summary Statement, the period of significance for the area now known as the DeWitt Park Historic District is 1820-1930.

As indicated in the National Register of Historic Places Inventory – Nomination Form, DeWitt Park was laid out by, and later named for, New York State’s first Survey General, Simeon DeWitt, in the early-19th century as the community’s “public square. To ensure DeWitt Park became the center of the burgeoning village, DeWitt donated lots around it for a school, a church, and other civic uses.
Constructed within the period of significance of the DeWitt Park Historic District and possessing a high level of architectural integrity, the DeWitt Park is a contributing element of the DeWitt Park Historic District.

The proposal under consideration involves the removal of a marker installed by the Cayuga Chapter of the Daughters of the American Revolution (DAR) to commemorate Ithaca’s “First White Settlers” in 1933. The marker consists of a bronze plaque mounted to a stone boulder. The text upon the plaque reads: The First White Settlers in Ithaca Were Revolutionary Soldiers Jonathan Woodworth and Robert McDowell in 1788; Cabin Sites Near This Marker. The intent of the City’s proposal is to remove this marker, which purportedly presents incorrect and culturally insensitive information.

The marker was installed outside the DeWitt Park Historic District’s period of significance and, therefore, does not possess historic materials or features that are subject to protection under the Principles enumerated in Section 228-5 of the Municipal Code or the Secretary of the Interior’s Standards.

In consideration of this and all approvals of proposals for alterations, new construction or demolition in historic districts, the ILPC must determine that the proposed exterior work will not have a substantial adverse effect on the aesthetic, historical or architectural significance and value of either the landmark or, if the improvement is within a district, of the neighboring improvements in such district. In considering architectural and cultural value, the Commission shall consider whether the proposed change is consistent with the historic value and the spirit of the architectural style of the landmark or district in accordance with Section 228-6 of the Municipal Code. In making this determination, the Commission is guided by the principles set forth in Section 228-6B of the Municipal Code, as further elaborated in Section 228-6C, and by the Secretary of the Interior’s Standards for Rehabilitation, and in this case specifically the following principles and Standards:

Principle #2 The historic features of a property located within, and contributing to the significance of, an historic district shall be altered as little as possible and any alterations made shall be compatible with both the historic character of the individual property and the character of the district as a whole.

Standard #2 The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features and spaces that characterize a property will be avoided.

Standard #9 New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
As a non-contributing element, the ILPC’s evaluation of the proposed removal is limited to the assessment of the impact of the proposed work on adjacent historic structures and on the DeWitt Park Historic District as a whole, with the guiding principle being that the proposed work must not negatively impact the historic aesthetic quality of neighborhood.

With respect to Principle #2, Standard #2, and Standard #9, the removal of the marker will not remove distinctive materials and will not alter features and spaces that characterize the DeWitt Park Historic District.

RESOLVED, that, based on findings set forth above, the proposal will not have a substantial adverse effect on the aesthetic, historical, or architectural significance of DeWitt Park and the DeWitt Park Historic District as set forth in Section 228-6, and be it further

RESOLVED, that the Ithaca Landmarks Preservation Commission determines that the proposal meets the criteria for approval under Section 228-6 of the Municipal Code, and be it further

RESOLVED, that the ILPC approves the Application for a Certificate of Appropriateness.

RECORD OF VOTE:
Moved by: D. Kramer
Seconded by: K. Olson
In Favor: A. Smith, D. Kramer, K. Olson, S. Stein, E. Finegan
Against: S. Gibian
Abstain: 0
Absent: 0
Vacancies: 1

Notice: Failure on the part of the owner or the owner’s representative to bring to the attention of the ILPC staff, any deviation from the approved plans, including, but not limited to, changes required by other involved agencies or that result from unforeseen circumstances as construction progresses may result in the issuance by the building department of a stop work order or revocation of the building permit.
Preliminary comments on the boulder and tablet erected in DeWitt Park in 1933**

Mary Raddant Tomlan, City of Ithaca Historian 15 September 2020

It is the intent of this report to provide preliminary historical background regarding the presence of the boulder and bronze tablet located near the western edge of DeWitt Park, immediately off of and facing the sidewalk on the west side of North Cayuga Street. As recounted on the tablet, the historical marker was intended to commemorate two Revolutionary soldiers, Jonathan Woodworth and Robert McDowell, who were described as the “First White Settlers” in Ithaca. The year of their settlement was given as 1788, and it was stated that their cabin sites were “Near This Marker.”

This boulder and its bronze tablet were erected in 1933 by the Cayuga Chapter of the Daughters of the American Revolution and the State of New York, one of a considerable number of physical objects conceived by both parties during the 1920s and 1930s and sited by one or both of them throughout the city and county to mark persons, places and events in Tompkins County’s history.

The local chapter of the Daughters of the American Revolution was organized in 1894, following the creation of the national society, founded in 1890, and earlier Sons of the American Revolution. As the Cayuga Chapter, it was stated to have been named from the Cayuga Indians. (Programs of the D.A.R. for 1936-1937. A Taughannock Chapter was organized in Trumansburg in 1920-21.) The organization sought to increase knowledge of persons significant in achieving American independence, promoting the diffusion of that knowledge and fostering patriotism and respect for institutions of American freedom.

Newspaper accounts and available brochures indicate that the chapter’s programs included social and cultural aspects, such as luncheons and musical performances (including patriotic “hymns”) as well as educational presentations on persons and events prominent in the early history of the nation. Presentations on women such as Martha Washington sometimes included skits with costumed performers, while there were lectures such as that on “The Influence of the American Indian on Early American Civilization” by Cornell University’s Erl A. Bates, an ethnologist and Extension advisor in the College of Agriculture who worked with Native Americans. Other discussions focused on how to encourage and help fund the study of American history in local schools.

Prominent among the Cayuga Chapter’s standing committees was that on Historic Spots. With its membership comprised of descendants of Revolutionary War soldiers, sites associated with those historical figures were a particular focus of the D.A.R., and ceremonies marking their graves in Tompkins County cemeteries were noted in the local press. A report given at the 1925 annual meeting of the D.A.R. commented that an early practice of using boulders was increasingly supplanted by plaques. The August 14, 1933 *Ithaca Journal-News* reported that the bronze tablet was “now attached” to this discussion’s subject boulder in DeWitt Park, whose specific date of installation has not been ascertained. Further information in the news article notes that the named Revolutionary soldiers in the plaque had local descendants; the two women identified by name and address were presumably D.A.R. members.

The local identification and recognition of historic persons and sites increased in the 1920s as two Sesquicentennials approached—that of the American Revolution and, in a more regional focus, that of Sullivan’s expedition. In early 1926, the State Board of Regents sought to obtain state appropriations for efforts to make 1926 and 1927 “history years” in order to assist in the celebration of various 150th anniversaries. The State’s Department of Education Department would subsequently embark on projects to identify and mark locations
associated with persons, sites and events, working under the direction of Dr. Alexander C. Flick, head of the
department’s Division of Archives and History. Over the ensuing years, Dr. Flick worked with various local
organizations in the program of historic markers, seeking suggestions for markers from Historian Lyman H.
Gallagher and coordinating with bodies such as the D.A.R.’s Cayuga Chapter and with the regional Finger Lakes
Association, founded in 1919 to promote education and tourism through the increasing use of the automobile.
(At this point in the presentation, time constraints will force me to close these introductory comments, which I
will expand on and continue for subsequent discussions within the City concerning the content and sequence of
specific markers and programs.)

**Others more knowledgeable about our area’s early history have already contributed expanded and corrected
information concerning the content of the marker’s text. My broader consideration of the monument’s existence
will focus on contextual matters—the various programs of the Daughters of the American Revolution, or D.A.R.,
and the New York State historic marker program as operated by the State Education Department. As multiple
circumstances have prevented my greater in-depth primary research on these topics as well as more extended
comments on the substantial research I have already completed, information presented for your consideration
will be not only general but introductory and unfortunately brief. A more complete report will be forthcoming
for future City discussions, and further input from others would be welcomed.
Dear Commissioners,

I am writing to express my support for removal of the White Settlers marker from DeWitt Park. While this marker may seem innocuous to many, it is symbolic of the white supremacist ideology that has caused and still causes so much suffering in the Ithaca, the USA and the world. The marker supports a skewed view of history that ignores that these settlers were settling on unceded native lands.

Our country is once again reckoning with its racist history and we in Ithaca would do well to respond by gracefully retiring this homage to white supremacy to the History Center where a fuller telling of Ithaca's history of inhabitation, settling, and white supremacy can be told.

I would like this message read on the record, if possible.

Respectfully,

Sabrina Johnston
Dear Anya and Bryan:

I wish to submit the following comment to be read at tonight's ILPC meeting:

I support the proposal to remove the "White Settlers" monument from Dewitt Park and donate it to The History Center. I also suggest replacing the monument with another that acknowledges the large-scale theft by white people of the land of the Cayuga Nation, including all of the land that we now call the City of Ithaca.

Thank you,

Harold Mills
100 Park Street
Ithaca, NY 14850
To: Ithaca Landmarks Preservation Commission
   City Hall
   108 East Green Street
   3rd Floor
   Ithaca, NY  14850

   FAX:  274-6558

From: Sarah Padula
   16 Stone Creek Drive
   Ithaca, NY   14850

September 13, 2020

   My apologies for any typos
   My apologies for any inaccuracies from my memory or the internet

RE: Myrick’s request to remove settler’s monument.  **ATTN: read prior to Tuesday's meeting**

A short introduction:  I have lived my entire life in the Ithaca area, attended Ithaca schools from K-12, and taught in the Ithaca City School District for over 35 years.

I was extremely dismayed to read about Mayor Myrick’s request to remove a monument in DeWitt Park regarding the first settlers to this area.

These original settlers were important to the beginnings of Ithaca.  They SHOULD be remembered.

But more importantly, these settlers came here at great risk.  They believed in this area as a place to raise their families.  There was no ill will on their part.  They were not implying anything about any other race of peoples.  They were innocent settlers looking to start their lives in a new place.

Myrick claims it is “ of questionable historic accuracy”, but he offers no explanation using facts.

Removing and renaming places, monuments, street names and so on is getting out of hand.  History happened.  Although monuments to evil people are clearly not appropriate, recognizing people who had no ill will is reasonable.

This little monument to the first settlers is not offensive in any way!  It implies nothing negative.  If anyone chooses to put a negative spin on it, it likely has more to do with what is within themselves.
Now, let’s look at some other ideas that will show just how this could all snowball. For example, perhaps Washington Park and Washington Street here in Ithaca should be renamed. After all, it was George Washington who ordered the demise of the Haudenosaunee (Iroquois) living in this area. That was of no fault of the settlers. Sullivan’s Expedition, ordered by Washington, was intended to kill, burn down crops and housing of the Haudenosaunee, basically forcing them out of the area. This happened in 1779. The settlers came here TEN years later, in or about 1789.

Seneca Street, Cayuga Street, and Cayuga Lake could all be requested to be renamed because aren’t these names given to Haudenosaunee (Iroquois) by non-Native Americans? They could be considered disrespectful to the people and their language. Keep in mind, the word “Iroquois” was coined by the French.....a word that means something like slippery snake. In fact, as a teacher in the Ithaca City School District for over 35 years, part of my responsibility was teaching local history, and we were advised to no longer use the word “Iroquois” because it was considered disrespectful to the Haudenosaunee. So.....maybe Cayuga Street should be renamed Haudenosaunee Street. Do you see where I’m going with this?

It’s okay to recognize people who helped establish this community without turning them into evil people, or disrespect them by implying an agenda that does not fit their history, but rather fits one own’s perspective in today's world.

And the first settlers certainly risked much in order to plant the seeds (figuratively and literally) that sprouted the beginnings for Ithaca, NY!

There’s absolutely no need to diminish the first settlers.

Respectfully,

Sarah L. Padula
Saturday, September 12, 2020

Ithaca Landmarks Preservation Commission
City Hall
108 E. Green Street, 3rd Floor
Ithaca, NY 14850

Re: DeWitt Park, DeWitt Park Historic District – Proposal to Remove a Stone and Bronze Monument Located in the Northwest Corner of DeWitt Park Known as the “White Settlers” marker.

To the members of the Ithaca Landmarks Preservation Commission,

On behalf of The History Center in Tompkins County, I am writing to detail and clarify our organization’s collaboration in the removal of the DeWitt Park “White Settlers” monument, should the process be approved by the Common Council on the recommendation of the Ithaca Landmarks Preservation Commission (ILPC).

The City of Ithaca has agreed to donate the bronze plaque to The History Center in Tompkins County, after it has been removed from the boulder. Per our collections policy, the plaque will be accessioned in the condition it is received. As part of the removal process, The History Center will film the removal of the plaque for our local history archives. After accessioning the plaque into our collections, we will work with local experts to contextualize the plaque’s historical claims, the period of its installation, and the current time of its removal to guide future interpretive work.

Like all museums, a small fraction of our collection is on display at any given time. Although we look forward to using the bronze plaque in future exhibits, there are no specific plans to put the plaque on display at this time. When appropriate, we look forward to working with the community to displaying the plaque within its proper context. If you have any questions regarding the accession process at The History Center in Tompkins County, I am at your disposal.

Sincerely,

Benjamin Sandberg
Executive Director
Dear Bryan:

Historic Ithaca supports the removal of the D.A.R. plaque from DeWitt Park. As the ILPC may already know, Tompkins County Historian Carol Kammen has indicated that the information on the plaque is factually incorrect. We hope that the plaque’s removal can be used to promote a community dialogue and help educate people to give them a fuller understanding of history. If any sort of new plaque or information is placed on that spot, we encourage the engagement of Sachem George and the Gayogohonq’ community in the creation and content of the text.

Thank you,
Christine

--
Christine O'Malley
Preservation Services Coordinator
Historic Ithaca, Inc.
212 Center St.
Ithaca, NY 14850
607.273.6633
christine@historicithaca.org
she/her
Protecting Tompkins County’s historic places since 1966
www.historicithaca.org
To the Commission,

I am 77 & have lived in Forsyth County/Ithan for the last 72 years. I am 1961 Graduate of Ithan High School. My family & I also owned & operated F & T Dist. Co. Inc. in Ithan for 42 years.

I agree the monument for the first whites to settle in Ithan should be restored after being vandalized. I disagree that it be removed from DeWitt Park & stored away.

If the Mayor wants to keep separate on black & white issues, I suggest he commission an organization willing to raise money & fund a monument to the first blacks to settle in Ithan. That monument can then be placed in DeWitt Park along with the restored white monument. In this way the history of Ithan will live on in the light of day.

Thank you for your consideration.

Frank L. Prudence

[Signature]
My comment refers to the proposed removal of the monument in Dewitt Park. This monument should be removed from Dewitt Park because it gives prominence to the view that this area was settled by white people only. This plaque belongs in The History Center where an accurate history of the settlement can accompany its display. I have heard our historian Carol Kammen talk about the black farmers and diverse other groups that settled here. I am proud that we have a rich history involving the efforts of many people with many values and beliefs.

Frances Helmstadter, 215 N. Cayuga St., # 103, Ithaca 607-272-3914
franhelmstadter@gmail.com
The Greenwood Oak

My spirit came forth
from the Creator
into time
through an acorn
for a purpose

I came here
for a witness
for a provocation
and for a challenge

I desired to put down roots to crush this pavement
I desired to spread mighty branches to embrace the sky
I desired to wrap an immense trunk around time
and to gently, year by year, roll away this stone
and replace this message about the First White Settlers

I came to grow here for five hundred and twenty eight years
to watch you change
to watch you learn to live in this place
to see your children’s children
to the twentieth generation
to listen to my name echoing through their souls
and to respond with the voice of my leaves in the wind

But you would not abide.
You removed me
You dug me up

Yet my Spirit lingers in time
to bear witness as you keep on doing what you are doing
until you can’t do it anymore.

Maybe I will have to watch you all die
and we will meet again outside of time
to talk about how this all went down

A billion acorns rained on this place
I came through only one

I came into time
for a witness
for a provocation
and for a challenge

Is this your answer?
The Greenwood Oak was planted on Earth Day 2020, in De Witt park in Ithaca New York. The park is named after Simeon De Witt, the man who drew the map that solemnized the dispossession of the indigenous nations in what is now called New York.

The Greenwood Oak was planted in front of the plaque here commemorating the “First White Settlers” of Ithaca. The Oak was named in reference to Shawn Greenwood, an unarmed black man who was shot and killed by the Ithaca Police Department in 2010.

What were the chances that this tree would be allowed to grow here, and carry it’s name through time? How likely is it that we will ever turn away from racism, militarism, materialism, and the destruction of the earth that gives us life?

This plaque about the First White Settlers was installed 87 years before by the Daughters of the American Revolution and the State of New York. After another 87 years, the Greenwood Oak could have been big enough that no one would see the plaque unless they knew where to look for it.

The First White Settlers built their cabin on the land of the Cayuga Nation 232 years before. In another 232 years, the plaque could have been entirely obscured.

Columbus first enslaved indigenous people 528 years before. In another 528 years, The Greenwood Oak could have completed its life span, entirely covering the stone and the plaque, which would have been known to human beings only through the story they had passed down.

In July of 2020, The Greenwood Oak was dug up and removed from its place, and a single leaf was left on my doorstep. This is an answer to the provocation and the challenge of The Greenwood Oak, an answer which faithfully represents the spirit of Simeon De Witt, the founding fathers, the Daughters of the American Revolution, and The Empire State.

I am Todd Saddler. I planted The Greenwood Oak, and I recorded this poem. I keep this leaf as a relic, and I testify that the Spirit continues to bear witness. The Spirit lives and grows in power along with the consequences of our actions, whether good or bad.

It took a long time for us to get into the mess we are in. It will take a long time to get out of it, if we get out of it.
Story of Ithaca’s beginning not carved in stone

Carol Kammen
Guest Columnist
Published September 26, 2014

- There were more people in the area than the men named, Jonathan Woodworth and Robert McDowell
- The Iroquois used the land gently, had trails across it, villages scattered about
- The memorial in DeWitt Park names two men who came to Cayuga Lake, but there were others

Memorials sometimes lead us to think one thing, when the documents suggest something else, or perhaps, something a bit more complicated.

The stone memorial, placed in DeWitt Park, along the sidewalk on North Cayuga Street, commemorates the first explorers who came into this area. Often the stone is the object of graffiti, which is a shame, but mostly it is ignored, sitting forgotten in the bushes.

The memorial tablet recalls the “first white settlers,” and names two Revolutionary soldiers who had a cabin near what is now the corner of Seneca and Cayuga streets.

The Daughters of the American Revolution erected the memorial in 1933, an era when the DAR was also erecting roadside markers around the county as automobile travel became popular. The people named on the DeWitt Park memorial are Jonathan Woodworth and Robert McDowell and the date given for their arrival is 1788.

Well, yes and no. There were more people in the area than the two men mentioned on the memorial — for there were still some Indians living here and there were also other settlers — and the dates of their arrivals and departures and then re-arrivals are confusing.

The land had not been empty awaiting settlement by European-Americans, because this part of the state was claimed and used by the Cayuga Indians who had allowed displaced Indians from the south to establish villages near Cayuga Lake. New York state was the
heart of Iroquoia, the confederation of the Mohawks, Oneida, Onondaga, Cayuga and Seneca tribes that became the Six Nations when joined by the Tuscaroras in 1712.

The Iroquois used the land gently, had trails across it, villages scattered about, and had a spiritual relationship with the land. Many, however, left central New York following the invading army of 1779 led by Gen. John Sullivan.

The Revolutionary War ended in 1783 with the Peace of Paris. During that decade, a number of people came into the area to look over the land as a place to exploit and perhaps settle.

In April 1788 a party of 11 men left Kingston, New York to explore. Not finding a location that suited them, they returned home. At about the same time, the two men named on the memorial and their party of four men on horses and four afoot, also came to the headwaters of Cayuga Lake.

This second group “proceeded to the foot of the east hill, turning to the right and then going along to the foot of the south hill, crossed Six Mile Creek and went south along the inlet flat” to Buttermilk Falls. They camped for two days under a tree near the falls to avoid the “multitude of gnats.” Then they, too, moved on.

In July 1788, six men from this second group made their way to the lake, their horses loaded with provisions. They settled on the flats where they planted hay on fields that the Indians had cleared, to be used as feed for cattle over the winter.

Hiding their tools in a burned out tree, they returned home, but returned in October driving 70 horses and cattle to over-winter here.

In the spring of the following year, in 1789, members of the first group returned, to settle on the flats. Jacob Yaple, Isaac Dumund and Peter Hinepaugh also planted hay in the clearings left by the Indians, leaving John Yaple to care for the crop over the summer. They returned in September with their families, about 20 people in all, and selected 400 acres as their future home. They built cabins, killed off the rattlesnakes, and are often cited as the first settlers.
According to an account by Nicoll Halsey, the first female to arrive in the area was 7-year-old Jane McDowell who came with her father in the spring of 1788. That fall, McDowell brought his wife and Jane’s four siblings. The Woodworth family came in 1789 and remained until 1793.

The land they encountered was covered with thorn and hazel bushes and crossed by streams, making travel difficult. There were also bears and wolves. These early settlers had neighbors, but far off in Owego, Elmira and several families farther north on the lake.

When Military Tract lots were given out to veterans of the war in 1791 the three settling families lost their title to the land and by 1795 all had left the immediate area.

The memorial stone in DeWitt Park names two men who came to Cayuga Lake, but there were others exploring and attempting to settle the area at the same time. What is worth remembered about these people is their difficult travel overland from their original homes to Cayuga Lake, and their need for food and shelter. It could not have been easy and, within five years, all of these early residents abandoned the area, just as most of the Iroquois had done a decade earlier.

The DeWitt Park memorial leaves out as much as it tells us.

Pieces of the Past appears every other Saturday. Carol Kammen is the Tompkins County historian and the author of several books on local history, most recently “Ithaca: A Brief History,” published by The History Press.
Monuments present complex issues, including here in Ithaca

Carol Kammen
Correspondent

The problem is not only Confederate generals.

The question for all of us is really about those signs and markers on the land that help define our history; they create a narrative of what our past was all about. It is generally, however, single-minded and insensitive to the complexity of the past.

Most monuments and street names tell the history that their creators thought important and memorable. That those criteria change over time is a good thing — not because the past changes, but because as we grow and learn more and look about, we begin to ask new questions, have new insights, and expand our ideas about how we remember.

All the problems with monuments are not in the South. We have some problematic signs and memorials right here at home that we should recognize. First up are two markers in Ithaca's DeWitt Park that are troublesome.

The first is the on the boulder facing North Cayuga Street that honors the “First White Settlers.” While this commemorates the earliest European Americans — and the one young black boy who accompanied them — to establish homesteads in our area, it presents a history that denies or obliterates those originally on the land.

That marker was placed in 1935 by a chapter of the Daughters of the American Revolution and the state of New York. Many markers were created in the 1920s and '30s following the 150th anniversary of the Revolutionary War. The
1930s was also the era of widespread automobile travel, so signs telling people where they were and what they were passing was considered a good thing.

The problem was not with placing the signs — and since cars went more slowly in those days, they could actually be read while passing by — but it is with who placed the signs and the reasons for the selection of events and people honored and commemorated.

Motives matter, as we are finding out with the Confederate generals whose statues mostly appeared not after the Civil War but during the 1890s, when they represented one way of life and the repression of generations of African-Americans.

While the Civil War was fought to end slavery, it was also fought to keep the Union together, and these generals represent officials who committed treason to the federal government. Their placement was to reinforce a specific way of life.

No one today would write the text on the “First White Settlers” monument in DeWitt Park in this way. The reason for this is that we have come, slowly I know, to see our past as diverse and complicated; we understand today that the early settlers on this land, mostly white Protestants and some African-Americans, were establishing homes and governments on land from which the Haudenosaunee were ejected in 1779 and then claimed by New York state in a series of treaties that left the Six Nations with little more than beads, blankets and booze.

Today, we see the text on this DeWitt Park marker as limited and unjust. The new blue town markers created by the Tompkins County Bicentennial Commission and erected over the past few months mention earlier claims to land we now regard as parts of the county. This recognition is not adequate compensation, but today we face the uncomfortable past; we do not brush past it.
The other problematic marker in DeWitt Park that to the Oregon Mission. In 1934, the First Presbyterian Church, the Cayuga Chapter of the Daughters of the American Revolution, and the state Department of Education created the monument. It was dedicated on May 12, 1935. It reads:

*The Oregon Mission*

*Sent out by First Presbyterian Church of Ithaca in 1834 in response to search of Nez Perce Indians for white man’s book from heaven under leadership of Rev. Samuel Parker. With him went Samuel Allis of Ithaca and Rev. John Dunbar of Auburn Seminary. In 1836 Rev. Henry Spalding of Bath and Bride Eliza Hart together with Dr. Marcus Whitman and Bride Narcissa Prentiss followed, these being two first white women to cross Rocky Mountains. The Whitman’s founded mission at Waiilatpu where they were martyred. The Spalding’s established mission at Lapwai, Idaho among Nez Perces, which continues to the present.*

The plaque is factually correct. The Presbyterian Church in Ithaca has a long history of support for missionaries, and a number of them left from Ithaca — as did some from Ithaca who went later into the mission field (primarily the women missionaries are omitted) on this marker.

The DeWitt Park marker is culturally insensitive. This is not something that would have bothered people in 1935, but it does disturb us today because we have come to understand that our nation sits upon a world that was well-populated with peoples of various cultures and practices. The Nez Perce and other western Indians had cultural and religious practices that they hoped to augment rather than replace.

We should think about these things when enjoying DeWitt Park. Being there, we are standing upon land that unnamed hunter-gatherers probably passed over; that was part of the Cayuga Nation, members of the Six Nations; and that was lent to Tutelo Indians when they came north seeking a new home, having been displaced from their original lands.
Knowing a fuller past enriches us, just as the diversity of our population today enriches us and makes us stronger.

These problems of insensitivity do not exist only in the American South or in Ithaca. We can find problematic examples of signs and names all over Tompkins County.

*Carol Kammen is the Tompkins County historian and the author of several books on local history.*
PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE
5.18/139/15/2020
Draft Resolution—Expansion of the Community Investment Incentive Tax Abatement Program Boundaries and Amendment to the City CIITAP Process

1. WHEREAS, in 2017, the City reviewed the Community Investment Incentive Tax Abatement Program (CIITAP) in order to identify criteria that the City felt were important for approving projects for tax abatements, and

2. WHEREAS, in 2018, the Common Council amended the CIITAP process to add requirements for diversity, local labor, and workforce housing, and

3. WHEREAS, the current CIITAP process requires an applicant to complete the City application and meet the minimum criteria for location, density, size, municipal compliance, diversity, local labor, and workforce housing, and once an endorsement is received they must begin the application process for the Tompkins County Industrial Development Agency (IDA), and

4. WHEREAS, given that the IDA application has similar requirements for diversity, local labor, and workforce housing, which addresses all of the issues that Council identified, it is redundant and confusing for applicants to have two similar processes, and

5. WHEREAS, since the IDA is the agency that administers and monitors tax abatements, the City acknowledges that they are the appropriate body to set any criteria that requires ongoing monitoring, and a simplified application process will be beneficial to applicants and to the City.

6. WHEREAS, in 2018, the City amended the boundary of the City density district, which is the required location for projects to be located within in order to apply to CIITAP process, and

7. WHEREAS, the amended boundary included all of the newly created waterfront zoning districts, with the exception of the Cherry Street District, and

8. WHEREAS, the portion of the Cherry Street District north of Cecil Malone is zoned for mixed use development and there is development interest in this area, but the high cost of construction makes these projects challenging, therefore, be it now

1. RESOLVED, that the City of Ithaca Common Council amends the City Density District to include the portion of the Cherry Street zoning district north of Cecil A. Malone Drive, and be it further
2.1. **RESOLVED,** the City of Ithaca Common Council understands that the City’s Community Incentive Investment Tax Abatement Program continues to be a vital tool to encourage density in the City’s Density District, and be it further

3. **RESOLVED,** that the City acknowledges that the IDA tax abatement application includes similar criteria for local labor, diversity, and workforce housing, and in order to reduce confusion and eliminate redundancy, the City hereby amends the CIITAP criteria to remove the housing, local labor, and diversity requirements and only retains criteria for location, density, size, and municipal compliance.

Or

3. **RESOLVED,** that the City acknowledges that the IDA tax abatement application includes similar criteria for local labor, diversity, and workforce housing, and in order to reduce confusion and eliminate redundancy, the City hereby requests that the IDA application include density, location, size, and municipal compliance requirements for any City projects, and hereby eliminates the City application process for tax abatement requests.
To: Planning and Economic Development Committee

FROM: Jennifer Kusznir, Economic Development Planner

DATE: September 28, 2020

RE: Review of the City of Ithaca Community Investment Incentive Tax Abatement Program (CIITAP)

The purpose of this memo is to provide information regarding a proposal to eliminate the City review process for the Community Investment Incentive Tax Abatement Program (CIITAP).

In 2018 the City amended the criteria for CIITAP applications to include diversity, local labor, and housing requirements. The Tompkins County Industrial Development Agency (IDA) application includes this same criteria. The IDA’s Workforce Housing Policy addresses concerns that were raised by the Common Council. However, the Council resolution recommended requirements and incentives that are not in alignment with the IDA’s Workforce Housing Policy. This inconsistency is confusing and can result in project delays for applicants.

Currently, an applicant must complete the City CIITAP application, which includes review by the CIITAP committee (the Mayor, the Director of Planning and Development, and the Director of Community Development for the IURA) followed by a public information session. Once this process is complete and the applicant receives an endorsement from the City, the applicant must begin the IDA process, which includes an application, a public hearing, and review by the IDA. This process is complicated and can be confusing while also creating an opportunity for inconsistencies between the two reviewing bodies.

At the September Planning Committee meeting, it was recommended that Common Council consider eliminating the City application process and simply have the City notify the IDA of its endorsement of projects in the density district that meet our criteria. Applicants would then go directly to the IDA for their requested tax abatement.

Enclosed for your consideration is a resolution that would eliminate the City CIITAP process in favor of having the IDA review applications for tax abatements. The resolution is tracked and shows the deleted options presented to the Planning Committee. The options included expanding the CIITAP boundary to include Cherry Street which failed at the committee meeting. Other option was to simplify the City process by only requiring the applicant to meet the original criteria of location, density, size, and municipal compliance. The language that was voted on by the Planning Committee is highlighted.

If you have any concerns or questions regarding this information, feel free to contact me at 274-6410.
Workforce Housing Policy
Adopted: July 8, 2020

The Tompkins County IDA supports the development of workforce housing. In addition to meeting any other requirements as set forth in the TCIDA Uniform Tax Exemption Policy, all multi-family rental housing project applicants will be subject to the Workforce Housing Policy as follows:

Applicants will be required to make a one-time payment to the Tompkins County Community Housing Development Fund. Payment will be made at time of closing.

The payment amount will be $5,000 multiplied by the total unit count and is due and payable at time of closing. This payment amount is based on a calculation of $25,000 per 20% of the total units in lieu of providing 20% of the units on-site as affordable units.

The payment is not required if the project applicant will set aside a minimum of 20% of the units available for households earning 80% or less of area median income and is subject to a regulatory agreement by a local, state or federal agency for compliance for a period of at least 20 years.

In general, the TCIDA delivers incentives to multi-family residential housing projects in the following areas:

- City of Ithaca’s Downtown Density District
- The redevelopment of a Brownfield site that is registered as a DEC inactive hazardous waste site
- Lansing Town Center Incentive Zone

The Community Housing Development Fund is a joint effort of Tompkins County, the City of Ithaca, and Cornell University and helps communities and organizations throughout Tompkins County respond to the diverse affordable housing needs of its residents. The benefits of supporting the Community Housing Development Fund include:

- Flexible funding for any type of affordable housing (rental and for sale units) at a mix of income levels
- The fund supports workforce housing countywide
- The fund has a proven track record
- Applicants generally leverage State and Federal funds to produce far more units per local subsidy provided than the TCIDA ever could.

This policy will be reviewed at least annually.
Diversity and Inclusion Policy
Adopted: October 10, 2018

Diversity and Inclusion
Single occupant projects (buildings developed specifically for one tenant or an owner-occupied facility) must commit to the following:

A. Actions:
   • Become and remain an active member of the Diversity Consortium of Tompkins County, a joint effort of local employers and leaders dedicated to promoting diversity and inclusion in Tompkins County. Active membership is defined as:
     o paying annual membership dues, (If the fee to participate exceeds $500 in a calendar year, the IDA may, at its discretion waive this requirement)
     o attending a minimum of four monthly meetings of the Consortium per calendar year,
     o participating in at least two of the approximately six trainings offered per year and
     o attending the bi-annual conference when offered;
   • Establish and implement management strategies for hiring, retention and promotion of women, people of color and people with disabilities for part-time, internship, and full-time positions at all levels of their organization with the goal of employing a workforce in which the number of women, people of color, and people with disabilities meets or exceeds a number in proportions equal to that of the population of the City of Ithaca, Tompkins County, and/or the proportions in the applicant business sector if data is available; and
   • Identify and implement specific actions designed to reduce and address unconscious workplace biases, such as annual staff training.

B. Reporting:
The project occupant will provide an annual report to the IDA and the City of Ithaca’s Workforce Diversity Advisory Committee (the latter only if the project is located in the City of Ithaca), on March 1st of each year of the abatement period. The annual report will be submitted in a format provided by the IDA detailing:
   • Workforce diversity goals, and strategies utilized each year to increase hiring, retention and promotion of women, people of color, and people with disabilities;
   • Actions taken to reduce and address unconscious workplace biases;
   • Workforce demographics by gender, race/ethnicity, age, disability, job class and gender, and job class and race/ethnicity; and
   • Compliance with active participation in the Diversity Consortium.

The City of Ithaca Workforce Diversity Advisory Committee (WDAC) developed the City of Ithaca Diversity Toolkit to assist employers meet the IDA diversity and inclusion requirements. The toolkit shall be made available with this policy.
Local Labor Utilization Policy
Adopted: April 14, 2016

Policy is to apply to all IDA applications.

Applicants are encouraged to hire locally wherever possible. Applicants must solicit construction bids from local subcontractors and submit monthly construction labor reports during the construction period. This is an effort to collect data regarding local construction labor utilization. There is no minimum or maximum local construction labor utilization requirement.

Local is defined as anyone residing in Tompkins County, or any of the 6 contiguous counties of Cayuga, Seneca, Schuyler, Chemung, Tioga, and Cortland Counties. Zip codes will be used to determine local labor utilization rates. The IDA recognizes that some zip codes reach into other non-contagious counties, but determined this to be a relatively adequate indicator.

The following reporting information will be required:

Proof of Local Bids
The general contractor will provide (in a format acceptable to the IDA) a bid list with the name, address, contact information and detail of type of work for all firms that were solicited and documentation that an ‘invitation to bid’ was sent. If there are categories or types of work for which no bid was solicited from a local firm, a written explanation must be attached (i.e. no firms locally provide that service).

Construction Labor Reporting
The general contractor will provide monthly payroll reports for workers for all contractors and subcontractors on site. Monthly reports will cover any pay periods ending during that month. Reports will be submitted within 30 days of the end of each month during construction. The reporting format will be provided by the IDA and will include a written certification, similar to a certified payroll report. Reports will include the name of the individual or an identifying number, total hours, gross amount earned, and zip code of residence.

Electronic construction labor reporting forms may be obtained by contacting heatherm@tcad.org.
An Ordinance Amending The Municipal Code Of The City Of Ithaca, Chapter 160, Entitled “Design Review” To Amend the language to Applicability and Exemptions

WHEREAS, the City’s current applicability for mandatory design review is inconsistent with § 325-4 Establishment of districts,

WHEREAS, the current applicability and exemptions does not include the current Waterfront and Collegetown zones; now, therefore,

ORDINANCE NO. ____

BE IT ORDAINED AND ENACTED by the Common Council of the City of Ithaca that Chapter 160 of the Municipal Code of the City of Ithaca be amended as follows:

Section 1. Chapter 160, Section 160-4 of the Municipal Code of the City of Ithaca is hereby amended to read as follows:

Mandatory design review shall apply to all proposals for:

A. New construction, exterior alterations, addition or removal of exterior signs, or additions to any structure within the zones designated B-1b; B-2c; B-2d; all CBD zones, including CBD-60, CBD-85, CBD-100, and CBD-120; C-SU; WF-1; WF-2; WE/WFD, CSD, ND, MD; and on any parcel within the 2009 Collegetown Planning Area as designated on the map entitled "2009 Collegetown Urban Plan and Conceptual Design Guidelines Planning Area," dated November 2011, a copy of which is on file in the Ithaca City Clerk's office.

B. New construction, exterior alterations, or additions to any structure 60 feet in height or greater in any zone.

C. Demolition of any primary structure within any zone, and demolition of any portion of any structures within the zones designated B-1b; B-2c; B-2d; all CBD zones, including CBD-60, CBD-85, CBD-100, and CBD-120; C-SU; WF-1; WF-2; WE/WFD, CSD, ND, MD; and on any parcel within the 2009 Collegetown Planning Area.

D. New construction of a primary structure on a parcel within any zone within two years following a demolition of a primary structure on that parcel.

E. Changes to the site, such as the addition of new or alterations to existing hardscape elements, including but not limited to paving, retaining walls, or fences on any parcel within the 2009 Collegetown Planning Area.

Section 2. Chapter 160, Section 160-6B of the Municipal Code of the City of Ithaca is hereby amended to read as follows:
B. Any action pertaining to any parcel within the 2009 Collegetown Planning Area on which a single-family home is and will remain the primary use shall be exempt from the requirement for design review.

Section 3. Effective date. This ordinance shall take effect immediately and in accordance with law upon publication of notices as provided in the Ithaca City Charter.
MEMORANDUM

From: Alexander Phillips
To: Planning & Economic Development Committee
Date: September 9, 2020
Subject: Approval to circulate amendment to Design Review ordinance

The purpose of this memo is to provide information regarding a proposal to amend the Municipal Code of the City of Ithaca, Chapter 160, and entitled “Design Review” to reflect the amended zoning language of the waterfront zoning districts.

In 2017, the Waterfront Zoning Districts were amended to establish the Cherry Street (CSD), the West End/Waterfront (WE/WF), the Market (MD), and the Newman Districts (ND). In 2020, the Waterfront Zoning Districts were amended again to better reflect the recently adopted Waterfront Area Plan, and Common Council adopted the Waterfront Design Guidelines. At that time, the City’s Design Review Ordinance was not updated to reflect these changes. Staff is proposing the following changes to Chapter 160, Design Review:

- Update §160-4A and §160-4C to eliminate mention of former zones WF-1 and WF-2 and replace them with the current waterfront zones, WE/WFD, CSD, ND, MD.

A draft ordinance is enclosed for your consideration. The Planning Committee will review this proposal at their regularly scheduled meeting on September 16, 2020. Staff is requesting approval to circulate the proposal to collect comments. If you have any concerns or questions regarding any of this information, feel free to contact me at aphillips@cityofithaca.org.
NEW BUSINESS:
6.2 Approval of the 2020 and 2021 Amendments to the Municipal Cooperative Agreement for the Greater Tompkins County Municipal Health Insurance Consortium

WHEREAS, the City of Ithaca is a Participant in the Greater Tompkins County Municipal Health Insurance Consortium (the "Consortium"), a municipal cooperative organized under Article 47 of the New York Insurance Law, and

WHEREAS, the municipal participants in the Consortium, including this body, have approved and executed a certain Municipal Cooperation Agreement (the "Agreement"; effective date of October 1, 2010) and the 2020 and 2021 Amendments that provide for the operation and governance of the Consortium, and

WHEREAS, Article 47 of the New York Insurance Law (the "Insurance Law") and the rules and regulations of the New York State Department of Financial Services set forth certain requirements for governance of municipal cooperatives that offer self-insured municipal cooperative health insurance plans, and

WHEREAS, the Agreement sets forth in Section Q2 that continuation of the Consortium under the terms and conditions of the Agreement, or any amendments or restatements thereto, shall be subject to Board review on the fifth (5th) anniversary date and upon acceptance of any new Participant hereafter, and

WHEREAS, by motion nos. 005-2020 and 008 of 2020 the Consortium's Board of Directors recommends approval of the 2020 and 2021 amended agreements based on review of the document by the Governance Structure/MCA Review Committee, the New York State Department of Financial Services, and the Consortium’s legal counsel, and

WHEREAS, the Municipal Cooperative Agreement requires that amendments to the agreement be presented to each participant for review and adopted by its municipal board, and

WHEREAS, the City of Ithaca is in receipt of the proposed amended Agreement(s) and has determined that it is in the best interest of its constituents who are served by the Consortium to amend the Agreement as set forth in the attached 2020 and 2021 Amended Municipal Cooperative Agreements; now, therefore be it

RESOLVED, That the Common Council of the City of Ithaca approves and authorizes the Chief Executive Officer to sign the 2020 and 2021 Amendments to the Municipal Cooperative Agreement of the Greater Tompkins County Municipal Health Insurance Consortium, and, be it further

RESOLVED, That the Clerk of the City of Ithaca is hereby authorized to execute this Resolution to indicate its approval, transmit a copy thereof to the Board of Directors of the Greater Tompkins County Municipal Health Insurance Consortium, and take any other such actions as may be required by law.
September 29, 2020

Dear Consortium Partner,

I am writing to all the municipal partners of the Greater Tompkins County Municipal Health Insurance Consortium (Consortium), to request your signature on two important amendments to the Municipal Cooperative Agreement (MCA.) Please:

1. Review the copies of the Amended 2020 and 2021 MCAs attached;
2. Secure approval from your Board or governing body (a sample resolution is attached);
3. Via the Consortium’s Document Upload Portal (http://healthconsortium.net/governance/MCA) provide the Consortium with a copy of the certified resolution approving the agreements AND a signed MCA signature page FOR EACH by November 1, 2020.

One of the conditions of approval of our amended MCA from the Department of Financial Services (DFS) was providing that each member sign a new agreement each time there is an amendment. Adding additional members is considered an amendment and from now on and going forward we will be securing signatures from all Participants every time we add a new Participant. Hence, two copies are attached: the 2020 amended MCA and the 2021 amendment with the new members included.

Other significant changes in the MCA contain a new governance structure which empowers an expanded and elected Executive Committee to oversee operations of the Board between meetings and to establish administrative guidelines for the efficient operation of the Plan. In addition, the Joint Committee on Plan Structure and Design will have the number of labor representative spots on the Board be capped at ten after the Consortium’s membership reaches 58 participants. Furthermore, we have expanded membership eligibility in the Consortium to be offered to any municipal corporation as defined in N.Y. Insurance Law Section 4702(f) within the geographical boundaries of the Counties of Tompkins, Broome, Cayuga, Chenango, Chemung, Cortland, Madison, Onondaga, Ontario, Oswego, Tioga, Schuyler, Seneca, Steuben, Wayne, and Yates. We will be following up with DFS to secure a Certificate of Authority to operate in each county.

A copy of the 2020 amended MCA and the 2021 amendment, including the recently approved new Participants effective January 1, 2021 are attached to this email and can also be found on our website. Sample resolutions have also been provided. Once you have secured approval from your local Board, please send the signature page with the certified resolutions through our document upload portal.

Thank you for your support throughout this long process as we worked towards our mutual goal of approving a new document that will better serve our organization. We will continue to make resources available to you throughout your Board approval process, and if requested, come to your meetings for support when presenting changes to appropriate parties for approval.

Please feel free to contact me with any questions, edowd@tompkins-co.org or 607-274-5590. I look forward to finalizing these documents and working with you as we transition to our new form of governance.

Sincerely,

Elin R. Dowd, Executive Director
Greater Tompkins County Municipal Health Insurance Consortium
edowd@tompkins-co.org
2020 AMENDMENT
TO THE
MUNICIPAL COOPERATION AGREEMENT
(adopted September 24, 2020)

THIS AGREEMENT (the "Agreement") made effective as of the 1st day of October 2010 (the "Effective Date"), and as amended herein, by and among each of the signatory municipal corporations hereto (collectively, the "Participants").

WHEREAS:

1. Article 5-G of the New York General Municipal Law (the "General Municipal Law") authorizes municipal corporations to enter into cooperative agreements for the performance of those functions or activities in which they could engage individually;

2. Sections 92-a and 119-o of the General Municipal Law authorize municipalities to purchase a single health insurance policy, enter into group health plans, and establish a joint body to administer a health plan;

3. Article 47 of the New York Insurance Law (the "Insurance Law" or "N.Y. Insurance Law"), and the rules and regulations of the New York State Superintendent of Financial Services (the "Superintendent") set forth certain requirements for governing self-insured municipal cooperative health insurance plans;

4. Section 4702(f) of the Insurance Law defines the term "municipal corporation" to include a county, city, town, village, school district, board of cooperative educational services, public library (as defined in Section 253 of the New York State Education Law) and district (as defined in Section 119-n of the General Municipal Law); and

5. The Participants have determined to their individual satisfaction that furnishing the health benefits (including, but not limited to, medical, surgical, hospital, prescription drug, dental, and/or vision) for their eligible officers, eligible employees (as defined by the Internal Revenue Code of 1986, as amended, and the Internal Revenue Service rules and regulations), eligible retirees, and the eligible dependents of eligible officers, employees and retirees (collectively, the "Enrollees") (such definition does not include independent contractors and/or consultants) through a municipal cooperative is in their best interests as it is more cost-effective and efficient. Eligibility requirements shall be determined by each Participant's collective bargaining agreements and/or their personnel policies and procedures.

NOW, THEREFORE, the parties agree as follows:

A. PARTICIPANTS.

1. The Participants hereby designate themselves under this Agreement as the Greater Tompkins County Municipal Health Insurance Consortium (the "Consortium") for the purpose of providing health benefits (medical, surgical, hospital, prescription drug, dental, and/or vision) to those Enrollees that each Participant individually elects to include in the
2020 Municipal Cooperation Agreement

Greater Tompkins County Municipal Health Insurance Consortium Medical Plan(s) (the "Medical Plan(s)"), as that term is defined by Section 4702 (e) of the Insurance Law.

2. The following Participants shall comprise the current membership of the Consortium:

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<thead>
<tr>
<th>Municipality Name</th>
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<tbody>
<tr>
<td>City of Ithaca</td>
<td>1/1/2011</td>
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<td>County of Tompkins</td>
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<td>Town of Cincinnatus</td>
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<td>Village of Horseheads</td>
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<td>Village of Lansing</td>
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<td>Village of Horseheads</td>
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<td>Town of Spencer</td>
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<td>Lansing Library</td>
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<tr>
<td>Village of Watkins Glen</td>
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3. Membership in the Consortium may be offered to any municipal corporation as defined in N.Y. Insurance Law Section 4702(f) within the geographical boundaries of the Counties of Tompkins, Broome, Cayuga, Chenango, Chemung, Cortland, Madison, Onondaga, Ontario, Oswego, Tioga, Schuyler, Seneca, Steuben, Wayne, and Yates, provided however that, in the sole discretion of the Board (as defined below), the applicant provides satisfactory proof of its financial responsibility. Membership shall be subject to the terms and conditions set forth in this Agreement, any amendments hereto, and applicable law. Upon admission of any new Participant, the Consortium shall amend Section A(2) of this Agreement to reflect that change in membership, which must be submitted to the New York State Department of Financial Services (“DFS”) for approval. The geographic boundaries of the Consortium shall not be expanded beyond the above-listed counties without amendment of the MCA, submitted to DFS for approval, and prior DFS approval of an amendment to the Certificate of Authority.

4. The Board, in its sole discretion, and by a two-thirds (2/3) vote of the entire Board, may elect to permit additional municipal corporations located within the geographical boundaries set forth in Section A(3) to become Participants subject to satisfactory proof, as determined by the Board, of such municipal corporation’s financial responsibility. Such corporations must agree to continue as a Participant for a minimum of three (3) years upon entry.

5. Participation in the Medical Plan(s) by some, but not all, collective bargaining units or employee groups of a Participant shall not be permitted without a Board approved waiver. Participants with a waiver allowing active employees not enrolled in Consortium benefit plan options, must, within 3 (three) years of the date of enrolling in the Consortium, fully enroll all of their active employees in Consortium plan options. Failure to comply with this provision may be grounds for termination from participation in the Consortium as defined in Section Q(3).

6. Initial membership of additional participants shall become effective as soon as practical but preferably on the first day of the Plan Year following the adoption by the Board of the resolution to accept a municipal corporation as a Participant. Such municipal corporation must agree to continue as a Participant for a minimum of three (3) years upon entry.

7. A municipal corporation that was previously a Participant, but is no longer a Participant, and which is otherwise eligible for membership in the Consortium, may apply for re-entry after a minimum of three (3) years has passed since it was last a Participant. Such re-entry shall be subject to the approval of two-thirds (2/3) of the entire Board. This re-entry waiting period may be waived by the approval of two-thirds (2/3) of the entire Board. In order to re-enter the Consortium, a municipal corporation employer must have satisfied in full all of its outstanding financial obligations to the Consortium. A municipal corporation must agree to continue as a Participant for a minimum of three (3) years upon re-entry.

B. PARTICIPANT LIABILITY.

1. The Participants shall share in the costs of, and assume the liabilities for benefits (including medical, surgical, and hospital) provided under the Medical Plan(s) to covered officers, employees, retirees, and their dependents. Each Participant shall pay on demand such Participant's share of any assessment or additional contribution ordered by the governing board of the municipal cooperative health benefit plan, as set forth in Section L(4) of this Agreement or as ordered by the Superintendent or under Article 74 (seventy four) of the New York State Insurance Law. The prorata share shall be based on the Participant's relative "premium" contribution to the Medical Plan(s) as a percentage of the aggregate "premium" contribution to the Medical Plan(s), as is appropriate based on the nature of the assessment or contribution.
2. New Participants (each a "New Participant") who enter the Consortium may, at the discretion of the Board of Directors, be assessed a fee for additional financial costs above and beyond the premium contributions to the Medical Plan(s). Any such additional financial obligations and any related terms and conditions associated with membership in the Consortium shall be determined by the Board, and shall be disclosed to the New Participant prior to its admission.

3. Each Participant shall be liable, on a pro rata basis, for any additional assessment required in the event the Consortium funding falls below those levels required by the Insurance law as follows:

   a. In the event the Consortium does not have admitted assets (as defined in Insurance Law Section 107) at least equal to the aggregate of its liabilities, reserves, and minimum surplus required by the Insurance Law, the Board shall, within thirty (30) days, order an assessment (an "Assessment Order") for the amount that will provide sufficient funds to remove such impairment and collect from each Participant a pro-rata share of such assessed amount.

   b. Each Participant that participated in the Consortium at any time during the two (2) year period prior to the issuing of an Assessment Order by the Board shall, if notified of such Assessment Order, pay its pro rata share of such assessment within ninety (90) days after the issuance of such Assessment Order. This provision shall survive termination of the Agreement of withdrawal of a Participant.

   c. For purposes of this Section B(3), a Participant's pro-rata share of any assessment shall be determined by applying the ratio of the total assessment to the total contributions or premium equivalents earned during the period covered by the assessment on all Participants subject to the assessment to the contribution or premium equivalent earned during such period attributable to such Participant.

C. BOARD OF DIRECTORS.

1. The governing board of the Consortium, responsible for management, control and administration of the Consortium and the Medical Plan(s), shall be referred to as the "Board of Directors" (the "Board"). The voting members of the Board shall be composed of one representative of each Participant and representatives of the Joint Committee on Plan Structure and Design (as set forth in Section C(11)), who shall have the authority to vote on any official action taken by the Board (each a "Director"). Each Director, except the representatives of the Joint Committee on Plan Structure and Design, shall be designated in writing by the governing body of the Participant.

2. If a Director designated by a Participant cannot fulfill his/her obligations, for any reason, as set forth herein, and the Participant desires to designate a new Director, it must notify the Consortium's Chairperson in writing of it’s selection of a new designee to represent the Participant as a Director.

3. Directors shall receive no remuneration from the Consortium for their service and shall serve a term from January 1 through December 31 (the "Plan Year").

4. No Director may represent more than one Participant.
5. No Director, or any member of a Director's immediate family, shall be an owner, officer, director, partner, or employee of any contractor or agency retained by the Consortium, including any third-party contract administrator.

6. Except as otherwise provided in Section D of the Agreement, each Director shall be entitled to one vote. A majority of the entire Board, not simply those present, is required for the Board to take any official action, unless otherwise specified in this Agreement. The “entire Board”, as used herein and elsewhere in this Agreement, shall mean the total number of Directors when there are no vacancies.

While physical presence is strongly encouraged, Directors who cannot be physically present at any meeting may attend remotely utilizing videoconferencing that allows for real time audio and visual participation and voting in the meeting upon confirmation that communication is with all participants as it progresses.

7. Each Participant may designate in writing an alternate Director to attend the Board's meeting when its Director cannot attend. The alternate Director may participate in the discussions at the Board meeting and will, if so designated in writing by the Participant, be authorized to exercise the Participant’s voting authority. Only alternate Directors with voting authority shall be counted toward a quorum. The Joint Committee on Plan Structure and Design may designate alternate Directors as set forth in Section C(11).

8. A majority of the Directors of the Board shall constitute a quorum. A quorum is a simple majority (more than half) of the entire Board. A quorum is required for the Board to conduct any business. This quorum requirement is independent of the voting requirements set forth in Section C(6). The Board shall meet on an annual basis, at a time and place within the State of New York determined by a vote of the Board. The Board shall hold an annual meeting (the “Annual Meeting”) in September of each Plan Year.

9. Special meetings of the Board may be called at any time by the Chairperson or by any two (2) Directors. Whenever practicable, the person or persons calling such special meeting shall give at least a three (3) day notice to all of the other Directors. Such notice shall set forth the time and place of the special meeting as well as a detailed agenda of the matters proposed to be acted upon. In the event the three (3) day notice cannot be given, each Director shall be given such notice as is practicable under the circumstances.

10. In the event that a special meeting is impractical due to the nature and/or urgency of any action which, in the opinion of the Chairperson, is necessary or advisable to be taken on behalf of the Consortium, the Chairperson may send resolutions regarding said actions via electronic communication to each and all of the Directors. The Directors may then electronically communicate their approval or disapproval of said resolution via signed document to the Chairperson. In accordance with NY Business Corporation Law Section 708(b), unanimous consent is required for the Chairperson to act on behalf of the Board in reliance upon such approvals. Any actions taken by the Chairperson pursuant to this paragraph shall be ratified at the next scheduled meeting of the Board.

11. The Chair of the Joint Committee on Plan Structure and Design and any At-Large Labor Representatives (as defined in Section K) (collectively the “Labor Representatives”) shall serve as Directors and shall have the same rights and obligations as all other Directors. The Joint Committee on Plan Structure and Design may designate in writing alternate Directors to attend the Board’s meetings when the Labor Representatives cannot attend. The alternate Director may, if designated in writing, be authorized to exercise the Labor Representatives’ voting authority.
D. WEIGHTED VOTING.

1. Except as otherwise provided in this Agreement, any two or more Directors, acting jointly, may require a weighted vote on any matter that may come before the Board. In such event, the voting procedure set forth in this Section D shall apply in lieu of any other voting procedures set forth in this Agreement. Such weighted voting procedures shall apply solely with respect to the matter then before the Board.

2. For purposes of this Section D, each Director shall receive votes as follows:
   a. Each Director representing a Participant with five hundred (500) or fewer Enrollees shall be entitled to one (1) vote.
   b. Each Director representing a Participant with more than five hundred (500) Enrollees shall be entitled to a number of votes equaling the total number of votes assigned under subsection 2(a) above minus the number of Labor Representative votes, divided evenly by the number of Participants eligible under this subsection 2(b) and rounded down to the nearest whole number.
   c. The Labor Representatives shall be entitled to one (1) vote each.

3. Attached as Addendum “A” to this Agreement is an example of the application of the voting formula contained in subparagraph “2” of this Section.

4. Notwithstanding anything to the contrary contained in this Agreement, any action taken pursuant to this Section D shall require the approval of two-thirds (2/3) of the total number of votes, if all votes had been cast.

E. ACTIONS BY THE BOARD

1. Subject to the voting and quorum requirements set forth in this Agreement, the Board is required, in accordance with N.Y. Insurance Law § 4705, to take action on the following matters:
   a. In accordance with N.Y. Insurance Law § 4705 (d) (5), to approve an annual budget for the Consortium, which shall be prepared and approved prior to October 1st of each year, and determine the annual premium equivalent rates to be paid by each Participant for each Enrollee classification in the Medical Plan(s) on the basis of a community rating methodology in accordance with N.Y. Insurance Law Section 4705(d)(5)(B) and filed with and approved by the Superintendent.
   b. To audit receipts and disbursements of the Consortium and provide for independent audits, and periodic financial and operational reports to Participants in accordance with N.Y. Insurance Law § 4705 (e)(1).
   c. To establish a joint fund or funds to finance all Consortium expenditures, including claims, reserves, surplus, administration, stop-loss insurance and other expenses in accordance with N.Y. Insurance Law § 4705(d)(4).
d. To select and approve the benefits provided by the Medical Plan(s) including the plan document(s), insurance certificate(s), and/or summary plan description(s) in accordance with N.Y. Insurance Law Section 4709, a copy of the Medical Plan(s) effective on the date of this Agreement is incorporated by reference into this Agreement.

e. In accordance with N.Y. Insurance Law § 4705(d)(2) and N.Y. General Municipal Law § 119-o(2)(d) & (2)(i), the Board may contract with third parties, if appropriate, which may include one or more Participants, for the furnishing of all goods and services reasonably needed in the efficient operation and administration of the Consortium, including, without limitation, accounting services, legal counsel, contract administration services, consulting services, purchase of insurances and actuarial services. Provided, however (a) the charges, fees and other compensation for any contracted services shall be clearly stated in written administrative services contracts, as required in Section 92-a(6) of the General Municipal Law; (b) payment for contracted services shall be made only after such services are rendered; (c) no Director or any member of such Director's immediate family shall be an owner, officer, director, partner or employee of any contract administrator retained by the Consortium; and (d) all such agreements shall otherwise comply with the requirements of Section 92-a(6) of the General Municipal Law.

f. To purchase stop-loss insurance on behalf of the Consortium and determine each year the insurance carrier or carriers who are to provide the stop-loss insurance coverage during the next Plan Year, as required by N.Y. Insurance Law Sections 4707 and 4705(d)(3).

g. To designate one governing Board member to retain custody of all reports, statements, and other documents of the Consortium, in accordance with N.Y. Insurance Law Section 4705(c)(2), and who shall also take minutes of each Board meeting which, if appropriate, shall be acted upon by the Board in a subsequent meeting.

h. In accordance with N.Y. Insurance Law § 4705(e)(1), to choose the certified public accountant and the actuary to provide the reports required by this Agreement and any applicable law.

i. In accordance with N.Y. Insurance Law § 4705 (d)(5)(A), designate the banks or trust companies in which joint funds, including reserve funds, are to be deposited and which shall be located in this state, duly chartered under federal law or the laws of this state.

j. In accordance with N.Y. Insurance Law § 4705 (a)(6), designate the fiscal officer of a participating municipal corporation to be the Chief Fiscal Officer of the municipal cooperative health benefit plan, and who will serve on the Executive Committee.

2. Subject to the voting and quorum requirements set forth in this Agreement, the Board is authorized to take action on the following matters:
a. To fix the frequency, time and place of regular Board meetings.

b. To have a plan consultant (the “Plan Consultant) contract in place for the upcoming Plan Year, prior to October 1\textsuperscript{st} of each year.

c. To determine and notify each Participant prior to October 15\textsuperscript{th} of each Plan Year of the monthly premium equivalent for each enrollee classification during the next Plan Year commencing the following January 1\textsuperscript{st}.

d. To take all necessary action to ensure that the Consortium obtains and maintains a Certificate of Authority in accordance with the Insurance Law.

e. To take any other action authorized by law and deemed necessary to accomplish the purposes of this Agreement.

f. Annually elect Directors to the Executive Committee to oversee operations and develop recommendations for Board actions stated in this Section E.

F. EXECUTIVE COMMITTEE

1. The Executive Committee of the Consortium shall consist of at least eleven (11) and no greater than fifteen (15) Directors. Executive Committee Directors are elected annually, but shall always include the elected Chairperson, Vice-Chairperson, and the Secretary of the Consortium, as well as the designated Chief Fiscal Officer and Chairperson of the Joint Committee on Plan Structure and Design.

2. The Secretary shall be responsible for maintaining all records in accordance with Article E, Section 1.g.

3. The Executive Committee shall establish meeting dates at its Organizational Meeting. The Executive Committee shall meet no less frequently than once per quarter.

4. Special meetings of the Executive Committee may be called at any time by the Chairperson or by any two (2) Executive Committee Directors. Whenever practicable, the person or persons calling such special meeting shall give at least three (3) day notice to all of the other Directors. Such notice shall set forth the time and place of the special meeting as well as a detailed agenda of the matters proposed to be acted upon. In the event three (3) day notice cannot be given, each Director shall be given such notice as is practicable under the circumstances.

5. The Executive Committee shall:

a. Conduct business according to its Bylaws within its delegated authority, subject to approval and/or ratification of its actions at the next scheduled Board meeting.

b. Create sub-committees as necessary to monitor operations and make recommendations, to the Executive Committee and/or Board, to facilitate operations.
c. Manage the Consortium between meetings of the Board, subject to such approval by the Board as may be required by this Agreement.

d. Develop Bylaws for its operations.

e. In consultation with a nomination committee, fill any vacancy on the Executive Committee from among the Board’s members as set forth in its Bylaws.

f. Establish administrative guidelines for the efficient operation of the Consortium.

g. Annually appoint a treasurer (the "Treasurer") who may or may not be a Director and who shall be the treasurer, or equivalent financial officer, for one of the Participants. The Treasurer's duties shall be determined by the Chief Fiscal Officer to whom he/she will report.

h. Take all necessary action to ensure the Consortium is operated and administered in accordance with the laws of the State of New York.

G. OFFICERS

1. At the Annual Meeting, the Board shall elect from its Directors a Chairperson, Vice Chairperson, Chief Fiscal Officer, and Secretary, who shall serve for a term of one (1) year or until their successors are elected and qualified. Any vacancy in an officer's position shall be filled at the next meeting of the Board.

2. Officers of the Consortium and employees of any third-party vendor, including without limitation the officers and employees of any Participant, who assist or participate in the operation of the Consortium, shall not be deemed employees of the Consortium. Each third-party vendor shall provide for all necessary services and materials pursuant to annual contracts with the Consortium. The officers of the Consortium shall serve without compensation from the Consortium, but may be reimbursed for reasonable out-of-pocket expenses incurred in connection with the performance of such officers’ duties.

3. Officers shall serve at the pleasure of the Board and may be removed or replaced upon a two-thirds (2/3) vote of the entire Board. This provision shall not be subject to the weighted voting alternative set forth in Section D.

H. CHAIRPERSON; VICE CHAIRPERSON; SECRETARY

1. The Chairperson shall be the Chief Executive Officer of the Consortium.

2. The Chairperson, or in the absence of the Chairperson, the Vice Chairperson, shall preside at all meetings of the Board.

3. In the absence of the Chairperson, the Vice Chairperson shall perform all duties related to that office.
4. The Secretary shall retain custody of all reports, statements, and other documents of the Consortium and ensure that minutes of each Board meeting are taken and transcribed which shall be acted on by the Board at a subsequent meeting, as appropriate.

I. CHIEF FISCAL OFFICER

1. The Chief Fiscal Officer shall act as the chief financial administrator of the Consortium and disbursing agent for all payments made by the Consortium, and shall have custody of all monies either received or expended by the Consortium. The Chief Fiscal Officer may delegate duties and tasks to the Treasurer to assist in accomplishing this function. However, the Chief Fiscal Officer may never delegate his/her ultimate authority and shall remain responsible for ensuring that the Consortium’s finances are operated and administered in accordance with the laws of the State of New York. The Chief Fiscal Officer shall be the City Controller of the City of Ithaca. The Chief Fiscal Officer shall receive no remuneration from the Consortium. The Consortium shall reimburse the Participant that employs the Chief Fiscal Officer for reasonable and necessary out-of-pocket expenses incurred by the Chief Fiscal Officer in connection with the performance of his or her duties that relate to the Consortium.

2. All monies collected by the Chief Fiscal Officer relating to the Consortium, shall be maintained and administered as a common fund. The Chief Fiscal Officer shall, notwithstanding the provisions of the General Municipal Law, make payment in accordance with procedures developed by the Board and as deemed acceptable to the Superintendent.

3. The Chief Fiscal Officer shall be bonded for all monies received from the Participants. The amount of such bond shall be established annually by the Consortium in such monies and principal amount as may be required by the Superintendent.

4. All monies collected from the Participants by the Chief Fiscal Officer in connection with the Consortium shall be deposited in accordance with the policies of the Participant which regularly employs the Chief Fiscal Officer and shall be subject to the provisions of law governing the deposit of municipal funds.

5. The Chief Fiscal Officer may invest monies not required for immediate expenditure in the types of investments specified in the General Municipal Law for temporary investments or as otherwise expressly permitted by the Superintendent.

6. The Chief Fiscal Officer shall account for the Consortium's reserve funds separate and apart from all other funds of the Consortium, and such accounting shall show:
   a. the purpose, source, date, and amount of each sum paid into the fund;
   b. the interest earned by such funds;
   c. capital gains or losses resulting from the sale of investments of the Consortium’s reserve funds;
   d. the order, purpose, date and amount of each payment from the reserve fund; and
   e. the assets of the fund, indicating cash balance and schedule of investments.
7. The Chief Fiscal Officer shall cause to be prepared and shall furnish to the Board, to participating municipal corporations, to unions which are the exclusive bargaining representatives of Enrollees, the Board’s consultants, and to the Superintendent:

   a. an annual audit, and opinions thereon, by an independent certified public accountant, of the financial condition, accounting procedures and internal control systems of the municipal cooperative health benefit plan;
   
   b. an annual report and quarterly reports describing the Consortium’s current financial status; and
   
   c. an annual independent actuarial opinion on the financial soundness of the Consortium, including the actuarial soundness of contribution or premium equivalent rates and reserves, both as paid in the current Plan Year and projected for the next Plan Year.

8. Within ninety (90) days after the end of each Plan Year, the Chief Fiscal Officer shall furnish to the Board a detailed report of the operations and condition of the Consortium's reserve funds.

J. PLAN ADMINISTRATOR

The Board, by a two-thirds (2/3) vote of the entire Board, may annually designate an administrator and/or insurance company of the Medical Plan (the "Plan Administrator") and the other provider(s) who are deemed by the Board to be qualified to receive, investigate, audit, and recommend or make payment of claims, provided that the charges, fees and other compensation for any contracted services shall be clearly stated in written administrative services and/or insurance contracts and payment for such contracted services shall be made only after such services are rendered or are reasonably expected to be rendered. All such contracts shall conform to the requirements of Section 92-a(6) of the General Municipal Law.

K. JOINT COMMITTEE ON PLAN STRUCTURE AND DESIGN

1. There shall be a Joint Committee on Plan Structure and Design (the "Joint Committee"), which shall consist of (a) a representative of each collective bargaining unit that is the exclusive collective bargaining representative of any Enrollee or group of Enrollees covered by the Medical Plan(s) (the "Union Members"); and (b) a representative of each Participant (the "Management Members"). Management Members may, but are not required to be, Directors.

2. The Joint Committee shall review all prospective Board actions in connection with the benefit structure and design of the Medical Plan(s), and shall develop findings and recommendations with respect to such matters. The Chair of the Joint Committee shall report such findings and recommendations to the Board at any regular or special meeting of the Board.

3. The Joint Committee shall select (a) from among the Union Members, an individual who shall serve as Chair of the Joint Committee; and (b) from among the Management Members,
an individual who shall serve as Vice Chair of the Joint Committee. The Joint Committee shall establish its own parliamentary rules and procedures.

4. Each eligible union shall establish such procedures by which its representative to the Joint Committee is chosen and such representative shall be designated in writing to the Chairperson of the Board and the Chair of the Joint Committee.

5. The Union Members on the Joint Committee on Plan Structure and Design shall select from among the Union Members an individual to serve as an additional at-large voting Labor Member on the Board of Directors of the Consortium. If the number of municipal members on the Consortium rises to seventeen (17), the union members of the Joint Committee on Plan Structure and Design shall select from among the Union Members an additional at-large voting Labor Member on the Board of Directors of the Consortium. The at-large voting Labor Member(s) along with the Joint Committee Chair shall collectively be the “Labor Representatives” as defined in Section C(11) of this Agreement. If the number of municipal members on the Consortium rises to twenty-three (23), the Union Members may select from among their members a third At-Large Labor Representative to serve as a Director. Thereafter, for every increase of five (5) additional municipal members added to the Consortium Union Members may select from among their members one (1) At-large Labor Representative to serve as Director with a maximum of ten (10) Labor Representatives. Attached hereto as Addendum “B” is a table illustrating the addition of At-Large Labor Representatives as set forth in this Section. Any At-Large Labor Representative designated according to this section shall have the same rights and obligations as all other Directors.

L. PREMIUM CALCULATIONS/PAYMENT.

1. The annual premium equivalent rates shall be established and approved by a majority of the entire Board. The method used for the development of the premium equivalent rates may be changed from time to time by the approval of two-thirds (2/3) of the entire Board, subject to review and approval by the Superintendent. The premium equivalent rates shall consist of such rates and categories of benefits as is set forth in the Medical Plan[s] that is determined and approved by the Board consistent with New York law.

2. In accordance with N.Y. Insurance Law §§ 4706 & 4707, the Consortium shall maintain reserves and stop-loss insurance to the level and extent required by the Insurance Law and as directed by the Superintendent.

3. Each Participant's monthly premium equivalent, by enrollee classification, shall be paid by the first day of each calendar month during the Plan Year. A late payment charge of one percent (1%) of the monthly installment then due may be charged by the Board for any payment not received by the first of each month, or the next business day when the first falls on a Saturday, Sunday, legal holiday, or day observed as a legal holiday by the Participants.

The Consortium may waive the first penalty once per Plan Year for each Participant, but will strictly enforce the penalty thereafter. A repeated failure to make timely payments, including any applicable penalties, may be used by the Board as an adequate justification for the expulsion of the Participant from the Consortium.
4. The Board shall assess Participants for additional contributions, if actual and anticipated losses due to benefits paid out, administrative expenses, and reserve and surplus requirements exceed the amount in the joint funds, as set forth in Section B(3) above.

5. The Board, in its sole discretion, may refund amounts in excess of reserves and surplus, or retain such excess amounts and apply these amounts as an offset to amounts projected to be paid under the next Plan Year’s budget.

M. EMPLOYEE CONTRIBUTIONS.

If any Participant requires an Enrollee’s contribution for benefits provided by the Consortium, the Participant shall collect such contributions at such time and in such amounts as it requires. However, the failure of a Participant to receive the Enrollee contribution on time shall not diminish or delay the payment of the Participant's monthly premium equivalent to the Consortium, as set forth in this Agreement.

N. ADDITIONAL BENEFITS.

Any Participant choosing to provide more benefits, coverages, or enrollment eligibility other than that provided under the Medical Plan(s)(s), will do so at its sole expense. This Agreement shall not be deemed to diminish such Participant's benefits, coverages or enrollment eligibility, the additional benefits and the payment for such additional benefits, shall not be part of the Consortium and shall be administered solely by and at the expense of the Participant.

O. REPORTING.

The Board, through its officers, agents, or delegates, shall ensure that the following reports are prepared and submitted:

1. Annually after the close of the Plan Year, not later than one-hundred twenty (120) days after the close of the Plan Year, the Board shall file a report with the Superintendent showing the financial condition and affairs of the Consortium, including an annual independent financial audit statement and independent actuarial opinion, as of the end of the preceding plan year.

2. Annually after the close of the Plan Year, the Board shall have prepared a statement and independent actuarial opinion on the financial soundness of the Consortium, including the contribution or premium equivalent rates and reserves, both as paid in the current Plan Year and projected for the next Plan Year.

3. The Board shall file reports with the Superintendent describing the Consortium’s then current financial status within forty-five (45) days of the end of each quarter during the Plan year.

4. The Board shall provide the annual report to all Participants and all unions, which are the exclusive collective bargaining representatives of Enrollees, which shall be made available for review to all Enrollees.
5. The Board shall submit to the Superintendent a report describing any material changes in any information originally provided in the Certificate of Authority. Such reports, in addition to the reports described above, shall be in such form, and containing such additional content, as may be required by the Superintendent.

P. WITHDRAWAL OF PARTICIPANT

1. Withdrawal of a Participant from the Consortium shall be effective only once annually on the last day of the Plan Year.

2. Notice of intention of a Participant to withdraw must be given in writing to the Chairperson prior to September 1st of each Plan Year. Failure to give such notice shall automatically extend the Participant’s membership and obligations under the Agreement for another Plan Year, unless the Board shall consent to an earlier withdrawal by a two-thirds (2/3) vote.

3. Any withdrawing Participant shall be responsible for its pro rata share of any Consortium deficit that exists on the date of the withdrawal, subject to the provisions of subsection “4” of this Section. The withdrawing Participant shall be entitled to any pro rata share of surplus that exists on the date of the withdrawal, subject to the provisions of subsection “4” of this Section. The Consortium surplus or deficit shall be based on the sum of actual expenses and the estimated liability of the Consortium as determined by the Board. These expenses and liabilities will be determined one (1) year after the end of the Plan Year in which the Participant last participated.

4. The surplus or deficit shall include recognition and offset of any claims, expenses, assets and/or penalties incurred at the time of withdrawal, but not yet paid. Such pro rata share shall be based on the Participant's relative premium contribution to the Consortium as a percentage of the aggregate premium contributions to the Consortium during the period of participation. This percentage amount may then be applied to the surplus or deficit which existed on the date of the Participant's withdrawal from the Consortium. Any pro rata surplus amount due the Participant shall be paid to the Participant one year after the effective date of the withdrawal. Any pro rata deficit amount shall be billed to the Participant by the Consortium one year after the effective date of the withdrawal and shall be due and payable within thirty (30) days after the date of such bill.

Q. DISSOLUTION; RENEWAL; EXPULSION

1. The Board at any time, by a two-thirds (2/3) vote of the entire Board, may determine that the Consortium shall be dissolved and terminated. If such determination is made, the Consortium shall be dissolved ninety (90) days after written notice to the Participants.

   a. Upon determination to dissolve the Consortium, the Board shall provide notice of its determination to the Superintendent. The Board shall develop and submit to the Superintendent for approval a plan for winding-up the Consortium’s affairs in an orderly manner designed to result in timely payment of all benefits.

   b. Upon termination of this Agreement, or the Consortium, each Participant shall be responsible for its pro rata share of any deficit or shall be entitled to any pro rata share of surplus that exists, after the affairs of the Consortium are closed. No part of any funds of the Consortium shall be subject to the claims of general creditors of any Participant until all Consortium benefits and other Consortium obligations have been
satisfied. The Consortium’s surplus or deficit shall be based on actual expenses. These expenses will be determined one year after the end of the Plan Year in which this Agreement or the Consortium terminates.

c. Any surplus or deficit shall include recognition of any claims/expenses incurred at the time of termination, but not yet paid. Such pro rata share shall be based on each Participant's relative premium contribution to the Consortium as a percentage of the aggregate premium contributions to the Consortium during the period of participation. This percentage amount would then be applied to the surplus or deficit which exists at the time of termination.

2. The continuation of the Consortium under the terms and conditions of the Agreement, or any amendments or restatements thereto, shall be subject to Board review on the fifth (5th) anniversary of the Effective Date and on the fifth (5th) anniversary date thereafter (each a “Review Date”) to the extent deemed required by Article 5-G of the New York General Municipal Law (the "General Municipal Law").

   a. At the annual meeting a year prior to the Review Date, the Board shall include as an agenda item a reminder of the Participants’ coming obligation to review the terms and conditions of the Agreement.

   b. During the calendar year preceding the Review Date, each Participant shall be responsible for independently conducting a review of the terms and conditions of the Agreement and submitting to the Board of Directors a written resolution containing any objection to the existing terms and conditions or any proposed modification or amendment to the existing Agreement, such written resolution shall be submitted to the Board on or before March 1st preceding the Review Date. Failure to submit any such resolution shall be deemed as each Participant’s agreement and authorization to the continuation of the Consortium until the next Review Date under the existing terms and conditions of the Agreement.

   c. As soon as practicable after March 1st, the Board shall circulate to all Participants copies of all resolutions submitted by the Participants. Subject to Section S hereof, any resolutions relating to the modification, amendment, or objection to the Agreement submitted prior to each Review Date shall be considered and voted on by the Participants at a special meeting called for such purpose. Such special meeting shall be held on or before July 1st preceding the Review Date.

   d. Notwithstanding the foregoing or Section T hereof, if at the Annual Meeting following any scheduled Review Date the Board votes on and approves the budget and annual assessment for the next year, the Participants shall be deemed to have approved the continuation of the Consortium under the existing Agreement until the next Review Date.

3. The Participants acknowledge that it may be necessary in certain extraordinary circumstances to expel a Participant from the Consortium. In the event the Board determines that:

   a. A Participant has acted inconsistently with the provisions of the Agreement in a way that threatens the financial well-being or legal validity of the Consortium; or

   b. A Participant has acted fraudulently or has otherwise acted in bad faith with regards to the Consortium, or toward any individual Participant concerning matters
relating to the Consortium, the Board may vote to conditionally terminate said Participant's membership in the Consortium. Upon such a finding by the affirmative vote of two-thirds (2/3) of the Participants, the offending Participant shall be given sixty (60) days to correct or cure the alleged wrongdoing to the satisfaction of the Board. Upon the expiration of said sixty (60) day period, an absent satisfactory cure, the Board may expel the Participant by an affirmative vote of two-thirds (2/3) of the Participants (exclusive of the Participant under consideration). This section shall not be subject to the weighted voting provision provided in Section D. Any liabilities associated with the Participant's departure from the Consortium under this provision shall be determined by the procedures set forth in Section P of this Agreement.

R. REPRESENTATIONS AND WARRANTIES OF PARTICIPANTS.

Each Participant by its approval of the terms and conditions of this Agreement hereby represents and warrants to each of the other Participants as follows:

1. The Participant understands and acknowledges that its participation in the Consortium under the terms and conditions of this Agreement is strictly voluntary and may be terminated as set forth herein, at the discretion of the Participant.

2. The Participant understands and acknowledges that the duly authorized decisions of the Board constitute the collective will of each of the Participants as to those matters within the scope of the Agreement.

3. The Participant understands and acknowledges that the decisions of the Board made in the best interests of the Consortium may on occasion temporarily disadvantage one or more of the individual Participants.

4. The Participant represents and warrants that its designated Director or authorized representative understands the terms and conditions of this Agreement and is suitably experienced to understand the principles upon which this Consortium operates.

5. The Participant understands and acknowledges that all Directors, or their authorized representatives, are responsible for attending all scheduled meetings. Provided that the quorum rules are satisfied, non-attendance at any scheduled meeting is deemed acquiescence by the absent Participant to any duly authorized Board-approved action at the meeting.

6. The Participant understands and acknowledges that, absent bad faith or fraud, any Participant's vote approving any Board action renders that Board action immune from later challenge by that Participant.

S. RECORDS

The Board shall have the custody of all records and documents, including financial records, associated with the operation of the Consortium. Each Participant may request records and documents relative to their participation in the Consortium by providing a written request to the Chairperson and Chief Fiscal Officer. The Consortium shall respond to each request no later than thirty (30) days after its receipt thereof, and shall include all information which can be provided under applicable law.
T. CHANGES TO AGREEMENT

Any change or amendment to this Agreement shall require the unanimous approval of the Participants, as authorized by a majority vote of their respective legislative bodies, as required by N.Y. Insurance Law § 4705(a).

U. CONFIDENTIALITY

Nothing contained in this Agreement shall be construed to waive any right that a covered person possesses under the Medical Plan(s) with respect to the confidentiality of medical records and that such rights will only be waived upon the written consent of such covered person.

V. ALTERNATIVE DISPUTE RESOLUTION ("ADR").

1. General. The Participants acknowledge and agree that given their budgeting and fiscal constraints, it is imperative that any disputes arising out of the operation of the Consortium be limited and that any disputes which may arise be addressed as quickly as possible. Accordingly, the Participants agree that the procedures set forth in this Section V are intended to be the exclusive means through which disputes shall be resolved. The Participants also acknowledge and agree that by executing this Agreement each Participant is limiting its right to seek redress for certain types of disputes as hereinafter provided.

2. Disputes subject to ADR. Any dispute by any Participant, Board Member, or Committee Person arising out of or relating to a contention that:

   a. The Board, the Board's designated agents, a Committee person, or any Participant has failed to adhere to the terms and conditions of this Agreement or any duly-passed resolution of the Board;

   b. The Board, the Board's designated agents, a Committee person, or any Participant has acted in bad faith or fraudulently in undertaking any duty or action under the Agreement; or

   c. Any other dispute otherwise arising out of or relating to: (i) the terms or conditions of this Agreement; (ii) any duly-passed decision, resolution, or policy by the Board of Directors; or (iii) otherwise requiring the interpretation of this Agreement shall be resolved exclusively through the ADR procedure set forth in paragraph (3) below.

3. ADR Procedure. Any dispute subject to ADR, as described in subparagraph (2), shall be resolved exclusively by the following procedure:

   a. Board Consideration: Within ninety (90) days of the occurrence of any dispute, the objecting party (the "Claimant") shall submit a written notice of the dispute to the Chairperson specifying in detail the nature of the dispute, the parties claimed to have been involved, the specific conduct claimed, the basis under the Agreement for the Participant's objection, the specific injury or damages claimed to have been caused by the objectionable conduct to the extent then ascertainable, and the requested action or resolution of the dispute. A dispute shall be deemed to have occurred on the date the objecting party knew or reasonably should have known of the basis for the dispute.
i. Within sixty (60) days of the submission of the written notice, the Executive Committee shall, as necessary, request further information from the Claimant, collect such other information from any other interested party or source, form a recommendation as to whether the Claimant has a valid objection or claim, and if so, recommend a fair resolution of said claim. During such period, each party shall provide the other with any reasonably requested information within such party's control. The Executive Committee shall present its recommendation to the Board in writing, including any underlying facts, conclusions or support upon which it is based, within such sixty (60) day period.

ii. Within sixty (60) days of the submission of the Executive Committee's recommended resolution of the dispute, the Board shall convene in a special meeting to consider the dispute and the recommended resolution. The Claimant and the Executive Committee shall each be entitled to present any argument or material it deems pertinent to the matter before the Board. The Board shall hold discussion and/or debate as appropriate on the dispute and may question the Claimant and/or the Executive Committee on their respective submissions. Pursuant to its regular procedures, the Board shall vote on whether the Claimant has a valid claim, and if so, what the fair resolution should be. The weighted voting procedure set forth in Section D shall not apply to this provision. The Board's determination shall be deemed final subject to the Claimant's right to arbitrate as set forth below.

b. Arbitration. The Claimant may challenge any Board decision under subparagraph (V)(3)(a)(ii) by filing a demand for arbitration with the American Arbitration Association within thirty (30) days of the Board's vote (a "Demand"). In the event a Claimant shall fail to file a Demand within thirty (30) days, the Board's decision shall automatically be deemed final and conclusive. In the event the Participant files a timely Demand, the arbitrator or arbitration panel may consider the claim:

provided however;

i. In no event may the arbitrator review any action taken by the Board that occurred three (3) or more years prior to when the Chairperson received notice of the claim; and

ii. In no event may the arbitrator award damages for any period that precedes the date the Chairperson received notice of the claim by more than twenty-four (24) months.

c. The Participants agree that the procedure set forth in this Section V shall constitute their exclusive remedy for disputes within the scope of this Section.

W. MISCELLANEOUS PROVISIONS

1. This instrument constitutes the entire Agreement of the Participants with respect to the subject matter hereof, and contains the sole statement of the operating rules of the Consortium. This instrument supersedes any previous Agreement, whether oral or written.
2. Each Participant will perform all other acts and execute and deliver all other documents as may be necessary or appropriate to carry out the intended purposes of this Agreement.

3. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

4. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Any claims made under Section V(3)(b) except to the extent otherwise limited therein, shall be governed by New York substantive law.

5. All notices to any party hereunder shall be in writing, signed by the party giving it, shall be sufficiently given or served if sent by registered or certified mail, return receipt requested, hand delivery, or overnight courier service addressed to the parties at the address designated by each party in writing. Notice shall be deemed given when transmitted.

6. This Agreement may be executed in two or more counterparts each of which shall be deemed to be an original but all of which shall constitute the same Agreement and shall become binding upon the undersigned upon delivery to the Chairperson of an executed copy of this Agreement together with a certified copy of the resolution of the legislative body approving this Agreement and authorizing its execution.

7. The provisions of Section V shall survive termination of this Agreement, withdrawal or expulsion of a Participant, and/or dissolution of the Consortium.

8. Article and section headings in this Agreement are included for reference only and shall not constitute part of this Agreement.

9. No findings or recommendations made by the Joint Committee on Plan Structure and Design or by the Chair of the Joint Committee shall be considered a waiver of any bargaining rights under any contract, law, rule, statute, or regulation.

10. The Chairperson and Executive Director are each designated attorneys-in-fact to receive service of any summons or other legal process in any action, suit or proceeding arising out of any contract, agreement, or transaction involving the Consortium. Service may be effected on either the Chairperson or Executive Director without requiring service to both.”

X. APPROVAL, RATIFICATION, AND EXECUTION

1. As a condition precedent to execution of this Municipal Cooperative Agreement and membership in the Consortium, each eligible municipal corporation desiring to be a Participant shall obtain legislative approval of the terms and conditions of this Agreement by the municipality’s governing body.

2. Prior to execution of this Agreement by a Participant, the Participant shall provide the Chairperson with the resolution approving the municipality’s participation in this Consortium
and expressly approving the terms and conditions of this Municipal Cooperative Agreement. Each presented resolution shall be maintained on file with the Consortium.

3. By executing this Agreement, each signatory warrants that he/she has complied with the approval and ratification requirements herein and is otherwise properly authorized to bind the participating municipal corporation to the terms and conditions of this Agreement.

[Signature Pages Follow]
IN WITNESS WHEREOF, the undersigned has caused this Amended Agreement to be executed as of the date adopted by the Board of Directors of the Greater Tompkins County Municipal Health Insurance Consortium and subsequently adopted by all participating municipalities.
Addendum “A”

Example of Weighted Voting Formula under Section D(2)

If 11 Participants have 500 or fewer enrollees each and 2 Participants have more than 500 enrollees each, under subparagraph “a” the 11 each get 1 vote. Under subparagraph “b” the 2 large Participants get 4 votes each, which is calculated by taking the total number of votes under subparagraph “a” [11] subtracting the number of Labor Representative votes [2], dividing by the number of eligible Participants under subsection “b” [2], and rounding the result [4.5] down to the nearest whole number [4]. The Labor Representative shall have 1 vote, irrespective of the votes available to the Participants.
Addendum "B"

Illustration of At-Large Labor Representative Calculation

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IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed as of the date adopted by the Greater Tompkins County Municipal Health Insurance Consortium Board of Directors and subsequently adopted by the Municipal Corporation named below.

_______________________________________
Municipal Corporation

Name of Chief Elected Official of Chief Officer ________________________________

Signature

_______________________________________
Printed Name

_______________________________________
Date
2021 AMENDMENT
TO THE
MUNICIPAL COOPERATION AGREEMENT
(Adopted September 24, 2020; effective January 1, 2021)

THIS AGREEMENT (the "Agreement") made effective as of the 1st day of October 2010 (the "Effective Date"), and as amended herein, by and among each of the signatory municipal corporations hereto (collectively, the "Participants").

WHEREAS:

1. Article 5-G of the New York General Municipal Law (the "General Municipal Law") authorizes municipal corporations to enter into cooperative agreements for the performance of those functions or activities in which they could engage individually;

2. Sections 92-a and 119-o of the General Municipal Law authorize municipalities to purchase a single health insurance policy, enter into group health plans, and establish a joint body to administer a health plan;

3. Article 47 of the New York Insurance Law (the "Insurance Law" or "N.Y. Insurance Law"), and the rules and regulations of the New York State Superintendent of Financial Services (the "Superintendent") set forth certain requirements for governing self-insured municipal cooperative health insurance plans;

4. Section 4702(f) of the Insurance Law defines the term "municipal corporation" to include a county, city, town, village, school district, board of cooperative educational services, public library (as defined in Section 253 of the New York State Education Law) and district (as defined in Section 119-n of the General Municipal Law); and

5. The Participants have determined to their individual satisfaction that furnishing the health benefits (including, but not limited to, medical, surgical, hospital, prescription drug, dental, and/or vision) for their eligible officers, eligible employees (as defined by the Internal Revenue Code of 1986, as amended, and the Internal Revenue Service rules and regulations), eligible retirees, and the eligible dependents of eligible officers, employees and retirees (collectively, the "Enrollees") (such definition does not include independent contractors and/or consultants) through a municipal cooperative is in their best interests as it is more cost-effective and efficient. Eligibility requirements shall be determined by each Participant's collective bargaining agreements and/or their personnel policies and procedures.

NOW, THEREFORE, the parties agree as follows:

A. PARTICIPANTS.

1. The Participants hereby designate themselves under this Agreement as the Greater Tompkins County Municipal Health Insurance Consortium (the "Consortium") for the purpose of providing health benefits (medical, surgical, hospital, prescription drug, dental,
and/or vision) to those Enrollees that each Participant individually elects to include in the Greater Tompkins County Municipal Health Insurance Consortium Medical Plan(s) (the "Medical Plan(s)"), as that term is defined by Section 4702 (e) of the Insurance Law.

2. The following Participants shall comprise the current membership of the Consortium:

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3. Membership in the Consortium may be offered to any municipal corporation as defined in N.Y. Insurance Law Section 4702(f) within the geographical boundaries of the Counties of Tompkins, Broome, Cayuga, Chenango, Chemung, Cortland, Madison, Onondaga, Ontario, Oswego, Tioga, Schuyler, Seneca, Steuben, Wayne, and Yates, provided however that, in the sole discretion of the Board (as defined below), the applicant provides satisfactory proof of its financial responsibility. Membership shall be subject to the terms and conditions set forth in this Agreement, any amendments hereto, and applicable law. Upon admission of any new Participant, the Consortium shall amend Section A(2) of this Agreement to reflect that change in membership, which must be submitted to the New York State Department of Financial Services (“DFS”) for approval. The geographic boundaries of the Consortium shall not be expanded beyond the above-listed counties without amendment of the MCA, submitted to DFS for approval, and prior DFS approval of any amendment to the Certificate of Authority.

4. The Board, in its sole discretion, and by a two-thirds (2/3) vote of the entire Board, may elect to permit additional municipal corporations located within the geographical boundaries set forth in Section A(3) to become Participants subject to satisfactory proof, as determined by the Board, of such municipal corporation’s financial responsibility. Such corporations must agree to continue as a Participant for a minimum of three (3) years upon entry.

5. Participation in the Medical Plan(s) by some, but not all, collective bargaining units or employee groups of a Participant shall not be permitted without a Board approved waiver. Participants with a waiver allowing active employees not enrolled in Consortium benefit plan options, must, within 3 (three) years of the date of enrolling in the Consortium, fully enroll all of their active employees in Consortium plan options. Failure to comply with this provision may be grounds for termination from participation in the Consortium as defined in Section Q(3).

6. Initial membership of additional participants shall become effective as soon as practical but preferably on the first day of the Plan Year following the adoption by the Board of the resolution to accept a municipal corporation as a Participant. Such municipal corporation must agree to continue as a Participant for a minimum of three (3) years upon entry.

7. A municipal corporation that was previously a Participant, but is no longer a Participant, and which is otherwise eligible for membership in the Consortium, may apply for re-entry after a minimum of three (3) years has passed since it was last a Participant. Such re-entry shall be subject to the approval of two-thirds (2/3) of the entire Board. This re-entry waiting period may be waived by the approval of two-thirds (2/3) of the entire Board. In order to re-enter the Consortium, a municipal corporation employer must have satisfied all of its outstanding financial obligations to the Consortium. A municipal corporation must agree to continue as a Participant for a minimum of three (3) years upon re-entry.

B. PARTICIPANT LIABILITY.

1. The Participants shall share in the costs of, and assume the liabilities for benefits (including medical, surgical, and hospital) provided under the Medical Plan(s) to covered officers, employees, retirees, and their dependents. Each Participant shall pay on demand such Participant's share of any assessment or additional contribution ordered by the governing board of the municipal cooperative health benefit plan, as set forth in Section L(4) of this Agreement or as ordered by the Superintendent or under Article 74 (seventy four) of the New York State Insurance Law. The pro rata share shall be based on the Participant's relative "premium" contribution to the Medical Plan(s) as a percentage of the aggregate "premium" contribution to the Medical Plan(s), as is appropriate based on the nature of the assessment or contribution.
2. New Participants (each a "New Participant") who enter the Consortium may, at the discretion of the Board of Directors, be assessed a fee for additional financial costs above and beyond the premium contributions to the Medical Plan(s). Any such additional financial obligations and any related terms and conditions associated with membership in the Consortium shall be determined by the Board, and shall be disclosed to the New Participant prior to its admission.

3. Each Participant shall be liable, on a pro rata basis, for any additional assessment required in the event the Consortium funding falls below those levels required by the Insurance law as follows:

   a. In the event the Consortium does not have admitted assets (as defined in Insurance Law Section 107) at least equal to the aggregate of its liabilities, reserves, and minimum surplus required by the Insurance Law, the Board shall, within thirty (30) days, order an assessment (an "Assessment Order") for the amount that will provide sufficient funds to remove such impairment and collect from each Participant a pro-rata share of such assessed amount.

   b. Each Participant that participated in the Consortium at any time during the two (2) year period prior to the issuing of an Assessment Order by the Board shall, if notified of such Assessment Order, pay its pro rata share of such assessment within ninety (90) days after the issuance of such Assessment Order. This provision shall survive termination of the Agreement of withdrawal of a Participant.

   c. For purposes of this Section B(3), a Participant's pro-rata share of any assessment shall be determined by applying the ratio of the total assessment to the total contributions or premium equivalents earned during the period covered by the assessment on all Participants subject to the assessment to the contribution or premium equivalent earned during such period attributable to such Participant.

C. BOARD OF DIRECTORS.

1. The governing board of the Consortium, responsible for management, control and administration of the Consortium and the Medical Plan(s), shall be referred to as the "Board of Directors" (the "Board"). The voting members of the Board shall be composed of one representative of each Participant and representatives of the Joint Committee on Plan Structure and Design (as set forth in Section C(11)), who shall have the authority to vote on any official action taken by the Board (each a "Director"). Each Director, except the representatives of the Joint Committee on Plan Structure and Design, shall be designated in writing by the governing body of the Participant.

2. If a Director designated by a Participant cannot fulfill his/her obligations, for any reason, as set forth herein, and the Participant desires to designate a new Director, it must notify the Consortium's Chairperson in writing of it’s selection of a new designee to represent the Participant as a Director.

3. Directors shall receive no remuneration from the Consortium for their service and shall serve a term from January 1 through December 31 (the "Plan Year").

4. No Director may represent more than one Participant.
5. No Director, or any member of a Director's immediate family, shall be an owner, officer, director, partner, or employee of any contractor or agency retained by the Consortium, including any third-party contract administrator.

6. Except as otherwise provided in Section D of the Agreement, each Director shall be entitled to one vote. A majority of the entire Board, not simply those present, is required for the Board to take any official action, unless otherwise specified in this Agreement. The “entire Board”, as used herein and elsewhere in this Agreement, shall mean the total number of Directors when there are no vacancies.

While physical presence is strongly encouraged, Directors who cannot be physically present at any meeting may attend remotely utilizing videoconferencing that allows for real time audio and visual participation and voting in the meeting upon confirmation that communication is with all participants as it progresses.

7. Each Participant may designate in writing an alternate Director to attend the Board's meeting when its Director cannot attend. The alternate Director may participate in the discussions at the Board meeting and will, if so designated in writing by the Participant, be authorized to exercise the Participant’s voting authority. Only alternate Directors with voting authority shall be counted toward a quorum. The Joint Committee on Plan Structure and Design may designate alternate Directors as set forth in Section C(11).

8. A majority of the Directors of the Board shall constitute a quorum. A quorum is a simple majority (more than half) of the entire Board. A quorum is required for the Board to conduct any business. This quorum requirement is independent of the voting requirements set forth in Section C(6). The Board shall meet on an annual basis, at a time and place within the State of New York determined by a vote of the Board. The Board shall hold an annual meeting (the “Annual Meeting”) in September of each Plan Year.

9. Special meetings of the Board may be called at any time by the Chairperson or by any two (2) Directors. Whenever practicable, the person or persons calling such special meeting shall give at least a three (3) day notice to all of the other Directors. Such notice shall set forth the time and place of the special meeting as well as a detailed agenda of the matters proposed to be acted upon. In the event the three (3) day notice cannot be given, each Director shall be given such notice as is practicable under the circumstances.

10. In the event that a special meeting is impractical due to the nature and/or urgency of any action which, in the opinion of the Chairperson, is necessary or advisable to be taken on behalf of the Consortium, the Chairperson may send resolutions regarding said actions via electronic communication to each and all of the Directors. The Directors may then electronically communicate their approval or disapproval of said resolution via signed document to the Chairperson. In accordance with NY Business Corporation Law Section 708(b), unanimous consent is required for the Chairperson to act on behalf of the Board in reliance upon such approvals. Any actions taken by the Chairperson pursuant to this paragraph shall be ratified at the next scheduled meeting of the Board.

11. The Chair of the Joint Committee on Plan Structure and Design and any At-Large Labor Representatives (as defined in Section K) (collectively the “Labor Representatives”) shall serve as Directors and shall have the same rights and obligations as all other Directors. The Joint Committee on Plan Structure and Design may designate in writing alternate Directors to attend the Board’s meetings when the Labor Representatives cannot attend. The alternate Director may, if designated in writing, be authorized to exercise the Labor Representatives’ voting authority.
D. WEIGHTED VOTING.

1. Except as otherwise provided in this Agreement, any two or more Directors, acting jointly, may require a weighted vote on any matter that may come before the Board. In such event, the voting procedure set forth in this Section D shall apply in lieu of any other voting procedures set forth in this Agreement. Such weighted voting procedures shall apply solely with respect to the matter then before the Board.

2. For purposes of this Section D, each Director shall receive votes as follows:
   a. Each Director representing a Participant with five hundred (500) or fewer Enrollees shall be entitled to one (1) vote.
   b. Each Director representing a Participant with more than five hundred (500) Enrollees shall be entitled to a number of votes equaling the total number of votes assigned under subsection 2(a) above minus the number of Labor Representative votes, divided evenly by the number of Participants eligible under this subsection 2(b) and rounded down to the nearest whole number.
   c. The Labor Representatives shall be entitled to one (1) vote each.

3. Attached as Addendum “A” to this Agreement is an example of the application of the voting formula contained in subparagraph “2” of this Section.

4. Notwithstanding anything to the contrary contained in this Agreement, any action taken pursuant to this Section D shall require the approval of two-thirds (2/3) of the total number of votes, if all votes had been cast.

E. ACTIONS BY THE BOARD

1. Subject to the voting and quorum requirements set forth in this Agreement, the Board is required, in accordance with N.Y. Insurance Law § 4705, to take action on the following matters:

   a. In accordance with N.Y. Insurance Law § 4705 (d) (5), to approve an annual budget for the Consortium, which shall be prepared and approved prior to October 1st of each year, and determine the annual premium equivalent rates to be paid by each Participant for each Enrollee classification in the Medical Plan(s) on the basis of a community rating methodology in accordance with N.Y. Insurance Law Section 4705(d)(5)(B) and filed with and approved by the Superintendent.

   b. To audit receipts and disbursements of the Consortium and provide for independent audits, and periodic financial and operational reports to Participants in accordance with N.Y. Insurance Law § 4705 (e)(1).

   c. To establish a joint fund or funds to finance all Consortium expenditures, including claims, reserves, surplus, administration, stop-loss insurance and other expenses in accordance with N.Y. Insurance Law § 4705(d)(4).
d. To select and approve the benefits provided by the Medical Plan(s) including the plan document(s), insurance certificate(s), and/or summary plan description(s) in accordance with N.Y. Insurance Law Section 4709, a copy of the Medical Plan(s) effective on the date of this Agreement is incorporated by reference into this Agreement.

e. In accordance with N.Y. Insurance Law § 4705(d)(2) and N.Y. General Municipal Law § 119-o(2)(d) & (2)(i), the Board may contract with third parties, if appropriate, which may include one or more Participants, for the furnishing of all goods and services reasonably needed in the efficient operation and administration of the Consortium, including, without limitation, accounting services, legal counsel, contract administration services, consulting services, purchase of insurances and actuarial services. Provided, however (a) the charges, fees and other compensation for any contracted services shall be clearly stated in written administrative services contracts, as required in Section 92-a(6) of the General Municipal Law; (b) payment for contracted services shall be made only after such services are rendered; (c) no Director or any member of such Director's immediate family shall be an owner, officer, director, partner or employee of any contract administrator retained by the Consortium; and (d) all such agreements shall otherwise comply with the requirements of Section 92-a(6) of the General Municipal Law.

f. To purchase stop-loss insurance on behalf of the Consortium and determine each year the insurance carrier or carriers who are to provide the stop-loss insurance coverage during the next Plan Year, as required by N.Y. Insurance Law Sections 4707 and 4705(d)(3).

g. To designate one governing Board member to retain custody of all reports, statements, and other documents of the Consortium, in accordance with N.Y. Insurance Law Section 4705(c)(2), and who shall also take minutes of each Board meeting which, if appropriate, shall be acted upon by the Board in a subsequent meeting.

h. In accordance with N.Y. Insurance Law § 4705(e)(1), to choose the certified public accountant and the actuary to provide the reports required by this Agreement and any applicable law.

i. In accordance with N.Y. Insurance Law § 4705 (d)(5)(A), designate the banks or trust companies in which joint funds, including reserve funds, are to be deposited and which shall be located in this state, duly chartered under federal law or the laws of this state.

j. In accordance with N.Y. Insurance Law § 4705 (a)(6), designate the fiscal officer of a participating municipal corporation to be the Chief Fiscal Officer of the municipal cooperative health benefit plan, and who will serve on the Executive Committee.

2. Subject to the voting and quorum requirements set forth in this Agreement, the Board is authorized to take action on the following matters:
a. To fix the frequency, time and place of regular Board meetings.

b. To have a plan consultant (the “Plan Consultant) contract in place for the upcoming Plan Year, prior to October 1st of each year.

c. To determine and notify each Participant prior to October 15th of each Plan Year of the monthly premium equivalent for each enrollee classification during the next Plan Year commencing the following January 1st.

d. To take all necessary action to ensure that the Consortium obtains and maintains a Certificate of Authority in accordance with the Insurance Law.

e. To take any other action authorized by law and deemed necessary to accomplish the purposes of this Agreement.

f. Annually elect Directors to the Executive Committee to oversee operations and develop recommendations for Board actions stated in this Section E.

F. EXECUTIVE COMMITTEE

1. The Executive Committee of the Consortium shall consist of at least eleven (11) and no greater than fifteen (15) Directors. Executive Committee Directors are elected annually, but shall always include the elected Chairperson, Vice-Chairperson, and the Secretary of the Consortium, as well as the designated Chief Fiscal Officer and Chairperson of the Joint Committee on Plan Structure and Design.

2. The Secretary shall be responsible for maintaining all records in accordance with Article E, Section 1.g.

3. The Executive Committee shall establish meeting dates at its Organizational Meeting. The Executive Committee shall meet no less frequently than once per quarter.

4. Special meetings of the Executive Committee may be called at any time by the Chairperson or by any two (2) Executive Committee Directors. Whenever practicable, the person or persons calling such special meeting shall give at least three (3) day notice to all of the other Directors. Such notice shall set forth the time and place of the special meeting as well as a detailed agenda of the matters proposed to be acted upon. In the event three (3) day notice cannot be given, each Director shall be given such notice as is practicable under the circumstances.

5. The Executive Committee shall:

a. Conduct business according to its Bylaws within its delegated authority, subject to approval and/or ratification of its actions at the next scheduled Board meeting.

b. Create sub-committees as necessary to monitor operations and make recommendations, to the Executive Committee and/or Board, to facilitate operations.
c. Manage the Consortium between meetings of the Board, subject to such approval by the Board as may be required by this Agreement.

d. Develop Bylaws for its operations.

e. In consultation with a nomination committee, fill any vacancy on the Executive Committee from among the Board’s members as set forth in its Bylaws.

f. Establish administrative guidelines for the efficient operation of the Consortium.

g. Annually appoint a treasurer (the "Treasurer") who may or may not be a Director and who shall be the treasurer, or equivalent financial officer, for one of the Participants. The Treasurer's duties shall be determined by the Chief Fiscal Officer to whom he/she will report.

h. Take all necessary action to ensure the Consortium is operated and administered in accordance with the laws of the State of New York.

G. OFFICERS

1. At the Annual Meeting, the Board shall elect from its Directors a Chairperson, Vice Chairperson, Chief Fiscal Officer, and Secretary, who shall serve for a term of one (1) year or until their successors are elected and qualified. Any vacancy in an officer's position shall be filled at the next meeting of the Board.

2. Officers of the Consortium and employees of any third-party vendor, including without limitation the officers and employees of any Participant, who assist or participate in the operation of the Consortium, shall not be deemed employees of the Consortium. Each third-party vendor shall provide for all necessary services and materials pursuant to annual contracts with the Consortium. The officers of the Consortium shall serve without compensation from the Consortium, but may be reimbursed for reasonable out-of-pocket expenses incurred in connection with the performance of such officers’ duties.

3. Officers shall serve at the pleasure of the Board and may be removed or replaced upon a two-thirds (2/3) vote of the entire Board. This provision shall not be subject to the weighted voting alternative set forth in Section D.

H. CHAIRPERSON; VICE CHAIRPERSON; SECRETARY

1. The Chairperson shall be the Chief Executive Officer of the Consortium.

2. The Chairperson, or in the absence of the Chairperson, the Vice Chairperson, shall preside at all meetings of the Board.

3. In the absence of the Chairperson, the Vice Chairperson shall perform all duties related to that office.
4. The Secretary shall retain custody of all reports, statements, and other documents of the Consortium and ensure that minutes of each Board meeting are taken and transcribed which shall be acted on by the Board at a subsequent meeting, as appropriate.

I. CHIEF FISCAL OFFICER

1. The Chief Fiscal Officer shall act as the chief financial administrator of the Consortium and disbursing agent for all payments made by the Consortium, and shall have custody of all monies either received or expended by the Consortium. The Chief Fiscal Officer may delegate duties and tasks to the Treasurer to assist in accomplishing this function. However, the Chief Fiscal Officer may never delegate his/her ultimate authority and shall remain responsible for ensuring that the Consortium’s finances are operated and administered in accordance with the laws of the State of New York. The Chief Fiscal Officer shall be the City Controller of the City of Ithaca. The Chief Fiscal Officer shall receive no remuneration from the Consortium. The Consortium shall reimburse the Participant that employs the Chief Fiscal Officer for reasonable and necessary out-of-pocket expenses incurred by the Chief Fiscal Officer in connection with the performance of his or her duties that relate to the Consortium.

2. All monies collected by the Chief Fiscal Officer relating to the Consortium, shall be maintained and administered as a common fund. The Chief Fiscal Officer shall, notwithstanding the provisions of the General Municipal Law, make payment in accordance with procedures developed by the Board and as deemed acceptable to the Superintendent.

3. The Chief Fiscal Officer shall be bonded for all monies received from the Participants. The amount of such bond shall be established annually by the Consortium in such monies and principal amount as may be required by the Superintendent.

4. All monies collected from the Participants by the Chief Fiscal Officer in connection with the Consortium shall be deposited in accordance with the policies of the Participant which regularly employs the Chief Fiscal Officer and shall be subject to the provisions of law governing the deposit of municipal funds.

5. The Chief Fiscal Officer may invest monies not required for immediate expenditure in the types of investments specified in the General Municipal Law for temporary investments or as otherwise expressly permitted by the Superintendent.

6. The Chief Fiscal Officer shall account for the Consortium's reserve funds separate and apart from all other funds of the Consortium, and such accounting shall show:
   a. the purpose, source, date, and amount of each sum paid into the fund;
   b. the interest earned by such funds;
   c. capital gains or losses resulting from the sale of investments of the Consortium’s reserve funds;
   d. the order, purpose, date and amount of each payment from the reserve fund; and
   e. the assets of the fund, indicating cash balance and schedule of investments.
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7. The Chief Fiscal Officer shall cause to be prepared and shall furnish to the Board, to participating municipal corporations, to unions which are the exclusive bargaining representatives of Enrollees, the Board’s consultants, and to the Superintendent:

   a. an annual audit, and opinions thereon, by an independent certified public accountant, of the financial condition, accounting procedures and internal control systems of the municipal cooperative health benefit plan;

   b. an annual report and quarterly reports describing the Consortium’s current financial status; and

   c. an annual independent actuarial opinion on the financial soundness of the Consortium, including the actuarial soundness of contribution or premium equivalent rates and reserves, both as paid in the current Plan Year and projected for the next Plan Year.

8. Within ninety (90) days after the end of each Plan Year, the Chief Fiscal Officer shall furnish to the Board a detailed report of the operations and condition of the Consortium's reserve funds.

J. PLAN ADMINISTRATOR

The Board, by a two-thirds (2/3) vote of the entire Board, may annually designate an administrator and/or insurance company of the Medical Plan (the "Plan Administrator") and the other provider(s) who are deemed by the Board to be qualified to receive, investigate, audit, and recommend or make payment of claims, provided that the charges, fees and other compensation for any contracted services shall be clearly stated in written administrative services and/or insurance contracts and payment for such contracted services shall be made only after such services are rendered or are reasonably expected to be rendered. All such contracts shall conform to the requirements of Section 92-a(6) of the General Municipal Law.

K. JOINT COMMITTEE ON PLAN STRUCTURE AND DESIGN

1. There shall be a Joint Committee on Plan Structure and Design (the "Joint Committee"), which shall consist of (a) a representative of each collective bargaining unit that is the exclusive collective bargaining representative of any Enrollee or group of Enrollees covered by the Medical Plan(s) (the "Union Members"); and (b) a representative of each Participant (the "Management Members"). Management Members may, but are not required to be, Directors.

2. The Joint Committee shall review all prospective Board actions in connection with the benefit structure and design of the Medical Plan(s), and shall develop findings and recommendations with respect to such matters. The Chair of the Joint Committee shall report such findings and recommendations to the Board at any regular or special meeting of the Board.

3. The Joint Committee shall select (a) from among the Union Members, an individual who shall serve as Chair of the Joint Committee; and (b) from among the Management Members,
an individual who shall serve as Vice Chair of the Joint Committee. The Joint Committee shall establish its own parliamentary rules and procedures.

4. Each eligible union shall establish such procedures by which its representative to the Joint Committee is chosen and such representative shall be designated in writing to the Chairperson of the Board and the Chair of the Joint Committee.

5. The Union Members on the Joint Committee on Plan Structure and Design shall select from among the Union Members an individual to serve as an additional at-large voting Labor Member on the Board of Directors of the Consortium. If the number of municipal members on the Consortium rises to seventeen (17), the union members of the Joint Committee on Plan Structure and Design shall select from among the Union Members an additional at-large voting Labor Member on the Board of Directors of the Consortium. The at-large voting Labor Member(s) along with the Joint Committee Chair shall collectively be the “Labor Representatives” as defined in Section C(11) of this Agreement. If the number of municipal members on the Consortium rises to twenty-three (23), the Union Members may select from among their members a third At-Large Labor Representative to serve as a Director. Thereafter, for every increase of five (5) additional municipal members added to the Consortium Union Members may select from among their members one (1) At-large Labor Representative to serve as Director with a maximum of ten (10) Labor Representatives. Attached hereto as Addendum “B” is a table illustrating the addition of At-Large Labor Representatives as set forth in this Section. Any At-Large Labor Representative designated according to this section shall have the same rights and obligations as all other Directors.

L. PREMIUM CALCULATIONS/PAYMENT.

1. The annual premium equivalent rates shall be established and approved by a majority of the entire Board. The method used for the development of the premium equivalent rates may be changed from time to time by the approval of two-thirds (2/3) of the entire Board, subject to review and approval by the Superintendent. The premium equivalent rates shall consist of such rates and categories of benefits as is set forth in the Medical Plan[s] that is determined and approved by the Board consistent with New York law.

2. In accordance with N.Y. Insurance Law §§ 4706 & 4707, the Consortium shall maintain reserves and stop-loss insurance to the level and extent required by the Insurance Law and as directed by the Superintendent.

3. Each Participant's monthly premium equivalent, by enrollee classification, shall be paid by the first day of each calendar month during the Plan Year. A late payment charge of one percent (1%) of the monthly installment then due may be charged by the Board for any payment not received by the first of each month, or the next business day when the first falls on a Saturday, Sunday, legal holiday, or day observed as a legal holiday by the Participants.

The Consortium may waive the first penalty once per Plan Year for each Participant, but will strictly enforce the penalty thereafter. A repeated failure to make timely payments, including any applicable penalties, may be used by the Board as an adequate justification for the expulsion of the Participant from the Consortium.
4. The Board shall assess Participants for additional contributions, if actual and anticipated losses due to benefits paid out, administrative expenses, and reserve and surplus requirements exceed the amount in the joint funds, as set forth in Section B(3) above.

5. The Board, in its sole discretion, may refund amounts in excess of reserves and surplus, or retain such excess amounts and apply these amounts as an offset to amounts projected to be paid under the next Plan Year’s budget.

M. EMPLOYEE CONTRIBUTIONS.

If any Participant requires an Enrollee's contribution for benefits provided by the Consortium, the Participant shall collect such contributions at such time and in such amounts as it requires. However, the failure of a Participant to receive the Enrollee contribution on time shall not diminish or delay the payment of the Participant's monthly premium equivalent to the Consortium, as set forth in this Agreement.

N. ADDITIONAL BENEFITS.

Any Participant choosing to provide more benefits, coverages, or enrollment eligibility other than that provided under the Medical Plan(s)(s), will do so at its sole expense. This Agreement shall not be deemed to diminish such Participant's benefits, coverages or enrollment eligibility, the additional benefits and the payment for such additional benefits, shall not be part of the Consortium and shall be administered solely by and at the expense of the Participant.

O. REPORTING.

The Board, through its officers, agents, or delegates, shall ensure that the following reports are prepared and submitted:

1. Annually after the close of the Plan Year, not later than one-hundred twenty (120) days after the close of the Plan Year, the Board shall file a report with the Superintendent showing the financial condition and affairs of the Consortium, including an annual independent financial audit statement and independent actuarial opinion, as of the end of the preceding plan year.

2. Annually after the close of the Plan Year, the Board shall have prepared a statement and independent actuarial opinion on the financial soundness of the Consortium, including the contribution or premium equivalent rates and reserves, both as paid in the current Plan Year and projected for the next Plan Year.

3. The Board shall file reports with the Superintendent describing the Consortium’s then current financial status within forty-five (45) days of the end of each quarter during the Plan year.

4. The Board shall provide the annual report to all Participants and all unions, which are the exclusive collective bargaining representatives of Enrollees, which shall be made available for review to all Enrollees.
5. The Board shall submit to the Superintendent a report describing any material changes in any information originally provided in the Certificate of Authority. Such reports, in addition to the reports described above, shall be in such form, and containing such additional content, as may be required by the Superintendent.

P. WITHDRAWAL OF PARTICIPANT

1. Withdrawal of a Participant from the Consortium shall be effective only once annually on the last day of the Plan Year.

2. Notice of intention of a Participant to withdraw must be given in writing to the Chairperson prior to September 1st of each Plan Year. Failure to give such notice shall automatically extend the Participant’s membership and obligations under the Agreement for another Plan Year, unless the Board shall consent to an earlier withdrawal by a two-thirds (2/3) vote.

3. Any withdrawing Participant shall be responsible for its pro rata share of any Consortium deficit that exists on the date of the withdrawal, subject to the provisions of subsection “4” of this Section. The withdrawing Participant shall be entitled to any pro rata share of surplus that exists on the date of the withdrawal, subject to the provisions of subsection “4” of this Section. The Consortium surplus or deficit shall be based on the sum of actual expenses and the estimated liability of the Consortium as determined by the Board. These expenses and liabilities will be determined one (1) year after the end of the Plan Year in which the Participant last participated.

4. The surplus or deficit shall include recognition and offset of any claims, expenses, assets and/or penalties incurred at the time of withdrawal, but not yet paid. Such pro rata share shall be based on the Participant's relative premium contribution to the Consortium as a percentage of the aggregate premium contributions to the Consortium during the period of participation. This percentage amount may then be applied to the surplus or deficit which existed on the date of the Participant's withdrawal from the Consortium. Any pro rata surplus amount due the Participant shall be paid to the Participant one year after the effective date of the withdrawal. Any pro rata deficit amount shall be billed to the Participant by the Consortium one year after the effective date of the withdrawal and shall be due and payable within thirty (30) days after the date of such bill.

Q. DISSOLUTION; RENEWAL; EXPULSION

1. The Board at any time, by a two-thirds (2/3) vote of the entire Board, may determine that the Consortium shall be dissolved and terminated. If such determination is made, the Consortium shall be dissolved ninety (90) days after written notice to the Participants.

   a. Upon determination to dissolve the Consortium, the Board shall provide notice of its determination to the Superintendent. The Board shall develop and submit to the Superintendent for approval a plan for winding-up the Consortium’s affairs in an orderly manner designed to result in timely payment of all benefits.

   b. Upon termination of this Agreement, or the Consortium, each Participant shall be responsible for its pro rata share of any deficit or shall be entitled to any pro rata share of surplus that exists, after the affairs of the Consortium are closed. No part of any funds of the Consortium shall be subject to the claims of general creditors of any Participant until all Consortium benefits and other Consortium obligations have been
satisfied. The Consortium’s surplus or deficit shall be based on actual expenses. These expenses will be determined one year after the end of the Plan Year in which this Agreement or the Consortium terminates.

   c. Any surplus or deficit shall include recognition of any claims/expenses incurred at the time of termination, but not yet paid. Such pro rata share shall be based on each Participant's relative premium contribution to the Consortium as a percentage of the aggregate premium contributions to the Consortium during the period of participation. This percentage amount would then be applied to the surplus or deficit which exists at the time of termination.

2. The continuation of the Consortium under the terms and conditions of the Agreement, or any amendments or restatements thereto, shall be subject to Board review on the fifth (5th) anniversary of the Effective Date and on the fifth (5th) anniversary date thereafter (each a “Review Date”) to the extent deemed required by Article 5-G of the New York General Municipal Law (the "General Municipal Law").

   a. At the annual meeting a year prior to the Review Date, the Board shall include as an agenda item a reminder of the Participants’ coming obligation to review the terms and conditions of the Agreement.

   b. During the calendar year preceding the Review Date, each Participant shall be responsible for independently conducting a review of the terms and conditions of the Agreement and submitting to the Board of Directors a written resolution containing any objection to the existing terms and conditions or any proposed modification or amendment to the existing Agreement, such written resolution shall be submitted to the Board on or before March 1st preceding the Review Date. Failure to submit any such resolution shall be deemed as each Participant’s agreement and authorization to the continuation of the Consortium until the next Review Date under the existing terms and conditions of the Agreement.

   c. As soon as practicable after March 1st, the Board shall circulate to all Participants copies of all resolutions submitted by the Participants. Subject to Section S hereof, any resolutions relating to the modification, amendment, or objection to the Agreement submitted prior to each Review Date shall be considered and voted on by the Participants at a special meeting called for such purpose. Such special meeting shall be held on or before July 1st preceding the Review Date.

   d. Notwithstanding the foregoing or Section T hereof, if at the Annual Meeting following any scheduled Review Date the Board votes on and approves the budget and annual assessment for the next year, the Participants shall be deemed to have approved the continuation of the Consortium under the existing Agreement until the next Review Date.

3. The Participants acknowledge that it may be necessary in certain extraordinary circumstances to expel a Participant from the Consortium. In the event the Board determines that:

   a. A Participant has acted inconsistently with the provisions of the Agreement in a way that threatens the financial well-being or legal validity of the Consortium; or

   b. A Participant has acted fraudulently or has otherwise acted in bad faith with regards to the Consortium, or toward any individual Participant concerning matters
relating to the Consortium, the Board may vote to conditionally terminate said Participant's membership in the Consortium. Upon such a finding by the affirmative vote of two-thirds (2/3) of the Participants, the offending Participant shall be given sixty (60) days to correct or cure the alleged wrongdoing to the satisfaction of the Board. Upon the expiration of said sixty (60) day period, an absent satisfactory cure, the Board may expel the Participant by an affirmative vote of two-thirds (2/3) of the Participants (exclusive of the Participant under consideration). This section shall not be subject to the weighted voting provision provided in Section D. Any liabilities associated with the Participant's departure from the Consortium under this provision shall be determined by the procedures set forth in Section P of this Agreement.

R. REPRESENTATIONS AND WARRANTIES OF PARTICIPANTS.

Each Participant by its approval of the terms and conditions of this Agreement hereby represents and warrants to each of the other Participants as follows:

1. The Participant understands and acknowledges that its participation in the Consortium under the terms and conditions of this Agreement is strictly voluntary and may be terminated as set forth herein, at the discretion of the Participant.

2. The Participant understands and acknowledges that the duly authorized decisions of the Board constitute the collective will of each of the Participants as to those matters within the scope of the Agreement.

3. The Participant understands and acknowledges that the decisions of the Board made in the best interests of the Consortium may on occasion temporarily disadvantage one or more of the individual Participants.

4. The Participant represents and warrants that its designated Director or authorized representative understands the terms and conditions of this Agreement and is suitably experienced to understand the principles upon which this Consortium operates.

5. The Participant understands and acknowledges that all Directors, or their authorized representatives, are responsible for attending all scheduled meetings. Provided that the quorum rules are satisfied, non-attendance at any scheduled meeting is deemed acquiescence by the absent Participant to any duly authorized Board-approved action at the meeting.

6. The Participant understands and acknowledges that, absent bad faith or fraud, any Participant's vote approving any Board action renders that Board action immune from later challenge by that Participant.

S. RECORDS

The Board shall have the custody of all records and documents, including financial records, associated with the operation of the Consortium. Each Participant may request records and documents relative to their participation in the Consortium by providing a written request to the Chairperson and Chief Fiscal Officer. The Consortium shall respond to each request no later than thirty (30) days after its receipt thereof, and shall include all information which can be provided under applicable law.
T.  CHANGES TO AGREEMENT

Any change or amendment to this Agreement shall require the unanimous approval of the Participants, as authorized by a majority vote of their respective legislative bodies, as required by N.Y. Insurance Law § 4705(a).

U.  CONFIDENTIALITY

Nothing contained in this Agreement shall be construed to waive any right that a covered person possesses under the Medical Plan(s) with respect to the confidentiality of medical records and that such rights will only be waived upon the written consent of such covered person.

V.  ALTERNATIVE DISPUTE RESOLUTION ("ADR").

1. General. The Participants acknowledge and agree that given their budgeting and fiscal constraints, it is imperative that any disputes arising out of the operation of the Consortium be limited and that any disputes which may arise be addressed as quickly as possible. Accordingly, the Participants agree that the procedures set forth in this Section V are intended to be the exclusive means through which disputes shall be resolved. The Participants also acknowledge and agree that by executing this Agreement each Participant is limiting its right to seek redress for certain types of disputes as hereinafter provided.

2. Disputes subject to ADR. Any dispute by any Participant, Board Member, or Committee Person arising out of or relating to a contention that:

   a. The Board, the Board's designated agents, a Committee person, or any Participant has failed to adhere to the terms and conditions of this Agreement or any duly-passed resolution of the Board;

   b. The Board, the Board's designated agents, a Committee person, or any Participant has acted in bad faith or fraudulently in undertaking any duty or action under the Agreement; or

   c. Any other dispute otherwise arising out of or relating to: (i) the terms or conditions of this Agreement; (ii) any duly-passed decision, resolution, or policy by the Board of Directors; or (iii) otherwise requiring the interpretation of this Agreement shall be resolved exclusively through the ADR procedure set forth in paragraph (3) below.

3. ADR Procedure. Any dispute subject to ADR, as described in subparagraph (2), shall be resolved exclusively by the following procedure:

   a. Board Consideration: Within ninety (90) days of the occurrence of any dispute, the objecting party (the "Claimant") shall submit a written notice of the dispute to the Chairperson specifying in detail the nature of the dispute, the parties claimed to have been involved, the specific conduct claimed, the basis under the Agreement for the Participant's objection, the specific injury or damages claimed to have been caused by the objectionable conduct to the extent then ascertainable, and the requested action or resolution of the dispute. A dispute shall be deemed to have occurred on the date the objecting party knew or reasonably should have known of the basis for the dispute.
i. Within sixty (60) days of the submission of the written notice, the Executive Committee shall, as necessary, request further information from the Claimant, collect such other information from any other interested party or source, form a recommendation as to whether the Claimant has a valid objection or claim, and if so, recommend a fair resolution of said claim. During such period, each party shall provide the other with any reasonably requested information within such party's control. The Executive Committee shall present its recommendation to the Board in writing, including any underlying facts, conclusions or support upon which it is based, within such sixty (60) day period.

ii. Within sixty (60) days of the submission of the Executive Committee's recommended resolution of the dispute, the Board shall convene in a special meeting to consider the dispute and the recommended resolution. The Claimant and the Executive Committee shall each be entitled to present any argument or material it deems pertinent to the matter before the Board. The Board shall hold discussion and/or debate as appropriate on the dispute and may question the Claimant and/or the Executive Committee on their respective submissions. Pursuant to its regular procedures, the Board shall vote on whether the Claimant has a valid claim, and if so, what the fair resolution should be. The weighted voting procedure set forth in Section D shall not apply to this provision. The Board's determination shall be deemed final subject to the Claimant's right to arbitrate as set forth below.

b. Arbitration. The Claimant may challenge any Board decision under subparagraph (V)(3)(a)(ii) by filing a demand for arbitration with the American Arbitration Association within thirty (30) days of the Board's vote (a "Demand"). In the event a Claimant shall fail to file a Demand within thirty (30) days, the Board's decision shall automatically be deemed final and conclusive. In the event the Participant files a timely Demand, the arbitrator or arbitration panel may consider the claim:

provided however;

i. in no event may the arbitrator review any action taken by the Board that occurred three (3) or more years prior to when the Chairperson received notice of the claim; and

ii. in no event may the arbitrator award damages for any period that precedes the date the Chairperson received notice of the claim by more than twenty-four (24) months.

c. The Participants agree that the procedure set forth in this Section V shall constitute their exclusive remedy for disputes within the scope of this Section.

W. MISCELLANEOUS PROVISIONS

1. This instrument constitutes the entire Agreement of the Participants with respect to the subject matter hereof, and contains the sole statement of the operating rules of the Consortium. This instrument supersedes any previous Agreement, whether oral or written.
2. Each Participant will perform all other acts and execute and deliver all other documents as may be necessary or appropriate to carry out the intended purposes of this Agreement.

3. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

4. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Any claims made under Section V(3)(b) except to the extent otherwise limited therein, shall be governed by New York substantive law.

5. All notices to any party hereunder shall be in writing, signed by the party giving it, shall be sufficiently given or served if sent by registered or certified mail, return receipt requested, hand delivery, or overnight courier service addressed to the parties at the address designated by each party in writing. Notice shall be deemed given when transmitted.

6. This Agreement may be executed in two or more counterparts each of which shall be deemed to be an original but all of which shall constitute the same Agreement and shall become binding upon the undersigned upon delivery to the Chairperson of an executed copy of this Agreement together with a certified copy of the resolution of the legislative body approving this Agreement and authorizing its execution.

7. The provisions of Section V shall survive termination of this Agreement, withdrawal or expulsion of a Participant, and/or dissolution of the Consortium.

8. Article and section headings in this Agreement are included for reference only and shall not constitute part of this Agreement.

9. No findings or recommendations made by the Joint Committee on Plan Structure and Design or by the Chair of the Joint Committee shall be considered a waiver of any bargaining rights under any contract, law, rule, statute, or regulation.

10. The Chairperson and Executive Director are each designated attorneys-in-fact to receive service of any summons or other legal process in any action, suit or proceeding arising out of any contract, agreement, or transaction involving the Consortium. Service may be effected on either the Chairperson or Executive Director without requiring service to both.”

X. APPROVAL, RATIFICATION, AND EXECUTION

1. As a condition precedent to execution of this Municipal Cooperative Agreement and membership in the Consortium, each eligible municipal corporation desiring to be a Participant shall obtain legislative approval of the terms and conditions of this Agreement by the municipality’s governing body.

2. Prior to execution of this Agreement by a Participant, the Participant shall provide the Chairperson with the resolution approving the municipality’s participation in this Consortium
2021 Municipal Cooperation Agreement

and expressly approving the terms and conditions of this Municipal Cooperative Agreement. Each presented resolution shall be maintained on file with the Consortium.

3. By executing this Agreement, each signatory warrants that he/she has complied with the approval and ratification requirements herein and is otherwise properly authorized to bind the participating municipal corporation to the terms and conditions of this Agreement.

[Signature Pages Follow]
IN WITNESS WHEREOF, the undersigned has caused this Amended Agreement to be executed as of the date adopted by the Board of Directors of the Greater Tompkins County Municipal Health Insurance Consortium and subsequently adopted by all participating municipalities.
Addendum “A”

Example of Weighted Voting Formula under Section D(2)

If 11 Participants have 500 or fewer enrollees each and 2 Participants have more than 500 enrollees each, under subparagraph “a” the 11 each get 1 vote. Under subparagraph “b” the 2 large Participants get 4 votes each, which is calculated by taking the total number of votes under subparagraph “a” [11] subtracting the number of Labor Representative votes [2], dividing by the number of eligible Participants under subsection “b” [2], and rounding the result [4.5] down to the nearest whole number [4]. The Labor Representative shall have 1 vote, irrespective of the votes available to the Participants.
Addendum "B"

Illustration of At-Large Labor Representative Calculation

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<tr>
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<tr>
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<td>58+</td>
<td>10</td>
</tr>
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</table>
IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed as of the date adopted by the Greater Tompkins County Municipal Health Insurance Consortium Board of Directors and subsequently adopted by the Municipal Corporation named below.

_______________________________________
Municipal Corporation

Name of Chief Elected Official of Chief Officer ________________________________ Title ________________________________

_______________________________________
Signature

_______________________________________
Printed Name

_______________________________________
Date
MAYOR’S APPOINTMENTS
7.1 Reappointments to the Ithaca Housing Authority

RESOLVED, That Ann Bantuvanis be reappointed to the Ithaca Housing Authority with a term to expire October 17, 2025; and, be it further

RESOLVED, That Loretta Tomberelli Epthimiatos be reappointed to the Ithaca Housing Authority with a term to expire October 17, 2025.